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SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

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

Appellate Case No. 2023-000164

THE STATE,

Respondent,

v.

MALIK DEON WHITE,

Appellant.

FINAL 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. (R.p.23). He pled guilty pursuant to a proffer agreement with the State on September 12, 2022, before the Honorable Brian M. Gibbons, Circuit Court Judge. (R.pp.1-19). 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. (R.p.23). The State requested a 20-year sentence. (R.pp.23–24). White requested credit for time served on electronic monitoring before trial. (R.p.25). Judge Goldsmith sentenced White to 15 years' incarceration but did not give him credit for 159 days spent on electronic monitoring. (R.p.41). White filed a motion for reconsideration of his sentence, which was denied. (R.p.66). 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." (R.p.63). White also apparently violated the terms of his bond while on supervised release, causing his bond to be revoked. (R.p.25). 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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CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR, and the April 15, 2014, order from the South Carolina Supreme Court entitled “Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings.”

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