

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOHN RICHARDS, a/k/a JOHN CLANCE  
HATCHETT,

Defendant-Appellant.

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UNPUBLISHED  
February 26, 2009

No. 283608  
Wayne Circuit Court  
LC No. 07-014179-01-FH

Before: Donofrio, P.J., and K. F. Kelly and Beckering, JJ.

MEMORANDUM.

Defendant appeals as of right the sentence imposed on his bench trial conviction of breaking and entering without permission, MCL 750.115. His appeal centers on the application of jail credit toward the sentence for which the parole was granted rather than the instant conviction. We affirm defendant's conviction and sentence, but remand for correction of defendant's Judgment of Sentence.<sup>1</sup>

Defendant's sole argument on appeal is that he should have received an unspecified amount of jail credit for the time he spent in jail prior to sentencing on the instant offense. Defendant, who was on parole for a prior offense at the time he committed the instant offense, acknowledges that, pursuant to *People v Watts*, 186 Mich App 686, 689; 464 NW2d 715 (1991), and *People v Seiders*, 262 Mich App 702, 705; 686 NW2d 821 (2004), he is not entitled to credit

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<sup>1</sup> Defendant's judgment of sentence contains a discrepancy. Defendant was charged with entering without breaking, MCL 750.111. The trial court's comments during trial first suggest that the trial court believed the prosecution had presented sufficient evidence of intent to steal during the entry. However, the trial court then found defendant guilty of "entering without the owner's permission" in the instant case. The judgment of sentence lists MCL 750.111 as the conviction offense. However, it also contains a description of the offense as "breaking and entering without intent," which would seem to coincide with the crime of breaking and entering without permission, MCL 750.115. On appeal, the parties agree that defendant was convicted of the lesser included offense of entering the building without the owner's permission. We remand this case to the trial court for correction of defendant's judgment of sentence to accurately reflect his conviction for the lesser offense.

against the subsequent offense. Any jail time is instead credited toward the sentence for which the parole was granted. *Seiders, supra* at 705, citing MCL 791.238(2) and MCL 768.7a(2). While defendant asks this Court to revisit this issue, this Court has repeatedly declined to do so. See e.g., *People v Filip*, 278 Mich App 635, 640-642; 754 NW2d 660 (2008); *People v Stewart*, 203 Mich App 432, 433; 513 NW2d 147 (1994). Defendant has offered nothing new to cause this Court to revisit this issue. Moreover, because defendant is no longer incarcerated, his claim of error is moot.

Defendant's conviction and sentence is affirmed. This case is remanded for correction of the Judgment of Sentence. We do not retain jurisdiction.

/s/ Pat M. Donofrio  
/s/ Kirsten Frank Kelly  
/s/ Jane E. Beckering