

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RICHARD GORDON VERNIER,

Defendant-Appellant.

UNPUBLISHED

May 14, 1999

No. 206832

St. Clair Circuit Court

LC No. 93-002674 FH

Before: Kelly, P.J., and Neff and Smolenski, JJ.

MEMORANDUM.

Defendant pleaded guilty to operating a motor vehicle while under the influence of intoxicating liquor, third offense (OUIL-3), MCL 257.625(6); MSA 9.2325(6). He was sentenced to serve a term of two to five years' imprisonment, consecutive to a prior prison sentence imposed in 1988 for involuntary manslaughter, from which prior sentence defendant had been released on appeal bond when the subsequent OUIL-3 offense was committed. Defendant appeals by right, challenging the imposition of a consecutive sentence. We remand for entry of a corrected judgment of sentence imposing a concurrent sentence. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

In this state, concurrent sentencing is the norm, and a court may impose consecutive sentences only if authorized by statute. *People v Brown*, 220 Mich App 680, 682; 560 NW2d 80 (1996). Because defendant was neither incarcerated in nor escaped from a penal or reformatory institution while on appeal bond, consecutive sentencing is not authorized in this case under MCL 768.7a(1); MSA 28.1030(1). Nor does MCL 768.7b; MSA 28.1030(2) apply in this situation, since defendant's prior involuntary manslaughter charge was no longer "pending disposition" for purposes of that statute once he was sentenced in 1988. See, e.g., *People v Hardy*, 212 Mich App 318, 322; 537 NW2d 267 (1995); *People v Dukes*, 189 Mich App 262, 267; 471 NW2d 651 (1991).

Remanded for entry of a corrected judgment of sentence reflecting a concurrent rather than a consecutive sentence. We do not retain jurisdiction.

/s/ Michael J. Kelly

/s/ Janet T. Neff

/s/ Michael R. Smolenski