

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA

IN THE SUPERIOR COURT OF
PENNSYLVANIA

Appellee

v.

ALAN JAMIE RIVERA

Appellant

No. 1979 WDA 2013

Appeal from the Judgment of Sentence November 12, 2013
In the Court of Common Pleas of Allegheny County
Criminal Division at No(s): CP-02-CR-0009456-2008

BEFORE: BENDER, P.J.E., LAZARUS, J., and OTT, J.

JUDGMENT ORDER BY LAZARUS, J.:

FILED JULY 21, 2014

Alan Jamie Rivera appeals from the judgment of sentence imposed by the Court of Common Pleas of Allegheny County on November 12, 2013, following his conviction for unlawful restraint¹ and indecent assault.² Upon review, we vacate and remand for resentencing.

Rivera pled guilty on January 11, 2010, and the court immediately sentenced him to 9 months' intermediate punishment followed by 4 years' probation. On November 12, 2013, at his third probation violation hearing, the court revoked Rivera's probation and sentenced him to 2½ to 5 years' imprisonment. The sentencing order awarded Rivera credit for 289 days

¹ 18 Pa.C.S. § 2902(a)(1).

² 18 Pa.C.S. § 3126(a)(2).

served. On November 22, 2013, Rivera filed a post-sentence motion contending his sentence was excessive and seeking a total credit of 635 days. By order entered December 17, 2013, the court awarded Rivera 570 days' credit for time served. This timely appeal followed.

On appeal, Rivera argues that the court failed to award credit for the 65 days Rivera spent in jail from December 4, 2012 through February 7, 2013.³ **See** 42 Pa.C.S. § 9760(1) (credit for time served). We agree. As the trial court explained in its opinion,

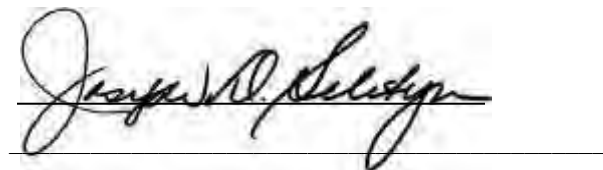
The trial court initially did not award credit for the time Rivera spent in jail from December 4, 2012 through February 7, 2013 because Rivera had another charge pending at CC 201206939. Upon review of the sentencing order from that case, it appears that Rivera did not receive credit at the 2012 case, and so he is entitled to credit at the above-captioned information

Trial Court Opinion, 4/3/14, at 5.

The Commonwealth does not object to Rivera's request. Accordingly, we remand so that a corrected sentencing order may be filed.

Judgment of sentence vacated. Case remanded for resentencing consistent with this order. Jurisdiction relinquished.

Judgment Entered.

A handwritten signature in black ink, appearing to read "Joseph R. Delaney", is written over a horizontal line.

³ Rivera, who is a convicted sex offender, spent 65 days in jail awaiting sentencing for the offense of failure to verify his address or be photographed as required by Megan's Law. **See** 18 Pa.C.S. § 4915.1(a)(2).

J-S44023-14

Joseph D. Seletyn, Esq.
Prothonotary

Date: 7/21/2014