

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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**COMPLETE STYLE OF THE CASE:**

**HAROLD S. DYKES,**

**Appellant,**

**v.**

**MISSOURI DEPARTMENT OF CORRECTIONS,**

**Respondent.**

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**DOCKET NUMBER WD72641  
MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**Date: November 30, 2010**

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Appeal from:  
Cole County Circuit Court  
The Honorable Richard G. Callahan, Judge

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Appellate Judges:  
Division Three: Alok Ahuja, Presiding Judge, Victor C. Howard and Cynthia L. Martin, Judges

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Attorneys:  
Harold S. Dykes, Cameron, MO, Appellant pro se  
John D. Hoelzer, St. Louis, MO, for respondent.

# MISSOURI APPELLATE COURT OPINION SUMMARY

## COURT OF APPEALS -- WESTERN DISTRICT

**HAROLD S. DYKES**

**Appellant,**

**v.**

**MISSOURI DEPARTMENT OF CORRECTIONS,**

**Respondent.**

WD72641

Cole County

Before Division Three Judges: Alok Ahuja, Presiding Judge, Victor C. Howard and Cynthia L. Martin, Judges

Appellant Harold Dykes committed a stealing offense in the City of St. Louis and a forgery offense in Scott County. Authorities in Scott County arrested him on a forgery charge on or about September 1, 2004. Dykes was held in jail in Scott County, and later in Mississippi County following a change of venue, awaiting trial on the forgery charge. A bond amount was established on the Scott County charge, which would have permitted Dykes's release pending the disposition of that charge.

On May 27, 2005, Dykes pled guilty to the Scott County forgery offense, and was sentenced to eighteen months in prison. Dykes alleges that he was paroled in connection with the forgery charge on August 24, 2005.

On October 30, 2004, while he was awaiting trial for the Scott County forgery offense, St. Louis authorities issued a warrant for Dykes's arrest. Dykes's Petition alleges that the City of St. Louis lodged a detainer for the stealing charge with the authorities holding him on the Scott County forgery offense. Dykes's Petition alleges that he "was paroled to detainer in St. Louis on 8-24-05."

Dykes was later convicted of the St. Louis stealing charge, and was sentenced as a prior and persistent offender to fifteen years' imprisonment. Dykes asked the Department of Corrections (DOC) to give him credit against his sentence on the St. Louis stealing offense for that portion of the time that he was held in custody on the forgery offense during which the detainer for his stealing offense was active, i.e., from October 30, 2004, through August 24, 2005. The DOC denied this request. Dykes then brought this declaratory judgment action seeking time-served credit. The DOC moved for judgment on the pleadings, arguing that Dykes

was not entitled to credit as a matter of law. The circuit court agreed, and granted the Department judgment on the pleadings. Dykes appeals.

**AFFIRMED IN PART, REVERSED IN PART, AND REMANDED.**

**Division Three holds:**

Dykes has stated a claim for time-served credit for the time period from the lodging of the St. Louis detainer on October 30, 2004, through the date of his conviction and sentencing on the Scott County forgery charge on May 27, 2005. Under § 558.031.1, a defendant is entitled to credit for "time in prison, jail or custody after the offense occurred and before the commencement of the sentence, when the time in custody was related to that offense." Under *Wallingford v. Missouri Department of Corrections*, 216 S.W.3d 695 (Mo. App. W.D. 2007), and *Mikel v. McGuire*, 264 S.W.3d 689 (Mo. App. W.D. 2008), time in custody is "related to" a subsequent offense where an inmate is eligible for release on a prior offense, but would not be entitled to release merely by satisfying the conditions imposed in connection with that prior offense; instead, to be released the inmate would also have to satisfy conditions imposed because of the subsequent offense.

Here, the Petition and attached exhibits reflect that a bond had been established for the Scott County forgery charge, meaning that Dykes was eligible for release on that charge while awaiting trial. Further, the Petition alleges that a detainer had been lodged against Dykes by St. Louis authorities during the period for which he seeks credit. Therefore, *even if* Dykes had posted bond on the Scott County forgery charges, he would nevertheless have been held pending disposition on the St. Louis charges. Thus, under the allegations of Dykes' Petition and the attached exhibits, he may be entitled to credit for the period from the lodging of the St. Louis detainer on October 30, 2004, through the date of Dykes's conviction and sentencing on the Scott County charges on May 27, 2005.

Once Dykes was convicted and sentenced on the Scott County charge, however, he was no longer eligible for release on bail on that charge, but was instead serving his prison sentence. Therefore, as of May 27, 2005, Dykes would have been incarcerated on the Scott County charge without regard to the separate St. Louis stealing charge. In these circumstances, the time Dykes spent in custody after May 27, 2005, does not "relate to" the St. Louis stealing charge, and Dykes is not entitled to credit against his St. Louis sentence for that time.

**Opinion by: Alok Ahuja, Judge**

November 30, 2010

**THIS SUMMARY IS UNOFFICIAL AND  
SHOULD NOT BE QUOTED OR CITED.**