

[Cite as *State v. McBride*, 2011-Ohio-3030.]

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State of Ohio,	:	
	:	No. 10AP-1152
Plaintiff-Appellee,	:	(C.P.C. No. 09CR-05-2697)
v.	:	No. 10AP-1153
	:	(C.P.C. No. 09CR-05-2698)
Tamboura D. McBride,	:	
	:	(ACCELERATED CALENDAR)
Defendant-Appellant.	:	

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D E C I S I O N

Rendered on June 21, 2011

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*Ron O'Brien*, Prosecuting Attorney, and *Laura R. Swisher*,  
for appellee.

*Tamboura D. McBride*, pro se.

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APPEAL from the Franklin County Court of Common Pleas.

FRENCH, J.

{¶1} Defendant-appellant, Tamboura D. McBride ("appellant"), appeals the judgment of the Franklin County Court of Common Pleas, which denied appellant's motion for correction of his criminal sentence. Having concluded that the trial court did not err, we affirm.

{¶2} According to appellant, he was convicted in two cases—case No. 09CR-1573 and case No. 09CR-2027—and sentenced on a total of four charges. While our

record does not contain these case files, it does confirm that appellant was sentenced to a prison term in those cases.

{¶3} This appeal arises from two later convictions. Appellant pleaded guilty to one count of burglary in each of two cases—case Nos. 09CR-05-2697 and 09CR-05-2698. The trial court found appellant guilty in both cases and sentenced him to 18 months, which are to be served concurrently with his sentences in case Nos. 09CR-1573 and 09CR-2027. The court gave him zero days of jail credit. Appellant did not appeal his conviction.

{¶4} On September 30, 2010, appellant filed a motion for jail-time credit and, in it, asked for 437 days of credit. On October 22, 2010, appellant filed a motion for correction, making the same arguments.

{¶5} The trial court denied appellant's motion for correction. Appellant filed a timely appeal, and he raises the following assignment of error:

1. Trial Court erred [by] denying Appellant's Motion for Correction.

{¶6} Under the doctrine of res judicata, a final judgment of conviction precludes a defendant from raising and litigating in any proceeding, except an appeal from that judgment, any defense that the defendant could have raised at the trial that resulted in the conviction or on appeal from that judgment. *State v. Szefcyk*, 77 Ohio St.3d 93, 1996-Ohio-337, syllabus. Appellant could have raised the argument he now makes in an appeal from his conviction. Because he had that opportunity, the doctrine of res judicata bars him from asserting the argument now.

{¶7} The fact that appellant asks for correction of jail-time credit does not change that result, at least under the facts of his case. Generally, a defendant may only

challenge a trial court's application of jail-time credit in an appeal from the judgment containing the calculation at issue. *State v. Lomack*, 10th Dist. No. 04AP-648, 2005-Ohio-2716, ¶11, citing *State v. Parsons*, 10th Dist. No. 03AP-1176, 2005-Ohio-457, ¶7. This court has held, however, that if the trial court makes a mathematical error, rather than a legal one, in applying the credit, then a defendant may seek judicial review by filing a motion for correction in the trial court. *State v. Spillan*, 10th Dist. No. 06AP-50, 2006-Ohio-4788, ¶9.

{¶8} Here, appellant brought a legal challenge. Specifically, he contended that the trial court erred by not applying jail-time credit to a concurrent sentence, as required by *State v. Fugate*, 117 Ohio St.3d 261, 2008-Ohio-856 (holding that defendants who are sentenced to concurrent prison terms are entitled to have jail-time credit applied toward all prison terms). Because appellant presented only a legal challenge to the court's judgment, the doctrine of res judicata precluded his motion for correction.

{¶9} For all these reasons, we conclude that the trial court did not err by denying appellant's motion for correction, and we overrule his assignment of error. We affirm the judgment of the Franklin County Court of Common Pleas.

*Judgment affirmed.*

KLATT and SADLER, JJ., concur.

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