

IN THE SUPREME COURT OF THE STATE OF DELAWARE

|                    |   |                                  |
|--------------------|---|----------------------------------|
| KENNETH T. DEPUTY, | § |                                  |
|                    | § | No. 583, 2011                    |
| Defendant Below,   | § |                                  |
| Appellant,         | § | Court Below—Superior Court of    |
|                    | § | the State of Delaware in and for |
| v.                 | § | Kent County                      |
|                    | § |                                  |
| STATE OF DELAWARE, | § |                                  |
|                    | § |                                  |
| Plaintiff Below,   | § | Cr. ID No. 9612008864            |
| Appellee.          | § |                                  |

Submitted: November 14, 2011

Decided: January 26, 2012

Before **HOLLAND, BERGER** and **JACOBS**, Justices.

**ORDER**

This 26<sup>th</sup> day of January 2012, upon consideration of the appellant’s opening brief and the appellee’s motion to affirm, it appears to the Court that:

(1) The appellant, Kenneth T. Deputy, was arrested on December 16, 1996 and held in default of bail on charges stemming from an armed robbery (“robbery case”). Deputy was eventually convicted in the robbery case and was sentenced, on December 19, 1997, to a lengthy term of imprisonment ( “robbery sentence”). The record reflects that during a February 27, 1997 case review in the robbery case, Deputy was held in contempt of court and was sentenced to ninety days imprisonment (“contempt sentence”).

(2) On March 28, 2011, Deputy filed a “motion for time previously served” seeking 206 days of credit for time served on the robbery sentence.<sup>1</sup> By order dated October 11, 2011, the Superior Court denied Deputy’s motion.<sup>2</sup> This appeal followed.

(3) On appeal, the State contends that the Department of Correction Offender Status Sheet attached to Deputy’s opening brief “does not support Deputy’s claim that he is entitled to an additional 206 days of credit time from 1997.” Having reviewed the Status Sheet, the Court concludes that the State’s position is correct. It appears that the “missing” credit time is accounted for in the Department of Correction having moved the “start date” of the robbery sentence back to March 8, 1997. Under these circumstances, Deputy has not demonstrated that he is entitled to additional credit for time served.

NOW, THEREFORE, IT IS ORDERED that the motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Jack B. Jacobs  
Justice

---

<sup>1</sup> Deputy contends that he served 368 days from his arrest in December 1996 until his sentencing in December 1997 and was credited with 72 days, *i.e.*, the days served prior to the imposition of the 90 days contempt sentence in February 1997, but that he has not been credited with the time served after his May 1997 completion of the contempt sentence.

<sup>2</sup> The Superior Court provided no explanation for its conclusion that Deputy “was credited properly for time served.”