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Minn. Stat. § 480A.08, subd. 3 (2012).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A14-0036**

State of Minnesota,
Respondent,

vs.

Elton Lamar Brown, III,
Appellant.

**Filed May 12, 2014
Affirmed
Bjorkman, Judge**

Rice County District Court
File No. 66-CR-06-590

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Paul Beaumaster, Rice County Attorney, Terence Swihart, Assistant County Attorney,
Faribault, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, St. Paul, Minnesota (for
appellant)

Considered and decided by Hooten, Presiding Judge; Ross, Judge; and Bjorkman,
Judge.

UNPUBLISHED OPINION

BJORKMAN, Judge

Appellant challenges the denial of his motion for sentence correction, arguing that he is entitled to have his conditional-release term reduced by the 15 months that remained on his executed sentence when he was placed on supervised release. We affirm.

FACTS

Appellant Elton Lamar Brown III pleaded guilty to third-degree criminal sexual conduct and received a stayed 48-month sentence. Brown violated his probation conditions, and the district court executed his sentence on July 31, 2007. The court also imposed the statutorily required five-year conditional-release term. Brown was released from prison on June 29, 2009, and placed on supervised release. The Minnesota Department of Corrections advised Brown that his supervised-release term was anticipated to end September 25, 2010.

Brown violated the conditions of his supervised release, and was a fugitive for a total of 80 days. The department of corrections revoked his supervised release and returned him to prison for 200 days. Brown was released from prison on April 20, 2010, and the department amended his supervised-release expiration date to December 14, 2010. The department placed Brown on conditional release on December 15, 2010, reduced the five-year term by the 311 days Brown successfully served in the community on supervised release, and advised him that his conditional-release term is anticipated to end March 19, 2015.

Brown moved the district court to correct his sentence, arguing that the department improperly calculated his conditional-release term. The district court denied the motion. The district court granted Brown's motion for reconsideration but again denied the motion. This appeal follows.

D E C I S I O N

The district court may correct a sentence that is unauthorized by law at any time. Minn. R. Crim. P. 27.03, subd. 9. A sentence is unauthorized by law when it does not meet the requirements of the applicable sentencing statute. *State v. Cook*, 617 N.W.2d 417, 419 (Minn. App. 2000), *review denied* (Minn. Nov. 21, 2000). We review de novo the district court's interpretation of a sentencing statute. *State v. Borrego*, 661 N.W.2d 663, 666 (Minn. App. 2003).

When a court sentences a person to prison for third-degree criminal sexual conduct, "the court shall provide that after the person has completed the sentence imposed, the commissioner of corrections shall place the person on conditional release . . . for five years, minus the time the person served on supervised release." Minn. Stat. § 609.109, subd. 7(a) (2004).

Brown argues that the supervised-release term to be subtracted from the conditional-release term under section 609.109 is "a fixed duration bounded by the day the offender is released from prison and the time that he has remaining on his sentence." He contends that his conditional-release term must be reduced by 15 months—the total period he had remaining on his sentence when he was first released from prison,

including the 200 days he later served in prison for violating his release conditions.¹ We disagree.

A conditional-release term is reduced by time “served on supervised release.” *Id.* As we recently explained in *State v. Ward*, time “served on supervised release” includes only time the offender spent in the community under supervision. ___ N.W.2d ___, ___, 2014 WL 1408059, at *3-4 (Minn. App. Apr. 14, 2014). It does not include time spent in prison after the commissioner of corrections “revokes” supervised release and “reimprisons” the offender, as permitted under Minn. Stat. § 244.05, subd. 3 (2004). *Id.* at *4. Accordingly, a conditional-release term is not reduced by time an offender spent in custody following revocation of his supervised release. *Id.*

Brown does not dispute that he actually served only 311 days in the community under the supervision of the commissioner. Because the department accurately reduced his conditional-release term by that number of days, we conclude the district court properly denied Brown’s motion for sentence correction.

Affirmed.

¹ Brown concedes that the department of corrections properly extended the expiration date of his supervised release from September 25, 2010, to December 14, 2010, because his supervised-release time was “stopped” while he was a fugitive.