SIXTH DIVISION
April 22, 2011

No. 1-09-1809

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 07 CR 13414
	)	
KEITH FLORENCE,	)	Honorable
	)	John T. Doody,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE CAHILL delivered the judgment of the court.
Presiding Justice Garcia and Justice R.E. Gordon concurred in the judgment.

O R D E R

***Held*:** Defendant's three-year term of mandatory supervised release imposed as a Class X offender was affirmed. Defendant's mittimus was corrected.

Following a jury trial, defendant Keith Florence was convicted of possession of a controlled substance with intent to deliver and sentenced to seven years' imprisonment as a Class X offender based on his criminal history. On appeal, defendant does not challenge his conviction but contends that his term of mandatory supervised release (MSR) must be reduced and that his mittimus must be amended. We affirm and correct the mittimus.

Defendant first contends that the trial court erred when it imposed a three-year term of MSR because, although he was sentenced as a Class X offender, he was convicted of a Class 1

felony. Therefore, he should serve a two-year term of MSR. Defendant argues that the MSR term is based on the class of felony committed, not the sentencing range imposed. Defendant acknowledges that three districts of the appellate court have rejected the same argument he raises here. See *People v. Watkins*, 387 Ill. App. 3d 764, 766-67 (3d Dist. 2009); *People v. Smart*, 311 Ill. App. 3d 415, 417-18 (4th Dist. 2000); *People v. Anderson*, 272 Ill. App. 3d 537, 541-42 (1st Dist. 1995). He argues that those decisions should not be followed because our supreme court's decision in *People v. Pullen*, 192 Ill. 2d 36 (2000), dictates a different result. In *Pullen*, the court considered the issue of the maximum aggregate length of consecutive sentences a court could impose.

Four recent cases have considered and rejected the argument defendant presents here, finding that *Pullen* does not change our court's previous conclusion as held in *Watkins*, *Smart* and *Anderson*. See *People v. Lampley*, 405 Ill. App. 3d 1, 13-14 (1st Dist. 2010); *People v. Holman*, 402 Ill. App. 3d 645, 652-53 (2d Dist. 2010); *People v. McKinney*, 399 Ill. App. 3d 77, 82-83 (2d Dist. 2010); *People v. Lee*, 397 Ill. App. 3d 1067, 1072-73 (4th Dist. 2010). Defendant urges this court not to follow these cases, claiming they were wrongly decided. We decline to depart from our earlier decisions and find that the three-year term of MSR imposed on defendant as a Class X offender was proper.

Defendant next contends, and the State agrees, that he is entitled to sentencing credit for 733 rather than 732 days served in custody, and that the mittimus should be amended to reflect the correct number. In his opening brief, defendant argued that he was also due a day of credit for the day on which he was sentenced. Defendant withdrew this argument in his reply brief in light of our supreme court's holding in *People v. Williams*, 239 Ill. 2d 503 (2011). Under our authority (Ill. S. Ct. R. 615(b)(1) (eff. Aug. 27, 1999); *People v. McCray*, 273 Ill. App. 3d 396, 403 (1995)), we direct the clerk of the circuit court to amend the mittimus to reflect that defendant is to receive 733 days of credit for time served.

Finally, defendant contends, and the State agrees, that his mittimus should be amended to reflect the correct offense of which he was convicted. The mittimus incorrectly shows that defendant's conviction was for manufacture or delivery of a controlled substance when, in fact, he was convicted of possession of a controlled substance with intent to deliver. Under the above cited authority, we direct the clerk of the circuit court to further amend the mittimus to reflect that defendant was convicted of the offense of possession of a controlled substance with intent to deliver.

We affirm the judgment of the circuit court of Cook County and amend the mittimus. This order is entered in accordance with Supreme Court Rule 23(c)(2) (eff. Jan. 1, 2011).

Affirmed; mittimus amended.