

Commonwealth Of Kentucky

Court Of Appeals

NO. 2001-CA-001680-MR

FREDRICK BROWN

APPELLANT

v. APPEAL FROM JEFFERSON CIRCUIT COURT
HONORABLE GEOFFREY P. MORRIS, JUDGE
ACTION NOS. 98-CR-001687 & 98-CR-002760

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING

** ** * * * * *

BEFORE: BARBER, BUCKINGHAM, AND COMBS, JUDGES.

BUCKINGHAM, JUDGE: Fredrick Brown appeals from an order of the Jefferson Circuit Court denying his CR¹ 60.01 motion for additional jail credit. We affirm.

On March 1, 2000, the Jefferson Circuit Court sentenced Brown in Case No. 98-CR-001687 to eight years in prison for second-degree assault, eight years in prison for second-degree rape, and five years in prison for unlawful imprisonment. On the same day, the Jefferson Circuit Court also sentenced Brown in Case No. 98-CR-002760 to one year in prison for first-degree bail

¹ Kentucky Rules of Civil Procedure.

jumping. Each judgment stated that the eight-year sentence in 98-CR-001687 and the one-year sentence in 98-CR-002760 were to run consecutively with each other. Also, each judgment stated that Brown was "entitled to credit for time spent in custody prior to sentencing as determined by the Office of Probation and Parole."

On February 12, 2001, Brown filed a motion in both cases wherein he moved the trial court pursuant to KRS² 532.120(3) to credit him with 190 days of jail time served prior to sentencing on the charges. On February 19, 2001, the trial court denied the motions in each case. No appeal was taken from that order.

On July 18, 2001, Brown filed a motion in both cases pursuant to CR 60.01 to amend the final judgments to reflect credit for time served in jail prior to sentencing. On July 20, 2001, the trial court denied the motions, and this appeal followed.

CR 60.01 allows relief from clerical mistakes in judgments, orders, or other parts of the record. "Motion under that rule is to correct clerical errors, and may not be made to correct errors of law or relitigate a case." Prichard v. Bank Josephine, Ky. App., 723 S.W.2d 883, 885 (1987). Brown's motion for jail time credit pursuant to CR 60.01 was not appropriate because there was no clerical error in the judgments. Rather, he initially pursued the correct manner of seeking relief by filing the motion for jail time credit in February 2001. However, when

² Kentucky Revised Statutes.

that motion was denied, he did not appeal the order of the court denying the motion. He may not now improperly seek appellate review of the denial of that motion pursuant to an appeal of a denial of his CR 60.01 motion.

Furthermore, Brown has shown neither the circuit court nor this court any ground for the granting of additional jail credit. He merely claims that he is entitled to an additional 190 days jail time credit. However, he has not stated how many days he has actually been given credit for nor has he stated why he is entitled to additional credit. Further, he has not indicated which days he was in custody for which he was not given credit.³ Without such a showing, it does not appear that Brown would be entitled to additional jail time credit.

The order of the Jefferson Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Fredrick Brown, *Pro Se*
LaGrange, Kentucky

BRIEF FOR APPELLEE:

Albert B. Chandler III
Attorney General of Kentucky

Kent T. Young
Assistant Attorney General
Frankfort, Kentucky

³ In Brown's motion to the trial court, he stated that he was arrested on March 10, 1998, and remained in custody for 190 days. A review of the record indicates he was not arrested until later that year. Further, it appears that he made bond at one point but was later jailed again.