

NO. 2015-0505

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IN THE SUPREME COURT OF OHIO

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APPEAL FROM  
THE COURT OF APPEALS FOR CUYAHOGA COUNTY, OHIO  
NO. 101161

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In Re: D.S.  
A Minor Child

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**MERIT BRIEF OF APPELLEE**

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## STATEMENT OF THE CASE AND RELEVANT FACTS

The State would direct this Honorable Court to the recitation of facts set forth in Appellant's merit brief.

### LAW AND ARGUMENT

***PROPOSITION OF LAW I: When a juvenile court commits a child to the Department of Youth Services, the court must state in its entry of commitment the total days the child was confined in connection with the offenses on which the order of commitment is based, including time for which the child was held on charges that were dismissed. R.C. 2152.18(B). Fifth and Fourteenth Amendments to the U.S. Constitution; Ohio Constitution, Article I, Section 16.***

The State does not dispute the law and argument set forth by Appellant in his merit brief. It is the State's position that Appellant is entitled to the time he spent in confinement in connection with the offense he admitted to.

This Honorable Court has recognized that the practice of awarding offenders jail-time credit has its roots in the Equal Protection Clauses of Ohio and United States Constitution. As such, "[t]he Equal Protection Clause requires that *all* time spent in any jail prior to trial and commitment by a prisoner who is unable to make bail because of indigency *must* be credited to his sentence." *State v. Fugate*, 117 Ohio St.3d 261, 2008-Ohio-856, 883 N.E.2d 440, ¶ 7.

The General Assembly codified these protections for juveniles at R.C. §2152.18(B). R.C. §2152.18(B) provides that:

When a juvenile court commits a delinquent child to the custody of the department of youth services pursuant to this chapter, the court *shall state in the order of commitment the total number of days that the child has been confined in connection with the delinquent child complaint upon which the order of commitment is based.* The court shall not include days that the child has been under electronic monitoring or house arrest or days that the child has been confined in a halfway house. *The department shall reduce the minimum period of institutionalization that was ordered by both the total number of days that the child has been so confined as stated by the court in the order of commitment and*

the total number of any additional days that the child has been confined subsequent to the order of commitment but prior to the transfer of physical custody of the child to the department. (Emphasis added)

This Honorable Court has recognized that the “primary goal in construing a statute is to ascertain and give effect to the intent of the legislature.” *State v. White*, 142 Ohio St.3d 277, 285, 2015-Ohio-492, 29 N.E.3d 939. When enacting a statute, it is presumed that “[a] just and reasonable result is intended.” R.C. §1.47(C). As such, “statutes will be construed to avoid unreasonable or absurd consequences.” *White*, at 285, citing *State v. Wells*, 91 Ohio St.3d 32, 34, 2001-Ohio-3, 740 N.E.2d 1097 (2001). The Eighth District’s decision in this case leads to an unjust and fundamentally unfair result; a result that occurred in this case.

Appellant was charged in the juvenile court in Case No. DL-13-106887, and he was remanded to the juvenile detention center. Appellant was bound over to the general division to be tried as an adult. Shortly afterwards, the parties came to an agreement where the State would dismiss the case and file a new delinquency complaint in Case No. DL-14-102017, where Appellant agreed to admit to the allegations contained therein. Both the State and Appellant agreed that Appellant would be credited for the time he spent in confinement awaiting trial.

Both parties recognized and agreed that it would be fundamentally unfair to deny Appellant the jail time credit he had earned while awaiting the final disposition in this matter. The juvenile court, over both parties’ objections, refused to grant Appellant his jail time credit for the time he spent in confinement.

In affirming the trial court’s decision, the Eighth District has interpreted R.C. §2152.18(B) so narrowly that juveniles may now lose all the jail-time credit they have earned just because the original complaint is dismissed and a new complaint is filed on the exact same incident. That is exactly what happened here. Such an interpretation of R.C. §2152.18(B)

undermines the protections that jail-time credit statutes are to afford. And as the State recognized at the trial court, it would be fundamentally unfair to a juvenile defendant.

### **CONCLUSION**

The Eighth District's interpretation of the juvenile jail-time credit statute denies juvenile offenders the jail time credit they have earned if the original complaint for which they were confined is dismissed and refiled under a new case number, for the same offense. Such a holding is fundamentally unfair, especially when those earned days were part of a plea agreement, as was the case here. The Eighth District's holding denies juveniles the basic constitutional guarantees of the Equal Protection Clause that R.C. §2152.18(B) is meant to provide. As such, the State would ask this Honorable Court to summarily reverse and remand the Eighth District's decision in this case.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

A copy of the foregoing Merit Brief of Appellee was sent this 1<sup>st</sup> day of February, 2016

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