

2016 IL App (2d) 151201-U
No. 2-15-1201
Order filed November 22, 2016

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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

THE PEOPLE OF THE STATE)	Appeal from the Circuit Court
OF ILLINOIS,)	of Boone County.
)	
Plaintiff-Appellee,)	
)	
v.)	No. 08-CF-348
)	
CHARLES C. JACKSON,)	Honorable
)	C. Robert Tobin III,
Defendant-Appellant.)	Judge, Presiding.

JUSTICE JORGENSEN delivered the judgment of the court.
Justices Hutchinson and Hudson concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court properly denied defendant's motion for credit for time served outside Cook County: our mandate from a prior appeal limited the trial court's inquiry to Cook County, and, although the trial court nevertheless had continuing jurisdiction of a motion for credit, defendant's request for credit for time served in Boone County was barred by the law-of-the-case doctrine.

¶ 2 Defendant, Charles C. Jackson, appeals from an order of the circuit court of Boone County denying his motion to amend the judgment to reflect additional credit for time served in both Minnesota and Boone County. Because the trial court properly denied his motion to amend the judgment, we affirm.

¶ 3

I. BACKGROUND

¶ 4 Defendant originally appealed from his conviction of aggravated driving under the influence (625 ILCS 5/11-501(a)(1), (d)(1)(H) (West 2008)). This court affirmed his conviction, vacated that part of the judgment awarding him 317 days' credit for time served, and remanded to the trial court for a determination of the proper number of days of credit. *People v. Jackson*, 2015 IL App (2d) 130934-U.

¶ 5 In the original proceeding, the trial court found that defendant, who had pled guilty to a drug offense in Minnesota before being charged in this case, was subject to a consecutive sentence. After finding defendant guilty, the court imposed a four-year term of imprisonment. Defendant claimed that he was entitled to 387 days' credit for time served in Boone County. The State asserted that he was entitled to only 317 days' credit for his Boone County custody. The court awarded defendant 317 days of credit for time served.

¶ 6 Defendant appealed, and we affirmed his conviction and prison sentence. However, defendant contended that he was entitled to additional credit for time spent in custody in Cook County on an unrelated charge. *Jackson*, 2015 IL App (2d) 130934-U, ¶ 22. Therefore, he sought a remand for a determination of when he entered custody in Cook County. *Jackson*, 2015 IL App (2d) 130934-U, ¶ 22. He did not raise any other issue regarding the amount of credit for time served, including in Boone County.

¶ 7 Recognizing that defendant was entitled to credit for the time he was in custody in Cook County until he posted bond in this case, from October 6, 2011, to September 19, 2012, we held that defendant was entitled to at least 349 days of credit. *Jackson*, 2015 IL App (2d) 130934-U, ¶¶ 24, 25. However, because the record suggested that defendant might have been in custody in Cook County earlier than October 6, 2011, we remanded for the trial court to determine the exact

date that defendant was taken into custody in Cook County and, based upon that determination, to calculate the “precise number of days of credit to which defendant is entitled.” *Jackson*, 2015 IL App (2d) 130934-U, ¶ 26.

¶ 8 Upon remand, defendant, who was represented by counsel, filed a motion to amend the judgment. In that motion, defendant contended, relying on section 5-4.5-50 of the Unified Code of Corrections (Code) (730 ILCS 5/5-4.5-50(e), (f) (West 2014)), that he is entitled to credit for time served on his Minnesota sentence.

¶ 9 The trial court conducted a hearing on defendant’s motion to amend. At the beginning of the hearing, the court noted that the motion to amend went “beyond the limits of the mandate.” Thus, the court stated that it was limited “just to [determining] how many days [defendant] spent in Cook County and give him credit for those days.”

¶ 10 In response, defendant asserted that there was “also a question as to how many days he was actually in Boone County.” The trial court disagreed, noting that the only reason we remanded was for a determination of how many days defendant had spent in custody in Cook County.

¶ 11 Defendant, pointing to section 5-4.5-50(f) of the Code, asserted that he had 30 days from his release from custody in Minnesota to request credit for time served there. After noting that the issue of whether defendant’s sentence here was consecutive to the one in Minnesota had been decided, the court stated that “at least at this point, [it was] going to find that that’s outside the scope of [its] limits.” The court added that it understood that defendant was “saying [that] he could specially ask for it.” Nonetheless, the court found that the issue of any credit for time in Minnesota was “outside the scope of [its] limits right now” and that “pursuant to the mandate

*** the limit of what [it could] do here in regards to a sentencing is decide how many days [defendant spent in custody in Cook County].”

¶ 12 Because the trial court found that defendant was in custody in Cook County as of October 4, 2011, it awarded him an additional two days of credit. Defendant interjected that he never received the proper amount of credit for the time he was in custody in Boone County. The court responded that that issue “could have been dealt with at the original court date” and that the “only mandate [it had was] whether or not to give [defendant] any credit *** [for being in] custody in Cook County.” Therefore, the court amended the judgment to give defendant 351 days’ credit for time served. Defendant filed a timely appeal.

¶ 13

II. ANALYSIS

¶ 14 On appeal, defendant contends that the trial court erred in limiting him to seeking additional credit only for time served in Cook County. Specifically, defendant asserts that: (1) the language of the mandate is broad enough to include consideration of credit for time served outside Cook County; and (2) irrespective of the mandate, because a defendant may seek at any time to amend a judgment as to credit for time served, the court was authorized to consider whether he was entitled to additional credit for time spent in custody in Boone County.

¶ 15 The State responds that the mandate, when read in light of our order, limited the court to considering whether defendant was entitled to any additional days of credit for time in custody in Cook County. Alternatively, the State maintains that defendant is barred by the law-of-the-case doctrine from seeking any additional credit beyond that related to his custody in Cook County.

¶ 16 We first address whether our mandate permitted the trial court to consider defendant’s claim that he was entitled to additional credit for time served outside of Cook County. It did not.

¶ 17 On remand, a trial court lacks the authority to act beyond the scope of the mandate. *People v. Gonzalez*, 407 Ill. App. 3d 1026, 1037 (2011). If the mandate directs the court to proceed in conformity with the opinion, the entire opinion must be consulted in determining the appropriate course of action. *Gonzalez*, 407 Ill. App. 3d at 1037. If the mandate is general, the court should examine the opinion and determine what further proceedings would be consistent with the opinion. *Gonzalez*, 407 Ill. App. 3d at 1037. It is axiomatic that a reviewing court that issued a mandate has the power to enforce the mandate and determine whether there has been compliance. *Gonzalez*, 407 Ill. App. 3d at 1037.

¶ 18 In this case, our mandate provided generally that “in accordance with the views expressed in the attached Decision the judgment of the trial court is Affirmed in part, Vacated in part [and] Remanded.” Thus, to understand the scope of our mandate, we must consider the language of our order. See *Gonzalez*, 407 Ill. App. 3d at 1037.

¶ 19 In addressing the issue of whether defendant was entitled to additional credit for time served in Cook County, we recognized that the record did not establish the precise date upon which defendant was taken into custody in Cook County. See *Jackson*, 2015 IL App (2d) 130934-U, ¶ 26. Therefore, we vacated that part of the judgment crediting defendant for 317 days served and remanded for the trial court to “calculate the precise number of days of credit to which defendant is entitled.” See *Jackson*, 2015 IL App (2d) 130934-U, ¶ 26. Considered in a vacuum, the phrase “calculate the precise number of days of credit” might be broad enough to include credit from other sources, such as Minnesota or Boone County custody. However, that phrase was written in the context of our resolution of the discrete issue of whether defendant was entitled to additional credit for time served in Cook County. Therefore, the mandate, when interpreted in light of our order, limited the trial court to a determination of how many additional

days, if any, defendant had spent in custody in Cook County. Thus, the mandate did not authorize the trial court to consider any other possible sources of credit for time served.

¶ 20 That leaves defendant's contention that, irrespective of the mandate, the trial court retained jurisdiction to consider whether he was entitled to additional credit for time spent in custody in Boone County. It is true that a defendant may make a claim for credit at any time. *People v. Anderson*, 2012 IL App (1st) 103288, ¶ 35. However, defendant had already *made* a claim for credit for his custody in Boone County. Specifically, in the original sentencing proceeding, defendant maintained that he was entitled to 387 days, whereas the State contended that he was entitled to 317 days. The trial court ruled that 317 days was the correct amount. On appeal, defendant limited his contention regarding credit for time served to the issue of how much time he spent in custody in Cook County. He did not seek additional credit for time spent in custody in Boone County. Therefore, the trial court's ruling became the law of the case, and defendant cannot now raise an issue regarding the amount of credit he should have received for time spent in custody in Boone County.¹ See *Stocker Hinge Manufacturing Co. v. Darnell Industries, Inc.*, 94 Ill. 2d 535, 544 (1983).

¶ 21 Defendant contends in his reply brief that the issue could not have been raised in his first appeal, because the record did not show "the exact dates in which [he] spent in pre-trial custody in Boone County." That may be; however, defendant, who represented himself at sentencing, failed to present any evidence in his sentencing proceeding to support his claim that he should receive more credit for time spent in Boone County custody. Thus, any deficiency in the record

¹ Although the trial court ruled that it could not consider the issue because it was outside the scope of the mandate, we may affirm on any basis in the record, regardless of the trial court's reasoning. See *People v. Lee*, 2016 IL App (2d) 150359, ¶ 14.

is attributable to defendant and does not excuse his failure to raise the issue in his first appeal. Because he failed to raise the issue in his first appeal, he may not raise it now.

¶ 22

III. CONCLUSION

¶ 23 For the reasons stated, we affirm the judgment of the circuit court of Boone County. As part of our judgment, we grant the State's request that defendant be assessed \$50 as costs for this appeal. 55 ILCS 5/4-2002(a) (West 2014); see also *People v. Nicholls*, 71 Ill. 2d 166, 178 (1978).

¶ 24 Affirmed.