

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

June 12, 1997

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 96-1311-CR

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

FERDINAND WALTERS,

DEFENDANT-APPELLANT.

APPEAL from an order of the circuit court for Dane County:
ANGELA B. BARTELL, Judge. *Affirmed.*

Before Eich, C.J., Dykman, P.J., and Deininger, J.

PER CURIAM. Ferdinand Walters appeals from an order denying his motion for relief from judgment. The issue is whether Walters received sentence credit for the time he served after parole revocation. We conclude that Walters received credit for that time and that he is not entitled to dual credit. Therefore, we affirm.

While on parole after serving part of a twelve-year sentence for robbery, Walters was arrested for delivering cocaine. His parole was revoked, and he was returned to prison to serve the remainder of his robbery sentence. Although his mandatory release date for the robbery conviction was July 7, 1992, he remained in custody until July 22, 1992, awaiting sentencing for the cocaine conviction. In sentencing him on the cocaine conviction, the trial court gave Walters credit for those fifteen days.

Walters moved for sentence modification and requested credit for the time he served as a result of his parole revocation for the drug offense.¹ The trial court denied the motion and ruled that he was not entitled to credit toward both his robbery and cocaine convictions. Walters appeals.

This case involves application of the sentence credit statute, § 973.155(1)(a), STATS., which is an issue we review *de novo*. See *State v. Rohl*, 160 Wis.2d 325, 329, 466 N.W.2d 208, 210 (Ct. App. 1991). Section 973.155(1)(a) provides in pertinent part: “A convicted offender shall be given credit toward the service of his or her sentence for all days spent in custody in connection with the course of conduct for which sentence was imposed.” An offender is entitled to one day of sentence credit for each day served, *see* § 973.155(1)(a), but is not entitled to dual credit. See *State v. Beets*, 124 Wis.2d 372, 376, 369 N.W.2d 382, 383-84 (1985); *State v. Morricks*, 147 Wis.2d 185, 191, 432 N.W.2d 654, 657 (Ct. App. 1988).

¹ Walters seeks sentence credit from the day he was returned to prison, September 20, 1990, through July 7, 1992.

Walters contends that: (1) the trial court did not consider his motion on its merits; and (2) he is entitled to sentence credit toward the cocaine conviction because had he not violated his parole, he would not have been returned to prison to await sentencing. We reject both contentions.

The trial court first considered the merits of his sentence-credit claim.² It explained that he received day-for-day credit toward his robbery conviction for the time he served after the revocation of his parole. It further explained that the underlying sentence for robbery was “completed at the time of sentencing for the current delivery of cocaine offense. Therefore, the underlying sentence and the current sentence are *independent* sentences and were served at different times.” (Emphasis supplied.) We agree.

The sentence for the cocaine conviction was not imposed until after Walters had completed his sentence for the robbery conviction. Although the cocaine charge resulted in revocation of Walters’s probation, he received sentence credit for that time toward his robbery conviction. He is not entitled to dual credit for that same time. Consequently, we affirm the trial court’s order denying Walters’s motion.

By the Court.—Order affirmed.

This opinion will not be published. See RULE 809.23(1)(b)5, STATS.

² We assume that Walters believes that the trial court did not address the merits of his motion because the court concluded that “[d]efendant is entitled to no relief based on his motion...” However, the text of the order, which precedes that sentence, is the court’s consideration of the merits of Walters’s motion.

