



Appellant-defendant Tony E. Bennett appeals the sentence imposed by the trial court after Bennett pleaded guilty to three counts of Theft,<sup>1</sup> a class D felony. Specifically, Bennett contends that the trial court erred by denying his request for presentence jail credit time. Finding no error, we affirm.

### FACTS

On March 26, 2009, a warrant was issued and/or Bennett was arrested in Oklahoma.<sup>2</sup> At that time, there were causes pending against Bennett in Wabash and Miami Counties in Indiana. On April 1, 2009, a probable cause affidavit was filed against Bennett in Fulton County, and on April 3, 2009, the State charged him with three counts of class D felony theft in Fulton County—the proceeding at issue herein.

On May 17, 2010, Bennett pleaded guilty as charged in Fulton County. At the sentencing hearing held on the same date, Bennett’s counsel requested presentence jail credit time for the time during which he was on hold in Oklahoma facing extradition back to Indiana. Bennett, however, testified that he had already received credit for that time in the Miami County proceeding:

COURT: Has . . . has he been sentenced on these other outstanding charges [in Miami and Wabash counties]?

COUNSEL: . . . [Y]es your Honor. I . . . believe all of them have been sentenced now.

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<sup>1</sup> Ind. Code § 35-43-4-2.

<sup>2</sup> The record merely states “date arrested or [warrant] received” without specifying which. Appellant’s App. p. 236.

COURT: . . . [D]o you know whether or not you received credit on those other cases?

BENNETT.: On one (1) of the counties I have already been sentenced, I have received credit . . . .

COURT: . . . [W]hat county did you receive credit [i]n? Do you recall?

BENNETT: Well, Miami County.

Tr. p. 5-6. The record reveals that Bennett received fifty-seven credit days for time actually served in the sentence imposed in the Miami County proceeding. Appellant's App. p. 122. Consequently, the trial court awarded no credit time in the instant proceeding. Bennett received three-year sentences on each of the three theft charges, to be served concurrently. Bennett now appeals.

#### DISCUSSION AND DECISION

The proper method of presenting the question of credit for pretrial detention is a motion to correct erroneous sentence. Robinson v. State, 805 N.E.2d 783, 788 (Ind. 2004). In reviewing the trial court's decision, we will defer to its factual findings and reverse only for an abuse of discretion. Newsom v. State, 851 N.E.2d 1287, 1289 (Ind. Ct. App. 2006).

In seeking presentence jail credit time, it is the defendant's burden to present this court with sufficient information to determine the issue. Brattain v. State, 777 N.E.2d 774, 776 (Ind. Ct. App. 2002) (holding that the defendant "failed to present any documentation to the trial court that he was entitled to credit for time served" and "failed to present an adequate record [on appeal] showing that the trial court erred by denying his

request for credit time”). Here, Bennett has failed to provide documentation regarding why the hold was placed on him, or for which Indiana cause(s), in Oklahoma. Furthermore, while Bennett acknowledges that he received credit time in the Miami County cause, he has failed to provide documentation as to what this credit time was awarded for or if any time was left over from when he was allegedly confined in Oklahoma. Indeed, Bennett acknowledges as much in his brief:

However, since the record is devoid of any determination as to when the Miami County hold was effective on Bennett in Oklahoma, it is impossible for the trial court to know whether the amount of credit given by Miami County is equal to or less than the credit Bennett would otherwise have received if the instant sentence was the only Indiana charge at issue.

Appellant’s Br. p. 7 (emphasis original).

We agree, and simply cannot determine from the record whether Bennett is entitled to credit time in addition to that which he received in Miami County. See Duncan v. State, 412 N.E.2d 770, 775 (Ind. 1980) (holding that defendants are only entitled to one credit for time served and may not get double credit when held on multiple charges). Inasmuch as it was Bennett’s burden to provide the trial court and this court with such a record, he cannot prevail.

The judgment of the trial court is affirmed.

VAIDIK, J., and BARNES, J., concur.