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IN THE
COURT OF APPEALS OF INDIANA

DAVID JACKSON,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A04-0906-CR-315
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Robert Altice, Judge
Cause No. 49G02-9410-CF-140624

October 9, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

FRIEDLANDER, Judge

David Jackson, pro se, appeals the trial court's denial of his motion to correct erroneous sentence in which he requested the court to issue a new judgment of conviction awarding him 178 days of earned good time credit for time spent in pre-trial detention.

We affirm.

On October 26, 1994, the State charged Jackson with attempted murder, a class A felony; robbery, a class A felony; possession of cocaine or a schedule I, II drug, a class D felony; carrying a handgun without a license, a class A misdemeanor; and resisting law enforcement, a class A misdemeanor. On March 21, 1995, Jackson pleaded guilty pursuant to a plea agreement to attempted murder and carrying a handgun without a license. On April 25, 1995, the trial court accepted Jackson's guilty plea and sentenced him to an aggregate sentence of forty years. On its abstract of judgment, the trial court indicated that Jackson had been confined 178 days prior to sentencing, without expressly designating credit time earned. On March 4, 2009, Jackson filed a pro se "Motion to Correct Erroneous Sentencing and Issue a New Judgment of Conviction and Order of Commitment" in which he claimed that he did not receive earned credit time for time spent in pre-trial detention. *Appellant's Appendix* at 29. The trial court denied the motion on March 31, 2009. Jackson now appeals.

Every Indiana prisoner is entitled to credit against his or her sentence for "time actually served." *Robinson v. State*, 805 N.E.2d 783, 790 (Ind. 2004). Credit for time actually served means that one day is removed from the prisoner's remaining sentence for each day he or she is incarcerated with respect to that sentence. *Robinson v. State*, 805 N.E.2d 783. In addition to credit for time actually served, a prisoner in Indiana is entitled to

"credit time," i.e., further reductions from the prisoner's sentence for good behavior or certain educational accomplishments. *Neff v. State*, 888 N.E.2d 1249 (Ind. 2008).

Jackson appeals the denial of his motion to correct erroneous sentence under Ind. Code Ann. § 35-38-1-15 (West, PREMISE through 2009 Public Laws approved and effective through 4/20/2009). Such a motion may be filed only to address a sentence that is erroneous on its face. *Neff v. State*, 888 N.E.2d 1249. "An allegation by an inmate that the trial court has not included credit time earned in its sentencing is the type of claim appropriately advanced by a motion to correct sentence." *Id*. at 1251.

It is undisputed that I.C. § 35-38-3-2 (West, PREMISE through 2009 Public Laws approved and effective through 4/20/2009) requires the judgment of conviction to report "not only the number of days confined while imprisoned before sentence but also must separately designate the credit time earned for the said period of confinement[.]" *Robinson v. State,* 805 N.E.2d at 794. In *Robinson*, our Supreme Court held "that judgments reporting pre-sentence confinement time but omitting credit time will be presumed to designate credit time days equal to days of pre-sentence confinement[.]" *Id*. This presumption "remove[s] the need for state courts to adjudicate these types of sentence claims on an individual basis." *Neff v. State*, 888 N.E.2d at 1252.

In *Neff*, our Supreme Court indicated that, in certain cases, "an abstract of judgment may function in the place of a judgment of conviction" for purposes of applying the *Robinson* presumption. *Id*. The Court explicitly identified convictions emanating from Marion County as apt for applying this principle on the basis that trial courts in Marion County do not

regularly issue formal judgments of conviction, but instead issue abstracts of judgment. This is precisely what occurred here.

The State does not dispute that Jackson was entitled to credit for 178 days of pre-sentencing incarceration, which is clearly reflected in the entry on the abstract of judgment recording the number of days confined prior to sentencing. The State also does not dispute that Jackson is entitled to 178 days of earned good credit time. To be sure, by application of *Neff* and *Robinson*, the 2007 abstract of judgment is presumed to designate 178 days of credit time in addition to the 178 days of pre-sentencing confinement. The State even goes so far as to demonstrate how the trial court properly determined that the Department of Correction's calculation of Jackson's credit time correctly accounts for 178 days of actual time served as well as 178 days of earned credit time. Thus, there is no need to issue a corrected abstract of judgment or a judgment of conviction. The trial court did not err in denying Jackson's Motion to Correct Erroneous Sentence and Issue a New Judgment of Conviction and Order of Commitment.

Judgment affirmed.

BAKER, C.J., and RILEY, J., concur.