

FILED
Court of Appeals
Division III
State of Washington
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NO. 36190-0-III

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION III

STATE OF WASHINGTON,

Respondent,

v.

JUAN ENRIQUEZ-MARTINEZ,

Appellant.

APPEAL FROM THE SUPERIOR COURT
OF KLICKITAT COUNTY, STATE OF WASHINGTON

SUPPLEMENTAL BRIEF OF RESPONDENT

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TABLE OF CONTENTS

A. ISSUE PRESENTED.....1

B. STATEMENT OF THE CASE.....1

C. ARGUMENT.....1

 The Defendant was not entitled to receive credit in Washington
 for his pretrial jail time.1

D. CONCLUSION.....2

TABLE OF AUTHORTIES

State v. Lewis, 185 Wn.App. 338, 345, 344 P.3d 1220 (2014), *aff'd in part*,
rev'd in part on other grounds, 184 Wn.2d 201, 355 P.3d 1148 (2015)

.....1

State v. Williams, 59 Wn.App. 379, 381, 796 P.2d 1301 (1990)

.....2

A. ISSUE PRESENTED

1. Is the Defendant entitled to double credit for time served when in-custody in Oregon but under arrest on Oregon and Washington charges?

B. STATEMENT OF THE CASE

As the issue presented is purely procedural for purposes of this appeal the State defers to the Appellant's statement of the case except as statements that the defendant "allegedly" committed sexual assaults as he has been convicted in multiple states for committing these "alleged" acts.

C. ARGUMENT

The legislature codified the procedure for calculating credit for presentence time served in RCW 9.94A.505(6). That statute provides that the trial court must "give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced." RCW 9.94A.505(6). Both RCW 9.94A.505(6) and the constitutional principles of due process and equal protection entitle a petitioner serving pretrial confinement on multiple charges to credit for any presentence time served, so long as he does not receive double credit. *State v. Lewis*, 185 Wn.App. 338, 345, 344 P.3d 1220 (2014), *aff'd in part, rev'd in part on other grounds*, 184 Wn.2d 201, 355 P.3d 1148 (2015).

Here, defendant is asking the court to reward committing sexual assaults against a child in two states with double credit as he has conceded

receiving credit for time held in Oregon on his Oregon sentence. This is contrary to the explicit language of the sentencing statute and any sense of justice. *See State v. Williams*, 59 Wn.App. 379, 381, 796 P.2d 1301 (1990) (rejecting an outcome that would allow an inmate to double count time served).

D. CONCLUSION

For the foregoing reasons we ask this court to reject crediting defendant with time served in Oregon he has already received credit for in Oregon.



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