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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Spartanburg County

Honorable J. Mark Hayes, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BRANDON KEVON WHITE,

APPELLANT

APPELLATE CASE NO. 2025-001200

INITIAL BRIEF OF APPELLANT

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TABLE OF CONTENTS

TABLE OF CONTENTS..... i

TABLE OF AUTHORITIES ii

STATEMENT OF ISSUE ON APPEAL.....1

STATEMENT OF THE CASE.....2

STANDARD OF REVIEW3

ARGUMENT

The trial court erred in denying appellant’s request for time served
credit while he was detained prior to his guilty plea proceeding.....4

CONCLUSION.....6

TABLE OF AUTHORITIES

Cases

Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000)..... 6

Board of Regents of State College v. Roth, 408 U.S. 564 (1972) 6

Greenholtz v. Inmates of Neb Penal and Correctional Complex, 442 U.S. 1 (1979)..... 6

State v. Jacob, 393 S.C. 584, 713 S.E.2d 621 (2011) 3

State v. Nesbitt, 411 S.C. 194, 768 S.E.2d 67 (2015)..... 3

Tant v. S.C. Dept. of Corrections, 408 S.C. 334, 759 S.E.2d 398 (2014) 6

Rules

S.C. Code Ann. § 24-13-40..... 4, 5

Constitutional Provisions

U.S. Const. amend. XIV 5, 6

STATEMENT OF ISSUE ON APPEAL

The trial court erred in denying appellant's request for time served credit while he was detained prior to his guilty plea proceeding.

STATEMENT OF THE CASE

Appellant Brandon Kevan White pled guilty to second degree burglary (violent), discharge of a firearm into an occupied vehicle, breach of peace of a high and aggravated nature, and petty larceny during the May 2025 term of the Spartanburg County General Sessions Court before Judge Mark J. Hayes, II, who handed down an aggregate twenty-year sentence in the case. Attorney Christopher Lee Allen represented appellant at the guilty plea proceeding, and Assistant Solicitor Spenser Holloran Smith prosecuted the case. Appellant appealed his convictions and sentences. This brief follows.

STANDARD OF REVIEW

In criminal cases, the appellate court sits to review errors 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 trial court erred in denying appellant's request for time served credit while he was detained prior to his guilty plea proceeding.

Appellant was indicted on the offenses of aggravated breach of peace and discharging a firearm into a vehicle based on events that occurred on October 18, 2023, in Spartanburg County. Thereafter, appellant was indicted on the offenses of burglary and larceny based on another incident that occurred on April 3, 2024, also in Spartanburg County.

At the plea proceeding, the solicitor argued as follows regarding the applicability of time served credit in the case:

Your Honor, he has done pretrial detention. The State's position in -- with section 24-13-40 is that he is not entitled to that pretrial credit because he was -- both number three and number four, he was arrested while -- he committed additional offenses. He was arrested while out on bond, and has had his bond revoked based off of those new charges. But, your Honor, for the -- for the Court's information -- let me see. He did 35 days in jail when he was initially arrested on the breach of peace and discharging incident, and then he was arrested on May 1st for the use of vehicle without cons -- well, he was arrested on May 14th for the burglary, which would be 373 days that he's been in on that burglary charge. Tr. 5, 1.20-p. 6, 1.7.

Defense Counsel responded as follows:

I'd like to first take up the matter of the pretrial credit, which is actually a total of 422 days, I believe me -- me and Mr. Smith were in agreement on that being the time that he's been incarcerated. We're in disagreement, however, on how much credit of that time that -- that he would have. It's our position that he's been incarcerated for 422 days. And so, certainly, pursuant to his constitutional rights, I -- I believe that he would be entitled to -- to that credit. He hadn't been free, so he's been in custody of the State for 422 days prior to today's hearing. Also would like to place on the record this morning, myself and Mr. Smith had discussed some release dates regarding the calculator from the SCDC. We discussed May the 23rd, 2025, being today, he'd be starting his burglary, second, violent, sentence. And that sentence is to be

terminated – according to our discussions based upon this calculator, on November the 8th, 2032, when he would begin his consecutive petty larceny sentence. And I'd like to place on the record that the calculator once shows again that -- that the possible release date with that sentence, and him being released from custody be May 13th, 2035, your Honor. Tr. 14, 1.7-p. 15, 1.19.

The request for time served was denied. 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.

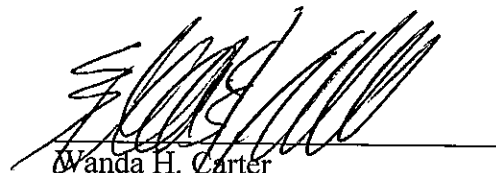
S.C. Code Ann. § 24-13-40 allows for time served credit, but with several prohibitions; one of which would include no time served credit if one “commits a subsequent crime while out on bond.” In the case at bar, appellant was not convicted of committing subsequent crimes while out on bond. Rather, appellant was merely arrested and charged on new offenses while released out, but there were no adjudications or convictions on the new offenses 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.



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ATTORNEY FOR APPELLANT

This 6th day of March, 2026.