

**COURT OF APPEALS
DECISION
DATED AND FILED**

July 13, 2000

Cornelia G. Clark
Clerk, Court of Appeals
of Wisconsin

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Nos. 98-3160-CR

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

ERIC T. ALSTON,

DEFENDANT-APPELLANT.

APPEAL from an order of the circuit court for Dane County:
STEVEN D. EBERT, Judge. *Reversed and cause remanded.*

Before Dykman, P.J., Vergeront and Deininger, JJ.

¶1 PER CURIAM. Eric Alston appeals from an order on sentence credit. The issue is whether Alston should have received credit for time served under supervision within the division of intensive sanctions. We conclude that he is entitled to the credit, and therefore reverse for entry of a modified order on sentence credit.

¶2 Alston received probation on felony and misdemeanor convictions in 1994. While on probation, as an alternative to revocation, he was placed on electronic monitoring within the division of intensive sanctions between July 1996 and July 1997. He was sentenced after revocation to an eighteen-month prison term, in March 1998. The trial court denied sentence credit for the twelve months spent in intensive sanctions.

¶3 *State v. Magnuson*, 2000 WI 19, 233 Wis. 2d 40, 606 N.W.2d 536, resolves this appeal. In *Magnuson*, the supreme court held that an offender is in custody and entitled to sentence credit for any time when the offender is subject to prosecution for escape. *Id.* at ¶25. Offenders who abscond from the intensive sanctions program are subject to escape prosecutions. *See id.* at ¶29; WIS. STAT. § 301.048(5) (1997-98).

By the Court.—Order reversed and cause remanded.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5 (1997-98).

