January 2004

Update: Criminal Procedure Monograph 7—Probation Revocation (Revised Edition)

Part A—Commentary

7.35 Granting Credit for Time Served

Insert the following text on page 32 immediately following the second full paragraph:

Where the defendant argued he was entitled to credit against a prison sentence for time spent in jail following his arrest for a parole violation and before trial on the offenses for which he was eventually sentenced, the Michigan Court of Appeals concluded it was bound by a previous panel's decision to remand the defendant's case to the trial court for modification of the defendant's sentence. *People v Seiders*, ___ Mich App ___, ___ (2003), referring to *People v Johnson*, 205 Mich App 144, 146-147 (1994).

Both *Seiders* and *Johnson* involve defendants on parole from convictions in other states, and both cases involve MCL 769.11b, which expressly applies to credits gained for time spent in jail "prior to sentencing because of being denied or unable to furnish bond for the offense of which he is convicted...." In *Seiders*, the defendant asserted that MCL 769.11b entitled him to a sentence credit because the Michigan court was without jurisdiction to credit the sentence imposed against him in another state. Thus, the defendant argued, the credit must be given against the sentence imposed for his Michigan conviction. *Seiders*, *supra* at ___.

The *Seiders* Court disagreed with the defendant and explained that MCL 769.11b did not apply to the defendant's pretrial incarceration because he was in custody on a parole detainer, a status for which bond is neither set nor denied. *Seiders*, *supra* at ___. For this reason, the *Seiders* Court concluded that MCL 769.11b did not apply to the defendant's sentence and should not have been considered by the trial court when it imposed the defendant's sentence. *Seiders*, *supra* at ___. The Court also indicated that MCL 769.11b did not apply to the circumstances of the defendant's situation in *Johnson*; according to the *Seiders* Court, the statute should not have been considered by the *Johnson* Court in its decision. *Seiders*, *supra* at ___. Notwithstanding the

Court's disagreement with *Johnson*, *supra*, the Court considered itself bound by the decision and ruled accordingly. The case was remanded to the trial court for modification of the defendant's sentence to reflect credit for the time the defendant spent in jail following his arrest. *Seiders*, *supra* at ___.

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