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APPELLANT PRO SE:

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**IN THE  
COURT OF APPEALS OF INDIANA**

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CHARLES HARDY, )  
 )  
 Appellant-Defendant, )  
 )  
 vs. ) No. 49A02-0612-PC-1129  
 )  
 STATE OF INDIANA, )  
 )  
 Appellee-Plaintiff. )

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APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Mark D. Stoner, Judge  
Cause Nos. 49F09-0305-FD-75491 and 49F09-0312-FD-208798

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**November 28, 2007**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**FRIEDLANDER, Judge**

Charles Hardy, pro se, presents a single argument on appeal, which is that the trial court failed to grant the correct amount of credit time in sentencing him.

We affirm.

This appeal involves two underlying criminal convictions. In the first, under cause number 49F09-0305-FD-75491, Hardy pleaded guilty to theft as a class D felony. In the second, under cause number 49F09-0312-FD-208798, Hardy pleaded guilty to battery as a class B felony. On August 16, 2004, Hardy was sentenced for both convictions to a total of 1820 days in community corrections, with 730 days suspended to probation. On September 22, 2004, the court determined that Hardy should receive 67 days of credit time. On September 23, 2005, the court ordered Hardy to complete his sentence on work release. On October 19, 2005, an arrest warrant was issued for Hardy alleging he violated his community corrections placement. Hardy was thereafter arrested and held in the custody of the Marion County Sheriff's Office until February 1, 2006, when he was again placed in community corrections. A May 11, 2006 docket entry in the chronological case summary (CCS) for the battery conviction reflects that Hardy's sentence was corrected to 1090 days, with 236 days credit time awarded. On August 9, 2006, Hardy filed a verified petition for jail time credit. The trial court denied the petition on August 9 and six days later sent a letter to Hardy explaining its decision and directing Hardy to "stop petitioning the court about this issue." *Appellant's Appendix* (Hardy neglected to number the pages of his appendix; thus, we cannot provide a more

specific citation to this material). Hardy did not include the August 15 letter from the trial court in the appellate materials.

Hardy presents this error in the form of a petition for post-conviction relief (PCR). Indeed, our Supreme Court has stated, “Indiana case law has long emphasized that ‘the preferred procedure [to present sentencing errors] is by way of a petition for post-conviction relief.’” *Robinson v. State*, 805 N.E.2d 783, 786 (Ind. 2004) (quoting *Jones v. State*, 544 N.E.2d 492, 496 (Ind. 1989)). That is especially so where, as here, the request for additional credit days requires consideration of matters outside the face of the sentencing judgment. *Hollins v. State*, 859 N.E.2d 392 (Ind. Ct. App. 2006).

A post-conviction petitioner bears the burden of establishing grounds for relief by a preponderance of the evidence. Ind. Post Conviction Rule 1(5); *Ennis v. State*, 806 N.E.2d 804 (Ind. Ct. App. 2004). When appealing from the denial of post-conviction relief, the petitioner is appealing from a negative judgment. *Ennis v. State*, 806 N.E.2d 804. Upon review, we will not reverse such judgments unless the evidence as a whole unerringly and unmistakably leads to a conclusion opposite that reached by the post-conviction court. *Id.* Finally, pro se litigants such as Hardy are held to the same standard as trained legal counsel and are required to follow procedural rules. *Evans v. State*, 809 N.E.2d 338 (Ind. Ct. App. 2005), *trans. denied*. Among other things, an appellant has a duty to provide this court with materials, via an appendix, transcripts, and exhibits, that reflect the errors alleged and permit this court to fully review the issue. *See Williams v.*

*State*, 690 N.E.2d 162 (Ind. 1987). Providing materials that are not adequate to permit review results in waiver of the issue. *Id.*

Hardy contends the trial court did not award sufficient jail time credit in imposing sentence. In order to make a determination on that issue, we must determine when Hardy was incarcerated and how much of that time he is entitled to credit toward the instant sentence. The materials submitted by Hardy include only the transcripts of several hearings and an appendix containing only a CCS for both cause numbers 49F09-0305-FD-75491 and 49F09-0312-FD-208798, as well as a copy of Hardy's verified petition for jail time credit and the trial court's ruling thereon. None of these materials contain an official record reflecting the number of days Hardy spent in jail awaiting trial or sentencing, and certainly do not shed light on the reason he was there when he was incarcerated. In short, there is nothing before us from which we may perform the calculation as to the proper amount of credit time earned. By failing to provide materials to this court that are adequate to consider his argument, Hardy has waived the issue. *See Id.*

Judgment affirmed.

RILEY, J., and SHARPNACK, J., concur.