

COURT OF APPEALS
RICHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO

Plaintiff-Appellee

-vs-

JAMES D. BLACK

Defendant-Appellant

JUDGES:

Hon. William B. Hoffman, P.J.

Hon. Sheila G. Farmer, J.

Hon. Patricia A. Delaney, J.

Case No. 09-CA-153

OPINION

CHARACTER OF PROCEEDING:

Appeal from the Richland County Common
Pleas Court, Case No. 2006CR1033

JUDGMENT:

Dismissed

DATE OF JUDGMENT ENTRY:

June 1, 2010

APPEARANCES:

For Plaintiff-Appellee

For Defendant-Appellant

JAMES J. MAYER, JR.
PROSECUTING ATTORNEY
RICHLAND COUNTY, OHIO

JAMES D. BLACK, PRO SE
Marion Correctional Institution
P.O. Box 57
Marion, Ohio 43301

BY: KIRSTEN L. PSCHOLKA-GARTNER
Assistant Richland County Prosecutor
38 South Park Street
Mansfield, Ohio 44902

Hoffman, P.J.

{¶1} Defendant-appellant James D. Black appeals various judgment entries of the Richland County Court of Common Pleas denying his motion for jail time credit. Plaintiff-appellee is the State of Ohio.

STATEMENT OF THE CASE

{¶2} On April 16, 2007, Appellant entered a plea of guilty in case number 2006-CR-1033D to one count of receiving stolen property and one count of forgery involving his possession and use of a credit card belonging to Catherine L. George. The trial court sentenced Appellant to three years of community control, to run consecutively to his community control sanction in case number 2005-CR-780D.

{¶3} Previously, on July 20, 2006, in case number 2005-CR-780D, Appellant was convicted of one count of theft involving a credit card belonging to Wendy Flauger, and the trial court sentenced Appellant to eleven months in prison. Appellant was also incarcerated on an unrelated offense in Hamilton County, Ohio. On April 16, 2007, Appellant was judicially released and placed on four years community control related to his sentence in 2006-CR-1033D.

{¶4} On October 15, 2007, Appellant was charged with probation violations for failing to report to his probation officer and for testing positive for drugs in case number 2006-CR-1033D. Appellant admitted to the violations and the trial court ordered he continue on community control.

{¶5} In March of 2008, Appellant was again charged with violating the terms of his probation. On April 7, 2008, the trial court revoked Appellant's community control, and sentenced him to twelve months in prison on each charge, to run consecutive to

each other and to his sentence from Hamilton County, but concurrent to his sentence in case number 2005-CR-780D.

{¶6} On April 15, 2009, and September 29, 2009, Appellant filed separate motions to correct the amount of jail time credit awarded against his sentence. Specifically, Appellant requested credit for fifteen days during which he was incarcerated between September 28, 2007, and October 12, 2007, in case number 2005-CR-780D, ten days he was incarcerated between April 1, 2007, and April 10, 2007, on his community control violations in case number 2006-CR-1033D, and three days he was incarcerated between April 13, 2007, and April 15, 2007, awaiting transfer.

{¶7} Via Judgment Entry of November 18, 2009, the trial court granted Appellant 158 days of jail time credit for the time between April 16, 2007, and September 20, 2007. The trial court denied Appellant credit for three days between April 13, 2007, and April 15, 2007, as he was serving a prison sentence on the Hamilton County case at the time.

{¶8} Via Judgment Entry of December 7, 2009, the trial court denied Appellant credit for fifteen days between September 28, 2007, and October 12, 2007, as he was being held on case number 2005-CR-780D at the time. The court also denied Appellant credit for ten days between April 1, 2007, and April 10, 2007, as Appellant was serving his prison sentence on the Hamilton County case at the time.

{¶9} Appellant now appeals, assigning as error:

{¶10} "I. TRIAL COURT ERRED AS A MATTER OF LAW FOR FAILING TO CORRECT DEFENDANT-APPELLANT'S JAIL TIME CREDIT FOR CASE NO. 06-CR-1033."

{¶11} Upon review of the record and upon notification of counsel, it has come to this Court's attention Appellant has been released from incarceration as of January 31, 2010. Therefore, we find the issue raised in Appellant's assigned error moot.

By: Hoffman, P.J.

Farmer, J. and

Delaney, J. concur

s/ William B. Hoffman
HON. WILLIAM B. HOFFMAN

s/ Sheila G. Farmer
HON. SHEILA G. FARMER

s/ Patricia A. Delaney
HON. PATRICIA A. DELANEY

