

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MARCUS LAWHORN,

Defendant-Appellant.

UNPUBLISHED

September 29, 2000

No. 211481

Recorder's Court

LC No. 97-001320

Before: McDonald, P.J., and Sawyer and White, JJ.

MEMORANDUM.

Defendant appeals as of right, after remand from the Supreme Court, his conviction for aggravated stalking, MCL 750.411i; MSA 28.643(9), and domestic violence, MCL 750.81; MSA 28.276, entered after a bench trial. We affirm the conviction and remand for recomputation of sentence credit.

Defendant was arrested on September 17, 1996, in regard to a domestic dispute. He was originally charged with two misdemeanors, and his case was improperly bound over to Recorder's Court. The charges were dismissed for lack of jurisdiction. Defendant was charged with the instant offenses based on the same conduct in a new file, and was convicted. At sentencing, defendant asserted that he was entitled to additional credit for time served on the original charges. In a subsequent order, the trial court denied additional time, because it was served on a different case.

On appeal, defendant argues that the trial court erred where both cases arose out of the same conduct. The prosecutor agrees that defendant is entitled to an unspecified amount of additional credit. MCL 769.11b; MSA 28.1083(2); *People v Givans*, 227 Mich App 113; 575 NW2d 84 (1997). The record supports a finding that the instant charges and the dismissed case constitute the same offense for purposes of the statute.

Remanded for computation of additional sentence credit consistent with this opinion. We do not retain jurisdiction.

/s/ Gary R. McDonald

/s/ David H. Sawyer

/s/ Helene N. White