



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT IV

January 14, 2019

To:

Hon. John M. Wood
Circuit Court Judge
Circuit Court Branch 6
51 S. Main St.
Janesville, WI 53545

Jacki Gackstatter
Clerk of Circuit Court
Rock County Courthouse
51 S. Main St.
Janesville, WI 53545

Gerald A. Urbik
Assistant District Attorney
51 S. Main St.
Janesville, WI 53545

Jacob J. Wittwer
Assistant Attorney General
P.O. Box 7857
Madison, WI 53707-7857

Lawrence V. Pinkerton 528279
Oshkosh Correctional Inst.
P.O. Box 3310
Oshkosh, WI 54903-3310

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

2017AP2447-CR

State of Wisconsin v. Lawrence V. Pinkerton (L.C. # 2013CF2651)

Before Lundsten, P.J., Blanchard and Kloppenburg, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Lawrence Pinkerton, pro se, appeals the circuit court's order denying his request 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(1).¹ We affirm.

Pinkerton asserts the following facts. Pinkerton was on probation in a prior case. On October 24, 2013, he was arrested, jailed, and placed on a probation hold. His probation was revoked and he received a revocation sentence on or around March 15 or 16, 2014. He was transferred to prison on March 28, 2014, to serve out his revocation sentence.

On December 3, 2015, Pinkerton was sentenced in the instant case. Pinkerton requested sentence credit for the time he spent in jail custody from October 24, 2013, through March 28, 2014. As noted, the circuit court denied his request.

We review the circuit court's application of the sentence credit statute to a given set of facts de novo. *State v. Presley*, 2006 WI App 82, ¶4, 292 Wis. 2d 734, 715 N.W.2d 713. The statute provides that a convicted offender is entitled to sentence credit for custody "in connection with the course of conduct for which sentence was imposed." WIS. STAT. § 973.155(1)(a). The burden is on the offender to demonstrate that custody time meets this "in connection with" requirement. *State v. Carter*, 2010 WI 77, ¶11, 327 Wis. 2d 1, 785 N.W.2d 516.

In arguing that he is entitled to sentence credit, Pinkerton points to a provision in the sentence credit statute stating that the "in connection with" requirement is satisfied when custody time is "in whole or in part the result of a probation ... hold ... for the same course of conduct as

¹ All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

that resulting in the new conviction.” *See* WIS. STAT. § 973.155(1)(b). Pinkerton asserts that his probation hold and jail time that began on October 24, 2013, was due to the same course of conduct that resulted in his conviction here. However, Pinkerton does not support this assertion with any facts of record. Thus, Pinkerton fails to meet his burden to demonstrate that this jail time was in connection with the course of conduct for which he was convicted here.

A second reason we reject Pinkerton’s claim for sentence credit is that Pinkerton does not dispute the State’s assertion that he already received credit for the jail time at issue toward his March 2014 revocation sentence, and that he completed that sentence before sentence was imposed here. Thus, we agree with the State that Pinkerton seeks “dual credit” to which he is not entitled. *See State v. Jackson*, 2000 WI App 41, ¶19, 233 Wis. 2d 231, 607 N.W.2d 338 (“Since [the defendant] had already received credit for the custody at issue in this case in [prior] sentences and since he had already served those sentences, he was not entitled to dual credit for the same custody in this case.”).

Therefore,

IT IS ORDERED that the circuit court’s order is summarily affirmed pursuant to WIS. STAT. RULE 809.21(1).

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals