

Circuit Court for Baltimore City
Case Nos.: 108018023, 108018025, 108018027

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 0466

September Term, 2023

RONALD COX

v.

STATE OF MARYLAND

Wells, C.J.,
Zic,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),
JJ.

PER CURIAM

Filed: November 6, 2023

*This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis, nor may it be cited as persuasive authority.

Following a January 2009 trial in the Circuit Court for Baltimore City, a jury found Ronald Cox, appellant, guilty of first-degree murder and related firearms offenses. On April 14, 2009, the court sentenced him to life imprisonment plus 20 years to be served consecutively. His convictions were affirmed on direct appeal. *Cox. v. State*, 194 Md. App. 629 (2010), *aff'd*, 421 Md. 630 (2011).¹

On September 8, 2022, appellant, acting *pro se*, filed a paper titled “Motion to Correct Illegal Sentence, or in the alternative, Motion for Appropriate Relief” ostensibly seeking, *inter alia*, to be awarded credit against his sentence for time spent in custody awaiting trial.² On April 4, 2023, the circuit court signed an order granting in part, and denying in part, his motion. Appellant thereafter noted an appeal and presents us with the following questions which we have re-phrased for clarity:

- I. Did the circuit court err in not awarding appellant 469³ days of credit against his sentence for the time he spent in custody between the date he was arrested, December 28, 2007, and the date he was sentenced, April 14, 2009?
- II. Did the circuit court err in its method of awarding credit for time spent in custody prior to sentencing?

For the reasons stated below, we shall affirm the judgment of the circuit court.

BACKGROUND

We have gleaned from the available appellate record and the briefs of the parties the

¹ Thereafter, appellant mounted several attacks on his convictions and sentences which are not relevant to the current appeal.

² It appears that, at all times relevant, appellant acted *pro se* in this case. 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).

³ There are actually 473 days between December 28, 2007 and April 14, 2009.

following sequence of events germane to appellant’s claims concerning credit for time served in custody awaiting trial and sentencing.⁴

On December 28, 2007, appellant was arrested in this case (the murder case). A little over a year later, in January 2009, a jury found him guilty of first-degree murder and firearms offenses. On April 14, 2009, the court sentenced appellant to life imprisonment plus 20 years to be served consecutively. The court imposed that sentence consecutive to any outstanding and unserved sentence. The commitment record in this case does not indicate that appellant had previously been awarded any credit for time he spent in custody awaiting trial and sentencing.

Meanwhile, on January 25, 2008, appellant, who was on probation at the time he was arrested in the murder case, was served with a warrant for his arrest on suspicion that he had violated the terms of his probation (the VOP case). On February 13, 2009, the court found appellant to be in violation of the terms of his probation and imposed 8 years of imprisonment. The court started the VOP sentence on January 25, 2008 – the date the VOP warrant was served on appellant.

Appellant’s contentions in the circuit court.

As noted earlier, on September 8, 2022, appellant, acting *pro se*, filed a paper in the circuit court concerning credit against his sentence for time spent in custody awaiting trial. That motion only concerned *how* credit should be applied to his life sentence and not

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

whether, or how much, credit should be applied.⁵ He claimed that, in the context of a life sentence, moving the start date of the sentence to an earlier date in order to award credit for time served in custody awaiting trial and sentencing has the effect of increasing the life sentence. According to him, he is entitled to have his life sentence reduced and, in order to accomplish that, his life sentence “must be reduced to a number” and his sentencing credit “must be subtracted from that number[.]”

The circuit court’s ruling.

After holding a hearing on the matter, the circuit court granted, in part, and otherwise denied appellant’s motion. Evidently, the circuit court understood appellant to be contending that he was entitled to credit for time served on his sentence in the murder case back to the date of his arrest on December 28, 2007.⁶ The circuit court determined that appellant was not entitled to all of the credit he sought because the start date of the VOP sentence (to which the life sentence imposed in this case was made consecutive) accounted for the vast majority of the time appellant spent in custody prior to his sentencing hearing. The circuit court, however, determined that appellant had not been given credit for the time he spent in custody between the date of his arrest in the murder case, December 28, 2007, and the start date of the VOP sentence, January 25, 2008. The court therefore awarded

⁵ As noted earlier, it appears from the commitment record that at the time of sentencing, the court did not award appellant with any credit for pre-trial time spent in custody.

⁶ To some extent, there appears to be a variance between what appellant contended and what the circuit court ruled on. Appellant never discusses this variance in his briefs filed in this Court, and, as noted, he did not provide this Court with the transcript of the hearing the circuit court held on his motion.

appellant with 28 days of credit reflecting that period of time by starting his sentences on December 28, 2007.

The appeal.

On appeal, appellant contends that the trial court erred both (1) with respect to the amount of credit it awarded him for the time he spent in custody before trial and sentencing, and (2) with respect to how the court awarded that credit. As to the amount of credit, appellant claims that the trial court erred in not awarding him the full 469 days of credit for the time he spent in custody between the date of his arrest, December 28, 2007, and the date of his sentencing proceeding in this case, April 14, 2009. As to the method of awarding that credit, he claims that the court erred by not modifying his life sentence to a term of years and then subtracting the 469 days of credit from it.

DISCUSSION

The applicable law.

Section 6-218(b) of the Criminal Procedure (“CP”) Article of the Md. Code addresses awarding credit for time spent in custody awaiting trial. It provides:

(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.

I.

As noted earlier, the sentencing court awarded appellant 28 days' credit for the time he spent in custody between December 28, 2007 (the date he was arrested in this case) and January 25, 2008 (the date the VOP warrant was served on him which is also the start date for his VOP sentence). Appellant contends that he is additionally entitled to credit for the full amount of time between the date he was arrested (December 28, 2007) and the date he was sentenced (April 14, 2009) amounting to 469 days of credit. We agree that he is entitled to that credit, but we disagree with appellant's implicit conclusion that he has not already been given that credit.

As earlier explained, the VOP sentence was ordered to begin on January 25, 2008, and the life sentence in this case was ordered to run consecutive to that sentence. Thus, given the structure of those two sentences, prior to when the circuit court added the 28 days of credit in this case, appellant had already been given credit for the time he spent in custody prior to his sentencing in this case dating back to January 25, 2008. He was, however, entitled to be credited for the time he spent in custody dating all the way back to the date he was arrested (December 28, 2007), which is an additional 28 days. As noted, the circuit court therefore awarded appellant with an additional 28 days' credit.

Under the circumstances presented in this case, CP section 6-218(b)(3) permitted, but did not require, the court to award additional credit for time spent in custody awaiting trial and sentencing. We discern neither error nor abuse of discretion in the circuit court's

ruling as appellant has received credit for every day he spent in custody prior to his trial and sentencing.

II.

The method the circuit court utilized to award appellant credit for his time spent in custody awaiting trial involved back-dating his sentence to begin the date he was arrested in the present case (December 28, 2007). His claim appears to be that, pursuant to the relevant statute, the sentencing court was required to start his life sentence on the date of the sentencing proceeding (April 14, 2009) and then reduce it, as required by CP section 6-218(b)(1), by awarding credit. According to appellant, rather than reducing his life sentence, the court effectively increased his life sentence by ordering his life sentence to begin on a date prior to the sentencing date.⁷

Appellant suggests that, to effectuate the intent of the legislature and therefore reduce his life sentence within the meaning of CP section 6-218(b), the circuit court was required to begin his sentence on the date of his sentencing proceeding (April 14, 2009), calculate his life expectancy, deduct his time spent in pre-trial custody from his life expectancy, and then impose a sentence amounting to the remainder.⁸ We disagree.

Appellant's suggestion that his sentence was increased by back-dating his sentence

⁷ In *Bratt v. State*, 468 Md. 481 (2020), the Supreme Court of Maryland decided that the failure to properly award pretrial credit does not render a sentence illegal within the contemplation of Maryland Rule 4-345. *Id.* at 496. Thus, to the extent that appellant is suggesting that his sentence is illegal, we reject that argument.

⁸ Appellant also contends that the circuit court should deduct 15 years from the calculated life expectancy in addition to the 469 days of pre-trial custody. Given our resolution of this case, we need not address this aspect of appellant's argument.

to account for the time he spent in custody awaiting trial, while clever, cannot work because all life sentences are precisely the same duration – life – no matter when they begin. In our view, the circuit court’s decision to back-date appellant’s sentence to the date he was arrested effectuates the intention of the legislature to ensure that he received credit for all the time he spent in custody awaiting trial. *See Dedo v. State*, 343 Md. 2, 9 (1996) (noting that, by enacting the predecessor to CP section 6-218(b) (Art. 27 § 638C(a)), “the General Assembly sought to ensure that a defendant receive as much credit as possible for time spent in custody as is consistent with constitutional and practical considerations.” (citation and quotation marks omitted)).

Consequently, we affirm the judgment of the circuit court.

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