

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Charles Eli Glenn,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

March 6, 2023

Court of Appeals Case No.
22A-CR-2752

Appeal from the Washington
Circuit Court

The Honorable Larry W. Medlock,
Judge

Trial Court Cause No.
88C01-2009-F4-673

Memorandum Decision by Judge Mathias
Judges May and Bradford concur.

Mathias, Judge.

[1] Charles Eli Glenn appeals the Washington Circuit Court’s denial of his request for educational credit time after he earned his G.E.D. while incarcerated in the Washington County Jail prior to his sentencing. [Indiana Code section 35-50-6-3.3\(a\)](#) (2019) states that a person “earns” credit time in such circumstances if he is assigned to a particular credit class and he “has demonstrated a pattern consistent with rehabilitation.” Neither of those conditions was in dispute before the trial court. Nonetheless, rather than decide Glenn’s request on its merits, the trial court instead denied his request after erroneously concluding that the Department of Correction needed to determine whether Glenn qualified for the credit time. After hearing Glenn’s ensuing motion to correct error, the court again denied his request on the ground that the State had been prejudiced by not including credit time in Glenn’s plea agreement and also to avoid an “unanticipated sequence of events,” which appeared to be a reference to the State’s argument that granting Glenn’s request would lead to a flood of similar requests for credit time. Appellant’s App. Vol. 2, p. 202.

[2] On appeal, Glenn asserts that the trial court erred when it denied his request for educational credit time. We agree. Glenn is entitled to be heard on the merits of his request in accordance with the Indiana Code. Plea agreements are strictly construed against the State, and any failure of the plea agreement here to account for credit time is not attributable to Glenn. Further, it is not a legal basis under [Indiana Code section 35-50-6-3.3\(a\)](#) to deny a request for educational credit time where one is otherwise entitled to it simply because the State or the trial court think others might also claim to be entitled to it. We

therefore reverse the trial court’s denial of Glenn’s request and remand for a new hearing on the merits of his request.

Facts and Procedural History

- [3] In September 2020, the State charged Glenn with multiple counts of child molesting and other offenses across two cause numbers. In May 2021, Washington County Sheriff’s Officers arrested Glenn. While incarcerated in the Washington County Jail, Glenn earned his G.E.D.
- [4] In August 2022, Glenn pleaded guilty under both causes to an amended charge of Level 5 felony child solicitation as well as Level 6 felony unlawful possession of a syringe. In exchange, the State dismissed all other pending charges. Glenn’s plea agreement called for him to serve a total sentence of four years, with one-and-one-half years suspended. The agreement further stated that Glenn’s total “actual” time served was “TBD at sentencing.” *Id.* at 102 (capitalization removed). The trial court accepted Glenn’s guilty plea and set the matter for sentencing.
- [5] At the ensuing sentencing hearing, the parties discussed the accuracy of the Pre-Sentence Investigation Report (“the PSI”). Among other things, the PSI described Glenn’s behavior during the completion of the report as “cooperative.” *Id.* at 123. After discussing other matters with the court, Glenn moved for an award of educational credit time pursuant to [Indiana Code section 35-50-6-3.3\(a\)](#) (2019), which stated that “a person earns educational credit” if the person is in a certain credit class, he “has demonstrated a pattern

consistent with rehabilitation,” and he successfully obtained his G.E.D.

Included with that request, Glenn submitted, without objection, evidence that he had obtained his G.E.D. while incarcerated in the Washington County Jail prior to the sentencing hearing.

[6] In response, the State did not challenge Glenn’s credit classification or his behavior while incarcerated at the county jail. Instead, the State asserted that, while it agreed that Glenn could raise the issue of his credit time under the plea agreement, the parties had “spent a great deal of time negotiating” the terms of that agreement, and Glenn had “gotten a benefit” from his agreement. Tr. Vol. 2, pp. 12-13. The State further asked the court to deny Glenn’s request because “if you gave credit time for the G.E.D. then you’ll have to set aside a day a week where we argue credit time for G.E.D.’s for every person back in the jail,” adding, “I don’t think it’s something we want to get into.” *Id.*

[7] After hearing the parties’ arguments, the court stated that it would take Glenn’s request under advisement and seek a determination on his request from the Indiana Department of Correction (“the DOC”). Glenn responded that the trial court was the authority with “jurisdiction” over his request. *Id.* at 14. Thereafter, the DOC informed the trial court that it could not award Glenn credit time for the time he spent outside of the DOC and in the county jail. The court then issued an order denying Glenn’s request for credit time.

[8] Glenn filed a motion to reconsider with the trial court. In his motion, Glenn noted, correctly, that the Indiana Supreme Court has held that “the trial court is

the proper authority to determine whether a defendant who completes an educational degree before sentencing is entitled to educational credit time.” *Murphy v. State*, 942 N.E.2d 818, 819 (Ind. 2011). At a hearing on Glenn’s motion, the State responded to the merits of his request as follows: “we have not traditionally done this. I think if you grant this you will have in effect created a new program in Washington County for . . . giving credit time for things that are done in the jail,” which “will cause much more activity in this Court.” Tr. Vol. 2, pp. 17-18.

[9] After the hearing, the court again denied Glenn’s request. In its written order, the court stated that it “stands by its original ruling” as Glenn’s request “would create an unfair advantage and would prejudice the State and could create an unanticipated sequence of events.” Appellant’s App. Vol. 2, p. 202. This appeal ensued.

Discussion and Decision

[10] Glenn appeals the trial court’s denial of his request for educational credit time. 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). However, sentencing decisions not mandated by statute remain within the discretion of the trial court and will be subject to reversal only upon a showing of an abuse of that discretion. *Id.* A trial court abuses its discretion when its decision is clearly against the logic and effect of the facts and circumstances before the court, or

the reasonable, probable, and actual deductions to be drawn therefrom. *Id.* at 1061-62.

[11] As we have explained:

Indiana treats pre-sentence imprisonment as a form of punishment. By enacting statutes that award credit for pre-sentencing confinement, the General Assembly sought to implement the guarantee of common law and the Fifth Amendment to the U.S. Constitution against double jeopardy. *Further, with an eye toward avoiding equal protection violations, the statutes were drafted to equalize total confinement time among inmates serving identical sentences for identical offenses by allowing those who cannot post bail before sentencing to be given credit towards their sentence for pre-sentence imprisonment or confinement.* Accordingly, during sentencing, a trial court must strive to reach the balance between granting too little or too much credit time, while keeping in mind that the grant of credit time, as remedial legislation, should be liberally construed in favor of those benefitted by the statute.

Id. at 1062 (quoting *Purdue v. State*, 51 N.E.3d 432, 436 (Ind. Ct. App. 2016)) (emphasis added).

[12] Glenn contends that the trial court’s denial of his request for educational credit time is erroneous because, rather than addressing the substantive merits of his request, the court instead denied it based on “fairness to the State” and “on concerns about administrability” of similar requests by others. Appellant’s Br. at 10. We agree with Glenn that the trial court’s judgment is erroneous, and neither of the concerns raised by the trial court in denying his request is consistent with Indiana law.

[13] We initially address the trial court’s original reason for denying Glenn’s request for educational credit time, namely, that the DOC did not approve of his request. Our Supreme Court has held that the trial court, not the DOC, is the proper authority for determining an award of educational credit time for pre-trial incarceration in a county jail. *Murphy*, 942 N.E.2d at 819. Accordingly, the court’s original reasoning for denying Glenn’s request was contrary to law.

[14] We thus turn to the court’s two reasons for denying Glenn’s request following his motion to correct error. First, the court stated that it was denying his request out of concerns for “fairness” and “prejudice” to the State. *See* Appellant’s App. Vol. 2, p. 202. Those concerns appeared to stem from the State’s argument that Glenn’s plea agreement did not expressly address credit time, and the State’s related argument that Glenn did receive a benefit from his plea agreement already.

[15] The State’s arguments are without merit. The terms of Glenn’s plea agreement were clear that his “actual” days served were to be determined at his sentencing—that language is unambiguous that the trial court would still have to determine any accrued credit time in calculating Glenn’s sentence. *See id.* at 102. Further, even if that language were ambiguous, as a matter of law an ambiguous plea agreement is to be strictly construed against the State. *Grider v. State*, 976 N.E.2d 783, 786 (Ind. Ct. App. 2012). Thus, either way, Glenn’s plea agreement permitted his request for educational credit time, and the trial court’s contrary conclusion violated Glenn’s rights under the plea agreement and Indiana law.

[16] We next turn to the trial court’s alternative rationale for denying Glenn’s request, namely, that granting his request “could create an unanticipated sequence of events.” Appellant’s App. Vol. 2, p. 202. That conclusion appears to be an adoption of the State’s argument that granting Glenn’s request for educational credit time would open the floodgates of similar requests from other prisoners. But [Indiana Code section 35-50-6-3.3\(a\)](#) exists at least in part precisely to have similarly situated prisoners throughout Indiana serve similar terms of imprisonment. *Adams*, 120 N.E.3d at 1062. Washington County is not permitted to exempt itself from the statutory sentencing scheme out of concerns for its own administrative convenience. The court’s conclusion is contrary to law.

[17] Still, the State asserts on appeal that we should affirm the trial court’s denial of Glenn’s request because Glenn did not meet his burden to show that he qualified for educational credit time. But we agree with Glenn that the court erroneously avoided deciding his request on its merits. There is no question that Glenn earned his G.E.D. while incarcerated in the Washington County Jail. The parties did not dispute Glenn’s credit classification in the trial court, and the PSI stated that Glenn had been “cooperative” at least in preparing that report during his incarceration at the county jail. Appellant’s App. Vol. 2, p. 123. We therefore cannot say that the record required the trial court to deny Glenn’s request. We reverse the trial court’s judgment and remand with instructions for the court to hold a new hearing to determine the merits of Glenn’s request for educational credit time.

[18] Reversed and remanded with instructions.

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