

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**January 24, 2006**

Cornelia G. Clark  
Clerk of Court of Appeals

**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.

**Appeal Nos. 2004AP1167  
2004AP1168**

**Cir. Ct. Nos. 2001CF3876  
2002CF2824**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT I**

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**STATE OF WISCONSIN,**

**PLAINTIFF-RESPONDENT,**

**V.**

**JOVAN D. NORRINGTON,**

**DEFENDANT-APPELLANT.**

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APPEAL from orders of the circuit court for Milwaukee County:  
DAVID A. HANSHER, Judge. *Affirmed.*

Before Wedemeyer, P.J., Curley and Kessler, JJ.

¶1 PER CURIAM. Jovan D. Norrington appeals from that part of a postconviction order partially denying his motion for sentence credit, and from the denial of his subsequent sentence modification motion, which essentially sought

reconsideration from the sentence credit order.<sup>1</sup> The issue is whether Norrington is entitled to equal sentence credit against each of his concurrent sentences. We conclude that he is not entitled to sentence credit against both concurrent sentences because the period of custody for which he seeks credit was connected only to his conduct in one of the two cases. Therefore, we affirm.

¶2 Norrington pled guilty to two unrelated offenses (receiving stolen property and burglary), which were consolidated for sentencing purposes. The trial court imposed two eight-year concurrent sentences, comprised of equal four-year periods of confinement and extended supervision. Norrington sought sentence credit in each case. The trial court granted partial sentence credit for a total of fifteen days in the burglary case and a total of one hundred ten days in the stolen property case.

¶3 Norrington moved for sentence modification, which the trial court construed as seeking reconsideration from that part of the postconviction order that denied him one hundred ten correlative days of sentence credit in the burglary case. The trial court denied the motion. Norrington appeals from both orders, seeking ten days of sentence credit on the stolen property conviction, and one hundred ten days of sentence credit on the burglary conviction.

¶4 Sentence credit entitles a convicted offender to “credit toward the service of his or her sentence for all days spent in custody in connection with the

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<sup>1</sup> Although the trial court entitles its order as partially granting sentence credit, we refer to that same order as partially denying sentence credit, since it is that part of the order from which Norrington appeals.

course of conduct for which sentence was imposed.” WIS. STAT. § 973.155(1)(a) (2001-02).

¶5 Norrington contends that he is entitled to an additional ten days of sentence credit from December 13, 2002 -- the date of his arrest for criminal trespass to a dwelling -- because there was also an outstanding bench warrant for his arrest for failing to appear in court for his stolen property case. However, the trial court found that the bench warrant was not served on Norrington until December 23, 2002. Consequently, Norrington was not “in custody” as a result of the bench warrant until it was served on December 23, 2002.

¶6 Norrington also claims that he is entitled to sentence credit against both sentences because they were imposed concurrently, in reliance on *State v. Ward*, 153 Wis. 2d 743, 452 N.W.2d 158 (Ct. App. 1989). *Ward* does not support Norrington’s position because, although sentence credit was awarded against all three concurrent sentences, Ward was in custody in connection with all three sentences. Here, Norrington was “in custody” for one hundred ten days strictly because of the stolen property sentence; his time in custody was unrelated to the burglary. *See id.* at 745. Moreover, Norrington posted bail in the burglary case, removing any doubt that his time in custody was related to that sentence. *See State v. Beiersdorf*, 208 Wis. 2d 492, 498-99, 561 N.W.2d 749 (Ct. App. 1997).

¶7 Norrington was “in custody” for one hundred ten days beginning December 23, 2002, as a result of being served with a bench warrant in connection with the stolen property case. He had posted bail in the burglary case; he had not posted bail in the stolen property case. His custody during that time had nothing to do with the burglary case, for which only by coincidence, he received a concurrent sentence to that imposed for the stolen property conviction. Thus, we

also affirm the subsequent order denying sentence modification, which was more properly construed as denying reconsideration.

*By the Court.*—Orders affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5 (2003-04).

