

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NOS. C-240710
		C-240711
Plaintiff-Appellee,	:	TRIAL NOS. B-2403315
		B-2301184-A
vs.	:	
SHAE CHITWOOD,	:	
		<i>JUDGMENT ENTRY</i>
Defendant-Appellant.	:	

CROUSE, Judge.

This court sua sponte removes this cause from the regular calendar and places it on the court's accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); Loc.R. 11.1.

In the case numbered B-2301184-A, defendant-appellant Shae Chitwood pled guilty to theft, a fourth-degree felony in violation of R.C. 2913.02(A)(1), and was sentenced to 18 months of imprisonment. In the case numbered B-2403315, Chitwood pled guilty to theft, a fifth-degree felony in violation of R.C. 2913.02(A)(1), and was sentenced to 12 months of imprisonment.

The trial court ordered the sentences imposed for the two theft convictions to be served consecutively, resulting in an aggregate sentence of 30 months of imprisonment. The trial court also awarded Chitwood 134 days of jail-time credit. Chitwood now appeals.

In his first assignment of error, Chitwood argues that the trial court erred in imposing consecutive sentences without making the findings required by R.C.

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2929.14(C)(4) at the sentencing hearing. He specifically contends that the trial court failed to make the required proportionality finding. The State concedes this error.

At the sentencing hearing, the trial court found that consecutive sentences were necessary to protect the public, that Chitwood was awaiting trial for the first theft offense when he committed the second theft offense, and that Chitwood's criminal history showed a need to protect the public. But the trial court failed to find that "consecutive sentences are not disproportionate to the seriousness of the offender's conduct and to the danger the offender poses to the public," as is required by R.C. 2929.14(C)(4). Nor can this finding be discerned from any other statements made by the trial court at the sentencing hearing.

Because the trial court failed to make the required findings under R.C. 2929.14(C)(4), we accordingly sustain Chitwood's first assignment of error and reverse the imposition of consecutive sentences. *See* R.C. 2953.08(G)(2); *State v. Matthews*, 2024-Ohio-1863, ¶ 27 and 30 (1st Dist.).

In his second assignment of error, Chitwood argues that the trial court erred in failing to grant his motion for jail-time credit and in failing to properly calculate the amount of jail-time credit to which he is entitled.

At the sentencing hearing, the trial court awarded Chitwood 134 days of jail-time credit. Defense counsel questioned that calculation and requested additional days of credit, stating, "I believe he was locked up from March of '23 through January of '24 when he was released and that's when he picked up the new cases. It's additional credit." Defense counsel argued that Chitwood was held on the offenses in the case numbered B-2301184-A during this time period, although counsel never specified where Chitwood had been held. The trial court responded, "We're coming up with 134 days. That's what according to us is what you're getting."

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Chitwood argues on appeal that he is entitled to additional credit for time served from March 2023 until his arrest date of January 10, 2024. He contends that he served (1) approximately 280 days in Kenton County, Kentucky, from March 25, 2023 through December 2023; (2) approximately 30 days in Boone County, Kentucky, from December 2023 to the end of January 2024; and (3) approximately 10 additional days in Hamilton County in January 2024. As alleged in Chitwood’s appellate brief, this additional credit to which Chitwood believes he is entitled was set forth in a motion for jail-time credit, which was filed after the notice of appeal and is not part of our record on appeal.¹ While Chitwood requested additional days of jail-time credit at the sentencing hearing, that request was not as specific as set forth in his brief.

The right to receive jail-time credit is codified in R.C. 2967.191. *State v. Hargrove*, 2013-Ohio-1860, ¶ 6 (1st Dist.). This statute provides that the Ohio Department of Rehabilitation and Correction shall reduce a prison term imposed on a felony offender “by the total number of days that the prisoner was confined for any reason arising out of the offense for which the prisoner was convicted and sentenced.” R.C. 2967.191(A).

“When a trial court fails to include the appropriate amount of jail-time credit in the sentencing entry, it commits plain error.” *State v. Lee*, 2024-Ohio-3080, ¶ 19 (1st Dist.), quoting *State v. Bowden*, 2015-Ohio-3740, ¶ 18 (1st Dist.).

In *State v. Jacquillard*, 2013-Ohio-4778, ¶ 13 (1st Dist.), we held that the trial court erred in denying an offender credit for time served in another jurisdiction without determining the reason for that incarceration and whether it was related to

¹ After Chitwood filed his notice of appeal, he filed a pro se motion for jail-time credit in the trial court, arguing that he was entitled to a total of 469 days of credit. Chitwood filed a motion to supplement the record with the motion for jail-time credit, but this court denied the motion to supplement because the motion was not before the trial court at the time it entered the judgment entry of conviction and sentence.

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the Ohio charges for which sentence was imposed. We remanded for the trial court to “determine the reason for Jacquillard’s incarceration in Florida and the length of that incarceration” and to credit Jacquillard for the time served in Florida if required by R.C. 2967.191. *Id.*

In its merit brief, the State argues that while it believes that Chitwood’s complaints regarding the computation of jail-time credit are meritless, *Jacquillard* allows this court to remand the case back to the trial court to “dispel” Chitwood’s complaints and to “make factual determinations regarding the circumstances of the confinement outside of this jurisdiction.”

Accordingly, pursuant to *Jacquillard*, we hold that the trial court erred in summarily denying Chitwood’s request for additional jail-time credit without determining the reason for his presentence incarceration and whether it was related to the charges for which sentence was imposed. On remand, the trial court must determine whether Chitwood’s presentence incarceration in Hamilton County and any other jurisdiction was related to the charges for which sentences were imposed in these cases, and it must credit him for the time served if required by R.C. 2967.191. Chitwood’s second assignment of error is sustained.

In summary, the trial court’s imposition of consecutive sentences is reversed and these causes are remanded for resentencing. At the resentencing hearing, the trial court must make all necessary findings before imposing consecutive sentences, and it must determine whether Chitwood is entitled to additional jail-time credit.

The court further orders that 1) a copy of this Judgment constitutes the mandate, 2) the mandate be sent to the trial court for execution under App.R. 27, and 3) costs shall be taxed under App.R. 24.

ZAYAS, P.J., and **MOORE, J.**, concur.

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To the clerk:

Enter upon the journal of the court on 10/8/2025 per order of the court.

By:  _____
Administrative Judge