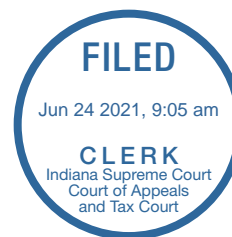


## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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## IN THE COURT OF APPEALS OF INDIANA

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Ryan L. Jones,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff,*

June 24, 2021

Court of Appeals Case No.  
20A-CR-2264

Appeal from the Miami Superior  
Court

The Honorable J. David Grund,  
Judge

Trial Court Cause No.  
52D01-1905-F5-184

**Robb, Judge.**

## Case Summary and Issue

- [1] Ryan Jones is charged with battery resulting in bodily injury to a public safety officer, a Level 5 felony. He moved to dismiss the charge against him on the basis that double jeopardy bars this criminal prosecution because he has already been subject to administrative sanctions by the Indiana Department of Correction (“DOC”) for the same actions that give rise to this charge. The trial court denied the motion to dismiss, and this court granted Jones’ motion for interlocutory appeal. On appeal, Jones raises a single issue: whether the trial court erred in denying his motion to dismiss because the criminal prosecution constitutes double jeopardy. Concluding the administrative punishment does not preclude a subsequent prosecution, we affirm the trial court’s denial of Jones’ motion to dismiss.

## Facts and Procedural History

- [2] In 2019, Jones was an inmate at the Miami Correctional Facility. On April 30, 2019, Jones allegedly struck an on-duty prison guard in the mouth causing a split lip and then, upon getting the guard into a headlock, struck him repeatedly in the head. In May, the DOC held a disciplinary hearing regarding the allegation that Jones violated conduct code A-102, assault/battery, a Class A offense, as a result of this incident. Jones admitted the conduct violation and the following discipline was imposed: 360 days in the restrictive housing unit, a 30-day commissary restriction, deprivation of 180 days of credit time, and demotion of one credit class.

[3] Also in May 2019, the State charged Jones with battery resulting in bodily injury to a public safety officer based on the April 30 incident. In May 2020, Jones filed a motion to dismiss the charge, arguing that the prosecution is barred by state and federal principles of double jeopardy because he was already punished by the DOC through its administrative disciplinary proceedings for the same conduct. The trial court held a hearing on the motion in August.

[4] Jones testified that although there are “a whole slew of offenses where you could get your good time credit back[,]” because he was charged with an A-102 violation, he will “never be able to get that [180 days credit time] back.” Transcript, Volume II at 21-22. He also testified that during his time in the restrictive housing unit, he should have gotten an hour outside his cell every day but whether he actually got that time depended on “if time allows or . . . if there’s enough staff[,] the day and the shift and who’s working” and whether other inmates are acting out. *Id.* at 23. “[Y]ou might go inside one time a week if you’re lucky[.]” *Id.* at 24. Jones was returned to the general population after nine months in the restrictive housing unit, but “it changed me. . . . [G]etting out of bed was just a task. [D]epression, anxiety now, . . . I was segregated for so long, so being introduced back in to population where you’re around a group of people, . . . it’s a battle.” *Id.* at 26. An inmate in a neighboring cell committed suicide during Jones’ time in the restrictive housing unit. Restrictive housing is “just something that I . . . wouldn’t subject to my worst enemy[.]” *Id.* at 24.

[5] In support of his claim “that [DOC] punished me by putting me in this position[,]” *id.*, Jones submitted several articles about the effects of solitary confinement and its restrictions, Appellant’s Appendix, Volume II at 65-92. He also submitted the Disciplinary Code for Adult Offenders and Disciplinary Restrictive Status Housing sections of the DOC Manual of Policies and Procedures. The Manual indicates that offenders found to have violated certain conduct codes, including A-102, are not entitled to have deprived credit time restored. *See id.* at 45-47. The Manual also describes the conditions of the restrictive housing unit, including that each offender “shall be offered one (1) hour of exercise per day outside his/her cell, five (5) days per week, unless safety or security considerations dictate otherwise.” *Id.* at 62. Jones argued to the trial court that 1) the fact that Jones’ deprived credit time can never be restored makes the deprivation a punishment because “that does increase their actual time of incarceration” and 2) the conditions of restrictive housing have “a significant effect, on mental and emotional well-being and health. And that is a sanction that rises to the level of jeopardy.” *Tr.*, Vol. II at 30, 32.

[6] The trial court issued an order on October 2, 2020, concluding that “the administrative sanctions imposed by the [DOC] against Mr. Jones did not constitute double jeopardy barring criminal prosecution” and denied the motion to dismiss. *Appealed Order* at 1, ¶3. Jones now appeals that decision.

# Discussion and Decision

## I. Standard of Review

[7] Generally, we review a trial court’s ruling on a motion to dismiss for abuse of discretion. *State v. Durrett*, 923 N.E.2d 449, 453 (Ind. Ct. App. 2010).

However, whether a prosecution is barred by double jeopardy is a question of law, *State v. Allen*, 646 N.E.2d 965, 972 (Ind. Ct. App. 1995), *trans. denied*, and we therefore apply a de novo standard of review, *Austin v. State*, 997 N.E.2d 1027, 1039 (Ind. 2013).

## II. Double Jeopardy

[8] Jones contends that the criminal prosecution for battery resulting in bodily injury must be dismissed because otherwise, he will be subjected to multiple punishments for the same act due to the disciplinary action already taken by the DOC. *See* Appellant’s Brief at 14. Pursuant to the Fifth and Fourteenth Amendments to the United States Constitution, a defendant has a constitutional right to not be put in jeopardy twice for the same offense.<sup>1</sup> But the United States Supreme Court has “long recognized that the Double Jeopardy Clause does not prohibit the imposition of all additional sanctions that could . . . be described as punishment. The Clause protects only against

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<sup>1</sup> Jones cites Article 1, section 14 of the Indiana Constitution as well, but does not advance a separate argument with respect to the state constitution. Any state constitutional argument is therefore waived. *See White v. State*, 772 N.E.2d 408, 411 (Ind. 2002) (“Because the defendant does not argue that the search and seizure provision in the Indiana Constitution requires a different analysis than the federal Fourth Amendment, his state constitutional claim is waived, and we consider only the federal claim.”).

the imposition of multiple *criminal* punishments for the same offense[.]” *Hudson v. U.S.*, 522 U.S. 93, 98-99 (1997) (citations omitted).

[9] “An administrative punishment by prison officials does not preclude a subsequent prosecution arising out of the same act.” *Williams v. State*, 493 N.E.2d 431, 432 (Ind. 1986). In certain circumstances, however, even a penalty intended to be civil may be so punitive either in purpose or effect so as to transform into a criminal penalty. *Hudson*, 522 U.S. at 95 (citing *United States v. Ward*, 448 U.S. 242, 248-49 (1980)). But as we decide today in *Brown v. State*, No. 19A-CR-2261 (Ind. Ct. App. June 24, 2021), a case raising identical issues to those raised by Jones,<sup>2</sup> neither the deprivation of credit time that cannot be restored nor the placement in restrictive housing is *so* punitive that it constitutes a criminal punishment. For the reasons stated in *Brown*, we conclude that Jones has not already been subjected to a criminal punishment and therefore, the trial court did not err in denying his motion to dismiss the criminal charge against him.

## Conclusion

[10] The disciplinary action taken by the DOC against Jones for his conduct violation does not preclude the State’s criminal prosecution of him for the same

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<sup>2</sup> See also *Allen v. State*, 20A-CR-2262 (Ind. Ct. App. June 24, 2021) and *Wagoner v. State*, 20A-CR-2265 (Ind. Ct. App. June 24, 2021), also decided today.

act. Accordingly, the trial court correctly denied Jones' motion to dismiss the criminal charge against him on double jeopardy grounds.

[11] Affirmed.

Bailey, J., and May, J., concur.