

**IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

**STATE OF NEW MEXICO**

Court of Appeals of New Mexico

Filed 2/2/2026 11:12 AM

Plaintiff-Appellee,



Mark Reynolds

v.

**No. A-1-CA-42303**

**DARIN MUÑOZ,**

Defendant-Appellant.

**APPEAL FROM THE DISTRICT COURT OF LEA COUNTY**

**Efren A. Cortez, District Court Judge**

Raúl Torrez, Attorney General

Santa Fe, NM

Christa Street, Assistant Solicitor General

Albuquerque, NM

for Appellee

Bennett J. Baur, Chief Public Defender

Maria A. Pomorski, Assistant Appellate Defender

Santa Fe, NM

for Appellant

**MEMORANDUM OPINION**

**MEDINA, Chief Judge.**

{1} Defendant appeals the district court's amended order revoking probation and  
commitment (Amended Order) to the New Mexico Corrections Department  
(NMCD), on the ground that he is entitled to an additional 180 days confinement  
credit for time served at the Lea County Detention Center (LCDC) from May 7, 2018

1 to November 2, 2018. We agree with Defendant and remand for the district court to  
2 resentence accordingly.

### 3 **BACKGROUND**

4 {2} Defendant pled guilty to one count of trafficking methamphetamine by  
5 possession with intent to distribute, contrary to NMSA 1978, Section 30-31-  
6 20(A)(3) (2006). Defendant's conviction, a second degree felony, exposed him to a  
7 nine year sentence. *See* § 30-31-20(B)(1) (identifying a first trafficking offense as a  
8 second degree felony); NMSA 1978, § 31-18-15(A) (2007, amended 2025)  
9 (providing that the basic sentence for a second degree felony is nine years  
10 imprisonment). The district court sentenced Defendant to nine years at LCDC, with  
11 ninety months suspended, and five years of probation. Defendant received 270 days  
12 of preconfinement credit and served the remaining confinement balance of nine  
13 months and four days at LCDC.

14 {3} Upon his release from LCDC, beginning in 2018, Defendant violated the  
15 terms of his probation a number of times. Following revocation of Defendant's  
16 probation on May 7, 2018, the district court imposed "a term of nine (9) years  
17 imprisonment, followed by a two (2) year period of parole." Relevant to this appeal,  
18 the district court suspended all but 180 days of the nine-year sentence and ordered  
19 Defendant to serve this 180-day "sanction" at LCDC, followed by a five-year term

1 of probation.<sup>1</sup> Defendant served 180 days in LCDC from May 7, 2018 to November  
2 2, 2018.

3 {4} On April 8, 2024, the district court again revoked Defendant’s probation. The  
4 district court sentenced Defendant to a term of nine years in the custody of the  
5 NMDC to be followed by a period of parole. The district court awarded Defendant  
6 “four years, eleven months and twenty-one days . . . as set forth in the Confinement  
7 Credit Attachment” but did not award Defendant 180 days of credit for time served  
8 at LCDC from May 7, 2018 to November 2, 2018. The Confinement Credit  
9 Attachment specifically stated that no credit be given for the 180 days served from  
10 May 7, 2018 to November 2, 2018.

## 11 **DISCUSSION**

### 12 **I. Defendant Is Entitled to 180 Days Confinement Credit for Time Served** 13 **at LCDC From May 7, 2018 to November 2, 2018**

14 {5} Defendant argues that he is entitled to the 180 days of confinement credit he  
15 served after his first probation violation and that the denial of this credit  
16 “effectively—and illegally—increased [his sentence] by six months.” The State  
17 responds that “it appears that the 180 days of imprisonment that Defendant served  
18 in 2018 was part of his sentence, [and] he cannot be required to serve that time again

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<sup>1</sup>Defendant’s underlying sentence had subsequently been increased to ten years due to the addition of a habitual offender enhancement. This is not at issue in this appeal.

1 without improperly increasing his sentence.” Thus, the State does not oppose the  
2 relief Defendant seeks on appeal. We review the legality of a sentence de novo. *State*  
3 *v. Williams*, 2006-NMCA-092, ¶ 4, 140 N.M. 194, 141 P.3d 538.

4 {6} We turn to NMSA 1978, Section 31-21-15(B) (1989, amended 2016), which  
5 sets out the sentencing court’s authority upon a defendant’s violation of probation.

6 It reads:

7       The court shall then hold a hearing, which may be informal, on the  
8       violation charged. If the violation is established, the court may continue  
9       the original probation or revoke the probation and either order a new  
10      probation with any condition provided for in [NMSA 1978,] Section 31-  
11      20-5 [(2003, amended 2025)] or [Section] 31-20-6 [(2007)] or require  
12      the probationer to serve the balance of the sentence imposed or any  
13      lesser sentence. If imposition of sentence was deferred, the court may  
14      impose any sentence that might ordinarily have been imposed, but credit  
15      shall be given for time served on probation.

16 In addition, “a court may not increase a valid sentence once a defendant begins  
17 serving that sentence.” *State v. Rapchack*, 2011-NMCA-116, ¶ 16, 150 N.M. 716,  
18 265 P.3d 1289.

19 {7} Defendant began serving his sentence on May 18, 2016. Multiple subsequent  
20 violations of the terms of his probation resulted in various periods of time served at  
21 LCDC, including the May 7, 2018 to November 2, 2018 period at issue here. There  
22 is no dispute that the four years, eleven months, and twenty-one days of confinement  
23 credit awarded in the district court’s Amended Order excluded credit for the 180  
24 days Defendant spent in LCDC from May 7, 2018 to November 2, 2018. As

1 Defendant was confined during this period pursuant to his original sentence, he is  
2 entitled to confinement credit for this time served. *See id.* ¶ 16. To hold otherwise  
3 would increase Defendant's basic sentence beyond the maximum period authorized  
4 by statute. *See* §§ 30-31-20(B)(1), 31-18-15(A), -21-15(B).

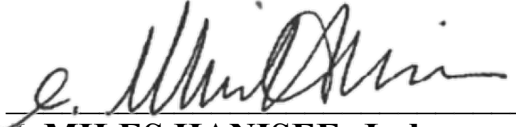
5 **CONCLUSION**

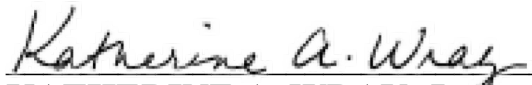
6 {8} We remand for the district court to resentence accordingly and consistent with  
7 this opinion.

8 {9} **IT IS SO ORDERED.**

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10   
JACQUELINE R. MEDINA, Chief Judge

11 **WE CONCUR:**

12   
13 J. MILES HANISEE, Judge

14   
15 KATHERINE A. WRAY, Judge