

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TERRENCE TURNER,

Defendant-Appellant.

UNPUBLISHED

June 12, 1998

No. 201639

Recorder's Court

LC No. 94-012363

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

MEMORANDUM.

On plea of guilty, which was unconditional, defendant was convicted of carjacking, MCL 750.529a; MSA 28.797(a). At the plea taking, defendant was promised by the trial judge that his sentence would be the same as that he was already serving for unrelated convictions of armed robbery, MCL 750.529; MSA 28.797, first-degree home invasion, MCL 750.110a; MSA 28.305(a), receiving and concealing stolen property, MCL 750.535; MSA 28.803, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). However, the actual sentence imposed was ordered to run consecutively to the prior sentence for felony-firearm. On this appeal of right, defendant contends that the trial court erred in denying his motion to dismiss the prosecution for violation of his statutory right to speedy trial, MCL 780.131; MSA 28.969(1), and in ordering that his three and one-half to twenty year sentence run consecutively to the prior felony-firearm sentence. We affirm in part and reverse and remand in part; this appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant's unconditional guilty plea waived both statutory and constitutional rights to speedy trial. *People v Bordash*, 208 Mich App 1; 527 NW2d 17 (1994), conflict panel refused, 208 Mich App 801; 527 NW2d 19 (1994); *People v Irwin*, 192 Mich App 216, 218; 480 NW2d 611 (1991). Defendant's appeal to equity is misdirected, as courts of chancery have no jurisdiction in criminal cases.

However, the defendant is correct in asserting that the trial court erred in providing that his sentence for carjacking should be consecutive to his prior sentence for felony-firearm. By the terms of the felony-firearm statute itself, the determinate sentence imposed is consecutive only to sentences for

the underlying felony or attempt to commit the felony, and not for any unrelated

crime not part of the same transaction. *People v Bonham*, 182 Mich App 130, 137; 451 NW2d 530 (1989). The carjacking offense occurred on October 20, 1994, a week before the armed robbery, home invasion, and felony firearm incident on October 27, 1994, as to which defendant's convictions were affirmed in this Court's Docket No. 190108. Accordingly, this cause is remanded to the Wayne Circuit Court, Criminal Division, for the ministerial task of correcting the judgment of sentence to provide that the sentence for carjacking is concurrent to the prior felony-firearm sentence as well as to the sentences for armed robbery, home invasion, and receiving and concealing stolen property.

Affirmed in part, reversed and remanded in part for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Myron H. Wahls

/s/ Kathleen Jansen

/s/ Hilda R. Gage