

Pre-Sentence Credits

FALL 2021



State v. Enriquez-Martinez

- With some exceptions, when a person is sentenced to jail or prison they are entitled to credit for all the time they have already been held by the State for those charges.
- How should the criminal justice system account for all time individuals are entitled to?
- Challenge:
 - Lack of information provided to DOC to account for pre-sentence credits in all situations
- Risk:
 - Individual is held in confinement too long.

Case Details

- Arrested in Oregon on charges.
- While in custody in OR, Klickitat County also filed charges and issued a no bail warrant.
- He was held on both charges in the OR jail until a global plea offer to resolve all charges was agreed to.
- 20 months after his first arrest in OR, he was transferred to WA for plea agreement and sentencing.
- He later returned to OR where he pleaded guilty to the OR charges.
- After DOC declined to give him credit for the time he served in OR, he filed a CrR 7.8 motion seeking correction to his sentence to make clear that he was entitled for the time served after the WA warrant was served.

RCW 9.94A.505 (6)

- “The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.” RCW 9.94A.505(6)

Judgment and Sentence Template

- (c) *Credit for Time Served*. The defendant shall receive credit for eligible time served prior to sentencing, if that confinement was solely under this cause number. RCW 9.94A.505. The jail shall compute time served.

Jail Certification

- Jail certifies the number of days the individual was held in confinement for each cause sentenced and individual's behavior while confined.
 - Behavior is related to awarding jail good time on the presentence credits.

DOC Responsibility

- Calculate the sentence and determine release dates for all active judgments.
 - Obtains the jail certifications for pre-sentence credits.
 - Includes a review of whether the defendant was already serving a sentence and how those sentences run (consecutive/concurrent).
 - DOC has the authority to modify the jail time certified so that the days being credited are accurate.
 - Williams, Allery, Erickson, Costello Decisions
 - DOC assumes the risk for the sentence calculation.

Identification of Pre-Sentence Credits

- DOC does not receive information needed to calculate pre-sentence credits when charges exist in multiple jurisdictions and the individual is held in different jails.
- The Judgment and Sentence most often defers to the county jail to compute time served.
- Jail only certifies time spent in their jail on the sentenced offense.
 - No documentation of the transfer to between jails and reasons for transfer.
- Difficult for DOC to determine when no bail warrant is issued.

Recommended Remedies

- Assemble a workgroup to identify impacts to work to a shared resolution.
 - To include a review of statutes for possible revisions.
- Update Sentence Guidelines Manual to address how pre-sentence credits are applied with links to relevant court decisions.
- Update Judgment and Sentence templates so that there is an option to allow for these types of pre-sentence credits to be ordered at time of sentencing.
- Create a pre-sentence worksheet for attorneys to use to track dates of charges, dates when bail is set, bail amount, transfers to other jails
- Update jail certification forms so that information on transfers to other jails is noted.

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