

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.



APPELLANT PRO SE

Marc Anthony Miquels
Greencastle, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

J.T. Whitehead
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Marc Anthony Miquels,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

September 30, 2022

Court of Appeals Case No.
22A-CR-878

Appeal from the Madison Circuit
Court

The Honorable David A. Happe,
judge

Trial Court Cause No.
48C04-1301-FA-76

Altice, Judge.

Case Summary

- [1] Marc Anthony Miquels appeals, pro se, from the trial court's denial of his petition for an amended abstract of judgment. Miquels argues that he was improperly denied credit for time served prior to sentencing.
- [2] We affirm.

Facts and Procedural History

- [3] Miquels was arrested on January 4, 2013, after committing the underlying offense in this case. At the time, he had absconded from work release under Cause No. 48D05-0911-FD-497 (FD-497) and was on probation under Cause No. 48D05-1006-FD-226 (FD-226). Miquels remained incarcerated following his arrest and, on January 7, 2013, had an initial hearing in FD-497 on the State's petition to terminate work release privileges. Thereafter, on January 10, the State charged Miquels in this case with attempted murder, intimidation, and two counts of resisting law enforcement, and the trial court held an initial hearing that same day. Later that month, the State filed a notice of probation violation under FD-226.
- [4] On February 7, 2013, Miquels admitted to violating probation in FD-497 and FD-226 and was sentenced on the violations, respectively, to twelve months and eighteen months to be served consecutively in the Indiana Department of Correction (the DOC). The docket entry in FD-226 from that day indicates: "All credit time given prior to sanctions and placed on [FD-497]." Similarly,

the docket entry in FD-497 indicates: “Credit time given prior to entry of sanctions effectuating no further credit time.”

[5] On or about April 4, 2013, Miquels entered into a plea agreement with the State pursuant to which he agreed to plead guilty to attempted murder, a Class A felony, and the State agreed to dismiss the remaining counts. The trial court, after accepting the plea agreement, sentenced Miquels to twenty years in the DOC on May 13, 2013. The court ordered this sentence to be served consecutively to FD-497 and FD-226.

[6] On March 18, 2022, Miquels filed a pro-se petition for amended abstract of judgment, in which he sought credit of “129 days accrued and 129 days good time” for the time he spent incarcerated awaiting sentencing in the instant case. *Appendix* at 8. The trial court denied the request and explained in its order:

Defendant’s claim that he was denied credit time in this cause is not accurate. Defendant was also serving time in cause numbers [FD-497] and [FD-226]. Any time from his warrantless arrest in this case until his sentencing in this case should have been credited toward the executed sentences already being served under those [] cause numbers prior to sentencing in this case, and cannot also be claimed a secon[d] time under this cause number.

Id. at 7. Miquels now appeals.

Discussion & Decision

[7] Miquels directs us to Ind. Code § 35-50-6-3(b), which provides: “A person assigned to Class I earns one (1) day of good time credit for each calendar day

or partial calendar day the person is imprisoned for a crime or confined awaiting trial or sentencing.”¹ He contends that he never received credit for the time he was confined awaiting sentencing – January 4 through May 13, 2013.

[8] Jail time credit is a matter of statutory right, and thus, trial courts generally do not have discretion in awarding or denying such credit. *Paul v. State*, 177 N.E.3d 472, 475 (Ind. Ct. App. 2021).

[9] It is well established that where a defendant is convicted of multiple offenses and sentenced to consecutive terms, the defendant is not entitled to credit time applied against each separate term. *Shane v. State*, 716 N.E.2d 391, 400 (Ind. 1999); *Swihart v. State*, 71 N.E.3d 60, 63-64 (Ind. Ct. App. 2017). Further, a trial court is bound by I.C. § 35-50-1-2(e) (subsection (d) at the time of Miquels’s offense) to impose consecutive sentences where a person “commits another crime ... before the date the person is discharged from probation, parole, or a term of imprisonment imposed for the first crime.” And when consecutive sentences are imposed, they “must be served in a chronological succession.” *Paul*, 177 N.E.3d at 476.

[10] Here, Miquels was incarcerated on multiple unrelated charges at the same time. In fact, he was arraigned under FD-497 (for having absconded from work release since 2011) three days before his initial hearing on these new criminal charges. He was sentenced, on probation violations, under the two earlier

¹ This statute applies to individuals, such as Miquels, who committed their offense before July 1, 2014.

causes on February 7, 2013. Miquels was, therefore, serving his sentence under FD-497 at the time he was sentenced, several months later, to a consecutive term in the instant case. Any credit time due between his arrest and sentencing on the earlier causes – much less than the 129 days suggested by Miquels on appeal – should have been applied to his sentence under FD-497. *See id.* at 477 (holding that consecutive sentences are to be completed in chronological succession with credit for time served prior to sentencing allocated in that order). The trial court did not err in denying Miquels’s petition, as any presentence confinement credit was not applicable to this later consecutive sentence in this case.

[11] Judgment affirmed.

Brown, J. and Tavitas, J. concur.