

**IN THE COURT OF APPEALS OF IOWA**

No. 3-345 / 12-0612  
Filed June 26, 2013

**STATE OF IOWA,**  
Plaintiff-Appellee,

**vs.**

**DANIEL JOSEPH SCHOOLEY,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Mahaska County, Lucy J. Gamon,  
Judge.

An inmate appeals the denial of his challenges to the Iowa Department of  
Corrections's calculations of his tentative discharge date. **AFFIRMED.**

Jeffrey A. Smith, Oskaloosa, for appellant.

Thomas J. Miller, Attorney General, William A. Hill, Assistant Attorney  
General, and Rose Anne Mefford, County Attorney, for appellee.

Considered by Vogel, P.J., and Vaitheswaran and Bower, JJ.

**VAITHESWARAN, J.**

An inmate appeals the denial of his challenges to the Iowa Department of Corrections's calculations of his tentative discharge date.

***I. Background Facts and Proceedings***

The State charged Daniel Schooley with manufacturing more than five grams of methamphetamine. Schooley spent approximately three months on supervised pretrial release.<sup>1</sup> At that point, his pretrial release was revoked, a warrant was issued, and he turned himself in and pled guilty to manufacturing less than five grams of methamphetamine.

The district court sentenced Schooley to a prison term not exceeding ten years, suspended the sentence, and placed him on probation for three years. The court later revoked his probation and imposed the original sentence of imprisonment.

Schooley filed motions contesting his tentative discharge date. The district court denied the motions, and this appeal followed.

On appeal, Schooley contends the department (A) should have given him credit for time spent on supervised pretrial release and (B) erred in applying his earned-time credit. Our review is on error. *State v. Allensworth*, 823 N.W.2d 411, 413 (Iowa 2012).

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<sup>1</sup> Schooley asserts he spent ninety-two days on pretrial release, while the State argues the period was eighty-eight days. The actual number of days is not material to our disposition of the appeal.

## **II. Analysis**

### **A. Pretrial Release Credit**

Schooley contends he should have been afforded a pretrial-release credit. He cites Iowa Code sections 903A.5 (2007) and 907.3(3), and *Anderson v. State*, 801 N.W.2d 1 (Iowa 2011), to support his argument. None of those authorities support his position. Section 903A.5(1) affords a credit for time served prior to imposition of sentence if “confined to a county jail or other correctional or mental facility.” Pretrial supervised release is not mentioned. Section 907.3(3)<sup>2</sup> authorized a credit where a court “[b]y record entry at the time of or after sentencing,” “suspend[ed] the sentence and place[d] the defendant on probation,” and the probation was subsequently revoked. Again, this provision made no mention of a credit for time spent on supervised pretrial release.

We are left with *Anderson*. There, the court had to decide whether an inmate was entitled to sentencing credit for time spent living at home under electronic monitoring and supervision. *Anderson*, 801 N.W.2d at 2. Interpreting section 903A.5(1), the court concluded

Anderson’s electronic monitoring and home supervision does not make him an “inmate . . . confined to a county jail or other correctional or mental facility” within the meaning of section 903A.5(1). . . . Anderson’s home is not a “jail or other correctional facility.” Section 903A.5(1) does not entitle Anderson to sentencing credit for time spent under home supervision and electronic monitoring.

*Anderson*, 801 N.W.2d at 4. As for section 907.3(3), the court concluded that “[t]he plain language” of this provision “entitle[d] Anderson to sentencing credit for

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<sup>2</sup> The legislature amended the statute effective in May 2012. The State does not contend the 2012 amendment applies to this appeal.

the period of time he was committed to the [department of correctional services] for electronic monitoring and home supervision.” *Id.* at 9.

Schooley contends the court’s interpretation of section 907.3(3) supports his request for a supervised-pretrial-release credit. We disagree. Anderson’s electronic monitoring and home supervision was part of his probation and commitment to the department of correctional services. The legislature expressly authorized a credit for that type of commitment. See Iowa Code § 907.3(3) (referring to “commitment of the defendant to the judicial district department of correctional services for supervision or services . . . at the level of sanctions which the district department determines to be appropriate”). The legislature did not provide a similar credit for supervised pretrial release.

We conclude the district court did not err in denying Schooley credit for time served on supervised pretrial release.

### ***B. Earned-Time Credit***

Iowa Code section 903A.2 authorizes “earned-time” credit against an inmate’s sentence. Schooley contends the department incorrectly computed his tentative discharge date by first reducing his sentence by a credit for time served, and only then applying the earned-time credit. He argues the order for applying the credits should be reversed. In his view, “the correct method of computing the number of days to be served is by first deducting the good time credit from the ten year sentence and then deducting the credit for time served.” He focuses on

a probation credit of 619 days and asserts this credit was inappropriately deducted from his ten-year sentence before applying the earned-time credit.<sup>3</sup>

The Iowa Supreme Court addressed this issue in *State v. Allensworth*, 823 N.W.2d 411, 414–15 (Iowa 2012). Like Schooley, Allensworth argued that “the earned-time credit under section 903A.2 should be applied first to reduce his full sentence, then the credits for jail time under section 903A.5(1) and time spent on probation under section 907.3(3) are to be applied to offset the remaining sentence.” *Allensworth*, 823 N.W.2d at 414. The court stated that Allensworth’s argument, if accepted, would allow him earned-time credit for time spent on probation. *Id.* The court found this argument inconsistent with the plain language of section 903A.2, which the court stated “limits eligibility for earned time to ‘inmate[s] committed to the custody of the director of the department of corrections.’” *Id.* (quoting Iowa Code § 903A.2). Based on *Allensworth*, we conclude the district court did not err in denying Schooley’s motion to apply his earned-time credit before his probation credit.

We affirm the denial of Schooley’s motions relating to his tentative discharge date.

**AFFIRMED.**

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<sup>3</sup> He also asserts that if he is entitled to a pretrial-release credit that credit should be applied before the earned-time credit. Because we have found no entitlement to the pretrial-release credit, we need not address this argument.