STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

PAUL DEAN BURNS, JR.,

Defendant-Appellant.

UNPUBLISHED
March 18, 1997

Nos. 193261; 193265
Kent Circuit Court
LC Nos. 95-001718-FH
95-001710-FH

Before: Sawyer, P.J., and Neff and A.L. Garbrecht,* JJ.

PER CURIAM.

Defendant pled guilty to two counts of breaking and entering, MCL 750.110; MSA 28.305, and to being a habitual offender (second offense), MCL 769.10; MSA 28.1082. He was sentenced to concurrent terms of three to fifteen years and five to fifteen years, to be served consecutively to any sentence he was then serving. Defendant now appeals and we affirm.

Defendant first argues that the trial court erred in denying his motion to withdraw his plea. We disagree. First, defendant endeavors to argue that he made a pro per oral motion at sentencing to withdraw his plea prior to sentence being imposed. However, defendant's comments at sentencing do not constitute a motion to withdraw his plea. Rather, they were merely defendant's articulation of his complaints against his original trial counsel. At no point did defendant request to withdraw his plea. Indeed, defendant confirmed that he had pled guilty and that he was, in fact, guilty of the offenses for which he was convicted.

Defendant did file a motion to withdraw his plea after sentencing. The decision to grant such a motion rests within the sound discretion of the trial court and will not be disturbed absent an abuse of that discretion. *People v Effinger*, 212 Mich App 67, 69; 536 NW2d 809 (1995). We are not persuaded that the trial court abused its discretion in the case at bar. Defendant has admitted his guilt and he does not now maintain his innocence. Rather, defendant argues that, had counsel successfully obtained the suppression of evidence, a speculative endeavor at best, the prosecutor might have been unable to prove guilt. This is an insufficient basis to necessitate allowing defendant to withdraw his plea.

* Circuit judge, sitting on the Court of Appeals by assignment.

Next, defendant argues that he is entitled to credit for time served between his arrest and his being detained on a parole violation. We disagree. It is well settled that a defendant who commits a crime while on parole is not entitled to credit for time served on the new sentence. Rather, any credit is given to the original sentence. See *People v Stewart*, 203 Mich App 432; 513 NW2d 147 (1994).

Finally, defendant argues that the trial court erred in failing to correct the presentence investigation report in light of defendant's objection to the report. Although defendant did file a lengthy, handwritten document in response to the presentence investigation report, no objections to the report were made at sentencing. Rather, defense counsel referred to a conversation in chambers prior to sentencing and to defendant's request that the court consider the document and make it part of the record. At no time was the trial court ever requested to respond to defendant's document or to resolve any objections to the PSIR. Instead, it appears from the record that an agreement was reached in chambers on how the matter should be handled and it was, in fact, handled accordingly. We are not persuaded that defendant is entitled to relief on this matter.

Affirmed.

/s/ David H. Sawyer
/s/ Janet T. Neff
/s/ Allen L. Garbrecht