

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DEMOND WENYEA HUBBARD,

Defendant-Appellant.

UNPUBLISHED
February 23, 2010

No. 290267
Macomb Circuit Court
LC No. 2008-001026-FH

Before: Fitzgerald, P.J., and Cavanagh and Davis, JJ.

MEMORANDUM.

Following a jury trial, defendant was convicted of operating a vehicle while intoxicated (third offense), MCL 257.625(1) and (9), driving with a suspended license (second offense), MCL 257.904(3)(a), and resisting or obstructing a police officer, MCL 750.81(d)(1). He was sentenced as an habitual offender, fourth offense, MCL 769.12, to a prison term of 3 to 20 years for the operating while intoxicated conviction, and 90 days for each remaining conviction, with credit for 90 days served. He appeals as of right. We remand for correction of the judgment of sentence to reflect an award of 323 days of sentence credit.

Defendant's sole issue on appeal is that the judgment of sentence erroneously fails to award him sentence credit of 323 days in accordance with the trial court's award at sentencing. We agree. At sentencing, consistent with the recommendation in the presentence report, the trial court stated that defendant would receive "credit for 323 days served at this point." MCL 769.11b. This award is memorialized on both the signed sentencing information report and also on a "Circuit Court Sentence Disposition" form that was signed by the trial court. However, the judgment of sentence erroneously reflects an award of only 90 days of credit against the two 90-day sentences for the two lesser counts. Accordingly, we remand for correction of the judgment of sentence to reflect 323 days of sentence credit in accordance with the trial court's intended award at sentencing. A copy of the amended judgment of sentence shall also be forwarded to the Department of Corrections.

Remanded for correction of the judgment of sentence to reflect an award of 323 days of sentence credit in accordance with this opinion. We do not retain jurisdiction.

/s/ E. Thomas Fitzgerald
/s/ Mark J. Cavanagh
/s/ Alton T. Davis