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Jan 15 2026

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Abbeville County

Honorable Frank R. Addy, Jr., Circuit Court Judge

THE STATE,

APPELLANT,

V.

RI'SHON KELTARIAN GILLIAM,

RESPONDENT

APPELLATE CASE NO. 2024-001400

**MOTION TO CERTIFY CASE FOR REVIEW BY THE
SOUTH CAROLINA SUPREME COURT**

Counsel for Respondent Ri'Shon Keltarian Gilliam respectfully requests his case be certified to the Supreme Court from the Court of Appeals pursuant to Rule 204(b), SCACR, because this case presents a constitutional challenge to a state statute and a legal principal of public importance. The state does not oppose this motion.

On June 20, 2023, Governor McMaster signed the 2023 Bond Reform law passed by the General Assembly. *Bond Reform*, S.C. Acts No. 83, § 8 (2023). Part of that act is S.C. Code Ann. § 24-13-40(3), which provides that “full credit against the sentence must be given for time served prior to trial and sentencing,” but time served shall not be awarded “when the prisoner commits a subsequent crime while out on bond.” This case presents two issues of first impression: (1) the

meaning of the word “commits” as used in the statute, and (2) the constitutional validity of the statute. Respondent posted bond on several charges after 342 days of pretrial incarceration. Subsequently, he was rearrested, where he remained until pleading guilty. The Honorable Frank R. Addy, Jr., over the state’s objection, credited Respondent with 342 days’ time served. This is the state’s appeal from that decision.

This case involves the constitutionality of a state statute. *See* S.C. Code Ann. § 14-8-200(b)(3) (appellate jurisdiction over appeal involving a challenge to the constitutionality of a state law lies directly to the Supreme Court). The state agrees that “the issue in this case is now the constitutionality of a statute” which is “a novel issue.” *See* State’s Motion for Extension to File Reply Brief. One of the issues presented is whether a constitutional right to credit for time served exists, an issue on which the parties in this case disagree, and which this state’s courts have not addressed in more than fifty (50) years. *See State v. Sanders*, 251 S.C. 431, 445, 163 S.E.2d 220, 228 (1968) (holding that the denial of time-served credit did not constitute cruel and unusual punishment). Further, this Court has *never* addressed the specific arguments that the parties now advance. *See generally id.* The significant constitutional issues presented in this case crave final review.

Further, the statute at issue in this appeal is new and has never been interpreted by this state’s appellate courts. It is not clear whether the statutory phrase “commits...a crime” means *convicted* of a crime, as Respondent and the plea court believe, or whether a person can be found to have “commit[ted]...a crime” at a separate, preponderance bench proceeding, as the state asserts. This is a “legal principal of major importance,” Rule 204(b), SCACR, which currently affects and will continue to affect numerous criminal proceedings in this state’s courts. The fact that the statute is not clear on the meaning of “commits...a crime” is certain to cause—and, as

evidenced by the existence of this appeal, has already caused—significant confusion among the bench and bar, which should be resolved quickly and finally by the Supreme Court.

Further still, there are a growing number of cases with issues similar to this one. *See, e.g., State v. Robert Daniel Mistretta*, App. Case No. 2025-001473 (Ct. App.); *State v. Sammy Rowdy Parker*, App. Case No. 2024-002186 (Ct. App.); *State v. Kourtland Flowers-Harris*, App. Case No. 2025-001475 (S. Ct.); *State v. Johnathan Lee Gray*, App. Case No. 2024-001751 (Ct. App.); *State v. Terrance Abrams*, App. Case No. 2024-001821 (Ct. App.). If the statute at issue here is ultimately found unconstitutional, or interpreted in a manner inconsistent with the way the trial courts have previously interpreted it, numerous sentences would require recalculation. This would be extremely disruptive, and the issue should be resolved with finality as soon as possible to avoid such a result.

For the foregoing reasons, this appeal should be certified to the Supreme Court. The undersigned has contacted counsel for the state, Joshua A. Edwards, and has been informed that the state has no objection to this motion.

Respectfully submitted,



* Molly M. Keegan
W. Chandler Norville
Appellate Defenders

ATTORNEYS FOR RESPONDENT

This 15th day of January, 2026.

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CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Motion to Certify in the above-referenced case have been served upon Joshua Edwards, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 15TH day of January, 2026. This motion was also filed in the Court of Appeals.



Molly M. Keegan
Appellate Defender

ATTORNEY FOR RESPONDENT

Leverett, Scott

From: Leverett, Scott
Sent: Thursday, January 15, 2026 1:42 PM
To: Josh Edwards
Cc: Susan Spencer; Keegan, Molly; Norville, Chandler; Warren, Kaylynn
Subject: 2024-001400 - The State v. Ri'Shon Keltarian Gilliam - Motion to Certify for Review by the South Carolina Supreme Court
Attachments: 2024-001400 - The State v. Ri'Shon Keltarian Gilliam - Motion to Certify for Review by the South Carolina Supreme Court.pdf

Dear Mr. Edwards,

Attached please find a Motion to Certify in the above referenced case that is being filed today with the Supreme Court and Court of Appeals.

-Scott Leverett for
Kaylynn Warren
Admin. Asst. for Molly Keegan & Chandler Norville
Appellate Defense

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