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IN THE
COURT OF APPEALS OF INDIANA

Billy D. Glover,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

October 29, 2021

Court of Appeals Case No.
21A-CR-767

Appeal from the
Lake Superior Court

The Honorable
Natalie Bokota, Judge

Trial Court Cause No.
45G02-1912-F4-156

Molter, Judge.

[1] Billy D. Glover ("Glover") pleaded guilty to child molesting as a Level 4 felony, and, in exchange, the State dismissed charges in a different case for an earlier sexual and domestic battery of a different child. The trial court granted him 481 days of credit time for the pre-trial confinement on the charge for

which he was sentenced. But Glover argues his period of pre-trial confinement for the dismissed charges should also be credited towards his term of imprisonment for the subsequent child molesting. Because that pre-trial confinement for the earlier, dismissed charges was not the result of the charge for which he was sentenced, the trial court correctly rejected his request.

[2] We therefore affirm.

Facts and Procedural History

[3] On January 17, 2019, Glover was arrested for sexual and domestic battery of his great-niece in 2017 and 2018. Appellant's Conf. App. Vol. 2 at 42, 61. He was charged in Cause No. 45G02-1901-F6-000131 ("Cause No. 131") with two counts of sexual battery and one count of attempted sexual battery—all Level 6 felonies—along with one count of domestic battery as a Class A misdemeanor. *Id.* at 42. On July 3, 2019, he was released on bond after serving 168 days in jail. *Id.*

[4] Several months later, on October 26, 2019, Glover molested another great-niece. *Id.* at 57. He was arrested for that offense on December 6, 2019, and he was charged the next day with child molesting as a Level 4 felony under Cause No. 45G02-1912-F4-000156 ("Cause No. 156"). *Id.* at 11.

[5] On February 23, 2021, the parties entered into a plea agreement. *Id.* at 63–65. They agreed Glover would plead guilty to child molesting in Cause No. 156 in exchange for the dismissal of Cause No. 131. *Id.* Also, Glover would be

sentenced to six years in the Department of Correction with no opportunity for alternative placement. *Id.* The trial court accepted Glover's guilty plea and entered a judgment of conviction for child molesting under Cause No. 156. Appellant's App. Vol. 2 at 68–69.

[6] In sentencing Glover, the trial court granted him 481 days of credit time for time served in Cause No. 156. *Id.* Glover argued he should receive an additional 168 days for time served in Cause No. 131, but the trial court rejected that argument, and Glover now appeals.

Discussion and Decision

[7] Glover's only issue on appeal is that he contends the trial court erred by failing to award him the correct amount of credit time, claiming he was owed an additional 168 days for time served under Cause No. 131. By statute, "time spent in confinement before sentencing applies toward a prisoner's fixed term of imprisonment." *Robinson v. State*, 805 N.E.2d 783, 789 (Ind. 2004); *see also* Ind. Code §§ 35-50-6-1, 35-50-6-3.1. As both sides acknowledge, "[t]o determine whether a prisoner is entitled to pre-trial credit for actual time served, it must be determined whether the defendant was confined before trial and whether that confinement was the 'result of the criminal charge *for which [the] sentence is being imposed*.'" Appellant's Br. at 7 (emphasis added; quoting *Stephens v. State*, 735 N.E.2d 278, 284 (Ind. Ct. App. 2000), *trans. denied*.); Appellee's Br. at 6 (recognizing same). Because pre-sentence jail time credit is a statutory right,

trial courts have no discretion in awarding or denying that credit. *Perry v. State*, 13 N.E.3d 909, 911 (Ind. Ct. App. 2014).

[8] Glover argues there are two reasons he should have been credited with an additional 168 days for the dismissed charges in Cause No. 131. First, the State dismissed those charges "as part and parcel of the negotiated plea agreement," so he believes they are not "wholly unrelated" to the charge for which he was sentenced. Appellant's Br. at 10–11. The trial court was correct to reject this argument because whether the charges are wholly unrelated offenses is not the test.

[9] Instead, the test is whether the confinement was the result of the criminal charge for which the sentence was imposed. *See Stephens*, 735 N.E.2d at 284 ("Determination of a defendant's pretrial credit is dependent upon (1) pretrial confinement, and (2) the pretrial confinement being a result *of the criminal charge for which sentence is being imposed.*" (emphasis added)). Here, the 168-day confinement period at issue was not for the sentence imposed—the child molesting in Cause No. 156—but rather was for the earlier sexual and domestic battery of a different victim in Cause No. 131. Glover was first arrested for sexual battery and domestic violence in Cause No. 131 on January 17, 2019. Appellant's Conf. App. Vol. 2 at 42. It was several months after his release on bond in Cause No. 131 that he committed the subsequent act of child molesting against a different victim and then was arrested and charged in Cause No. 156.

Id. at 57. Because the confinement in Cause No. 131 was not for the sentence imposed in Cause No. 156, Glover is not entitled to additional credit time.

[10] Glover's focus on whether the dismissed charges and the charge for which he was sentenced are "wholly unrelated" derives from a misreading of *Purdue v. State*, 51 N.E.3d 432 (Ind. Ct. App. 2016). In that case, the defendant was arrested for theft and resisting law enforcement and held in jail for three days; later arrested and charged for three new counts of theft; and later arrested a third time for possession of methamphetamine, trespass, and possession of paraphernalia. *Id.* at 434. After the third arrest, he was confined pre-trial for 128 days after unsuccessfully filing a motion under all three cause numbers to reduce his bond. *Id.* Ultimately, he pleaded guilty to theft charges stemming from the second arrest in exchange for dismissal of all the other charges related to the other two arrests. *Id.*

[11] Even though it was the third arrest which began the 128-day period of confinement, another panel of this court concluded he was being detained for the charges in all three cause numbers during that time. *Id.* at 437 ("With or without a warrant, however, it was clear that, from March 10 to July 16, Purdue was confined and awaiting trial or sentencing not just for Cause Nos. 1180 and 1246, but also for Cause No. 1030."); *id.* at 438 ("Purdue was charged under Cause Nos. 1030 and 1180 before he was arrested in connection with Cause No. 1246; therefore, all three causes were pending during his 128 days of confinement."). And because Purdue was confined pre-trial for the charge on

which he was ultimately sentenced, the court concluded he was entitled to credit for that time even though he was being detained at the same time for other charges. *Id.*

[12] To be sure, the court acknowledged prior caselaw explaining that "'the Legislature clearly intended the credit to apply only to the sentence for the offense for which the presentence time was served'" because "'[a]ny other result would allow credit time for time served on wholly unrelated offenses.'" *Id.* at 438 (quoting *Dolan v. State*, 420 N.E.2d 1364, 1373 (Ind. Ct. App. 1981)). And the court explained it was not giving Purdue credit for wholly unrelated offenses because he was in jail for all three offenses at the same time; all significant pleadings referenced all three causes; the trial court's order following an initial hearing referenced all three causes; they were all set for a jury trial on the same date; the discovery referenced all three causes; and all three causes and their underlying charges were considered together for plea negotiations. *Id.* at 438. But explaining that the inclusion of separate charges in a single plea negotiation is one reason the charges are not wholly unrelated and therefore credit time is not inconsistent with legislative intent does not mean that the test for granting credit time is whether the charges are wholly unrelated. Nor does it mean that every time multiple charges are included in a single plea negotiation, pre-trial confinement time for all of those charges must be credited for the charge that ultimately results in a sentence, which is the rule Glover proposes.

[13] Instead, the test remains whether the confinement was the result of the criminal charge for which the sentence was imposed. *Stephens*, 735 N.E.2d at 284. Here, unlike in *Purdue*, Glover was not being detained on both the dismissed and sentenced charges at the same time, so he is not eligible for credit for the confinement related to the dismissed charges.

[14] Glover's second argument is that by not crediting him with the 128-day confinement period, he will never get credit for that time because the associated charges have been dismissed. But credit time does not work like store credit where it can be redeemed with the next crime. Instead, credit time protects against double jeopardy by precluding two punishments—first pre-conviction confinement and then post-conviction confinement—for the same offense. *Brown v. State*, 322 N.E.2d 708, 712 (Ind. 1975). And it protects against disparate treatment. *Id.* Without credit time for pretrial confinement, two defendants might be incarcerated for differing lengths of time for the same crime because one has the money for bail and the other does not, or because one trial court is busier than another. *Id.* None of those concerns are present here because the 168-day confinement completely predated the arrest for the charge on which Glover was sentenced.

[15] Because the 168-day confinement could not be credited towards Glover's sentence, the trial court did not err in denying his request.

[16] Affirmed.

Vaidik, J., and May, J., concur.