

69922-9

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No. 69922-9-I

THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION ONE

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STATE OF WASHINGTON,

Respondent,

v.

STACY DOCKINS,

Appellant.

2013 MAR 12 PM 1:54  
STATE OF WASHINGTON  
COURT OF APPEALS  
DIVISION ONE

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ON APPEAL FROM THE SUPERIOR COURT OF THE STATE OF  
WASHINGTON FOR KING COUNTY

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BRIEF OF APPELLANT

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A. ASSIGNMENTS OF ERROR

1. The trial court erred in failing to credit Stacy Dockins for time spent in partial confinement prior to conviction.

2. The trial court's failure to credit Mr. Dockins for time spent in partial confinement prior to conviction violated the Double Jeopardy Clause of the Fifth Amendment.

3. The trial court's failure to credit Mr. Dockins for time spent in partial confinement prior to conviction violated the Equal Protection Clause of the Fourteenth Amendment.

4. The trial court's failure to credit Mr. Dockins for time spent in partial confinement prior to conviction violated the Due Process Clause of the Fourteenth Amendment.

B. ISSUE PERTAINING TO ASSIGNMENTS OF ERROR

A defendant has a statutory and constitutional right to credit for time served in confinement or partial confinement prior to conviction. Prior to pleading guilty Mr. Dockins was released from jail but ordered to remain at a secure in-patient drug-treatment facility. Does the trial court's refusal to credit Mr. Dockins for the time spent in this partial confinement violate his statutory and constitutional rights?

C. STATEMENT OF THE CASE

Mr. Dockins was charged with two counts of driving under the influence, and one count of attempting to elude a police officer. CP 1-7.

Following the filing of charges, Mr. Dockins remained in the King County Jail for several months. On December 27, 2011, the court ordered Mr. Dockins release from jail on condition that he go directly to Thunderbird Treatment Center, a full-time residential treatment facility. Supp. CP \_\_, Sub No. 17. Mr. Dockins was required to remain at Thunderbird at all times and directed to return immediately to the jail upon discharge from Thunderbird. *Id.*

As ordered by the court, Mr. Dockins remained at Thunderbird until June 11, 2012, when upon his successful completion of treatment, the court transferred his custody status to “CCAP-enhanced” – a community based form of partial confinement. Supp. CP \_\_, Sub No. 52.

Mr. Dockins pleaded guilty to all three counts. CP 8-33. Mr. Dockins remained on CCAP-enhanced pending his sentencing hearing. 10/10/12 RP 13.

At sentencing the court afforded him credit for time served on CCAP-enhanced but not for his term at Thunderbird. 1/11/13RP 17.

D. ARGUMENT

**Mr. Dockins was entitled to credit for time spent in partial confinement prior to his conviction and sentencing.**

At sentencing a defendant has both a constitutional and statutory right to receive credit for all confinement time served prior to sentencing. *State v. Speaks*, 119 Wn.2d 204, 206, 829 P.2d 1096 (1992). The constitutional guarantees flow from the Fifth Amendment's Double Jeopardy Clause and the Fourteenth Amendment's Equal Protection and Due Process Clauses. *Reanier v. Smith*, 83 Wn.2d 342, 517 P.2d 949 (1974); *In re Trambitas*, 96 Wn.2d 329, 635 P.2d 122 (1981); *State v. Phelan*, 100 Wn.2d 508, 671 P.2d 1212 (1983).

RCW 9.94A.505(6) provides:

The sentencing court shall 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.

“‘Confinement’ means total or partial confinement.” RCW 9.94A.030(8). RCW 9.94A.030(35) defines “partial confinement” as

confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention,

work crew, and a combination of work crew and home detention.

Mr. Dockins was ordered released from jail and directed immediately to Thunderbird. Mr. Dockins was required to remain at Thunderbird at all times and directed to return immediately to the jail upon discharge from Thunderbird. As ordered by the court, Mr. Dockins remained at Thunderbird for more than 5 months. On that later date, the Court ordered his confinement be transferred to “CCAP-enhanced.”

The CCAP program requires a person to participate in approved activities for a minimum of six hours each day. King County Code (KCC) § 5.12.010. The activities are either approved or offered by the Community Corrections Division of the King County Department of Adult and Juvenile Detention. KCC §§ 2.16.120, 2.16.122, 5.12.010.

While the court gave Mr. Dockins credit for time served in the less-restrictive CCAP enhanced program, the court refused to credit the time spent at Thunderbird. The last sentence of RCW 9.94A.030(35) provides that “Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention.” The statute does not limit itself to those circumstances but instead simply set forth examples of types of partial confinement. Mr.

Dockins's time in a secure full-time facility in lieu of jail is akin to these statutory examples. The only difference between his confinement and home detention, for example, is that while home detention requires electronic monitoring, RCW 9.94A.030(28), there was no need for monitoring as Mr. Dockins was not permitted to leave the facility. Had he been subject to electronic monitoring he would have undoubtedly been entitled to credit for that time despite his ability to leave is home. *Speaks*, 119 Wn.2d at 208-09. Yet the court refused to provide him credit spent in secure facility.

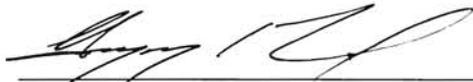
Because it meets the definition of "partial confinement," Mr. Dockins is entitled to credit for time served for his court-order in-patient treatment. The failure to give Mr. Dockins credit for time served in partial confinement violates RCW 9.94A.505(6). Additionally, the failure to provide credit for time served in partial confinement violates the Double Jeopardy Clause, the Equal Protection Clause and the Due Process Clauses.

E. CONCLUSION

Because he has both a statutory and constitutional right to credit for confinement prior to his conviction, this Court should remand Mr.

Dockins case for a proper determination of his term of preconviction  
confinement.

Respectfully submitted this 12<sup>th</sup> day of August, 2013.

A handwritten signature in black ink, appearing to read "Gregory C. Link", written over a horizontal line.

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Washington Appellate Project – 91072  
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2013 AUG 12 PM 11:54  
STACY DOCKINS

**DECLARATION OF DOCUMENT FILING AND SERVICE**

I, MARIA ARRANZA RILEY, STATE THAT ON THE 12<sup>TH</sup> DAY OF AUGUST, 2013, I CAUSED THE ORIGINAL **OPENING BRIEF OF APPELLANT** TO BE FILED IN THE **COURT OF APPEALS - DIVISION ONE** AND A TRUE COPY OF THE SAME TO BE SERVED ON THE FOLLOWING IN THE MANNER INDICATED BELOW:

<input checked="" type="checkbox"/> KING COUNTY PROSECUTING ATTORNEY APPELLATE UNIT KING COUNTY COURTHOUSE 516 THIRD AVENUE, W-554 SEATTLE, WA 98104	<input checked="" type="checkbox"/> U.S. MAIL <input type="checkbox"/> HAND DELIVERY <input type="checkbox"/> _____
<input checked="" type="checkbox"/> STACY DOCKINS 747225 STAFFORD CREEK CORRECTIONS CENTER 191 CONSTANTINE WAY ABERDEEN, WA 98520	<input checked="" type="checkbox"/> U.S. MAIL <input type="checkbox"/> HAND DELIVERY <input type="checkbox"/> _____

**SIGNED** IN SEATTLE, WASHINGTON THIS 12<sup>TH</sup> DAY OF AUGUST, 2013.

X \_\_\_\_\_ 

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