

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

HOWARD TRIMMER,

Defendant-Appellant.

UNPUBLISHED

June 12, 1998

No. 198513

Recorder's Court

LC No. 94-012305

Before: Wahls, P.J., and Jansen and Gage, JJ.

MEMORANDUM.

Defendant appeals as of right his bench trial conviction for assault with intent to commit great bodily harm less than murder. MCL 750.84; MSA 28.279. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant asserts that the trial court erred in denying his motion to dismiss for violation of the 180-day rule, MCL 780.131(1); MSA 28.969(1); MCR 6.004(D). We disagree.

The 180-day rule does not require that trial commence within 180 days. It requires only that a prosecutor must make a good faith effort to bring a criminal charge to trial within the applicable 180-day period. *People v Jones*, ___ Mich App ___, ___ NW2d ___ (Docket No. 152860, issued 2/20/98). Delay attributable to a defendant's request for an adjournment is not chargeable against the 180-day period. *People v Hendershot*, 357 Mich 300; 98 NW2d 568 (1959).

Here, a substantial portion of the delay was attributable to the withdrawal of defendant's trial counsel, and requests for adjournment made at defendant's request. Subtracting time attributable to defendant from the total number of days between defendant's incarceration and the beginning of trial shows that less than 180 days of delay were attributable to the prosecutor. The trial court did not err in finding that the 180-day rule was not violated, and in denying defendant's motion to dismiss.

Affirmed.

/s/ Myron H. Wahls

/s/ Kathleen Jansen

/s/ Hilda R. Gage

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