

Toby Carroll, pro se, appeals from the trial court's order denying his motion for jail time credit. The sole issue on appeal is whether the trial court erred in concluding that Carroll was due no credit time for time served prior to sentencing in this cause.

We affirm.

On March 22, 2010, Carroll pleaded guilty as charged to burglary as a class B felony and theft as a class D felony. On April 19, 2010, the trial court sentenced Carroll to fifteen years for class B felony burglary and to three years for class D felony theft. The trial court ordered that the sentences be served concurrently and that five years be suspended, for a total executed sentence of ten years.¹ The trial court also ordered the sentences to be served consecutively to the sentences imposed in Cause No. 48D03-0805-CR-230 and Cause No. 48D03-0301-FD-023. The court noted that that no jail credit was owed to Carroll "due to mandatory sentencing." *Appellant's Appendix* at 7.

On July 22, 2010, Carroll filed an unverified motion for jail time credit. Carroll maintained that he was incarcerated in the Madison County Jail awaiting sentencing from June 19, 2009 to and including April 19, 2010, a total of 304 days prior to sentencing, and that he was due credit for that time served. The trial court summarily denied Carroll's motion on July 29, 2010. Carroll now appeals.

Initially, a person imprisoned for a crime or "confined awaiting trial or sentencing" is assigned to Class I and, based upon that classification, earns one day of credit time for each

¹ The sentence is in accordance with the plea agreement that provided for an executed sentence not to exceed ten years.

day he is “confined awaiting trial or sentencing.” Ind. Code Ann. § 35-50-6-3(a) (West, Westlaw current through 2011 1st Regular Sess.); I.C. § 35-50-6-4(a) (West, Westlaw current through 2011 1st Regular Sess.). Therefore, “pre-sentence jail time credit is a matter of statutory right, not a matter of judicial discretion.” *Weaver v. State*, 725 N.E.2d 945, 948 (Ind. Ct. App. 2000).

Determination of a defendant’s pretrial credit is dependent upon (1) pretrial confinement, and (2) the pretrial confinement being a result of the criminal charge for which sentence is being imposed. *Bischoff v. State*, 704 N.E.2d 129 (Ind. Ct. App. 1998), *trans. denied*. In other words, “confined awaiting trial or sentencing” has been construed to mean confined as a result of the charge for which the defendant is being sentenced. *Willoughby v. State*, 626 N.E.2d 601 (Ind. Ct. App. 1993). When a defendant is incarcerated on multiple unrelated charges at the same time, a period of confinement may be the result of more than one offense. *Diedrich v. State*, 744 N.E.2d 1004 (Ind. Ct. App. 2001). If a person is incarcerated awaiting trial on more than one charge and is sentenced to concurrent terms for the separate crimes, he is entitled to credit time applied against each separate term. *Stephens v. State*, 735 N.E.2d 278 (Ind. Ct. App. 2000), *trans. denied*.

Where, however, “a defendant is convicted of multiple offenses and sentenced to consecutive terms, the jail credit is applied against the aggregate sentence.” *Shane v. State*, 716 N.E.2d 391, 400 (Ind. 1999). This guards against an award of “double credit” in situations where a defendant has arguably been incarcerated at the same time on more than one offense if the sentences for multiple offenses are to be served consecutively. *French v. State*, 754 N.E.2d 9, 17 (Ind. Ct. App. 2001).

Here, Carroll is not entitled to credit time because the record reflects that he received mandatory consecutive sentences, thereby limiting him to only one credit for the period of incarceration in question. *See Diedrich v. State*, 744 N.E.2d 1004, 1007 n.3 (Ind. Ct. App. 2001). Carroll committed the current offenses while he was on probation and thus, his sentences in this case were required to be consecutive to the sentence imposed for the probation violation. I.C. § 35-50-1-2 (West, Westlaw current through 2011 1st Regular Sess.). Because the sentences were required to be served consecutively, Carroll is entitled to credit against only the aggregate sentence. *Shane v. State*, 716 N.E.2d 391

To ensure that Carroll does not receive “double credit,” he is entitled to jail time credit only for confinement time that is a result of the charge for which he was being sentenced in this case. The period of time to which Carroll claims he is entitled to jail time credit in the present case coincides with time served on his probation violation. The record does not contain any information concerning whether Carroll received the proper jail time credit due when sentenced for his probation violation. The appropriate action to challenge his claim that he did not receive proper jail time credit is to appeal the sentence imposed for the probation violation. From the record before us, we conclude that the trial court did not err in denying Carroll’s motion for jail time credit in the case before it.

Judgment affirmed.

DARDEN, J., and VAIDIK, J., concur.