

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WILLIE BOWMAN DEJARNETTE,

Defendant-Appellant.

UNPUBLISHED

July 7, 1998

No. 206330

Recorder's Court

LC No. 93-002838

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

MEMORANDUM.

Defendant appeals by right his conviction for fleeing and eluding a police officer, MCL 750.479a; MSA 28.747(1) and unlawful driving away of an automobile, MCL 750.414; MSA 28.646. We remand for recomputation of sentence credit.

Defendant was convicted after a jury trial, and sentenced to one year in prison on the fleeing and eluding charge, and one to two years in prison on the unlawful driving away of an automobile charge. At sentencing the court noted that defendant was on parole from a California sentence at the time he committed the crime. The court granted defendant 243 days of sentence credit, but ordered that it be applied to defendant's California parole sentence.

The prosecutor has conceded on appeal that under *People v Johnson*, 205 Mich App 144; 517 NW2d 273 (1994), the trial court lacked jurisdiction to award credit on a sentence imposed by another state. However, the prosecutor argues that only 160 of the 243 days were attributable to the instant case, and the remaining days of jail time were accrued on a criminal sexual conduct charge which has been dismissed. In response to a motion from defendant, this Court has ordered the judgment of sentence be amended to apply 160 days of credit to the instant sentence.

The sentence credit statute, MCL 769.11b; MSA 28.1083(2), explicitly states that credit will be granted when a person is convicted of a crime and has served any time in jail prior to sentencing because of being denied or unable to furnish bond for the offense of which he was convicted. The application of the sentencing credit statute is limited to situation in which the language of the statute commands such credit. *People v Prieskorn*, 424 Mich 327; 381 NW2d 646 (1985). A

determination of the amount of jail time defendant served due to the instant offense is necessary to award the proper sentence credit.

Remanded for recalculation of time served in jail for which defendant is entitled to sentence credit. We do not retain jurisdiction.

/s/ Myron H. Wahls

/s/ Kathleen Jansen

/s/ Hilda R. Gage