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DISTRICT I

October 31, 2016

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You are hereby notified that the Court has entered the following opinion and order:

2015AP1608-CR

State of Wisconsin v. Enrique Velez-Figueroa
(L.C. # 2013CF1089)

Before Kessler, Brennan and Brash, JJ.

Enrique Velez-Figueroa appeals from a judgment, entered upon a jury's verdict, convicting him of eight offenses and from an order denying a second postconviction motion for sentence credit. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2013-14).¹ The judgment and order are summarily affirmed.

¹ All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

On April 12, 2013, Velez-Figueroa was on probation in Milwaukee County Circuit Court case No. 2012CM408. On that date, Velez-Figueroa was taken into custody for twelve new felony charges in this case, Milwaukee County Circuit Court case No. 2013CF1089. On December 22, 2014, Velez-Figueroa was sentenced on his eight convictions in this case.² The circuit court originally awarded Velez-Figueroa 134 days' sentence credit. When Velez-Figueroa filed a *pro se* motion for additional credit, the circuit court recalculated and amended the sentence credit to a total of seventeen days. With the assistance of counsel, Velez-Figueroa filed a second motion for sentence credit, seeking 620 days' total credit. The circuit court denied the motion. Velez-Figueroa appeals.

A convicted defendant “is entitled to sentence credit ‘for all days spent in custody in connection with the course of conduct for which sentence was imposed.’” *See State v. Hintz*, 2007 WI App 113, ¶6, 300 Wis. 2d 583, 731 N.W.2d 646 (quoting WIS. STAT. § 973.155(1)(a)). However, “[c]redit is to be given on a day-for-day basis, which is not to be duplicatively credited to more than one of the sentences imposed to run consecutively.” *State v. Boettcher*, 144 Wis. 2d 86, 87, 423 N.W.2d 533 (1988). The circuit court reduced Velez-Figueroa’s credit to seventeen days and denied the second motion because anything more than seventeen days was either duplicative against a probation revocation sentence or was the revocation sentence itself.

When Velez-Figueroa was taken into custody on April 12, 2013, it was on both his new charges in this case and on a probation hold in the misdemeanor case. Velez-Figueroa’s probation was ultimately revoked, and he began serving his revocation sentence on August 16,

² Four of the charges were dismissed before trial; the jury convicted Velez-Figueroa on the remaining eight offenses.

2013.³ The revocation sentence ended on December 5, 2014. Sentencing for this case was on December 22, 2014. In this case, Velez-Figueroa was given imposed and stayed sentences on several counts, but he was given terms of imprisonment on two counts, to be served consecutive to each other and to the probation sentence.

The original award of 134 days' credit included the April 12 to August 16, 2013 period. But Velez-Figueroa does not dispute that he received credit for that period against his revocation sentence. Thus, allowing credit for that same time period in this case would violate *Boettcher*. See *State v. Jackson*, 2000 WI App 41, ¶19, 233 Wis. 2d 231, 607 N.W.2d 338 (citation omitted) (“The core idea of *Boettcher* is that ‘dual credit is not permitted’ where a defendant has already received credit against a sentence which has been, or will be, separately served.”). The circuit court therefore properly withdrew the duplicate credit for the April 12 to August 16, 2013 period after Velez-Figueroa’s *pro se* motion.

When Velez-Figueroa was sentenced on the probation revocation on August 16, 2013, his custodial status from that point was solely attributable to the revocation, notwithstanding the fact that he was also awaiting sentencing in the current case. See *State v. Beets*, 124 Wis. 2d 372, 379, 369 N.W.2d 382 (1985). Because the sentences in the current case are consecutive to the revocation sentence, Velez-Figueroa is not entitled to credit against this case for the time he spent serving his revocation sentence. See *id.*

³ There is some confusion over whether that sentence was effective as of August 13 or August 16, 2013. For purposes of this appeal, it is not necessary for us to determine the precise start date of the revocation sentence.

When Velez-Figueroa's revocation sentence terminated on December 5, 2014, he was once again in custody in connection with the current case. He was thus entitled to credit from that date until the date of sentencing, December 22, 2014. That time period is a total of seventeen days, the precise amount of credit ultimately awarded in this matter. He has not shown he is entitled to more. The circuit court properly denied Velez-Figueroa's second motion for 620 days' sentence credit.

Velez-Figueroa also argues that insufficient evidence supports the verdicts against him. We decline to consider this argument as it is insufficiently developed: Velez-Figueroa does not even identify the offenses of which he was convicted, much less what the elements of those offenses are.

We need not consider undeveloped arguments. See *State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992). We will not abandon our neutrality to develop a party's arguments for it. See *Industrial Risk Insurers v. American Eng'g Testing, Inc.*, 2009 WI App 62, ¶25, 318 Wis. 2d 148, 769 N.W.2d 82. And we will not search the record for the facts necessary to support an argument. See *Grothe v. Valley Coatings, Inc.*, 2000 WI App 240, ¶6, 239 Wis. 2d 406, 620 N.W.2d 463. We therefore decline to evaluate whether sufficient evidence supported the convictions.

Upon the foregoing, therefore,

IT IS ORDERED that the judgment and order are summarily affirmed.

Diane M. Fremgen
Clerk of Court of Appeals