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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from York County

Honorable Eugene C. Griffith, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RICHARD LAWRENCE HUDSON, III,

APPELLANT

APPELLATE CASE NO. 2026-001045

INITIAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether the plea court erred by refusing to grant appellant credit for time served in pretrial detention pursuant to S.C. Code Ann. § 24-13-40 where the court erroneously relied on the fact that appellant was out of state to deny appellant's full entitlement to time-served credit, which resulted in an additional 248 days served but not credited?

STATEMENT OF THE CASE

Appellant was indicted at the March 2026 term of the York County grand jury for one count of financial identity fraud, one count of fraud against a financial institution, and one count of forgery, value less than \$10,000. R *(Indictments). At his April 16, 2026, plea hearing appellant was represented by Katherine Scott Christenbury. Tr. 1. Abigail Briana-Audette Crysler represented the state. Tr. 1. The Honorable Eugene C. Griffith, Jr., imposed a negotiated five-year sentence. Tr. 10, l. 24. Appellant filed a timely notice of appeal and a Rule 203(b) explanation. R *(Notice of appeal); R *(Rule 203(b) explanation). On May 7, 2026, the South Carolina Court of Appeals allowed the appeal to proceed. R *(Letter).

This brief follows.

STANDARD OF REVIEW

“In criminal cases, appellate courts sit to review errors of law only.” *State v. Robinson*, 426 S.C. 579, 591, 828 S.E.2d 203, 209 (2019) (citing *State v. Baccus*, 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006)). “A sentence will not be overturned absent an abuse of discretion when the ruling is based on an error of law.” *In re M.B.H.*, 387 S.C. 323, 326, 692 S.E.2d 541, 542 (2010).

ARGUMENT

The plea court erred by refusing to grant appellant credit for time served in pretrial detention pursuant to S.C. Code Ann. § 24-13-40 where the court erroneously relied on the fact that appellant was out of state to deny appellant's full entitlement to time-served credit, which resulted in an additional 248 days served but not credited.

Relevant facts

A plea hearing was held for appellant on April 16, 2026. Tr. 3, l. 1. The state provided that appellant was pleading guilty to all three true-billed indictments for a negotiated five years. Tr. 3, ll. 5-7. The state also articulated that appellant had 153 days of time-served credit. Tr. 3, l. 8. After the plea court's questioning, appellant agreed that he waived his rights freely and voluntarily to enter three pleas. Tr. 5, ll. 16-24. The state presented facts underlying the three indictments. Tr. 6, l. 2 – 7, l. 9. Appellant pled guilty. Tr. 8, ll. 2-4. The plea court found that appellant made a free, knowing, and intelligent plea as to all three pleas with the advice of counsel and where the state provided a factual basis. Tr. 8, ll. 5-14.

Plea counsel advised the court that she had a matter as to credit for time served. Tr. 8, ll. 16-17. Plea counsel advised the court that a detainer was placed on appellant on March 12, 2024, while he was serving a sentence in the North Carolina Department of Adult Corrections. Tr. 8, ll. 18-20. She stated that a second detainer was placed on March 12, 2025. Tr. 8, l. 21. Plea counsel noted that the state was disputing credit for time served. Tr. 8, ll. 22-23. The state argued that appellant was in jail in North Carolina because of a sentence and not because of a detainer on South Carolina. Tr. 8, l. 25 – 9, l. 2. The state argued that appellant was brought to South Carolina once his sentence was served in North Carolina. Tr. 9, ll. 3-6.

The plea court inquired,

So doesn't that code section say credit for time served prior to trial and sentencing shall not be given when he was in prison as an escapee from another institution or when the prisoner is serving a sentence for one offense and awaiting trial and sentence for a second offense, in which case he shall not receive credit for time served prior to trial. Isn't that applicable?

Tr. 9, ll. 7-13. Plea counsel argued that appellant had been incarcerated since 2023 and it took until November 14, 2025, for him to be brought back to South Carolina. Tr. 9, ll. 14-21. The state argued its position was that appellant could not receive credit on his South Carolina charges for the time he was serving a North Carolina sentence. Tr. 9, ll. 22-25.

The plea court stated that it did not believe that appellant was entitled to time out of state. Tr. 10, ll. 1-10. The plea court further stated that appellant was "entitled to 153 days. No questions." Tr. 10, ll. 12-13. The plea court also stated that it would mark the box that appellant was entitled to credit and would not prohibit appellant from asking the South Carolina Department of Corrections for credit. Tr. 10, ll. 18-21.

Appellant filed a timely notice of appeal. R *(Notice of appeal). In the accompanying Rule 203(b) explanation, plea counsel argued that the plea court abused its discretion by crediting only 153 days of time served credit. R *(Rule 203(b) explanation). Plea counsel noted that a detainer was placed on appellant while he was in the North Carolina Department of Adult Corrections on March 12, 2024, and a second detainer was placed on appellant on March 12, 2025. R *(Rule 203(b) explanation). Plea counsel noted that appellant was unable to have bond in other jurisdictions due to the detainer which resulted in appellant remaining incarcerated. R *(Rule 203(b) explanation). Plea counsel concluded that appellant was appealing the plea court's refusal to award credit for time served. R *(Rule 203(b) explanation).

Discussion

“Our Supreme Court defined time served as used in section 24-13-40 as the time during which a defendant is in pre-trial confinement and charged with the offense for which he is sentenced (so long as he is not serving time for a prior conviction).” *State v. Brown*, 426 S.C. 63, 66, 824 S.E.2d 476, 478 (Ct. App. 2019) (citing *Blakeney v. State*, 339 S.C. 86, 88, 529 S.E.2d 9, 10-11 (2000)) (internal quotation marks omitted and emphasis in original). Moreover, “[p]retrial detention is nothing less than punishment.” *Durkin v. Davis*, 538 F.2d 1037, 1041 (4th Cir. 1976).

Under S.C. Code Ann. § 24-13-40, which was amended in 2023, the general assembly provides that in every case in which time served by a prisoner is computed,

[F]ull 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; 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; (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.

In *Robinson v. State*, 329 S.C. 65, 495 S.E.2d 433 (1998), our Supreme Court considered whether the post-conviction relief (PCR) court’s grant of credit for time served while in federal prison, calculated from the affirmance of his state court conviction, was proper. *Id.* at 66, 495 S.E.2d at 434. Robinson was found guilty of accessory after the fact in January of 1989 and sentenced to 10-years imprisonment. *Id.* He appealed, and while on appeal bond, returned to Chicago and was charged with federal Racketeer Influenced and Corrupt Organizations

violations and sentenced to six years in prison. *Id.* In 1992, he was convicted and sentenced to life imprisonment for additional charges related to his involvement with a Chicago-based street gang. *Id.* His federal sentences were to run concurrently to his state sentence, and in September 1991, our Supreme Court affirmed his state conviction, “which was during the interim between his federal court convictions.” *Id.* at 66-67, 495 S.E.2d at 434. In November 1992, Robinson sought PCR to obtain credit in South Carolina for the time served in federal custody from the date of his conviction. *Id.* at 67, 495 S.E.2d at 434.

In Robinson’s case, the federal district court stated that the federal sentences were to be served concurrently with the state sentence, however, our Supreme Court disagreed that Robinson should receive credit for time served in federal custody from the date his conviction was affirmed. *Id.* at 70, 495 S.E.2d at 436. Our Supreme Court noted that, “[a] convict may also receive credit for time served in another jurisdiction by notifying SDOC that he is unable to personally submit to South Carolina custody to commence the service of his sentence,” and thus, “[u]pon such notification, the SCDOC will place a detainer on the convict.” *Id.* at 71, 495 S.E.2d at 436. The *Robinson* Court acknowledged that “[w]hile the convict is subject to a South Carolina detainer, he is constructively in South Carolina custody,” and “[a]s a result, a convict will receive credit for time spent in another jurisdiction subject to a South Carolina detainer.” *Id.* at 71, 495 S.E.2d at 436-37.

In *Delahoussaye v. State*, 369 S.C. 522, 633 S.E.2d 158 (2006), our Supreme Court considered whether a defendant was entitled to credit for time served while in federal custody. *Id.* at 524-525, 633 S.E.2d at 159. There, Delahoussaye was convicted and sentenced to 25-years imprisonment, and after his conviction was affirmed, he escaped from custody of the South Carolina Department of Corrections (SCDOC). *Id.* at 523, 633 S.E.2d at 159. While he was an

escapee, Delahoussaye committed several federal crimes and was ultimately sentenced to 45 years in a federal district court. *Id.* at 523-524, 633 S.E.2d at 159. SCDOC issued a detainer against Delahoussaye in 1979, and after he was paroled from federal prison, he was returned to SCDOC's custody in 2002. *Id.* at 525, 644 S.E.2d at 159. Our Supreme Court determined that "respondent's *entire absence* from the SCDOC's custody was because of his escape." *Id.* at 528, 633 S.E.2d at 161 (emphasis added). This Court continued that "because we have previously distinguished a rule regarding service credit based on whether the inmate's status was non-escapee versus escapee, it is consistent with South Carolina case law that the *Robinson* rule should not be applied to an escapee." *Id.* at 529, 633 S.E.2d at 162.

Similarly, our Supreme Court has explained that when an appellant's *entire absence* was due to his escape and resistance to the efforts of the State of South Carolina to affect his return, he is not entitled to credit for any time spent as an escapee. *See Kephart v. State*, 277 S.C. 395, 396, 289 S.E.2d 402 (1982) (emphasis added). However, in *State v. Dozier*, 263 S.C. 267, 272-274, 210 S.E.2d 225, 227 (1974), where our Supreme Court considered whether the trial judge erred in refusing to give the appellant credit on his sentence for the time spent in a prison in Georgia while contesting extradition to South Carolina, our Supreme Court concluded "that the appellant was entitled to credit for pre-conviction jail time spent in the State of Georgia." *Id.* Specifically, in *Dozier*, appellant was arrested in Georgia for several offenses but was cleared of those charges on November 9, 1972. *Id.* at 271, 210 S.E.2d at 227. A detainer was placed against Dozier and he was unable to be released on bond, which was subsequently set for him. *Id.* Dozier contested extradition until July 13, 1973, and, after his conviction, he was given presentence jail time for the time following July 13, 1973, in Dorchester County jail but refused

credit for the time Dozier spent in a Georgia jail, resulting in 244 days uncredited. *Id.* Our Supreme Court explained that,

The general rule on this issue is stated in 24B C.J.S. Criminal Laws 1995(5), at page 645, as follows:

***the right to credit under the statute is not limited to the time spent in prison or jail in a jurisdiction, but also includes the time spent in jail in another jurisdiction, in which he was apprehended, preliminary to being sent back for trial, and time during which he was arrested or detained in connection with the offense for which he was subsequently tried.

Id. at 273, 210 S.E.2d at 227.

In addition, “a state court is without authority to modify or place conditions on a sentence from a foreign jurisdiction.” *Clark v. State*, 321 S.C. 377, 380, 468 S.E.2d 653, 655 (1996). “Correspondingly, a foreign jurisdiction is without authority to modify or place conditions on a sentence imposed in South Carolina.” *Robinson*, 329 S.C. at 69, 495 S.E.2d at 435.

In appellant’s case, the plea court committed an error of law when it determined that appellant was not entitled to time-served credit for time spent out of state. Tr. 10, ll. 1-10; *Robinson*, 426 S.C. at 591, 828 S.E.2d at 209; *In re M.B.H.*, 387 S.C. at 326, 692 S.E.2d at 542. The plea court’s ruling ignores that appellant spent an additional 248 days in pretrial custody that was not attributable to any sentence, out of state or otherwise, albeit while appellant remained in the custody of the North Carolina Department of Adult Corrections. The mere fact that appellant remained in out-of-state custody does not justify the plea court’s refusal of credit and was therefore an erroneous application of section 24-13-40. *See* S.C. Code § 24-13-40.

Specifically, as plea counsel argued below, while appellant was held in North Carolina he was subject to two South Carolina detainers one on March 12, 2024, and a second on March 12, 2025. Tr. 8, ll. 18-21; *see also* R *(Rule 203(b) explanation). As plea counsel noted, the first

detainer was placed while appellant was serving a sentence in the North Carolina Department of Adult Corrections, Tr. 8, ll. 18-20, however, the second detainer placed on March 12, 2025, occurred after appellant completed his North Carolina sentence, *see* Tr. 8, l. 21.¹ Therefore, the time from the second detainer on March 12, 2025, and until November 14, 2025, when appellant was brought back to South Carolina, while out-of-state, was not pursuant to a sentence to be served by appellant in the North Carolina Department of Corrections. *See Oglesby v. Leeke*, 263 S.C. 283, 287, 210 S.E.2d 232, 234 (1974) (“As a general rule, a sentence can be satisfied only by death, *service of the required time*, or relief therefrom by competent authority.”) (emphasis added); *see also Thomas v. Whalen*, 962 F.2d 358, 360-361 (4th Cir. 1992) (“[A] detainer merely puts the officials of the institution in which the prisoner is incarcerated on notice that the prisoner is wanted in another jurisdiction for trial upon his release from prison.”).

Moreover, when determining the question of appellant’s time-served entitlement, the plea court cited to subsections (1) and (2) of section 24-13-40. Tr. 9, ll. 7-13. Under those subsections, “a prisoner will receive credit for time served unless either (1) they were an escapee or (2) the prisoner was already serving a sentence on a different offense.” *See Hayes v. State*, 413 S.C. 553, 560, 777 S.E.2d 6, 10 (Ct. App. 2015). First, it is evident from the record that appellant does not qualify as an “escapee,” as he had not yet had a South Carolina sentence imposed from which he could be deemed to have escaped from. *See e.g., Delahoussaye*, 369 S.C. at 523, 633 S.E.2d at 159 (Our Supreme Court explaining that Delahoussaye was an escapee because “he escaped from the South Carolina Department of Corrections,” after he was

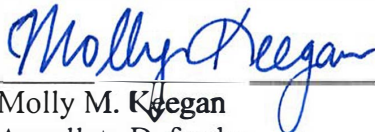
¹ A search of the North Carolina Department of Adult Correction offender public information using appellants name provides appellant’s conviction records and release dates for his North Carolina offenses. *See* Offender Public Information Search / Offender Search, North Carolina Department of Adult Correction (last visited August 17, 2026), <https://webapps.doc.state.nc.us/opi/offendersearch.do?method=view>.

convicted and sentenced to 25-years imprisonment); *Kephart*, 277 S.C. at 396, 289 S.E.2d at 402 (Our Supreme Court explaining that Kephart pled guilty in 1970 and received a 15-year sentence and “[o]n September 11, 1972, appellant escaped from the custody of the Department of Corrections,” where he “remained at large until March, 1979 when he was arrested on a South Carolina fugitive warrant in Carlisle, Pennsylvania and contested extradition for approximately 16 months while imprisoned in Pennsylvania). Second, the record also demonstrates that appellant was not “already serving a sentence on a different offense,” as at the time of the second March 12, 2025, detainer appellant had completed his sentence in the North Carolina Department of Corrections. Therefore, no exception to § 24-13-40 cited by the plea court applied to deny appellant of his full entitlement to time-served credit.

Accordingly, because neither exception to section 24-13-40 cited by the plea court applied and the plea court erroneously relied on the fact that appellant was “out of state,” the denial of credit for the additional 248 days of credit constituted an error of law. Tr. 9, ll. 7-13; Tr. 10, ll. 1-10; *Robinson*, 426 S.C. at 591, 828 S.E.2d at 209; *In re M.B.H.*, 387 S.C. at 326, 692 S.E.2d at 542. Therefore, this Court should reverse.

CONCLUSION

For the foregoing reasons, appellant respectfully requests this Cour to vacate his sentence and remand for resentencing.


Molly M. Keegan
Appellate Defender

ATTORNEY FOR APPELLANT

This 18th day of August, 2026.