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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County

Honorable Heath P. Taylor, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TYLER RAY SHARPE,

APPELLANT

APPELLATE CASE NO. 2026-000325

INITIAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the trial court err by denying Appellant credit for the entire time he served in pretrial detention pursuant to S.C. Code Ann. § 24-13-40(4), since the statute is unconstitutional?

STATEMENT OF THE CASE

On October 22, 2024, a Richland County grand jury indicted Appellant for murder, trafficking methamphetamine, 28 to 100 grams, and possession of a weapon during the commission of a violent crime. R. * (Indictments). On February 5, 2026, Appellant pled guilty before the Honorable Heath Taylor to the lesser included offense of voluntary manslaughter and trafficking methamphetamine. Assistant Solicitor Samuel McGlothin represented the state. E. Fielding Pringle represented Appellant. Tr. 1. In exchange for Appellant's plea, the state dismissed Appellant's other pending charges and recommended Appellant be sentenced to fifteen years. Tr. 10, l. 25 – 11, l. 2.

At the conclusion of the hearing, Appellant was sentenced to fifteen years imprisonment. Tr. 17, ll. 7-10. However, over Appellant's objection, the court refused to credit Appellant with the total amount of time he served in pretrial detention pursuant to S.C. Code Ann. § 24-13-40. Tr. 12, l. 23 – 17, l. 10.

This appeal follows.

STATEMENT OF FACTS

Appellant was arrested on May 15, 2024, and charged with murder, trafficking in methamphetamine, and possession of a weapon during the commission of a violent crime. On August 29, 2024, the Honorable B. Alex Hyman set Appellant's bond at \$100,000 cash or surety with special conditions to include GPS monitoring and no contact with the decedent's family. R. * (Bond Order). Appellant posted bond on September 3, 2024. R. * (Bail Proceeding Form).

On March 15, 2025, while out on bond, Appellant was arrested for trafficking in methamphetamine, possession of a weapon during the commission of a violent crime, resisting arrest, and possession of marijuana. Pursuant to S.C. Code Ann. § 17-15-55(C)(1), upon Appellant's arrest, the bond set on August 29, 2024, was automatically revoked pending a hearing in the Court of General Sessions.

On April 1, 2025, the state filed a motion to revoke bond. R. * (Motion to Revoke Bond). In response to the state's motion, Appellant filed an Objection to Bond Revocation and Deprivation of Credit for Time Served on May 2, 2025. R. *. A bond revocation hearing was held on May 5, 2025, before the Honorable Daniel Coble. Assistant Solicitor Samuel McGlothin represented the state. E. Fielding Pringle represented Appellant. Tr. 1.

During the hearing, defense counsel requested the court not revoke Appellant's bond because doing so would deprive Appellant of credit for time served pretrial pursuant to S.C. Code Ann. § 24-13-40.¹ Counsel requested the court reinstate the bond on Appellant's original charges and set it as high as the court deemed appropriate, knowing that Appellant would not post bond or be released from jail pending trial. Counsel further requested the court either deny

¹ Counsel asserted that § 24-13-40, which was amended in 2023 as part of the Bond Reform Act, is unconstitutional. She relied on her written memorandum in support of her argument, which was provided to both counsel for the state and the trial court. Tr. 5, ll. 10-16; See R. * (Objection to Bond Revocation and Deprivation of Credit for Time Served).

bond or not set a bond on Appellant's new set of charges further ensuring Appellant would not be released pending resolution of his charges. Tr. 4, l. 13 – 7, l. 8.

At the conclusion of the hearing, Judge Coble stated he had read counsel's memorandum and wished to further consider the matter before ruling. The following day, the court issued an order revoking Appellant's bond. R. * (Order Revoking Bond).

On February 5, 2026, Appellant pled guilty before the Honorable Heath Taylor to the lesser included offense of voluntary manslaughter and trafficking methamphetamine, 28 to 100 grams, stemming from his arrest on May 15, 2024. Tr. 1. Assistant Solicitor Samuel McGlothin represented the state. E. Fielding Pringle represented Appellant. Tr. 1. In exchange for Appellant's plea, the state dismissed Appellant's other pending charges. Appellant was sentenced to fifteen years imprisonment pursuant to a negotiated agreement. Tr. 17, ll. 7-10.

During the plea proceeding, Appellant requested credit for 440 days' time served, the total amount of time he served in pretrial detention. More specifically, Appellant requested credit for the time he served between May 15, 2024, and September 3, 2024, which was 112 days, and the time he served between March 15, 2025, and February 5, 2026, the day of his plea, which was 328 days. Citing to the brief she filed, defense counsel argued that § 24-13-40(4), which would deprive Appellant of credit for the time he served in pretrial detention after his bond was revoked, is unconstitutional pursuant to the Double Jeopardy and Due Process Clauses of the South Carolina and United States Constitutions. Tr. 12, l. 23 – 14, l. 15.

The assistant solicitor argued the amended "statute is very clear that [Appellant] he is not entitled to that credit." The court agreed that the statute is "unambiguous regardless of whether or not you agree with it." Tr. 14, l. 18 – 15, l. 2. Accordingly, Judge Taylor only gave Appellant credit for 163 days' time served pursuant to § 24-13-40(4). This time included the time

Appellant served between May 15, 2024, and September 3, 2024, which was 112 days, and the time he served between March 15, 2025, when Appellant was arrested on new charges, and May 5, 2025, when his bond was revoked on his original charges, which was 51 days. Tr. 15, l. 5 – 17, l. 10.

STANDARD OF REVIEW

A statute is presumed to be constitutional and will be upheld “unless its repugnance to the constitution is clear beyond a reasonable doubt.” State v. McSwain, 445 S.C. 276, 282-83, 914 S.E.2d 124, 127 (2025) (citing Owens v. Stirling, 443 S.C. 246, 260-61, 904 S.E.2d 580, 587-88 (2024)).

ARGUMENT

The trial court erred in denying Appellant credit for the entire time he served in pretrial detention pursuant to S.C. Code Ann. § 24-13-40(4) because the statute is unconstitutional.

A bond is revoked after a judicial determination by a preponderance of the evidence that a defendant has violated some condition thereof.² South Carolina Code Ann. § 24-13-40(4) (hereinafter “the Statute”) is punitive by providing that a defendant whose bond is revoked cannot be credited for any time spent in pretrial detention. By creating a statutory scheme where pretrial detention is transformed into a punitive endeavor, the Statute violates the Due Process Clause of the Fourteenth Amendment to the United States Constitution and Article I, Section 3 of the South Carolina Constitution. Further, because pretrial detention is punitive under the Statute, a defendant whose bond is revoked is required to suffer two punishments for the same offense, violating the Double Jeopardy Clauses of the Fifth Amendment and Article I, Section 12 of the South Carolina Constitution. Accordingly, the Statute is unconstitutional. Respectfully, this Court should reverse and order that Appellant be awarded credit for all the time he spent in pretrial detention, which was 440 days.

Prior to 2023, as a general rule, all defendants who spent any time in pretrial detention were entitled to credit for that time against their eventual sentence. S.C. Code Ann. § 24-13-40 (West 2013). There were only two exceptions to this general rule: (1) the defendant was an escapee; and (2) the defendant was serving a sentence for one offense while in pre-trial detention for another. Id. On June 20, 2023, however, the General Assembly passed and Governor

² While no statute appears to clearly state that preponderance of the evidence is the proper standard to be applied to a bond revocation proceeding, preponderance is the default standard of proof in all cases where the Constitution or a statute does not require otherwise. See E.M.D. Sales, Inc. v. Carrera, 604 U.S. 45, 50 (2025). The preponderance standard is also expressly utilized in other related proceedings. See, e.g., State v. Hamilton, 333 S.C. 642, 648-49, 511 S.E.2d 94, 97 (Ct. App. 1999) (probation revocation).

McMaster signed the Bond Reform Act (hereinafter “the Act”). Bond Reform, S.C. Acts No. 83 (2023). The Act made several changes to various statutes affecting bonds. Relevant here, the statute added two new exceptions to the general rule that every defendant receives every day of credit for time served pretrial. Id. § 8.

In its present form, S.C. Code Ann. § 24-13-40 reads as follows:

The computation of the time served by prisoners under sentences imposed by the courts of this State must be calculated from the date of the imposition of the sentence. However, when (a) a prisoner shall have given notice of intention to appeal, (b) the commencement of the service of the sentence follows the revocation of probation, or (c) the court shall have designated a specific time for the commencement of the service of the sentence, the computation of the time served must be calculated from the date of the commencement of the service of the sentence. In every case in computing the time served by a prisoner, full 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; (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.

The two new exceptions are sections (3) and (4) of the Statute. Credit for time served must now be denied to a defendant who “commits a subsequent crime while out on bond” or “has bond revoked on any charge prior to trial or plea.” Id. The purpose of the amendments, as well as the other sections of the Act, are to deter the commission of additional crimes while out on bond. At the time of passage, the Speaker of the House stated: “Today, the House loudly spoke with an overwhelming majority that we are going to crack down on those who continue to terrorize our citizens, especially when they are out on bond.” Mary Green, SC House Passes

Bond-Reform Bill, Live 5 WCSC (Mar. 1, 2023).³ See also, Henry McMaster, Signing Statement, H. 3532 (Bond Reform) (June 20, 2023) (“urgent need for the General Assembly to close the ‘revolving door’ for repeat offenders and career criminals”).

South Carolina appears to be the only state with a similar sentencing regime. See Kimberly Ferzan, The Trouble with Time Served, 48 B.Y.U. L. Rev. 2001, 2005-06 & n.11 (2023) (collecting statutes).

The Statute is unconstitutional for two reasons. First, by denying Appellant a benefit to which he was otherwise entitled because of the fact of his bond revocation, the Statute makes pretrial detention punitive, which is unconstitutional. Second, because the pretrial detention is punitive, Appellant was punished twice for the same offense.

A. Under the Statute, Pretrial Detention is Unconstitutionally Punitive.

“No State shall...deprive any person of life, liberty, or property, without due process of law.” U.S. Const. amend. XIV, § 1; S.C. Const. art. I, § 3 (similar). This means that a court must determine what interest a statute implicates, and “what process is due under those circumstances.” Bd. of Regents of State Colls. v. Roth, 408 U.S. 564, 571-73 (1972). Generally, the government may only impose punishment if it does so through the criminal justice system. See, e.g., Kansas v. Hendricks, 521 U.S. 345, 361-62 (1997). This means that a person can only be punished if they are given the process that comes with a criminal trial, *i.e.*, the presumption of innocence or proof beyond a reasonable doubt. See, e.g., In re Winship, 397 U.S. 358, 364 (1970). For this reason, pretrial detention cannot be punitive because a person in pretrial detention “has not been adjudged guilty of any crime.” Bell v. Wolfish, 441 U.S. 520, 535-36 (1979). Therefore, if a person has been detained pretrial, the state may only “subject him to the

³ <https://www.live5news.com/2023/03/02/sc-house-passes-bond-reform-bill-vowing-close-revolving-door-repeat-violent-offenders/> (last accessed October 14, 2026).

restrictions and conditions of the detention facility so long as those conditions and restrictions do not amount to punishment or otherwise violate the Constitution.” Id. at 536-37.

The Court must look to several factors to determine whether the Statute is punitive. First and foremost, if the General Assembly expressly intended the Statute to be punitive, it is. United States v. Salerno, 481 U.S. 739, 747 (1987); see Ellingburg v. United States, 607 U.S. 163, 168 (2026) (“And so long as the text and structure of the Act demonstrate that Congress intended at least ‘to impose punishment,’ that ‘ends the inquiry.’”) (quoting Smith v. Doe, 538 U.S. 84, 92 (2003)). To determine this, the Court may apply several “tests traditionally applied to determine whether a governmental act is punitive in nature.” Bell, 441 U.S. at 537. The Court should consider:

Whether the sanction involves an affirmative disability or restraint, whether it has historically been regarded as a punishment, whether it comes into play only on a finding of *scienter*, whether its operation will promote the traditional aims of punishment—retribution and deterrence, whether the behavior to which it applies is already a crime, whether an alternative purpose to which it may rationally be connected is assignable for it, and whether it appears excessive in relation to the alternative purpose assigned are all relevant to the inquiry, and may often point in differing directions.

Kennedy v. Mendoza-Martinez, 372 U.S. 144, 168-69 (1963) (footnotes omitted). The first several tests are designed to determine whether the legislature intended to impose a punishment. If it did not, then the Court must apply the last test: “Unless [the legislature] expressly intended to impose punitive restrictions, the punitive/regulatory distinction turns on ‘whether an alternative purpose to which [the restriction] may rationally be connected is assignable for it, and whether it appears excessive in relation to the alternative purpose assigned’” thereto. Salerno, 481 U.S. at 747 (first alteration added, second alteration in original).

Criminal punishment, historically, was broadly defined: it meant “coercive penalties for...transgressions” against “the laws of society.” 4 WILLIAM BLACKSTONE, COMMENTARIES ON THE LAWS OF ENGLAND 8 (1769). A statute will be considered punitive if it imposes some disability “for the purposes of punishment—that is, to reprimand the wrongdoer, to deter others, etc....” Trop v. Dulles, 356 U.S. 86, 96 (1958); see also, Owens v. Stirling, 443 S.C. 246, 268, 904 S.E.2d 580, 591 (2024) (the “three purposes of punishment” are “(1) reform or rehabilitation, (2) general deterrence, and (3) specific deterrence”).

Here, the Statute was passed for the purpose of deterring criminal behavior while on bond and working retribution against those who do. The Statute was therefore passed for the purposes of punishment and is therefore punitive. The fact that the Statute exists almost entirely for the purpose of deterrence is near dispositive evidence that the Statute is punitive. See Kansas v. Crane, 534 U.S. 407, 412 (2002) (holding that civil sexually violent predatory commitment was only civil in nature because it required a “lack-of-control” determination; because, in the absence of such a determination, the commitment would “become a mechanism for retribution or general deterrence—functions properly those of criminal law....” (internal quotation marks omitted)). Because the Statute is for the purpose of deterrence, it is “chiefly intended for the prevention of future crimes,” historically meeting the definition of punishment. 4 BLACKSTONE, *supra*, at 16.

Further, the Statute is retributive; another purpose of punishment. Trop, 356 U.S. at 97. The general rule in South Carolina is that a defendant is entitled to all time served credit. S.C. Code Ann. § 24-13-40; see generally, State v. Boggs, 388 S.C. 314, 316, 696 S.E.2d 597, 598 (Ct. App. 2010) (“Because the language of [the Statute] is mandatory, a judge cannot deny a defendant credit for time served prior to trial unless one of the [four] exceptions applies.”). The Statute therefore exists to deny a benefit to a person as a consequence of past conduct. See, e.g.,

Ex Parte Garland, 71 U.S. (4 Wall.) 333, 345 (1866) (statute barring attorneys from practicing in federal courts for the past conduct of participating in the Civil War on the side of the Confederacy was punitive); *Punishment*, *Black's Law Dictionary* (12th ed. 2024) (“A sanction—such as a fine, penalty, confinement, or *loss of* property, right, or *privilege*—assessed against a person who has violated the law.” (emphasis added)). In this way, the Statute can only be punitive.

Therefore, because the Statute is for the purpose of deterrence, and because it works retribution against those defendants whose bond is revoked, the “text and structure of the Act demonstrate that [the General Assembly] intended at least ‘to impose punishment.’” Ellingburg, 607 U.S. at 168. Because pretrial detention cannot be punitive, the Statute violates the Due Process Clause of the Fourteenth Amendment.

B. The Statute Violates Double Jeopardy Protections

By denying credit for time served to any defendant whose bond is revoked, the Statute allows the state to impose a double punishment on those defendants. Because the Constitution permits only one punishment per offense, the Statute is unconstitutional as applied to Appellant. South Carolina resides in a Circuit that recognizes pretrial credit as a constitutional “right that cannot be forfeited or denied because of any later conduct.” Durkin v. Davis, 538 F.2d 1037, 1041 (4th Cir. 1976). Appellant holds such a right and should be granted full credit for the time he served.

“No person shall...be subject for the same offense to be twice put in jeopardy of life or limb....” U.S. Const. amend. V; Benton v. Maryland, 395 U.S. 784, 787 (1969) (Double Jeopardy Clause applicable to the states under the Fourteenth Amendment); S.C. Const. art. I, § 12 (“No person shall be subject for the same offense to be twice put in jeopardy of life or

liberty....”). The Double Jeopardy Clause requires that “no man can be twice lawfully punished for the same offense.” Ex Parte Lange, 85 U.S. (18 Wall.) 163, 168 (1873). “This basic constitutional guarantee is violated when punishment already exacted for an offense is not fully ‘credited’ in imposing sentence upon a new conviction for the same offense.” North Carolina v. Pearce, 395 U.S. 711, 718 (1969), *overruled in part on other grounds by* Alabama v. Smith, 490 U.S. 794 (1989).

For the reasons argued above, the denial of time served credit to Appellant in this case is punitive. Therefore, the question becomes whether that punishment, combined with Appellant’s sentence, is a double punishment for the purposes of the Double Jeopardy Clause.

Pearce is illustrative here. In that case, a North Carolina court convicted a defendant of a crime and sentenced him to twelve to fifteen years’ imprisonment. 395 U.S. at 713. Several years later, that defendant’s conviction was reversed in a state post-conviction relief proceeding. Id. He was retried and convicted a second time. Id. This time, he was sentenced to eight years’ imprisonment, but he was not credited for the time he already served. Id. The result was that his new sentence, when combined with the time he had already served, was a longer sentence than originally imposed. Id. The Supreme Court held that this factual situation violated the Double Jeopardy Clause. Id. at 718. The fact that the defendant’s sentence was lengthened meant that he was given two punishments for the same offense. Id. “Though not so dramatically evident, the same principle obviously holds true whenever punishment already endured is not fully subtracted from any new sentence imposed.” Id.

In Pearce’s companion case, Simpson v. Rice, the Supreme Court held that Alabama violated the Constitution by subjecting Rice to double punishment for the same offense in refusing to credit him with time he had spent incarcerated prior to his conviction. Id. at 713-719.

Specifically, Rice had been incarcerated due to a conviction that was reversed. See Id. He was subsequently retried and received an increased sentence. Alabama refused to provide Rice with credit from his original judgments after retrial. See Id. The Supreme Court held Alabama violated the Double Jeopardy Clause's prohibition against double punishments by refusing to credit Rice with time served from his first period of incarceration, even if the prior incarceration was based on separate judgments.⁴ See Id.

The logic from Pearce and Rice can be applied here. According to one court, when faced with a similar situation:

Pretrial detention is nothing less than punishment. An unconvicted accused who is not allowed or cannot raise bail is deprived of his liberty. His incarceration is indistinguishable in effect from that of one, such as Pearce, who is retried after obtaining post-conviction relief. In both instances, the power of the state has been utilized to punish the complainant. Fundamental notions of fair play as well as the double jeopardy clause require that [the defendant] receive credit for precommitment incarceration.

Culp v. Bounds, 325 F. Supp. 416, 419 (W.D.N.C. 1971); see also Wright v. Maryland Penitentiary, 429 F.2d 1101, 1103 (4th Cir. 1970) (recognizing that the denial of time served credit “arguably violates...the double jeopardy clause” but ultimately deciding the case on procedural grounds). There is “no practical, realistic, or substantive difference between time

⁴ In the wake of Pearce, many jurisdictions—including South Carolina—simply mooted this issue by passing statutes that mandated pretrial incarceration credit. See, e.g., Thompson v. State, 496 P.2d 651 (Alaska 1972) (interpreting 1970 statute retroactively); In re Kapperman, 522 P.2d 657 (Cal. 1974) (interpreting 1972 statute as retroactive); State v. Waller, 544 P.2d 1147 (Idaho 1976) (1972 statute); People v. Scheib, 390 N.E.2d 872 (Ill. 1979) (1975 statute); Brown v. State, 262 N.E.2d 708 (Ind. 1975) (1972 statute); State v. Thorn, 570 P.2d 1100 (Kan. Ct. App. 1977) (1974 statute); Steele v. North Carolina, 348 F.Supp. 1023 (W.D. N.C. 1972 (1971 statute); State v. Dozier, 263 S.C. 267, 210 S.E.2d 225 (1974) (1973 statute).

Another group of jurisdictions did not need to enact such statutes because statutes already granted the credit. See e.g., State v. Baca, 535 P.2d 1346 (N.M. App. 1975) (interpreting 1953 statute); Santos v. Howard, 278 A.2d 839 (R.I. 1971) (interpreting 1968 statute); see also Bail Reform Act of 1966, 18 U.S.C. § 3585.

spent in pretrial detention for want of bail and time spent in detention pending an appeal of a conviction or time spent under a subsequently vacated and reinstated sentence.” Reanier v. Smith, 517 P.2d 949, 954 (Wash. 1974) (*en banc*).

Another instructive case is Wilson v. North Carolina, 438 F.2d 284 (4th Cir. 1971). In that case, the United States Court of Appeals for the Fourth Circuit reviewed a habeas petition from a prisoner serving a life sentence with the possibility of parole after ten years. Id. at 285. At the time, in North Carolina, a sentence was not deemed to have begun until all appellate remedies had been exhausted. Id. The defendant sought to have the time he spent in prison in between the date he was sentenced and the date of the dismissal of his appeal credited towards his parole eligibility date. Id. at 285-86. The Fourth Circuit held that the denial of that time served credit violated the Double Jeopardy Clause. Id. at 286. This is because the prisoner’s confinement while his appeal was pending was punishment, and the Double Jeopardy Clause requires credit for “punishment already exacted.” Id. (quoting Pearce, 395 U.S. at 717).

The Fourth Circuit has also held that Pearce’s protection against double jeopardy, as well as fundamental notions of fair play, necessitate crediting defendants for their time incarcerated awaiting trial. See Ham v. North Carolina, 471 F.2d 406 (4th Cir. 1973). In Ham, the petitioner sought, among other things, credit for his incarceration time pretrial. Id. The Fourth Circuit held that such credit was mandatory and adopted the reasoning of three then recent district court cases which addressed the issue. Id. at 408 (citing Culp v. Bounds, 325 F. Supp. 416, 419 (W.D.N.C. 1971); Parker v. Bounds, 329 F.Supp. 1400 (E.D. N.C. 1971) (“The Pearce rationale suggests that credit should be given for time spent in custody prior to commitment”); Workman v. Cardwell, 338 F.Supp. 893 (N.D. Ohio 1972), *affirmed in part, vacated in part*, 471 F.2d 909 (6th Cir. 1972) (holding equal protection violation where Pearce issue not raised)).

After Ham, the Fourth Circuit made clear that “[a defendant’s] right to credit for his jail time is a right protected by the equal protection and double jeopardy provisions of the Constitution . . . it [is] a right that cannot be forfeited or denied because of any later conduct.” Durkin v. Davis, 538 F.2d 1037, 1041 (4th Cir. 1976); see also Vickers v. Haynes, 539 F.2d 1005 (4th Cir. 1976) (applying Ham and Durkin to non-bailable offenses). Because the Statute deprives defendants of their jail credit based on later conduct, it violates Ham and Durkin.

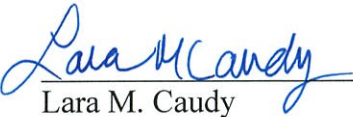
Appellant’s bond revocation was not an “offense.” Violating the conditions of bond is not a crime.⁵ However, he was punished when his bond was revoked. He was then punished a second time for the offenses to which he pleaded guilty. The first punishment, the denial of time served credit, cannot have been imposed due to the bond violation alone, or it would be unconstitutional for the reasons stated in Section A. However, that means that Appellant was punished twice for the criminal offenses to which he pleaded guilty. Under the Double Jeopardy Clause, that is one time too many. Because Appellant’s “punishment already endured” was “not fully subtracted from any new sentence imposed,” the application of the Bond Reform Act to Appellant violates the Double Jeopardy Clause. See Pearce, 395 U.S. at 718. Accordingly, this Court should reverse and remand with instructions that the trial court credit Appellant with all the time he served pretrial, 440 days.

⁵ Typically, when double punishment is alleged, the Court must conduct the analysis delineated in Blockburger v. United States, 284 U.S. 299 (1932). The rule announced in that case provides that criminal offenses are different for double jeopardy purposes if each offense has an element that the other lacks. Id. at 304. However, the Blockburger test is inapplicable to this case. Blockburger is only implicated when the state seeks to punish a defendant for two different crimes. Id. Here, Appellant was punished for one offense, as well as for having his bond revoked. However, bond revocation is not a crime. If, for example, Appellant had been acquitted of the same offense at trial, the state would have no recourse to attempt to have a sentence entered against Appellant for having had his bond revoked. Thus, the bond revocation is wholly subsumed within the crime because the bond revocation cannot independently create a basis for punishment. Therefore, Blockburger has no role to play in this case.

CONCLUSION

Based on the foregoing argument, Appellant respectfully requests this Court remand this case to the trial court with instructions to credit Appellant for all 440 days he served in pretrial detention.

Respectfully submitted,



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Senior Appellate Defender

ATTORNEY FOR APPELLANT

This 14th day of October, 2026.