

Commonwealth Of Kentucky

Court Of Appeals

NO. 1997-CA-002289-MR

JAMES JULIAN JULICK

APPELLANT

v. APPEAL FROM BOONE CIRCUIT COURT
HONORABLE JOSEPH BAMBERGER, JUDGE
ACTION NO. 96-CR-000052

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION

REVERSING AND REMANDING WITH DIRECTIONS

** ** * * *

BEFORE: GUDGEL, CHIEF JUDGE; GUIDUGLI AND MILLER, JUDGES.

MILLER, JUDGE: James J. Julick (Julick) brings this *pro se* appeal from a July 10, 1997 order of the Boone Circuit Court denying a motion for jail time credit. We reverse and remand with directions.

On June 5, 1996, Julick was arrested on the charge of possession of a controlled substance in the first degree (Ky. Rev. Stat. (KRS) 218A. 1415)) in case number 96-CR-00052. On December 4, 1996, Julick pled guilty to the felony charge. That

same day, he also pled guilty to a misdemeanor charge of criminal conspiracy to possess a controlled substance in the first degree (KRS 506.040 and 218A.1415) in case number 96-CR-00142. On December 10, 1996, the circuit court sentenced Julick to five years' imprisonment in case number 96-CR-00052 and "1 year" imprisonment in case number 96-CR-00142. The misdemeanor conviction was ordered to run concurrently with the felony conviction.¹ The circuit court gave Julick zero days' jail time credit on the felony conviction and 200 days' jail time credit on the misdemeanor.

On July 1, 1997, Julick made a motion pursuant to Ky. R. Crim. P. 10.10 to correct the judgment in case number 96-CR-00052 to reflect jail time credit of 195 days. The circuit court overruled said motion, stating that the 195 days' jail time was credited toward his misdemeanor sentence in case number 96-CR-142. This appeal followed.

Julick argues that he is entitled to such credit for the period he was lodged in the Boone Detention Center awaiting the disposition of case number 96-CR-00052. We agree. As the two sentences in question were ordered to run concurrently, the circuit court was required to credit the 200 days of jail time previously applied to case number 96-CR-00142 to Julick's felony conviction in case number 96-CR-00052. See Lemon v. Corrections Cabinet, Ky. App., 712 S.W.2d 370 (1986), and KRS 532.120(3).

¹Ky. Rev. Stat. 530.110 mandates such.

As it failed to do so, we must reverse the circuit court's order.²

For the foregoing reasons, the July 10, 1997 Order of the Boone Circuit Court is reversed and this cause is remanded with directions to amend the judgment in case number 96-CR-00052 to reflect the appropriate jail time credit.

ALL CONCUR.

BRIEF FOR APPELLANT:

James Julian Julick, Pro Se
Marion Adjustment Center
St. Mary, KY

BRIEF FOR APPELLEE:

A. B. Chandler III
Attorney General
and
Joseph R. Johnson
Assistant Attorney General
Frankfort, KY

²It appears that the Department of Corrections has already applied the 200 days of jail time credit to Julick's felony conviction in 96-CR-00052. Pursuant to Ky. Rev. Stat. 532.120(3), however, such credit must be ordered by the court imposing the sentence which is to be credited.