

ASSIGNMENT OF ERROR X

The trial court erred when it granted Jane Smith only 240 days of jail-time credit, despite her actually being confined for 307 days related to this case, in violation of her right to equal protection as guaranteed by the Fourteenth Amendment to the United States Constitution and Article I, Section 16 of the Ohio Constitution.

Issue Presented for Review

Did the trial court err when it granted Ms. Smith only 240 days of jail-time credit, though she was actually held for 307 days related to this case?

Ohio law demands that a sentencing court correctly calculate and award jail-time credit. Yet, the trial court has failed to do so here, only crediting Ms. Smith for her confinement after she was transferred to the Court of Common Pleas. In fact, Ms. Smith was held by the juvenile court before her transfer, and the trial court's failure to credit her for this time was plain error that deprived Ms. Smith of her right to equal protection of the law.

Ohio Revised Code section 2967.191 requires the Ohio Department of Rehabilitation and Corrections ("D.R.C.") to "reduce the stated prison term of a prisoner . . . 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[.]" The jail-time credit statute's purpose is to ensure equal protection for indigent defendants who may not be able to afford bond by guaranteeing that their sentences will be equal in total length to those that *could* afford bond. *State v. Fugate*, 117 Ohio St.3d 261, 2008-Ohio-856, 883 N.E.2d 440, ¶ 7.

Courts are required, at the sentencing hearing, to determine and notify the offender of the number of days of jail-time-credit he has earned, and this information must be included in the sentencing entry. R.C. 2929.19(B)(2)(g)(i); Ohio Adm.Code 5120-2-04(B). In turn, the sheriff must provide DRC with "a copy of the convicted felon's sentence that . . . specifies the total number of days, if any, that the felon was confined for any reason prior to conviction and

sentence.” R.C. 2949.12. Since these provisions are mandatory, the trial court’s failure to properly calculate such credit and include it in the body of the sentencing order is plain error. *State v. Hargrove*, 1st Dist. Hamilton No. C-120321, 2013-Ohio-1860, ¶ 9; *State v. Anderson*, 2d Dist. Montgomery No. 25689, 2014-Ohio-4245, ¶ 59-60; *State v. Dillon*, 6th Dist. Wood No. WD-09-075, 2010-Ohio-200, ¶ 7; *State v. McClellan*, 7th Dist. Mahoning No. 10 MA 181, 2011-Ohio-4557, ¶ 39; *State v. Miller*, 8th Dist. Cuyahoga Nos. 84540 and 84916, 2005-Ohio-1300, ¶ 10; *State v. Santamaria*, 9th Dist. Summit No. 26963, 2014-Ohio-4787, ¶ 10; *State v. Smith*, 10th Dist. Franklin Nos. 10AP-143 and 10AP-144, 2010-Ohio-4744, ¶ 30; *State v. Ott*, 11th Dist. Portage No. 2012-P-0010, 2012-Ohio-4471, ¶ 26; *State v. Stefanopoulos*, 12th Dist. Butler No. CA2011-10-187, 2012-Ohio-4220, ¶ 57.

In this case, Ms. Smith appeared in juvenile court for a detention hearing on DATE 1. At that hearing, Judge Doe ordered Ms. Smith to be detained related to this case. (CITATION TO ORDER OF DETENTION). On DATE 2, Ms. Smith was indicted in the Court of Common Pleas. (CITATION TO INDICTMENT). When Ms. Smith was sentenced, however, the trial court only awarded her 204 days of credit, which was only the amount of time between the indictment and the sentencing date. (CITATION TO SENTENCING ENTRY). Ms. Smith never received credit for her 67 days of confinement on order of the juvenile court before her indictment.

The trial court’s failure to credit Ms. Smith with this time was plain error that denied Ms. Smith the equal protection of the law. This Court should order the trial court to grant Ms. Smith an additional 67 days of jail-time credit, for a total of 307 days.