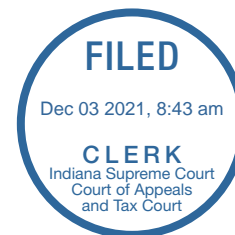


## MEMORANDUM DECISION

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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## IN THE COURT OF APPEALS OF INDIANA

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William Anthony Brown,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff*

December 3, 2021

Court of Appeals Case No.  
20A-CR-2312

Appeal from the Howard Superior  
Court

The Honorable William C.  
Menges, Judge

Trial Court Cause No.  
34D01-1711-F2-1300

**Bailey, Judge.**

## Case Summary

- [1] William A. Brown (“Brown”) challenges the calculation of credit time following the revocation of his placement on in-home detention. At bottom, Brown seeks credit time for an approximately three-month period between (1) when the State filed a notice of non-compliance that led to the court issuing an arrest warrant and (2) when Brown was later arrested. During this period, Brown could not be tracked because he had not charged his ankle monitor.
- [2] Because Brown has not directed us to any evidence indicating that he was confined during the period at issue, we affirm the calculation of credit time.

## Facts and Procedural History

- [3] In January 2020, Brown was directly placed on in-home detention after he violated the conditions of his previous placement on probation. In May 2020, the State filed a notice alleging that Brown had violated the conditions of his direct placement by failing to comply with certain requirements pertaining to drug screens. The trial court signed an arrest warrant on May 12, 2020, and Brown was arrested on August 4, 2020. The court later held a fact-finding hearing at which the State presented evidence that Brown had not complied with requirements regarding drug screens. The court found that Brown violated the conditions of his placement and scheduled a hearing as to a consequence.
- [4] Prior to the next hearing, the probation department filed a memorandum wherein it noted that, “upon learning a non-compliance was filed against him

on May 12, 2020, [Brown] allowed his [tracking] bracelet to die thus hampering . . . the ability to track him.” Memorandum at 2.<sup>1</sup> At the hearing, Brown had the opportunity to present evidence and offer corrections to the memorandum. Although Brown offered a correction regarding his criminal history, he did not offer a correction or present evidence regarding any confinement after the State filed the notice of non-compliance. The trial court looked to the content of the memorandum when selecting a consequence for the violation, observing that Brown’s response to the State’s notice of non-compliance was to “let his bracelet go dead and run.” Supp. Tr. at 10.

[5] The trial court ultimately revoked Brown’s placement on in-home detention and ordered Brown to serve the balance of his sentence in the Indiana Department of Correction (the “DOC”). In calculating credit time, the trial court awarded Brown credit time associated with (1) the period he was on in-home detention prior to the State filing the notice of non-compliance and (2) the period after his arrest when he was incarcerated and awaiting disposition of the allegations against him. The trial court did not award Brown credit time associated with the period between May 12, 2020 (when the trial court issued the arrest warrant) and August 4, 2020 (when Brown was eventually arrested).

[6] Brown now appeals.

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<sup>1</sup> Although this document was not transmitted on appeal, we located the document in the Odyssey case-management system. See Ind. Appellate Rule 27 (stating that the appellate record “consist[s] of the Clerk’s Record and all proceedings” before the trial court, “whether or not transcribed or transmitted” to this Court).

## Discussion and Decision

[7] Brown does not challenge the decision to revoke his placement on in-home detention and order that the remainder of his sentence be served in the DOC. Rather, he challenges the calculation of credit time. At bottom, Brown claims that he is entitled to credit time for the period during which he evaded arrest.<sup>2</sup>

[8] Generally, “[b]ecause credit time is a matter of statutory right, trial courts do not have discretion in awarding or denying such credit.” *Harding v. State*, 27 N.E.3d 330, 331-32 (Ind. Ct. App. 2015). As to credit time, 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.” Ind. Code § 35-38-2.6-6(b); *see also Purcell v. State*, 721 N.E.2d 220, 222-24 (Ind. 1999). In general, accrued time means “the amount of time that a person is imprisoned or confined.” I.C. § 35-50-6-0.5(1). Moreover, although “[h]ome detention is confinement and entitles the [person] to accrued time,” *Hickman v. State*, 81 N.E.3d 1083, 1086 (Ind. Ct. App. 2017),

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<sup>2</sup> At one point, Brown asserts that the trial court did not award credit time for the time he spent on in-home detention prior to absconding. However, the record reflects that the trial court awarded credit time for that period. That is, the court stated that Brown previously had a balance of 1,269 days to be served on probation. After Brown violated the conditions of probation, he was given 37 days of credit time and ordered to serve the balance of his sentence, 1,232 days, on in-home detention. As to in-home detention, the court noted that Brown was on in-home detention from January 29 “through and including” May 12, 2020, which resulted in 139 days of credit time. Tr. Vol. 2 at 10. The court determined that, after applying those days, the balance of the sentence was 1,093 days. The court then awarded 149 days of credit time for the time Brown “spent in the Howard County Jail awaiting disposition” of the recent allegations. *Id.* Although the appealed order does not directly refer to the earlier 139 days, the order accounts for that time when indicating that the balance was 1,093 days less the 149 days attributable to the recent incarceration. *See* Appealed Order at 1.

there is “no credit time for evasion,” *Harding*, 27 N.E.3d at 332. Therefore, a person is not entitled to accrued time when “apparently evading arrest.” *Id.*

- [9] The appellant bears the burden of demonstrating reversible error. *E.g. id.* Below, Brown declined to refute the characterization of his conduct during the three-month period when there was an open arrest warrant, ultimately failing to present any evidence indicating that he was confined during the period at issue.
- [10] Because Brown has directed us to no evidence indicating that he was confined during the challenged period, we conclude that Brown has failed to meet his burden of demonstrating that the trial court erred in calculating credit time. *See, e.g., Gardner v. State*, 678 N.E.2d 398, 401-02 (Ind. Ct. App. 1997) (noting that, where there was “no evidence” that the appellant was confined during the challenged period, the appellant had not shown his entitlement to credit time).
- [11] Affirmed.

Crone, J., and Pyle, J. concur.