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SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions
The Honorable Alex Kinlaw, Jr., Circuit Court Judge

Appellate Case No. 2024-001751

THE STATE,

Respondent,

v.

JONATHAN LEE GRAY,

Appellant.

FINAL BRIEF OF RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

Whether the trial court correctly refused to give Gray credit for time served in pretrial detention on subsequent, unrelated charges where Gray's bond was never revoked on the original charges to which he pled guilty.

STATEMENT OF THE CASE

Appellant Jonathan Gray pled guilty to possession of methamphetamine and shoplifting on September 26, 2024. Circuit Court Judge Alex Kinlaw, Jr. sentenced Gray to 3 years' incarceration on each charge, with the sentences to be served concurrently. In this direct appeal, Gray alleges he was not properly credited with time served in pretrial detention.

STANDARD OF REVIEW

In criminal cases, the appellate court sits to review errors of law only. State v. Brown, 426 S.C. 63, 66, 824 S.E.2d 476, 478 (Ct. App. 2019). Whether a defendant is statutorily entitled to credit for time served in pretrial detention is a question of law. State v. Boggs, 388 S.C. 314, 316, 696 S.E.2d 597, 598 (Ct. App. 2010).

ARGUMENT

- I. **The trial court correctly gave Gray credit for time served in pretrial detention for the charges to which he pled guilty, but refused to give credit for time served in pretrial detention for subsequent charges where Gray's bond was never revoked on the original charges.**

Gray was arrested in the summer of 2023 on charges stemming from two separate incidents, one a traffic stop resulting in an arrest for possession of methamphetamine, the other an arrest for shoplifting. R.p.12–13. Gray posted bond on both sets of charges and was released from pretrial detention. Gray's bond was never revoked.¹ Gray ultimately pled guilty to these charges and was given credit for the time he served prior to posting bond. R.p.16–18.

Gray was still on bond on these charges when he was arrested and detained on separate, unrelated charges in May 2024. He did not post bond on these charges and was in pretrial detention on these charges during the summer of 2024.² These charges were later dismissed. It is this time for which Gray claims he is entitled credit.

Gray is not entitled to credit for time served on separate charges for which he was separately detained when his bond was never revoked on his original charges, to which he pled guilty. Had Gray been convicted and sentenced for the subsequent charges, he would be entitled to credit for that time when calculating the length of

¹ There is no record of a bond revocation in the public index, and defense counsel stated at the September 19, 2024 hearing that there was no evidence Gray had violated his bond. (R.p.5).

² According to the Greenville County public index, this arrest occurred on May 10, 2024, and no bond was set.

his sentences for those charges. Likewise, had Gray's bond been revoked on his original charges, he would be entitled to credit for subsequent time served after revocation because he would have been detained pursuant to court order on those specific charges. See Allen v. State, 339 S.C. 393, 396, 529 S.E.2d 541, 542 (2000) (explaining applicant was entitled to credit for time served after "bond was revoked on the first set of charges" and he "was, therefore, clearly in custody on all charges," including subsequently filed charges). But he is not entitled to receive credit for time served for separate, unrelated charges when he was not then in pretrial detention for the charges to which he pled guilty. See People v. Arnhold, 504 N.E.2d 100, 101 (Ill. 1987) (explaining "a defendant who is out on bond on one charge, and who is subsequently rearrested and returned to custody on another charge, is not returned to custody on the first charge until his bond is withdrawn or revoked"); State v. Erickson, 177 P.3d 1043, 1047 (Mont. 2008) (explaining "a defendant should only be credited for time served prior to sentencing where the incarceration is directly related to the offense for which the sentence is imposed"); Blake v. State, 807 So. 2d 772, 773 (Fla. Dist. Ct. App. 2002) (explaining defendant is not entitled to credit for time served when returned to jail on new charges when bond was not revoked on original charges).

The revised bond statute does not factor in the analysis. While the trial court would have been within its rights to deny credit for time served altogether—including time Gray spent in pretrial detention for the charges to which he pled guilty—the trial court, with the consent of the solicitor, gave Gray credit for that

time. See S.C. Code Ann. § 24-13-40 (providing “full credit against the sentence must 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 . . . (3) when the prisoner commits a subsequent crime while out on bond”). Gray was not “in custody” on the original charges during his subsequent arrest and detention for separate, unrelated charges.

The purpose of credit for time served provisions is to ensure that indigent and non-indigent criminal defendants are treated equally. See Erickson, 177 P.3d at 1045. It is not meant to provide a windfall for defendants who engage in repeated criminality while out on bond. Gray was entitled to credit for the time he served on these charges, and no others. This Court should affirm.

CONCLUSION

For all the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

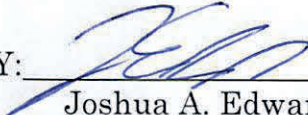
Respectfully submitted,

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