

[Cite as *State v. Wilson*, 2020-Ohio-1073.]

COURT OF APPEALS
LICKING COUNTY, OHIO
FIFTH APPELLATE DISTRICT

| | | |
|---------------------|---|------------------------------|
| STATE OF OHIO | : | JUDGES: |
| | : | Hon. W. Scott Gwin, P.J. |
| Plaintiff-Appellee | : | Hon. Patricia A. Delaney, J. |
| | : | Hon. Earle E. Wise, Jr., J. |
| -vs- | : | |
| | : | |
| WILLIAM R. WILSON | : | Case No. 2019 CA 00107 |
| | : | |
| Defendant-Appellant | : | <u>O P I N I O N</u> |

CHARACTER OF PROCEEDING: Appeal from the Court of Common Pleas, Case No. 18 CR 455

JUDGMENT: Affirmed

DATE OF JUDGMENT: March 11, 2020

APPEARANCES:

For Plaintiff-Appellee

PAULA M. SAWYERS
20 South Second Street
Fourth Floor
Newark, OH 43055

For Defendant-Appellant

WILLIAM R. WILSON, PRO SE
Inmate #A757-629
North Central Correctional Complex
P.O. Box 1812
Marion, OH 43302

Wise, Earle, J.

{¶ 1} Defendant-Appellant, William R. Wilson, appeals the judgment entry of the Court of Common Pleas of Licking County, Ohio, denying his request for jail-time credit. Plaintiff-Appellee is the state of Ohio.

FACTS AND PROCEDURAL HISTORY

{¶ 2} On July 12, 2018, the Licking County Grand Jury indicted appellant on two counts. He posted bond on August 17, 2018. Appellant failed to appear for his scheduled jury trial on November 7, 2018. A *capias* was issued for his arrest.

{¶ 3} In letters to the trial court dated March 25, 2019, appellant requested a speedy trial and new counsel. A jury trial was set for May 23, 2019. On May 6, 2019, the prosecutor filed a request for warrant of removal as appellant was in the custody of the Ohio Department of Rehabilitation and Corrections serving a sentence out of Muskingum County.

{¶ 4} The scheduled jury trial was moved to July 11, 2019, due to the appointment of new counsel and that counsel's request for a continuance. Again, on June 28, 2019, the prosecutor filed a request for warrant of removal as appellant was still in the custody of the Ohio Department of Rehabilitation and Corrections serving time on the Muskingum County case.

{¶ 5} The reconvey was cancelled by the prison due to health reasons. As a result, the jury trial was rescheduled for August 20, 2019. Again, on August 6, 2019, the prosecutor filed a request for warrant of removal as appellant was still in the custody of the Ohio Department of Rehabilitation and Corrections on the Muskingum County case.

{¶ 6} On the day of the scheduled jury trial, appellant pled guilty to the two count indictment, and was sentenced to nine months in prison, to be served consecutively to the sentence he was already serving out of Muskingum County.

{¶ 7} On September 23, 2019, appellant filed a motion for jail-time credit, requesting twenty-five additional days for the time he spent in jail from May 22, to May 31, 2019, and August 15, to August 30, 2019. By judgment entry filed September 24, 2019, the trial court denied the motion, finding appellant was committed to the Ohio Department of Corrections on said dates and therefore was not entitled to credit for those dates.

{¶ 8} On October 7, 2019, appellant filed a motion for reconsideration. By judgment entry filed October 14, 2019, the trial court denied the motion.

{¶ 9} Appellant filed an appeal and this matter is now before this court for consideration. Assignment of error is as follows:

I

{¶ 10} "THE TRIAL COURT ERRED BY NOT GRANTING DEFENDANT-APPELLANT HIS TWENTY FIVE (25) DAYS OF JAIL-TIME CREDIT FROM 5-22-2019 TO 5-31-2019 AND 8-15-19 TO 8-30-2019 AS HE SERVED THOSE DAYS IN THE LICKING COUNTY JAIL WITHOUT POSTING BOND ON SUCH."

I

{¶ 11} In his sole assignment of error, appellant claims the trial court erred in denying his request for jail-time credit. We disagree.

{¶ 12} In his appellate brief at 3, appellant argues the "Licking County Court of Common Pleas and Licking County Sheriff chose to pick up the Defendant-Appellant from

prison during his separate prison sentence and to hold him or house him in their jail for sole purposes" of the underlying case. Therefore, appellant argues he should be awarded jail-time credit for the twenty-five days he spent in the Licking County Jail awaiting trial.

{¶ 13} In determining jail-time credit, a trial court's "calculation shall not include the number of days, if any, that the offender served in the custody of the department of rehabilitation and correction arising out of any prior offense for which the prisoner was convicted and sentenced." R.C. 2929.19(B)(2)(g)(1).

{¶ 14} R.C. 2967.191 governs credit for confinement awaiting trial and commitment and states a prisoner shall receive jail-time credit for the "total number of days that the prisoner was confined for any reason arising out of the offense for which the prisoner was convicted and sentenced, including confinement in lieu of bail while awaiting trial." "Ohio courts have repeatedly recognized that time spent serving a jail sentence in another 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. Marini*, 5th Dist. Tuscarawas No. 09-CA-6, 2009-Ohio-4633, ¶ 16.

{¶ 15} During the cited dates in May and August, appellant was under the custody of the Department of Rehabilitation and Corrections serving a sentence out of Muskingum County on an unrelated charge. Appellant was not entitled to receive jail-time credit for those days.

{¶ 16} Upon review, we find the trial court did not err in denying appellant's request for additional jail-time credit.

{¶ 17} The sole assignment of error is denied.

{¶ 18} The judgment of the Court of Common Pleas of Licking County, Ohio is hereby affirmed.

By Wise, Earle, J.

Gwin, P.J. and

Delaney, J. concur.

EEW/db