

IN THE SUPREME COURT OF THE STATE OF DELAWARE

SANDY OAKLEY	§
	§ Nos. 525/527, 2007
Defendant Below,	§ (Consolidated)
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. I.D. 0609003642
Plaintiff Below,	§
Appellee.	§ Court Below—Family Court
	§ of the State of Delaware,
	§ in and for New Castle County
	§ Cr. I.D. 0609003642

Submitted: March 26, 2008

Decided: March 31, 2008

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices.

This 31st day of March 2008, it appears to the Court that:

1) The defendant-appellant, Sandy Oakley,¹ appeals from the Superior Court's September 5, 2007 denial of his motion for credit for time served. On appeal, Oakley argues that he should receive credit for his time served at the New Castle County Detention Center while he awaited sentencing. The record supports Oakley's assertion that he never received credit for his time served prior to his transfer to Ferris School on September 27, 2007. Accordingly, we remand this matter to the Superior Court with

¹ Pseudonyms were adopted pursuant to Supreme Court Rule 7(d).

instructions to grant Oakley's motion for credit time at the New Castle County Detention Center.²

2) Oakley, then fourteen, was arrested and charged in the Family Court in New Castle County with manslaughter and various weapons and theft charges on September 6, 2006. He was held in default of bond and detained at the New Castle County Detention Center after his arrest where he remained throughout the duration of the litigation. On July 10, 2007, Oakley entered into a plea agreement with the State. Under the terms of this plea agreement, Oakley would be adjudged delinquent in Family Court on one count of Manslaughter and enter a plea of guilty in Superior Court to one count of Possession of a Firearm During the Commission of a Felony and one count of Conspiracy Second Degree in exchange for the State to *nolle prosequere* the remaining charges. The Superior Court plea was entered on July 10, 2007 and the Family Court plea was entered on July 30, 2007. Sentencing was deferred until each court could complete presentence investigations.

3) Both the Family Court sentencing and the Superior Court sentencing took place on September 5, 2007. Because Oakley had been

² Our decision to remand this matter to the Superior Court with instructions to grant Oakley's motion for credit time renders the appeal from the final judgment of the Family Court moot.

adjudicated delinquent on an unrelated charge within the past year, he faced a mandatory six month sentence under 10 *Del. C.* § 1009(e)(1).³ At the Family Court sentencing, defense counsel did not request credit from the Family Court for the time Oakley spent at the New Castle County Detention Center. Instead, Oakley’s counsel made this statement to the Family Court: “I would urge that the Court simply require that this jurisdiction which may continue until age eighteen continue until such course of treatment is accomplished that the department deems appropriate. I say this because he does face three years in the adult system.” The Family Court committed Oakley to the Department of Youth Rehabilitation Services at level five “for an indefinite commitment at the Ferris School followed by after care until the age of eighteen.”

4) Later that day, during the Superior Court sentencing, Oakley’s counsel represented that the presentence investigation report “indicates that

³ See 10 *Del. C.* § 1009(e)(1):

Any child who has been adjudicated delinquent by this Court of 1 or more offenses which would constitute a felony were the child charged as an adult under the laws of this State, and who shall thereafter within 12 months commit 1 or more offenses occurring subsequent to the said adjudication which offense or offenses would constitute a felony were the child charged as an adult under the laws of this State, and thereafter be adjudged delinquent of said offense or offenses, is declared a child in need of mandated institutional treatment, and this Court shall commit the child so designated to the Department of Services for Children, Youth and Their Families for at least a 6-month period of institutional confinement.

[Oakley] should be given 365 days credit from September 6th of 2006.” He requested specifically that the Superior Court “give [Oakley] the full credit that’s recommended in the presentence report and I would urge the Court to require his additional time to commence upon his going to Aftercare under the provisions of the Department of Youth Rehabilitation Services.” The State responded that it was “vehemently opposed to 365 days credit for time served at the Ferris School.” The Superior Court stated, “Since he does have a Family Court sentence and there were aspects of the Family Court sentence that were imposed, I think the credit goes to that Family Court sentence.” Oakley’s counsel responded that the Family Court did not impose the credit. The Court made the following remarks:

[I]f I give him credit or make the effective date September 6, 2006, what I, in effect, do is negate the deal that has been worked out and discussed by putting this sentence before the Family Court sentence. . . . I think what [the prosecutors] have asked for in that effect is reasonable and whether I give him credit, if I could—and I don’t think I can, and I won’t—from September 6, 2006 or give him four years, we’re going to get to the same point anyway. I think what is being requested is reasonable and . . . I’m not going to undermine it.

5) The Superior Court imposed the following sentence on the count of Conspiracy Second Degree: effective September 5, 2007, two years at Level V, suspended for two years at Level IV halfway house, suspended

after one year for one year at Level III.⁴ For the weapons charge, the Superior Court imposed the full mandatory three year sentence at Level V with special terms and conditions to run consecutively to the sentence imposed at the Family Court. The Court denied crediting any of Oakley's time spent at the New Castle County Detention Center. This appeal followed.

6) On appeal, Oakley argues that he was entitled to full credit for the time served at the New Castle County Detention Center against his Superior Court sentence. We review the Superior Court's sentencing of a criminal defendant for abuse of discretion.⁵ Because appellate review of sentences is extremely limited, "our review ends upon a determination that the sentence is within the statutory limits prescribed by the legislature."⁶ "Where the sentence falls within the statutory limits, we consider only whether it is based on factual predicates which are false, impermissible, or lack minimal reliability, judicial vindictiveness or bias, or a closed mind."⁷

⁴ Oakley would be held at Level V pending space at Level IV halfway house.

⁵ *Martini v. State*, 2007 WL 4463586, at *4 (Del. Supr.); *Kurzmann v. State*, 903 A.2d 702, 714 (Del. 2006).

⁶ *Kurzmann*, 903 A.2d at 714.

⁷ *Id.*

7) An inmate is entitled to Level V credit for all time served at Level V incarceration.⁸ The State concedes that the New Castle County Detention Center qualifies as a Level V facility for purposes of computing time served under 11 *Del. C.* § 3901(b).⁹ The State also concedes that juveniles are entitled to credit for time served in pretrial detention in lieu of bail against a mandatory sentence imposed by a Family Court judge.¹⁰ With regard to Oakley’s counsel’s decision not to request the Family Court to give credit for his presentence detention, the State makes this statement: “The

⁸ 11 *Del. C.* § 3901(b):

All sentences for criminal offenses of persons who at the time sentence is imposed are held in custody in default of bail, or otherwise, shall begin to run and be computed from the date of incarceration for the offense for which said sentence shall be imposed, unless the person sentenced shall then be undergoing imprisonment under a sentence imposed for any other offense or offenses, in which case the said sentence shall begin to run and be computed, either from the date of imposition thereof or from the expiration of such other sentence or sentences, as the court shall, in its discretion, direct.

See also Anderson v. State, 2006 WL 3931460, at *1 (Del. Supr.) (“[A]n inmate is entitled to Level V credit for all time served at Level V incarceration.”); *Gamble v. State*, 728 A.2d 1171, 1172 (Del. 1999) (“When a defendant actually serves time at Level V incarceration, however, he or she is entitled to Level V credit.”). *See also* 11 *Del. C.* § 3901(c) (“Any period of actual incarceration of a person awaiting trial, who thereafter before trial or sentence succeeds in securing provisional liberty on bail, shall be credited to the person in determining the termination date of sentence.”).

⁹ *Cf. Anderson*, 2006 WL 3931460, at *1 (“The State’s view is that inmates should receive Level V credit for time served at a VOP center because the conditions of confinement are substantially more restrictive than those found in other Level IV options.”). *But cf. Johnson v. State*, 1997 WL 70827, at *1 (Del. Supr.) (holding that a defendant is not entitled to Level V incarceration credit for time served at Level IV work release).

¹⁰ The State cites *State v. Grooms*, 1993 WL 777363, at *7 (Del. Fam. Ct.) in support of this concession.

[Family Court] should have credited Oakley’s pretrial detention time against the mandatory portion of the sentence imposed; apparently because such a credit would have no real effect, defense counsel failed to request the credit.”

8) Defense counsel did not request any credit for time served against the Family Court sentence, and the Family Court did not address this issue as a result of his defense strategy. Therefore, we need not address Oakley’s secondary argument in support of this strategy that “any credit time toward the six months mandatory he faced under [10 *Del. C.* § 1009(e)(1)] would be inappropriate and utterly and completely meaningless.”¹¹

9) Defense counsel, however, did raise the issue of credit for his time served at the New Castle County Detention Center to the Superior Court. The Superior Court denied this request, and the record reflects some confusion as from which facility Oakley was requesting his 365 day credit.¹² The record also reflects that the Superior Court believed that the Family Court had already taken into account this credit. The Superior Court did note, however, that he could have imposed a four-year sentence with credit

¹¹ Supr. Ct. R. 8. Oakley relies on *State v. Grooms*, 1993 WL 777363, at *7 (Del. Fam. Ct.) for support of this argument.

¹² The State prosecutor was opposed to Oakley to be requesting credit “for time served at the Ferris School” even though the credit was for time served at the New Castle County Detention Center.

“to get to the same point” as not crediting the time and imposing a three year sentence. In fact, the Superior Court actually imposed a three-year sentence.

10) Oakley’s three year sentence for the weapons offense is within the statutory limits.¹³ While the State contends that the Superior Court inherently gave credit “for the time [Oakley] spent at the detention center by not adding another year to the sentence,” this argument overlooks the fact that no credit time is included in either the Family Court or Superior Court sentence orders. The factual predicate relied upon by the Superior Court—that the Family Court had already considered the credit in imposing its sentence—was incorrect. Although the Superior Court acknowledged that he could have adjusted the sentence to account for the time Oakley had already served in New Castle County Detention Center, the sentence he imposed did not give credit for time served required as a matter of law.

11) The State argues that the Superior Court implicitly and expressly considered the time Oakley served at the New Castle County Detention Center and gave him credit for it “by not adding another year to his sentence.” During sentencing before the Family Court, Oakley’s counsel recognized that his client faced three years in the “adult system.”

¹³ See 11 *Del. C.* § 1447A (prescribing a three year minimum sentence for possession of a firearm during the commission of a felony).

Notwithstanding this statement, “an inmate is entitled to Level V credit for all time served at Level V incarceration.”¹⁴ The Superior Court’s order does not give credit for the time Oakley spent at the New Castle County Detention Center.

NOW, THEREFORE, IT IS HEREBY ORDERED that this matter is remanded to the Superior Court for the issuance of a sentencing order that gives Oakley Level V credit for the time he spent at the New Castle County Detention Center prior to being transferred to the Ferris School.¹⁵ Jurisdiction is not retained.

BY THE COURT:

/s/ Randy J. Holland
Justice

¹⁴ *Anderson*, 2006 WL 3931460, at *1.

¹⁵ We need not reach Oakley’s second argument that the “Family Court also has constitutional but not statutory discretion to allow for credit time under proper circumstances, such as when a defendant who faces mandatory time under the juvenile sentence, has completed his program at Ferris or other facility before the six months have elapsed.”