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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from York County

Honorable William A. McKinnon, Circuit Court Judge

THE STATE,

RESPONDENT

V.

JUSTIN RAY MEDFORD,

APPELLANT

APPELLATE CASE NO. 2024-000525

INITIAL BRIEF OF APPELLANT

WANDA H. CARTER
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STATEMENT OF ISSUE ON APPEAL

The plea judge erred in denying appellant's request to receive time served credit at his sentencing hearing held in the case.

STATEMENT OF THE CASE

Appellant Justin Medford pled guilty to trafficking in fentanyl (4 to 14 grams), first offense, possession with intent to distribute fentanyl within close proximity of a park or school, resisting arrest (S.C. Code Ann. § 16-9-320 (B), and failure to stop for a blue light during the March 2024 term of the York County General Sessions Court before Judge William A. McKinnon. Appellant was sentenced to imprisonment for an aggregate fifteen-year term. Attorney Melissa Rogers represented appellant at the plea proceeding, and Assistant Solicitor William Anderson prosecuted the case. Appellant appealed his convictions and sentences. This brief follows.

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 plea judge erred in denying appellant's request to receive time served credit at his sentencing hearing held in the case.

At appellant's sentencing hearing, defense counsel asked for time served credit totaling 192 days to be given to appellant as this covered his time served credit since his "original arrest" date on the two cases. Tr. 12, l. 24 – p. 13, l. 18. The solicitor objected to appellant's time served credit request on the assumption that "the legislature intended time serve[d] credit not to be given when a defendant is out on bond and commits a subsequent crime." Tr. 12 lines 4-22.

In the case at bar, police attempted to initiate a traffic stop (defective headlight) of a vehicle driven by appellant in York County on May 24, 2023, but appellant failed to yield after blue lights were activated. Ultimately, when the chase ended, a police search of his vehicle resulted in the discovery of fentanyl on the floor of the driver's side therein. Tr. 8, l. 14 – p. 9, l.7. Then, on September 11, 2023, appellant was found at inside a room at an Extended Stay Hotel in Rock Hill per a report that he (appellant) was unresponsive, and a struggle with police ensued at the scene. Tr. 9, l. 8 – p. 10, l. 5.

Appellant's case included two arrests; however, the time served credit statute does not prohibit credit in cases where a subsequent arrest occurs. The time served credit statute is silent regarding such a matter.

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 (and went into effect on July 25, 2013) 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, whether a defendant has served time prior to sentencing while in jail or while on house arrest, time served credit should be granted under S.C. Code Ann. § 24-13-40. Therefore, the plea judge erred in failing to grant time served credit to appellant despite the existence of his subsequent arrest. 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).

The plea judge erred in denying appellant's request for time served credit in the case.

CONCLUSION

Based on the foregoing argument, counsel for appellant would request that this Court remand the case for a new sentencing hearing regarding the matter of appellant's time served credit request.

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Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 15th day of July, 2024.