

NOTICE
Decision filed 03/27/19. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

NO. 5-17-0054
IN THE
APPELLATE COURT OF ILLINOIS
FIFTH DISTRICT

NOTICE
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Jackson County.
)	
v.)	No. 14-CF-19
)	
BRANDON L. BANKS,)	Honorable
)	Ralph R. Bloodworth III,
Defendant-Appellant.)	Judge, presiding.

JUSTICE CHAPMAN delivered the judgment of the court.
Justices Cates and Barberis concurred in the judgment.

ORDER

¶ 1 The defendant, Brandon L. Banks, appeals his convictions and sentences for first-degree murder, aggravated discharge of a firearm, and unlawful possession of a weapon by a felon. His sole argument on appeal is that he is entitled to additional sentence credit for time spent in presentence custody in another jurisdiction. The State has filed a confession of error. For the following reasons, we amend the mittimus to reflect the additional credit.

¶ 2 Banks was arrested on January 16, 2014, in St. Louis, Missouri, for the murder of Marsha Brown. The following day the State charged him by information with first-degree murder. The information was subsequently superseded by an indictment charging

Banks with six offenses, including first-degree murder. Following a jury trial Banks was found guilty of all charges. At the sentencing hearing the court inquired about the amount of presentence incarceration credit to which Banks would be entitled. The State responded that Banks was entitled to credit from the time he was brought to Jackson County from Missouri, but not for the time he spent incarcerated in Missouri, because he did not waive extradition. The court sentenced Banks to a total of 103 years' imprisonment and awarded him 967 days of presentence incarceration credit, representing the period from April 4, 2014, when Banks first arrived in Jackson County, to the date of sentencing.

¶ 3 On appeal, Banks argues, and the State concedes, that he is entitled to an additional 79 days of presentence incarceration credit for the time he spent in custody in Missouri. We agree.

¶ 4 Section 5-4.5-100(b) of the Unified Code of Corrections (730 ILCS 5/5-4.5-100(b) (West 2016)) provides that an offender shall be given credit for the number of days spent in custody as a result of the offense for which the sentence was imposed. A defendant in custody in another jurisdiction solely on the Illinois offense for which he is sentenced is entitled to credit for time spent in custody in that jurisdiction regardless of whether he waived extradition. See *People v. Elder*, 392 Ill. App. 3d 133, 138 (2009).

¶ 5 In the present case, nothing in the record suggests that Banks was incarcerated in Missouri for any reason other than the murder of Brown. Consequently, he is entitled to sentence credit for the time he was in custody there notwithstanding his failure to waive extradition.

¶ 6 For the foregoing reasons and pursuant to Illinois Supreme Court Rules 23(c)(2) (eff. Jan. 1, 2011) and 615(b) (eff. Jan. 1, 1967), we amend the writ to reflect a total of 1046 days of presentence incarceration credit.

¶ 7 Writ amended.



SUPREME COURT OF ILLINOIS

SUPREME COURT BUILDING
200 East Capitol Avenue
SPRINGFIELD, ILLINOIS 62701-1721

CAROLYN TAFT GROSBOLL
Clerk of the Court
(217) 782-2035
TDD: (217) 524-8132

August 12, 2019

FIRST DISTRICT OFFICE
160 North LaSalle Street, 20th Floor
Chicago, IL 60601-3103
(312) 793-1332
TDD: (312) 793-6185

Brandon L. Banks
Reg. No. Y18127
Menard Correctional Center
P.O. Box 1000
Menard, IL 62259

In re: People v. Banks
M.D.014372

Dear Brandon L. Banks:

This office has timely filed the following:

Motion by Petitioner, pro se for leave to file a late Petition for Leave to Appeal.

You are being permitted to proceed as a poor person.

Your motion will be presented to the Court for its consideration, and you will be advised of the Court's action thereon.

Very truly yours,

Carolyn Taft Gosboll

Clerk of the Supreme Court

cc: Attorney General of Illinois - Criminal Division



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November 26, 2019

In re: People State of Illinois, respondent, v. Brandon L. Banks,
petitioner. Leave to appeal, Appellate Court, Fifth District.
125304

The Supreme Court today DENIED the Petition for Leave to Appeal in the above
entitled cause.

The mandate of this Court will issue to the Appellate Court on 12/31/2019.

Very truly yours,

Carolyn Taft Gosboll

Clerk of the Supreme Court