

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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S.C. SUPREME COURT

APPEAL FROM LEXINGTON COUNTY
Court of General Sessions
Honorable Debra R. McCaslin, Circuit Court Judge

Appellate Case No.: 2025-000368

CHAD E. GIBBS,

Petitioner,

v.

THE STATE OF SOUTH CAROLINA,

Respondent.

PETITION FOR WRIT OF CERTIORARI

To Review Unpublished Opinion No. 2026-UP-365 of the Court of Appeals

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QUESTIONS FOR REVIEW

- I. Did the Court of Appeals err by holding, as a matter of law, that “monitored house arrest” under S.C. Code Ann. § 24-13-40 requires literal confinement to the home, whereas the statute does not define the term and S.C. Code Ann. § 17-15-35(B)(1) recognizes that court-ordered electronic monitoring may impose restrictions on travel short of full home confinement?
- II. Did the Court of Appeals err in reversing the circuit court's discretionary award of time-served credit under § 24-13-40 by substituting its own weighing of Gibbs's bond restrictions for the sentencing court's, on a question this Court's own decision in *State v. Field*, 429 S.C. 578, 840 S.E.2d 548 (2020), expressly declined to resolve on the merits?
- III. Does this case present an unsettled and recurring question of significant public importance that warrants this Court's review rather than being settled, as a practical matter, by a non-precedential, unpublished Court of Appeals opinion?

STATEMENT OF THE CASE

On February 24, 2025, Chad Gibbs pled guilty in the Lexington County General Sessions Court to two counts of second-degree sexual exploitation of a minor, arising from an incident involving his stepdaughter. The Hon. Debra R. McCaslin, presiding circuit court judge, sentenced Gibbs to an aggregate term of eight years' imprisonment and, pursuant to S.C. Code Ann. § 24-13-40, awarded him 1,831 days of time served credit for the time Gibbs spent on bond under electronic GPS monitoring and other strenuous restrictions.

In February 2020, Gibbs initially received a \$100,000 surety bond with GPS monitoring, conditioned that he had no contact with the victim and refrained from visiting the incident location (victim's residence). In July 2020, Gibbs moved the circuit court to discontinue the GPS monitor. The court modified Gibbs's bond conditions but declined to remove the monitor. As modified, Gibbs's bond required that he: (1) not return to the victim's residence; (2) remain in Pennsylvania and only return to South Carolina for court proceedings or attorney meetings; (3) be permitted to travel to states adjoining Pennsylvania *for work* with advance notice to his bondsman; and (4) notify his attorney and the court, and obtain prior court approval, for any other intended trips. In early 2021, the circuit court granted Gibbs's request to travel to Boston, Massachusetts and Portland, Maine for work-related matters.

The State appealed the award of time served credit, arguing that S.C. Code Ann. § 24-13-40 authorizes discretionary credit only for time spent on “monitored house arrest,” and that Gibbs's GPS-monitored bond did not qualify because it did not confine him to his residence. The Court of Appeals agreed. The court held that “monitored house arrest” requires confinement to the home with restrictions on the defendant's freedom, and that GPS monitoring without such confinement does not qualify. This was despite, as in Mr. Gibbs’s case, he remained under continuous GPS surveillance, was barred from leaving his authorized state without advance court permission and was required to notify the court and obtain approval before any travel outside the state. The Court of Appeals found support in this Court's decision in *State v. Field*, in which this Court, without reaching the merits, observed *in dicta* that the State had presented a strong argument that electronic monitoring is not equivalent to house arrest. The Court of Appeals reversed the time served credit award in an unpublished opinion and remanded for resentencing. *State v. Gibbs*, No. 2026-UP-365 (S.C. Ct. App. filed July 15, 2026).

Mr. Gibbs timely petitioned for rehearing and the Court of Appeals subsequently denied that petition by Order on August 5, 2026. This petition for writ of certiorari is served and filed within thirty (30) days of the Order denying rehearing, as required by Rule 242(c), SCACR, and is therefore timely. This case is ripe for review by this Court.

ARGUMENT

I. The Court of Appeals' interpretation that “Monitored House Arrest” requires Confinement to the Home, Conflicts with the Statutory Scheme.

S.C. Code Ann. § 24-13-40 does not define “monitored house arrest,” and no prior decision of this Court has construed the phrase on the merits. The Court of Appeals used the definition of house arrest from the Home Detention Act, S.C. Code Ann. §§ 24-13-1530, -1540, and then declared that anything short of confinement to the residence falls outside Section 24-13-40 as a matter of law.

That interpretation clashes with S.C. Code Ann. § 17-15-35(B)(1), which the Court of Appeals also cited. Sections 17-15-10 and 17-10-35 govern electronic monitoring imposed as a bond condition and expressly contemplate that such monitoring may include “restrictions on travel” and curfews as conditions of release distinct from full home confinement. If the General Assembly intended “monitored house arrest” in § 24-13-40 to mean only the Home Detention Act's confinement interpretation, the Court of Appeals' own citation to § 17-15-35 suggests a more varied landscape of judicially imposed, GPS-monitored travel restrictions that the General Assembly did not foreclose from credit consideration. Mr. Gibbs respectfully submits that the Court of Appeals' bright-line rule requiring literal confinement to the home evokes a limitation into Section 24-13-40 that its text does not supply and forecloses credit for defendants (like Gibbs) who were subject to continuous GPS tracking and substantial, court-enforced geographic and travel restrictions falling short of, but closely resembling, home confinement.

II. This Court Has Never Resolved Whether GPS Monitoring Without Full Home Confinement Qualifies for § 24-13-40 Credit, and an Unpublished Opinion Should Not Supply the Answer.

The Court of Appeals relied heavily on this Court's decision in *State v. Field*, 429 S.C. 578, 840 S.E.2d 548 (2020). But *Field* does not decide this question. In *Field*, this Court affirmed the sentence on error-preservation grounds and expressly declined to reach the merits of whether time on electronic monitoring, without house arrest, could be credited under S.C. Code Ann. § 24-13-40. *Id.* at 581, 840 S.E.2d at 550. This Court's observation that the State presented “a strong argument on the merits” was dicta by its own terms, and not binding precedent. “Dicta or, as it is also known, dictum ‘is a statement on a matter not necessarily involved in the case, and is not binding as authority.’” *Nash v. Tindall Corp.*, 375 S.C. 36, 40, 650 S.E.2d 81, 83 (S.C. Ct. App. 2007).

Nevertheless here, the Court of Appeals treated that dicta as sufficient authority to find against Gibbs and reverse the sentencing court's discretionary credit determination. Whatever persuasive weight *Field* dicta carries, it is not a holding of this Court, and the Court of Appeals' unpublished opinion adopting it likewise carries no precedential weight beyond this case. Rule 268(d)(2), SCACR. The result is that a recurring sentencing question remains unsettled even as trial courts throughout the State continue to impose GPS-monitored bond conditions. GPS and electronic monitoring have become routine bond conditions in South Carolina criminal cases. *See* S.C. Code Ann. § 17-15-35. Every sentencing court presiding over such a case must now decide, without controlling guidance from this Court, whether restrictions attached to a given defendant's monitored release

qualify for time served credit awards. The Court of Appeals' unpublished opinion only supplies an answer for this case, but it leaves circuit courts, the Court of Appeals itself, and the South Carolina Bar without binding guidance for what is “monitored house arrest.” Review is warranted so that this Court, rather than an unpublished per curiam opinion, supplies the governing rule.

III. The Court of Appeals Improperly Substituted Its Own Judgment for the Sentencing Court's Statutorily Committed Discretion.

S.C. Code Ann. § 24-13-40 provides that credit for monitored house arrest “may be given,” language that provides discretion to the sentencing judge. “A [sentencing court] has broad discretion in sentencing within statutory limits.” *Interest of Christopher H.*, 432 S.C. 600, 605, 854 S.E.2d 853, 855 (S.C. Ct. App. 2021). A judge’s discretionary action will only be reversed “when the ruling is based on an error of law or factual conclusion that is without evidentiary support.” *Id.* Here, the circuit court judge exercised that discretion, finding Mr. Gibbs’s bond conditions coupled with GPS monitoring tantamount to house arrest. The circuit court judge presided over Gibbs's case for years and noted that Mr. Gibbs had never violated his bond. *See* R. 46. The Court of Appeals' opinion does not identify an abuse of that discretion so much as it reaches a different conclusion about how restrictive Gibbs's bond conditions were. Further, since the legislature and courts have not defined “monitored house arrest” within the parameters of Section 24-13-40, the trial court could not have made an error of law. The trial court acted within its discretion to grant time served credit, pursuant to a statute that has no controlling authority or prevailing statute that would otherwise bar time served credit from being awarded. Accordingly, since there

is not an error of law, appellate courts cannot input their own judgment but instead must defer to the trial court's award of time served credit.

CONCLUSION

For the foregoing reasons, Mr. Gibbs respectfully requests that this Court grant his petition for writ of certiorari, review the decision of the Court of Appeals in *State v. Gibbs*, No. 2026-UP-365, and, upon review, reverse the decision of the Court of Appeals and reinstate the circuit court's award of 1,831 days of time served credit.

Respectfully submitted,

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