

The Marion Superior Court revoked Michael Adams's ("Adams") executed placement in home detention and ordered him to serve the two years of his original sentence that were previously suspended to supervised probation. Adams appeals and argues that the trial court did not accurately calculate his credit for time served. Concluding that Adams should have received 73 days credit for time served on home detention through community corrections, we reverse and remand this case to the trial court with instructions to correct Adams's sentence.

Facts and Procedural History

On November 1, 2006, Adams pleaded guilty to Class C felony operating a motor vehicle after his license was forfeited for life. Adams was ordered to serve five years, with three years executed and two years suspended to probation. With regard to his executed time, Adams was ordered to serve one year in the Department of Correction and two years on home detention monitored by Hoch Correctional Consultants and Services ("HOCCS"). Also, as a condition of his two-year supervised probation, the court ordered Adams to serve home detention. Appellant's App. p. 37.

After serving the one-year executed term at the Department of Correction, Adams began serving the two-year term of home detention monitored by HOCCS on February 27, 2007. On May 10, 2007, 73 days later, Adams cut his electronic monitoring bracelet off and left Marion County. On May 14, 2007, the State filed a notice of violation of the community corrections home detention program concerning the May 10 incident. This was the second notice filed alleging that Adams violated the conditions of his home detention placement. On March 8, 2007, the State alleged that Adams violated the

conditions of his community corrections placement by being absent from his residence without authorization and testing positive for cocaine. On May 14, 2007, the trial court issued a warrant for Adam's arrest.

Adams was eventually arrested on July 1, 2009. He admitted to the violations and his failure to comply with the conditions of his community corrections placement. On July 17, 2009, the trial court terminated Adams's placement in home detention and ordered him to serve three years executed in the Department of Correction. At a hearing held on July, 21, 2009, to correct Adams's sentence, the trial court ordered him to serve the previously suspended two-year sentence in the Department of Correction. Adams was given 111 days credit for time served at the Marion County Jail and 37 days credit for time served in home detention through HOCCS. Adams now appeals.

Discussion and Decision

Adams does not challenge the revocation of his placement in home detention or the sentence imposed as a result of the revocation. Adams only argues that the trial court erred when it improperly calculated Adam's credit time for the time he served on home detention through HOCCS. Specifically, Adams argues that he served 73 days of actual time on home detention, and the trial court erred when it awarded him only 37 days of credit for that time served.

At the hearing to correct Adams's sentence, the court stated that Adams had served 73 actual days on home detention through HOCCS. Tr. p. 33. The court then stated: "And the way we calculate that in this Court is we decide [sic] that 73 days by two, So we round that up to 37 days." Tr. p. 34. The State essentially concedes that

Adams should receive credit for the 73 days of actual time served on home detention. See Appellee’s Br. at 6 (“Thus, it may be that the trial court acted improperly, and Adams should receive thirty-six more days for the actual time spent on home detention.”)

We agree that Adams should have received credit for all 73 days he served on home detention through his community corrections placement. Indiana Code section 35-38-2.5-5 (2004) provides that “[a] person confined on home detention as a condition of probation earns credit for time served.”¹ See also Martin v. State, 774 N.E.2d 43, 44 (Ind. 2002) (acknowledging the 2001 amendments to sections 35-38-2-3 and 35-38-2.5-5 that provide that “a person earns credit for time served on home detention as a condition of probation”); Purcell v. State, 721 N.E.2d 220, 223-24 (Ind. 1999) (concluding that the defendant was entitled to credit toward his three-year sentence for the 690 days he served in home detention through a community corrections program).

Adams also claims the trial court “failed to recommend the appropriate good time credit to be awarded.” Appellant’s Br. at 10. However, as the State correctly observes, Indiana Code section 35-38-2.6-6(a) (2004) provides that a person placed in a community corrections program is entitled to earn good time credit under Indiana Code chapter 35-50-6 “unless the person is placed in the person’s home.” We agree with the State that Adams is not entitled to good time credit for the time he served on home detention.

¹ We acknowledge that section 35-38-2.5-5 applies to persons serving home detention *as a condition of probation*, and in this case, Adams was serving home detention in a community corrections program. However, Indiana Code section 35-38-2.6-4.5 (2004) provides that “[i]f a court places a person on home detention as a part of a community corrections program, the placement must comply with IC 35-38-2.5” Therefore, the “credit for time served” provision in section 35-38-2.5-5 also applies to persons serving home detention through community corrections under chapter 35-38-2.6. It would be nonsensical to award credit for time served to persons serving home detention as a condition of probation, but not award credit for time served to persons serving the same placement through community corrections.

Conclusion

The trial court erred when it awarded Adams credit for only half the days he served on home detention through community corrections. We reverse and remand this case to the trial court with instructions to correct Adams's sentence to award him credit for the 73 days he served in home detention through HOCCS.

Reversed and remanded for proceedings consistent with this opinion.

BARNES, J., and BROWN, J., concur.