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**Dec 28 2023**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Lexington County

Honorable Walton J. McLeod, IV, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

MATHIA LAMONT CHAMBERS,

APPELLANT

APPELLATE CASE NO. 2022-000689

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INITIAL BRIEF OF APPELLANT

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**STATEMENT OF ISSUE ON APPEAL**

The circuit court judge erred in denying appellant's sentencing reconsideration motion requesting credit for his time served while on house arrest and under GPS ankle monitoring because the same can be granted per S.C. Code Ann. §24-13-40.

## STATEMENT OF THE CASE

Appellant Mathia Lamont Chambers pled guilty to voluntary manslaughter on March 16, 2022, at the Lexington County General Sessions Court before Judge Walton J. McCleod, Junior. A sentencing hearing was held on April 8, 2022, at the Lexington County General Sessions Court before Judge McCleod. Appellant was sentenced to thirty-years imprisonment. Assistant Solicitor Suzanne Mayes prosecuted appellant and appeared at all proceedings held in the case. Ola Johnson, Esquire, represented appellant on behalf of the defense.<sup>1</sup>

Appellant appealed his conviction and sentence. This brief follows.

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<sup>1</sup> Inasmuch as some taped recordings in the case were unavailable, a hearing was held on September 21, 2023, to reconstruct appellant's guilty plea proceeding.

## STANDARD OF REVIEW

A sentence will not be overturned absent an abuse of discretion when the ruling is based on an error of law or a factual conclusion without evidentiary support. In re M.B.H., 387 S.C. 323, 326, 692 S.E.2d 541, 542 (2010). In criminal cases, the appellate court sits to review errors of law only. State v. Vick, 384 S.C. 189, 197, 682 S.E.2d 275, 279 (Ct. App. 2009) (quoting State v. Wilson, 345 S.C. 1, 5-6, 545 S.E.2d 827, 829 (2001)). The appellate court is “bound by the trial court’s factual findings unless they are clearly erroneous.” Id. (quoting Wilson, 345 S.C. at 5-6, 545 S.E.2d at 829). The reviewing court “does not re-evaluate the facts based on its own view of the preponderance of the evidence but simply determines whether the trial court’s ruling is supported by any evidence.” State v. Slocumb, 412 S.C. 88, 91, 770 S.E.2d 436, 438 (Ct. App. 2015).

## ARGUMENT

The circuit court judge erred in denying appellant's sentencing reconsideration motion requesting credit for his time served while on house arrest and under GPS ankle monitoring because the same can be granted per S.C. Code Ann. §24-13-40.

Appellant was charged in connection with an incident involving a fatal shooting of one Brian Rogers that happened near an apartment complex in Lexington County, South Carolina.

During the sentencing hearing held in the case, defense counsel requested that appellant's sentence include credit for his service of 680 days gained while held in jail prior to adjudication, and an additional 737 days which he amassed while serving time on house arrest and GPS ankle monitoring surveillance. Sentencing Tr. p. 30, 1.14-p. 31, 1.8. The state opposed appellant's request for time served credit accrued during his term of house arrest and GPS ankle monitoring. The circuit court judge denied appellant's request for time served credit accumulated while under house arrest and GPS ankle monitoring observation. Appellant received credit only for his pre-adjudication detention jail time served.

Subsequently, defense counsel filed a sentencing reconsideration motion requesting credit for the time appellant served during his house arrest and GPS ankle monitoring in the case. (See Motion). The state filed a memorandum opposing appellant's sentencing reconsideration motion. (See Memorandum). The plea judge denied appellant's sentencing reconsideration motion per Order signed on May 11, 2022, which was followed by an Amended Order signed on May 17, 2022. (See Orders)

S.C. Code Ann § 24-13-40 reads as follows:

In every case in computing the time served by a prisoner, full credit against the sentence shall be given for time served prior to trial and sentencing. *Provided, however,* that credit for time served prior to trial and sentencing shall not be given: (1) when the prisoner at the

time he was imprisoned prior to trial was an escapee from another penal institution; or (2) when the prisoner is serving a sentence for one offense and is awaiting trial and sentence for a second offense in which case he shall no receive credit for time served prior to trial in reduction of his sentence for the second offense.

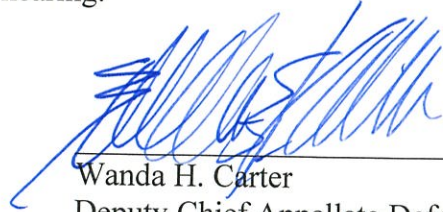
In State v. Higgins, 357 S.C. 382, 593 S.E.2d 180 (Ct. App. 2004), the Court held that time served credit under §24-13-40 could only be given to inmates serving time in a penal institution and not on home detention. However, on June 7, 2013, S.C. Code Ann. §24-13-40, was amended to read as follows:

The computation of the time served...must be calculated from the date of the imposition of the sentence.....[and] 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.

Consequently, S.C. Code Ann. §24-13-40 as amended meant that Higgins was no longer controlling on the issue of whether to bestow time served credit for defendants on home detention. Ambiguity or doubts relative to a sentence should be resolved in favor of the accused. State v. DeAngelis, 257 S.C. 44, 183 S.E.2d 906 (1971). For example, in DeAngelis, the Court held that when sentences are vague and indefinite, then the terms will run concurrently. Compare by analogy State v. Boggs, 388 S.C. 314, 696 S.E.2d 597 (2010), where the Court held in effect that the requirement regarding served credit under 24-13-40 is mandatory and must be followed by a trial judge. In the case at bar, the circuit court judge erred in denying appellant's sentencing reconsideration motion requesting credit for time served gathered while under house arrest and GPS ankle monitoring.

**CONCLUSION**

Based on the foregoing argument, counsel for appellant would request that this Court remand this case for a new sentencing hearing.



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This 28<sup>th</sup> day of December, 2023