

**COURT OF APPEALS
DECISION
DATED AND FILED**

March 15, 2000

Cornelia G. Clark
Acting Clerk, Court of Appeals
of Wisconsin

NOTICE

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

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

**Nos. 99-2997-CR
99-2998-CR
99-2999-CR**

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT II**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

v.

JACKIE GREEN,

DEFENDANT-APPELLANT.

APPEAL from an order of the circuit court for Racine County:
DENNIS J. BARRY, Judge. *Affirmed.*

¶1 BROWN, P.J.¹ This is a sentence credit case. Jackie Green claims that he is entitled to forty-one days' sentence credit on an eighteen-month prison

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(f) (1997-98).

sentence. Because Green has not provided us with adequate documentation to support his argument, we affirm the trial court's order denying additional credit.

¶2 Our understanding of Green's argument is that he does not dispute that he was granted credit, but rather disputes that he ever actually received the credit. He informs us that his mandatory release date is "exactly 12 months from his total 18 month sentence." He argues that the date should be earlier because he should have been granted forty-one days of sentence credit. The State responds that Green is attempting to claim double credit, that he is not entitled to forty-one days' credit and that Green "has received all jail credit due to him."

¶3 Our ability to assess the parties' arguments is hindered by the scant record we have been provided. While Green asserts that his mandatory release is "exactly 12 months from his total 18 month sentence," the only document we encountered in the record showing any mandatory release date lists November 1, 1999, as Green's release date. The judgments of conviction we have before us are dated November 6, 1998. So Green's date of conviction is not exactly twelve months from his mandatory release date, as far as we know. The State, in its argument, asserts that Green has received all the credit due him. However, nowhere in the State's brief does it point to how the days were credited, i.e., what actual effect the credit had on Green's confinement. What were his mandatory release dates with and without forty-one days of credit? What were his mandatory release dates with and without however many days of credit the State claims he properly received? Answers to these questions would have made the parties' arguments much more meaningful.

¶4 Here, given the state of the record before us, we affirm the trial court's order denying Green additional sentence credit. That order said: "Based

upon the information and arguments presented at the hearing, the request of the defendant for additional credit is not supported by the record and therefore denied for the reasons indicated on the record.” The appellate record does not contain a transcript of the hearing because Green, in his statement on transcripts, concluded that “[a] transcript is not necessary for the prosecution of this appeal.” Because Green is the appellant, it is his burden to provide this court with an adequate record. *See Fiumefreddo v. McLean*, 174 Wis. 2d 10, 26, 496 N.W.2d 226 (Ct. App. 1993). Given an incomplete record, “we must assume that the missing material supports the trial court’s ruling.” *Id.* at 27.²

By the Court.—Order affirmed.

² In response to an order from this court asking the parties to inform us as to Green’s current status and to address whether this case is now moot, the district attorney wrote that Green was released from prison on November 1, 1999. According to Green’s parole agent, Green was taken into custody for parole violations on November 15, 1999, and is presently enrolled in a work release program. Because we decide the case on other grounds, we need not discuss what effect, if any, a change in sentence credit would have on Green’s current situation. *See Sweet v. Berge*, 113 Wis. 2d 61, 67, 334 N.W.2d 559 (Ct. App. 1983).

This opinion will not be published. *See* WIS. STAT. RULE
809.23(1)(b)4.

