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STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee, v STEVEN RUSSELL BRCIC, Defendant-Appellant.	UNPUBLISHED November 18, 2026 2:40 PM Nos. 362727; 366230 Cheboygan Circuit Court LC Nos. 22-006325-FH; 20-006006-FH

ON REMAND

Before: ACKERMAN, P.J., and YOUNG and KOROBKIN, JJ.

PER CURIAM.

This case returns following a remand from the Michigan Supreme Court. The Court vacated Part II (B)(3) of our original opinion, stating we "erred by analyzing the 180-day rule of MCL 780.131 with reference to MCR 6.004(C) rather than MCR 6.004(D)." The Court also stated that we "overlooked that defendant raised arguments implicating both MCR 6.004(C) and MCR 6.004(D)" and requested we "reconsider each claim," although it retained jurisdiction. We do so below and continue to conclude that defendant Steven Brcic's convictions should be affirmed.

I. FACTUAL AND PROCEDURAL BACKGROUND

The facts of this case were provided in a previous opinion from this Court[1] and for the most part are not relevant to the speedy trial claims we now consider. In pertinent part, Brcic drove his truck while intoxicated on July 14, 2020. After crashing his car into a tree and fleeing the scene, Brcic was hospitalized and placed under arrest in the early morning hours of July 15, 2020. He was not on probation or parole at the time of his arrest. Brcic remained incarcerated for the duration of his trial and through sentencing. He was sentenced on April 25, 2023.

[1] See *People v Brcic*, ___ Mich App ___, ___; ___ NW3d ___ (2026) (Docket Nos. 362727 and 366230); slip op at 1, vacated in part on other grounds ___ Mich ___ (2026) (Docket No. 170038).

Brcic awaited trial from Cheboygan County jail, unable to produce bond. While there, for reasons detailed in the previous opinion, Brcic was charged with possessing a weapon (a broken BIC razor blade) on February 17, 2022. Brcic was convicted of being a prisoner in possession of a weapon on June 29, 2022, and sentenced to a prison term on August 9, 2022. In other words, from June 29, 2022, to April 25, 2023, Brcic was incarcerated, but his status changed from civilian awaiting trial to a state prisoner awaiting trial. This is relevant for the analysis that follows.

II. BRCIC CANNOT SHOW A VIOLATION OF HIS STATUTORY RIGHT TO A SPEEDY TRIAL

Our Legislature codified a 180-day speedy trial rule into statute in MCL 780.131, which provides that

> (1) Whenever the department of corrections receives notice that there is pending in this state any untried warrant, indictment, information, or complaint setting forth against any inmate of a correctional facility of this state a criminal offense for which a prison sentence might be imposed upon conviction, the inmate shall be brought to trial within 180 days after the department of corrections causes to be delivered to the prosecuting attorney of the county in which the warrant, indictment, information, or complaint is pending written notice of the place of imprisonment of the inmate and a request for final disposition of the warrant, indictment, information, or complaint. The request shall be accompanied by a statement setting forth the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time or disciplinary credits earned, the time of parole eligibility of the prisoner, and any decisions of the parole board relating to the prisoner. The written notice and statement shall be delivered by certified mail.
>
> (2) This section does not apply to a warrant, indictment, information, or complaint arising from either of the following:
>
> (a) A criminal offense committed by an inmate of a state correctional facility while incarcerated in the correctional facility.
>
> (b) A criminal offense committed by an inmate of a state correctional facility after the inmate has escaped from the correctional facility and before he or she has been returned to the custody of the department of corrections.

Our court rules, in turn, codify this statutory right in MCR 6.004(D). As a whole, MCR 6.004 contains several speedy trial provisions. In relevant part, it provides that

> (A) The defendant and the people are entitled to a speedy trial and to a speedy resolution of all matters before the court. Whenever the defendant's constitutional right to a speedy trial is violated, the defendant is entitled to dismissal of the charge with prejudice.
>
> * * *

(C) Delay in Felony and Misdemeanor Cases; Recognizance Release. In a felony case in which the defendant has been incarcerated for a period of 180 days or more to answer for the same crime or a crime based on the same conduct or arising from the same criminal episode, or in a misdemeanor case in which the defendant has been incarcerated for a period of 28 days or more to answer for the same crime or a crime based on the same conduct or arising from the same criminal episode, the defendant must be released on personal recognizance, unless the court finds by clear and convincing evidence that the defendant is likely either to fail to appear for future proceedings or to present a danger to any other person or the community. In computing the 28-day and 180-day periods, the court is to exclude

(1) periods of delay resulting from other proceedings concerning the defendant, including but not limited to competency and criminal responsibility proceedings, pretrial motions, interlocutory appeals, and the trial of other charges

(2) the period of delay during which the defendant is not competent to stand trial,

(3) the period of delay resulting from an adjournment requested or consented to by the defendant's lawyer,

(4) the period of delay resulting from an adjournment requested by the prosecutor, but only if the prosecutor demonstrates on the record either

(a) the unavailability, despite the exercise of due diligence, of material evidence that the prosecutor has reasonable cause to believe will be available at a later date; or

(b) exceptional circumstances justifying the need for more time to prepare the state's case,

(5) a reasonable period of delay when the defendant is joined for trial with a codefendant as to whom the time for trial has not run, but only if good cause exists for not granting the defendant a severance so as to enable trial within the time limits applicable, and

(6) any other periods of delay that in the court's judgment are justified by good cause, but not including delay caused by docket congestion.

(D) Untried Charges Against State Prisoner.

(1) The 180-Day Rule. Except for crimes exempted by MCL 780.131(2), the inmate shall be brought to trial within 180 days after the department of corrections causes to be delivered to the prosecuting attorney of the county in which the warrant, indictment, information, or complaint is pending written notice of the place of imprisonment of the inmate and a request for final disposition of the warrant, indictment, information, or complaint. The request shall be accompanied by a statement setting forth the term of commitment under which the prisoner is

being held, the time already served, the time remaining to be served on the sentence, the amount of good time or disciplinary credits earned, the time of parole eligibility of the prisoner, and any decisions of the parole board relating to the prisoner. The written notice and statement shall be delivered by certified mail.

(2) Remedy. In the event that action is not commenced on the matter for which request for disposition was made as required in subsection (1), no court of this state shall any longer have jurisdiction thereof, nor shall the untried warrant, indictment, information, or complaint be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

As is indicated above, MCR 6.004(C) and (D) are distinct. Both reference individuals who are presently incarcerated or "state prisoners." See *People v Lown*, 488 Mich 242, 249 n 4; 794 NW2d 9 (2011). MCR 6.004(C) applies to a civilian awaiting trial for a misdemeanor or felony. As a remedy, it affords a defendant a personal recognizance bond. MCR 6.004(D) is "the statutory rule." The remedy for a violation of MCR 6.004(D) or the statutory right to a speedy trial is an order dismissing the charges with prejudice.

In his briefing in this Court, appellate counsel for Brcic cited only to MCR 6.004(C). Again, MCR 6.004(C) provides the relief of release on personal recognizance. Setting aside that that relief is no longer available to Brcic, we agree that he awaited trial on a felony for more than 180 days. As provided above, Brcic was arrested on July 15, 2020, and his status changed to state prisoner (taking him outside the purview of MCR 6.004(C)) on June 29, 2022. That period, of nearly two years, exceeds 180 days.

However, MCR 6.004(C) dictates that, in calculating the 180 days under the statute, a court is to exclude trial for other charges. Since other charges were brought against Brcic on or about February 17, 2022, the months from February 17 to June 29, 2022, should be excluded.

The court rule also dictates excluding time for an interlocutory appeal, which also occurred here. On July 15, 2021, the trial court granted Brcic's motion to strike the results of a blood draw. The prosecutor appealed that opinion and order, and further proceedings were stayed as of November 23, 2021. This Court affirmed the trial court's order to suppress on July 14, 2022. The stay was set aside on November 15, 2022. As a result, the dates to calculate for the alleged 180-day rule violation are: July 15, 2020, to November 23, 2021. This period is still well over 180 days.

There were no delays attributable to codefendants, competency, or unavailable evidence. There were, however, as appellate counsel for Brcic readily concedes, delays attributable to COVID-19 related adjournments. Interspersed in COVID-related delays were Brcic's own requests for new counsel (November 24, 2020), a withdrawal of counsel due to a conflict of interest (January 19, 2021) and at least two motions to withdraw as Brcic's attorney for other reasons (May 24, 2021, and October 22, 2021).

Even assuming for the sake of argument there were 180 days of delays attributable to the prosecution alone and not justified by good cause, a personal recognizance bond would not have been appropriate if the trial court found "by clear and convincing evidence that the defendant is likely either to fail to appear for future proceedings or to present a danger to any other person or

the community." MCR 6.004(C). The trial court did. In fact, the register of actions reflects at least two occasions where the trial court found Brcic to be a "risk to public" (October 20, 2020) or found there to be "public safety issues" associated with Brcic's release (March 9, 2021) and declined to modify bond.

Therefore, Brcic's right to a speedy trial under MCR 6.004(C) was not violated.

In his briefing in this Court, appellate counsel for Brcic did not cite to MCR 6.004(D), the portion of the court rule that codified the statutory right in MCL 780.131. As a result, any argument under this portion of the court rule was abandoned. *People v Lopez*, 305 Mich App 686, 694; 854 NW2d 205 (2014). Nevertheless, pursuant to the remand order from the Michigan Supreme Court, we consider this issue and find that it, too, lacks merit. After the interlocutory appeal and stay concluded, and Brcic had been prosecuted and convicted of possessing a weapon in jail, the Department of Corrections issued a speedy trial notice on August 15, 2022 pursuant to MCR 6.004(D) and MCL 780.131.

As discussed in our prior opinion, the statutory 180-day rule "does not require that a *trial* be commenced or completed within 180 days of the date notice was delivered. Rather, as [our Supreme Court] has held for more than 50 years, it is sufficient that the prosecutor 'proceed promptly' and 'move [] the case to the point of readiness for trial' within the 180-day period." *Lown*, 488 Mich at 246, quoting *People v Hendershot*, 357 Mich 300, 304; 98 NW2d 568 (1959) (alteration in original). "[A] prosecutor must proceed promptly and take action in good faith in order to satisfy the rule." *Lown*, 488 Mich at 246. "[G]ood faith is an implicit component of proper action by the prosecutor, who may not satisfy the rule simply by taking preliminary steps toward trial but then delaying inexcusably." *Id*.

We agree with the prosecution that "[b]y all indications, the prosecution acted in good faith to move the case toward trial from August 15, 2022 forward." The prosecution did not file an excessive number of pretrial motions or any obviously frivolous motions to delay Brcic's trial. The prosecution did not request an excessive number of adjournments after receiving the 180-day notice. Therefore, Brcic's statutory right to a speedy trial was not violated under MCR 6.004(D) or MCL 780.131.

As to the speedy trial issues that were the subject of this remand, we conclude that Brcic's convictions should be affirmed.

/s/ Matthew S. Ackerman
/s/ Adrienne N. Young
/s/ Daniel S. Korobkin