

RECEIVED

SEP 03 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeal

APPEAL FROM ADMINISTRATIVE COURT

Honorable Judge Milton G. Kimpson

CASE #2024-001181

Willie Young 285487

Appellant

v.

SCDC

Respondent

INITIAL BRIEF OF APPELLANT.

Willie Young
1057 revolutionary trail
FairFax sc 29827

TABLE OF CONTENTS

TABLE OF AUTHORITIES:

Al-Shabazz v. State	338 s.c.354	pg.2
Hayes v. State	413 s.c.553	pg.3
S.C.code	§24-13-40	pg.2
Paschal v. State Election Comm'n	317 s.c.434	pg.4
Crooks v. State	326 s.c.171	pg.4
Tant v. South Carolina Dept. Corrections	408 s.c.334	pg.4
14TH		pg.4
In Re Winship	397 u.s.358	pg.4
Allen v. State	339 s.c.393	pg.4
24B C.J.S. Criminal Law		pg.5
State v. Dozier; Ex. rel. Bleecher v. Rundle,	207 Pa.	
Super. 443,217 A.2d		pg.5
STATEMENT OF ISSUES ON APPEAL		pg.1
FACTS OF THE CASE		pg.1
ARGUMENT		pg.2
CONCLUSION		pg.5
PROOF OF SERVICE		pg.6

REC'D W/VT

44-111-1001

ISSUE ON APPEAL

I. Did the respondent error in denying appellant his jail credit while being held out of state in pretrial detention, when sentencing court directed they would be given in accordance with state statute ?

FACTS OF THE CASE

On May 11, 2001 the orangeburg county sheriff's office issued a warrant for the appellant for the offense of Armed Robbery. On June 18, 2001 in Winnebago county, Illinois appellant was arrested for the fugitive warrant issued by the orangeburg county sheriffs department. Upon arrest in illinois for the warrant issued in south carolina a detainer-hold was placed on appellant. Simultaneously, when appellant was arrested for the warrant issued by south carolina he was also arrested for a illinos misdemeanor offense ; criminal trespass to a vehicle. Appellant on july 30, 2001 entered a plea of guilt for the offense in which he was given a conditional discharge and time served. With his sentence completed july 30, 2001 in illinos, the respondent on september 12, 2001 extradited appellant back to the physical custody of south carolina. On june 28, 2002 after a jury trial appellant was sentenced to thirty (30) years and directed he should be given all his jail credits. Appellant filed a grievance january 5, 2023 requesting his jail credits be given as he was arrested june 18, 2001 for the state of south carolina and was being denied eighty-six days (86). RESPONDENT denied this grievance stating appellant was serving time for another offense. This appeal follows.

STANDARD OF REVIEW

The Administration Procedure Act establishes the standard of review in appeals from the ALC. S.C. code ann. 1-23-610(b) An appeallate court may reverse or modify a decision if the ALC's finding's or conclusions are; a) IN VIOLATION OF CONSTITUTIONAL OR STATUTORY PROVISIONS b) in excess of the statutory authority of the agency, c) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record, (D) affected by other error of law, (E) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

ARGUMENT

I. The respondent erred when it denied the appellant his jail credits while he was being held in illinois on a south carolina detainer.

Appellant submits to this court that the denial of these jail credits implicate a denial of a constitutional liberty interest which is a denial of due process. Al-Shabazz v. State 338 s.c.354

As noted in respondents order on R.O.A. pg. 4 , s.c. code 24-13-40 states; inmates generally may receive credit for time served while incarcerated prior to trial or sentence, provide however that credit for time served prior to trial and sentencing shall not be given if 1) the prisoner at the time he was imprisoned prior to trial was a escapee from another penal institution and 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 not receive credit for time served prior to trial in a reduction of his sentnce for the second offense.

It is based on this misinterpretation or " intended prejudicial conduct " by respondent of the facts in this case that makes it's ruling error!

The respondent notes that its record shows appellant was arrested in winnebago county, illinois june 18, 2001 for criminal trespass to a vehicle. R.O.A. pg. 2 It is accorded to the same record, a document ' hand generated ' by the respondent, which provides the appellants arrest date in winnebago county, illinois and the offense, that the respondent is basing its denial , though the same record notes the appellant was waiting extradition to south carolina which implied the appellant had a detainer for south carolina! R.O.A. pg. 10

Though no evidence was presented, respondents record then creates a presumption that appellant was released after june 18, 2001 and rearrested and imprisoned for the offense of armed robbery which is error.

For clarity, the orangeburg county sheriffs office issued an arrest warrant for appellant for the offenses; pointing and presenting a firearm and armed robbery may 11, 2001. R.O.A pg. 11

These warrants under general criminal provisions and procedures were entered in the natinal crime base!

Appellant submits on june 18,2001 upon his arrest in winnebago county,illinois for criminal trespass to a vehicle he was also arrested for a fugitive warrant issued for the state of south carolina.

The bases on which the respondent denied the appellant his jail credits was a record handwritten and proffered by the respondent.

Appellant submits that the same record respondent deduced its evidence to deny appellant his jail credit, required the out of state offense, its warrant number and date of , and reason for release! All the required information was not provided to perfect a sufficient record, as can be seen by the lack of information in that record! R.O.A. pg. 10

As noted in respondents order, the appellant was arrested june 18,2001 for an offense in winnebago county, illinois. The only record of evidence that provides the respondent this information is the exact record wherein which the date of arrested is stated as well as evidence that the appellant was ' awaiting extradition ' to orangeburg, s.c., a record that was handwritten. R.O.A. pg. 10

The respondents record on which it based its ruling states clearly the appellant was serving time for a criminal trespass " until extradited to orangeburg county " which is noted in the last section on that document, which shows either/or confusion , and contradicts its ruling appellant was arrested and imprisoned in orangeburg county September 12,2001! R.O.A. pg 10

Appellant directs the courts attention to respondents ruling wherein it clearly denied and prejudiced the appellant stating, ' the record does not reflect appellant was arrested on the south carolina charge june 18,2001' on the second to last line on record on appeal page 2, when its record did make clear he was extradited to south carolina after his june 18,2001 arrest! R.O.A. pg. 10

The warrant issued by orangeburg county sheriffs office created a automatic detainer on appellant upon arrest, which record shows was june 18,2001 in winnebago county, illionois. The appellant submits evidence from winnebago county, illinois that he was arrested june 18,2001, at which time a ' hold-detainer ' was placed on him for the state of south carolina which " constructively " placed appellant in south carolina jurisdiction..... therefore requiring appellant to receive his jail credits while awaiting trial! S.C. code ann§ 24-13-40

The requirement that a prisoner receive credit for time served is mandatory. Hayes v. State 413 s.c. 553

When the terms of a statute are clear, the court must apply these terms according to their literal meaning only. Paschal v State Election Comm'n 317 s.c. 434 (1995)

Only the trial court has the authority to set or alter the commencement of a sentence. Crooks v. State 326 s.c.171

The sentencing order specified that the appellant is to receive all jail time credits; therefore respondent was in error to deny sentencing court directive when its own record noted appellant was arrested June 18, 2001 in Winnebago County, Illinois after warrant # G731577, G731578 was issued, as its record states appellant was 'awaiting extradition' in the top portion of that document. R.O.A.pg. 8: R.O.A pg. 2: R.O.A pg. 10

The respondent was confined to the sentencing court order and was not at liberty to undermine the sentencing court, as its own record noted appellant was arrested June 18, 2001 and that he was [redacted] extradited to Orangeburg, S.C. ! Tant v. South Carolina Dept. of Corrections 408 s.c. 334

Appellant submits to this court the respondent's contention that he was serving time in Illinois when the detainer for South Carolina was placed on him is prejudicial and erroneous. The record shows he was arrested for criminal trespass June 18, 2001 and at that point he had only been 'charged' with the offense, and under due process of law he was innocent until proven guilty of the offense in Illinois! 14TH USCA : In re Winship 397 U.S. 358 While the record also shows the appellant was arrested and awaiting extradition to Orangeburg S.C. June 18, 2001, on the top section of the record! R.O.A.pg. 10: R.O.A pg. 9

With the detainer for warrant #G731577-78 executed at that time the pretrial jail credits should have been given! Allen v, State 339 s.c.393

Appellant provided the respondent with a certified copy of the Winnebago County sentencing order which notes that appellant, though charged June 18, 2001 with the criminal trespass offense was not sentenced until July 30, 2001! R.O.A.pg. 9

THE sentencing order dated July 30, 2001 stated appellant was sentenced to 150 days in the Winnebago County jail but given 43 days for time served! R.O.A.pg. 9 Appellant submits that forty-three days back from July 30, 2001 matches the date of arrest June 18, 2001.

The order states appellant is being held on a 'out of state hold for South Carolina'. The appellant therefore had completed the sentence requirements for Winnebago County July 30, 2001, and was then 'still' on hold for the respondent until his extradition forty-three days later September 12, 2001, when he was then in the physical custody of the state which record makes clear by the respondent! R.O.A.pg. 9

Appellant contends these records do not support the respondents ruling as evidence shows appellant was not sentenced for any offense until july 30,2001 and that the " out of state " hold for south carolina was in effect since arrest june 18,2001!
R.O.A.pg. 9

The question presented to this court by appellant, that the respondent has answered by denying appellant jail credits is a violation of a state provision, which is a violation of a constitutional liberty interest for due process, based on either a prejudicial intent or an unsubstantiated record!.....is should he be given his jail credit for this state (south carolina) while in another jurisdiction, when appellant was both charged for an illinois offense and detained for south carolina on june 18,2001, though he was not sentenced for the illinois offense until july 30,2001 which is 43 days later, and then after completion of that sentence was still on hold for additional 43 days until extradition to south carolina! R.O.A.pg. 9 : R.O.A. pg. 2 The answer presented to the above question is legally answered by the general rule; The right to credit under the noted statute also included time spent in another jurisdiction, preliminary to being sent back for trial for offense he is subsequently tried. 24B C.J.S. Criminal Law; State v. Dozier; Ex. rel. Bleecher v Rundle, 207 Pa. Super. 443, 217 A.2d

CONCLUSION

Because appellant was not serving a sentence for any offense when arrested june 18,2001 in winnebago county, illinois wherein he was only at that time charged with an offense that he was not sentenced for until july 30,2001 he should be given his jail credit of 86 days towards his current sentence as record shows he was arrested june 18,2001 for state of south carolina warrant in winnebago county, illinois where a detainer was placed on him. Appellant asks of this court under both state law and constitutional guarantees that he be granted his jail credits, reversing the order of the respondent to actualize the trial courts order that appellant be given his jail credit.

DATE 8/24/24

/s/ Willie Young

PROOF OF SERVICE

I WILLIE YOUNG have served the above on sc court of appeals
pob 11629 columbia sc 29211; scdc pob 21787 columbia sc 29221;
sc administrative law court 1205 pendleton st. suite 224 columbia
sc 29201

Date 8/22/24

/s/ Willie Young

RECEIVED
SEP 03 2024
SC Court of Appeals

Willie Young 285487
ACI 1057 Revolutionary
Trail
Fairfax S.C. 29027



S.C. Court of Appeal
Pob 11629
Columbia S.C. 29211

RECEIVED
SEP 03 2024
SC Court of Appeals

