

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 37649

STATE OF IDAHO,)	2011 Unpublished Opinion No. 653
)	
Plaintiff-Respondent,)	Filed: October 5, 2011
)	
v.)	Stephen W. Kenyon, Clerk
)	
ALAN MICHAEL OLSON,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Second Judicial District, State of Idaho, Latah County. Hon. John R. Stegner, District Judge.

Appeal from judgment of conviction and sentences, dismissed.

Dennis Benjamin of Nevin, Benjamin, McKay & Bartlett, LLP, Boise, Idaho, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Mark W. Olson, Deputy Attorney General, Boise, for respondent.

Before GRATTON, Chief Judge; LANSING, Judge;
and MELANSON, Judge

PER CURIAM

Alan Olson was found guilty by a jury of two felonies and four misdemeanors. Subsequently, the trial court granted Olson’s I.C.R. 29 motion as to one of the misdemeanors. Olson was then sentenced on the remaining charges as follows:

- Count I (Fleeing or Attempting to Elude, a felony): Five years, with six months’ fixed.
- Count II (Battery on a Law Enforcement Officer, a felony): Five years, with six months’ fixed.
- Count III (Battery, a misdemeanor): Four months.
- Count IV (Battery, a misdemeanor): Four months.
- Count V (Dismissed)
- Count VI (Unlawful Entry, a misdemeanor): Four months.

The district court ordered that the sentences run consecutively, resulting in a sentence of ten years' indeterminate, with two years' fixed. The sentences were suspended and Olson was placed on probation for sixteen years, consisting of consecutive periods of five years for each felony and two years for each misdemeanor. The district court ordered 193 days' credit for time served but did not specify that the credit be applied to any particular offense.

Olson appeals contending that the district court should have applied 122 days' (four months) credit for time served toward one of the misdemeanor sentences, fully satisfying that sentence and thus reducing the period of probation to fourteen years. Olson argues that the remaining 71 days should then have been applied toward another one of the misdemeanor sentences, allowing him to reject probation and serve the remaining time on that sentence, and thus reducing his probation by an additional two years. The state asserts that Olson's argument that his sentences are illegal or ambiguous has not been preserved for appeal.

Olson did not seek clarification of the district court's sentences nor did he challenge the sentences by way of an I.C.R. 35 motion or otherwise. He essentially seeks clarification of his sentences by way of this appeal. This he cannot do. As we have previously explained, the appropriate method to obtain clarification of a sentence is to request such clarification from the court that imposed the sentence. *State v. Hoffman*, 137 Idaho 897, 903, 55 P.3d 890, 896 (Ct. App. 2002). Olson has failed to preserve this issue for appeal. Accordingly, this appeal is dismissed.