

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

State of Ohio, :
 :
 Plaintiff-Appellee, :
 :
 v. : No. 11AP-721
 : (C.P.C. No. 09CR-10-6515)
 Israel E. Lee, : (ACCELERATED CALENDAR)
 :
 Defendant-Appellant. :

D E C I S I O N

Rendered on April 19, 2012

Ron O'Brien, Prosecuting Attorney, and *Sarah W. Creedon*,
for appellee.

Israel E. Lee, pro se.

APPEAL from the Franklin County Court of Common Pleas

CONNOR, J.

{¶ 1} Appearing pro se, appellant Israel E. Lee, appeals the judgment rendered by the Franklin County Court of Common Pleas denying his July 20, 2011 motion for jail-time credit. For the reasons that follow, we affirm.

{¶ 2} Appellant was a criminal defendant in two separate cases: 09CR-10-6515 and 10CR-04-2478. This matter regards case No. 09CR-10-6515. On April 23, 2010, appellant pled guilty to one count of attempted felonious assault in violation of R.C. 2923.02, and one count of domestic violence in violation of R.C. 2919.25. The trial court accepted appellant's plea and proceeded immediately to sentencing. Appellant was sentenced to be incarcerated for one year on the attempted felonious assault count and six months on the domestic violence count. The sentences were ordered to be served concurrently. Appellant was notified that he will be subject to three years of post-release

control. Finally, appellant received 92 days of jail-time credit. Appellant did not appeal from the trial court's May 14, 2010 judgment.

{¶ 3} Nearly one year later, appearing pro se, appellant filed a motion for jail-time credit ("first motion"). On May 5, 2011, the trial court denied appellant's first motion after concluding that it was barred by res judicata.

{¶ 4} Yet again, appearing pro se, appellant filed another motion for jail-time credit on July 20, 2011 ("second motion"). On August 28, 2011, the trial court denied appellant's second motion after concluding that it was barred by res judicata. Appellant has timely appealed and presents the following assignment of error:

The Trial Court abused [its] discretion and violated the Appellant's Fourteenth Amendment Rights when it denied Appellant's motion for jail time credit.

{¶ 5} In this matter, appellant argues that the trial court erred in calculating jail-time credit.

{¶ 6} R.C. 2967.191 entitles appellant to 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." However, res judicata prevents the litigation of issues in postconviction proceedings that were or could have been raised in a direct appeal. *State v. Szefcyk*, 77 Ohio St.3d 93, 96 (1996). "Generally, a defendant may only contest a trial court's calculation of jail-time credit in an appeal from the judgment entry containing the allegedly incorrect calculation." *State v. Lomack*, 10th Dist. No. 04AP-648, 2005-Ohio-2716, ¶ 11, citing *State v. Parsons*, 10th Dist. No. 03AP-1176, 2005-Ohio-457, ¶ 7. A motion to correct jail-time credit can be used in lieu of filing an appeal only where the requested relief is attributable to a mathematical error of the court. *Id.*, citing *State ex rel. Corder v. Wilson*, 68 Ohio App.3d 567, 573 (10th Dist.1991). Thus, where the requested relief is attributable to a substantive claim requiring a legal determination, res judicata bars such relief. *State v. Payne*, 10th Dist. No. 10AP-1188, 2011-Ohio-3930, ¶ 9, citing *State v. Chafin*, 10th Dist. No. 06AP-1108, 2007-Ohio-1840, ¶ 12.

{¶ 7} In the instant matter, appellant claims he was incarcerated from February through November 2010, and only received 92 days of jail-time credit. Appellant maintains that this was a mathematical error on the part of the trial court. Appellant is mistaken, however, because the 92 days of jail-time credit in case No. 09CR-10-6515 were

granted in May 2010. His jail-time credit in case No. 10CR-04-2478 was granted in November 2010. Thus, he is using the sentencing date from case No. 10CR-04-2478 as the basis for his argument that jail-time credit was miscalculated in case No. 09CR-10-6515. We see no merit to appellant's argument. Thus, he has not demonstrated a mathematical error on the part of the trial court in calculating jail-time credit in May 2010. Any other potential argument would be a legal one, which would be barred by res judicata.

{¶ 8} Based upon the foregoing, we overrule appellant's sole assignment of error and affirm the judgment rendered by the Franklin County Court of Common Pleas.

Judgment affirmed.

BRYANT and DORRIAN, JJ., concur.
