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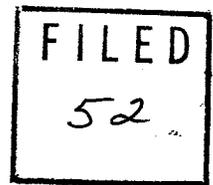
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May 14, 1985

OPINION LETTER NO. 52-85

Lee Roy Black, Ph.D.
Director, Department of Corrections
and Human Resources
2729 Plaza Drive
Jefferson City, Missouri 65101



Dear Mr. Black:

This opinion is in response to your question asking whether a person serving a sentence in the custody of the Division of Adult Institutions who is subsequently charged and convicted on an unrelated offense is to be given jail time credit for time "awaiting trial" on the second offense. We understand that your question does not concern the right to jail time credits for time spent in local facilities, and we do not opine on that issue.

Section 558.031.1, RSMo 1978, states:

1. A person convicted of a crime in this state shall receive as credit toward service of a sentence of imprisonment all time spent by him in prison or jail both because awaiting trial for such crime and pending transfer after conviction to the division of corrections or the place of confinement to which he was sentenced. Time required by law to be credited upon some other sentence shall be applied to that sentence alone, except that

(1) Time spent in jail or prison awaiting trial for an offense because of a detainer for such offense shall be credited toward service of a sentence of imprisonment for that offense even though

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the person was confined awaiting trial
for some unrelated bailable offense; and

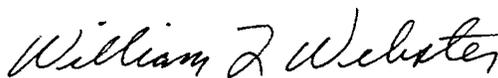
(2) Credit for jail or prison time
shall be applied to each sentence if they
are concurrent. [Emphasis added.]

The general rule is that a prisoner is not entitled to credit for jail time spent on an offense unrelated to the one for which he is convicted and sentenced. Umphenour v. State, 535 S.W.2d 579, 580 (Mo.App. 1976); State ex rel. Blackwell v. Sanders, 615 S.W.2d 467, 468 (Mo.App. 1981).

The statute in question does not contradict the general rule. It refers to "all time spent . . . in prison . . . because awaiting trial for such crime and pending transfer after conviction . . .". (Emphasis added.) If the individual in question is being incarcerated because of a conviction for an unrelated offense, he is not in prison or jail because he is awaiting trial. He may be awaiting trial, but he is also serving a sentence.

Accordingly, we conclude that a person serving a sentence in the custody of the Division of Adult Institutions who is subsequently charged and convicted on an unrelated offense is not to be credited with jail time while awaiting trial on the second offense under Section 558.031, RSMo 1978.

Very truly yours,



WILLIAM L. WEBSTER
Attorney General