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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Newberry County

Honorable Frank R. Addy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TERRANCE CHRISTOPHER DUKQUAN ABRAMS,

APPELLANT

APPELLATE CASE NO. 2024-001821

INITIAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

The plea judge erred in denying time served credit to appellant that was accrued during his house arrest on the ground that he was re-arrested and charged on a separate offense during that time period because there was no adjudication on the same prior to the plea proceeding.

STATEMENT OF THE CASE

Appellant Terrance Abrams pled guilty to voluntary manslaughter and cruelty to children during the March 2024 term of the Newberry County General Sessions Court before Judge Frank R. Addy, Jr., who sentenced him to imprisonment for a period of eighteen years on the manslaughter conviction and thirty days on the cruelty to children conviction. Attorney Ernest Deon O'Neil represented appellant at the guilty plea proceeding, and Assistant Solicitor Taylor W. Daniel prosecuted the case.

Appellant appealed his convictions and sentences. This brief follows.

STANDARD OF REVIEW

In criminal cases, the appellate court sits to review error of law only. State v. Nesbitt, 411 S.C. 194, 768 S.E.2d 67 (2015), quoting State v. Jacob, 393 S.C. 584, 713 S.E.2d 621 (2011).

ARGUMENT

The plea judge erred in denying time served credit to appellant that was accrued during his house arrest on the ground that he was re-arrested and charged on a separate offense during that time period because there was no adjudication on the same prior to the plea proceeding.

The facts of the case were presented to the plea judge at the guilty plea proceeding. A shooting incident occurred on September 26, 2020, near Holloway Street in Newberry County during which time one local resident was struck by gunfire as she sat inside her parked vehicle eating ice cream. Appellant was the driver of one vehicle that contained two individuals therein who fired gunshots into that area. Tr. 9, l.13 - p. 13, l.18.

The issue of time served credit

Solicitor: Judge, as far as pretrial credit, Judge, it looks like Mr. Abrams was able to post \$100,000 surety bond on the murder charge. So—and that was posted—he was arrested on September 28th, 2020, posted bond according to the Clerks' records, on March 10th, 2021. That's 163 days credit. Judge, then Mr. Abrams was rearrested on that unrelated case involving his four-year-old child, the unlawful conduct case, and he was in pretrial confinement beginning on December 7th, 2021, until today, Judge. So, if you add—that's 833 days, plus the 163. Judge, the State sees fit that he only be given credit for 996 days, but I know Mr. O'Neil has a different position that,

Court: So, it's the 833 from when he was rearrested on the incident involving his son. You said December 7th, '21 to today, that's 833 plus the 163 pretrial, is that—did I get those numbers right?

Mr. Daniel: Yes, sir, 163 plus 833 equals 996.

Tr. 25, l.12-p. 26, l.8

Defense Counsel: Your Honor. Your Honor, I wanted to ask the Court to consider when it comes to the time credit, to give my client credit for 1,269 days. He—he bonded out, but when bonded out he was on house arrest and ankle monitor and I think this Court actually put him on house arrest and ankle monitor for that period of time and other than the fact that basically of the neglect as it

relate to the firearm, the warrant to the other charge, he didn't have any concerns or any problems while he was on bond at that time, Your Honor. He didn't pick up—he didn't get into anything else. He was relegated to house arrest, and I think he performed without any incident other than the charge that he picked up here. So, I would ask the Court to consider giving him credit for the full time, that would be the 1,269 days on house arrest.

Tr, 27, lines 7-23

Appellant requested time served credit (273 days) from March 10, 2021, through December 6, 2021, in addition to the receipt of 996 days of time credit. Tr. 27, lines 7-23. The plea judge denied defense counsel's time served credit request from the date of appellant's re-arrest up until the instant guilty plea proceeding and sentencing. Tr. 39, lines 4-19.

The computation of time served credit statute reads as follows:

[F]rom the date of the commencement of the service of the sentence...in every case in computing the time served by a prisoner, 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. 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; (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 sentence for the second offense; (3) when the prisoner commits a subsequent crime while out on bond; or (4) has bond revoked on any charge prior to trial or plea.

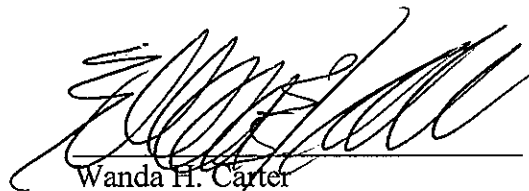
S.C. Code Ann. § 24-13-40 allows for time served credit, but with several prohibitions; one of which would include no time served credit if one "commits a subsequent crime while out on bond." In the case at bar, appellant was not convicted of committing a subsequent crime while out on bond. Rather, appellant was merely re-arrested and charged on new offense while released out, but there was no adjudication or conviction on the new offense charged against him.

Therefore, section 3 of the time served statute was inapplicable in this case, and as a result the time served credit should have been given to appellant as requested.

The requirements of procedural due process apply to the deprivation of interests encompassed by the Fourteenth Amendment's protection of liberty and property; and therefore, the statutory right to sentence related credits would be a protected "liberty" interest under the Fourteenth Amendment entitling an inmate to due process to ensure that such state created rights are not arbitrarily abrogated. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000), citing to Board of Regents of State College v. Roth, 408 U.S. 564 (1972). The length of an inmate's incarceration implicates a constitutional liberty interest. Tant v. S.C. Dept. of Corrections, 408 S.C. 334, 759 S.E.2d 398 (2014), citing to Greenholtz v. Inmates of Neb Penal and Correctional Complex, 442 U.S. 1 (1979). The plea judge erred in denying appellant's additional time served credit request in this case.

CONCLUSION

Based on the foregoing argument, counsel for appellant would request that appellant's case be remanded for a new sentencing hearing.



Wanda H. Carter
Interim Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 24th day of September, 2025.