Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.

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IN THE
COURT OF APPEALS OF INDIANA

BRADLEY A. HOLE,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 89A01-1012-CR-680
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE WAYNE SUPERIOR COURT
The Honorable Charles K. Todd, Judge
Cause No. 89D01-0511-FB-024

August 11, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

KIRSCH, Judge

Bradley Hole, pro se, appeals the denial of his motion for pre-trial jail credit time contending the trial court erred in failing to apply credit time to his robbery conviction under the instant cause number.

We affirm.

FACTS AND PROCEDURAL HISTORY

Hole was charged by information on September 22, 2005, for two burglaries,[1] as Class C felonies. While in the Wayne County Jail on those charges, he was charged with Robbery,[2] as a Class B felony[3]. Hole was sentenced to one-year and four-year consecutive sentences for the two burglaries, and to a six-year sentence for the robbery to be served consecutive to the sentences on the burglaries for a total of eleven years. The sentencing court applied six days of jail time credit to the one-year sentence and 558 days of jail time credit to the four-year sentence. No jail time credit was applied to the six-year sentence on the robbery. Hole appeals, contending that the jail time credit should have been applied to his robbery conviction.

DISCUSSION AND DECISION

Pre-sentence jail time credit is a matter of statutory right, not a matter of judicial discretion. *Weaver v. State*, 725 N.E .2d 945, 948 (Ind. Ct. App. 2000). Indiana inmates imprisoned awaiting trial or sentencing earn Class I jail time credit or "one (1) day of credit time for each day [the inmate] is imprisoned for a crime or confined awaiting trial or

[1] Ind. Code § 35-43-2-1.

[2] Ind. Code § 35-42-5-1.

[3] Hole was also charged with four other counts that were dismissed pursuant to a plea agreement.

sentencing." *Ind. Code §* 35-50-6-3(a). Jail time credit operates differently depending on whether the sentences are consecutive or concurrent. *Corn v. State*, 659 N.E.2d 554, 558 (Ind. 1995). In concurrent sentencing cases, Indiana Code Section 35-50-6-3 entitles the individual to receive credit time applied against each separate term; however, in consecutive sentencing cases, pretrial credit is awarded against the total or aggregate of the sentence terms. *Stephens v. State*, 735 N.E.2d 278, 284 (Ind. Ct. App. 2000), *trans. denied*.

Awarding Hole jail credit time for time served against each separate sentence rather than against the aggregate of the consecutive sentences would improperly result in double credit and would effectively enable Hole to serve part of his sentences concurrently. *Corn*, 659 N.E.2d at 558-59. To apply jail time credit against each separate sentence is contrary to Indiana law, and the trial court did not err in denying Holes' motion for credit time.

Affirmed.

BAKER, J., and BROWN, J., concur.