

[Cite as *State v. Howard*, 2010-Ohio-4729.]

COURT OF APPEALS
RICHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO

Plaintiff-Appellee

-vs-

TIMOTHY HOWARD

Defendant-Appellant

JUDGES:

Hon. Julie A. Edwards, P. J.

Hon. William B. Hoffman, J.

Hon. John W. Wise, J.

Case No. 10 CA 23

O P I N I O N

CHARACTER OF PROCEEDING:

Criminal Appeal from the Court of Common
Pleas, Case No. 2008 CR 513D

JUDGMENT:

Affirmed

DATE OF JUDGMENT ENTRY:

September 27, 2010

APPEARANCES:

For Plaintiff-Appellee

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Wise, J.

{¶1} Appellant Timothy R. Howard appeals from the decision of the Court of Common Pleas, Richland County, which denied his motion for jail time credit. The Appellee is the State of Ohio. The relevant facts leading to this appeal are as follows.

{¶2} In 2008, the Richland County Grand Jury indicted appellant on one count of illegal conveyance of weapons, drugs or other prohibited items onto grounds of detention facility or institution, in violation of R.C. 2921.36(A)(2), a felony of the third degree, and one count of possession of controlled substances (specifically .30 grams of crack cocaine), in violation of R.C. section 2925.11(A), a felony of the fifth degree.

{¶3} Appellant pled not guilty to both counts at his arraignment, and his case was set for trial. However, before his scheduled trial date, appellant reached a plea agreement with the State of Ohio. In exchange for his guilty plea to Count II (Possession) of the indictment, the State dismissed Count I (Illegal Conveyance). On December 30, 2008, the trial court sentenced appellant to a \$2,500.00 fine, a six-month suspension of his driver's license, two and one-half years of community control, and \$40 in restitution damages to the MPD Crime Lab. As conditions of his community control, appellant was ordered to complete the program at the Crossroads Halfway House, to complete a drug and alcohol evaluation and treatment, to submit to random drug and alcohol testing, to report all prescriptions and doctor contacts to his probation officer, and to stay out of high drug traffic areas in Mansfield.

{¶4} On April 30, 2009, a sixteen-count community control violation was filed against appellant. At the community control violation hearing on June 29, 2009, appellant admitted to eleven of the sixteen counts. On June 30, 2009, via judgment

entry, the trial court sentenced appellant to ten months in prison. The court issued an additional entry on July 2, 2009, crediting appellant with 73 days of jail-time credit.

{15} On January 12, 2010, appellant filed a “motion to correct jail time credit.” Specifically, he requested that the trial court issue an order “correcting” and granting 103 days credit for claimed time served in Crossroads Halfway House. The trial court overruled the motion on January 15, 2010, finding appellant’s period of time spent at Crossroads was not “confinement” under the jail credit statute.

{16} On February 10, 2010, appellant filed a notice of appeal. He herein raises the following sole Assignment of Error:

{17} “I. THE TRIAL COURT ERRED AND SHOWED ‘ABUSE OF DISCRETION’ IN DENYING DEFENDANT’S MOTION FOR JAIL-TIME CREDIT ARISING FROM DEFENDANT’S STAY AT CROSSROADS CENTER FOR CHANGE, A STATE APPROVED AND FUNDED HALF-WAY HOUSE.”

I.

{18} In his sole Assignment of Error, appellant contends the trial court erred and abused its discretion in denying his request for jail-time credit.

{19} Ohio’s jail-credit statute, R.C. 2967.191, provides for the reduction of a prison term for an offender’s related days of “confinement.” See, also, *State v. Napier* (2001), 93 Ohio St.3d 646, 758 N.E.2d 1127. However, we have previously recognized that an appeal of a jail-time credit denial is moot where the defendant-appellant has completed his prison sentence. See *State v. Black*, Richland App.No. 09-CA-153, 2010-Ohio-2594; *State v. Owens*, Tuscarawas App.No. 2004 AP 03 0022, 2004-Ohio-4604.

{¶10} In the case sub judice, appellant was sentenced to ten months in prison via a community control violation journal entry filed June 30, 2009. The court issued an additional entry on July 2, 2009, crediting appellant with 73 days of jail-time credit. The trial court record does not indicate that appellant filed a notice of appeal or a request for a stay concerning either of these 2009 decisions. We thus glean from the record that appellant would have by now completed his ten-month prison sentence.

{¶11} Accordingly, appellant's sole Assignment of Error is found to be moot.

{¶12} For the foregoing reasons, the judgment of the Court of Common Pleas, Richland County, Ohio, is hereby affirmed.

By: Wise, J.

Edwards, P. J., concurs.

Hoffman, J., dissents.

JUDGES

Hoffman, J., dissenting

{¶13} I agree with the majority's conclusion the issue raised in this appeal is moot. My only disagreement rests in the appropriate disposition.

{¶14} I would dismiss the appeal as being moot rather than affirming the trial court's decision.

HON. WILLIAM B. HOFFMAN

