

*This opinion will be unpublished and may not be cited except as provided by Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A18-1893**

David Allen Caroon, petitioner,  
Appellant,

vs.

State of Minnesota,  
Respondent.

**Filed May 28, 2019  
Affirmed  
Johnson, Judge**

St. Louis County District Court  
File No. 69DU-CR-06-6378

David A. Caroon, Faribault, Minnesota (*pro se* appellant)

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Mark S. Rubin, St. Louis County Attorney, Gary W. Bjorklund, Assistant County Attorney, Duluth, Minnesota (for respondent)

Considered and decided by Jesson, Presiding Judge; Ross, Judge; and Johnson, Judge.

**UNPUBLISHED OPINION**

**JOHNSON**, Judge

David Allen Caroon is serving a 20-year sentence for conspiracy to commit first-degree murder. At his sentencing hearing in 2007, the district court awarded him 342 days of jail credit. In 2018, Caroon filed a motion seeking an additional 303 days of jail credit.

The district court denied the motion. We conclude that Caroon is not entitled to additional jail credit and, therefore, affirm.

### FACTS

In April 2006, the state charged Caroon with three counts of harassment and stalking, in violation of Minn. Stat. § 609.749, subds. 2, 5 (2004). Caroon was detained in the St. Louis County jail pending trial. On September 10, 2006, another inmate informed a law enforcement officer that Caroon had offered to pay him \$10,000 to murder Caroon's former wife or girlfriend. On September 14, 2006, a law enforcement officer met with the other inmate and equipped him with a hidden microphone. Later that day, the other inmate and Caroon had a conversation, which was recorded, in which Caroon attempted to hire the other inmate to murder Caroon's former wife or girlfriend and suggested ways of doing so.

On October 6, 2006, the state charged Caroon with conspiracy to commit first-degree murder, in violation of Minn. Stat. §§ 609.175, subd. 2(2), .185(a)(1) (2006). Caroon was detained pending trial. In July 2007, a jury found him guilty. On August 20, 2007, the district court imposed a sentence of 240 months of imprisonment, with credit for 342 days in custody between the date of the recorded conversation, September 14, 2006, and the date of the sentencing hearing. On appeal, Caroon sought a new trial but did not challenge his sentence. This court affirmed. *See State v. Caroon*, No. A07-2011, 2009 WL 112859 (Minn. App. Jan. 20, 2009), *review denied* (Minn. Mar. 31, 2009). Caroon later sought post-conviction relief but was unsuccessful. *See Caroon v. State*, No. A12-0552, 2012 WL 4774674 (Minn. App. Oct. 9, 2012), *review denied* (Minn. Jan. 15, 2013).

In May 2018, Caroon filed a *pro se* motion seeking an additional 303 days of jail credit. We construe the motion to be a motion to correct sentence. *See* Minn. R. Crim. P. 27.03, subd. 9. In October 2018, the district court denied the motion. Caroon appeals.

## D E C I S I O N

Caroon argues that the district court erred by denying his motion for additional jail credit.

“A criminal defendant is entitled to jail credit for time spent in custody in connection with the offense or behavioral incident being sentenced.” *State v. Clarkin*, 817 N.W.2d 678, 687 (Minn. 2012) (quotation omitted); *see also* Minn. R. Crim. P. 27.03, subd. 4(B). A defendant may, in certain circumstances, be entitled to jail credit for time spent in custody on another charge before he was charged with the offense of conviction. *State v. Folley*, 438 N.W.2d 372, 374-75 (Minn. 1989). Specifically, a defendant in custody on another charge is entitled to jail credit toward a sentence on a subsequent conviction for any period of time in which

(1) the State has completed its investigation in a manner that does not suggest manipulation by the State, and (2) the State has probable cause and sufficient evidence to prosecute its case against the defendant with a reasonable likelihood of actually convicting the defendant of the offense for which he is charged.

*Clarkin*, 817 N.W.2d at 689. “The defendant has the burden of establishing that he is entitled to jail credit for any specific period of time.” *Id.* at 687. Whether a defendant is entitled to jail credit is a mixed question of fact and law. *Id.* This court applies a clear-error standard of review to a district court’s findings of fact relevant to jail credit and a *de novo* standard of review to a district court’s legal analysis. *Id.*

In this case, at the August 20, 2007 sentencing hearing, the district court awarded Caroon jail credit for the entire time period between the date of the recorded conversation, September 14, 2006, and the date of the sentencing hearing. In denying Caroon's motion in October 2018, the district court found that the state acquired probable cause to prosecute Caroon for conspiracy to commit first-degree murder on September 14, 2006, and noted that he had not argued that the state had manipulated the timing of the completion of its investigation. The district court reasoned that the time periods for which Caroon seeks additional jail credit—March 20, 2005 to July 28, 2005, and April 23, 2006 to September 13, 2006—are clearly before the date on which the state acquired probable cause to charge Caroon with the offense of which he was convicted.

Caroon contends on appeal that he is entitled to an additional 303 days of jail credit for time he spent in custody before the state recorded his conversation with another inmate on September 14, 2006. But he does not challenge the district court's finding that the state acquired probable cause to prosecute him on September 14, 2006, and he does not contend that the state manipulated the timing of the completion of its investigation. He simply contends that he should receive jail credit for a time period in 2005 during which he was detained on an alleged probation violation in Hennepin County and for the time period in 2006 during which he was detained in St. Louis County on the harassment and stalking charges. But those time periods are almost entirely before he even committed the crime of conspiring to commit first-degree murder. And, as stated above, Caroon does not contend that the state acquired probable cause to prosecute him on September 10, 2006, instead of September 14, 2006.

Caroon's argument is inconsistent with well-established caselaw. The district court did not err in its sole finding of fact and properly applied the well-established caselaw. Thus, the district court did not err by denying Caroon's motion seeking additional jail credit.

**Affirmed.**