# CAPTION: STATE V. MERZ

**03-01-23**

APPEAL NO.: C-220085

TRIAL NO.: B-1905571

KEY WORDS: SENTENCING – ALLIED OFFENSES — MERGER – SEX-OFFENDER CLASSIFICATION – JAIL-TIME CREDIT

SUMMARY:

The trial court erred in imposing concurrent sentences and two sex-offender classifications for defendant’s convictions of abduction and gross sexual imposition where the appellate court had previously determined that the offenses should have merged for sentencing, *State v. Merz*, 1st Dist. Hamilton No. C-200152, 2021-Ohio-2093, because imposing concurrent sentences is not the equivalent of merging allied offenses, and sex-offender classification tiers are part of a criminal sentence.

In calculating jail-time credit, the trial court must credit defendant for the total number of days he served in the local jail for any reason arising out of the offense, including days served prior to resentencing, but the trial court properly did not include time served in prison because the Ohio Department of Rehabilitation and Correction tracks and credits that time.

JUDGMENT: REVERSED AND CAUSE REMANDED

JUDGES: OPINION by CROUSE, P.J.; WINKLER and BOCK JJ., CONCUR.