

[Cite as *State v. Miller*, 2015-Ohio-2861.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
No. 102151

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**STATE OF OHIO**

PLAINTIFF-APPELLEE

vs.

**JOSEPH MILLER**

DEFENDANT-APPELLANT

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**JUDGMENT:**  
REVERSED AND REMANDED

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Criminal Appeal from the  
Cuyahoga County Court of Common Pleas  
Case No. CR-09-531408-A

**BEFORE:** McCormack, J., Celebrezze, A.J., and Laster Mays, J.

**RELEASED AND JOURNALIZED:** July 16, 2015

**FOR APPELLANT**

Joseph Miller, pro se  
Inmate No. A-592806  
London Correctional Institution  
P.O. Box 69  
London, OH 43140

**ATTORNEYS FOR APPELLEE**

Timothy J. McGinty  
Cuyahoga County Prosecutor

By: Brett Hammond  
Assistant County Prosecutor  
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TIM McCORMACK, J.:

{¶1} Defendant-appellant Joseph Miller appeals from the trial court's judgment denying his motion to correct his jail-time credit. Finding merit to the appeal, we reverse and remand.

{¶2} In 2010, Miller pleaded guilty to engaging in corrupt activity, tampering with records, identify fraud, forgery, money laundering, and telecommunications fraud. The trial court imposed a prison term of 22½ years for his conviction. Miller appealed his conviction to this court, claiming his plea was not voluntary. This court agreed and vacated his guilty plea. *State v. Miller*, 8th Dist. Cuyahoga No. 96022, 2011-Ohio-5158.

Upon remand, under a new plea deal, Miller received a six-year prison term for his offenses. In the sentencing entry dated March 15, 2012, the trial court calculated his jail-time credit to be 533 days.

{¶3} On October 8, 2014, Miller filed a pro se motion to correct the trial court's calculation of jail-time credit. He claimed he should have 83 more days of jail-time credit, in addition to the 533 days calculated by the trial court. The trial court denied the motion, stating he was only entitled to the 533 days granted in the March 15, 2012 sentencing entry.

{¶4} Miller, pro se, appealed the trial court's decision. Instead of filing a brief, he essentially wrote a letter to this court. His filing is not in compliance with App.R. 16(A). Although this court can dismiss this appeal for appellant's failure to file a

compliant brief, we will review his claim in the interest of justice. *State v. Clark*, 2014-Ohio-4873, 23 N.E.3d 218, ¶ 12 (3d Dist.).

{¶5} R.C. 2967.191 states that

[t]he 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 \* \* \*.

{¶6} The state acknowledges that Miller was in the county jail for five days between December 17, 2009, to December 22, 2009. The state also acknowledges that, beginning on August 4, 2010, Miller was confined either in the county jail or in prison, until March 15, 2012, the day his new sentence was announced. In our calculation, these dates add to a total of 594 days (five days from December 17, 2009, to December 22, 2009, plus 589 days from August 4, 2010, to March 15, 2012).

{¶7} On March 15, 2012, the trial court, upon remand from this court, imposed a six-year prison term. The trial court, however, awarded only 533 days of jail-time credit in the sentencing entry. The trial court's calculation appears to be in error in that it has failed to recognize 61 additional days served.

{¶8} In addition, after Miller's new sentence was announced on March 15, 2012, he spent 12 days in the county jail, from March 15, 2012, until March 27, 2012, before he

was transported to the prison to begin serving his six-year term. Miller should be credited with these days as well.

{¶9} Thus, the trial court should have granted Miller's motion to correct his jail-time credit and recalculated the days he would be entitled to. The trial court's judgment is reversed, and this matter is remanded to the trial court for a recalculation of Miller's jail-time credit.<sup>1</sup>

It is ordered that appellant recover of said appellee costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

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TIM McCORMACK, JUDGE

FRANK D. CELEBREZZE, JR., A.J., and  
ANITA LASTER MAYS, J., CONCUR

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<sup>1</sup>The state concedes that Miller's jail-time credit has been miscalculated and that he is entitled to additional days. The state, however, makes its own calculation error. In its chart showing Miller's days of confinement, the number of days between August 11, 2010 to October 14, 2010, when Miller was in the county jail awaiting sentence, was miscounted. The number of days of confinement for that period of time appears to be 64 days but the state counted 70 days.