

[Cite as *Cleveland v. Palmer*, 2020-Ohio-3975.]

**COURT OF APPEALS OF OHIO**

**EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA**

CITY OF CLEVELAND, :  
 :  
 Plaintiff-Appellee, :  
 : No. 108882  
 v. :  
 :  
 LEONARD PALMER, :  
 :  
 Defendant-Appellant. :

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JOURNAL ENTRY AND OPINION

**JUDGMENT: REVERSED AND REMANDED**  
**RELEASED AND JOURNALIZED: August 6, 2020**

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Criminal Appeal from the Cleveland Municipal Court  
Case No. 19CRB000242

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***Appearances:***

Barbara A. Langhenry, Cleveland Director of Law,  
Jonathan L. Cudnik, Interim Chief Prosecutor, and  
Brittany C. Barnes, Assistant City Prosecutor, *for appellee*.

Mark A. Stanton, Cuyahoga County Public Defender, and  
Paul Kuzmins, Assistant Public Defender, *for appellant*.

EILEEN T. GALLAGHER, A.J.:

{¶ 1} Defendant-appellant, Leonard Palmer, appeals from the trial court's denial of his motion for additional jail-time credit. He raises the following assignment of error for review:

When a defendant remains confined for any reason before trial, the period of actual confinement must be credited against the sentence ultimately imposed by statute.

{¶ 2} After careful review of the record and relevant case law, we reverse the trial court's judgment.

### **I. Procedural History**

{¶ 3} On January 5, 2019, Palmer was charged in Cleveland M.C. No. 19CRB000242 with domestic violence in violation of R.C. 2919.25, and aggravated menacing in violation of Cleveland Codified Ordinances 621.06. Palmer was arraigned on January 6, 2019. At that time, the court ordered Palmer to "remain in custody, pending further order of the court."

{¶ 4} On February 27, 2019, the trial court granted the prosecutor's motion to dismiss the domestic violence charge.

{¶ 5} On March 20, 2019, Palmer was granted a personal bond and was released from jail. However, Palmer's bond was reinstated on April 1, 2019, and he was remanded to the county jail.

{¶ 6} On April 23, 2019, Palmer was found guilty of aggravated menacing. He was sentenced to 180 days in jail. The trial court suspended 90 days of the sentence and imposed a three-year period of community control sanctions. With respect to the portion of the sentence that was not suspended, the court credited Palmer with 22 days for time served. Thus, Palmer was required to serve 78 days in jail.

{¶ 7} Relevant to this appeal, the 22-day jail-time credit correlated to the date Palmer was remanded to the county jail on April 1, 2019, and the date of his conviction on April 23, 2019. At the sentencing hearing, defense counsel sought additional jail-time credit for the days Palmer was confined in the county jail from January 4, 2019, to March 20, 2019, a period of 75 days. (Tr. 2.) The trial court rejected counsel’s position, stating:

He has not been in jail on this case for that period of time.

\* \* \*

You will receive credit for 22 days, which is the only time you’ve been held in this case.

(Tr. 2-3.)

{¶ 8} Following the imposition of his sentence, Palmer filed a motion for additional jail-time credit. In the motion, Palmer reiterated his position that the trial court was required to credit him for the 75-days he spent in jail from the date of his arrest to the date he was released on bond. Upon consideration, the trial court denied the motion for additional jail-time credit.

{¶ 9} Palmer now appeals from the trial court’s judgment.

## **II. Law and Analysis**

{¶ 10} In his sole assignment of error, Palmer argues the trial court “denied [him] the proper amount of jailtime credit.” Palmer contends that he is entitled to an additional 75 days of jail-time credit for the days he spent in county jail prior to his conviction and sentence.

{¶ 11} “Criminal defendants have a right to jail-time credit.” *State v. Thompson*, 8th Dist. Cuyahoga No. 102326, 2015-Ohio-3882, ¶ 21. This court has explained:

The practice of awarding jail-time credit has its roots in the Equal Protection Clauses of the Ohio and United States Constitutions. *State v. Maddox*, 8th Dist. Cuyahoga No. 99120, 2013-Ohio-3140, ¶ 38, citing *State v. Fugate*, 117 Ohio St.3d 261, 2008-Ohio-856, 883 N.E.2d 440, ¶ 7. “Ohio has long awarded offenders a ‘jail-time credit’ at sentencing for the time they were confined while awaiting trial, in order to equalize the treatment of those who could afford bail with those who could not.” *State v. Hargrove*, 1st Dist. Hamilton No. C120321, 2013-Ohio-1860, ¶ 5, citing *Fugate*.

\* \* \*

This principle of equal treatment is codified in R.C. 2967.191 for offenders sentenced to prison, and in R.C. 2949.08 for offenders sentenced to jail. *Hargrove* at ¶ 6. Under both statutes, an offender is entitled to have the sentence reduced by the days he or she was confined prior to conviction. Both statutes require a sentence to be reduced by the total number of days an offender was confined “for any reason arising out of the offense” for which the offender was convicted and sentenced. R.C. 2967.191 and 2949.08(C)(1).

*State v. Smiley*, 8th Dist. Cuyahoga No. 99486, 2013-Ohio-4495, ¶ 7-8.

{¶ 12} On appeal, the city concedes the claimed error, stating:

Appellant-defendant’s request for jail-time credit is for pretrial confinement served for the instant case and not an unrelated offense or case. Appellant-defendant was not confined for a separate matter in the duration of this proceeding. Furthermore, the jail time served for the January 3, 2019, arrest and the jail remand on April 1, 2019, was solely related to this case. Appellant-defendant served a significant amount of time in jail prior to his conviction and his request for full pretrial detention warrants thorough consideration.

Based on the foregoing, appellant-defendant was not properly credited with all periods of actual confinement.

**{¶ 13}** We agree with the city's assessment. The trial court's calculation of jail-time credit failed to account for the period of time Palmer spent in jail immediately following his arrest for the conduct underlying his charges in this case. Contrary to the trial court's statement during the sentencing hearing, there is no information in the record to suggest the numerous days Palmer spent in jail prior to his execution of bond on March 20, 2019, was related to a separate case. Palmer is entitled to jail-time credit for that period of time, as his confinement arose out of the offense for which he was convicted and sentenced.<sup>1</sup> Accordingly, we find the trial court erred in denying Palmer's motion for additional jail-time credit. *See State v. Collins*, 5th Dist. Fairfield No. 15-CA-19, 2016-Ohio-3301, ¶ 13, fn. 2 (declining to apply the doctrine of mootness to a suspended sentence).

**{¶ 14}** Palmer's sole assignment of error is sustained.

**{¶ 15}** Judgment reversed and remanded to the Cleveland Municipal Court for further proceedings consistent with this opinion. Palmer is to be credited for each day he spent in confinement prior to his conviction and sentence.

It is ordered that appellant recover from appellee costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the municipal court to carry this judgment into execution

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<sup>1</sup> On remand, the trial court shall calculate the additional jail-credit time by using the date of Palmer's arrest in this case. The record is unclear on this point. In some instances, the record lists the date of arrest as January 3, 2019, and in other instances, the date of arrest is listed as January 5, 2019. This factual discrepancy must be resolved by the trial court on remand.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27  
of the Rules of Appellate Procedure.

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EILEEN T. GALLAGHER, ADMINISTRATIVE JUDGE

KATHLEEN ANN KEOUGH, J., and  
MICHELLE J. SHEEHAN, J., CONCUR