

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

OLEN DAMON WOMBLE, III,

Defendant-Appellant.

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UNPUBLISHED

May 17, 1996

No. 175653

LC No. 92-003398

Before: Kavanagh, T.G.,\* P.J., and R.B. Burns\*\* and G.S. Allen,\*\* JJ.

MEMORANDUM.

Defendant pleaded nolo contendere to six counts of first-degree criminal sexual conduct, MCL 750.520b; MSA 28.788(2), and was sentenced to concurrent terms of five to fifteen years' imprisonment for each count, with credit for 780 days served. He appeals as of right. We affirm the convictions and sentences, but remand for a correction of the presentence investigation report. This case has been decided without oral argument pursuant to MCR 7.214(A).

Defendant's claim that the 180-day rule was violated and his related claim of ineffective assistance of counsel were waived by his unconditional plea. *People v Bordash*, 208 Mich App 1; 527 NW2d 17 (1994); *People v Vonins (After Remand)*, 203 Mich App 173; 511 NW2d 706 (1993); *People v Irwin*, 192 Mich App 216; 480 NW2d 611 (1991).

However, we remand the case to the trial court for correction of the presentence investigation report to conform to the trial court's determination that defendant was entitled to sentence credit for 780 days. MCR 6.425(D)(3); *People v Britt*, 202 Mich App 714; 509 NW2d 914 (1993). The record does not support the prosecution's contrary position that the trial court did not rule on

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\*Former Supreme Court Justice, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1995-1.

\*\*Former Court of Appeals Judges, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1995-1.

defendant's contention regarding sentence credit. Further, because the prosecution did not file a cross-appeal from the judgment of sentence (which reflects sentence credit of 780 days), we make no determination with respect to the accuracy of the sentence credit ordered by the trial court. *People v Gallego*, 199 Mich App 566; 502 NW2d 358 (1993). See also *People v Adkins*, 433 Mich 732, 751; 449 NW2d 400 (1989).

Defendant's convictions and sentences are affirmed, but the case is remanded for correction of the presentence investigation report. No further jurisdiction.

/s/ Thomas G. Kavanagh

/s/ Robert B. Burns

/s/ Glenn S. Allen, Jr.