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**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM BEAUFORT COUNTY  
Court of General Sessions  
The Honorable Brooks P. Goldsmith, Circuit Court Judge

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Appellate Case No. 2023-000164

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THE STATE,

Respondent,

v.

MALIK DEON WHITE,

Appellant.

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**INITIAL BRIEF OF RESPONDENT**

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## STATEMENT OF ISSUES ON APPEAL

- I. S.C. Code §24-13-40 provides a trial court "must" give credit for time "served" prior to trial and sentencing and "may" give credit for time spent under monitored house arrest. The trial court gave White credit for time served while incarcerated before sentencing, but declined to give him credit for time spent under electronic monitoring. Did the trial court abuse its discretion?

## STATEMENT OF THE CASE

A Beaufort County grand jury indicted Appellant Malik White for attempted armed robbery, murder, and kidnapping. (December 16, 2022 Tr.p.4). He pled guilty pursuant to a proffer agreement with the State on September 12, 2022, before the Honorable Brian M. Gibbons, Circuit Court Judge. (September 12, 2022 Transcript). Sentencing was deferred until after the resolution of his co-defendant's case. White testified at his co-defendant's trial. On December 16, 2022, a sentencing hearing was convened before the Honorable Brooks Goldsmith. At this hearing, the State dismissed the kidnapping and murder indictments, as well as unrelated indictments for driving offenses. (December 16, 2022 Tr.p.4). The State requested a 20-year sentence. (December 16, 2022 Tr.p.4–5). White requested credit for time served on electronic monitoring before trial. (December 16, 2022 Tr.p.6). Judge Goldsmith sentenced White to 15 years' incarceration, but did not give him credit for 159 days spent on electronic monitoring. (December 16, 2022 Tr.p.22). White filed a motion for reconsideration of his sentence, which was denied. (January 18, 2023 Tr.p.23). This direct appeal follows.

## STANDARD OF REVIEW

In criminal cases, the appellate court sits to review errors of law only. State v. Jacobs, 393 S.C. 584, 586, 713 S.E.2d 621, 622 (2011). A sentence will not be overturned absent an abuse of discretion when the ruling is based on an error of law. Id.

## ARGUMENT

**The trial court acted within its discretion when it declined to give White credit for time spent on electronic monitoring prior to his plea.**

The trial court acted within its discretion when it declined to give White credit for time spent on electronic monitoring prior to his plea. This Court should affirm.

The South Carolina Code provides: "In every case in computing the time served by a prisoner, full credit against the sentence must be given for time served prior to trial and sentencing, and may be given for any time spent under monitored house arrest." S.C. Code Ann. § 24-13-40 (emphasis added). The statute, by its terms, gives trial courts the discretion to give—or not to give— credit for time spent on monitored house arrest prior to trial. See State v. Allen, 370 S.C. 88, 94, 634 S.E.2d 653, 655 (2006) (explaining statute providing court "may" revoke probation vested court with discretion). The trial court did not err by declining to give White credit for time spent on electronic monitoring, as this decision was within the court's discretion.

The court noted that White was not on "one hundred percent house arrest," as he apparently "could go to work and other places." (January 18, 2023 Tr.p.20). White also apparently violated the terms of his bond while on supervised release, causing his bond to be revoked. (December 16, 2022 Tr.p.6). The record supports the trial court's decision ruling declining to give White credit for time spent on

electronic monitoring, which was within the court's discretion. This Court should affirm.

CONCLUSION

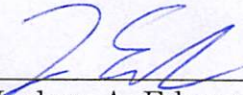
For all the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

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