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2012 IL App (3d) 110006-U

Order filed August 22, 2012

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

A.D., 2012

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court
	)	of the 10th Judicial Circuit,
Plaintiff-Appellee,	)	Peoria County, Illinois,
	)	
v.	)	Appeal No. 3-11-0006
	)	Circuit No. 07-JA-224
	)	
EDWARD M. McBRIDE,	)	Honorable
	)	Chris L. Fredericksen,
Defendant-Appellant.	)	Judge, Presiding.

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JUSTICE McDADE delivered the judgment of the court.  
Presiding Justice Schmidt and Justice O'Brien concurred in the judgment.

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**ORDER**

¶ 1 *Held:* The defendant was entitled to have the good behavior credit of section 3 of the County Jail Good Behavior Allowance Act applied to his sentence for criminal contempt.

¶ 2 Defendant, Edward M. McBride, was found guilty of direct criminal contempt and sentenced to 60 days in jail, to be served after he finished serving a sentence for an unrelated conviction. The trial judge decided that defendant was not entitled to receive day-for-day good behavior credit. Defendant appeals the denial of the good behavior credit. We reverse and



730 ILCS 130/3 (West 2010). The Act's good behavior allowance applies to all sentences of incarceration unless the sentence meets one of the Act's six exceptions. One such exception states that a sentence entered under a *civil* contempt order is not subject to the Act's good behavior allowance. *Id.* No such exception, however, excuses sentences for criminal contempt from the Act's requirements, and Illinois courts have consistently held that the good behavior allowance must apply to sentences for criminal contempt. See, e.g., *Kaeding v. Collins*, 281 Ill. App. 3d 919 (1996); *People v. Russell*, 237 Ill. App. 3d 310 (1992).

¶ 9 In the present case, the sentence was entered under an order of criminal, not civil contempt, and none of the Act's exceptions apply to defendant's sentence. Defendant was, therefore, entitled to have the good behavior allowance apply to his sentence. The trial court's ruling that defendant was not entitled to the good behavior allowance was in violation of section 3 of the Act.

¶ 10 Despite his failure to object at the hearing or file a motion to reconsider the sentence, defendant did not waive his right to have the appellate court review the application of section 3 of the Act to his sentence. "A sentence which does not conform to a statutory requirement is void[,] and an appellate court has the authority to correct a void sentence at any time. *People v. Arna*, 168 Ill. 2d 107, 113 (1995). The challenged portion of the sentence was entered in violation of section 3 of the Act and is therefore void. The fact that defendant did not first challenge his sentence below does not prevent the appellate court from reviewing whether his sentence complied with section 3 of the Act.

¶ 11 CONCLUSION

¶ 12 For the foregoing reasons, the judgment of the circuit court of Peoria County is reversed,

and the mittimus is amended to reflect defendant's entitlement to the day-for-day good behavior allowance.

¶ 13 Reversed and mittimus amended to reflect defendant's entitlement to the day-for-day good behavior allowance.