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Jul 27 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of General Sessions

Honorable Debra R. McCaslin, Circuit Court Judge

Appellate Case No.: 2025-000368

THE STATE OF SOUTH CAROLINA,

Appellant,

v.

CHAD E. GIBBS,

Respondent.

RESPONDENT'S PETITION FOR REHEARING

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INTRODUCTION

This Court’s reversal of the trial court is flawed because the Court misapprehended the approved travels of Mr. Gibbs; specifically, the move to Pennsylvania, and subsequent travels to Massachusetts and Maine. Mr. Gibbs requested the court’s approval solely for the purpose of gainful employment. We believe that when viewed as a work exception, coupled with the geographical confinement to Pennsylvania, **(R. 87)**, constant GPS monitoring **(R. 88)**, and need for approval before “*any* intended trips” (emphasis added) **(R. 88)**, this Court will find that Mr. Gibbs should receive the time-credit award as instructed by the trial court.

STANDARD OF REVIEW

A Petition for Rehearing must be granted when there are issues “overlooked or misapprehended” by the court. Rule 221(a), SCACR; *see also Kennedy v. South Carolina Retirement System*, 349 S.C. 531, 532, 564 S.E.2d 322, 322 (2001).

ARGUMENT

A. The Court misapprehended the stringent conditions of Mr. Gibbs’ bond

The Court referenced South Carolina’s “Home Detention Act” (“Act”) in determining what qualifies as “monitored house arrest.” *See The State v. Chad Eugene Gibbs*, Op. No. 2026-UP-365 (S.C. Ct. App. filed July 15, 2026). While the Court acknowledged that under the Act, individuals on house arrest may be approved to travel for employment, it overlooked applying that exception to Mr. Gibbs. In particular, the court admonished Mr. Gibbs’ movement to Pennsylvania and the approved travels to Massachusetts and Maine. *See Gibbs*, Op. No. 2026-UP-365 at *2. But these travels were work-related, and therefore, should be re-considered as a work exemption to a standard house arrest program.

“All house arrest programs stress surveillance and employment[.]” Petersilia, *Exploring the Option of House Arrest*, 50 FED. Probation, June 1986, at 51. By allowing individuals on house arrest to work, not only do they “remain on the tax rolls,” but more importantly, individuals can “pay restitution or damages if appropriate” and fees associated with GPS monitoring. *See U.S. v. Murphy*, 108 F.R.D. 437, 441 (E.D.N.Y. 1985). In fact, work travel exemptions are appealing since offenders can serve their sentence while remaining productive members of society. P. Hofer & B. Meierhoefer, *Home Confinement: An Evolving Sanction in the Federal Criminal Justice System*, (available from the Federal Judicial Center), 1987, at 8. Jurisdictions have thus honored work exemptions under house arrest initiatives because “when disruptions to...employment are reduced, the offender is less likely to develop a criminal outlook and life-style.” *Id.* at 51.

Here, however, the Court did not recognize Mr. Gibbs’ employment and instead used his employment trips as grounds to deny his time-served award. *See Gibbs*, Op. No. 2026-UP-365 at *2 (“Here, Gibbs was given significantly more freedom...Gibbs was allowed to move out the state and even granted permission from the court to travel to Boston and Portland, Maine.”). Following his arrest in South Carolina, Mr. Gibbs’ employment terminated. Considering his arrest during the Covid-19 pandemic, opportunities were limited and Mr. Gibbs needed employment to cover fees associated with GPS monitoring and his legal representation. Considering his tarnished reputation in South Carolina following this action, Mr. Gibbs believed that it was best to move to Pennsylvania to work based on previous ties to the Commonwealth, so his relocation was strictly for work. The *Order Clarifying Bond* (“Order”) even acknowledges that any travel outside Pennsylvania would only happen “for work purposes with advance notice to his bondsman.” (R. 87). Hence, the proposed travels to Massachusetts and Maine were for work reasons, and should not be characterized as “more freedom,” *see Gibbs*, Op. No. 2026-UP-365 at *2, but as a

typical work exception to a house arrest program. Additionally, throughout this experience, the trial court retained exclusive authority to approve or deny Mr. Gibbs' travel, as it saw fit. If the court wanted to restrict Mr. Gibbs' movement further, it had the plenary right to do so.

Ultimately, the Court's portrayal of Mr. Gibbs' travel is unfair and misrepresentative. Viewing the relocation to Pennsylvania and travels to adjoining states as work related, coupled with the geographical restriction to Pennsylvania at the provided address, constant GPS monitoring, and exclusionary zoning, Mr. Gibbs' bond is essentially a house arrest program. Mr. Gibbs' bond fits within the rule provided by this Court—he has been geographically confined and his freedom is restricted.

CONCLUSION

For the reasons above, this Court should grant Respondent's Petition for Rehearing and affirm the trial court's award of time served credit.

[SIGNATURE PAGE TO FOLLOW]

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, J. Todd Rutherford, the undersigned retained counsel for Mr. Chad E. Gibbs, do hereby certify that *Respondent's Petition for Rehearing* was served upon the counsel of record for Appellants, Mr. Mark Reynolds Farthing, Esq., on this 27th Day of July 2026, via email, to: mfarthing@scag.gov.

/s/ J. Todd Rutherford
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The State v. Chad Gibbs:2025-000368

SC Court of Appeals

From Faye Johnson <faye@rutherford.law>
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 2 attachments (224 KB)

State v. Gibbs - Petition for Appeal Bond (Appellate No. 2025-000368).pdf; State v. Gibbs - Petition for Rehearing (Appellate No. 2025-000368).pdf;

Good afternoon,

I hope you are doing well. Please find our Petition for Appeal bond and Petition for Hearing in the above-referenced matter for your records. We will be filing these documents with the Court of Appeals today.

Thank you,

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