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**IN THE
COURT OF APPEALS OF INDIANA**

TIMOTHY E. DENNISON,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 18A02-0912-CR-1211

APPEAL FROM THE DELAWARE CIRCUIT COURT
The Honorable Marianne L. Vorhees, Judge
Cause No. 18C01-0203-MR-02

May 14, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

Timothy E. Dennison appeals the denial of his “Petition for Jail Time Credit.” (Appellant’s App. at 22.) We affirm.

FACTS AND PROCEDURAL HISTORY

On March 25, 2002, Dennison was charged with murder. On July 2, 2002, the State filed additional charges of reckless homicide and obstruction of justice. A jury found him guilty on all charges. The trial court merged the murder and reckless homicide convictions and sentenced Dennison to an aggregate term of 56.5 years. The sentencing order states, “The Defendant is given credit for time served of three hundred and eighty-five (385) days.” (*Id.* at 16.)

Dennison filed a “Petition for Jail Time Credit” that alleged he had not received Class I credit¹ for the time he was incarcerated prior to sentencing. (*Id.* at 22.) The State objected, noting the presumption that the Department of Correction (“DOC”) will automatically award credit time equal to the number of days served prior to sentencing.² The court denied Dennison’s motion:

At the sentencing hearing date of April 8, 2003, Defendant was given jail credit of 385 days. According to Pendleton Correctional Facility Classification, Defendant received the 385 days as Class I credit time.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, that Defendant’s Petition for Jail Time Credit is hereby denied.

(*Id.* at 28.)

¹ “A person assigned to Class I earns one (1) day of credit time for each day the person is imprisoned for a crime or confined awaiting trial or sentencing.” Ind. Code § 35-50-6-3(a).

DISCUSSION AND DECISION

In *Robinson v. State*, 805 N.E.2d 783, 792 (Ind. 2004), our Supreme Court adopted the following presumption:

Sentencing judgments that report only days spent in pre-sentence confinement and fail to expressly designate credit time earned shall be understood by courts and by the Department of Correction automatically to award the number of credit time days equal to the number of pre-sentence confinement days.

Therefore, if Dennison is arguing the trial court erred by not awarding him Class I credit, his claim fails because the *Robinson* presumption applies. *See id.*

If Dennison intended to argue the DOC did not actually apply the presumption, he was required to first exhaust his administrative remedies with the DOC. *Neff v. State*, 888 N.E.2d 1249, 1252 (Ind. 2008). A petitioner bears the burden of showing “what the relevant DOC administrative grievance procedures are, and that they have been exhausted at all levels.” *Young v. State*, 888 N.E.2d 1253, 1254 (Ind. 2008). Dennison has not alleged that he exhausted administrative remedies. Therefore, the trial court would not have jurisdiction to consider that issue.³ *Members v. State*, 851 N.E.2d 979, 983 (Ind. Ct. App. 2006) (dismissing appeal because trial court lacked jurisdiction over credit time complaint when petitioner failed to exhaust administrative remedies).

² The State cited *Jackson v. State*, 806 N.E.2d 773, 774 (Ind. 2004), which in turn cites *Robinson v. State*, 805 N.E.2d 783, 791-93 (Ind. 2004).

³ The trial court found Pendleton Correctional Facility had credited Dennison with 385 days of Class I credit for his incarceration prior to sentencing. It did not explain how it made that finding, nor did it provide a record citation in support thereof. In its brief, the State has outlined a calculation demonstrating, based on the earliest release date found on a document titled “Indiana Department of Correction Adult Offender Arrival and Identification,” (Appellant’s App. at 18-19), that Dennison was awarded the appropriate amount of Class I credit. (Appellee’s Br. at 5.) As the trial court did not have jurisdiction to determine whether the DOC’s credit time calculation was correct, we decline to review that issue.

Dennison appears to be making an additional argument that he is entitled to credit toward both the murder sentence and the obstruction of justice sentence, because the charges were filed separately. Dennison is incorrect. When a defendant “is confined during the same time period for multiple offenses for which he is convicted and sentenced to consecutive terms, credit time is applied against the aggregate sentence, not against each individual sentence.” *Bennett v. State*, 802 N.E.2d 919, 922 (Ind. 2004) (quoting *Lanham v. State*, 540 N.E.2d 612, 613 (Ind. Ct. App. 1989)). Therefore, we affirm the judgment of the trial court.

Affirmed.

BAILEY, J., and BARNES, J., concur.