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DISTRICT III

August 17, 2021

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

2020AP547-CR

State of Wisconsin v. Brandon Joseph Teasdale
(L. C. No. 2018CF986)

Before Stark, P.J., Hruz and Nashold, 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).

Brandon Teasdale, pro se, argues he is entitled to forty-five additional days of sentence credit stemming from his conviction for escape. 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 (2019-20).¹

¹ All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

On July 10, 2018, Teasdale was on Huber release from a Brown County jail sentence imposed on his conviction for second-offense possession of THC when he cut off his GPS tracking device and absconded. A warrant for his arrest and a criminal complaint charging one count of escape were issued. On July 21, Teasdale was arrested on the escape charge in the City of Marinette pursuant to the warrant. Arresting officers found methamphetamine in Teasdale's possession. He was charged in Marinette County with one count of possession of methamphetamine, and the circuit court set a \$10,000 cash bail, which Teasdale posted on August 1.

On August 3, 2018, Teasdale made his initial appearance in the present case involving the escape charge, and the Brown County circuit court set a \$5,000 signature bond. Teasdale signed the bond that day, and he was released from custody on August 23. The reason for this twenty-day delay from his signing the bond to his release is not apparent from the record.² In any event, the signature bond remained in effect through Teasdale's sentencing in the escape case.

Upon Teasdale's release on bond in the escape case, he committed multiple domestic assaults. On September 6, 2018, Teasdale was taken back into custody, and he was charged as a repeater the next day in Marinette County with two counts of battery; single counts of intimidating a victim, strangulation, and disorderly conduct; and four counts of felony bail

² We are bound by the record as it comes to us. *Eberhardy v. Circuit Ct. for Wood Cnty.*, 102 Wis. 2d 539, 571, 307 N.W.2d 881 (1981). It was Teasdale's burden to ensure that the record is sufficient to address the issues raised on his appeal. See *State Bank of Hartland v. Arndt*, 129 Wis. 2d 411, 423, 385 N.W.2d 219 (Ct. App. 1986).

jumping. The circuit court set cash bail at \$50,000. Teasdale did not post bond and remained in custody.

On September 21, 2018, Teasdale was charged in Marinette County with five counts of victim intimidation, all as repeaters. The circuit court set cash bail at \$10,000, which Teasdale did not post and thus he remained in custody. The Marinette County domestic battery and victim intimidation cases were consolidated, and a jury trial was held in those cases. The jury found Teasdale guilty on all nine counts, and Teasdale remained in custody following the trial.

On March 15, 2019, Teasdale pleaded guilty in the methamphetamine case, and he was sentenced to eighteen months' initial confinement and two years' extended supervision. Teasdale was awarded twelve days of sentence credit, presumably for the period from his July 21 arrest to August 1, 2018, the date on which he posted bail in that case.

On March 28, 2019, Teasdale was sentenced in the domestic battery and intimidation cases to a total of nineteen years' initial confinement and nine years' extended supervision. The court ordered 208 days of sentence credit. Teasdale failed to ensure that the transcript of this sentencing hearing was made part of the record on appeal.

On April 24, 2019, Teasdale pleaded guilty to the escape charge in the present case and was sentenced to ninety days' jail, consecutive to any other sentence. During the sentencing, defense counsel argued that Teasdale "has 277 days of credit since he was arrested." The circuit court refused to award credit against the ninety-day jail sentence, noting the State's records suggested that "at all relevant time[s]" Teasdale "was on a signature bond" in the present case and the time for which he sought credit had already been credited to other sentences.

Teasdale subsequently filed a pro se postconviction motion seeking eighty-two days of sentence credit. The circuit court denied Teasdale's request without a hearing.

On appeal, Teasdale scales back his request for sentence credit from eighty-two days to forty-five days. He arrives at this figure by adding the custody time from his July 21, 2018 arrest to his August 23, 2018 release from the Brown County jail, and from his September 6, 2018 arrest (when he was taken back into custody for the domestic batteries) until the April 24, 2019 sentencing in the escape case—which amounts to 265 total days of custody. Teasdale concedes, as he must, that he is not entitled to any time already credited on another sentence because it would amount to impermissible dual credit on his consecutively imposed sentence. *See State v. Boettcher*, 144 Wis. 2d 86, 100, 423 N.W.2d 533 (1988). Thus, Teasdale states that 220 days already credited to other sentences—208 days on the domestic battery and intimidation cases, and twelve days on the methamphetamine case—must be subtracted from the 265 total days of custody. Teasdale then argues, “Simply stated, 265 days, minus 220, comes to 45 days.”

Teasdale's argument is unfounded. Under WIS. STAT. § 973.155(1)(a), “[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.” A defendant seeking credit for predisposition custody bears the burden of proving both custody and the connection between that custody and the course of conduct for which sentence was imposed. *State v. Carter*, 2010 WI 77, ¶11, 327 Wis. 2d 1, 785 N.W.2d 516. Once a signature bond is posted, the person is “free” on the charges in that case, and credit is unavailable against the sentence for time remaining in custody on other, unrelated charges. *State v. Johnson*, 2009 WI 57, ¶¶5-6, 318 Wis. 2d 21, 767 N.W.2d 207.

First, Teasdale has failed to meet his burden to show that he is entitled to credit for any portion of his custody from his July 21, 2018 arrest to August 23, 2018, when he was released on the signature bond in the escape case. As mentioned, Teasdale already received credit for twelve days of this custody time against the sentence in the methamphetamine case. This credit was presumably for the period from his July 21 arrest during which he was found to be in possession of methamphetamine, to August 1, 2018, when he posted the cash bail on the methamphetamine case.

Regarding the period from August 2, 2018, to August 23, 2018, Teasdale suggests that the reason he was not released when he signed the signature bond on August 3, 2018, was because there was a three-week delay in making arrangements for a drug-monitoring patch. But other than citing the date on which the drug-monitoring patch was placed, Teasdale provides no support for his contention that the “court set a prerelease condition that Teasdale would have a Pharma-Patch installed upon his person before he would be released from custody.”³ Teasdale thus fails to meet his burden to show that the custody was in relation to the escape charge for which he was sentenced.

Moreover, credit is unavailable for custody from the September 6, 2018 arrest—when he was taken back into custody on the domestic battery charges—to March 28, 2019, when he was sentenced in that case. Teasdale posted a signature bond in the escape case in August 2018 and that remained in effect through Teasdale’s April 24, 2019 sentencing. The bond was not modified while Teasdale was in custody on the domestic battery and victim intimidation cases,

³ We note in this regard that Teasdale cites to the criminal court record indicating that the drug-monitoring patch was placed on August 24, 2018.

and Teasdale was thus “free” on the escape case at the time. *See Johnson*, 318 Wis. 2d 21, ¶¶5-6, 36-38.

In addition, this custody was the result of courses of conduct that were wholly unconnected to the course of conduct for which sentence was imposed in the escape case. Teasdale was arrested in September 2018 on charges of domestic battery, and he remained in custody on those charges and on the victim intimidation charges. Those charges were unrelated to Teasdale’s escape from jail custody in July 2018. And credit for this time—plus five more days to April 2, 2019, when Teasdale’s custody was apparently transferred to the state prison system—was already credited to the sentences in the domestic battery and victim intimidation cases. *See* WIS. DEP’T OF CORRECTIONS OFFENDER LOCATOR, Brandon Teasdale, <https://appsdoc.wi.gov/lop/home.do>.

Furthermore, Teasdale had not been released on probation, parole, or extended supervision when he escaped. Teasdale was under jail supervision—Huber release—when he escaped and thus was not held on the underlying charge when finally apprehended. Teasdale’s reliance on *State v. Hintz*, 2007 WI App 113, ¶¶9-11, 300 Wis. 2d 583, 731 N.W.2d 646, and *State v. Zahurones*, 2019 WI App 57, ¶¶15-18, 389 Wis. 2d 69, 934 N.W.2d 905, is therefore unavailing. Similarly, there is no indication that dismissed charges were read in at Teasdale’s sentencing in the escape case, also making unavailing Teasdale’s reliance upon *State v. Floyd*, 2000 WI 14, ¶¶1-2, 232 Wis. 2d 767, 606 N.W.2d 155.

There are several related reasons why Teasdale cannot receive credit from March 28, 2019, to April 24, 2019. First, the signature bond in the escape case remained in effect during this period. Also, Teasdale was serving his sentence on the domestic battery and

victim intimidation cases for all, or nearly all, of this period. It is unclear whether Teasdale's sentence on the domestic battery and victim intimidation began on March 28 or April 2, 2019. Regardless, if Teasdale's sentence began on March 28 while Teasdale remained in the county jail, credit is unavailable because a sentence on one offense severs any connection with custody on an unrelated offense. *See State v. Beets*, 124 Wis. 2d 372, 374, 379, 369 N.W.2d 382 (1985). Perhaps more importantly, credit is also unavailable from March 28 to April 2 because those days were already credited to the domestic battery sentence. And again, as explained above, credit was unavailable for the entire March through April 2019 custody because the signature bond was still in effect during this time.

Accordingly, Teasdale is not entitled to the requested sentence credit because he has not satisfied his burden to show: (1) that the custody was in connection with the course of conduct for which he was sentenced in the escape case; and (2) that the custody was not already credited to another nonconcurrent sentence. Accordingly, the circuit court order denying credit is affirmed.

Therefore,

IT IS ORDERED that the order is summarily affirmed. *See* WIS. STAT. RULE 809.21.

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

Sheila T. Reiff
Clerk of Court of Appeals