

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ELVIN JUNIOR PASLEY,

Defendant-Appellant.

UNPUBLISHED

November 24, 2009

No. 286820

Van Buren Circuit Court

LC No. 08-015957-FC

Before: Murphy, P.J., and Meter and Beckering, JJ.

PER CURIAM.

Defendant was convicted by a jury of receiving or concealing stolen property valued at \$1000 or more but less than \$20,000, MCL 750.535(3). The trial court sentenced defendant as a fourth-offense habitual offender, MCL 769.12, to serve a term of imprisonment of 30 months to 15 years. Defendant appeals as of right, his sole argument being that the trial court erred in not crediting time spent in jail before disposition of this case against that sentence. We disagree and thus affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

In December 2007, the police found defendant in a vehicle loaded with tools that had been stolen from a garage in the village of Bloomingdale earlier that month. Further, shortly after the theft, defendant pawned a saw that was among the items taken. Defendant was on parole from an earlier conviction at the time.

When announcing defendant's sentence in this case, the trial court stated that it would "run consecutive to your parole violation," and added, over no objection, that defendant would receive no jail credit because of his parole. Defendant now reports that he was incarcerated for 181 days before sentencing and asks that that time be credited against his sentence.

Defendant argues that the statutes governing sentencing credit and parole violations should be interpreted to allow the application of the sentencing credit that he seeks, and he argues additionally that constitutional Equal Protection doctrine demands that result. However, defendant himself quotes from decisions wherein this Court decided those precise issues, and did so contrary to his position. See *People v Stead*, 270 Mich App 550, 551-552; 716 NW2d 324 (2006), citing *People v Seiders*, 262 Mich App 702, 705; 686 NW2d 821 (2004), MCL 768.7a(2), and MCL 769.11b; see also *People v Stewart*, 203 Mich App 432, 433-434; 513 NW2d 147 (1994), citing US Const, Am XIV, and Const 1963, art 1, §§ 2, 17. The rule remains that parolees incarcerated upon committing new crimes are serving time attendant to the paroled

offense, not to the sentence subsequently imposed for the new offense, which must run consecutively to the earlier sentence. *Stead, supra; Seiders, supra*. The different treatment of prisoners who violated parole and those who did not is a constitutionally permissible distinction. *Stewart, supra*.

Defendant argues that those cases were wrongly decided. Regardless of their merits, however, they are precedent this Court is bound to follow. MCR 7.215(J)(1). Moreover, our Supreme Court has recently considered these issues, and reached a result fully consistent with *Stead* and *Seiders*. *People v Idziak*, 484 Mich 549, 552; ___ NW2d ___ (2009).

Affirmed.

/s/ William B. Murphy
/s/ Patrick M. Meter
/s/ Jane M. Beckering