

**IN THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
LAKE COUNTY, OHIO**

STATE OF OHIO,	:	O P I N I O N
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2017-L-040
LAWRENCE D. DIXON,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Lake County Court of Common Pleas, Case No. 2013 CR 000875.

Judgment: Affirmed.

Charles E. Coulson, Lake County Prosecutor, and *Karen A. Sheppert*, Assistant Prosecutor, Lake County Administration Building, 105 Main Street, P.O. Box 490, Painesville, OH 44077 (For Plaintiff-Appellee).

Lawrence D. Dixon, pro se, PID: A652-842, Lake Erie Correctional Institution, P.O. Box 8000, 501 Thompson Road, Conneaut, OH 44030 (Defendant-Appellant).

THOMAS R. WRIGHT, J.

{¶1} Appellant, Lawrence Dixon, appeals the trial court’s denial of his motion for jail-time credit. We affirm.

{¶2} Dixon asserts two assigned errors:

{¶3} “The trial court erred when it failed to credit appellant’s 118 days of pre-trial confinement against each prison term.

{¶4} “The sentence of the trial court violated Equal Protection Clauses under the state and federal constitutions.”

{¶5} We do not address the merits of his arguments, however, because Dixon’s arguments are barred by res judicata. *State v. Guiterres*, 11th Dist. Trumbull No. 2015-T-0116, 2016-Ohio-5572, ¶11.

{¶6} In 2014, Dixon pleaded guilty to four counts of receiving stolen property and one count of misusing a credit card. He was sentenced to a total of 47 months in prison and credited with 118 days of time served. He did not appeal.

{¶7} On December 12, 2016, Dixon filed his first motion for jail-time credit captioned “motion to correct mathematical calculation of already granted motion for jail-time credit pursuant to R.C. 2929.19,” which was denied December 23, 2016. Dixon did not appeal.

{¶8} On December 30, 2016, Dixon filed a response to the state’s motion in opposition after the trial court already denied his motion for jail-time credit. Construing his response as a motion for reconsideration, the trial court again overruled his motion on February 10, 2017. Dixon appealed the February 10, 2017 judgment on March 9, 2017.

{¶9} Although captioned differently, both Dixon’s motion and his response asked the trial court for the same substantive relief, i.e., an additional 472 days of jail-time credit. Thus, the argument raised in his response was already considered and overruled by the trial court in its December 23, 2016 decision.

{¶10} Dixon had to appeal the trial court’s December 23, 2016 judgment in order to properly place his arguments before us since the same point of law was already

raised and rejected by the trial court in this decision. Accordingly res judicata bars consideration of Dixon's assigned errors now because the issue could have been raised and considered in a direct appeal from the December 23, 2016 decision. *Guitterres, supra*, at ¶11-12, citing *State v. Kleiner*, 11th Dist. Geauga No. 2012-G-3077, 2012-Ohio-5933, ¶14.

{¶11} Moreover, and contrary to the caption of Dixon's first motion for jail-time credit, he was not seeking the correction of a mere clerical error, but a substantive legal determination regarding jail-time credit. *State v. Marcum*, 4th Dist. Hocking No. 14CA13, 2014-Ohio-5373, ¶26, citing *State v. Smiley*, 10th Dist. Franklin No. 11AP-266, 2012-Ohio-4126, ¶12. Thus, res judicata applies. *Id.*

{¶12} Accordingly, Dixon's assigned errors lack merit and are overruled.

{¶13} The trial court's judgment is affirmed.

CYNTHIA WESTCOTT RICE, P.J.,

TIMOTHY P. CANNON, J.,

concur.