

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Keith Lee Jabaay,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

November 28, 2023

Court of Appeals Case No.
23A-CR-449

Appeal from the Carroll Circuit
Court

The Honorable Benjamin A.
Diener, Judge

Trial Court Cause No.
08C01-1706-F5-10

Memorandum Decision by Judge Mathias
Judges Riley and Crone concur.

Mathias, Judge.

[1] Keith Lee Jabaay appeals the Carroll Circuit Court's order denying his motion for jail-time credit. He presents a single issue for our review, namely, whether the trial court erred when it denied his motion.

[2] We affirm.

Facts and Procedural History

[3] On June 15, 2017, the State charged Jabaay with Level 5 felony operating a motor vehicle after forfeiture of his license for life. Jabaay pleaded guilty as charged, and the trial court entered judgment of conviction accordingly. On December 19, 2017, the trial court sentenced Jabaay to three years with two years executed and one year suspended to probation. In August 2018, the trial court granted Jabaay's motion to modify his sentence. In October, Jabaay was released to in-home detention, and his probation was subsequently transferred to Starke County.

[4] Following three petitions to revoke his probation, on July 13, 2020, the trial court revoked Jabaay's probation and ordered him to serve one year in the Department of Correction. The trial court ordered that sentence to run consecutive to sentences in three other causes in three other counties.

[5] In October and November 2022, Jabaay filed identical motions for jail time credit. The trial court denied those motions. Following a third identical motion in January 2023, the trial court denied the motion. This appeal ensued.

Discussion and Decision

[6] Jabaay contends that the trial court erred when it denied his motion for jail time credit. Jabaay maintains that he is entitled to credit time for his time he spent in jail from October 30, through November 14, 2019, and from June 27 through June 30, 2020. Jabaay is incorrect.

[7] As this Court recently explained:

By statute, a person in pre-trial confinement earns one day of credit time for each day he is imprisoned for a crime or confined awaiting trial or sentencing. *See Ind. Code § 35-50-6-3.1 (2020)*. When calculating the pre-trial credit to which a defendant is entitled, that number is dependent upon (1) pre-trial confinement; and (2) *the pretrial confinement resulting from the criminal charge for which the sentence is being imposed*. *See Bischoff v. State, 704 N.E.2d 129 (Ind. Ct. App. 1998), trans. denied (1999)*. Trial courts have no discretion in awarding or denying that credit. *Glover, 177 N.E.3d 884*.

Keene v. State, 202 N.E.3d 481, 483 (Ind. Ct. App. 2023) (emphasis added).

[8] As the State points out, here, the trial court sentenced Jabaay in December 2017. Accordingly, his pretrial confinement in 2019 and 2020 cannot apply to his sentence. Moreover, as the trial court found, Jabaay did not present evidence to support his claims of jail time credit.

[9] For all these reasons, we affirm the trial court's denial of Jabaay's motion for jail time credit.

[10] Affirmed.

Riley, J., and Crone, J., concur.