

Appellant-defendant James Lewis appeals the trial court's denial of his motion for additional credit time while awaiting sentencing. Specifically, Lewis argues that he was entitled to credit time for the days that he spent at Richmond State Hospital (the Hospital) prior to sentencing. Concluding that Lewis failed to present sufficient evidence establishing that he was entitled to additional credit time, we affirm the judgment of the trial court.

FACTS

On January 7, 2006, Anderson Police officers arrested Lewis for possession of a controlled substance and public intoxication. The officers had been dispatched to the Caboose Tavern in Anderson in reference to an intoxicated subject—later identified as Lewis—who refused to pay for his drinks. After the officers noticed that Lewis was intoxicated, they conducted a search incident to arrest and found two white pills in Lewis's pocket that were subsequently identified as Vicodin.

On January 21, 2006, Lewis was arrested again for public intoxication, disorderly conduct, and possession of a controlled substance after Anderson Police officers found him “wandering around on the road with blood on his head.” Tr. p. 8. Finally, on April 24, 2006, Lewis was arrested and subsequently charged with burglary and theft after he had stolen weapons and jewelry from his mother's residence.

On August 14, 2006, Lewis appeared for a dispositional hearing on all three causes. Lewis had been incarcerated in the Madison County jail during the pendency of this hearing. Lewis ultimately pleaded guilty to two counts of public intoxication, two counts of possession of a controlled substance, and one count of theft. The State agreed to dismiss the

remaining charges. The trial court ordered Lewis to undergo a substance abuse evaluation on August 18, 2006, for possible placement in the Hospital. Thereafter, on November 27, 2006, the trial court again ordered Lewis transported to the Hospital “for purpose of commitment; and to then return said defendant to the Madison County jail immediately thereafter.” Appellant’s App. p. 31. On February 9, 2007, the trial court issued an arrest warrant for Lewis after he escaped from the Hospital.

When Lewis appeared for sentencing on April 9, 2007, the trial court sentenced him to three consecutive three-year terms of incarceration. Although the sentencing orders do not indicate how many days Lewis was incarcerated before sentencing, the abstracts of judgment indicate that he was incarcerated for 192 days.

On May 22, 2007, Lewis filed a motion for jail time credit. Lewis alleged that he was incarcerated from April 24, 2006, at the Madison County Jail until his transfer to the Hospital on December 11, 2006. Lewis asserted in his motion that he was entitled to credit time for the days that he spent in the Hospital, allegedly from December 12, 2006, until February 7, 2007. As a result, Lewis sought credit for “an aggregate number of 231 days.” Appellant’s App. p.63. The trial court denied the motion and Lewis now appeals.

DISCUSSION AND DECISION

I. Standard of Review

The sole issue is whether the trial court abused its discretion in denying Lewis’s request for credit time while he was in the Hospital. Lewis’s request is tantamount to a motion to correct an erroneous sentence. Brattain v. State, 777 N.E.2d 774, 776 (Ind. Ct.

App. 2002). When reviewing the trial court's decision on such a motion, we defer to the trial court's factual finding and review such decision only for an abuse of discretion. An abuse of discretion occurs when the trial court's decision is against the logic and effect of the facts and circumstances before it. However, we will review a trial court's legal conclusions under a de novo standard of review. Id.

II. Lewis's Claim

In addressing Lewis's contention, we initially observe that it is the appellant's duty to present an adequate record clearly showing the alleged error. Thompson v. State, 761 N.E.2d 467, 471 (Ind. Ct. App. 2002). Failure to do so amounts to a waiver of the issue. Id. In Brattain, the defendant failed to present any documentation to the trial court that he was entitled to credit for time served. 777 N.E.2d at 776. Likewise, Brattain did not present an adequate record to this court demonstrating any error by the trial court. Thus, we concluded that Brattain failed to satisfy his burden of establishing that the trial court had abused its discretion in denying the credit time request. Id.

As in Brattain, Lewis has not provided any documentation regarding the time that he purportedly spent in the Hospital. His bare assertion that he should receive additional credit "for the time spent in . . . the [Hospital] which was from December 11, 2006—February 7, 2007," appellant's br. p. 8, does not suffice for purposes of appellate review. See Brattain, 777 N.E.2d at 776. Moreover, even if Lewis is entitled to credit for time he spent in the Hospital, neither the trial court nor this court have any information upon which to determine the amount of credit time that might be due. As a result, Lewis has waived the issue.

Brattain, 777 N.E.2d at 776¹ ; see also Gardner v. State, 678 N.E.2d 398, 401 (Ind. Ct. App. 1997) (holding that the defendant failed to satisfy his burden of establishing that the trial court erred in denying his request for credit time where there was no evidence in the record of the defendant being incarcerated during the relevant dates or the reason for which he may have been incarcerated).

The judgment of the trial court is affirmed.

DARDEN, J., and BRADFORD, J., concur.

¹ As an aside, we note that Brattain also argued that the record would be unnecessarily encumbered because “court orders and abstracts could no longer be trusted.” Id. at 777 (quoting Appellant’s Reply Br. at 1). In rejecting that contention, we determined that “[o]ur decision does not call court orders and abstracts into question. Rather, our decision simply requires defendants to submit sufficient evidence to demonstrate that they are entitled to the credit time requested.” Id.