

DA 21-0574

IN THE SUPREME COURT OF THE STATE OF MONTANA

2024 MT 58

STATE OF MONTANA,

Plaintiff and Appellee,

v.

MALINDA CRAZYMULE,

Defendant and Appellant.

APPEAL FROM: District Court of the Sixteenth Judicial District,
In and For the County of Rosebud, Cause No. DC-15-6
Honorable Nickolas C. Murnion, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Chad Wright, Appellate Defender, Kristina L. Neal, Assistant
Appellate Defender, Helena, Montana

For Appellee:

Austin Knudsen, Montana Attorney General, Brad Fjeldheim,
Assistant Attorney General

C. Kristine White, Rosebud County Attorney, Forsyth, Montana

Submitted on Briefs: December 13, 2023

Decided: March 19, 2024

Filed:



Clerk

Justice Laurie McKinnon delivered the Opinion of the Court.

¶1 The Sixteenth Judicial District Court, Rosebud County, found Malinda Crazy mule (Crazy mule) violated her probation and entered a judgment on September 23, 2021, revoking her suspended sentence. The District Court ordered a four-year commitment to the Department of Corrections (DOC) and credited Crazy mule 130 days of street time and 21 days of jail time but denied credit for jail time served while Crazy mule was in Northern Cheyenne Tribal custody. Crazy mule appeals the District Court’s denial of credit for time served in tribal custody. We reverse.

¶2 We restate the issue as follows:

Was Crazy mule entitled to credit for time served when her arrest warrant was issued while Crazy mule was in custody for tribal offenses?

FACTUAL AND PROCEDURAL BACKGROUND

¶3 Crazy mule pleaded guilty to felony theft by common scheme and one count of criminal trespass on August 25, 2016. On March 6, 2017, she was sentenced for felony theft to an eight-year commitment to the DOC with four years suspended and 132 days in jail for criminal trespass to run concurrently. She was credited 132 days for time already served. Crazy mule began serving the suspended portion of her sentence on October 24, 2020.

¶4 On March 3, 2021, Bureau of Indian Affairs (“BIA”) tribal officers conducted a search of Crazy mule’s house and found methamphetamine and another adult who was on parole. Crazy mule admitted to the officers that she had used methamphetamine two days earlier. Crazy mule’s two grandchildren were present in the home and were removed and

tested positive for methamphetamine. Crazy mule was arrested by the BIA officers after the search and charged by the Northern Cheyenne Tribe with two counts of endangering the welfare of children and one count of drug abuse. Crazy mule was held in Oklahoma and the Rocky Mountain Regional Detention Facility for the duration of her tribal sentence.

¶5 While Crazy mule was in tribal custody serving her sentence, the State filed a petition to revoke Crazy mule's suspended sentence based on her tribal charges violating the terms of her suspended commitment. The Petition was filed March 18, 2021, and the District Court issued an arrest warrant, also on March 18, 2021. The warrant set bond at \$10,000. In the Petition, Crazy mule's location was listed as the Rocky Mountain Regional Detention Facility.

¶6 The State alleged Crazy mule violated three conditions of her suspended sentence: using and possessing illegal drugs, failing to comply with all laws and timely report an arrest, and knowingly associating with a probationer. An Amended Petition was filed on March 29, 2021, alleging the third violation that Crazy mule was associating with a felon. The Amended Petition included reports and charging documents from the Northern Cheyenne Tribe.

¶7 Crazy mule was transported from Rocky Mountain Regional Detention Facility to the Rosebud County Jail and made her initial appearance for the revocation proceedings on September 13, 2021. On September 3, 2021, at the Rosebud County Jail, she was served with the warrant. She denied the State's allegations. The District Court conducted a contested revocation hearing on September 23, 2021, and found Crazy mule had violated

her suspended sentence. The District Court then sentenced Crazy mule to a four-year commitment to the DOC and reimposed the conditions of her original sentence. Counsel argued Crazy mule was entitled to time served from the date the revocation petition and warrant were filed on March 18, 2021. The probation officer confirmed at the sentencing hearing that Crazy mule was transported directly from tribal custody to the Rosebud County jail. The District Court credited Crazy mule 130 days of elapsed time which began at the start of her suspended sentence and continued until her tribal violation and arrest on March 3, 2021. The District Court credited Crazy mule for time served beginning September 3, 2021, when Crazy mule was served with the revocation warrant. The District Court denied any credit for the time Crazy mule was incarcerated by the Northern Cheyenne Tribe, reasoning she was serving time for different offenses, and that it did not have jurisdiction over Crazy mule for purposes of the revocation proceeding until she was served with the arrest warrant. Crazy mule appeals this decision.

STANDARD OF REVIEW

¶8 We review a lower court’s statutory interpretation as a question of law for correctness. *State v. Johnson*, 2022 MT 216, ¶ 13, 410 Mont. 391, 519 P.3d 804. Calculating credit for time served is not discretionary, but a legal mandate. *State v. Gudmundsen*, 2022 MT 178, ¶ 8, 410 Mont. 67, 517 P.3d 146. A district court’s calculation of credit for time served is reviewed for legality and we exercise de novo review. *State v. Tippets*, 2022 MT 81, ¶ 10, 408 Mont. 249, 509 P.3d 1.

DISCUSSION

¶9 There are three statutes relevant to the resolution of this appeal. Section 46-18-203(7)(b), MCA, which is controlling, provides for time served when a suspended or deferred sentence is revoked:

If a suspended or deferred sentence is revoked, the judge shall consider any elapsed time, consults the records and recollection of the probation and parole officer, and allow all of the elapsed time served without any record or recollection of violations as a credit against the sentence. If the judge determines that elapsed time should not be credited, the judge shall state the reasons for the determination in the order. *Credit must be allowed for time served in a detention center or for home arrest time already served.* (Emphasis added).

“The language of [§ 46-18-203(7)(b), MCA] . . . is not discretionary when it comes to the awarding of credit for time served on a revoked suspended or deferred sentence, as it states that credit must be allowed for time served in a detention center or for home arrest time already served.” *State v. Kortan*, 2022 MT 204, ¶ 21, 410 Mont. 336, 518 P. 3d 1283. Although “sentencing upon the revocation of a suspended or deferred sentence is particularly and expressly governed by § 46-18-203(7)(b), MCA,” *State v. Seals*, 2007 MT 71, 335 Mont. 416, 156 P.3d 15, in like manner § 46-18-403(1), MCA, titled “Credit for Incarceration Prior to Conviction,” provides:

A person incarcerated on a bailable offense against whom a judgment of imprisonment is rendered must be allowed credit for each day of incarceration prior to or after conviction, except the time allowed as a credit may not exceed the term of the prison sentence rendered.

This Court held in *Killam* that “[b]y its plain language § 46-18-403(1), MCA, leaves no discretion to the sentencing court to determine whether a defendant incarcerated on a

bailable offense receives credit for incarceration time prior to or after conviction.” *Killam v. Salmonsens*, 2021 MT 196, ¶ 14, 405 Mont. 143, 492 P.3d 512.

¶10 Finally, § 46-18-201(9), MCA, provides:

When imposing a sentence under this section that includes incarceration in a detention facility or the state prison, . . . the court shall provide credit for time served by the offender before trial or sentencing.

¶11 We have similarly described the language of § 46-18-201(9), MCA, as clear and unambiguous and “makes the determination of credit for time served straight-forward.” *Killam*, ¶ 17. We observed in *Killam* that if a defendant is incarcerated on another matter or within another jurisdiction and an arrest warrant on a different charge is issued, the defendant must receive credit for time served “for the different charge from service of the arrest warrant to sentencing, even if the defendant may also have been incarcerated on another matter.” *Killam*, ¶ 17, n.7.

¶12 The District Court reasoned that it did not have jurisdiction over Crazy mule until September 3, 2021, when the warrant was served. This is incorrect. First, a trial court maintains supervisory control over a defendant during a suspended sentence. *State v. Lange*, 237 Mont. 486, 489, 775 P.2d 213, 215 (1989). Second, the record establishes the District Court issued a warrant on March 18, 2021, pursuant to a revocation petition that was filed with the District Court. Following completion of her tribal sentence, Crazy mule was “transported” to Rosebud County and subsequently executed a Waiver of Extradition. Although Crazy mule herself was not served with the warrant until September 3, 2021, the warrant and accompanying revocation petition nonetheless acted as a detainer; indeed,

Crazymule was not free to leave tribal detention and was instead transported to Rosebud County jail. It is of no consequence that bond was never posted or Crazymule was serving a period of incarceration for a different offense. The event here triggering the District Court's jurisdiction and its reach over Crazymule was issuance of the arrest warrant following the filing of the State's revocation petition with the court.

¶13 Here, the State filed a revocation petition and obtained a warrant while Crazymule was incarcerated. Crazymule could do nothing to move forward on the revocation petition despite the proceeding having commenced. This effectively lengthened Crazymule's sentence by nearly six months. Crazymule's situation is clearly distinguishable from the defendant who, once proceedings have commenced and the warrant remains outstanding, remains free at large.

¶14 The District Court's judgment correctly credited Crazymule for the time she spent in the Rosebud County jail pending the revocation proceedings. However, the District Court did not grant Crazymule credit for time she served in tribal court detention from March 18, 2021 to September 3, 2021, after the issuance of an arrest warrant and the filing of a revocation petition. If a suspended sentence is revoked, the judge must allow credit for "time served in a detention center." Section 46-18-203(7)(b). "Where the statutory language is plain, unambiguous, direct and certain, the statute speaks for itself and there is nothing left for the court to construe." *State v. Running Wolf*, 2020 MT 24, ¶ 15, 398 Mont. 403, 457 P.3d 218. We will not look beyond the plain language of § 46-18-203(7)(b), MCA, which provides that "[c]redit must be allowed for time served in detention" As

credit must be allowed for time served in tribal detention, Crazy mule is entitled to credit from when the revocation warrant was issued and she remained incarcerated in a detention center.¹

CONCLUSION

¶15 The District Court erred when it denied Crazy mule credit for time she was incarcerated in tribal custody following the State’s issuance of an arrest warrant. Credit for time served should have been calculated from March 18, 2021—the date the arrest warrant was issued and Crazy mule was incarcerated under tribal authority.

¶16 Reversed and remanded.

/S/ LAURIE McKINNON

We Concur:

/S/ MIKE McGRATH
/S/ JAMES JEREMIAH SHEA
/S/ BETH BAKER
/S/ INGRID GUSTAFSON

¹ The issue of credit for time served is dispositive. We thus decline to address Crazy mule’s argument regarding elapsed time.