

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**March 21, 2006**

Cornelia G. Clark  
Clerk of Court of Appeals

**NOTICE**

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

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

**Appeal Nos. 2005AP895-CR  
2005AP896-CR  
2005AP897-CR**

**Cir. Ct. Nos. 1985CF3581  
1986CF7105  
1985CF7125**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT I**

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**STATE OF WISCONSIN,**

**PLAINTIFF-RESPONDENT,**

**V.**

**CURTIS DWAYNE JONES,**

**DEFENDANT-APPELLANT.**

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APPEAL from orders of the circuit court for Milwaukee County:  
KAREN E. CHRISTENSON, Judge. *Affirmed.*

Before Fine, Curley and Kessler, JJ.

¶1 PER CURIAM. Curtis D. Jones appeals *pro se* from an order of the circuit court denying his motion for sentence credit and an order denying his

motion for reconsideration. Because the circuit court did not err when it concluded that Jones was not entitled to sentence credit for time served after he began serving a revocation sentence, we affirm the orders.

## 1. Background

¶2 Jones was convicted of theft on March 25, 1986. The circuit court imposed and stayed a five-year sentence. The court then placed Jones on probation for three years with the condition that he serve a four-month term in the House of Correction. Jones escaped from jail and was apprehended on November 19, 1986. Jones was charged with escape and was also charged with new crimes committed while he was on escape status: armed burglary, and endangering safety by conduct regardless of life and burglary. The Division of Hearings and Appeals revoked his probation on May 12, 1987, and he began serving his revocation sentence for theft.

¶3 Jones was subsequently convicted of the new felonies on December 12, 1988. The circuit court imposed a twenty-year sentence for the armed burglary to be served concurrently to Jones's revocation sentence. The circuit court imposed a nine-year sentence for the endangering safety offense to be served consecutively to the armed burglary sentence. The circuit court imposed a ten-year sentence for burglary to be served concurrently to the armed burglary and revocation sentence. Finally, the circuit court imposed a one-year sentence for the escape charge to be served consecutively to the revocation sentence and concurrent to the sentences imposed for the other three felonies.

¶4 On January 7, 2005, Jones filed a *pro se* motion seeking 707 days of sentence credit. He claimed that he was entitled to credit for the days he served

between his arrest on November 19, 1986, while on escape status, and December 12, 1988, when he was sentenced for the escape and other felonies. Jones requested that this credit be applied to his escape sentence and to the other felonies he committed while on escape status.

¶5 The circuit court granted Jones’s motion in part, concluding that he was entitled to sentence credit for that period of time between his arrest on November 19, 1986, and the revocation of his underlying theft sentence on May 12, 1987. The court reasoned that once Jones commenced serving his revocation sentence, his custody was no longer “in connection with” the new charges as required by WIS. STAT. § 973.155(1)(a) (2003-04),<sup>1</sup> and thus he was not entitled to credit against sentences subsequently imposed on the new charges in December 1988. The circuit court subsequently denied Jones’s motion for reconsideration. Jones appeals.

## 2. Standard of Review

¶6 The issue presented by Jones’s appeal is whether the circuit court properly denied his motions. Because the factual record underlying Jones’s motions is undisputed, the issue is one of law and our review is *de novo*. See *State v. Williams*, 104 Wis. 2d 15, 21-22, 310 N.W.2d 601 (1981).

## 3. Discussion

¶7 Our resolution of the issue is governed by WIS. STAT. § 973.155(1)(a), which provides in part that, “[a] convicted offender shall be given

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2003-04 version unless otherwise noted.

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.” The key language, “in connection with the course of conduct for which sentence was imposed,” was addressed in *State v. Beets*, 124 Wis. 2d 372, 369 N.W.2d 382 (1985). The supreme court summarized the key facts of *Beets* in a single sentence:

The issue presented is whether a person who is on probation for an earlier crime (delivery of controlled substance), is apprehended for the commission of a new and separate crime (burglary), and then, after a period of custody on a probation violation hold, is revoked and is sentenced to state prison on the earlier drug crime is entitled to time credit on the burglary sentence for the days served under the prison sentence for the drug crime while awaiting trial and eventual sentencing on the second crime—the crime of burglary.

*Id.* at 373-74. The court concluded that, “Beets is not entitled to time credit on the burglary sentence for the period following the sentence on the drug charge.” *Id.* at 374. The court reasoned that no credit was due since the sentence on the drug charge “was not related or connected to the burglary course of conduct.” *Id.* at 378. The court explained that, “any connection which might have existed between custody for the drug offenses and the burglary was severed when the custody resulting from the probation hold was converted into a revocation and sentence.” *Id.* at 379.

¶8 The facts of this case fall squarely under *Beets*. Jones’s confinement following revocation of his probation was solely for his conviction on the theft charge. We agree with the State that his custody at that point no longer had any connection with the new, pending charges for escape, armed robbery, endangering

safety or armed burglary. Any connection that might have existed was severed once Jones began service of his sentence after revocation. *See id.* at 379-80.

¶9 The remainder of Jones's arguments are not relevant<sup>2</sup> to sentence credit issues or were raised in his reply brief, contrary to *Hogan v. Musolf*, 157 Wis. 2d 362, 381 n.16, 459 N.W.2d 865 (Ct. App. 1990), *rev'd on other grounds*, 163 Wis. 2d 1, 471 N.W. 2d 216 (1991).

*By the Court.*—Orders affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5.

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<sup>2</sup> Whether Jones should have been charged with misdemeanor rather than felony escape is a not a question within the ambit of a sentence credit challenge. Jones's argument that his probation was improperly revoked is untimely and irrelevant to the proper award of sentence credit.

