

## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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### ATTORNEY FOR APPELLANT

Lisa Diane Manning  
Danville, Indiana

### ATTORNEYS FOR APPELLEE

Theodore E. Rokita  
Attorney General of Indiana

Benjamin J. Shoptaw  
Deputy Attorney General  
Indianapolis, Indiana

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## IN THE COURT OF APPEALS OF INDIANA

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Nicholas Monroe,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

March 17, 2021

Court of Appeals Case No.  
20A-CR-1690

Appeal from the Jefferson Circuit  
Court

The Honorable Donald J. Mote,  
Judge

The Honorable Richard Striegel,  
Jr., Senior Judge

Trial Court Cause Nos.  
39C01-1801-F4-72, 39C01-1712-  
F6-1089

**Altice, Judge.**

## **Case Summary**

After finding that Nicholas Monroe violated the terms of his placement in community corrections, the trial court revoked his placement and ordered him to serve the remainder of his sentence in the Indiana Department of Correction (DOC). The trial court awarded Monroe credit for sixty-four days, which consisted of forty-eight days served from the time of his arrest on the notice of violation until the hearing plus sixteen days of earned credit. On appeal, Monroe argues that the trial court erred in failing to award him credit for time served on home detention prior to his arrest on the notice of violation.

[1] We affirm.

## **Facts & Procedural History**

[2] During the early morning hours of December 1, 2017, officers from the Madison Police Department were dispatched to a storage facility after receiving a report that a car had entered a fenced area. Officers arrived and located Monroe and another individual inside a vehicle. The officers noticed that there were suspicious items inside the car. A search of the car revealed ropes, an anchor, radios, and propane tanks. Monroe was arrested and taken to jail where he was found to be in possession of marijuana. That same day, Monroe was charged with Level 6 felony theft and Class A misdemeanor possession of marijuana under Cause No. 39D01-1712-F6-1089 (F6-1089).

[3] On or about January 21, 2018, officers were dispatched to a motel after a report of a burglary. Surveillance video captured Monroe, who was on pretrial

supervision in F6-1089, leaving his room and entering another room through the window. When Monroe left the other room, he “had an arm full of stuff.” *Appellant’s Appendix Vol. 2* at 15. It was later determined that several items had been taken, including a watch, wallet, VISA card, and a bag containing approximately \$3800 cash. Monroe was located in his motel room and arrested. On January 24, 2018, Monroe was charged with Level 4 felony burglary under Cause No. 39C01-1801-F4-72 (F4-72).

[4] On January 30, 2018, Monroe pled guilty under F6-1089 to Level 6 felony theft and was sentenced to eighteen months in community corrections. On May 9, 2018, the trial court took under advisement Monroe’s guilty plea to Level 4 felony burglary in F4-72 and ordered him to enter the Salvation Army’s Adult Rehabilitation Center (ARC). On January 23, 2019, the trial court accepted Monroe’s guilty plea in F4-72 and sentenced him to six years, suspended with direct commitment to community corrections. The court ordered this sentence to be served consecutive to the sentence in F6-1089. The court determined that Monroe was to be credited for 116 days served and 39 days earned credit, for a total of 155 days.

[5] Monroe remained in ARC until sometime in March 2020. On July 1, 2020, a petition to revoke community corrections placement was filed in F4-72. The petition alleged several violations including numerous instances when Monroe’s whereabouts were unknown because he did not charge his GPS unit, two instances where he deviated from his schedule without permission, failure

to answer the door for a home visit, use of illegal drugs, and failure to pursue follow-up treatment at Centerstone. Monroe was arrested on July 15, 2020.

- [6] On September 1, 2020, the trial court held a hearing on the petition to revoke. At the conclusion of the hearing, the State requested that Monroe's placement be revoked and that he be ordered to serve the remainder of his sentence in F4-72<sup>1</sup> in the DOC. Monroe requested placement back in community corrections with an extended commitment. The trial court sided with the State and revoked Monroe's placement and ordered him to serve the remainder of his sentence in the DOC. Pursuant to Monroe's request, the trial court credited him with sixty-four days of credit time (forty-eight actual days from July 15 through August 31 plus sixteen credit days). Monroe now appeals. Additional facts will be provided as needed.

## **Discussion & Decision**

- [7] Monroe argues that the trial court erred in failing to grant him credit for time served on home detention. Ind. Code § 35-38-2.6-6(b) provides that "[a] person confined on home detention in a community corrections program receives one (1) day of accrued time for each day the person is confined on home detention, plus any earned good time credit." Because credit time is a matter of statutory

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<sup>1</sup> The court calculated the remainder of his sentence to be five years and seven months.

right, trial courts do not have discretion in awarding or denying such credit.

*James v. State*, 872 N.E.2d 669, 671 (Ind. Ct. App. 2007).

[8] On appeal, Monroe asserts that he began serving his sentence in F4-72 when he was sentenced on January 23, 2019, and that he remained on home detention until his arrest on July 15, 2020. Monroe thus claims that he should have received credit for 539 days (from January 23, 2019 to July 15, 2020) he spent on home detention, plus 135 days as good time credit.

[9] We begin by noting that it is the appellant's burden to show that the trial court erred. *Harding v. State*, 27 N.E.3d 330, 332 (Ind. Ct. App. 2015) (citing *Gardner v. State*, 678 N.E.2d 398, 401 (Ind. Ct. App. 1997)). Here, Monroe simply asserts that he began serving his sentence in F4-72 on January 23, 2019. Monroe, however, failed to show when he completed serving his sentence in F6-1089.

[10] As noted herein, the trial court ordered the sentence in F4-72 to be served consecutive to the sentence in F6-1089.<sup>2</sup> The record indicates that Monroe was sentenced in F6-1089 in January 2018 and began serving his sentence. In May 2018, the trial court released Monroe from community corrections and ordered

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<sup>2</sup> In his brief, Monroe states that the trial court “mistakenly” ran the sentence in F4-72 consecutive to the sentence in F6-1089 as such was “contrary to the plea agreement.” *Appellant's Brief* at 7. First, we note that the plea agreement is not in the record before us. Second, we note that Monroe committed the crime in F4-72 while on pre-trial supervision in F6-1089. Thus, it was mandatory that the sentence in F4-72 be consecutive to the sentence in F6-1089. See Ind. Code § 35-50-1-2(e) (stating that if, after being arrested for one crime, the person commits another crime while on pre-trial release, “the terms of imprisonment shall be served consecutively”).

him to report to ARC. Monroe was still participating in the ARC program when sentenced in F4-72 in January 2019. Monroe remained in ARC until March 2020, at which time he was released back to home detention. Other than his bare assertion, Monroe has not demonstrated that he had completed his sentence under F6-1089 and began serving his sentence in F4-72 when sentenced on January 23, 2019. Finally, we note that at the sentencing hearing in F4-72, Monroe requested that he be credited with only sixty-four days, accounting for the time spent in jail from his arrest on the violation and the revocation hearing. Monroe did not request that he be awarded 539 days credit plus good time credit. In short, we conclude that Monroe has not met his burden of establishing that the trial court erred in its award of credit time.

[11] Judgment affirmed.

Vaidik, J. and Mathias, J., concur.