

**IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
MONTGOMERY COUNTY**

STATE OF OHIO

Plaintiff-Appellee

v.

ERIC RUSSELL

Defendant-Appellant

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C.A. CASE NO. 26503

T.C. NO. 14CR1896

(Criminal Appeal from
Common Pleas Court)

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OPINION

Rendered on the 19th day of August, 2015.

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FROELICH, P.J.

{¶ 1} Eric Russell was convicted after a jury trial in the Montgomery County Court of Common Pleas of one count of domestic violence (knowingly; two priors), in violation of R.C. 2919.25(A), a felony of the third degree, and one count of domestic violence (threats; two priors), in violation of R.C. 2919.25(C), a first-degree misdemeanor. The

jury acquitted Russell of a third charge of domestic violence, a felony. The trial court sentenced Russell to 12 months in prison for the felony and to 180 days in jail for the misdemeanor, to be served concurrently. The court ordered that Russell receive 67 days of jail time credit. Russell appeals from his conviction.

{¶ 2} In his original appellate brief, filed by counsel, Russell claimed that the trial court erred in awarding him only 67 days of jail time credit. On June 25, 2015, Russell filed a pro se amended appellate brief, in which he attempted to raise that the prosecutor improperly presented evidence of Russell's prior convictions for domestic violence. He further asserted that he was convicted based on falsified, perjured, and defective evidence by the complainant, H.B. We struck Russell's pro se amended brief on July 2, 2015.

{¶ 3} On July 10, 2015, Russell filed a pro se motion with this Court, asking us to order his appellate counsel to file an amended brief on his behalf, raising the State's use of his prior convictions at trial. On July 28, 2015, we overruled Russell's motion, but "encourage[d] counsel to communicate with Russell about this matter." On August 7, 2015, Russell, through counsel, filed a motion for leave to file an amended brief, seeking to raise the issue Russell attempted to raise in his pro se amended brief. Russell's motion to file an amended brief is sustained.¹

{¶ 4} For the following reasons, the portion of the trial court's judgment ordering 67 days of jail time credit will be reversed, and the matter will be remanded for correction of the amount of jail time credit. In all other respects, the trial court's judgment will be

¹ We recognize that the State has not had a full opportunity to respond to Russell's motion to amend his brief. However, we find no basis to conclude that the State would be prejudiced by our granting the motion and expediently ruling on Russell's newly-raised assignment of error.

affirmed.

I. The State's Use of Defendant's Prior Convictions at Trial

{¶ 5} In his second assignment of error, Russell claims that the trial court erred in allowing the State to present evidence of his prior convictions at trial. Both of Russell's prior convictions, in 1998 and 2004, were for domestic violence.

{¶ 6} Whether a defendant has prior domestic violence convictions affects the degree of the domestic violence offense. R.C. 2919.25(D)(4) states, "If the offender previously has pleaded guilty to or been convicted of two or more offenses of domestic violence or two or more violations or offenses of the type described in division (D)(3) of this section involving a person who was a family or household member at the time of the violations or offenses, a violation of division (A) or (B) of this section is a felony of the third degree * * * and a violation of division (C) of this section is a misdemeanor of the first degree."

{¶ 7} Russell was convicted of domestic violence in violation of R.C. 2919.25(A), a third-degree felony, and domestic violence, in violation of R.C. 2919.25(C), a first-degree misdemeanor. The offenses included the allegation that Russell had two prior convictions for domestic violence, and the jury was specifically asked to determine whether Russell had prior convictions for domestic violence in *State v. Russell*, Butler C.P. No. 2004 CR 502 and *State v. Russell*, Middletown M.C. No. 1998 CRB 1504. The jury found that he had been convicted of domestic violence in those cases. Because the existence of two prior domestic violence convictions was necessary to establish the degree of Russell's offenses, as alleged in the indictment, the prosecutor was permitted to present evidence of Russell's prior convictions to the jury.

{¶ 8} Russell cites *State v. Goines*, 111 Ohio App.3d 840, 677 N.E.2d 412 (8th Dist.1996), to support his argument that the use of his prior convictions was improper. In *Goines*, the defendant was convicted of breaking and entering and vandalism, based on his breaking into, damaging, and trashing an apartment from which he had been evicted. The defendant testified on his own behalf at his trial and acknowledged convictions for aggravated burglary the year before. On cross-examination, the State asked the defendant about his prior experience breaking into residences, suggesting that he used those skills for the instant offense. The prosecutor also referred to the details of the prior convictions in closing argument and described the defendant as someone who breaks into people's homes and takes things.

{¶ 9} The Eighth District found plain error and reversed Goines's conviction. The court reasoned that, although the defendant broke doors in order to gain entrance in both the prior offenses and the instant case, there were not enough other similarities to fit any of the exceptions listed in Evid.R. 404(B) and R.C. 2945.59. *Goines* at 846. The court concluded that the prosecutor had improperly used the prior acts to try to prove that Goines had acted in conformity with the prior acts in committing the vandalism and breaking and entering and to prove that Goines was a bad person. *Id.* at 846-47.

{¶ 10} *Goines* is distinguishable for several reasons. First, the evidence of Russell's prior convictions was admitted as part of a stipulation, which the prosecutor read, as follows: "Defendant's termination entries for his prior convictions, those being convictions for domestic violence on July 19, 2004 in the case *State of Ohio versus Eric T. Russell*, being case number 2004-CR-502 from the Butler County Common Pleas Court, and domestic violence on June 12, 1998 in the case *State of Ohio versus Eric T. Russell*

being case number 98-CRB-1504 in the Middletown Municipal Court, are made and kept in the regular course of business and said copies are self-authenticating documents being true and accurate copies of said termination entries. They will be admitted as State's 5 and 6." Russell did not object to the admission of Exhibits 5 and 6.

{¶ 11} Second, the prosecutor did not use the details of Russell's prior convictions for domestic violence in an attempt to show that Russell had a propensity to commit domestic violence or to show that he is a bad person. During the State's cross-examination of Russell (who testified on his own behalf), the prosecutor asked Russell if he were married. Russell responded that he was in the process of getting divorced and that he had an ex-wife, "the person you got the priors from." The prosecutor attempted to clarify that "these are the women that were involved in your prior conviction," but the trial court struck the question. The prosecutor did not ask any additional questions related to the prior domestic violence convictions.

{¶ 12} The prosecutor also did not reference Russell's prior convictions in her closing argument or rebuttal argument. Russell, however, mentioned them in his closing argument, stating, "They [the State] [is] feeding off my criminal record ten years ago, 2004 and 1998. Preventive acts were pre-staged attempts to hinder my exit. Each case, each time involved my luggage. Each time, luggage. The luggage in the yard. The luggage in my room, back to back." The State objected when Russell attempted to elaborate on the circumstances of the prior convictions, and the trial court sustained the objection.

{¶ 13} Finally, the trial court instructed the jury that the evidence of Russell's prior convictions was admitted for a limited purpose. It stated: "Evidence that was received

indicated that the Defendant was convicted of domestic violence. That evidence was received because a prior conviction is an element of the offense charged. It was not received and you may not consider it to prove the character of the Defendant in order to show that he acted in conformity with that character.” We presume the jury complied with the court’s instructions.

{¶ 14} Accordingly, Russell’s claim that the trial court erred in allowing the State to use his prior convictions at trial is without merit.

II. Whether the Complainant’s Testimony was “False” and “Perjured”

{¶ 15} Although not included in the stated assignment of error, Russell further contends as part of his second assignment of error that the testimony of H.B., the complainant in this case, was “false” and “perjured.”

{¶ 16} H.B. testified at trial that she and Russell began dating on January 30, 2014, and Russell moved into her home on that date. According to H.B., the police had been called a couple of times during the night of May 23, 2014, due to a dispute between Russell and her, but no one was arrested. H.B. locked herself in her room for the rest of the night. On the morning of May 24, 2014, H.B. came out of her room and found Russell in the living room. She went outside. When she came back inside, she saw Russell heading upstairs with a screwdriver and large tool.

{¶ 17} H.B. followed Russell upstairs and begged him not to tear up her stuff. Russell went to H.B.’s bedroom door and tore the padlock off of the door. H.B. got in front of her bedroom door and attempted to grab her cell phone to call the police. Russell tried to take the phone out of H.B.’s hand, and he hit her in the face. Russell was not able to get H.B.’s phone, and she called the police. H.B. testified that she was injured

when Russell hit her in the face, and a few days later, she discovered a large bruise on her chest and on the back of her arm from Russell's grabbing her. Russell was arrested by the police that day (May 24).

{¶ 18} Russell was released from jail the following day, Sunday, May 25, after the prosecutor refused to file charges for the May 24 incident. H.B. testified that her mother came to her (H.B.'s) house after church on May 25, and H.B. told her mother what had happened. H.B.'s mother began neatly packing Russell's clothes, and she placed them outside on H.B.'s picnic table.

{¶ 19} H.B. was on the telephone with a friend when Russell returned to the house. He saw his clothes and, while still outside, began arguing with H.B. about her throwing him out. At one point, Russell stated, "Don't go to sleep tonight because I'll be back to kill you and your mom." H.B. told her mother to go inside, H.B. got off the phone with her friend, she set the house alarm system, and she called the police.

{¶ 20} H.B.'s testimony was corroborated, in large part, by the responding officers and other witnesses. Dayton Police Officer Paul Harris responded to H.B.'s residence at approximately 10:00 a.m. on May 24. Harris testified that he spoke with Russell, who was downstairs in the house looking for his belongings. Russell told the officer that he believed H.B. had hidden some of his belongings in her room and that he had tried to pry off her padlock with a hammer and screwdriver in order to enter her bedroom and locate them. H.B. reported to the officer that Russell had grabbed her upper arm, and he observed redness on her right arm.

{¶ 21} Officer James Mollohan was called to H.B.'s residence on May 24 to take photographs. He photographed a padlock that had been pried off of an upstairs

bedroom door and a light bruise on H.B.'s arm.

{¶ 22} H.B.'s mother testified (through a sign language interpreter) that she went to H.B.'s home on the afternoon of May 25 and began packing up Russell's clothes, tools, and other belongings. She testified that, when Russell came to the house, H.B. and Russell started arguing. H.B.'s mother told Russell that "it's over" and he needed to leave. Russell became very angry and stated that they should not sleep because he was going to come back and kill them. H.B. told her mother to get inside, and they did. H.B.'s mother stated that Russell's friend came by, packed Russell's things into his (the friend's) car, and left. After the police came, Russell and his friend circled back around, Russell walked up, and the police arrested him.

{¶ 23} Officer John Griffin testified that he responded to two calls to H.B.'s residence on May 25 – one by H.B. based on Russell's returning to the residence and the other by Russell due to his belongings being placed outside. The officer stated that he saw some personal belongings neatly stacked in the front yard when he arrived. He went to H.B.'s door, and H.B. and her mother were inside; Russell was not present. H.B. appeared to be very upset and frightened. H.B. informed Officer Griffin that Russell had been arrested for domestic violence the night before, that he had been released because she had been unable to go to the police department to press charges, and that he had returned and threatened her. Officer Griffin stated that Russell had reportedly told H.B. not to go to sleep because he was going to kill her and her mother. Russell got out of a car and walked up to the house while Officer Griffin was there. Russell denied making threats, and he told the officer that he wanted to get his belongings and leave. Russell was arrested.

{¶ 24} Stephen Peck, a cousin of Russell, testified that he agreed to give Russell a ride to Middletown on May 25. Peck helped Russell pack Russell's things, which were outside, into Peck's car. When they were beginning to head toward the highway, they saw police cars in front of H.B.'s house. Russell asked Peck to stop so he could inform the officers that he had all of his belongings, that he was leaving, and that there would be no more problems. Peck stated that, once Russell got out of the car, police officers rushed to him and placed him under arrest.

{¶ 25} Detective Hollie Bruss testified that she spoke with Russell in the jail on May 27, 2015, regarding the domestic violence allegations. With respect to the Sunday incident, Russell told Bruss that he had called to police to ask them to meet him there, that he never went onto the property, that he went to his cousin's house, and that he returned with a car to load up his belongings. On cross-examination, Bruss testified that she had spoken with H.B. on the morning of May 25 about the May 24 charges being refused. Russell also questioned Detective Bruss about her investigation into the domestic violence charges and whether she had investigated H.B. Russell's questions attempted to elicit testimony that H.B. had lied about her allegations on May 24 and May 25.

{¶ 26} Russell, who was representing himself at trial, testified on his own behalf in a narrative fashion. He denied the allegations against him.

{¶ 27} We find nothing in H.B.'s testimony or the record as a whole to substantiate Russell's claim that H.B.'s testimony was perjured or false. To the extent that Russell is arguing that the jury erred in crediting H.B.'s testimony, we note that the credibility of the witnesses and the weight to be given to their testimony were matters for the jury, as the trier of fact, to determine. Based on the evidence presented at trial, we cannot conclude

that the jury lost its way in crediting the State's evidence regarding the events of May 24 and May 25 and in convicting Russell of Counts One and Two. See, e.g., *State v. Quarles*, 2015-Ohio-3050, __ N.E.3d __, ¶ 4-5 (2d Dist.) (manifest weight of the evidence standard).

{¶ 28} Russell's second assignment of error is overruled.

III. Calculation of Jail Time Credit

{¶ 29} In his first assignment of error, Russell claims that the trial court erred in awarding him only 67 days of jail time credit.

{¶ 30} According to the record, on May 24, 2014, Russell was arrested for domestic violence for an incident that happened that day. After his release from the Montgomery County Jail on May 25, he returned to H.B.'s home and threatened H.B. and her mother. That day (May 25), Russell was again arrested for domestic violence. Thereafter, he remained in jail in lieu of bail during the pendency of this case.

{¶ 31} On June 18, 2014, Russell was indicted with felony domestic violence based on Russell's conduct on May 24, 2014 (Count One), and with misdemeanor domestic violence based on Russell's conduct on May 25, 2014 (Count Two). In September 2014, the State added a third domestic violence charge, a felony, based on conduct that occurred on March 23, 2014 (Count Three). A jury found Russell guilty of Counts One and Two, but not guilty of Count Three. The jury found that Russell had previously been convicted of domestic violence in two separate cases.

{¶ 32} According to the Jail Time Credit Report prepared by the Division of Court Services, Russell was in custody for only this case (Montgomery C.P. No. 14 CR 1896) from May 24, 2014 until July 29, 2014. Beginning on July 29, 2014, Russell was also

being held on a separate Dayton Municipal Court case, Case No. 2014 CRB 5643 (“the municipal court case”). The record reflects that the Dayton Municipal Court sentenced Russell to 180 days in jail. The report indicated that this municipal court sentence was to run from August 11, 2014 until January 23, 2015; Russell received 14 days of jail time credit from the municipal court for July 29, 2014 until August 11, 2014.

{¶ 33} The Jail Time Credit Report concluded that Russell was entitled to 67 days of jail time credit, as of November 18, 2014, the date Russell was sentenced in this case. The report noted that Russell believed he was entitled to additional jail time credit. It stated:

Mr. Russell is requesting additional Jail Time Credit for time spent while under sentence for Case No. 2014 CRB 05643 out of Dayton Municipal Court. As Mr. Russell received and was receiving Jail Time Credit on the Municipal Court case, that same credit cannot be applied to the felony case as double Jail Time Credit. As such, Mr. Russell is awarded 67 days Jail Time Credit, as noted above.

(Emphasis in original.)

{¶ 34} At sentencing, defense counsel raised Russell’s concern that he would not receive the correct amount of jail time credit.² Counsel stated, “I know they [the division of court services] show 67 days in custody and we know he’s been there since last May.” The court responded that it was aware that Russell had been in jail longer than 67 days, but the court was going to award 67 days, based on information that Russell was serving

² Russell exercised his constitutional right to represent himself at trial, with the assistance of stand-by counsel. However, Russell agreed that stand-by counsel would represent him at the sentencing hearing, and counsel did so. After sentencing, Russell filed various motions pro se, including the motion for jail time credit.

time on the municipal court case during part of his confinement. The trial court told Russell that it understood that there was a dispute about the amount of jail time credit and that it would permit Russell to file a motion arguing that jail time credit was miscalculated. The court made clear, however, that it was going to order 67 days of jail time credit at sentencing.

{¶ 35} On November 19, 2014, Russell filed a pro se motion for jail time credit, which listed the cases for which he was held in jail and asked for 177 days of jail time credit; Russell did not attach any supporting documentation. The same day (November 19), the trial court filed its judgment entry, which awarded Russell 67 days of jail time credit. Russell was transported to prison on November 20, 2014.

{¶ 36} Citing *State v. Fugate*, 117 Ohio St.3d 261, 2008-Ohio-856, 883 N.E.2d 440, Russell claims on appeal that he should have been credited with 178 days of jail time credit, the entire period that he was held in jail until sentencing (May 25, 2014 through November 18, 2014).³ He argues that the municipal court case was related to the felony case, because it involved the same parties. He further argues that he should have received 178 days of jail time credit due to the trial court's order that the sentence in this case run concurrently with the municipal court sentence.

{¶ 37} Where, for whatever reason, a defendant remains in jail prior to his trial, he must be given credit on the sentence ultimately imposed for all periods of actual confinement on that charge. *State v. Coyle*, 2d Dist. Montgomery No. 23450, 2010-Ohio-2130, ¶ 5, citing *White v. Gilligan*, 351 F.Supp. 1012, 1014 (S.D.Ohio 1972).

³ We recognize that Russell argued for 177 days of jail time credit in the trial court, whereas his appellate counsel claims he is entitled to 178 days. We note that counsel did not include May 24, 2014 in his jail time credit calculations in arriving at 178 days of jail time credit. It is unclear how Russell calculated 177 days in his motion.

This requirement enforces the right to equal protection provided by the Fourteenth Amendment. *Fugate*, supra; *State v. Angi*, 2d Dist. Greene No. 2011 CA 72, 2012-Ohio-3840, ¶ 7, citing *Coyle* at ¶ 5.

{¶ 38} R.C. 2967.191, governing jail time credit, implements the equal protection right to credit for prior incarceration. The statute provides, in part:

The department of rehabilitation and correction shall reduce the stated prison term of a prisoner * * * by 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, including confinement in lieu of bail while awaiting trial, confinement for examination to determine the prisoner's competence to stand trial or sanity, confinement while awaiting transportation to the place where the prisoner is to serve the prisoner's prison term * * *.

{¶ 39} “Although the [department of rehabilitation and correction] has a mandatory duty pursuant to R.C. 2967.191 to credit an inmate with jail time already served, it is the trial court that 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, 786 N.E.2d 1286, ¶ 7, quoted by *Coyle* at ¶ 7.

{¶ 40} In *Fugate*, the Supreme Court held:

[W]hen concurrent prison terms are imposed, courts do not have the discretion to select only one term from those that are run concurrently against which to apply jail-time credit. R.C. 2967.191 requires that jail-time

credit be applied to all prison terms imposed for charges on which the offender has been held. If courts were permitted to apply jail-time credit to only one of the concurrent terms, the practical result would be * * * to deny credit for time that an offender was confined while being held on pending charges. So long as an offender is held on a charge while awaiting trial or sentencing, the offender is entitled to jail-time credit for that sentence; a court cannot choose one of several concurrent terms against which to apply the credit.

Fugate at ¶ 12.

{¶ 41} In contrast, we have consistently held that jail time credit is not appropriate where the defendant was serving a sentence for a separate offense. See, e.g., *State v. Spears*, 2d Dist. Montgomery No. 25645, 2014-Ohio-146; *Angi*, 2d Dist. Greene No. 2011 CA 72, 2012-Ohio-3840; *State v. Rios*, 2d Dist. Clark No. 10 CA 59, 2011-Ohio-4720. See also *State ex rel. Rankin v. Mohr*, 130 Ohio St.3d 400, 2011-Ohio-5934, 958 N.E.2d 944, ¶ 2 (“ODRC director had no duty to reduce [defendant’s] 13-year sentence by the number of days that [he] was confined for other crimes *before* he received the 13-year sentence.”). We recently reaffirmed this interpretation of R.C. 2967.191 in *Spears*, where we held that the trial court did not err in failing to credit the defendant with 28 additional days of jail time credit, during which he served time for an unrelated misdemeanor offense. We stated, “Jail time credit is not permitted under R.C. 2967.191 where the defendant was serving time for a separate offense.” *Spears* at ¶ 2.

{¶ 42} Russell began serving his 180-day sentence in the municipal court case on August 11, 2014. Because Russell was in jail serving time for a separate offense,

Russell did not accrue jail time credit in the domestic violence case between August 11, 2014 (when he was sentenced in the municipal court) and November 18, 2014 (when he was sentenced for the domestic violence charges).

{¶ 43} Russell claims that he was entitled to 178 days of jail time credit, because the trial court ordered his sentence in this case to run concurrently with his municipal court sentence. “[W]here a sentence is imposed concurrently with a sentence that has already been imposed, and which the defendant has already begun serving, the defendant is given the comparative luxury of serving each day of his second sentence, beginning with the first day, concurrently with a day served on the first sentence. Thus, if the new sentence is imposed and put into execution on the 100th day of the old sentence, the defendant is allowed to serve the first day of his new sentence while, at the same time, serving the 100th day of the old sentence.” *State v. Ways*, 2d Dist. Montgomery No. 25214, 2013-Ohio-293, ¶ 10.

{¶ 44} R.C. 2967.191 does not “include time that the prisoner was incarcerated by reason of a sentence previously imposed for a different offense, even if that prior sentence is one with which the present sentence is ordered to be served concurrently.” *Ways* at ¶ 20; see also *Rankin* at ¶ 2 (“The fact that the [trial] court ordered that [defendant’s] 13-year sentence be served concurrently with his prior sentences does not affect our determination that [defendant] is not entitled to a reduction of his 13-year sentence.”).

{¶ 45} At the time Russell was sentenced to jail by the Dayton Municipal Court, he had not yet been convicted and sentenced for the domestic violence charges in this case and was not yet serving a prison term for those charges. See *Spears* at ¶ 13. Russell

was not entitled to jail time credit for the period he was serving the municipal court sentence (August 11 to November 18), even though his domestic violence sentence was later ordered to run concurrently with the municipal court sentence.

{¶ 46} The parties do not specifically address the period of time between July 29, 2014, and August 11, 2014. During this 14-day period, Russell was being held without bail, as pre-trial confinement, for both the domestic violence charges and the municipal court charges of violating a protection order. Because the trial court ordered that the domestic violence sentence be served concurrently with the municipal court sentence, under *Fugate*, Russell should have been credited with these 14 days of jail time credit in both cases.

{¶ 47} Finally, Russell claims that he should receive 178 days of jail time credit, because the municipal court charges were “not unrelated to the common pleas case.” Russell states in his appellate brief that he was charged in municipal court with violating a civil protection order by engaging in domestic violence in March and May 2014.

{¶ 48} The record of this case reflects that Russell’s misdemeanor domestic violence charge was based on conduct that occurred on May 25. The two felony domestic violence charges were based on the conduct that occurred on March 23 and May 24, 2014. The Jail Time Credit Report indicates that Russell was later charged with new offenses in Dayton Municipal Court on July 29, 2014, but the record does not reflect that the municipal court charges were related, in any way, to Russell’s domestic violence charges. To the contrary, defense counsel informed the court at sentencing that the municipal court charges “had to do with some correspondence that were being sent out from the jail.”

{¶ 49} Russell has moved to supplement the record in the case to include a printout of the online docket and the complaints for Case No. 2014 CRB 5643, the municipal court case. The complaints in that case alleged that Russell violated a protection order on June 5, June 9, June 10, June 19, June 23, July 1, and July 15, 2014. The complainant for the charges of violating a protection order was the same complainant for the domestic violence charges.

{¶ 50} Assuming that we could consider this additional information regarding Case No. 2014 CRB 5643, the complaints do not support Russell's contention that the misdemeanor charges were related to the domestic violence charges. Although the two cases involved the same defendant and the same complainant, the charges arose from different conduct that occurred on different dates. The trial court did not err in treating the municipal court case as a separate, unrelated case from the common pleas domestic violence case.

{¶ 51} In short, the trial court did not err in ordering jail time credit of 67 days, for the period between May 24 and July 29, 2014, and Russell was not entitled to receive jail time credit for the period of time that he was serving his sentence in the municipal court case (August 11 through November 18). However, as he received concurrent sentences, Russell should have received jail time credit for the period between July 29 and August 11, while he was being held without bail on both pending cases.

{¶ 52} Russell's first assignment of error is sustained.

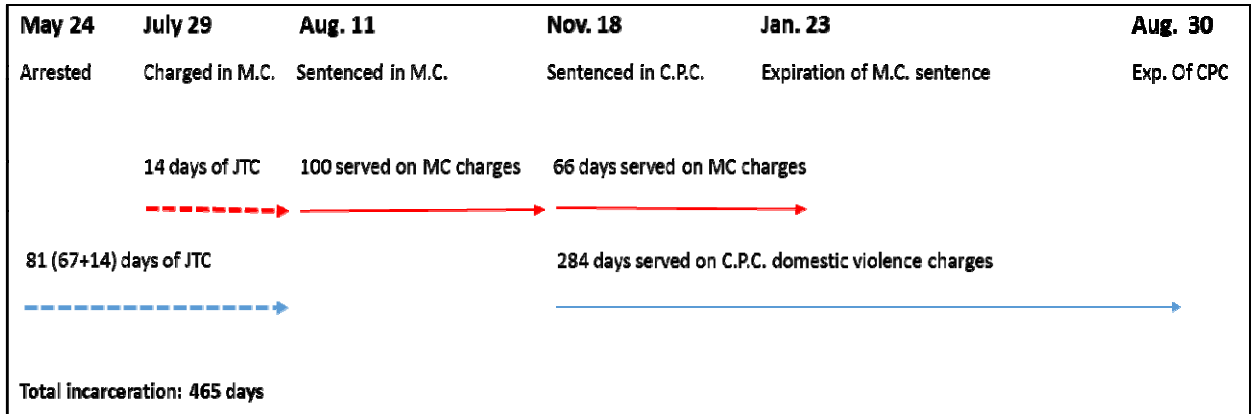
IV. Conclusion

{¶ 53} The portion of the trial court's judgment ordering 67 days of jail time credit will be reversed, and the matter will be remanded for correction of the amount of jail time

credit. In all other respects, the trial court's judgment will be affirmed.

V. Appendix

Illustration of jail time credit pursuant to this Opinion.



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FAIN, J. and DONOVAN, J., concur.

Copies mailed to:

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