

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-11-00216-CR

JACKE RAHMAD EAGLIN, Appellant

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 252nd District Court
Jefferson County, Texas
Trial Cause No. 07-01618**

MEMORANDUM OPINION

Pursuant to a plea bargain, Jacke Rahmad Eaglin pleaded guilty to the offense of unauthorized use of a vehicle. The trial court deferred adjudication of guilt and placed Eaglin on community supervision for three years. The State filed a motion to revoke Eaglin's unadjudicated community supervision. Finding that Eaglin violated the community supervision order, the trial court adjudicated his guilt, and sentenced him to two years in state jail.

The trial court denied what was, in effect, Eaglin’s request to be given credit for completing a substance abuse felony punishment program (SAFP) while Eaglin was on community supervision. Eaglin appeals that order.

Article 42.12, section 23(b), of the Code of Criminal Procedure provides as follows:

(b) No part of the time that the defendant is on community supervision shall be considered as any part of the time that he shall be sentenced to serve, except that on revocation, the judge shall credit to the defendant time served by the defendant as a condition of community supervision in a substance abuse treatment facility operated by the Texas Department of Criminal Justice under Section 493.009, Government Code, or another court-ordered residential program or facility, but only if the defendant successfully completes the treatment program in that facility. . . .

Tex. Code Crim. Proc. Ann. art. 42.12, § 23(b) (West Supp. 2010). Under this statute, the trial judge must give credit to a defendant who successfully completes a substance abuse treatment program approved by the trial court or operated by TDCJ. The statute states that the substance abuse treatment program must be completed in “that facility.” It does not appear that the Legislature intended that a defendant be required to successfully complete treatment at an “after care” or a subsequent program in order to receive credit for completion of SAFP.¹

¹ Two unpublished opinions without precedential value have taken this position. *See Woodard v. State*, No. 13-09-00694-CR, 2011 WL 2732669, at **3-4 (Tex. App.—Corpus Christi July 14, 2011, no pet.) (mem. op., not designated for publication); *Burke v. State*, Nos. 03-09-00543-CR, 03-09-00544-CR, 2010 WL 3431675, at **3-4 (Tex. App.—Austin Aug. 31, 2010, pet. ref’d) (mem. op., not designated for publication); *see* Tex. R. App. P. 47.7(a).

The trial court signed an order requiring Eaglin “to serve a term of confinement and treatment in a substance abuse treatment facility” The order then provided that “[u]pon release [from that facility], the defendant is required to participate in a drug or alcohol abuse continuum of care treatment plan as developed by the Texas Commission on Alcohol and Drug Abuse, abiding by all rules and regulations of said treatment plan until discharged by the staff of the continuum of care program.”

The order releasing Eaglin from the SAFP facility stated he “is successfully completing the treatment program at said facility[,]” and “has been given a tentative discharge date of 04/15/10.” The trial court’s order further stated that Eaglin was to “be released to a duly-authorized representative of the Land Manor, Inc. agency as part of[f] the Continuum of Care program as provided by the Article 42.12, Section 14(c) (d), Code of Criminal Procedure, and Section 493.009(c), Government Code.”

Article 42.12, section 14(c), (d) provides as follows:

(c) If a judge requires as a condition of community supervision that the defendant serve a term of confinement and treatment in a substance abuse treatment facility under this section, the judge shall also require as a condition of community supervision that on release from the facility the defendant:

(1) participate in a drug or alcohol abuse continuum of care treatment plan[.]

. . . .

(d) The Texas Commission on Alcohol and Drug Abuse shall develop the continuum of care treatment plan.

Tex. Code Crim. Proc. Ann. art. 42.12, § 14(c), (d) (West Supp. 2010). Eaglin successfully completed the treatment program at the SAFF facility. He did not complete the “continuum of care program” at Land Manor.

The statute makes a distinction between the treatment in a substance abuse treatment facility and the continuum-of-care treatment plan that follows release from the SAFF facility. Article 42.12, section 23(b) requires the trial court to credit the defendant for time served as a condition of community supervision in a substance abuse treatment facility. The statute does not require that the defendant complete a second program (“continuum of care treatment plan”) to receive credit for time spent in SAFF. Because the record establishes that Eaglin successfully completed the SAFF treatment program, he is entitled by law to receive credit against his sentence for the time served there. Eaglin’s appellate issue is sustained.

The judgment is modified to credit Eaglin for the 184 days served in the substance treatment facility at the TDCJ Walker Sayle Unit where he successfully completed the SAFF program. The judgment is affirmed as modified.

AFFIRMED AS MODIFIED.

DAVID GAULTNEY
Justice

Submitted on October 6, 2011
Opinion Delivered October 19, 2011
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Before Gaultney, Kreger, and Horton, JJ.