MEMORANDUM DECISION

ATTORNEY FOR APPELLANT

Kristin A. Mulholland
Appellate Public Defender
Crown Point, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Megan M. Smith
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Ronald J. Steward,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

March 22, 2023

Court of Appeals Case No. 22A-CR-2623

Appeal from the Lake Superior Court

The Honorable Gina L. Jones, Judge

Trial Court Cause No. 45G03-2009-F2-65

Memorandum Decision by Judge Mathias
Judges May and Bradford concur.

Mathias, Judge.

[1] Ronald J. Steward appeals the Lake Superior Court's denial of his request for an award of pretrial credit time. Steward raises a single issue for our review, which we restate as whether the trial court erred when it denied his request. We affirm.

Facts and Procedural History

[2] In May 2019, the State charged Steward with multiple felony charges across case numbers 45G03-1905-F3-81 ("case number F3-81") and 45G03-1905-F5-199 ("case number F5-199"). Illinois police officers arrested Steward in Cook County in August, and he was later transported to the Lake County Jail pursuant to the two case numbers. In May 2020, Steward left the Lake County Jail on bond after having spent a total of 207 days there.

[3] While out on that bond, on August 22, 2020, Steward stole Leon Freeman's vehicle from a Merrillville gas station. Freeman observed Steward stealing the vehicle, and Freeman jumped through the open driver's side window and began struggling with Steward as Steward drove away. Freeman observed that Steward had a gun and heard a shot, though no one was struck. A short distance down the street, Freeman "gave up trying to stop [Steward] and dropped out of the window of his car." Appellant's App. Vol. 2, p. 58.

[4] The State charged Steward with Level 2 felony kidnapping and Level 3 felony armed robbery in case number 45G03-2009-F2-65 ("case number F2-65"), the instant case. On September 24, officers located and arrested Steward on the

charges in case number F2-65. Steward would spend the next 721 days incarcerated on those charges.

[5] In July 2022, Steward entered into a written plea agreement with the State in case number F2-65. In that agreement, Steward agreed to plead guilty to Level 3 felony armed robbery and to serve six years executed in the Department of Correction. In exchange, the State agreed to dismiss the charge of Level 2 felony kidnapping.

[6] Steward's plea agreement made no mention of the charges in case numbers F3-81 or F5-199. However, at his ensuing guilty-plea hearing, the parties informed the court as follows:

> [Defense counsel:] . . . [A]lthough it's not in the plea agreement, [Steward] is under the impression, as well as the State has represented, that the other two cases pending in this courtroom are going to be dismissed should the Court accept this plea agreement.
>
> So while it wasn't put in the plea agreement, I want to make it known on the record that that is part of his reasoning for accepting the plea agreement. . . .
>
> THE COURT: All right. State?
>
> * * *
>
> [Deputy Prosecutor:] What [defense counsel] has represented is true; however, we didn't include it in the plea agreement because we're not giving him any consideration for these other two cases.

> There are other evidentiary issues with the other two cases, so [they are] going to be dismissed.
>
> It's kind of unusual, but if you could accept the agreement and just set it over for sentencing. Usually you just take it under advisement, but if you would enter judgment today and just set it over for sentencing, then at that time, today, the State will e-file dismissals on both of [the other case numbers].
>
> . . . One [of the dismissals] is because one of the victims is actually dead . . . . [The other] is noncooperation [by the alleged victim] . . . .
>
> THE COURT: Okay. And so . . . the purpose of me accepting the plea agreement—
>
> [Deputy Prosecutor:] Because it makes it more difficult to withdraw it, so it won't be a sham, that he really intended to do this, and to let the defendant know that, yes, we're keeping our promise to dismiss[.]
>
> THE COURT: Okay. Understood.

Tr. Vol. 2, pp. 11-13. The court then accepted the plea agreement, and the State dismissed the charges in case numbers F3-81 and F5-199.

[7] At his ensuing sentencing hearing on his plea agreement in case number F2-65, Steward argued that his award of credit time should include the 207 days he spent in the Lake County Jail prior to his release on bond in case numbers F3-81 and F5-199. The trial court disagreed and awarded Steward with 721 days of

accrued time for the time he had spent incarcerated in case number F2-65. This appeal ensued.

Discussion and Decision

[8] Steward appeals the trial court's denial of his request for credit time based on the 207 days Steward spent in the Lake County Jail in case numbers F3-81 and F5-199. 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 § 35-50-6-3.1 (2020). "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*." *Stephens v. State*, 735 N.E.2d 278, 284 (Ind. Ct. App. 2000) (emphasis added), *trans. denied*. Because pre-sentence jail time credit is a matter of statutory right, trial courts generally do not have discretion in awarding or denying such credit. *Adams v. State*, 120 N.E.3d 1058, 1061 (Ind. Ct. App. 2019) (cleaned up).

[9] Steward asserts that he is entitled to credit time based on the 207 days he spent in the Lake County Jail in case numbers F3-81 and F5-199 because the disposition of those two case numbers was not "wholly unrelated" to his ultimate conviction and sentence in case number F2-65. Appellant's Br. at 10-12. We addressed an identical argument in *Glover v. State*, 177 N.E.3d 884 (Ind. Ct. App. 2021), *trans. denied*. In that case, the defendant was arrested on felony charges in 2019 in one cause number. After serving 168 days on that cause, he

was released on bond. While on that release, he committed a new offense, which resulted in an additional felony charge under a second cause number and his re-arrest. Thereafter, the defendant and the State entered into a plea agreement in the second cause number; in exchange for the defendant's plea, the State dismissed the first cause number.

[10] The defendant argued on appeal that the trial court erred in its award of credit time because that award did not include the 168 days of pretrial detention the defendant had served in the first cause number. As then-Judge Molter explained for a unanimous panel of our Court:

> [the defendant'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.*
>
> 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.*

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 [the defendant] proposes.

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*, *[the defendant] 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.*

Glover, 177 N.E.3d at 886-87 (emphases added).

[11] The instant facts are on all fours with those in *Glover*. Like the defendant in *Glover* and unlike the defendant in *Purdue*, Steward was incarcerated in the Lake County Jail in case numbers F3-81 and F5-199 between September 2019 and May 2020. He was then released on bond after being incarcerated for 207 days. Several months later, while out on that bond, he committed a new offense, for which he was charged and then incarcerated in case number F2-65. In July 2022, Steward and the State entered into a plea agreement in cause F2-65, in exchange for which the State (albeit separately) agreed to dismiss case numbers F3-81 and F5-199. As with the defendant in *Glover*, Steward was not being detained on both the dismissed and sentenced charges at the same time. He is therefore not eligible for pretrial credit for his confinement on the dismissed charges. *See id.* at 887.

[12] Still, Steward argues on appeal that *Glover* was wrongly decided, and we should not follow it. We decline Steward's invitation to revisit *Glover*. We affirm the trial court's denial of Steward's request to have his award of credit time include the 207 days he spent on the dismissed charges.

[13] Affirmed.

May, J., and Bradford, J., concur.