

two prior convictions for driving while her license was suspended or revoked, the dates of those convictions being August 28, 2006, and April 4, 2008. On March 22, 2010, the defendant entered a partially negotiated plea of guilty, and on May 10, 2010, a sentencing hearing was held. At the hearing, the judge commented favorably about the defendant's demeanor at all the matters involving her that he had presided over, and he expressed the opinion that the defendant had "made a change in her life" and that he considered community service to be an appropriate sentence for this defendant. He expressed regret that he did not have the discretion to prevent her from going to jail for 30 days, noting that he wanted her to be able to continue working and taking care of her young children. Nevertheless, the judge concluded that the statute in question, and the case law interpreting it, required him to include a 30-day stint in jail as a part of the defendant's sentence. The defendant timely appealed the circuit court's judgment, and the judge stayed the defendant's jail term during the pendency of this appeal.

ANALYSIS

The first issue raised on appeal by the defendant is whether section 6-303(d-2) of the Illinois Vehicle Code (625 ILCS 5/6-303(d-2) (West 2008)) requires a 30-day term in jail for a defendant in her position. Section 6-303 prohibits individuals from driving while their driver's licenses are suspended or revoked. 625 ILCS 5/6-303 (West 2008). At the time of the defendant's offense, subsection (d-2) stated as follows: "Any person convicted of a third violation of this Section is guilty of a Class 4 felony and must serve a minimum term of imprisonment of 30 days if the revocation or suspension was for a violation" of certain named offenses, including DUI. 625 ILCS 5/6-303(d-2) (West 2008).

The defendant contends that for section 6-303(d-2) to apply, her DUI conviction would have to predate her other two convictions. She also claims that the statute, as interpreted by the circuit judge, constitutes an impermissible double enhancement and that

the court erred in not allowing day-for-day credit on her 30-day sentence. Before addressing these issues, we consider the appropriate standard of review. Each of the contentions raised by the defendant involves statutory construction. Accordingly, our review is *de novo*. *People v. Kennedy*, 372 Ill. App. 3d 306, 308 (2007). When this court undertakes the construction of a statute, our prime consideration is to ascertain and give effect to the intent of the General Assembly. *Kennedy*, 372 Ill. App. 3d at 307. The best evidence of the intent of the General Assembly is found in "the plain language" of the statute in question, and if "the statutory language is clear and unambiguous, its plain meaning will be given effect." *Kennedy*, 372 Ill. App. 3d at 308. When the language of a statute is unambiguous, "it must be enforced as enacted, and a court may not depart from its plain language by reading into it exceptions, limitations, or conditions not expressed by the legislature." *People v. Wright*, 194 Ill. 2d 1, 29 (2000). We note that in *Kennedy*, our colleagues in the Fourth District examined the statutory scheme set forth in section 6-303 and its accompanying subsections, and they concluded that although section 6-303 was "inartfully organized," it was not ambiguous and that, accordingly, "[a]n individual who is convicted of driving while his license is suspended or revoked a third time and the suspension or revocation *was* the result of a violation [of the sections listed in the statute] is guilty of a Class 4 felony and must serve a minimum of 30 days in jail." (Emphasis in original.) 372 Ill. App. 3d at 308-09. We agree with the meticulous analysis rendered in *Kennedy* and decline to depart from it. Accordingly, having found the statute to be unambiguous, we decline to read into it the condition posited by the defendant: that her DUI conviction would have to predate her other two convictions for section 6-303(d-2) to apply. See *People v. Wright*, 194 Ill. 2d 1, 29 (2000) (where the language of a statute unambiguous, "it must be enforced as enacted, and a court may not depart from its plain language by reading into it exceptions, limitations, or conditions not expressed by the legislature").

We next consider the defendant's contention that the statute operates as an impermissible double enhancement. We agree with the State that the defendant's contention is without merit. As the State points out, double enhancement occurs when a judge, while fashioning a sentence, uses a statutory element of an offense as a factor in aggravation to justify a more harsh sentence than might otherwise have been imposed. See, e.g., *People v. Thomas*, 171 Ill. 2d 207, 223-24 (1996). In the case at bar, there were no aggravating factors considered separately by the judge. In fact, it is clear from the record that had he not believed he was required to do so, the judge would not have sentenced the defendant to jail at all, only to community service.

Likewise, there is no merit to the defendant's contention that the judge erred in finding that the defendant was not eligible for day-for-day credit during her 30-day jail stay. In *People ex rel. Birkett v. Jorgensen*, 216 Ill. 2d 358, 363 (2005), the Illinois Supreme Court ruled that the requirement in section 6-303(d-3) that a defendant " 'serve a minimum term of imprisonment of 180 days' " (625 ILCS 5/6-303(d-3) (West 2002)) constitutes a " 'mandatory minimum sentence' " (730 ILCS 130/3 (West 2002)) for which no allowance for good-behavior credit may be given. We believe that the same reasoning applies to the nearly identical language found in section 6-303(d-2). Although the defendant asks us to depart from *Jorgensen*, we are unable to do so. See, e.g., *In re Clifton R.*, 368 Ill. App. 3d 438, 440 (2006) (the appellate court is "bound to follow decisions of the Illinois Supreme Court"). Moreover, the reasoning in *Jorgensen* is sound, and we would not depart from it, even if we were permitted to do so.

CONCLUSION

For the foregoing reasons, we affirm the order of the circuit court.

Affirmed.