

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ABBEVILLE COUNTY

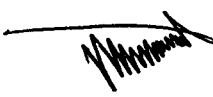
R. Scott Sprouse, Circuit Court Judge

2014-GS-01-0111, 0112

RECEIVED

MAR 10 2016

SC Court of Appeals

 State of South Carolina

Respondent

vs.

Trey Brown

Appellant.

Notice of Appeal

Trey Brown appeals his sentence in this case imposed on February 29, 2016. Following Mr. Brown's guilty plea, the Honorable R. Scott Sprouse imposed sentences of thirty years for murder and five years for possession of a firearm during the commission of a violent crime. The sentences are consecutive. This appeal is taken from Judge Sprouse's orders dated March 2, 2016 amending the sentence and denying Mr. Brown's request for additional credit for time served. Pursuant to Rule 203(d)(1)(B)(iv), Mr. Brown will explain the reasons for this appeal.

On September 9, 2006, the State arrested Mr. Brown on these charges. He has continuously remained in the custody of the State of South Carolina ever since. Mr. Brown's competency to stand trial was assessed multiple times pursuant to S.C. Code Ann. § 44-23-410, *et. seq.*, resulting in his involuntary commitment to the Department of Mental Health pursuant to these statutory procedures. Mr. Brown requested the

sentencing judge order credit for time served since September 9, 2006, noting that Mr. Brown was continuously in custody of the State pursuant to these statutory procedures. The Solicitor opposed the sentencing court granting Mr. Brown credit for time served pursuant to S.C. Code Ann. § 24-13-40 during the period of time of Mr. Brown's involuntary commitment. The sentencing court agreed with the Solicitor. After asking the sentencing judge to explain the rationale for not providing full credit for time served since September 9, 2006, Mr. Brown moved the court to reconsider. This motion was denied.

On March 1, 2016, Mr. Brown again asked the sentencing judge to reconsider based on S.C. Code Ann. § 44-23-460(2) expressing the intent that the time during the involuntary commitment be credited towards the maximum possible sentence. The sentencing judge denied this motion on March 2, 2016 by writing "denied" on the face of the motion.

Also on March 2, 2016, the sentencing judge issued an order clarifying the amount of credit for time served is "from September 9, 2006 until October 20, 2009, and again from February 7, 2014 until February 29, 2016," which is "a period of 5 years and 63 days." This order expressly states, "This consent order is in no way intended to preclude Defendant from pursuing an appeal of the Court's denial of credit for time served from October 20, 2009 until February 7, 2014."

Denial of credit for time served following a guilty plea is reviewable on appeal. *State v. Boggs*, 388 S.C. 314, 696 S.E.2d 597 (Ct. App. 2010) (plea judge's denial of jail credit for time defendant served in pretrial detention based upon state's decision to drop charge against defendant from armed robbery to strong arm robbery was an error at law).

See also State v. McCord, 349 S.C. 477, 562 S.E.2d 689 (Ct. App. 2002) (Trial court could not deny defendant credit for time served prior to trial and sentencing based on fact that court had not given defendant a life sentence); *Blakeney v. State*, 339 S.C. 86, 529 S.E.2d 9 (2000) (defendant, who was jailed in another county on unrelated charges and had “hold” place on him for current robbery charge, was entitled to credit for time served from date on which sheriff's department issued warrant for his arrest for robbery); and *State v. Dozier*, 263 S.C. 267, 210 S.E.2d 225 (1974) (defendant was entitled to credit on his sentence for time spent in prison in Georgia while contesting extradition to South Carolina).

Respectfully Submitted,

By 

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Attorneys for the Defendant

March 2, 2016
Greenwood, South Carolina

(other counsel of record on next page)

Other Counsel of Record:

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R. Scott Sprouse, Circuit Court Judge

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SC Court of Appeals

State of South Carolina

Respondent


vs.

Trey Brown

Appellant.

Notice of Appeal

I certify that I have served the notice of appeal on the State of South Carolina by personally delivering a copy to the Office of the Solicitor for the Eighth Judicial Circuit, at Suite 203, Park Plaza, 600 Monument Street, Greenwood, South Carolina on the date reflected below.



E. Charles Grose, Jr.
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March 2, 2016

Accepted by



Renee Bell
Eighth Circuit Solicitor's Office

Date: 3/2, 2016

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March 8, 2016

RECEIVED

MAR 10 2016

SC Court of Appeals

The Honorable, Jenny Abbott Kitchings
Clerk of Court, S.C. Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: *State of South Carolina v. Trey Brown*
Abbeville County Case Numbers: 2014-GS-01-0111, 0112

Dear Ms. Kitchens:

Enclosed please find Mr. Brown's Notice of Appeal and Certificate of Service, along with copies of the following documents:

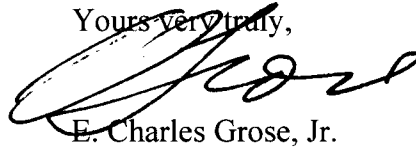
1. Indictments 2014-GS-01-0111, 0112;
2. Sentencing Sheets;
3. Consent Order Amending Sentence dated March 2, 2016;
4. Motion to Reconsider Denial of Credit for Time Served During Involuntary Commitment for Lack of Competency to Stand Trial noted "denied" by the sentencing judge; and
5. My letter dated March 3, 2016 to the court reporter ordering a copy of the transcript.

By copy of this letter to the Clerk of Court for Abbeville County, I am filing a copy of the Notice of Appeal in the trial court.

Thank you for your attention to this matter. Please let me know if you have any questions or require additional information.

With kindest regards, I am

Yours very truly,

A handwritten signature in black ink, appearing to read "E. Charles Grose, Jr.", written in a cursive style.

E. Charles Grose, Jr.

cc: Mr. Trey Brown
Janna Nelson, Esquire
Demetri Andrews, Esquire
Elizabeth White, Esquire
Clerk of Court, Abbeville County

THE STATE OF SOUTH CAROLINA)
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 COUNTY OF ABBEVILLE)
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 THE STATE)
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 vs.)
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 Trey Brown)
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IN THE COURT OF GENERAL SESSIONS
 FOR THE EIGHTH JUDICIAL CIRCUIT

RECEIVED

Case Number(s): 2014-GS-01012016

SC Court of Appeals

**Motion to Reconsider Denial of Credit for
 Time Served During Involuntary
 Commitment for Lack of Competency to
 Stand Trial**

Following his guilty plea to murder and possession of a weapon during the commission of a violent crime, the defendant, Trey Brown, requested the Court to grant him credit for time served, pursuant to S.C. Code Ann. § 24-13-40, since he was taken into custody on September 9, 2006 because Mr. Brown remained in custody of the State pursuant to statutory procedures, S.C. Code Ann. § 44-23-410, *et. seq.* The Solicitor opposed Mr. Brown receiving credit for time served during the involuntary commitment, and the Court agreed.¹ Section 44-23-460(2), however, would have barred prosecution of Mr. Brown if he had “been hospitalized for a period of time exceeding the maximum possible period of imprisonment to which [he] could have been sentenced if convicted as charged.” Based on this statute expressing the intent that time during the involuntary commitment be credited towards the maximum possible sentence, Mr. Brown wanted to provide the Solicitor and the Court and opportunity to reconsider their positions before he files a notice of appeal.

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FILED
 STATE OF SOUTH CAROLINA
 COUNTY OF ABBEVILLE
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 CLERK OF COURT

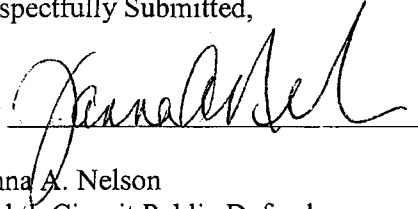
¹ By consent order, the Court is amending the amount of credit for time served announced in court to properly reflect the time Mr. Brown served from arrest to dismissal of the original indictments and from the date of the new indictments to the guilty plea. Although consenting to this amendment, Mr. Brown still maintains he is entitled to credit for time served since September 9, 2006.

Denied
 3-2-16
 RLS

IT IS SO MOVED.

Respectfully Submitted,

By



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Attorneys for the Defendant

March 1, 2016
Greenwood, South Carolina

THE STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

THE STATE

vs.

Trey Brown

IN THE COURT OF GENERAL SESSIONS
FOR THE EIGHTH JUDICIAL CIRCUIT

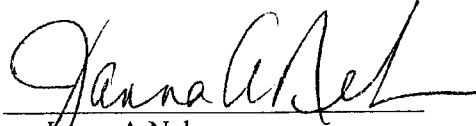
Case Number(s): 2014-GS-01-0111, 0112

**Motion to Reconsider Denial of Credit for
Time Served During Involuntary
Commitment for Lack of Competency to
Stand Trial**

I certify that I have served a copy of this pleading on the State of South Carolina by hand delivering a copy, on date reflected below, addressed as follows:

Demetri Andrews, Esquire
Eighth Circuit Solicitor's Office
Suite 203, Park Plaza
P.O. Box 516
Greenwood, SC 20648

By



Jenna A Nelson
Attorney for Defendant

March 1, 2016
Greenwood, South Carolina