

**COURT OF APPEALS
DECISION
DATED AND FILED**

November 13, 2003

Cornelia G. Clark
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 03-0770-CR
STATE OF WISCONSIN**

Cir. Ct. No. 95CF000036

**IN COURT OF APPEALS
DISTRICT IV**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

MATTHEW Z. WOOD,

DEFENDANT-APPELLANT.

APPEAL from an order of the circuit court for Jackson County:
GERALD W. LAABS, Judge. *Affirmed.*

Before Deininger, P.J., Lundsten and Higginbotham, JJ.

¶1 PER CURIAM. Matthew Wood appeals an order denying his motion for additional sentence credit on a conviction for escape. He claims he is entitled to credit for time he served on Tennessee convictions while he was awaiting extradition on the escape charge. However, because the escape sentence

was imposed as a consecutive term of imprisonment, we conclude that Wood is not entitled to any additional credit on that charge. Accordingly, we affirm.

BACKGROUND

¶2 In 1992, Wood was sentenced to a total of ten years in prison on eight counts of robbery and armed robbery in three separate cases in Shawano, Brown and Outagamie counties. In 1995, he escaped from the Black River Correctional Center, and a warrant was issued for his arrest on escape charges in Jackson County. He was apprehended in Tennessee approximately eight months later. Before extraditing him, however, Tennessee charged Wood with a series of offenses committed there. Wood was convicted of the Tennessee charges and sentenced to a total of three years to be served concurrent to his Wisconsin armed robbery charges. After he was paroled, Tennessee authorities returned Wood to Wisconsin.

¶3 Wood pled guilty to the escape charge and was sentenced to three years consecutive to any other sentences, including the time remaining on his armed robbery convictions. Although the judgment of conviction did not specify any sentence credit, the Wisconsin Department of Corrections eventually credited Wood with 114 days from the time of his arrest in Tennessee until he was sentenced on the Tennessee convictions. Wood sought additional credit for the time he served on the Tennessee convictions, and now appeals from the trial court's denial of his motion.

STANDARD OF REVIEW

¶4 We will independently review the application of the sentence credit statute to an undisputed set of facts. *State v. Abbott*, 207 Wis. 2d 624, 628, 558 N.W.2d 927 (Ct. App. 1996).

DISCUSSION

¶5 WISCONSIN STAT. § 973.155(1)(a) (2001-02)¹ provides that an “offender shall be given credit toward the service of his or her sentence for all days spent in custody in connection with the course of conduct for which sentence was imposed.” A sentencing court has the authority to determine whether a new sentence will be served concurrently or consecutively to a contemporaneous or prior sentence. WIS. STAT. § 973.15(2)(a). Sentence credit which is due on one sentence should be applied to all other concurrent sentences contemporaneously imposed for the same course of conduct. *State v. Ward*, 153 Wis. 2d 743, 746, 452 N.W.2d 158 (Ct. App. 1989). However, sentence credit should not be granted for presentence time during which the defendant was serving another sentence for an unrelated crime. *State v. Amos*, 153 Wis. 2d 257, 280-81, 450 N.W.2d 503 (Ct. App. 1989).

¶6 Here, the DOC correctly determined that Wood was entitled to credit on his escape sentence for the time he was held in custody on the Wisconsin warrant, prior to his conviction on the Tennessee charges. Once the Tennessee convictions were entered, however, Wood began serving those sentences and was

¹ All references to the Wisconsin Statutes are to the 2001-02 version unless otherwise noted.

no longer being held in custody in relation to the escape charge. Therefore, the trial court properly denied Wood's motion for additional credit on the escape sentence.

¶7 Because the Tennessee sentences were imposed concurrent to Wood's Wisconsin armed robbery sentences, Wood may be entitled to credit against the armed robbery sentences for the time between his conviction and return to Wisconsin. The armed robbery sentences, however, arose in different counties and are outside the scope of this appeal.

By the Court.—Order affirmed.

This opinion will not be published. WIS. STAT. RULE 809.23(1)(b)5.

