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THE STATE OF SOUTH CAROLINA

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In The Supreme Court

S.C. SUPREME COURT

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Administrative Law Judge Ralph K. Anderson, III

Appellate Case No. 2024-000487

Unpublished Opinion No. 2026-UP-118

CURTIS JOHNSON, #337543, Petitioner,
v.

South Carolina Department of
Corrections, Respondent.

PETITION FOR A WRIT OF CERTIORARI

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Pro-Se Petitioner

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CERTIFICATE OF COUNSEL

Counsel for petitioner certifies that the Petition for Rehearing was made and finally ruled on by the Court of Appeals on May 21, 2026.

QUESTIONS PRESENTED

1. Did the Court of Appeals err in holding that the Administrative Law Court did not violate section 24-13-40 when it affirmed the South Carolina Department of Corrections' (SCDC's) final decision and found that Petitioner had received time served credit on all his sentences; when Petitioner had proved with the Record on Appeal that SCDC applied Petitioner's time served credit only to Petitioner's possession of a weapon during the commission of a violent crime (firearms provision) sentence and SCDC did not apply Petitioner's time served credit to petitioner's Voluntary manslaughter and Assault and Battery of a High and Aggravated Nature (ABHAN) sentences?

STATEMENT OF THE CASE

On June 21, 2023, Appellant informally talked to the South Carolina Department of Corrections (SCDC) Classification about his jail time served credit being applied to both of his consecutive sentences. SCDC Classification denied Appellant's request. On June 26, 2023, Appellant formally wrote a Kiosk request (Kiosk Reference #23-03155785) to SCDC Classification pertaining to and requesting his jail time served credit be applied to both his consecutive sentences. On June 27, 2023, SCDC Classification responded, "Documents are required for any calculation adjustments" to Appellant's consecutive sentences. On June 27, 2023, Appellant filed his step 1 grievance. On July 6, 2023, the Warden of Allendale C.I. denied Appellant's step 1 grievance. On July 9, 2023, Appellant filed his step 2 grievance. On September 12, 2023, the Responsible official denied Appellant's step 2 grievance. On September 26, 2023, Appellant submitted and filed his "Notice of Appeal form" to the Administrative Law Court, clerk of court, and to the office of General Counsel at the Department of Corrections. On October 3, 2023, the Administrative Law Court filed Appellant's "Notice of Appeal form" in their office. On October 20, 2023, the Honorable Ralph King Anderson, III, was assigned to Appellant's case. On December 29, 2023, SCDC filed its "Record on Appeal." On January 12, 2024, Appellant submitted and filed his "Original Brief of Appellant." SCDC filed its "Respondent's Brief" on February 7, 2024. Appellant received SCDC's "Respondent's Brief" on February 12, 2024. On February 21, 2024, Appellant submitted and filed his "Reply Brief of Appellant." On February 27, 2024, the Administrative Law Court ordered that SCDC's final agency decision be affirmed. Appellant received the Administrative Law Court's order on March 1, 2024.

On March 18, 2024, Appellant submitted and filed his "Notice of Appeal" to the South Carolina Court of Appeals, clerk of court, the Administrative Law Court, and to the office of General Counsel at the Department of Corrections. On April 4, 2024, Appellant received documents from the South Carolina Court of Appeals, Clerk of Court, stating Appellant's notice of appeal was received and Appellant's case was assigned an appellate case number. Appellant was also advised that he was required to pay a filing fee. On April 10, 2024, Appellant submitted and filed a "Motion To Proceed In Forma Pauperis" and "Refiled Notice of Appeal" Motion. (The South Carolina Court received Appellant's "Refiled Notice of Appeal" motion, "Motion for leave to proceed in forma pauperis", "Affidavit in support of motion to proceed without payment of costs", and "certificate of service" on May 24, 2024.)

On May 21, 2024, Appellant received from the court of Appeals an "order of Dismissal", which was filed April 24, 2024 and a "Remittitur" which was dated May 15, 2024, both included in the same envelope that had a Postage Date of May 14, 2024. The Allendale C.I. mailroom received this envelope on May 20, 2024. The South Carolina Court of Appeals clerk of court received Appellant's "Refiled Notice of Appeal" motion, "Motion for leave to

proceed in forma pauperis," "Affidavit in support of motion to proceed without payment of costs and fees", and "Certificate of service" on May 24, 2024.

On June 4, 2024, Appellant received an "Order" that was filed on May 30, 2024 by the South Carolina Court of Appeals, which recalled the "Remitter" directing the Clerk of the Administrative Law Court to return the "Remitter" to the South Carolina Court of Appeals. On June 10, 2024, Appellant received a letter, dated June 4, 2024, from the clerk of the Administrative Law Court acknowledging returning the "Remitter" to the South Carolina Court of Appeals. The South Carolina Court of Appeals filed an "Order" on July 26, 2024, granting Appellant's "Motion to proceed in forma pauperis". The Allendale C.I. mailroom received the Appellant's legal mail from the South Carolina Court of Appeals on July 30, 2024. On July 31, 2024, Appellant received the South Carolina Court of Appeals' "Order" and "Letter" informing Appellant that he had 30 days, from the date of July 26, 2024, to serve and file his "Initial Brief of Appellant" and "Designation of Matter To Be Included In The Record on Appeal".

Appellant filed his "Initial Brief of Appellant" and "Designation of Matter To Be Included In The Record on Appeal" on August 22, 2024. The Respondent filed its "Initial Brief of Respondent" and "Designation of Matter" on November 21, 2024. Appellant received Respondent's "Initial Brief of Respondent" and "Designation of Matter" on November 26, 2024. Pursuant to Rule 208, SCACR, Rules of Initial Briefs, Ca)(3) Reply Brief, Appellant had 10 days to file his "Reply Brief". This made December 6, 2024 Appellant's court deadline date to file his "Reply Brief". Appellant submitted his "Reply Brief" to the Allendale C.I. mailroom and filed his "Reply Brief" on December 6, 2024. On December 30, 2024, Appellant filed his "Record on Appeal" on January 17, 2025, Respondent filed its "Final Brief of Respondent" on January 21, 2025, Appellant filed his "Final Brief" on February 12, 2025, Appellant filed his "Final Reply Brief" on March 7, 2026, the Court of Appeals affirmed the Administrative Law Court's decision. Appellant submitted and filed his "Petition For Rehearing" with the Allendale C.I. mailroom on March 25, 2026.

The Court of Appeals denied Appellant's "Petition For Rehearing" on May 21, 2026. Appellant received the Court of Appeals' denial of his "Petition For Rehearing" on May 27, 2026 from the South Carolina Department of Corrections - Allendale C.I. mailroom. Appellant seeks a Writ of Certiorari to review that decision.

ARGUMENT

THE COURT OF APPEALS ERRED IN HOLDING THAT THE ADMINISTRATIVE LAW COURT DID NOT VIOLATE SECTION 24-13-40 WHEN IT AFFIRMED THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS (SCDC'S) FINAL DECISION AND FOUND THAT PETITIONER HAD RECEIVED TIME SERVED CREDIT ON ALL HIS SENTENCES; WHEN PETITIONER HAD PROVED WITH THE RECORD ON APPEAL THAT SCDC APPLIED PETITIONER'S TIME SERVED CREDIT ONLY TO PETITIONER'S POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME (FIREARMS PROVISION) SENTENCE AND SCDC DID NOT APPLY PETITIONER'S TIME SERVED CREDIT TO PETITIONER'S VOLUNTARY MANSLAUGHTER AND ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE (ABHAN) SENTENCES.

"Article 5, section 5 of the South Carolina Constitution and Section 14-3-310 of the South Carolina code provide, 'The Supreme Court shall have power to issue writs or orders of certiorari...' *State v. Price*, 441 S.C. 423, 433, 895 S.E.2d 633, 638 (2023). 'The Supreme Court, or any two (2) justices thereof, may in its discretion, on motion of any party to the case or on its own motion, issue a Writ of Certiorari to review a final decision of the Court of Appeals.' Rule 242(a), SCACR. 'Further, Rule 242(b), SCACR, emphasizes the discretionary authority of the court to review decisions of the Court of appeals, stating a Writ of certiorari will be granted only when there are special and important reasons, such as when there are novel questions of law; a dissent in the decision of the court of appeals; the decision of the court of appeals is in conflict with a prior decision of [the Supreme Court]; substantial constitutional issues are directly involved; or a federal question is included, and the decision of the court of appeals conflicts with a decision of the United States Supreme Court.' *South Carolina Department of Social Services v. Benjamin*, 430 S.C. 235, 236, 844 S.E.2d 373 (2020).

Petitioner respectfully motions the Supreme Court to grant Petitioner's Petition for a Writ of Certiorari and issue a Writ of Certiorari to review the final decision of the Court of appeals, because the decision of the court of appeals is in conflict with a prior decision of the Supreme Court and substantial constitutional issues are directly involved which are special and important reasons to issue a Writ of Certiorari. (Pursuant to Rule 242 (e) Appendix, SCACR n.2, which states: "By order dated April 30, 2024, the requirement that the Petitioner file the Appendix has been suspended, and the necessary documents will be obtained from the electronic records of the case before the Court of Appeals. This order is available at: 2024-04-30-02.pdf," Petitioner does not have to file the Appendix.)

On November 20, 2006, Petitioner was in custody until trial on October 21, 2009. Petitioner received a thirty years sentence for Voluntary Manslaughter which ran concurrent with his ten years sentence for ABHAN, and a consecutive five years sentence for the firearm provision offense pursuant to Petitioner's sentencing sheets. (see: sentencing sheets.R.pp.1-4) All Petitioner's sentencing sheets for his offenses and SCDC records show Petitioner's start date for all offenses was on November 20, 2006. (see: sentencing sheets.R.pp.1-4) and (see: SCDC Offender Management system conviction sheets.R.pp.5-7) Even though the sentencing sheets and SCDC's records have Petitioner's Voluntary manslaughter and ABHAN sentence start dates shown as November 20, 2006, SCDC had the concurrent Voluntary Manslaughter and ABHAN sentences start to run consecutive on November 20, 2011, after Petitioner's firearm provision sentence ended. (see: Administrative Law Court (ALC) order.R.pp.37-38) Petitioner received 1,066 days jail time served credit while being held in the county jail. The trial court gave Petitioner 1,066 days time served credit to be applied to Petitioner's Voluntary manslaughter, ABHAN, and firearm provision sentences. Petitioner's Voluntary manslaughter, ABHAN, and firearm provision sentencing sheets all show and prove that Petitioner was entitled to receive 1,066 days time served credit applied to each of his four sentences. (see: sentencing sheets.R.pp.1-4)

At the time of Petitioner's trial and sentencing in 2009, statute "24-13-40, Computation of time served by prisoners" stated:
"In every case in computing the time served by a prisoner, full credit against the sentence shall 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: (1) When the prisoner at the time he was imprisoned prior to trial was an escapee from another penal institution; or (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." S.C. Code Ann. §24-13-40 (2009)

As such, "section 23-13-40 mandates a prisoner be given credit for all time served prior to trial unless one of two exceptions exist: 1) either the prisoner was an escapee or 2) the prisoner was already serving a sentence on one offense." Allen v. State, 339 S.C. 393, 395, 529 S.E.2d 541, 542 (2000). "The matter of credit for time served under this statute is not discretionary with the trial court." State v. McCord, 349 S.C. 477, 487, 562 S.E.2d 689, 694 (Ct.App. 2002). "Because the language of section 24-13-40 is mandatory, a judge cannot deny a defendant credit for time served prior to trial unless one of the two exceptions applies." State v. Boggs, 388 S.C. 314, 316, 696 S.E.2d 597, 598 (Ct.App. 2010). Petitioner has a consecutive sentence which is not one of the exceptions to the mandatory language in section 24-13-40. In Petitioner's case, neither exception applies to Petitioner. Therefore, Petitioner was entitled by mandatory law to receive his 1,066 days time served credit applied to all his sentences. "The requirement that a prisoner receive credit for time served is mandatory." Hayes v. State, 413 S.C. 553, 559, 777 S.E.2d 6, 10 (Ct.App. 2015). The SCDC, ALC, and the Court of Appeals violated statute 24-13-40, violated Petitioner's U.S. Const. Amend. 14 and S.C. Const. Art. 1, §3 rights of Due Process (of liberty interest), and in conflict with South Carolina Supreme court's prior decisions that held: "All courts

are bound to follow clear and unambiguous statutory law." State v. Price, 441 S.C. 423, 435, 895 S.E.2d 633, 639 (2023); "It is incumbent upon the court of appeals to apply the supreme court's precedent." State v. Phillips, 416 S.E. 184, 194, 785 S.E.2d 448, 453 (2016) (S.C. Const. art. 5, § 9: "The decisions of the supreme court shall bind the court of appeals as precedents."); "Section 23-13-40 mandates a prisoner be given credit for all time served prior to trial unless one of two exceptions exist: 1) either the prisoner was an escapee or 2) the prisoner was already serving a sentence on one offense." Allen v. State, 339 S.C. 393, 395, 529 S.E.2d 541, 542 (2000); and Tant v. S.C. Dept of Corr., 408 S.C. 334, 346, 759 S.E.2d 398, 404 (2014) ("The Department is confined to an unambiguous sentencing sheet in determining an inmate's sentence..."); id. at 341 n. 2; 759 S.E.2d at 401 n. 2 ("The Department performs an administrative function in recording an inmate's sentence.... The Department has no independent sentencing authority....").

SCDC only applied Petitioner's 1,066 days time served credit to Petitioner's firearm provision sentence and not Petitioner's concurrent voluntary manslaughter and ABHAN sentences. Petitioner's "SCDC offender management system conviction inquiry sheets" for Petitioner's voluntary manslaughter, ABHAN, and firearm provision offenses is the evidence that proves SCDC applied Petitioner's 1,066 days time served credit only to Petitioner's firearm provision sentence. (See: "Firearm provision" SCDC offender management system conviction sheet. R.p. 7) SCDC did not apply Petitioner's 1,066 days time served credit to Petitioner's voluntary manslaughter and ABHAN sentences. These sheets show Petitioner received zero (00000) days jail time served credit for his voluntary manslaughter and ABHAN sentences. (See: "Voluntary manslaughter" and "ABHAN" SCDC offender management system conviction sheets. R.pp. 5-6) This evidence proved SCDC only applied Petitioner's 1,066 days time served credit to Petitioner's firearm provision sentence and SCDC did not apply Petitioner's 1,066 days time served credit to Petitioner's voluntary manslaughter and ABHAN sentences.

Petitioner had showed and proved to the ALC that, all four of his sentencing sheets proved Petitioner was entitled to receive his 1,066 days time served credit applied to each of his four sentences, that were ran concurrent and consecutive, pursuant to statute 24-13-40. SCDC records did not reflect Petitioner's sentencing sheets and Petitioner's max out date was not calculated correctly, Petitioner having a consecutive sentence was not one of the exceptions to the mandatory language in statute 24-13-40, and neither statutory exception applies to Petitioner. Therefore, Petitioner was entitled by law to receive his 1,066 days time served credit applied to all his sentences. (See: ALC original Brief of Petitioner. R. pp. 12-21); (See: ALC Reply Brief of Petitioner. R. pp. 29-34) The ALC had acknowledged in its order that Petitioner was entitled to receive his 1,066 days jail time served credit on all his sentences according to his sentencing sheets to be calculated and applied to Petitioner's sentences by Respondent; the Respondent must give Petitioner credit for jail time served when calculating Petitioner's max out date, and statute 24-13-40 requires Petitioner to receive time served for all his sentences because neither of the two statutory exceptions applies to Petitioner. But the ALC violated statute 24-13-40 when it erroneously affirmed SCDC's final decision when it determined SCDC correctly applied Petitioner's jail time credit to his sentence and the

Petitioner failed to carry his burden of proving SCDC improperly calculated his sentence. (See: ALC order, R. pp. 35-40)

On appeal, Petitioner had showed and proved to the Court of Appeals that all four of his sentencing sheets proved Petitioner was entitled to receive his 1,066 days time served credit applied to each of his four sentences, that were ran concurrent and consecutive, pursuant to statute 24-13-40; SCDC records did not reflect Petitioner's sentencing sheets; Petitioner's max out date was not calculated correctly; Petitioner having a consecutive sentence was not one of the exceptions to the mandatory language in statute 24-13-40; neither statutory exception applies to Petitioner; and the ALC erred and prejudiced Petitioner when it affirmed the decision of SCDC. (See: Petitioner's "Final Brief" on Appeal, p. 7-14); (See: Petitioner's "Reply Brief" on Appeal, p. 6-8) The court of Appeals affirmed the ALC's decision holding the ALC did not violate section 24-13-40 when it affirmed SCDC's final decision and found that Petitioner had received time served credit on all of his sentences. (See: Curtis Johnson, # 337543, v. South Carolina Department of Corrections, Appellate case No. 2024-000487, unpublished opinion No. 2026-UP-118, Number 1.) Thus, the court of Appeals holding is also acknowledging that Petitioner was entitled to receive his 1,066 days time served credit applied to each of his four sentences; this is an unequivocal admission by the court of appeals. The court of appeals erred in holding that Petitioner had received time served credit applied to all his sentences, when evidence in the Record proved Petitioner only received his time served credit applied to his firearm provision sentence and not his concurrent voluntary manslaughter and ABHAN sentences, that were ran consecutive to the firearm provision sentence. (See: sentencing sheets, R. pp. 1-4); (See: SCDC offender Management system conviction sheets, R. pp. 5-7)

The Petitioner filed a "Petition For Rehearing" requesting that the court of Appeals review its decision holding that the ALC did not violate Section 24-13-40 when it affirmed SCDC's final decision and finding that Petitioner had received time served credit on all his sentences. In his "Petition for Rehearing", Petitioner proved to the Court of Appeals that the Court of appeals and the ALC misapprehended his argument when they affirmed SCDC's decision that Petitioner received his 1,066 days jail time served credits applied to his sentences and Petitioner's max out date was correct. Petitioner also proved in his "Petition for Rehearing" to the court of appeals that the court of appeals and the ALC overlooked Petitioner's argument and the evidence that Petitioner's 1,066 days time served credit was applied only to Petitioner's firearm provision sentence and was not applied to Petitioner's Voluntary manslaughter and ABHAN sentences. (See: Petitioner's "Petition for Rehearing and Reinstatement" pp. 1-13)

All throughout petitioner's court filings, Petitioner inform SCDC, the ALC, and the court of appeals that it was a true indisputable fact that SCDC applied inmate John K. Massey, Jr.'s jail time served credit to both of his consecutive sentences and corrected his max out date in the cases Massey v. South Carolina Department of Corrections, 2021 WL 1997295 and State v. Massey, 2020 WL 3071840 n. 2. (See: Petitioner's "offender Management system Inmate Request - General" R. p. 8); (Petitioner's "SCDC Inmate Grievance Form Step 2, sheets" R. pp. 9-10); (Petitioner's "original Brief of Appellant, for the Administrative Law Court")

R. pp. 15-16; 18-19); (Petitioner's "Reply Brief of Appellant, for the Administrative Law Court" R. pp. 29-34); (Petitioner's "Brief of Appellant, for the Court of Appeals" pp. 10-13); (Petitioner's "Reply Brief, for the Court of Appeals" pp. 6-7); (Petitioner's "Petition For Rehearing and Reinstatement, for the Court of Appeals" pp. 8-11) In all of SCDC's Filings, SCDC never disputed or refuted Petitioner's evidence and proof that it was a true indisputable fact that SCDC applied inmate John K. Massey, Jr.'s jail time served credit to both of his consecutive sentences and corrected his maxout date. SCDC should have applied Petitioner's time served credits to Petitioner's consecutive sentences and corrected his max out date also. This Court should take SCDC's silence as an admission to the truth of this indisputable fact. "Allegations made in complaint that are not denied in answer are deemed admitted." Turner v. South Carolina Dept. of Health and Environmental Control, 377 S.C. 540, 547, 661 S.E.2d 118, 121 (2008); First Union Nat'l Bank v. FCVS Communications, 321 S.C. 446, 502, 469 S.E.2d 613, 617 (Ct. App. 1996) (if respondent fails to respond to an issue in his brief, the appellate court may treat the failure to respond as a confession that the appellant's position is correct)

The Petitioner in his "petition for Rehearing" had requested the Court of Appeals to take "original Judicial Notice" that SCDC had in the prior Court of Appeals cases Massey v. South Carolina Department of Corrections, 2021 WL 1997295 at 1 and State v. Massey, 2020 WL 3071840 n.2 applied inmate John K. Massey, Jr.'s jail time credit to both his consecutive sentences and corrected his max out date. "Judicial notice may be taken at any stage of the proceeding." Rule 201(f), SCRE "A Court shall take judicial notice if requested by a party and supplied with the necessary information." Rule 201(d), SCRE "Notice may be taken of judicially cognizable facts" in administrative cases. S.C. Code Ann. 1-23-330 (4) (2005) "Appellate courts are generally reluctant to notice adjudicative facts even when those facts may be absolutely reliable. Notice of 'facts' for the first time on appeal may deny the adverse party the opportunity to contest the matters noticed; it may also violate the general principle that appellate review should be limited to the record. Finally, appellate courts, limited to the 'cold' record, cannot be as sensitive to the appropriateness of judicial notice as the trial judge. For the foregoing reasons we hold that original judicial notice of adjudicative facts at the appellate level should be limited to matters which are indisputable." Masters v. Rodgers Dev., 283 S.C. 251, 256, 321 S.E.2d 194, 197 (Ct. App. 1984) "A court can take judicial notice of its own records, files, and proceedings for all proper purposes including facts established in its records." Freeman v. McBee, 280 S.C. 490, 313 S.E.2d 325 (Ct. App. 1984) "As... case law states, an appellate court can take judicial notice of something that was not before the trial court if it is indisputable." Wise v. Wise, 394 S.C. 591, 601, 716 S.E.2d 117, 122 (2011)

The Petitioner also told the Court of Appeals it should take "original Judicial Notice" that it is a true indisputable fact that the Court of Appeals acknowledged in the Court of Appeals' cases Massey v. South Carolina Department of Corrections, 2021 WL 1997295 and State v. Massey, 2020 WL 3071840 n.2 SCDC applied inmate John K. Massey, Jr.'s jail time served credit to both of his consecutive sentences and corrected his maxout date.

In these cases the Court of Appeals stated in its opinions:

"John K. Massey, Jr. appeals the Administrative Law Court's (the ALC's) order dismissing his appeal. On appeal to the ALC, Massey argued the South Carolina Department of Corrections (SCDC) failed to properly apply his jail time credit to both of his consecutive sentences. After Massey filed his appeal with the ALC, SCDC informed the ALC that it had amended Massey's jail time credit to reflect his time served. Based on the amended jail time credit, Massey completed his sentence for grand larceny on August 22, 2019, and completed his sentence for malicious injury to property on August 17, 2020. Because Massey's release prevents this court from providing effectual relief regarding Massey's credit for time served, we dismiss his appeal as moot." Massey v. South Carolina Department of Corrections, 2021 WL 14917295 at 1

It is no longer necessary that we address Massey's argument that the circuit court erred in crediting him with only 140 days served in pretrial detention as opposed to the 566 days of credit he seeks. The state submitted a supplemental record confirming the South Carolina Department of Corrections credited Massey with 582 days of jail time on the sentences at issue in this case. As Massey has received more credit for time served than he seeks, we find his appeal moot as to this issue." State v. Massey, 2020 WL 3071840 n.2

The South Carolina Supreme Court should take "Judicial Notice" that it is an indisputable fact that the Court of Appeals, the ALC, and SCDC were fully aware and knew that SCDC applied Massey's jail time credit to both of Massey's consecutive sentences, Massey's maxout date was corrected, and Massey was released early. The South Carolina Supreme Court should take "Judicial Notice" that it is an indisputable fact that the Court of Appeals, the ALC, and the SCDC acknowledged that SCDC had applied jail time credit to an inmate's consecutive sentences and corrected the inmate's maxout date in the prior cases of John K. Massey, Jr. Petitioner presented this evidence to the Court of Appeals also all in his "petition for Rehearing" (see: Petitioner's "petition for Rehearing and Reinstatement" pp. 9-11). The Court of Appeals, the ALC, and SCDC never discuss, refute, or dispute this indisputable fact. As such, SCDC, the ALC, and the Court of Appeals should have applied Petitioner's 1,066 days jail time served credit to both of Petitioner's consecutive sentences because: statute 24-13-40 mandates that Petitioner receive time served for all of his sentences, none of the statutory exceptions applies to Petitioner, petitioner having consecutive sentences is not one of the exceptions to the mandatory language in statute 24-13-40; all Petitioner's sentencing sheets are unambiguous and mandate that Petitioner receive his 1,066 days jail time served credit applied to all his sentences pursuant to statute 24-13-40 and the supreme court precedent decisions in Tant v. S.C. Dep't of Corr., 408 S.C. 334, 346, 759 S.E.2d 398, 404 (2014); and SCDC had applied jail time served credit to consecutive sentences and corrected an inmate's maxout dates in the past, which the petitioner had proven above. Petitioner told the Court of Appeals in his "petition for Rehearing" that court of Appeals had overlooked these evidentiary facts and principles of law. On May 21, 2026, the Court of Appeals filed an ORDER of denial which stated: "After careful consideration of the petition for rehearing,

the court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied." (see: "Court of Appeals order")

Thus, the Supreme Court should grant the Petitioner's Petition for a Writ of Certiorari and issue a writ of Certiorari to review the final decision of the Court of Appeals for the following reasons also:

The decision of the Court of Appeals is in conflict with the prior decisions of the Supreme Court which state: "All courts are bound to follow clear and unambiguous statutory law." State v. Price, 441 S.C. 423, 435, 895 S.E.2d 633, 639 (2023); "It is incumbent upon the court of appeals to apply the Supreme Court's precedent." State v. Phillips, 416 S.C. 184, 194, 785 S.E.2d 448, 453 (2016); "The decisions of the Supreme Court shall bind the Court of Appeals as precedents." Id.; "Section 23-13-40 mandates a prisoner be given credit for all time served prior to trial unless one of two exceptions exist: 1) either the prisoner was an escapee or 2) the prisoner was already serving a sentence on one offense." Allen v. State, 339 S.C. 393, 395, 529 S.E.2d 546, 542 (2000); and Tant v. S.C. Dept of Corr., 408 S.C. 334, 346, 759 S.E.2d 398, 404 (2014). ("The Department is confined to an unambiguous sentencing sheet in determining an inmate's sentence..." Id. at 341 n. 2, 759 S.E.2d at 401 n. 2 ("The Department performs an administrative function in recording an inmate's sentence... The Department has no independent sentencing authority...").

The ALC ruled in its Order:

"The sentencing sheets also indicate Appellant was to be given credit for time served (jail time credit) pursuant to section 24-13-40 of the South Carolina Code (Supp. 2023). to be calculated and applied by the Department." (see: ALC order, R.p. 35)
"Absent any ambiguity in the sentencing sheet, the Court must presume that the sentencing court's sentence is correct.... According to the sentencing sheets, Appellant is entitled to time served." (see: ALC order, R.p. 38)

"This statute requires that prisoners be given credit for all time served prior to sentencing unless either of the two statutory exceptions applies.... In this case, neither exception to section 24-13-40 applies to Appellant." (see: ALC order, R.p. 40)

Thus, the ALC ruled in its order that the Petitioner was to be given his 1,066 days jail time served credit, pursuant to statute 24-13-40, to be calculated and applied to Petitioner's sentences by SCDC; Petitioner's sentencing sheets are unambiguous and according to Petitioner's sentencing sheets he was entitled to time served on all his sentences; and Statute 24-13-40 requires that Petitioner receive his time served credit all applied to all his sentences because neither of the two statutory exceptions of Statute 24-13-40 applies to Petitioner's case. SCDC never appealed the ALC's ruling on these points. The Court of Appeals never overturned the ALC's ruling on these points, thus, making these points the law of the case. "The doctrine of the law of the case applies to an order or ruling which finally determines a substantial right." South Carolina Public Interest Foundation v. Wilson, 437 S.C. 334, 340, 878 S.E.2d 891, 894 (2022) "Under the law-of-the-case doctrine, a party is precluded from relitigating, after an

appeal, matters that were either not raised on appeal, but should have been, or raised on appeal, but expressly rejected by the appellate court." Judy v. Martin, 381 S.C. 455, 458, 674 S.E.2d 151, 153 (2009) "An unappealed ruling, right or wrong, is the law of the case." Atl. Coast Builders & Contractors, L.L.C. v. Lewis, 398 S.C. 323, 329, 730 S.E.2d 282, 285 (2012) "An unappealed ruling is the law of the case and requires affirmance." Transp. Ins. Co. v. S.C. Second Inj. Fund, 389 S.C. 422, 431, 699 S.E.2d 687, 691 (2010)

The Court of Appeals decision is in conflict with the following prior decisions of the Supreme Court:

"The decisions of the Supreme Court shall bind the Court of Appeals as precedents." State v. Phillips, 416 S.C. 184, 194, 785 S.E.2d 448, 453 (2016), "It is incumbent upon the Court of Appeals to apply the Supreme Court's precedent." Id. The Court of Appeals had not followed the Supreme Court's decision precedents that state the court of appeals is bound by the Supreme Court precedents. The Supreme Court has ruled in precedent that "All courts are bound to follow clear and unambiguous statutory law." State v. Price, 441 S.C. 423, 435, 895 S.E.2d 633, 639 (2023) The statutory law of statute 23-13-40 is clear and unambiguous. The Court of Appeals should have applied statute 23-13-40 to each of Petitioner's sentences because none of the statutory exceptions applied to Petitioner's case. Statute 23-13-40 mandates that a prisoner be given credit for all time served prior to trial unless one of two statutory exceptions exist. The two statutory exceptions of statute 23-13-40 are: 1) either the prisoner was an escapee or 2) the prisoner was already serving a sentence on one offense. The Supreme Court has stated in precedent, "section 23-13-40 mandates a prisoner be given credit for all time served prior to trial unless one of two exceptions exist; 1) either the prisoner was an escapee or 2) the prisoner was already serving a sentence on one offense." Allen v. State, 339 S.C. 393, 395, 529 S.E.2d 541, 542 (2000) "The statutory language following those words is unambiguous and essential to the proper resolution of this appeal." State v. Grissett, 442 S.C. 183, 188, 898 S.E.2d 139, 141 (2024) "under the plain, unambiguous terms of the statute, we find [Petitioner] is entitled to credit for the time served on the... set of charges...." Allen v. State, 339 S.C. 393, 396, 529 S.E.2d 541, 542 (2000) The Supreme Court has also ruled in precedent "The Department is confined to an unambiguous sentencing sheet in determining an inmate's sentence...." Tant v. S.C. Dept. of Corr., 408 S.C. 334, 346, 759 S.E.2d 398, 404 (2014), "The Department performs an administrative function in recording an inmate sentence...." The Department has no independent sentencing authority...." Id. at 341 n.2, 759 S.E.2d at 401 n.2 As Petitioner has shown above, it is the law of the case that the Petitioner was to be given his 1,066 days jail time served credit pursuant to statute 24-13-40, to be calculated and applied to Petitioner's sentences by SCDC; Petitioner's sentencing sheets are unambiguous and according to Petitioner's sentencing sheets he was entitled to time served on all his sentences; and statute 24-13-40 requires that Petitioner receive his time served credit all applied to all his sentences because neither of the two statutory exceptions of statute 24-13-40 applies to Petitioner's

Case. The Petitioner made the Court of Appeals aware of the Supreme Court's precedents in all of his Court of Appeals filings. (See: Petitioner's Court of Appeals, "Final Brief"); (See: Petitioner's Court of Appeals, "Final Reply Brief"); (See: Petitioner's Court of Appeals, "Petition for Rehearing and Reinstatement")

The decision of the Court of Appeals stating that Petitioner had received his time served credit applied to each of his sentences is in conflict with the above listed Supreme Court precedent decisions that it is mandatory that Petitioner was entitled to receive his time served credit applied to each of his sentences. The Petitioner has shown and proven to this Court that Petitioner's Petition for Writ of Certiorari should be granted because the Court of Appeals decision is in conflict with Supreme Court precedent when Petitioner shown and proved to the Court of Appeals that SCDC records show that Petitioner only received his time served credit on one sentence and not all sentences, but the Court of Appeals failed to rule and order that SCDC apply Petitioner's time served credits to all his sentences and correct his maxout date.

By the Court of Appeals not ruling and ordering that SCDC should apply Petitioner's 1,066 days time served credit to each of his sentences and correct Petitioner's maxout date the Court of Appeals had failed to apply South Carolina Supreme Court controlling precedent of the Supreme Court cases: State v. Phillips, 416 S.C. 184, 785 S.E.2d 448 (2016); State v. Price, 441 S.C. 423, 895 S.E.2d 633 (2023); Allen v. State, 339 S.C. 393, 529 S.E.2d 541 (2000); and Tant v. S.C. Dep't of Corr., 408 S.C. 334, 759 S.E.2d 398 (2014). "Simply because a party does not expressly articulate the relevance of a particular case does not excuse the court of appeals from failing to apply controlling precedent." State v. Phillips, 416 S.C. 184, 194, 785 S.E.2d 448, 453 (2016)

The Court of Appeals' decision to not rule and order that SCDC should apply Petitioner's 1,066 days time served credit to each of his sentences and correct Petitioner's maxout date involves directly substantial constitutional issues. First, the Court of Appeals violated S.C. Const. art. 5, 9 which states, "The decisions of the Supreme Court shall bind the Court of Appeals as precedents". When it didn't apply the aforesaid Supreme Court precedents to Petitioner's because these Supreme Court cases are controlling precedents which govern Petitioner's case. The aforesaid controlling Supreme Court cases are binding precedents the Court of Appeals failed to apply to Petitioner's case. By the Court of Appeals failing to apply controlling Supreme Court precedents to Petitioner's case, this violated Petitioner's U.S. Const. Amend. 14 and S.C. Const. Art. 1, 3 rights to Due Process Rights (of liberty interest) because of the Court of Appeals error in failing to apply South Carolina Supreme Court precedent and rule and order that SCDC should apply Petitioner's 1,066 days time served credit to each of Petitioner's sentences and correct Petitioner's maxout date. The Court of Appeals' error prejudiced Petitioner because SCDC's error in not applying Petitioner's 1,066 days time served credit to Petitioner's Voluntary manslaughter and ABHAN sentences erroneously calculates Petitioner's maxout

date to be May 13, 2037. SCDC was suppose to apply Petitioner's time served credit to each of Petitioner's sentences, which is mandated and petitioner is entitled to pursuant to statute 24-13-40 and Supreme court precedents State v. Phillips, 416 S.C. 184, 785 S.E.2d 448 (2016); State v. Price, 441 S.C. 423, 895 S.E.2d 633 (2023); Allen v. State, 339 S.C. 393, 529 S.E.2d 541 (2000); and Tant v. S.C. Dept of Corr., 408 S.C. 334, 759 S.E.2d 398 (2014). By SCDC not applying the time served credit to both of Petitioner's consecutive sentences, this prejudiced Petitioner because Petitioner would be incarcerated in prison longer than the law allows. SCDC was instructed by Petitioner's sentencing sheets and mandated by the law to apply petitioner's 1,066 days time served credit to all of Petitioner's sentences. This would make Petitioner's correct max out date to be in the year of 2034 and not in 2037.

The Petitioner proved to the Court of Appeals that his right to Due Process Rights (of liberty interest) pursuant to the U.S. Const. Amend. 14 and S.C. Const. Art. 1, § 3 were violated by SCDC and the ALC when they failed to apply Petitioner's 1,066 days time served credit to Petitioner's Voluntary manslaughter and ABHIAN sentences and correct his max out date in appeal court filings. (see: Petitioner's "Brief of Appellant, for the Court of Appeals," pp. 10-13); (see: Petitioner's "Reply Brief, for the Court of Appeals," pp. 6-7); (see: Petitioner's "Petition for Rehearing and Reinstatement, for the Court of Appeals," pp. 6-12). Thus, Petitioner was entitled to receive his 1,066 time served credit applied to all of his sentences, and his max out date corrected. "Under both our state and federal due process clauses, no person shall be deprived of life, liberty or property without due process of law." Tant v. S.C. Dept of Corr., 408 S.C. 334, 340, 759 S.E.2d 398, 401 (2014). "The statutory right to sentence-related credits is a protected liberty interest under the fourteenth Amendment entitling an inmate to minimal due process to ensure the state-created right was not arbitrarily abrogated." Al-Shabazz v. State, 338 S.C. 354, 369-70, 527 S.E.2d 742, 750 (2000). "There can be no doubt the length of an inmate's incarceration implicates a constitutional liberty interest." Tant v. S.C. Dept. of Corr., 408 S.C. 334, 341, 759 S.E.2d 398, 401 (2014). "Penal statutes will be strictly construed against the state." State v. Elwell, 403 S.C. 606, 612, 743 S.E.2d 802, 806 (2013).

Therefore, the South Carolina Supreme court should grant the Petitioner's Petition for a Writ of Certiorari and issue a Writ of Certiorari to review the final decision of the Court of appeals, because the decision of the Court of appeals is in conflict with prior decisions of the Supreme court entitling and mandating that petitioner receive his time served credit to each of his sentences. The court of appeals' decision also involves substantial constitutional issues. As petitioner aforesaid, these are special and important reasons to grant Petitioner's petition for a writ of certiorari because the Court of Appeals erred in holding that the Administrative Law Court did not violate section 24-13-40 when it affirmed the South Carolina Department of Corrections' final decision and

found that Petitioner had received time served credit on all his sentences; when Petitioner had proved with the Record on Appeal that SCDC applied Petitioner's time served credit only to petitioner's firearms provision sentence and SCDC did not apply petitioner's time served credit to Petitioner's Voluntary manslaughter and ABHAN sentences.

CONCLUSION

For the reasons stated, petitioner asks this Court to grant the petition for a Writ of Certiorari.

Respectfully submitted,

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