COURT OF APPEALS
DECISION
DATED AND RELEASED

February 14, 1996

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. *See* § 808.10 and RULE 809.62, STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 95-1061-CR

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT II

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

DAVID R. SEARL,

Defendant-Appellant.

APPEAL from an order of the circuit court for Waukesha County: MARIANNE E. BECKER, Judge. *Affirmed*.

Before Anderson, P.J., Nettesheim and Snyder, JJ.

PER CURIAM. On November 12, 1993, the Walworth County Circuit Court sentenced David R. Searl to prison for possession of marijuana with intent to deliver. On February 24, 1994, the Waukesha County Circuit Court sentenced him to prison for manufacturing a controlled substance. His sentence in the Waukesha County case was ordered to be served concurrently to the Walworth County sentence.

Searl claims that he is entitled to additional credit on the Waukesha County sentence. Specifically, he claims that he should receive credit for the 104-day period between sentencing in the Walworth County case and sentencing in the Waukesha case. He also seeks credit for a 28-day period which previously was credited to his Walworth County sentence. The trial court denied Searl's motion for sentence credit, and Searl appeals pro se. We affirm the trial court's order.

Searl argues that he is entitled to credit for the period between November 12, 1993, and February 24, 1994, because the Waukesha County charges were pending when he was sentenced in Walworth County and arose from the same investigation that led to the Walworth County charges. However, the law is well-established that once a defendant is sentenced on a charge, he or she is in custody solely for that conviction and may not receive credit after that date on another pending charge. ***State v. Beets***, 124 Wis.2d 372, 380-81, 369 N.W.2d 382, 385-86 (1985). This is so because the defendant's custody is not due to his or her failure to make bail on the pending charge, but is attributable solely to the sentence he or she is serving. *See* ***id.*** at 380, 369 N.W.2d at 386.

Searl argues that ***Beets*** is distinguishable because the issue there was whether a defendant who committed a new offense while on probation, leading to revocation and sentencing on the probationary offense, should receive credit on both sentences for time spent in custody between sentencing on the probationary offense and sentencing on the new, unrelated offense. He contends that denying dual credit was proper in ***Beets*** because the offenses were unrelated, but is not proper here because the charges arose from the same investigation and thus, according to Searl, are related.

While we do not agree with Searl's argument, we note that even if his contentions had merit the record would provide no basis for relief here. A defendant is entitled to credit on a particular sentence only when his or her presentence custody resulted from a legal event, process or authority which occasioned or was related to his or her confinement on the charge underlying that sentence. ***State v. Demars***, 119 Wis.2d 19, 25-26, 349 N.W.2d 708, 711-12 (Ct. App. 1984). In this case, the record does not indicate that Searl was confined as a result of any legal proceedings related to the Waukesha County charges between November 12, 1993, and February 24, 1994. Statements made

by the prosecutor at a hearing on a motion to modify sentence in this case indicate that Searl was released on a signature bond by the Waukesha County Circuit Court on May 26, 1993, and that the signature bond remained in effect until Searl was sentenced in Waukesha County on February 24, 1994. This representation is corroborated by the trial court docket entries and is not disputed anywhere else in the record. Consequently, no basis exists to conclude that Searl's incarceration between November 12, 1993, and February 24, 1994, resulted from any legal event, process or authority in the Waukesha County case pending against him.

For similar reasons, we reject Searl's claim that 28 days of custody which were credited to his Walworth County sentence should also have been credited to his Waukesha County sentence. The record does not show when this 28 days of confinement occurred. However, since it appears from the record that Searl was arrested in the Walworth County case on April 8, 1993, the 28 days may have been completely served prior to the filing of charges against Searl in Waukesha County on May 14, 1993. Most importantly, while the trial court docket entries indicate that a warrant was issued for Searl's arrest in the Waukesha County case on May 14, 1993, the record also indicates that the warrant was quashed on May 26, 1993, when Searl appeared voluntarily and executed a signature bond. Because nothing in the record therefore supports a conclusion that Searl was confined as a result of any legal event, process or authority in the Waukesha County case for the 28 days for which credit is sought, the trial court properly denied Searl's motion.

By the Court.—Order affirmed.

This opinion will not be published. *See* RULE 809.23(1)(b)5, STATS.