

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
HURON COUNTY

State of Ohio

Court of Appeals No. H-12-014

Appellee

Trial Court No. CRI 20100681

v.

Marvin V. Feagin

DECISION AND JUDGMENT

Appellant

Decided: May 3, 2013

* * * * *

Eric Allen Marks, for appellant.

* * * * *

SINGER, P.J.

{¶ 1} Appellant, Marvin Vincent Feagin, was sentenced to six months of imprisonment for a theft conviction and later granted judicial release in November 2011. In March 2012, appellant's community control was revoked and the court sentenced appellant to the remainder of his original sentence. The court calculated appellant's jail-time credit and appellant moved to have his jail-time credit increased by 19 days for the time he was jailed in Richland County and Huron County following his arrest for

violating his community control. Following a hearing, the court ordered on May 4, 2012, that appellant be credited with only 27 days of jail-time credit for the time he was held in the Huron County jail. Appellant filed a direct appeal from the May 4, 2012 judgment. Appellant was scheduled for release on July 4, 2012. Because appellant has been released from jail and has completed his sentence, we find this appeal is moot.

{¶ 2} Appellant asserts the following assignment of error:

Despite the fact that Appellant has served the incarceration portion of his sentence, this appeal is not moot and should go forward on the merits.

The lower court applied the wrong standard in determining Appellant's jail time credit.

{¶ 3} Appellant argues that this appeal is not moot because he was convicted of a felony. He also asserts that we must address the issue because other defendants sentenced to less than one year face the miscalculation of their jail-time credit (due to the court's erroneous interpretation of the law) and will also be unable to challenge it on direct appeal. He asserts that these defendants cannot obtain a stay because their jail-time credit is not calculated until after they are imprisoned.

{¶ 4} Generally, the trial court's calculation of jail-time credit can be challenged by way of appeal from the court's judgment. *Hughley v. Saunders*, 123 Ohio St.3d 446, 2009-Ohio-5585, 917 N.E.2d 270, and *State ex rel. Rudolph v. Horton*, 119 Ohio St.3d 350, 2008-Ohio-4476, 894 N.E.2d 49. Once a defendant has served his sentence and has

been released from prison, however, any error related to the calculation of his jail-time credit is moot. *State ex rel. Gordon v. Murphy*, 112 Ohio St.3d 329, 2006-Ohio-6572, 859 N.E.2d 928. Although this case involves a felony, the issue of jail-time credit is moot once the sentence has been served because this issue relates only to the length of the sentence and not the underlying conviction and, therefore, there is no collateral disability. *State v. Strohl*, 6th Dist. No. WD-05-049, 2006-Ohio-1639, ¶ 8, and *State v. Ambriez*, 6th Dist. No. L-04-1382, 2005-Ohio-5877, ¶ 10.

{¶ 5} Another exception to the mootness doctrine is when the claim is “capable of repetition, yet evading review.” *Murphy*, citing *Spencer v. Kemna*, 523 U.S. 1, 17, 118 S.Ct. 978, 140 L.Ed.2d 43 (1998). We find this exception is not applicable in this case. There is a means to challenge the jail-time credit issue even when there is insufficient time to seek a direct appeal. If a defendant seeks immediate release from prison because of an alleged error in the calculation of his jail-time credit, he may seek relief by filing a habeas corpus petition. *Horton* at ¶ 3, citing *Murphy* at ¶ 5.

{¶ 6} Therefore, we find appellant’s assignment of error is moot.

{¶ 7} It is ordered that this appeal be dismissed. Appellant is ordered to pay the court costs of this appeal pursuant to App.R. 24.

Appeal dismissed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Mark L. Pietrykowski, J.

JUDGE

Arlene Singer, P.J.

JUDGE

Stephen A. Yarbrough, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
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