

June 19, 2018

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

In the Matter of the
Post-Sentence Review of

SHANE FORREST PATE,

Respondent.

No. 51362-5-II

UNPUBLISHED OPINION

LEE, J. — The Department of Corrections (DOC) petitions this court under RCW 9.94A.585(7) to review the sentence imposed by the trial court in *State v. Shane Forrest Pate*, Pierce County Superior Court Cause No. 16-1-02912-6. Pate pleaded guilty to attempting to elude a pursuing police vehicle (count II), bail jumping (count V), and tampering with a witness (count VI). The trial court imposed concurrent sentences of 22 months on count II, 51 months on count V, and 51 months on count VI. As for credit for presentencing jail time, the trial court gave Pate credit for “199 days, less any DOC sanction time.” Post-Sentence Pet., Ex. 1 at 7.

DOC argues that this award of credit for jail time violates RCW 9.94A.505(6), under which the trial court shall give offenders credit for presentencing jail time but only “if that confinement was solely in regard to the offense for which the offender is being sentenced.” DOC contends that the trial court must apply the credits against each sentence for the time spent in confinement solely in regard to each count. It calculates that time as 204 days on count II, 117 days on count V, and

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34 days on count VI.¹ Thus, DOC asks that we remand Pate's judgment and sentence to the trial court to correct the credits for presentencing jail time as provided above. The State agrees with DOC. Pate urges us to deny DOC's petition on the grounds that it involves an issue of fact, as to which DOC cannot seek relief under RCW 9.94A.585(7).

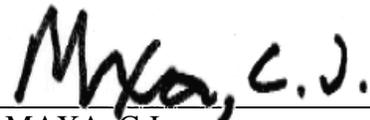
But here, there is no issue of fact; there is only the application of RCW 9.94A.505(6). And DOC's interpretation of RCW 9.94A.505(6) is correct. *In re Postsentence Review of Combs*, 176 Wn. App. 112, 119, 308 P.3d 763 (2013). Thus, we grant DOC's petition and remand Pate's judgment and sentence to the trial court to amend the credits for presentencing jail time to 204 days for the sentence in count II, 117 days for the sentence in count V, and 34 days for the sentence in count VI.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.

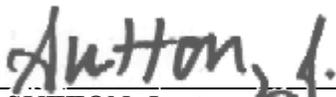


LEE, J.

We concur:



MAXA, C.J.



SUTTON, J.

¹ Pate is also entitled to six days of credit for time served in the jail after sentence was imposed but before he was transported to DOC.