

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,  
  
Plaintiff-Appellee,

UNPUBLISHED  
February 11, 2014

v

DEQURIOUS DEVONTAE JENKINS,  
  
Defendant-Appellant.

No. 313535  
Saginaw Circuit Court  
LC No. 11-036679-FH

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Before: BOONSTRA, P.J., and CAVANAGH and FITZGERALD, JJ.

PER CURIAM.

Defendant appeals by leave granted from his plea-based convictions of felon in possession of a firearm, MCL 750.224f, and possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b. The trial court sentenced defendant as an habitual offender, second offense, MCL 769.10, to a prison term of 30 to 90 months for the felon-in-possession conviction and to a mandatory consecutive two-year term for the felony-firearm conviction. Defendant received no credit for time served. We remand to the trial court for entry of an amended judgment of sentence.

On July 30, 2011, defendant was charged with assault with intent to commit murder, MCL 750.83, carrying a weapon with unlawful intent (CCW), MCL 750.226, carrying a concealed weapon, MCL 750.227, felon in possession of a firearm, and three counts of felony-firearm – one for each charge except CCW. After the preliminary examination, defendant was bound over on all charges except the felon-in-possession and its requisite felony-firearm count, both of which were dismissed. Subsequently, the two charges were re-filed under a different case and, by stipulation, the two cases were joined because all charges arose from the same incident. Defendant accepted an agreement to plead guilty to a reduced charge of assault with a dangerous weapon, MCL 750.82, instead of assault with intent to commit murder, as well as the remaining charges in both files, with a second-offense habitual offender enhancement, MCL 769.10, on both files.

The parties agree that defendant served 233 days in jail before he was sentenced. However, because the dismissed charges had a different case number, a disagreement arose regarding the amount of sentence credit defendant would receive on each case file. The trial court ultimately gave defendant credit for 233 days served on the felony-firearm convictions stemming from the original charges on which he had been bound over, but did not give

defendant any credit for the felony-firearm conviction stemming from the felon in possession of a firearm conviction. Defendant now challenges the failure to award jail credit in this latter circumstance.

“The question whether defendant is entitled to sentence credit pursuant to MCL 769.11b for time served in jail before sentencing is an issue of law that we review de novo,” *People v Waclawski*, 286 Mich App 634, 688; 780 NW2d 321 (2009), as is defendant’s claim of a constitutional due process violation, *People v Jackson*, 292 Mich App 583, 590; 808 NW2d 541 (2011).

MCL 769.11b provides as follows:

Whenever any person is hereafter convicted of any crime within this state and has served any time in jail prior to sentencing because of being denied or unable to furnish bond for the offense of which he is convicted, the trial court in imposing sentence shall specifically grant credit against the sentence for such time served in jail prior to sentencing.

The prosecutor concedes that defendant is entitled to 233 days sentence credit against his felony-firearm convictions in this case. Accordingly, we remand to the trial court for entry of an amended judgment of sentence granting defendant sentence credit of 233 days. We do not retain jurisdiction.

/s/ Mark T. Boonstra  
/s/ Mark J. Cavanagh  
/s/ E. Thomas Fitzgerald