

[Cite as *State v. Rarden*, 2009-Ohio-5637.]

IN THE COURT OF APPEALS
TWELFTH APPELLATE DISTRICT OF OHIO
BUTLER COUNTY

STATE OF OHIO,	:	
Plaintiff-Appellee,	:	CASE NOS. CA2008-08-185
	:	CA2008-08-186
	:	CA2008-08-187
- vs -	:	CA2008-08-189
	:	CA2008-08-190
	:	CA2008-08-191
LONNIE RARDEN,	:	
Defendant-Appellant.	:	<u>OPINION</u>
	:	10/26/2009

CRIMINAL APPEAL FROM BUTLER COUNTY COURT OF COMMON PLEAS
Case Nos. CR2006-06-1027, CR2006-07-1271 and CR2006-09-1593

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YOUNG, P.J.

{¶1} Defendant-appellant, Lonnie Rarden, pro se, appeals the decision of
the Butler County Court of Common Pleas denying his postconviction motion for

additional jail-time credit.¹

{¶12} Appellant pled guilty and was sentenced in August 2006 to 36 months in prison by the Butler County Common Pleas Court in Case No. CR2006-06-1027 (first case). The judgment entry of conviction indicated that he should receive credit for 70 days of confinement he served up to the sentencing date. Despite an order of conveyance, appellant claims he was not transported to the Ohio Department of Rehabilitation and Correction (DRC) and remained at the county jail; the record reasonably supports this assertion.

{¶13} While the first case was pending, appellant was indicted for a single felony in Case No. CR2006-07-1271 (second case) and, subsequent to the second case, appellant was indicted on various felonies and numerous misdemeanors under Case No. CR2006-09-1593 (third case), both for conduct that was alleged to have occurred while appellant was in the county jail.

{¶14} Appellant was found guilty by a jury in a single trial of both the second and third cases in March 2007. The trial court imposed a prison term on the second case and additional prison terms on the felonies and jail terms on the misdemeanors from the third case. The trial court ordered the prison terms from both cases to be served consecutively to each other and to the first case. Appellant was given no jail-time credit for the second and third cases. He was conveyed to DRC to serve his

1. Appellee, state of Ohio, did not provide this court with a brief in this appeal. We note that pursuant to App.R. 18(C), this court may accept appellant's statement of facts and issues as correct and reverse the judgment if appellant's brief reasonably appears to sustain such action.

prison sentence under all three case numbers. Appellant unsuccessfully appealed his convictions from the second and third cases.

{¶5} Appellant filed a motion requesting modification of the judgment entry of conviction to correct the jail-time credit granted for time served in the county jail from the time his bond was revoked on the first case, which was the day of conviction, until he was conveyed to DRC on all three cases.

{¶6} The trial court denied appellant's motion, stating that appellant properly received 70 days of jail-time credit for the first case, and his "continued incarceration during the pend[e]ncy of the other two cases was a function of the prison sentence imposed in the first case." The trial court stated, "Because defendants do not have a right to duplicate or multiple pretrial detention credit, Defendant was not given any credit for his incarceration on the other two cases."

{¶7} Appellant instituted the instant appeal, setting forth a single assignment of error.

{¶8} Assignment of Error:

{¶9} "TRIAL COURT ERRORED AND VIOLATED APPELLANTS CONSTITUTIONAL RIGHTS WHEN IT REFUSED TO GRANT APPELLANT WITH THE PROPER NUMBER OF DAYS OF JAIL TIME CREDIT [SIC]."

{¶10} The trial court makes the factual determination as to the number of days of confinement that a defendant is entitled to have credited toward his sentence. *State ex rel. Rankin v. Ohio Adult Parole Auth.*, 98 Ohio St.3d 476, 2003-

Ohio-2061, ¶7. Under R.C. 2967.191, the DRC shall reduce the prisoner's stated prison term by the total number of days that the prisoner was confined for any reason arising out of the offense for which he was convicted and sentenced.

{¶11} The trial court did not err in denying appellant's motion for additional jail-time credit for the second and third cases. Appellant was not entitled to the grant of jail-time credit in those two cases for the time in which appellant was serving a portion of his prison sentence for the first case. *State v. Washington*, Hamilton App. Nos. C-050462, B-0500722, 2006-Ohio-4790, ¶12; cf. *State v. Struble*, Ashtabula App. No. 2005-L-115, 2006-Ohio-3417; see *State v. Fugate*, 117 Ohio St.3d 261, 2008-Ohio-856.

{¶12} This case presents an unusual situation. The entry for the first case and the credit given for time served was not disputed when it was filed, and the trial court committed no error when it refused to provide additional jail-time credit for the second and third cases. The trial court acknowledged that appellant continued to be confined in the Butler County jail after his first conviction and was serving his imposed prison sentence at the jail while the second and third cases were pending. However, the record does not appear to reflect that this time spent in confinement after the first conviction until conveyance to DRC in 2007 was memorialized in any manner and communicated to DRC. Accordingly, appellant's single assignment of error is sustained only as to the status of the detention credit for Case No. CR2006-06-1027.

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{¶13} This cause is affirmed in part, as it pertains to Case Nos. CR2006-07-1271 and CR2006-09-1593, and reversed in part, and remanded for the limited purpose of permitting the trial court to review the total time of pre- and post-conviction confinement under Case No. CR2006-06-1027 and clarify the credit to be granted by journalized entry provided to the DRC.

RINGLAND and HENDRICKSON, JJ., concur.