

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF SPARTANBURG )  
 )  
 )  
 )

COURT OF GENERAL SESSIONS  
7<sup>th</sup> JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,  
*Plaintiff,*

vs.

TONY RANDALL LEWIS,  
*Defendant.*

No. 2015A4210101715

RECEIVED  
JUL 28 2016  
SC Court of Appeals

**ORDER**

On June 10, 2016, the parties appeared for a hearing on the Defendant's Rule 29 Motion. Being duly advised, the Court now **GRANTS** the same.

The Court sentenced Mr. Lewis in this case and in another case (No. 2015-GS-42-5037) on the same day. At the sentencing hearing, the parties agreed that Mr. Lewis had only served one day on the instant case and that his remaining period of pre-sentencing incarceration was attributable to the other case. The Court awarded pre-sentencing credit on that basis.

Upon further consideration, however, the allocation of pre-sentence credits is incorrect. Where, as here, a defendant is sentenced on two cases on the same day, pre-sentence credit is fully awarded in both cases rather than allocated between them. S.C. Code § 23-13-40.<sup>1</sup> For example, in *Allen v. State*, 339 S.C. 393 (2000), our Supreme Court held that the defendant was entitled to full presentence credit on two separate cases, the latter of which was filed while the defendant was on bond for his

<sup>1</sup> While the statute provides for exceptions—for escapees and defendants who have already begun serving sentence on some other charge—neither applies.

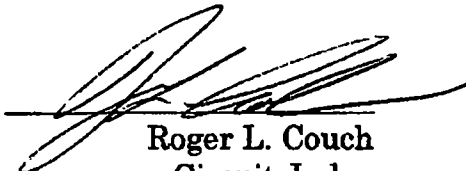
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*p1*

earlier, unrelated case.

The facts here are the same as in *Allen*: After being released on bond in this case, Mr. Lewis was later arrested and detained through sentencing on the other, unrelated charge for which he was sentenced on the same day as this charge.

Accordingly, as required, the Court modifies the sentence in this case to reflect that Mr. Lewis must receive credit for 172 days of presentence credit, rather than the one day originally indicated in the judgment.

So ordered this 28<sup>th</sup> day of June, 2016.

  
Roger L. Couch  
Circuit Judge

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