

SUPERIOR COURT  
OF THE  
STATE OF DELAWARE

E. SCOTT BRADLEY  
JUDGE

1 THE CIRCLE, SUITE 2  
COURTHOUSE  
GEORGETOWN, DE 19947

January 15, 2003

Christopher Toth  
Multi-Purpose Criminal Justice Facility  
P.O. Box 9561  
Wilmington, DE 19808

RE: State v. Christopher Toth  
Def. ID# 0107003212

Dear Mr. Toth:

This is my decision on your Motion for Credit Time.<sup>1</sup> You have requested credit for "time served" against your sentence in Criminal Action No. 01-07-0420 (the "Delaware Assault Case") for the period of time that you were incarcerated from January 14, 2002 to March 8, 2002. The problem with your request is that it is unrelated to the Delaware Assault Case. You

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<sup>1</sup>At the hearing on this matter on September 6, 2002, I asked Mr. Toth's attorney, Thomas A. Pedersen, to send me a copy of the sentencing order issued by the Court of Common Pleas, Delaware County, Pennsylvania. Before I received the order, Mr. Toth filed a "Supplemental Information to Rule 35(a) Motion to Correct Illegal Sentence Filed on August 21, 2002" on November 27, 2002. Mr. Pedersen sent me a copy of the order on December 6, 2002.

were, and still are, involved in multiple criminal proceedings and subject to multiple sentences. The issue is the appropriate allocation of the time that you spent incarcerated prior to sentencing on your various proceedings.

As you know, you were not incarcerated as a result of your arrest and conviction in the Delaware Assault Case until you were sentenced on March 8, 2002. You posted bail on the Delaware Assault Case and were not incarcerated until you were arrested on January 14, 2002 for a violation of probation on Criminal Action No. 97-04-0085 (the “Delaware Arson Case”). You were unable to post bail on your violation of probation and remained incarcerated until your violation of probation hearing on January 25, 2002. At the hearing, you were found guilty of violating your probation by the Honorable Joseph P. Slight, III, and resented to two years and five months at supervision level V, suspended for two years and five months at supervision level IV. Judge Slight ordered that you were to be held at supervision level V pending a spot in the supervision level IV home confinement program. You were scheduled to move to the supervision level IV home confinement program on February 14, 2002, but were unable to do so because of a detainer issued by the Court of Common Pleas, Delaware County, Pennsylvania (the “Pennsylvania Assault Case”).

I sentenced you on March 8, 2002. You were incarcerated from January 14, 2002 to March 8, 2002 only because of your violation of probation in the “Delaware Arson Case” and because of the detainer on the Pennsylvania Assault Case. Therefore, it seems logical that the time you spent incarcerated from January 14, 2002 to March 8, 2002 be allocated to the Arson Case and the Pennsylvania Assault Case. *Ricketts v. State*, 765 A.2d 952 (Del. 2001). I note that you did get credit for time served in the Pennsylvania Assault Case for the time that you were incarcerated in Delaware. I see no reason to allow you to pick and choose where your time is

allocated, particularly when the time that you spent incarcerated is wholly unrelated to the Delaware Assault Case. Therefore, your Motion for Credit Time is hereby denied.

IT IS SO ORDERED.

Very truly yours,

E. Scott Bradley

ESB:tl

cc: Prothonotary's Office  
Thomas A. Pedersen, Esquire  
Paula Ryan, Esquire  
Cathy Howard, Clerk of the Court, Supreme Court