

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROBERT CHARLES MATTHEWS,

Defendant-Appellant.

UNPUBLISHED

June 17, 2004

No. 245524

Berrien Circuit Court

LC No. 01-402658-FC

Before: Neff, P.J., and Zahra and Murray, JJ.

MEMORANDUM.

Defendant appeals by delayed leave granted his sentence imposed on his plea-based conviction of fourth-degree fleeing and eluding, MCL 257.602a(2). We dismiss defendant's appeal on the ground that the issue raised therein is moot.

Defendant pleaded guilty to fourth-degree fleeing and eluding. The trial court sentenced defendant to thirteen to twenty-four months in prison, with credit for zero days. Over defendant's objection, the trial court ordered that the sentence be consecutive to an Indiana sentence from which defendant was on parole when he committed the instant offense.

Defendant moved for resentencing or a modification of sentence. He sought credit for 187 days served in jail prior to sentencing in this case.¹ Defendant acknowledged that while MCL 768.7a(1) provides that a consecutive sentence must be imposed when an escapee from a Michigan prison commits a new offense, *People v Alexander*, 234 Mich App 665; 599 NW2d 749 (1999), held that concurrent sentencing was appropriate when the defendant was an escapee from an out-of-state institution. He contended that *Alexander* should be applied by analogy to circumstances in which a parolee from an out-of-state institution commits a new offense in Michigan, and that he should be resentenced to allow his Michigan sentence and his Indiana sentence to run concurrently. The trial court entered a stipulated order granting defendant credit

¹ In *People v Johnson*, 205 Mich App 144; 517 NW2d 273 (1994), another panel of this Court held that a person charged with a criminal offense in Michigan and incarcerated prior to sentencing as a result of a parole hold imposed by another state is entitled to credit against the Michigan sentence for the period of incarceration.

for 187 days served prior to sentencing, but did not otherwise enter an order disposing of defendant's motion.

Whether the trial court properly imposed a consecutive sentence is an issue of statutory interpretation that we review de novo. *People v Gonzalez*, 256 Mich App 212, 229; 663 NW2d 499 (2003).

As he did below, defendant argues that his Michigan sentence should have been concurrent to his Indiana sentence. We conclude that under the circumstances presented by this case, defendant's issue is moot. Defendant has been discharged from the sentence imposed in the instant case. If a subsequent event renders it impossible for this Court to fashion a remedy, an issue becomes moot. *People v Rutherford*, 208 Mich App 198, 204; 526 NW2d 620 (1994). Defendant has served the full sentence imposed in this case; thus, we cannot change the consequences of the trial court's original decision that the instant sentence be consecutive to defendant's Indiana sentence. We decline to conclude that this issue will evade judicial review in the future. *People v Kaczmarek*, 464 Mich 478, 481; 628 NW2d 484 (2001).

Dismissed.

/s/ Janet T. Neff

/s/ Brian K. Zahra

/s/ Christopher M. Murray