

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

STATE OF OHIO,	:	
	:	CASE NOS. CA2014-06-086
Plaintiff-Appellee,	:	CA2014-06-091
	:	
- vs -	:	<u>OPINION</u>
	:	3/23/2015
	:	
HAROLD E. LANTER,	:	
	:	
Defendant-Appellant.	:	

CRIMINAL APPEAL FROM WARREN COUNTY COURT OF COMMON PLEAS  
Case No. 12 CR 28612

David P. Fornshell, Warren County Prosecuting Attorney, Michael Greer, 500 Justice Drive, Lebanon, Ohio 45036, for plaintiff-appellee

Timothy J. McKenna, 125 East Court Street, Suite 950, Cincinnati, Ohio 45202, for defendant-appellant

**RINGLAND, J.**

{¶ 1} Appellant, Harold Lanter, appeals a judgment of the Warren County Court of Common Pleas, determining credit for time served.

{¶ 2} In October 2011, Lanter pled guilty to two counts of aggravated possession of drugs in Case No. 11CR27427 (*Lanter I*). The trial court sentenced Lanter to eight months in prison, but suspended the sentence and placed him on three years of community control.

{¶ 3} On August 8, 2013, Lanter pled guilty to domestic violence in Case No. 12CR28612 (*Lanter II*). He also pled guilty to violating the terms of his community control under *Lanter I*. On September 16, 2013, the court sentenced Lanter to 16 months in prison, but suspended the sentence and placed him on three years of community control. Lanter was ordered to undergo drug and alcohol treatment at the MonDay program. Furthermore, his sentence in *Lanter II* was ordered to run concurrently with his sentence in *Lanter I*.

{¶ 4} On May 21, 2014, Lanter again pled guilty to violating the terms of his community control. At the hearing on the violation, Lanter's probation officer stated that Lanter had completed 141 days in the MonDay program. The trial court terminated his community control as unsuccessful on *Lanter I* and closed that case based on time served. On June 20, 2014, the trial court sentenced Lanter to 16 months in prison on *Lanter II*. He was credited with a jail-time credit of 130 days.

{¶ 5} Lanter now appeals, raising a single assignment of error for review.

{¶ 6} Assignment of Error No. 1:

{¶ 7} [LANTER'S] EQUAL PROTECTION RIGHTS WERE VIOLATED WHEN THE COURT ERRED BY NOT GIVING THE FULL AMOUNT OF JAIL TIME CREDIT.

{¶ 8} Within this assignment of error, Lanter argues that, "[w]here the court advised [Lanter] that jail sentences would be concurrent if a probation violation occurred, then calculated the jail time credit as if the sentences were consecutive, the time credit calculation was in error."

{¶ 9} The trial court ordered the sentences on *Lanter I* and *Lanter II* to run concurrently. On the same day those sentences were imposed, the trial court ordered Lanter to participate in the MonDay program. Lanter entered the MonDay program on October 9, 2013 and completed his participation in the program on February 26, 2014, totaling 141 days.

{¶ 10} The MonDay program has been recognized as a community-based corrections facility. Accordingly, time spent attending the MonDay program qualifies as confinement pursuant to R.C. 2967.191. *State v. Caulley*, 12th Dist. Warren No. CA2006-01-004, 2007-Ohio-220, ¶ 9. Therefore, the trial court must apply jail-time credit to both sentences for the time spent attending the MonDay program after the imposition of the concurrent sentences. *State v. Fugate*, 117 Ohio St.3d 261, 2008-Ohio-856. The state concedes that the trial court failed to properly credit Lanter for the 141 days spent in the MonDay program.

{¶ 11} Judgment reversed and remanded to the trial court for recalculation of credit for time served.

PIPER, P.J., and M. POWELL, J., concur.