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Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A10-1916**

State of Minnesota,
Respondent,

vs.

Scott Wade Ramey,
Appellant.

**Filed February 22, 2011
Affirmed
Johnson, Chief Judge**

Freeborn County District Court
File No. 24-CR-09-1593

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Craig S. Nelson, Freeborn County Attorney, David J. Walker, Assistant County Attorney,
Albert Lea, Minnesota (for respondent)

Theodore D. Sampsell-Jones, Special Assistant State Public Defender, St. Paul,
Minnesota (for appellant)

Considered and decided by Johnson, Chief Judge; Lansing, Judge; and Minge,
Judge.

UNPUBLISHED OPINION

JOHNSON, Chief Judge

A Freeborn County jury found Scott Wade Ramey guilty of a felony violation of an order for protection. The district court imposed a sentence of one year and one day, with 189 days of jail credit. Ramey appealed from the judgment of conviction. Thereafter, the district court modified the sentence by eliminating the jail credit. Ramey now challenges the district court's elimination of jail credit on the ground that the district court did not have jurisdiction to address that issue while Ramey's appeal is pending. We conclude that the issue of jail credit is independent of Ramey's appeal from his conviction. Therefore, we affirm the district court's elimination of jail credit.

FACTS

At a January 11, 2010, sentencing hearing, the district court imposed consecutive sentences for the conviction in this case, a violation of an order for protection (OFP), and for a conviction in another case, a violation of a harassment restraining order (HRO). The district court first sentenced Ramey to 27 months of imprisonment in the other case, with 295 days of jail credit against that sentence, and then sentenced him to one year and one day in this case, with 189 days of jail credit against this sentence.

In April 2010, Ramey filed a notice of appeal from the conviction in this case. In July 2010, the corrections agent who had prepared the presentence investigation wrote to the sentencing judge to ask that the jail credit in this case be eliminated. The agent explained that, because Ramey's two sentences are to be served consecutively, Ramey was effectively given two days of credit for every day of pre-trial detention. In July

2010, the district court conducted a resentencing hearing, at which it ruled that Ramey was not entitled to jail credit against the sentence imposed in this case. Ramey appeals from that ruling.

DECISION

Ramey argues that the district court erred by eliminating the jail credit against the sentence on his conviction of violating an OFP because the district court lacked jurisdiction after Ramey filed his notice of appeal from the conviction. We apply a *de novo* standard of review to issues related to a district court's jurisdiction. *State v. Simion*, 745 N.W.2d 830, 837 (Minn. 2008).

As a general rule, an appeal from a criminal conviction divests a district court of jurisdiction over the case. *See State v. Friberg*, 435 N.W.2d 509, 512 n.1 (Minn. 1989) (noting that “once the notice of appeal was filed, the trial court no longer had jurisdiction over the matter” of a motion to vacate the judgment of conviction). But the pendency of an appeal does not divest a district court of jurisdiction over all matters.

Pending a duly executed appeal, the jurisdiction of a trial court is *suspended* only as to those matters necessarily involved in the appeal, not as to those matters which are independent of, or which are supplemental to, the appeal or collateral to the proceeding in which the appealed order or judgment was rendered.

State v. Barnes, 249 Minn. 301, 302-03, 81 N.W.2d 864, 866 (1957) (citations omitted).

We are unaware of any caselaw in which this part of the *Barnes* opinion has been applied to the issue of jail credit. The most similar case on point is *Muecke v. State*, 348 N.W.2d

808 (Minn. App. 1984), in which this court held that a district court retained jurisdiction to revoke probation despite the pendency of an appeal. *Id.* at 810.

In his appeal from his conviction of violating the OFP, Ramey challenges only the conviction. He argues that the evidence is insufficient to prove that he violated the OFP. In that appeal, he does not challenge his sentence. The issue of jail credit is “independent of” or “supplemental to” Ramey’s appeal of his conviction. *Barnes*, 249 Minn. at 302-03, 81 N.W.2d at 866. Consequently, the issue of jail credit is not “necessarily involved” in Ramey’s appeal from his conviction.

In sum, the district court did not lack jurisdiction over the issue of jail credit due to the pendency of Ramey’s appeal of his conviction.

Affirmed.