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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	NO. 47430-2019
)	
v.)	ADA COUNTY NO. CR-FE-2013-16645
)	
ALEXANDER BETHEL EVANS,)	
)	APPELLANT'S BRIEF
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Alexander Evans appeals from the district court's order denying his request for additional credit for time served. Mindful that the district court's order is consistent with the applicable law, Mr. Evans asserts the district court erred by denying his motion.

Statement of the Facts and Course of Proceedings

On November 23, 2013, the State filed a complaint accusing Mr. Evans of committing an aggravated battery on July 3, 2013, while he was incarcerated at the Idaho State Correctional Institution. (R., pp.9-10; PSI, p.3.) Mr. Evans was served with an arrest warrant stemming from

this charge on January 9, 2014. (R., pp.19-21.) Mr. Evans eventually pled guilty to aggravated battery, as alleged in an amended information, and on April, 18, 2014, he was sentenced to a unified term of six years, with four years fixed, and granted 99 days of credit for time served. (R., pp.64-65, 70-78, 81-85.)

In July of 2019, Mr. Evans filed a motion for credit for the time he served between July 3, 2013, the date of the offense, and April, 18, 2014, the date he was sentenced, minus the 99 days of credit he had already received. (R., pp.91-95.) Mr. Evans requested that time due to the fact that he “was removed from general population, detained in segregation, then close custody, restricted from recreation, commissary, phone, and property privileges.” (R., pp.93-94.) The district court denied Mr. Evans’ request, finding that he was appropriately granted 99 days of credit for time served, calculated from January 9, 2014, the date the arrest warrant was served, and April 18, 2014, the date he was sentenced. (R., pp.104-05.) Mr. Evans filed a timely Notice of Appeal. (R., pp.106-10.)

ISSUE

Did the district court err by denying Mr. Evans’ motion for credit for time served?

ARGUMENT

The District Court Erred By Denying Mr. Evans’ Motion For Credit For Time Served

Mindful that the district court’s order denying Mr. Evans’ motion for credit for time served is consistent with the applicable law, Mr. Evans asserts the district court erred in denying his motion for credit for time served.

Idaho Code § 18-309(1) reads as follows:

In computing the term of imprisonment, the person against whom the judgment was entered shall receive credit in the judgment for any period of incarceration prior to entry of judgment, if such incarceration was for the offense or an included offense for which the judgment was entered. The remainder of the term commences upon the pronouncement of sentence and if thereafter, during such term, the defendant by any legal means is temporarily released from such imprisonment and subsequently returned thereto, the time during which he was at large must not be computed as part of such term.

In *State v. Brand*, 162 Idaho 189 (2017), the Idaho Supreme Court provided various scenarios as examples for district courts to use when they are tasked with calculating how much credit for time served a convicted defendant is entitled to receive. *Id.* at 193. In scenario 1, the Court described the following situation:

Defendant is already in custody on unrelated charges. He is served with an arrest warrant which requires defendant to post bail. Defendant does not post bail and remains in custody until sentencing. Defendant is entitled to credit from the date of service of the warrant through the date of sentencing.

Id.

Mindful that Mr. Evans' situation falls within the parameters of the above-scenario, he asserts that the district court erred in failing to grant him credit for additional time served. Mr. Evans asserts that due to his removal from general population, and the significant loss of privileges he suffered as a result of the charges, the district court should have granted his request for credit for time served from the date of the offense.

CONCLUSION

Mr. Evans respectfully requests that this Court reverse the district court's order denying his motion for credit for time served, and remand his case to the district court with instructions that Mr. Evans be granted additional credit for time served.

DATED this 20th day of April, 2020.

/s/ Jason C. Pintler
JASON C. PINTLER
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of April, 2020, I caused a true and correct copy of the foregoing APPELLANT'S BRIEF, to be served as follows:

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DEPUTY ATTORNEY GENERAL
E-Service: ecf@ag.idaho.gov

/s/ Evan A. Smith
EVAN A. SMITH
Administrative Assistant

JCP/eas