

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

State of Ohio

Court of Appeals No. WD-10-053

Appellee

Trial Court No. 09 CR 346

v.

Terrance Davis

DECISION AND JUDGMENT

Appellant

Decided: January 14, 2011

* * * * *

Paul A. Dobson, Wood County Prosecuting Attorney, and Melissa A. Freeman and David W. Romaker, Jr., Assistant Prosecuting Attorneys, for appellee.

Terrance Davis, pro se.

* * * * *

HANDWORK, J.

{¶ 1} This accelerated appeal is from the July 20, 2010 judgment of the Wood County Court of Common Pleas, which denied the motion of appellant, Terrance Davis, for additional jail-time credit. Upon consideration of the assignment of error, we affirm the decision of the lower court. Appellant asserts the following single assignment of error on appeal:

{¶ 2} "FIRST ASSIGNMENT OF ERROR: The trial court erred [sic] and violated Appellant's Constitutional Rights when it refused to grant the Appellant with the proper number of post-conviction detention days of confinement after sentencing, while the Appellant awaited transportation to place where the prisoner is to serve the prisoner's prison term."

{¶ 3} Appellant was indicted by a Wood County Grand Jury on August 6, 2009, on charges of receiving stolen property. Following a guilty plea, he was sentenced on March 1, 2010, to 12 months in prison. Appellant was given credit for 27 days he was in jail at the Wood County Justice Center pending resolution of his case. Appellant did not seek an appeal from the sentencing judgment.

{¶ 4} In July 2010, appellant sought an additional 101 days of credit for time he served after sentencing at the Corrections Center of Northwest Ohio from March 1, 2010, to May 7, 2010, and the Lucas County Corrections Center from May 8, 2010, to June 9, 2010. He asserted in his motion that he was not delivered to the state of Ohio to begin serving his sentence until June 10, 2010. The Ohio Department of Rehabilitation and Correction ("ODRC") credited him 27 days of jail time pursuant to the court's sentencing judgment rather than all of the time he was incarcerated after sentencing. The court determined that because these periods of incarceration occurred after sentencing, the court lacked jurisdiction over the issue.

{¶ 5} A challenge as to whether the trial court properly classified a defendant's time in jail as days to be credited against his sentence must be raised on direct appeal

from the sentencing judgment. *State v. Smith*, 6th Dist. Nos. L-08-1283, L-08-1286, L-08-1287, 2009-Ohio-1538, ¶ 16, citing *State ex rel. Rankin v. Ohio Adult Parole Auth.*, 98 Ohio St.3d 476, 2003-Ohio-2061, ¶ 10. Appellant challenges whether additional time he served in jail should be credited against his sentence and not that there was a clerical error. Since this issue could have been, but was not, raised in a direct appeal from the sentencing judgment, this assignment of error is barred under the doctrine of res judicata. Id.

{¶ 6} Therefore, we find appellant's sole assignment of error not well-taken. Having found that the trial court did not commit error prejudicial to appellant and that substantial justice has been done, the judgment of the Wood County Court of Common Pleas is affirmed. Appellant is hereby ordered to pay the costs of this appeal pursuant to App.R. 24.

JUDGMENT AFFIRMED.

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

Peter M. Handwork, J.

JUDGE

Arlene Singer, J.

JUDGE

Thomas J. Osowik, P.J.
CONCUR.

JUDGE

<p>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: http://www.sconet.state.oh.us/rod/newpdf/?source=6.</p>
