

Commonwealth of Kentucky

Court of Appeals

NO. 2006-CA-000781-MR

ERIC NICHOLAS

APPELLANT

v.

APPEAL FROM PULASKI CIRCUIT COURT
HONORABLE DAVID A. TAPP, JUDGE
ACTION NOS. 05-CR-00076 & 05-CR-00104

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING

** ** * * * **

BEFORE: ABRAMSON AND TAYLOR, JUDGES; KNOPF,¹ SENIOR JUDGE.

TAYLOR, JUDGE: Eric Nicholas brings this *pro se* appeal from a March 10, 2006, order of the Pulaski Circuit Court denying his motion for jail-time credit. We affirm.

Appellant was indicted upon the charges of manufacturing methamphetamine, driving while intoxicated (second offense), and for not having license plate illuminated (Indictment No. 05-CR-00076). Appellant ultimately reached a plea agreement with the Commonwealth. Pursuant to the plea agreement, appellant entered a

¹ Senior Judge William L. Knopf sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and Kentucky Revised Statutes 21.580.

plea of guilty to the amended charge of possession of methamphetamine precursors and also entered a plea of guilty to possession of a controlled substance in a separate indictment (Indictment No. 05-CR-00104). In exchange for the guilty plea, all other charges were dismissed and appellant was to serve a total of eight years' imprisonment. The circuit court ultimately accepted appellant's guilty plea and sentenced appellant in accordance with the plea agreement to a total of eight years' imprisonment.

On January 17, 2006, Rebecca Light, a probation and parole officer, filed an affidavit stating that appellant was entitled to sixty-nine days jail-time credit towards his sentence. On January 17, 2006, the circuit court ordered that appellant be credited sixty-nine days jail-time credit toward his sentence of imprisonment. Thereafter, on March 9, 2006, appellant filed a motion seeking jail-time credit. Therein, appellant maintained that he was entitled to eighty days jail-time credit. On March 10, 2006, the circuit court denied appellant's motion and noted that it had previously ruled on the appellant's entitlement to jail-time credit on January 17, 2006. This appeal follows.

Appellant has filed a *pro se* brief with this Court. In that brief, appellant argues that the circuit court erred by denying his motion for jail-time credit. Appellant directs this Court to Kentucky Revised Statutes 532.120(3), which states that time spent in custody prior to commencement of the sentence shall be credited towards service of the maximum term of the sentence. Appellant states that this statute is mandatory. However, appellant does not argue that he received an inadequate amount of jail-time credit; rather, appellant argues that the circuit court erred by refusing to give him jail-time

credit. As pointed out by the Commonwealth, on January 17, 2006, the circuit court ordered that appellant be credited sixty-nine days jail-time credit towards his sentence of imprisonment. Moreover, appellant failed to inform this Court where the alleged calculation error, if any, can be found in the record on appeal. Thus, we view appellant's contention to be totally without merit. As such, the circuit court properly denied appellant's motion for jail-time credit.

For the foregoing reasons, the order of the Pulaski Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Eric Nicholas, *Pro Se*
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BRIEF FOR APPELLEE:

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