STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED June 9, 2009
v	No. 279714 Ottawa Circuit Court
DANTE ERIC WELLS, Defendant-Appellant.	LC No. 06-030628-FH

Before: Servitto, P.J., and Donofrio and Fort Hood, JJ.

PER CURIAM.

Defendant was convicted by a jury of receiving or concealing stolen property in excess of $1000.00, MCL 750.535(3)(a), and was sentenced to 28 to 90 months in prison. Defendant appeals as of right. We affirm.

Defendant first argues that the trial court erred in denying his motion to suppress statements to the police. He does not dispute that he signed a form acknowledging that he understood his *Miranda* rights[1] and that he wanted to talk to a police officer. However, he claims he requested an attorney before initialing the agreement to talk, and that he continued to request an attorney. The trial court found, consistent with testimony from the detectives who dealt with defendant, that defendant never specifically said he wanted to talk to an attorney. Rather, he said he *eventually* wanted a lawyer, but first wanted to sleep, to learn what deal the prosecutor would offer, and to then resume talking with the detectives. These findings were not clearly erroneous. *People v Attebury*, 463 Mich 662, 668; 624 NW2d 912 (2001).

In *People v Tierney*, 266 Mich App 687, 710-711; 703 NW2d 204 (2005), this Court stated:

> [T]he defendant's invocation of his right to counsel must be unequivocal. *Davis v United States*, 512 US 452, 457; 114 S Ct 2350; 129 L Ed 2d 362 (1994). "[I]f a suspect makes a reference to an attorney that is ambiguous or equivocal in that a reasonable officer in light of the circumstances would have understood only that

[1] See *Miranda v Arizona*, 384 US 436; 86 S Ct 1602; 16 L Ed 2d 694 (1966).

> the suspect might be invoking the right to counsel, our precedents do not require the cessation of questioning." *Id.* at 459.

At a minimum, defendant's statements were ambiguous and, at best, would have indicated he *might* want counsel present. The trial court correctly denied the motion to suppress.

Defendant next argues that the evidence did not support a finding that the property at issue, the money-changing machine, was worth more than $1000.00. There is no merit to defendant's claim that the representative of the company that owned the machine equivocated regarding the value. The witness clearly stated that, although used, the machine was a "very usable piece of equipment on the market" and that, despite its age, it was worth "roughly" $1500.00.

Defendant next argues that he was entitled to jail credit for the time he served in jail while the instant matter was pending. It is not clear, however, whether defendant is requesting credit against his sentence on this offense, or on the offense for which he was on parole at the time he committed the present crime. He appears to suggest that the credit should apply to this sentence even though the crime was committed while he was on parole because parole revocation proceedings might not be pursued and then the time served would not be applied to his paroled offense.[2] In *People v Seiders*, 262 Mich App 702, 705; 686 NW2d 821 (2004), this Court held that when "a parolee is arrested for a new criminal offense, he is held on a parole detainer until he is convicted of that offense, and he is not entitled to credit for time served in jail on the sentence for the new offense." See also MCL 769.11b. This rule applies even if prison authorities do not pursue parole violation proceedings. *People v Stewart*, 203 Mich App 432, 434; 513 NW2d 147 (1994). Defendant is not entitled to credit on the sentence imposed in this case.

If defendant is requesting jail credit against the prior sentence on the offense for which he was on parole, he has already received credit for that time. Although defendant was on parole, he was still considered to be in the legal custody of the Department of Corrections. As noted by this Court in *People v Johnson*, ___ Mich App ___; ___ NW2d ___ (Docket No. 279163, decided April 14, 2009), "The only time a defendant stops accruing time toward his ultimate discharge from the Department of Corrections is when a parolee has a warrant issued for a parole violation, and the parolee remains at large." See also MCL 791.238. A check of the trial court record does not reveal that defendant was ever on absconder status as a parolee. Accordingly, defendant continued to accrue time toward his maximum sentence on the offense for which he was on parole. Defendant has failed to demonstrate entitlement to any relief.

Affirmed.

/s/ Deborah A. Servitto
/s/ Pat M. Donofrio
/s/ Karen M. Fort Hood

[2] Defendant was on parole for an armed robbery conviction. Parole revocation is mandatory for certain enumerated violent felonies. See MCL 791.240a(2) and MCL 791.236(18) Armed robbery, of course, is a felony requiring mandatory revocation of parole.