

STATE OF SOUTH CAROLINA
COUNTY OF YORK

SENTENCE ORDER

IN THE COURT OF GENERAL SESSIONS

) INDICTMENT/CASE#: 2023-GS-46-02774

) AWW#: 2023A4620300844

) Date of Offense: 03/25/2023

) S.C. Code§: 16-03-0010

) CDR Code #: 0116

ORIGINAL
JAIL

STATE vs.

Brenden Demarkus Johnson

AKA: Brenden D Johnson,

Brenden Demarkus Johnson

RACE: SEX:

SSN:

DOB:

Range of Offense: Murder (Death, Life, or NLT 30 years to Life)

In disposition of the above indictment comes now the Defendant who was CONVICTED OF ☐ or ☒ PLEADS

TO: Voluntary Manslaughter

Range of Offense Pled: (NMT 30 years)

In violation of § 16-03-0050 of the S.C. Code of Laws, bearing CDR Code # 0217

☐ NON-VIOLENT

☒ VIOLENT

☐ SERIOUS

☒ MOST SERIOUS

☐ MANDATORY GPS

☐ § 17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☐ As indicted

☒ Lesser Included Offense

☐ Defendant Waives Presentment to Grand Jury

The plea is: ☐ w/o Rec/Negotiations ☒ Negotiated 6 years concurrent under NC v. Alford ☐ Recommendation

/s/ Daniel K. Porter

101574

Solicitor

SC Bar #

/s/ Todd J. Rutherford

12097

Attorney for Defendant

SC Bar #

The Defendant is committed to the ☒ SCDC ☐ County Detention Center ☐ Home Incarceration Program

for a determinate term of 6 days/months/years/Time Served, ☐ YOANTE years and/or shall pay a fine

of \$; provided that upon the service of days/months/years/Time Served and or payment

of \$ plus costs and assessments as applicable*; balance is suspended with probation for months/years

and subject to SCDPPPS standard conditions of probation, which are incorporated by reference.

The sentence shall run ☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 9-14-2026

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDC

1239

0 days/months ☐ To include time spent on monitored house arrest prior to trial and sentencing

SPECIAL CONDITIONS:

☐ PTUP

☐ No Contact with Victim

☐ Domestic Violence Intervention Program

☐ Hold for Inpatient Treatment

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430

☐ SAC/MHC if necessary

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135

☐ Other:

☐ RESTITUTION See Separate Order (20% per S.C. Code §24-21-490(B))

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1) Conv. Surcharge)

§14-1-211 (A)(2)(DUI Surcharge)

§56-5-1995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

§14-1-212 (Law Enforcement Funding)

§14-1-213 (Drug Court Surcharge)

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

§50-21-114. (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

☐ Appointed PD or appointed other counsel. Provisio requires \$500 to be paid to Clerk during probation and shall be collected before any other fees

☐ §17-3-45(B) Unpaid Application Fee to be paid to the Public Defender Fund

Restitution

FINE:

\$100

\$100

\$12

\$25

\$25

\$150

\$41

\$50

\$40/ea

TBD

\$500

\$40

TOTAL

\$ 100

\$ 25

\$ 125.00

/s/ Angie Bryant

Clerk of Court/Deputy Clerk

Lora McDaniel

2773 Morgan

September 3, 2026

Sentence Date

Court Reporter

Judge Code

Shannon McElberry 9/14/2026

Accepted Plea

9/13/26

SC Court of Appeals

SCCA217B

01/27/2025

as to sentence 9-14-2026

STATE OF SOUTH CAROLINA
COUNTY OF YORK

SENTENCE ORDER

IN THE COURT OF GENERAL SESSIONS

) INDICTMENT/CASE#: 2020-GS-46-07716

CERTIFIED TRUE COPY

AW#: 2020A4620200233

STATE vs.

Brenden Demarkus Johnson

AKA: Brenden D Johnson

Brenden Demarkus Johnson

RACE:

SEX:

SSN:

2026 OCT -1 PM 3: 22

ANGIE B. BRYANT

009: JRT

YORK COUNTY, SC

) Date of Offense: 11/20/2020

) S.C. Code§: 16-23-0020

) CDR Code #: 0044

) Range of Offense: Unlawful Carrying of a Pistol (NMT 1 YEAR &/OR \$1,000)

ORIGINAL
JAIL

In disposition of the above indictment comes now the Defendant who was CONVICTED OF ☐ or ☒ PLEADS

TO: Unlawful Carrying of a Pistol

Range of Offense Pled: (NMT 1 YEAR &/OR \$1,000)

In violation of § 16-23-0020 of the S.C. Code of Laws, bearing CDR Code # 0044

☒ NON-VIOLENT

☐ VIOLENT

☐ SERIOUS

☐ MOST SERIOUS

☐ MANDATORY GPS

☐ § 17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As indicted

☐ Lesser Included Offense

☐ Defendant Waives Presentment to Grand Jury

The plea is: ☐ w/o Rec/Negotiations ☒ Negotiated Time served ☐ Recommendation _____

/s Daniel K. Porter

101574

/s Ugonna O. Udogwu

103845

Solicitor

SC Bar #

Attorney for Defendant

SC Bar #

The Defendant is committed to the ☒ SCDC ☐ County Detention Center ☐ Home Incarceration Program
for a determinate term of 66 days/months/years/Time Served ☐ YOANTE _____ years and/or shall pay a fine
of \$ _____; provided that upon the service of _____ days/months/years/Time Served and or payment
of \$ _____ plus costs and assessments as applicable*; balance is suspended with probation for _____ months/years
and subject to SCDPPPS standard conditions of probation, which are incorporated by reference.

The sentence shall run ☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDC

66 days/months ☐ To include time spent on monitored house arrest prior to trial and sentencing

SPECIAL CONDITIONS:

☐ PTUP _____

☐ No Contact with Victim

☐ Domestic Violence Intervention Program

☐ Hold for Inpatient Treatment

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430

☐ SAC/MHC if necessary

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135

☒ Other: Pleaded on 2 other cases same day

☐ RESTITUTION See Separate Order (20% per S.C. Code §24-21-490(B))

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1) Conv. Surcharge)

§14-1-211 (A)(2)(DUI Surcharge)

§56-5-1995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

§14-1-212 (Law Enforcement Funding)

§14-1-213 (Drug Court Surcharge)

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

☐ Appointed PD or appointed other counsel. Provisio requires \$500 to be paid to Clerk during probation and shall be collected before any other fees

☐ §17-3-45(B) Unpaid Application Fee to be paid to the Public Defender Fund

Restitution \$ _____

FINE: \$ _____

\$ _____

\$ 100

\$ _____

\$ 12

\$ _____

\$ 25

\$ _____

\$ 150

\$ _____

\$ 41

\$ _____

\$ 50

\$ _____

\$ 40/ea

\$ _____

\$ TBD

\$ _____

\$ 500

\$ _____

\$ 40

\$ _____

TOTAL \$ 125.00

/s Angie Bryant

Clerk of Court/Deputy Clerk

Lore McDaniel 2773 Morgan

Court Reporter

Judge Code

September 03, 2026

Sentence Date

RECEIVED
OCT 07 2026
SC Court of Appeals

2154
Presiding Judge 9-14-2026
SCCA217B
01/27/2025

Shannon McGilberry 9/14/2026

Accepted Pka
SC Morgan 9/13/26

STATE OF SOUTH CAROLINA
COUNTY OF YORK

SENTENCE ORDER

IN THE COURT OF GENERAL SESSIONS

) INDICTMENT/CASE#: 2022-GS-46-02262

CERTIFIED TRUE COPY) AW#: 2022-GS-46-02262

) Date of Offense: 11/20/2020

) S.C. Code§: 44-53-375(B)

) CDR Code #: 3199

) Range of Offense: (5-30 YEARS &/OR \$50,000)

) Range of Offense Pled: (5-30 YEARS &/OR \$50,000)

ORIGINAL
JAIL

STATE vs.

Brenden Demarkus Johnson

AKA: Brenden D Johnson

Brenden Demarkus Johnson

RACE: [REDACTED]

SEX: [REDACTED]

SSN: [REDACTED]

DOB: [REDACTED]

COURT: [REDACTED]

YORK COUNTY, SC

In disposition of the above indictment comes now the Defendant who was CONVICTED OF ☐ or ☐ PLEADS

TO: Possession with Intent to Distribute Methamphetamine

2nd Offense

In violation of § 44-53-375(B) of the S.C. Code of Laws, bearing CDR Code # 3199

☒ NON-VIOLENT

☐ VIOLENT

☒ SERIOUS

☐ MOST SERIOUS

☐ MANDATORY GPS

☐ § 17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As indicted

☐ Lesser Included Offense

☐ Defendant Waives Presentment to Grand Jury

The plea is: ☐ w/o Rec/Negotiations ☒ Negotiated 6 years concurrent

☐ Recommendation

/s Daniel K. Porter

101574

Solicitor

SC Bar #

/s Ugonna O. Udogwu

103845

Attorney for Defendant

SC Bar #

The Defendant is committed to the ☒ SCDC ☐ County Detention Center ☐ Home Incarceration Program

for a determinate term of 6 days/months/years/Time Served ☐ YOANTE 9-14-2026 years and/or shall pay a fine

of \$ 1239; provided that upon the service of 6 days/months/years/Time Served and or payment

of \$ 1239 plus costs and assessments as applicable*; balance is suspended with probation for 6 months/years

and subject to SCDPPPS standard conditions of probation, which are incorporated by reference.

The sentence shall run ☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 9-14-2026

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDC

1239 days/months ☐ To include time spent on monitored house arrest prior to trial and sentencing

SPECIAL CONDITIONS:

☐ PTUP

☐ No Contact with Victim

☐ Domestic Violence Intervention Program

☐ Hold for Inpatient Treatment

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430

☐ SAC/MHC if necessary

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135

☐ Other:

☐ RESTITUTION See Separate Order (20% per S.C. Code §24-21-490(B))

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1) Conv. Surcharge)

§14-1-211 (A)(2)(DUI Surcharge)

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§14-1-212 (Law Enforcement Funding)

§14-1-213 (Drug Court Surcharge)

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

☐ Appointed PD or appointed other counsel. Provisio requires \$500 to be paid to Clerk during probation and shall be collected before any other fees

☐ §17-3-45(B) Unpaid Application Fee to be paid to the Public Defender Fund

Restitution

\$

FINE:

\$

\$

\$100

\$100

\$12

\$25

\$25

\$150

\$41

\$50

\$40/ea

TBD

\$500

\$40

TOTAL

\$

\$ 2715.00

/s Angie Bryant

Clerk of Court/Deputy Clerk

Lora McDaniel

2773 Morgan

Court Reporter

Judge Code

Shannon McIlberty 9/14/2026

September 03, 2026

Sentence Date

SEDMA
Presiding Judge

SCCA217B

9/14/2025

Accepted Pleas 9-14-2026
SD Morgan h 9/13/26

RECEIVED

OCT 07 2026

SC Court of Appeals

CERTIFIED TRUE COPY

STATE OF SOUTH CAROLINA 2026 OCT -1 PM 3:37
COUNTY OF YORK) IN THE COURT OF GENERAL SESSIONS
OF THE SIXTEENTH JUDICIAL CIRCUIT

The State)
v.)
Brenden Demarkus Johnson,)
Defendant.)

ANGIE M. BRYANT
CLERK OF COURT
YORK COUNTY, SC

Warrants 2023A4620300844

Indictments 2023GS4602774

2022GS4602262

ORIGINAL

MOTION TO RECONSIDER

The State hereby requests that this court reconsider its ruling issued on Monday, September 14, 2026 whereby the court granted the above-named defendant (Johnson) credit for time served after the legislative amendment of S.C. Code Ann. 24-13-40. Code of Laws, 1976 Grounds for the State's motions follow.

FACTS

On November 20, 2020, the Fort Mill Police Department arrested Johnson for several charges, including Possession with intent to distribute (PWID) Ecstasy, 2nd Offense. The York County Drug Lab later confirmed that substance to be methamphetamine. The State submitted a direct indictment for PWID Methamphetamine, 2nd Offense and the defendant entered a plea to that charge on September 3, 2026 and was sentenced on September 14, 2026. The Rock Hill Police Department arrested Johnson for Murder on April 24, 2023 after he was taken into custody in Charlotte on April 19, 2023 on the outstanding warrant. Johnson pled to Voluntary Manslaughter on that indictment on September 3, 2026 and was sentenced on September 14, 2026. He remained in custody at the York County Detention Center until the date of this motion with no bond on the Murder indictment dating from April 24, 2023. The State and Defense agreed to a negotiated sentence of 6 years concurrent on the above-listed indictments, and agreed that he should receive credit on both indictments of 66 days prior to the bond law changing on June 20, 2023. Johnson had been released on bond when he committed both offenses.

ISSUE

The State requests the court to reconsider the grant of any time served credit after June 20, 2023 when the Legislature enacted an updated version of S.C. Code Ann. 24-13-40. The State calculated that potential credit to be one thousand, one hundred, and eighty two (1,182)

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2026 SEP 16 AM 9:42
ANGIE M. BRYANT
C.C.C.P. & GS
YORK COUNTY, SC

days June 20, 2023 to September 3, 2026. The State asserts that the Legislative amendment of this statute take effect on all pleas heard after June 20, 2023, regardless of whether the defendant was arrested prior to that date.

LAW

There is no constitutional right to credit for time served in pretrial incarceration. *State v. Sanders*, 251 S.C. 431, 445–46, 163 S.E.2d 220, 228 (1968). Rather, a defendant's right to credit for time served is controlled by statute. *Id.* See also *Martin v. Pennsylvania Bd. of Prob. & Parole*, 840 A.2d 299, 304 (Pa. 2003) ("It is well established that there is no constitutional right to pre-sentence confinement credit and that credit statutes stem principally from the recognition that pre-sentence detention is often the result of indigency."); Wade R. Habeeb, *Right to Credit for Time Spent in Custody Prior to Trial or Sentence*, 77 A.L.R.3d 182 (1977). South Carolina Code section 24-13-40 governs the computation of time served by prisoners. It provides that "full credit against the sentence must be given for time served prior to trial and sentencing" S.C. Code Ann. § 24-13-40.

However, on June 20, 2023, the legislature amended the law to provide that "credit for time served prior to trial and sentencing shall not be given . . . when the prisoner commits a subsequent crime while out on bond" S.C. Code Ann. § 24-13-40(3). Thus Johnson is precluded by statute from receiving credit for time served in pretrial incarceration if he "committed" a subsequent crime while out on bond. He did so on both above-listed indictments.

The South Carolina Supreme Court has ruled that a legislative change after arrest can change the manner of a defendant's time served credit. In *State v. Dozier*, 263 S.C. 267, 210 S.E.2d 225, (1974), the defendant was held in Georgia on unrelated charges and a South Carolina detainer. He was cleared of charges on November 9, 1972, but contested extradition until July 13, 1973. In the intervening period, the South Carolina Legislature enacted the first version of S.C. Code Ann. 24-13-40 on April 6, 1973. Prior to that, judges were not required to give pre-trial time served credit for criminal offenses. The Court ultimately modified the lower court ruling to grant time served credit backdated to the law change on April 6, 1973. This court should look to the Court's ruling in *Dozier* as binding on the time served credit decision here. The legislature can expand or contract time served credit within its purview.

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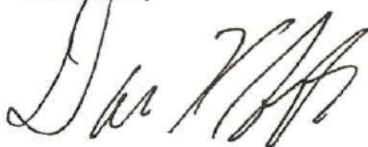
2023 SEP 15 AM 9:12

This court should also consider *Sullivan v. State*, 331 S.C. 479, 504 S.E.2d 110 (1998). In *Sullivan*, a Court reversed a finding by the Court of Appeals that a subsequent change in the law increased his punishment violated the Ex Post Facto clause of the Constitution. Sullivan pled guilty to assault and battery with intent to kill for offenses on August 31, 1984. He received a suspended sentence. He then pled guilty to voluntary manslaughter in 1988 and received 30 years in prison. The South Carolina Department of Probation, Pardon, and Parole denied his eligibility for parole because he was a prior violent offender. However, his previous conviction was not statutorily violent until two years after the offense. Both statutes in play in this case took effect after the first offense date. This case further supports the State's position.

Conclusion

The State asserts that the Court's rulings in *Dozier* and *Sullivan* provide the necessary guidance for this motion. The reasoning and holding of both cases establish that time served credit is computed based upon the statute in place at the time, not at the time of conviction nor at the time of the offense. For those reasons, the State respectfully request the court reconsider the grant of time served credit.

I so move,



Daniel K. Porter
Senior Solicitor
1675 I-A York Highway
York, South Carolina 29745

FILED-RECEIVED
2026 SEP 16 2:42
ANGIE M. EVANT
C.C.P. 105
YORK COUNTY, SC
September 16, 2026
York, South Carolina