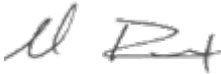


IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

Court of Appeals of New Mexico
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STATE OF NEW MEXICO,

Plaintiff-Appellee



Mark Reynolds

v.

No. A-1-CA-42848

CARLOS TREVON MORRIS,

Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY

Joseph Montaño, 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
Allison H. Jaramillo, Assistant Appellate Defender
Santa Fe, NM

for Appellant

MEMORANDUM OPINION

HOUGHTON, Judge.

{1} The United States and the State of New Mexico separately prosecuted Defendant Carlos Trevon Morris for different crimes arising from the June 2020 killing of Teryn Kurtz (Victim). First, the United States charged Defendant with unlawful possession of a firearm based on Defendant's prior felony and his

1 possession of the firearm he used to shoot Victim. After he was convicted, sentenced,
2 and released from federal prison, the State charged Defendant with the first-degree
3 murder of Victim, as well as tampering with evidence. Defendant pleaded guilty to
4 voluntary manslaughter and tampering, and then asked the district court to credit the
5 time he served in federal prison against his state sentence, pursuant to NMSA 1978,
6 Section 31-20-12 (1977). The district court declined to credit Defendant, finding the
7 statute inapplicable because the State's case did not trigger Defendant's federal
8 confinement. Defendant appeals and we affirm.

9 **BACKGROUND**

10 {2} On June 25, 2020, law enforcement officers—responding to a report of
11 gunfire in Albuquerque, New Mexico—discovered Defendant attempting to load
12 Victim into a vehicle. Law enforcement intervened and discovered Defendant had
13 blood on his clothes, a firearm in his pocket, an open bottle of bleach nearby, and
14 had suffered what appeared to be a gunshot wound to his forearm. Defendant was
15 not immediately arrested, but instead transported to the hospital for medical
16 treatment.

17 {3} Based on the firearm officers discovered, the United States charged Defendant
18 with a single count of felon in possession of a firearm, contrary to 18 U.S.C.
19 § 922(g)(1). Defendant was held in federal custody pending trial. In May 2021,
20 Defendant pleaded guilty to the federal felon-in-possession charge, and was

1 sentenced to forty-six months in prison. Defendant served his term of incarceration
2 and was released on February 8, 2024.

3 {4} On February 29, 2024, the State charged Defendant with one count of first-
4 degree murder and one count of tampering with evidence. The district court issued
5 a bench warrant for Defendant's arrest and ordered Defendant be held without bond
6 pending trial for his state criminal charges. In August 2024, Defendant moved to
7 dismiss the charges, arguing that the State had intentionally delayed filing its
8 indictment until after Defendant had finished serving his federal sentence. The
9 district court denied Defendant's motion to dismiss for preindictment delay,
10 concluding that Defendant failed to establish a violation of his speedy trial rights.

11 {5} In January 2025, Defendant pleaded guilty to one count of voluntary
12 manslaughter with a firearm enhancement and one count of tampering with
13 evidence. Prior to sentencing, Defendant filed a motion requesting that the district
14 court grant Defendant presentence confinement credit for the time that he spent in
15 federal custody—from July 24, 2020, to February 8, 2024—1,294 days. Defendant
16 argued that his federal confinement was related to his state charges because the
17 firearm used was the same in both cases.

18 {6} After a hearing on the motion, the district court denied Defendant's
19 presentence confinement request for his time in federal custody. The district court
20 concluded that "[D]efendant is not entitled to dual presentence confinement credit"

1 because New Mexico’s appellate courts have only applied such credit to “cases,
2 which are related and where there is bond issued or there is some event in which
3 both matters are triggering some kind of incarceration in which presentence
4 confinement credit would apply.” Additionally, the district court reasoned that the
5 relevant case law is distinguishable because “[D]efendant was not released on any
6 kind of bond nor was [D]efendant placed on any conditions of release which would
7 trigger the application of presentence confinement credit.”

8 **DISCUSSION**

9 {7} We review de novo whether Defendant is entitled to presentence confinement
10 credit under Section 31-20-12. *See State v. Eaker*, 2026-NMSC-011, ¶ 13, ___ P.3d
11 ___. Section 31-20-12 states:

12 A person held in official confinement on suspicion or charges of
13 the commission of a felony shall, upon conviction of that or a lesser
14 included offense, be given credit for the period spent in presentence
15 confinement against any sentence finally imposed for that offense.

16 “When a defendant receives consecutive sentences, the general rule is that
17 presentence confinement credit will be granted only once against the aggregate of
18 all the sentences.” *State v. Herrera*, 2024-NMCA-025, ¶ 22, 544 P.3d 260. “This
19 Court recognized an exception to this general rule where, under limited
20 circumstances, a defendant may acquire presentence confinement credit while
21 simultaneously serving a prior sentence.” *Id.*

1 {8} For a defendant to receive credit under this exception—which we refer to as
2 “dual credit”—there must be a sufficient connection between the second case (case
3 two) and the confinement in the first case (case one). *See id.* ¶ 23; *State v. Romero*,
4 2002-NMCA-106, ¶ 11, 132 N.M. 745, 55 P.3d 441, *superseded by constitutional*
5 *amendment as stated in Eaker*, 2026-NMSC-011, ¶ 16. To determine if there is a
6 sufficient connection between the two cases, we apply a three-part test:

7 (1) the defendant was not confined in either case;

8 (2) the charges in case two triggered and caused the confinement
9 in case one; and

10 (3) the defendant was also confined in case two.

11 *Herrera*, 2024-NMCA-025, ¶ 23; *see also State v. Ramzy*, 1982-NMCA-113, ¶ 11,
12 98 N.M. 436, 649 P.2d 504 (establishing the three-part test for dual credit). Our
13 Supreme Court recently confirmed that this three-part test—as clarified by this Court
14 in *Herrera*—controls. *See Eaker*, 2026-NMSC-011, ¶¶ 1-2, 14-16.

15 {9} Defendant argues that there was a sufficient connection between his federal
16 and state confinement to warrant dual credit because both convictions were based,
17 at least partly, on the same underlying factual conduct—Defendant’s possession of
18 a firearm. As such, Defendant contends that he meets our test to qualify for dual
19 credit: Defendant was not confined when the conduct underlying the crimes occurred
20 or when the State filed its charges, and Defendant’s state charges caused Defendant’s

1 federal charges.¹ Defendant acknowledges that he was no longer in federal custody
2 when the State filed its charges and, therefore, he was not “simultaneously serving
3 a prior sentence.” *See Herrera*, 2024-NMCA-025, ¶ 22. Nonetheless, Defendant
4 argues that this fact should not be dispositive because the State intentionally delayed
5 bringing charges until after Defendant had completed his federal sentence. We
6 disagree.

7 {10} For a defendant to qualify for dual presentence confinement credit, there must
8 be a “cause-and-effect relationship” between the two judicial proceedings where
9 case two “triggers and causes” a defendant’s confinement in case one. *See id.* ¶ 27
10 (explaining the required cause-and-effect relationship between two cases); *accord*
11 *Eaker*, 2026-NMSC-011, ¶¶ 15. We find no support for Defendant’s argument that
12 this cause-and-effect relationship exists when both cases are based, at least in part,
13 on the same underlying factual conduct. Instead, dual credit is appropriate only when
14 the filing of *the charges* in case two procedurally causes a defendant’s confinement
15 in case one. *See Herrera*, 2024-NMCA-025, ¶ 27 (explaining that the second prong

¹Defendant notes that the State conceded below that Defendant met these first two factors, and argues that the State cannot argue on appeal that Defendant failed to meet our three-part test in its entirety. Regardless of the State’s inconsistent positions, we are not bound by its concessions. *See State v. Muniz*, 2003-NMSC-021, ¶ 5, 134 N.M. 152, 74 P.3d 86 (stating that appellate courts have a duty to affirm the district court if its decision was correct, despite the state’s concession of an issue at the district court level), *superseded by statute on other grounds as recognized by State v. Jones*, 2010-NMSC-012, ¶ 19, 148 N.M. 1, 229 P.3d 474.

1 of our three-part test “requires a cause-and-effect relationship whereby case two
2 triggers and causes the defendant’s confinement in case one” (internal quotation
3 marks omitted)).

4 {11} Both our Supreme Court and this Court have consistently applied this
5 principle when determining whether a defendant qualifies for dual credit. *See State*
6 *v. Facteau*, 1990-NMSC-040, ¶ 7, 109 N.M. 748, 790 P.2d 1029 (reversing the
7 district court’s grant of dual credit because the defendant was already confined in
8 case one and serving his sentence at the time the state filed charges in case two, and
9 therefore case two “did not trigger incarceration” in case one to warrant presentence
10 confinement); *Herrera*, 2024-NMCA-025, ¶¶ 20, 25, 28 (concluding that the
11 defendant was not entitled to dual credit in case two for the defendant’s sentence in
12 case one because the defendant’s “[c]ase [t]hree triggered confinement in [c]ase
13 [t]wo, and there is no evidence that [c]ase [t]wo had any effect on [c]ase [o]ne at all”
14 even when the defendant pleaded guilty in case one during the pendency of case
15 two); *State v. Ruiz*, 1995-NMCA-093, ¶¶ 1-3, 120 N.M. 420, 902 P.2d 575
16 (affirming the district court’s denial of dual credit because there “was no evidence
17 offered to prove that the fact of [the d]efendant’s incarceration in California was in
18 any way related to or caused by the New Mexico charge” and therefore there was no
19 evidence that the “fact of incarceration . . . was either caused by or related to the
20 charge for which credit was sought”); *Ramzy*, 1982-NMCA-113, ¶ 11 (granting dual

1 credit when the act of filing charges in case two “triggered and caused the revocation
2 of the appeal bond” in case one, causing the defendant’s “incarceration and
3 confinement”).

4 {12} In the present case, there is an insufficient *causal* connection under our three-
5 part test to warrant dual credit. At the time the State filed its charges, Defendant had
6 completed his federal prison sentence and was no longer in federal custody. As such,
7 despite the factual connection between Defendant’s federal and state cases, the filing
8 of charges in case two did not cause Defendant’s confinement in case one. Nor is
9 there any evidence that the filing of charges in case two had any effect on case one
10 whatsoever.

11 {13} Defendant continues to allege that the State intentionally delayed filing
12 charges until after Defendant had completed his federal sentence. The district court
13 found otherwise and Defendant does not challenge that factual finding on appeal.
14 “An unchallenged finding of the trial court is binding on appeal.” *Robey v. Parnell*,
15 2017-NMCA-038, ¶ 22, 392 P.3d 642 (internal quotation marks and citation
16 omitted). And even if the allegation was true, it is immaterial to our analysis under
17 Section 31-20-12.

18 {14} Finally, we decline to expand the “limited” and “narrow” exception of “dual
19 credit,” *see Herrera*, 2024-NMCA-025, ¶¶ 1, 22, to require district courts to grant
20 dual credit whenever two cases relate factually. Defendant’s reliance on out-of-state

1 authorities is of little import when the issue presented in this appeal is answered by
2 binding precedent. *See generally Eaker*, 2026-NMSC-011.

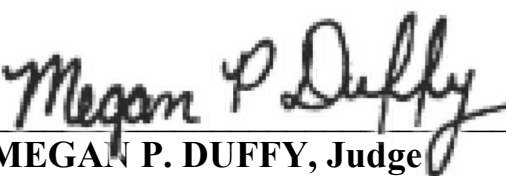
3 **CONCLUSION**

4 {15} We affirm.

5 {16} **IT IS SO ORDERED.**

6
7 
KRISTOPHER N. HOUGHTON, Judge

8 **WE CONCUR:**

9 
10 **MEGAN P. DUFFY, Judge**

11 
12 **ZACHARY A. IVES, Judge**