MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Charles Lee Johnson, Jr.,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

September 26, 2023

Court of Appeals Case No. 22A-CR-2414

Appeal from the Lake Superior Court

The Honorable Gina L. Jones, Judge

Trial Court Cause No. 45G03-1907-F4-91

Memorandum Decision by Senior Judge Baker
Judges May and Brown concur.

Baker, Senior Judge.

Statement of the Case

[1] Facing twenty-four-year sentencing exposure, Charles Lee Johnson, Jr. pleaded guilty to two counts of Level 4 felony child molesting, involving two young relatives, in exchange for a five-year cap on each sentence and agreement that the sentences would be concurrent. Johnson contends on appeal that despite the explicit provision of his plea agreement—"any Defendant on Pretrial GPS or SCRAM Monitoring will not receive credit days toward their sentence" — the trial court failed to apply the version of the statute allowing credit time for persons on pretrial home detention. Appellant's App. Conf. Vol. Two, pp. 77, 91. We conclude that the only statutory provision pertinent here is Indiana Code section 35-35-3-3(e) (2017), which provides, "If the court accepts a plea agreement, it shall be bound by its terms[,]" and affirm the trial court.

Facts and Procedural History

[2] While two counts of Level 4 felony child molesting against him were pending, Johnson was incarcerated in the county jail for 337 days, following which he was released on pretrial home detention, where he remained for 781 days before he was sentenced.

[3] Johnson was released to pretrial home detention on June 25, 2020. At that time Indiana Code sections 35-50-6-3.1(f) (2016) and 35-50-6-4(i) (2016) provided that a person released to pretrial home detention "earns one (1) day of good time credit for every four (4) days the person serves on pretrial home detention

awaiting trial." And in *Thompson v. State*, a panel of this Court interpreted Section 3.1 to mean that it carried "unmistakable implications" that "a person placed on pretrial home detention earns accrued time [credit for actual days confined] . . . and that the trial court has no discretion to deny it." 120 N.E.3d 1066, 1070 (Ind. Ct. App. 2019) (disapproving *Purcell v. State*, 721 N.E.2d 220 (Ind. 1999)). Six days later, the General Assembly's amendment to Section 3.1, clarifying that "a person . . . does not earn accrued time for time served on pretrial home detention awaiting trial[]" took effect. Indiana Code § 35-50-6-3.1(f) (2020).[1]

[4] Johnson pleaded guilty as charged pursuant to a plea agreement, and on August 15, 2022, he was sentenced to five years on each count, to be served concurrently on probation and with GPS monitoring. In addition to time served in jail and good time credit, the court initially granted Johnson accrued time for the 781 days he spent on pretrial home detention. However, on its own motion and after a hearing, the court corrected its credit time calculation, removing the 781 accrued days, because it found that this Court's interpretation of Section 3.1 and the General Assembly's response by amending Section 3.1 were remedial in nature.

[5] Johnson now appeals contending that the trial court erred by not applying the version of the statute in effect at the time of his sentencing.

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[1] The subsequent 2022 amendment to the statute is not relevant to our discussion here.

Discussion and Decision

[6] The plea agreement negotiated by Johnson and the State is in the nature of a contract. *See Moss v. State*, 6 N.E.3d 958, 962 (Ind. Ct. App. 2014) ("[A] plea agreement is a contract between the State and a defendant."), *trans. denied*. "[A]nd the trial court's role with respect to their agreement is described by statute: 'If the court accepts a plea agreement, it shall be bound by its terms.'" *Pannarale v. State*, 638 N.E.2d 1247, 1248 (Ind. 1994) (quoting Ind. Code §35-35-3-3(e)). "Once it has accepted the plea agreement, the sentencing court possesses only that degree of discretion provided in the plea agreement with regard to imposing an initial sentence or altering it later." *Id.* Moreover, "[a]bsent due process concerns to the contrary, when a defendant explicitly agrees to a particular sentence or a specific method of imposition of sentences, whether or not the sentence or method is authorized by the law, he cannot later appeal such sentence on the ground that it is illegal." *Crider v. State*, 984 N.E.2d 618, 625 (Ind. 2013).

[7] Here, Johnson's plea agreement contained provision 6. M. —"any Defendant on Pretrial GPS or SCRAM Monitoring will not receive credit days toward their sentence[.]" Appellant's App. Conf. Vol. Two, pp. 77, 91. Johnson was released to house arrest and was permitted to participate in the ICU GPS program at his expense and to be placed on Pretrial Release Services in the court's orders for monitored conditional release. *Id.* at 6, 51, 59. And Johnson does not contest that he knowingly, intelligently, and voluntarily entered into

the plea agreement. Consequently, we conclude that the trial court did not err in its credit time calculation.[2]

Conclusion

[8] In light of the foregoing, we affirm the trial court's decision.

[9] Affirmed.

May, J., and Brown, J., concur.

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[2] We need not discuss Johnson's argument regarding his right to be free from ex post facto laws.