

COURT OF APPEALS
 ASHLAND COUNTY, OHIO
 FIFTH APPELLATE DISTRICT

STATE OF OHIO	:	JUDGES:
	:	
Plaintiff-Appellee	:	Hon. John W. Wise, P.J.
	:	Hon. Patricia A. Delaney, J.
-vs-	:	Hon. Craig R. Baldwin, J.
	:	
	:	Case No. 19-COA-024
	:	
SARAH N. KRUPANSKY	:	
	:	
	:	
Defendant-Appellant	:	<u>OPINION</u>

CHARACTER OF PROCEEDING:	Appeal from the Ashland County Court of Common Pleas, Case No. 15-CRI-179
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JUDGMENT:	AFFIRMED
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DATE OF JUDGMENT ENTRY:	February 27, 2020
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APPEARANCES:	
For Plaintiff-Appellee:	For Defendant-Appellant:
CHRISTOPHER R. TUNNELL	SARAH N. KRUPANSKY, #W-095216
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Delaney, J.

{¶1} Defendant-Appellant Sarah N. Krupansky appeals the May 24, 2019 judgment entry of the Ashland County Court of Common Pleas. Plaintiff-Appellee is the State of Ohio. On December 11, 2019, the State filed a notice that it took no position on the issue and deferred to this Court's judgment in lieu of filing an appellate brief. When an appellee fails to file an appellate brief, App. R. 18(C) authorizes this Court to accept an appellant's statement of facts and issues as correct.

FACTS AND PROCEDURAL HISTORY

{¶2} On July 8, 2015, Defendant-Appellant Sarah N. Krupansky was held in West Virginia awaiting extradition to Ohio due to criminal charges pending in Medina County Case No. 15CR0382. Krupansky arrived at the Medina County Jail on July 23, 2015.

{¶3} On October 30, 2015, Krupansky was indicted by the Ashland County Grand Jury on 26 counts: engaging in a pattern of corrupt activity, complicity to trafficking in heroin, complicity to trafficking in cocaine, tampering with records (four counts), trafficking in heroin (two counts), possession of drugs (eight counts), possession of heroin, possession of cocaine, trafficking in cocaine, illegal cultivation of marijuana, aggravated possession of drugs (five counts). The charges ranged from first-degree felonies to fifth-degree felonies. She continued to be held in the Medina County Jail.

{¶4} A bond hearing was held on November 4, 2015. Krupansky was arraigned and entered a plea of not guilty to the charges on November 9, 2015. She remained in the custody of the Medina County Jail.

{¶5} On February 22, 2016, Krupansky was transported from the Medina County Jail, where she remained in custody for the pending Medina County criminal case, to the Ashland County Jail for a change of plea hearing. The State and Krupansky entered into a plea agreement where Krupansky pled guilty to: engaging in a pattern of corrupt activity (F1), complicity to trafficking in heroin (F1), complicity to trafficking in cocaine (F1), three counts of tampering with records (F3), and seven counts of possession of drugs (M1). The plea agreement and the trial court's acceptance of the plea was journalized on February 24, 2016. The matter was set for a sentencing hearing.

{¶6} Krupansky was sentenced in the Medina County criminal case via judgment entry on April 21, 2016. The Medina County Court of Common Pleas gave Krupansky jail time credit for 261 days served. (Medina County Court of Common Pleas, Case No. 15CR0382, Judgment Entry, April 21, 2016). The trial court ordered Krupansky to serve her 18-month prison term at the Marysville Reformatory for Women and she was transported to the facility on April 27, 2016.

{¶7} The Ashland County Court of Common Pleas held Krupansky's sentencing hearing on June 24, 2016. The trial court sentenced Krupansky to an aggregate prison term of seven years. The June 29, 2016 sentencing entry stated that "Defendant shall receive credit for zero (-0-) days of local jail time, and she shall receive one (1) day's credit for each day served subsequent to the date of sentencing starting June 24, 2016 while awaiting transfer to the receiving institution."

{¶8} Krupansky did not appeal her sentencing by the Ashland County Court of Common Pleas.

{¶9} On December 26, 2018, Krupansky filed a motion to correct jail-time credit. She argued she was entitled to 182 days of jail time credit in the Ashland County criminal case due to her time spent in the Medina County Jail on the Ashland County charges.

{¶10} The State did not respond to the motion.

{¶11} On May 24, 2019, the trial court denied Krupansky's motion. It held that Krupansky was not entitled to jail time credit for time served on Medina County charges.

{¶12} It is from this judgment entry that Krupansky now appeals.

ASSIGNMENT OF ERROR

{¶13} Krupansky raises one Assignment of Error:

{¶14} "THE TRIAL COURT DENIED THE DEFENDANT-APPELLANT DUE PROCESS AND EQUAL PROTECTION UNDER THE LAW WHERE IT FAILED TO CALCULATE AND CREDIT THE DEFENDANT'S CONFINEMENT (JAIL-TIME) CREDIT AND PRIOR INCARCERATION IN ITS SENTENCING ENTRY."

ANALYSIS

{¶15} Krupansky contends the trial court erred when it denied her motion to correct her jail time credit. We disagree.

{¶16} Krupansky was sentenced on June 29, 2016, wherein the trial court gave her zero jail time credit. She did not file a direct appeal of her sentence. A defendant is no longer required to contest a trial court's calculation of his jail-time credit in a direct appeal of his conviction; even if no appeal is pursued, the issue can still be asserted in a post-judgment motion. *State v. Marshall*, 5th Dist. Delaware No. 18 CAA 11 0091, 2019-Ohio-1810, ¶ 11 citing *State v. Smith*, 11th Dist. Lake No. 2016-L-107, 2017-Ohio-4124, 2017 WL 2426690, ¶ 11. "R.C. 2929.19(B)(2)(g)(iii) allows an offender 'at any time after

sentencing, [to] file a motion in the sentencing court to correct any error made in making a determination under division (B)(2)(g)(i) of this section.’ ” *Id.* See, also, *State v. Thompson*, 147 Ohio St.3d 29, 2016-Ohio-2769, 59 N.E.3d 1264, ¶ 12; *State v. Thompson*, 8th Dist. Cuyahoga No. 102326, 2015-Ohio-3882, 2015 WL 5608269, ¶ 23; *State v. Inboden*, 10th Dist. Franklin Nos. 14AP-312, 14AP-317, 2014-Ohio-5762, 2014 WL 7463000, ¶ 8.

{¶17} R.C. 2929.19(B)(2)(g)(iii) applies to motions for jail-time credit filed after the statute's effective date of September 10, 2012. *State v. Lovings*, 10th Dist. No. 13AP-303, 13AP-304, 2013-Ohio-5328, ¶ 9-10. Prior to the enactment of R.C. 2929.19(B)(2)(g)(iii), motions for jail-time credit were subject to the doctrine of res judicata except when the alleged calculation error was clerical or mathematical. *Inboden* at ¶ 7. The enactment of this statute expanded the ability of a defendant to challenge an alleged jail-time credit error. See *State v. Quarterman*, 8th Dist. No. 101064, 2014-Ohio-5796, ¶ 8 (“Amended R.C. 2929.19(B)(2)(g)(iii) marks a significant change in the law regarding jail-time credit.”). In *Inboden*, the court stated that pursuant to R.C. 2929.19(B)(2)(g)(iii), “the court has continuing jurisdiction to correct any jail-time credit error ‘not previously raised at sentencing,’ thereby abating the application of the doctrine of res judicata as it relates to issues that could have been raised at sentencing but were not.” *Inboden, supra* at ¶ 8, quoting R.C. 2929.19(B)(2)(g)(iii).

{¶18} Upon review of the record, we find no error for the trial court to deny jail time credit for her time in the Medina County Jail. Starting on July 8, 2015, Krupansky was held in the Medina County Jail based on pending criminal charges in a Medina County criminal case. On October 30, 2015, she was indicted in the Ashland County case sub

judice. On April 21, 2016, the Medina County Court of Common Pleas sentenced Krupansky and gave her jail time credit based on her time spent in jail on the charges in its case. She was transferred to prison pursuant to the sentencing in Medina County on April 27, 2016. Krupansky was sentenced to prison in the Ashland County case on June 29, 2016. Time spent serving a jail sentence in an unrelated case will not be credited toward another felony case, even if the felony was pending at the time of the service of the jail sentence. *State v. DeVore*, 5th Dist. Ashland No. 19-COA-012, 2019-Ohio-4034, 2019 WL 4855201, ¶ 10 citing *State v. Morris*, 5th Dist. Tuscarawas No. 2017AP080025, 2018-Ohio-830, ¶19.

{¶19} Krupansky's sole Assignment of Error is overruled.

CONCLUSION

{¶20} The judgment of the Ashland County Court of Common Pleas is affirmed.

By: Delaney, J.,

Wise, John, P.J. and

Baldwin, J., concur.