

Circuit Court for Baltimore City  
Case No.: 298132020

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND\*

No. 0435

September Term, 2022

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JESUS WOMACK

v.

STATE OF MARYLAND

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Nazarian,  
Ripken,  
Zarnoch, Robert A.  
(Senior Judge, Specially Assigned),  
JJ.

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PER CURIAM

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Filed: February 24, 2023

\*At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

\*\*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

On January 28, 1999, following trial in the Circuit Court for Baltimore City, a jury found Jesus Womack, appellant, guilty of distribution of cocaine, possession with intent to distribute cocaine, possession of cocaine, and conspiracy to commit each of those offenses. That same day, the court sentenced him to 20 years' imprisonment, the first 10 without the possibility of parole, for distribution of cocaine, plus a consecutive term of 20 years' imprisonment, the first 10 without the possibility of parole, for conspiracy to distribute cocaine.<sup>1</sup> This Court affirmed those judgments on direct appeal. *Womack v. State*, No. 6968, Sept. Term, 1998 (filed unreported November 8, 1999).

More than 20 years later, on March 30, 2022, appellant filed a motion in the circuit court seeking to be awarded credit against his sentence for time spent in custody awaiting

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<sup>1</sup> The court merged the remaining counts for sentencing.

trial.<sup>2</sup> On April 8, 2022, the circuit court denied his motion prompting this appeal. For the reasons stated below, we shall affirm the judgment of the circuit court.<sup>3</sup>

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<sup>2</sup> Maryland Rule 4-351, titled *Commitment Record*, provides:

(a) *Content*. When a person is convicted of an offense and sentenced to imprisonment, the clerk shall deliver or transmit to the officer into whose custody the defendant has been placed a commitment record containing:

- (1) The name and date of birth of the defendant;
- (2) The docket reference of the action and the name of the sentencing judge;
- (3) The offense and each count for which the defendant was sentenced;
- (4) The sentence for each count, the date the sentence was imposed, the date from which the sentence runs, and any credit allowed to the defendant by law;
- (5) A statement whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of the preceding term or to any other outstanding or unserved sentence;
- (6) the details or a copy of any order or judgment of restitution; and
- (7) the details or a copy of any request for victim notification.

(b) *Effect of Error*. An omission or error in the commitment record or other failure to comply with this Rule does not invalidate imprisonment after conviction. The commitment record may be corrected at any time upon motion, or, after notice to the parties and an opportunity to object, on the Court's own initiative.

<sup>3</sup> On October 28, 2022, we filed an unreported opinion in this case. Thereafter, appellant informed us, via “motion for Appropriate Relief.” that he did not receive a copy of that opinion. On February 9, 2023, we granted appellant’s motion and rescinded our November 29, 2022 mandate. On January 18, 2023, appellant filed a motion for reconsideration of our October 28, 2022 opinion, which, by separate Order, we deny. In addition we have recalled our October 28, 2022 opinion and now issue this Opinion in its place.

## BACKGROUND

We have gleaned from the available appellate record and the briefs of the parties the following sequence of events germane to appellant's claim that he is entitled to credit against his sentence for time served in custody awaiting trial.<sup>4</sup>

On March 10, 1998, appellant was arrested in connection with this case, and he was released on bail the next day. Several months later, on July 9, 1998, while this case remained pending, appellant was charged with murder and attempted murder in an unrelated case (the murder case). Appellant claims that he was held without bail in the murder case and, on June 19, 2000, the State entered a *nolle prosequi* on those charges. In the interim, as noted earlier, on January 28, 1999, appellant was found guilty and sentenced in this case. At that time, the court awarded him one day of credit in this case against his sentence for the day that he spent in custody on March 10, 1998 prior to making bail.

In the motion appellant filed in the circuit court seeking credit for time spent in custody awaiting trial, he claimed that he was entitled to 203 days credit against his sentence in this case for the 203 days he spent in custody between the day he was arrested in the murder case (July 9, 1998) and the day the court imposed sentence in this case (January 28, 1999). The circuit court denied that motion in a short order which, in essence, explained that appellant was not entitled to the 203 days credit he sought.

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<sup>4</sup> We have been provided no transcripts of any proceedings that took place in the circuit court.

## DISCUSSION

Section 6-218 of the Criminal Procedure Article of the Md. Code (“CP”) provides for credit for time served awaiting trial. In relevant part, the statute states:

(b)(1) A defendant who is convicted and sentenced shall receive credit against and a reduction of the term of a definite or life sentence ... for all time spent in the custody of a correctional facility, hospital, facility for persons with mental disorders, or other unit because of:

(i) the charge for which the sentence is imposed; or

(ii) the conduct on which the charge is based.

(2) If a defendant is in custody because of a charge that results in a dismissal or acquittal, the time that would have been credited if a sentence had been imposed shall be credited against any sentence that is based on a charge for which a warrant or commitment was filed during that custody.

(3) In a case other than a case described in paragraph (2) of this subsection, the sentencing court may apply credit against a sentence for time spent in custody for another charge or crime.

As can be seen, while the court is required to award credit for time spent in pretrial custody under CP Sections 6-218(b)(1) and (b)(2), the court has discretion to award such credit, *vel non*, under CP Section 6-218(b)(3). Because neither appellant’s *pro se* motion in the circuit court nor his briefs in this Court make perfectly clear upon which subsection, or subsections, he premises his argument, we shall address each subsection in turn.<sup>5</sup>

Section 6-218(b)(1) requires credit to be applied when a person is in custody because of the charge for which the sentence is imposed, or because of the conduct on which the charge is based. In the present case, Section 6-218(b)(1) is inapplicable because

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<sup>5</sup> We have liberally construed appellant’s *pro se* papers. *See Simms v. Shearin*, 221 Md. App. 460, 480 (2015) (noting that we generally liberally construe papers filed by *pro se* litigants).

the time appellant spent in custody for the murder case was plainly unrelated to the drug charges in this case.

Section 6-218(b)(2) requires credit to be applied when a defendant, such as appellant, is in custody for charges that are later dismissed, but, only if new charges are filed during the time when the defendant was in custody for the later-dismissed charges. In that event, the defendant is entitled to credit that would have been imposed for the dismissed charges had a sentence been imposed on them against the sentence for the new charges. In the present case, because the drug charges in this case were not filed during the time that appellant was in custody for the murder case, CP Section 6-218(b)(2) is inapplicable.

Section 6-218(b)(3) gives the sentencing court the discretion to award, or not, credit for time spent in custody for another charge or crime. *Haskins v. State*, 171 Md. App. 182, 194 (2006). In this case, because appellant had been in custody for the murder charges prior to his sentencing proceeding in this case, the sentencing court had the discretion to award appellant credit in this case for some or all of the time he spent in custody for the murder case but, apparently, it chose not to do so. As noted earlier, the sentencing court awarded appellant one day of credit against his sentence.

“A court’s decision is an abuse of discretion when it is well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.” *Wheeler v. State*, 459 Md. 555, 561 (2018) (citations and quotations omitted). This Court has explained that a “trial court abuses its discretion only when no reasonable person would take the view adopted by the [trial] court, or when the

court acts without reference to any guiding rules or principles.” *Baker v. State*, 223 Md. App. 750, 759 (2015) (citations and quotations omitted).

Because the sentencing court was not required to award appellant credit in this case for the time he spent in custody in the murder case, and because the record does not reflect that sentencing court abused its discretion in declining to do so, we discern no error or abuse of discretion on the part of the circuit court in denying appellant’s motion seeking such credit.

Consequently, we affirm the judgment of the circuit court.

**JUDGMENT OF THE CIRCUIT  
COURT FOR BALTIMORE CITY  
AFFIRMED. COSTS TO BE PAID  
BY APPELLANT.**