

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Clifton B. Newman, Circuit Court Judge

Case No. 2016-002144

RECEIVED

JAN 11 2017

SC Court of Appeals

City of Columbia Appellant,

v.

Robert S. Bruce Respondent.

RECORD ON APPEAL

Jessica R. Mangum
Office of the City Attorney
Post Office Box 667
Columbia, South Carolina 29202
(803) 737-4242
Attorney for Appellant

Jessica E. Sturgill
Richland County Public Defender's Office
Post Office Box 192
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(803) 765-2592
Attorney for Respondent

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Attorney for Respondent

INDEX

Order Remanding Case and to Amend Sentence, dated September 19, 2016.....	2
Notice of Appeal, dated March 29, 2016.....	6
Notice of Appeal, dated October 19, 2016.....	9
Transcript of sentencing hearing on March 23, 2016: pp. 44-48.....	11
Transcript of appellate hearing on August 26, 2016.....	18
Appellant's Designation of Matter.....	69
Certificate of Counsel	70

STATE OF SOUTH CAROLINA
 COUNTY OF RICHLAND
 IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

Robert Stephen Bruce

CASE NUMBER: 2016-10-1976

City Of Columbia

RECEIVED

PLAINTIFF(S)

DEFENDANT(S)

OCT 19 2016

Submitted by:

Attorney for: Plaintiff Defendant or Self-Represented Litigant

SC Court of Appeals

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):
 - Rule 12(b), SCRPC;
 - Rule 41(a), SCRPC (Vol. Nonsuit);
 - Rule 43(k), SCRPC (Settled);
 - Other
- ACTION STRICKEN (CHECK REASON):
 - Rule 40(j), SCRPC;
 - Bankruptcy;
 - Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 - Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
 - Affirmed;
 - Reversed;
 - Remanded;
 - Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court

ORDER INFORMATION

This order ends does not end the case.
 Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge _____ Judge Code 2127 Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this 28 day of Sept, 2016 to attorneys of record or to parties (when appearing pro se) as follows:

Jessica Erin Sturgill

Jessica Mangum

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Clerk of Court

Jessica Erin Sturgill
Jessica Mangum

RECEIVED

OCT 03 2016

LEGAL DEPARTMENT

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

The City of Columbia

vs.

Robert S. Bruce,
Appellant

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Ticket Number: 16002GY
Case Number: 2016CP4001976

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OCT 19 2016

ORDER REMANDING CASE AND
TO AMEND SENTENCE SC Court of Appea

RICHLAND COUNTY
FILED
2016 SEP 22 PM 4:11
JEANETTE W. MCBRIDE
Clerk, C.C.P. & G.S.

This matter comes before the Court on appeal from the City of Columbia Municipal Court on the above-referenced ticket.

IT APPEARS THAT:

The Appellant was arrested on October 8, 2014 in the City of Columbia and charged with Shoplifting, value \$2,000 or less (ticket number 16002GY). Appellant received a \$2,130 Personal Recognizance Bond and was released from Alvin S. Glenn Detention Center on October 9, 2014. Appellant requested a jury trial on this charge on October 17, 2014.

While this charge was still pending, Appellant was arrested on March 17, 2015 for Shoplifting / Enhancement for 3rd or Subsequent Offense (warrant number 2015A4021600611). Although he received a \$5,000 Surety Bond on the new charge, he was financially unable to post bond and remained incarcerated at Alvin S. Glenn Detention Center. On January 11, 2016, Appellant pled guilty to the reduced charge of Shoplifting, value \$2,000 or less (warrant number 2015A4021600611) and was sentenced to thirty days with credit for time served. Appellant was released after serving 301 days of pretrial incarceration.

On March 23, 2016, Appellant was tried and convicted on the City of Columbia shoplifting charge (ticket number 16002GY) in the Columbia Municipal Court. Judge Steven

cv
172

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OCT 03 2016
LEGAL DEPARTMENT

Dennis sentenced Appellant to twenty-one (21) days of incarceration but, credited Appellant with only one (1) day of time served.

Appellant filed a Writ of Habeas Corpus and was granted a \$5,000 Personal Recognizance Appeal Bond by Circuit Judge Tanya Gee on March 29, 2016. Appellant was released from Alvin S. Glenn Detention Center on March 30, 2016, and he filed a Notice of Appeal with this Court on the same day. This appeal was heard by me on August 26, 2016 to address the question of whether the appellant was entitled to credit for time served while the City of Columbia charge was pending.

The South Carolina Code of Laws states that “[i]n 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.” S.C. Code Ann. § 24-13-40 (2016). The statute provides only two exceptions to that general rule. *See id.* Specifically, it states 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; or (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.” *Id.*

The Supreme Court of South Carolina has held that S.C. Code Ann. § 24-13-40 “mandates a prisoner be given credit for all time served prior to trial *unless* one of two exceptions exist: 1) either the prisoner was an escapee or 2) the prisoner was already serving a sentence on one offense.” *Allen v. State*, 339 S.C. 393, 395 (2000) (emphasis added). The Court held that when neither exception applies, pretrial detention must be credited to the defendant. *See id.* at 395–96. Furthermore, the decision to deny a defendant credit for time served “is not discretionary with the

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2 of 3

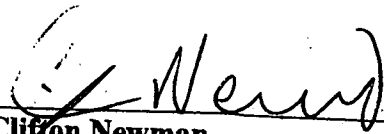
SCANNED

trial court.” *State v. McCord*, 349 S.C. 477, 487 (2002).

At the time Appellant was incarcerated for the 301 days, he was neither an escapee from another penal institution nor serving an active sentence on another offense. Thus, according to S.C. Code § 24-13-40 and *Allen*, Appellant was entitled to credit for time served on all twenty-one (21) days of his sentence.

IT IS ORDERED that the this case be remanded to the City of Columbia Municipal Court with instructions for the Court to credit the Appellant with time served for the entirety of his twenty-one (21) day sentence.

AND IT IS SO ORDERED.


Clifton Newman
Presiding Judge

Columbia, South Carolina
This 19 day of September, 2016.

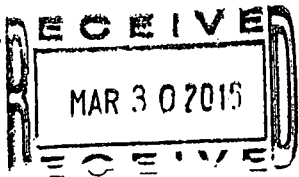
STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
In The Court of Common Pleas

2016CP4001976

APPEAL FROM CITY OF COLUMBIA MUNICIPAL COURT

The Honorable Steven D. Dennis
City of Columbia Municipal Judge

Ticket Number 16002GY



2016 MAR 29 PM 4:33
JUDICIAL DEPARTMENT
C.C.P. & M.S.

The City of Columbia,.....Respondent,

v.

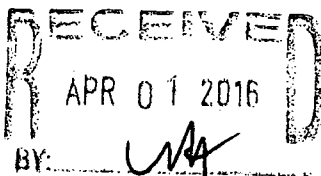
Robert Stephen Bruce,.....Appellant.

NOTICE OF APPEAL

Defendant ("Appellant") Robert Stephen Bruce, through counsel Jessica E. Sturgill, seeks an appeal of his sentence in this case. At the scheduled jury trial on March 23, 2016, Appellant was found guilty of Shoplifting, value \$2,000 or less, under S.C. Code § 16-13-110. He was sentenced to twenty (20) days by The Honorable Steven D. Dennis. Appellant argues that the trial court committed an error of law and abused its discretion in refusing to give credit for Appellant's more than 300 days served in pretrial detention while this ticket was pending and he was awaiting trial on this and other charges.

Procedural History

Appellant was arrested on October 8, 2014 and was issued the above-referenced ticket for Shoplifting, value \$2,000 or less. Bond was set at \$2130.00 Personal Recognizance and he was



released on October 9, 2014. Appellant requested a jury trial on October 17, 2014.

On March 17, 2015, Appellant was rearrested for Shoplifting / Enhancement for 3rd or subsequent offense (warrant number 2015A4021600611). Bond was set at \$5,000 Surety. The Appellant did not post this bond and remained incarcerated at Alvin S. Glenn Detention Center.

On January 11, 2016, Appellant pleaded to warrant number 2015A4021600611. The charge was reduced to Shoplifting, value \$2,000 or less. Appellant was sentenced to 30 days with credit for time served, and was released that day. In total, Appellant was incarcerated for 301 days.

Appellant's jury trial for ticket 16002GY was held on March 23, 2016, where he was found guilty. At sentencing, counsel argued that pursuant to S.C. Code § 24-13-40, Appellant was due credit for the time served in pretrial detention. The court disagreed; he was sentenced to twenty (20) days in jail with only one (1) day of credit for time served.

Legal Analysis

S.C. Code § 24-13-40 states that “[i]n 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.” The statute provides only two exceptions to that general rule. Specifically, it states 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; or (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.”

The Supreme Court of South Carolina held that S.C. Code § 24-13-40 “*mandates* a prisoner be given credit for all time served prior to trial *unless* one of two exceptions exist: 1) either the prisoner was an escapee or 2) the prisoner was already serving a sentence on one offense.” *Allen v.*

State, 339 S.C. 392, 395 (2000) (emphasis added). The Court held that when neither exception applies, pretrial detention must be credited to the defendant. *See id.* at 395-96. Furthermore, the decision to deny a defendant credit for time served “is not discretionary with the trial court.” *State v. McCord*, 349 S.C. 477, 487 (2002).

At the time Appellant was incarcerated for the 301 days, he was neither an escapee from another penal institution nor serving an active sentence. Thus, according to S.C. Code § 24-13-40 and *Allen*, Appellant was entitled to credit for time served on all twenty (20) days of his sentence.

Relief

THEREFORE, Appellant respectfully requests this Court vacate his sentence and remand the case to the Municipal Court for the City of Columbia with instructions to credit the Appellant for time served.

Respectfully submitted,



Jessica E. Sturgill
Richland County Public Defender's Office
1701 Main Street
P.O. Box 192
Columbia, South Carolina 29201
(803) 765-2592

March 29, 2016

Opposing Counsel of Record:
Jess R. Mangum
Assistant City Attorney
Office of the City Attorney
P.O. Box 667
Columbia, South Carolina 29202
(803) 576-1800

**NOTICE OF APPEAL FROM COMMON PLEAS REGARDING A
CONVICTION IN MUNICIPAL COURT**

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Clifton Newman, Circuit Court Judge

Case No. 2016-CP-40-01976

The City of Columbia,

Appellant,

v.


Robert S. Bruce,

Respondent.

NOTICE OF APPEAL

The City of Columbia appeals the order of the Honorable Clifton Newman dated September 19, 2016, which remanded Robert Bruce's municipal court case to amend sentencing. Appellant received written notice of the order on September 21, 2016.

October 19, 2016


Jess R. Mangum
Office of the City Attorney
Post Office Box 667
Columbia, South Carolina 29202
(803) 737-4242
Attorney for Appellant

Other Counsel of Record:
Jessica Sturgill
Assistant Public Defender
Fifth Circuit Public Defender's Office
Post Office Box 192
Columbia, South Carolina
(803) 765-2592
Attorney for Respondent

RECEIVED

OCT 19 2016

SC Court of Appeals

RICHLAND COUNTY
FILED
2016 OCT 19 PM 12:25
JEANNETTE M. HUBRIDE
C.C.P. & G.S.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Clifton Newman, Circuit Court Judge

Case No.

RECEIVED
OCT 19 2016
SC Court of Appeals

City of Columbia.....Appellant,

v.

Robert S. Bruce.....Respondent.

PROOF OF SERVICE

2016 OCT 19 PM 12:25
JEANETTE W. MCBRIDE
C.C.P. & G.S.
RICHLAND COUNTY
FILED

The undersigned hereby certifies that she has served the *Notice of Appeal* on the Attorney for Respondent by placing a copy in the United State mail, first class postage prepaid to her at her office as indicated below and by hand delivering it to her office on October 19, 2016.

Jessica Sturgill, Esquire
Richland County Public Defender
1701 Main Street, Suite 103
Post Office Box 192
Columbia, SC 29202

Geraldine S. Pleasant
Geraldine S. Pleasant, Paralegal for
Jessica R. Mangum, Esquire
Office of the City Attorney
Post Office Box 667
Columbia, South Carolina 29202
Tel: (803) 737-4242

October 19, 2016

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

) IN THE COLUMBIA MUNICIPAL COURT
)
)

CITY OF COLUMBIA,

VS.

ROBERT STEPHEN BRUCE,

DEFENDANT.

TRANSCRIPRT OF RECORD
Ticket No.: 16002GY

2016 APR 25 PM 2:15
RICHLAND COUNTY
FILED
JANETTE W. HOSBRODE
C.D.P. & G.S.

JURY TRIAL HELD BEFORE THE HONORABLE STEVEN D. DENNIS, PRESIDING
JUDGE, AND JURY, IN THE COLUMBIA MUNICIPAL COURT, COLUMBIA, SOUTH
CAROLINA, ON MARCH 23, 2016.

APPEARANCES:

JESSICA R. MANGUM, ESQUIRE
ATTORNEY FOR THE CITY

JESSICA E. STURGILL, ESQUIRE
ATTORNEY FOR THE DEFENDANT

TRANSCRIBED BY:
NANCY S. AHRENS

1 HAVE TO COME BACK AT ONE O'CLOCK. PLEASE CALL IN TOMORROW,
2 HOWEVER. WE MAY NEED YOUR SERVICES AGAIN.

3 (JURY IS DISMISSED)

4 **THE COURT:** ANYTHING FROM THE PROSECUTION ON THE
5 SENTENCING? DOES HE HAVE A RECORD? DO WE KNOW ANYTHING ABOUT HIM?

6 **OFFICER BEATTIE:** YES, HE'S AN HABITUAL SHOPLIFTER.

7 **THE COURT:** HE'S AN HABITUAL SHOPLIFTER.

8 **OFFICER BEATTIE:** YES, SIR.

9 **THE COURT:** WELL, WHY DIDN'T YOU CHARGE HIM WITH
10 PROPERTY CRIME, THIRD AND ABOVE?

11 **OFFICER BEATTIE:** BECAUSE HE'S BEEN DOING THIS TO KEEP
12 THESE CASES FROM GOING TO COURT. HE'S BEEN USING JURY TRIALS.

13 **THE COURT:** YOU COULD STILL CHARGE HIM -

14 **MS. MANGUM:** DOES HE HAVE PRIOR SHOPLIFTING CONVICTIONS?

15 **OFFICER BEATTIE:** HE DIDN'T HAVE ANY WHEN I ARRESTED HIM
16 THE FIRST TIME. THAT'S WHY I WAS CHARGING HIM WITH A STRAIGHT UP
17 SHOPLIFTING.

18 **THE COURT:** OKAY.

19 **MS. MANGUM:** DOES HE HAVE ANY CONVICTIONS SINCE THAT
20 CHARGE?

21 **OFFICER BEATTIE:** I'M NOT SURE SINCE THEN. I KNOW HE'S BEEN
22 ARRESTED MULTIPLE TIMES FOR SHOPLIFTING SINCE THEN. I'M NOT SURE -

23 **THE COURT:** WHEN A GUY GOES IN AND KIND OF BASICALLY GETS
24 DINNER, YOU KNOW, STEAK AND POTATO, LITTLE BEER, THAT'S (INAUDIBLE).

25 **MS. MANGUM:** AND EIGHTEEN PACK.

1 **THE COURT:** YEAH. THERE YOU GO. DINNER AND AFTER.

2 **MS. MANGUM:** PROBABLY ENTERTAINMENT.

3 **MS. STURGILL:** YOUR HONOR, MAY I BE HEARD ON THE
4 COMPUTATION OF TIME SERVED BY A PRISONER. HE DID SPECIFICALLY ONE
5 DAY AND I THINK A FEW HOURS ON THIS TICKET. UNDER THE STATUTE
6 (INAUDIBLE) TIME SERVED MUST BE CREDITED TOWARDS HIS SENTENCE UNLESS

7 -
8 **THE COURT:** I AGREE.

9 **MS. STURGILL:** SO HE DID SPEND ABOUT NINE AND A HALF
10 MONTHS IN WHILE THIS TICKET WAS PENDING AND I WOULD ARGUE THAT OR
11 REQUEST THAT TIME SERVED -

12 **THE COURT:** ONCE HE GETS OUT ON A P.R. BOND HE'S NOT IN ON
13 THIS CHARGE.

14 **MS. STURGILL:** ALL RIGHT, YOUR HONOR.

15 **THE COURT:** I'LL GIVE HIM CREDIT FOR THE ONE DAY.

16 **MS. STURGILL:** WE'LL TAKE THAT. AND, YOUR HONOR, I'VE
17 SPOKEN TO HIM AT LENGTH ON THE PHONE. HE'S GONE THROUGH A ROUGH
18 PERIOD RECENTLY. HE HAD A REALLY GOOD JOB AND A FAMILY AND THEN
19 SORT OF (INAUDIBLE) FALLING APART AND THEN SOME OF THESE - THIS
20 INCIDENT AND SOME OTHER THINGS SO HE'S VERY - I TALKED TO HIM FOR OVER
21 AN HOUR ON THE PHONE AT LEAST ON ONE INCIDENT AND OTHER OCCASIONS
22 AS WELL. HE SEEMS VERY UNHAPPY WITH HOW HE'S BEEN ACTING AND
23 REALLY STRIVING TO BECOME A BETTER PERSON AND GO BACK TO REBUILD
24 HIMSELF. HE IS CURRENTLY OUT OF WORK RIGHT NOW I BELIEVE LAST TIME I
25 TALKED TO HIM. AND SO HE WOULD LOVE TO START BUILDING HIMSELF UP AS

1 A BETTER PERSON AND ONE OF THOSE THINGS THAT HE WOULD LOVE TO DO IS
2 COMMUNITY SERVICE. THIS IS (INAUDIBLE) REQUEST BECAUSE, ONE, HE HAS A
3 FEW DOLLARS TO HIS NAME AND, TWO, HE THINKS IT WILL HELP IN HIS
4 REBUILDING.

5 THE COURT: IF HE WERE HERE -

6 MS. STURGILL: HE'S ON HIS WAY.

7 THE COURT: HE COULD TELL ME A LITTLE MORE, A LITTLE MORE
8 ABOUT HIM BUT I'M NOT SURE I WANT A GUY WHO STEALS A LOT OF THINGS TO
9 BE DOING COMMUNITY SERVICE BECAUSE HE'S AROUND THINGS HE CAN STEAL.

10 MS. MANGUM: AND, YOUR HONOR, THE OFFICER JUST INFORMED
11 ME THAT HE WAS RE-ARRESTED THIS JANUARY FOR SHOPLIFTING AGAIN. SO ...
12 YOU KNOW, THE CITY'S POSITION -

13 MS. STURGILL: (INAUDIBLE).

14 MS. MANGUM: HE WAS RE-ARRESTED, I'M NOT SAYING HE'S BEEN
15 CONVICTED. HE WAS RE-ARRESTED. I THINK THE CITY'S POSITION ON THIS CASE
16 IS THAT WE WOULD ASK FOR JAIL TIME.

17 MS. STURGILL: YOUR HONOR, IF I COULD GET HIM ON THE PHONE.
18 HE'S ON HIS WAY HERE. HE'S WALKING BECAUSE HE DOESN'T HAVE A CAR.
19 THAT'S WHY HE CARRIES HIS BACKPACK. IF I GET HIM ON THE PHONE TO
20 EXPLAIN THINGS TO YOU. (INAUDIBLE) HE HAS DONE TIME RECENTLY AND HE'S
21 LOOKING FOR WORK AGAIN TRYING TO REBUILD HIS LIFE AND BEING BACK IN
22 JAIL WOULD INCREDIBLY PROHIBIT HIM FROM DOING THAT.

23 THE COURT: YEAH, THIS IS JUST SO BLATENT THOUGH THE WAY
24 HE WENT ABOUT THIS AND IT'S NOT LIKE HE JUST ON HIS WAY OUT PICKED UP A
25 BOX OF CHEWING GUM. I MEAN IT APPEARS THAT HE WENT IN THERE WITH THE

1 INTENT TO DO THIS BEFORE HE EVER EVEN ENTERED THE STORE. AN EMPTY
2 BACKPACK AND THAT SORT OF THING. I ACTUALLY PROSECUTED QUITE A FEW
3 SHOPLIFTINGS WHEN I WAS A PROSECUTOR. I WON'T SAY – I PROBABLY KNOW A
4 LITTLE MORE ABOUT THEM THAN THE AVERAGE LAWYER AND THIS IS A GUY
5 WHO SHOPLIFTS A LOT I WOULD VENTURE TO SAY.

6 **MS. STURGILL:** YOUR HONOR, IS THERE A RECORD TO SHOW HIS
7 SHOPLIFTING BECAUSE I JUST FEEL (INAUDIBLE) BEEN ARRESTED AND ALL
8 THAT.

9 **THE COURT:** YOU KNOW, THERE ARE CERTAIN THINGS THAT
10 HAPPEN IN DOMESTIC VIOLENCES THAT YOU KNOW THIS PERSON IS EXTRA
11 DANGEROUS. THEY MIGHT GO WORSE. THERE ARE CERTAIN THINGS IN
12 SHOPLIFTING THAT LET YOU KNOW THAT THE PERSON IS LIKELY TO BE A
13 REPETITIVE SHOPLIFTER ALSO.

14 **MS. STURGILL:** IF HE WAS ARRESTED IN JANUARY, THE CHARGES
15 HAVEN'T BEEN –

16 **THE COURT:** I'M JUST SAYING THE WAY HE DID IT TELLS ME THAT
17 HE'S LIKELY A REPETITIVE SHOPLIFTER.

18 **MS. STURGILL:** OKAY. WELL, I MEAN I'M GONNA STILL STAND BY
19 THERE'S NO EVIDENCE – THERE WAS NOTHING IN THE BACKPACK. I MEAN THEY
20 DIDN'T SEE WHAT WAS IN THE BACKPACK BEFORE HE WENT IN THERE SO
21 WHETHER SOME OF THE ITEMS WERE PICKED UP OR HE HAD THEM, YOU KNOW.
22 HE'S BEEN FOUND GUILTY, I ACKNOWLEDGE THAT.

23 **THE COURT:** WELL, YOU DID A GOOD JOB TO HAVE NO CLIENT
24 AND A STRONG CASE AGAINST YOU. YOU DID VERY WELL. YOUR CLIENT
25 ACTUALLY OUGHT TO BE VERY PLEASED WITH YOUR PRESENTATION TODAY.

1 ALL RIGHT, I'M GOING TO SENTENCE HIM TO TWENTY DAYS.

2 MS. STURGILL: CREDIT FOR TIME SERVED?

3 THE COURT: WELL, HE'S ALREADY GOTTEN CREDIT.

4 MS. STURGILL: SO THE TWENTY IS EXPLICIT.

5 THE COURT: YES.

6 MS. STURGILL: OKAY. TWENTY-ONE, MINUS ONE.

7 MS. MANGUM: THANK YOU, JUDGE.

8 THE COURT: THANK YOU.

9

10 (ADJOURNED)

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STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE MUNICIPAL COURT FOR
THE CITY OF COLUMBIA

CITY OF COLUMBIA,)
)
VS.)
)
ROBERT STEPHEN BRUCE,)
)
)
DEFENDANT.)
)

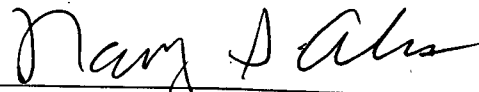
CERTIFICATE

2016 APR 25 PM 2:15
JENNIFER W. GOSWAMI
RICHLAND COUNTY

THIS IS TO CERTIFY THAT THE WITHIN MOTION JURY TRIAL CONSISTING OF FORTY-EIGHT (48) PAGES, IS A TRUE AND CORRECT TRANSCRIPT OF RECORD FOR THE TRIAL ON MARCH 23, 2016, SAID TRANSCRIPT BEING PREPARED TO THE BEST OF MY ABILITY FROM A RECORDED DISC PROVIDED TO ME WITHOUT THE BENEFIT OF MY BEING PRESENT AT THE PROCEEDING.

I FURTHER CERTIFY THAT I AM NOT RELATED TO ANY OF THE PARTIES IN THIS MATTER OR THEIR COUNSEL, NOR DO I HAVE ANY INTEREST, FINANCIAL OR OTHERWISE, IN THE OUTCOME OF THE SAME.

IN WITNESS WHEREOF I HAVE HEREUNTO SET MY HAND AND SEAL ON THE 18TH DAY OF APRIL, 2016.



NANCY S. AHRNS
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 03-29-19

1	State of South Carolina	Court of Common Pleas
2	County of Richland	Fifth Judicial Circuit
3		
4	Robert Stephen Bruce,) Transcript of Record
)
5	Plaintiff,) 2016-CP-40-01976
)
6	vs.)
)
7	City of Columbia,)
)
8	<u>Defendant.</u>)

August 26, 2016
Columbia, South Carolina

B E F O R E:

The Honorable Clifton Newman, Judge

A P P E A R A N C E S:

Jessica E. Sturgill, Esquire
Attorney for the Plaintiff

Jessica R. Mangum, Esquire
Former Attorney for the Plaintiffs

STACY S. JOHNSON
CIRCUIT COURT REPORTER

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I N D E X

<u>WITNESS</u>	<u>PAGE</u>
Certificate of Reporter	51

E X H I B I T S

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
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(No exhibits marked.)

P R O C E E D I N G S

1
2 **THE COURT:** All right. That leaves us to the third
3 case, Robert Stephen Bruce versus the City of Columbia.

4 **MS. MANGUM:** Good morning, Your Honor.

5 **THE COURT:** Good morning. We have a couple of
6 Jessicas here. You're Jessica Sturgill?

7 **MS. STURGILL:** Sturgill. Yes, Your Honor.

8 **THE COURT:** All right. And Jessica Mangum. This was
9 continued the last time because the City of Columbia did
10 not get notice the last time. And I'm looking in the file
11 and I have a transcript and the return to the notice of
12 appeal.

13 All right, Ms. Sturgill. Go right ahead.

14 **MS. STURGILL:** Yes, Your Honor. May it please the
15 Court? We are here today appealing Mr. Bruce's sentence
16 from his jury trial back in March of this year. He
17 was convicted on shoplifting and was sentenced to
18 twenty-one days with credit for only one day time served.
19 So we argued then and we argue again today that he should
20 be entitled to credit for the more 300 days that he spent
21 in jail while this charge was pending and he was awaiting
22 trial. As such, he should have received credit for time
23 served on the entire sentence.

24 **THE COURT:** He was in jail for 300 days for what?

25 **MS. STURGILL:** So I'll give you a brief timeline,

1 Your Honor.

2 **THE COURT:** All right.

3 **MS. STURGILL:** October 8th of 2014, he was arrested
4 on this ticket, 16002GY, which was for shoplifting. The
5 following day he was released and then on October 17th he
6 requested a jury trial on that ticket. Now fast-forward
7 to March 17th, 2015. He was arrested and charged with a
8 separate crime, the shoplifting enhancement, and that was
9 Warrant 2015A4021600611. He could not post bond for that
10 charge and remained incarcerated pre-trial while awaiting
11 trial for that charge and this ticket. All right.

12 **MS. STURGILL:** On January 11th, 2016, he pleads guilty
13 to that warrant and the charge was reduced to shoplifting
14 \$2,000 or less. He was sentenced to thirty days, credit
15 for time served, and released that day after 301 days of
16 incarceration. March 23rd of this year, we have the jury
17 trial on this ticket, 16002GY. He was found guilty and
18 sentenced to twenty-one days with credit for only the one
19 day of time served.

20 **THE COURT:** All right. So March 29th of this year as
21 well Judge Gee granted an appeal bond. Mr. Bruce was
22 released on the 30th after seven additional days on that
23 sentence.

24 **THE COURT:** After seven additional days on that
25 sentence?

1 **MS. STURGILL:** Yes, Your Honor.

2 **THE COURT:** All right.

3 **MS. STURGILL:** So we appeal based on Statute 24-13-40.
4 The relevant portion of that statute states that in every
5 case in computing the time served by a prisoner, full
6 credit against the sentence must be given for time served
7 prior to trial and sentencing and may be given for any
8 time spent under monitoring, house arrest. Provided,
9 however, that credit for time served prior to trial and
10 sentencing shall not be given, one, when the prisoner at
11 the time he was imprisoned was an escapee from another
12 penal institution or, two, when the prisoner is serving
13 a sentence for one offense and is awaiting trial and
14 sentence for a second offense in which case he shall not
15 receive credit for time served prior to trial in a
16 reduction of his sentence for the second offense.

17 **THE COURT:** Could you read that second rule again a
18 little slower so we may digest it?

19 **MS. STURGILL:** Sure. Yes, Your Honor. I apologize.
20 So, two, when the prisoner is serving a sentence for
21 one offense and is awaiting trial and sentence for a second
22 offense in which case he shall not receive credit for time
23 served prior to trial in a reduction of his sentence for
24 the second offense.

25 **THE COURT:** Is that what we have here or not?

1 **MS. STURGILL:** No, Your Honor.

2 **THE COURT:** Okay. I just asked the question.
3 Proceed.

4 **MS. STURGILL:** Okay. Thank you, Your Honor. So the
5 Supreme Court of South Carolina took up the statute and
6 interpretation of a claim raised in 2000, and that was in
7 Allen versus State, and I have a copy of the case if Your
8 Honor would like it.

9 **THE COURT:** No, I'll pull it up on my computer.

10 **MS. STURGILL:** Wonderful. So in that case, the court
11 pointed to rules of statutory construction and stated that
12 when terms in the statute are clear, the court must apply
13 those terms according to their literal meaning whereas the
14 words of the statute must be given their plain and ordinary
15 meaning without resorting to subtle or forced construction
16 to limit or expand its scope.

17 So the Supreme Court held that this statute was clear
18 and it required application of its literal meaning. So the
19 words of the Statute 24-13-40 mandates that a prisoner be
20 given credit for all timed served prior to trial unless one
21 of those two exceptions applies. The first exception is
22 that the prisoner was an escapee or the second exception
23 the prisoner was serving an active sentence at the time.

24 **THE COURT:** An active sentence?

25 **MS. STURGILL:** Yes, sir.

1 **THE COURT:** Not being held for court on a sentence?

2 **MS. STURGILL:** Yes, Your Honor. Not pre-trial
3 confinement.

4 **THE COURT:** Okay. When a prisoner is serving a
5 sentence for one offense and was awaiting trial and
6 sentence for a second offense in which case you shall
7 not receive credit for time served prior to trial in a
8 reduction of his sentence for the second offense.

9 All right.

10 **MS. STURGILL:** Yes, Your Honor. So the facts of
11 Allen are pretty similar to the facts here. In Allen,
12 Mr. Allen was arrested for two counts; one was grand
13 larceny -- or two counts of grand larceny and one count of
14 malicious injury to personal property.

15 **THE COURT:** All right. Say it again. He was --

16 **MS. STURGILL:** Sure. He was arrested on one -- the
17 first time on two counts of grand larceny and one count of
18 malicious injury to personal property. He spent about
19 eighteen days in jail and then was released and then he
20 was arrested subsequently on new charges and that was
21 petit larceny and breaking into a motor vehicle and that
22 was four days later. He then remained in jail on all of
23 those charges until he plead guilty on all five.

24 **THE COURT:** On all of those charges?

25 **MS. STURGILL:** Uh-huh.

1 **THE COURT:** Was his bond revoked for the first charge?

2 **MS. STURGILL:** It was, Your Honor, and that's one of
3 the differences that I will address.

4 **THE COURT:** Okay. Well, I'm just listening.

5 **MS. STURGILL:** Yes, Your Honor.

6 **THE COURT:** I don't know anything about this, but I
7 deal with it consistently, so I'm listening critically.
8 Go ahead.

9 **MS. STURGILL:** I appreciate it, Your Honor. Yes.
10 So his -- he did plead guilty to all five charges and the
11 court gave him credit, but he was not given credit on the
12 first three charges for the time he had done when he was
13 arrested on the second set. So the Supreme Court held
14 that since neither exception of the statute in 24-13-40
15 applies, that he was entitled to credit on all five
16 charges; therefore, the time that he did after the second
17 arrest should be given to the charges in the first arrest.
18 And as Your Honor mentioned, his bond was revoked, so the
19 court --

20 **THE COURT:** If the bond was revoked, then he's in
21 jail on -- not on the second, he's in jail on all of them.

22 **MS. STURGILL:** Yes, Your Honor. But in Allen versus
23 State, the court's holding is sort of two parts.

24 **THE COURT:** All right.

25 **MS. STURGILL:** Now --

1 **THE COURT:** Let me -- just give me a second here to
2 see what Ricky Lee Allen is all about.

3 **MS. STURGILL:** Sure.

4 **THE COURT:** I usually appreciate the counsel's
5 interpretation of these cases, but I like to look at them
6 for myself.

7 **MS. STURGILL:** Absolutely.

8 **THE COURT:** And the best time to look at them is while
9 we're talking about them. Okay. Just give me a moment
10 here. That gives you a chance to catch your breath as
11 well.

12 **MS. STURGILL:** I appreciate that.

13 **THE COURT:** The Supreme Court of South Carolina in
14 2000. Allen was arrested and incarcerated in June of '96
15 for two counts of grand larceny, one count of malicious
16 injury, stayed in jail until June 22nd -- arrested
17 June 4th, stayed in jail until the 22nd of June when he
18 was released. He got arrested again four days later and
19 his bond on the June 4th charge was revoked and he remained
20 in jail until September when he plead guilty to everything.
21 So he files a PCR claiming he hadn't been given credit on
22 the charges stemming from the June 4th for the time served
23 from June 26th until he went to court and took care of his
24 case and the PCR judge ruled he was not entitled to credit
25 for time served. I wonder who that PCR judge was? It

1 wasn't Clifton Newman. And then they go through the
2 statute where the terms are clear and prisoner gets credit
3 for all time served and then they say here Allen was
4 awaiting trial and sentencing on all offenses from
5 June 26th through September 12th. Moreover, his bond was
6 revoked on the first set of charges. We, therefore -- he
7 was, therefore, clearly -- and I rarely allow lawyers to
8 use the word "clearly", but the court used the word
9 "clearly" here -- clearly -- he was clearly in custody on
10 all charges from June 26th through September 12th.

11 And then they talked about People versus Robinson
12 where the defendant was released on bond on one charge,
13 then arrested on another charge and defendant turned
14 himself in on the first charge as a result of the second
15 charge and the bond on the first charge was increased to
16 the degree that the defendant could not pay for it. So he
17 was held simultaneously on both charges, so he gets credit
18 for time served on both.

19 Then they tell us -- talk about this Missouri case
20 where the inmate whose parole was revoked for prior
21 offenses when he was arrested on subsequent offenses and
22 he gets credit on both offenses. And then they went all
23 the way out to Nebraska and tell us about that case.
24 Eagle Deer, he was released on one charge, then arrested
25 on another charge, then they revoked the bond on the first

1 charge and he gets credit for everything. And then they
2 say under the plain, unambiguous terms of the statute, we
3 find Allen is entitled to credit for time served on the
4 first set of charges and they reversed the circuit court
5 judge.

6 All right. They usually bring up this case out of
7 Moncks Corner. It's a robbery charge. That's the one
8 people usually like to talk about which held contrary --
9 a contrary scenario. Go ahead.

10 All right. Now Mr. -- what's your name?

11 **MR. BRUCE:** I'm Robert Bruce.

12 **THE COURT:** Mr. Bruce, have a seat. Let your lawyer
13 handle this. You can sit down.

14 All right.

15 **MS. STURGILL:** Yes, Your Honor. So the holding of
16 the court is, first, that the exception -- the statute
17 mandates that if neither exception applies, they're
18 entitled. So it says here neither exception applies as
19 Allen was neither an escapee nor was he serving a sentence
20 at the time of his June 26th arrest, so that's the -- I
21 believe that's one ground, Your Honor, and it's the
22 Supreme Court's opinion that he was entitled to credit
23 for that reason and the court says, moreover, Allen's bond
24 was revoked on the first set of charges. So the word
25 "moreover" doesn't -- basically indicates that this is an

1 additional ground to reverse, but not necessary. So the
2 first ground was that neither --

3 **THE COURT:** So this whole case hinges on the word
4 "moreover"?

5 **MS. STURGILL:** Yes, I believe the Court uses it
6 intentionally.

7 **THE COURT:** He was awaiting trial on all -- and
8 sentencing on all offenses, okay, from June -- he was
9 awaiting trial and sentencing on all. Then it says
10 moreover, was revoked on the first set. Go ahead.

11 **MS. STURGILL:** Yes, Your Honor. So that first ground
12 that neither exception applies, he was awaiting trial
13 while charged with this, it was sufficient for him to be
14 entitled to that credit. The "moreover" is an additional
15 ground for the revocation is not necessary -- my reading
16 of this case is that the revocation is not necessary for
17 him to be entitled to credit for the time served, but in
18 this case it was revoked and so that's an additional
19 ground why he's entitled to that credit for time served.

20 **THE COURT:** Okay. Well, since they mention the third
21 case here, this third note here, was neither an escapee nor
22 was he serving any sentence at the time of the June 26th
23 arrest. And then they note Crooks v. State involved an
24 inmate on supervised furlough who was served with an arrest
25 warrant and re-incarcerated for another crime following

1 the furlough and they held the inmate was still actively
2 serving the sentence on the crime for which he was
3 furloughed such that he was not entitled to credit for
4 time served on the offense charged in the arrest warrant.
5 The present case is clearly inapposite as Allen was under
6 no sentence at the time of his second arrest.

7 How does that fit in, if it does?

8 **MS. STURGILL:** Yes, Your Honor. Well, I believe that
9 Crooks stands with the proposition that you need to be
10 charged with the second offense in order to get credit for
11 it. So it is in Blakeney -- I believe I cite to that in
12 my notice of intent to appeal.

13 **THE COURT:** In Crooks he was an inmate and he was on
14 furlough.

15 **MS. STURGILL:** Yes, Your Honor. So that was an active
16 sentence.

17 **THE COURT:** He was served with an arrest warrant. So
18 he committed a crime while he was out on furlough.

19 **MS. STURGILL:** Yes.

20 **THE COURT:** And they held that he was serving his
21 sentence for which he was furloughed, he was not entitled
22 to credit for time served on the offense charged in the
23 second arrest. Well, that makes sense. I mean, you know,
24 you can't go back to your furlough time.

25 **MS. STURGILL:** Exactly. So he was not entitled to

1 the time that he did on the front end because he was still
2 serving an active sentence, but they go on to exceptions,
3 and then he wasn't entitled to some of the time on the
4 back end because he hadn't been served with that warrant
5 yet. So that's where it -- it did give him credit for all
6 of the time while he was charged. So that stands for the
7 definition in Blakeney that cites Crooks and Blakeney
8 states that -- defines time served as the time during
9 which a defendant is in pre-trial confinement and charged
10 with the offence for which he is sentenced so long as he
11 is not serving time for a prior conviction. So it doesn't
12 say held for that charge, it says charged with that crime.

13 So, additionally, the -- regarding in Mr. Allen's
14 case, when his bond was revoked on the first set the court
15 gave him time -- credit for time served from the date of
16 that first arrest, and my understanding in how things work
17 here at least, is that when someone is rearrested their
18 bond is not immediately revoked, they set a notice for a
19 hearing, a motion to revoke, and so that might be at some
20 point later, but not necessarily the instant that you are
21 arrested. So he is given credit for time from the date he
22 was arrested. It doesn't specify the date that the bond
23 was actually revoked. My understanding of the procedure
24 for that is they would have to then file a motion to
25 revoke his bond on the first set of charges and that would

1 be heard at some time later. So that stands, again, to
2 support the idea that it was pre-trial confinement and
3 charged while awaiting trial.

4 **THE COURT:** Okay.

5 **MS. STURGILL:** And then in State versus McCord, the
6 court held that it is not within the trial judge's
7 discretion to deny credit for this time served.

8 **THE COURT:** I think Blakeney was that case I was
9 talking about in Moncks Corner. The defendant who was
10 jailed in another county on an unrelated charge and had
11 a hold placed on him for a current robbery charge was
12 entitled to credit for time served from the date on which
13 the sheriff's department issued a warrant for his arrest
14 for robbery. At the time the sheriff's department issued
15 the warrant for his arrest, he was confined through the
16 hold and charged with robbery. So I think -- I think that
17 was the scenario.

18 **MS. STURGILL:** Yes, Your Honor.

19 **THE COURT:** He had a case in one county and committed
20 another crime in another county and because they had a hold
21 from the first county that means they could get credit for
22 time served.

23 **MS. STURGILL:** Yes, Your Honor. And Blakeney, I
24 believe, was few months before Allen. I believe it was
25 January of 2020 -- or 2000 and Allen was a few months

1 later. So, again, I think Allen is controlling. It's been
2 sixteen years and it has not been overturned, it is still
3 good law. The courts have not overturned to the strict
4 interpretation of that language; that only two exceptions
5 apply and, otherwise, it is mandatory that someone get
6 credit for time served. That strict interpretation has
7 held in other cases where a judge refused to give credit
8 because they were disappointed in the maximum sentence
9 they could impose, and that was in State versus Boggs in
10 2010. In split sentences the court still has to give
11 credit.

12 **THE COURT:** State v. Boggs. I know on these
13 probation violations we have to -- or some of those cases
14 trigger some of these appeals.

15 **MS. STURGILL:** Yes.

16 **THE COURT:** Let's see. Sometimes I like to know who
17 the judges are who make these rulings because I remember
18 the cases based on who the person was who got reversed,
19 if they got reversed.

20 State v. Boggs. South Carolina. Give me just a
21 second. Well, Judge Kinard. He plead guilty and -- Boggs
22 plead guilty in Greenwood to strong arm robbery prior to
23 being sentenced. He wanted credit for time served. The
24 plea judge indicated his desire that Boggs not receive
25 credit and on the sentencing sheet the judge did not check

1 the box that would give him credit, so he appealed saying
2 he was entitled to credit, and they agreed. So Boggs was
3 charged with armed robbery and had a jury trial. After
4 the trial was underway, then he -- for armed robbery, he
5 decided to plead guilty to strong arm robbery and then he
6 wanted credit for the sixteen and a half months he'd been
7 in jail. In response to this request, the plea judge
8 acknowledged being well aware that Section 24-13-40 says
9 you get credit for time served that you were held awaiting
10 sentencing; however, the judge explained that he was going
11 to request on the sentencing sheet that Boggs not get
12 credit not, just request, and Boggs' lawyer said it's --
13 24-13-40 was mandatory to which the judge replied --
14 Judge Kinard, my good friend, may he rest in peace -- and
15 the judge said I only said request.

16 And I can imagine how Judge Kinard said it. I only
17 said request. I don't put in there that he is not to get
18 it. He is entitled to it by statute. I am aware of all
19 of that. The judge said but when I don't check it off,
20 they don't give him credit. But when I don't check it off,
21 they don't give him credit. I'm just telling you how it
22 works in the real world.

23 That's Judge Kinard. So they didn't give him credit
24 and the appellate court straightened it out. So Judge
25 Kinard gave him the max and he did not check the box.

1 Instead, the judge handwrote on the sentencing sheet I
2 request that defendant not be given credit for time served
3 as charged dropped from armed robbery to strong arm robbery
4 and that he'd gotten all of the benefit he should have
5 gotten in the judge's view, and so the Court of Appeals
6 says a judge's disappointment in the maximum sentence he
7 can impose is not one of the exceptions to the mandatory
8 language, so they reversed him.

9 **MS. STURGILL:** Yes, Your Honor. So that just stands
10 to the mandatory nature of this and so the courts continue
11 to interpret there only being the two exceptions that are
12 strictly laid out in the statute. The split sentences
13 have been addressed and time spent in other jurisdictions
14 have been addressed.

15 **THE COURT:** All right. Well, let me hear what
16 Ms. Jessica Mangum has to say on it and then you'll get
17 another shot at it.

18 **MS. STURGILL:** Yes, Your Honor.

19 **MS. MANGUM:** Thank you, Your Honor. Your Honor, in
20 preparing for today when I pulled up the statute, there
21 are twenty-nine notes of decision under this particular
22 statute, and I looked at every single case --

23 **THE COURT:** I'm sure you did.

24 **MS. MANGUM:** -- in preparation for today, and what I
25 found is that every single case under the notes of

1 decision in some way relate back to that first charge
2 either through bond revocation, probation revocation,
3 some kind of pre-trial detention related back to that
4 initial charge, and that's what distinguishes every case
5 that this state has ever heard on this statute.

6 **THE COURT:** That each one relates back to the first
7 charge?

8 **MS. MANGUM:** The first charge, right.

9 **THE COURT:** Okay.

10 **MS. MANGUM:** Just like in Allen. The second he's
11 given credit because the -- the bond revocation on the
12 first charge was what got him back in jail, so he has
13 to be given credit for that time. In this case, the
14 Defendant served one day on this charge. The second and
15 subsequent charge, there's no relating back to the first
16 charge, and so, Your Honor, under appellant view there's
17 almost a reward for continued bad behavior because the
18 more that you break the law, the less time you have to
19 serve. If every charge you get credit for every prior
20 time that you've ever served, Your Honor, that is an
21 absurd rule. It could not be intent of the Legislature.
22 It's clear from the plain meaning of the statute, from
23 the language, that the intent is that it relates to the
24 charge. It has to. There's no other way around it.
25 And the appellant can't produce any case law that has

1 these facts, any case that shows an appellant with one
2 charge who then gets charged a second time and gets credit
3 for that one charge unless, Your Honor, it's the very
4 specific fact pattern that I just mentioned, the probation
5 revocation, the bond revocation.

6 **THE COURT:** Okay. Let me clarify again. Are all
7 these cases Supreme Court cases like Allen? Allen,
8 Blakeney --

9 **MS. MANGUM:** Your Honor, the notes of decision include
10 Court of Appeals.

11 **THE COURT:** Okay.

12 **MS. MANGUM:** The twenty-nine that I have referenced.

13 **THE COURT:** But Allen is Supreme Court or Court of
14 Appeals?

15 **MS. MANGUM:** Yes, Your Honor, it's Supreme Court.

16 **THE COURT:** Supreme Court. Okay. All right. So I
17 interrupted you.

18 **MS. MANGUM:** And, Your Honor, I think that's the
19 City's position. I think it's clear. I don't think
20 there's anything here that would entitle the appellant
21 to get credit on a subsequent crime. The 300 days come
22 from a subsequent time. He was not -- bond was not
23 revoked on the first charge and so to give him credit on
24 the subsequent charge --

25 **THE COURT:** Which jail was he in?

1 **MS. MANGUM:** I believe it was Alvin S. Glenn for both
2 of them, Your Honor.

3 **MR. BRUCE:** For ten months.

4 **THE COURT:** So when the city -- on the city, your
5 case, you go to Alvin S. Glenn when the city people arrest
6 you?

7 **MS. MANGUM:** (Nods head.)

8 **THE COURT:** They don't have a city jail?

9 **MS. MANGUM:** No, Your Honor.

10 **THE COURT:** Alvin S. Glenn?

11 **MS. MANGUM:** Yes, Your Honor. He spent one day in
12 jail on the charge for which he was tried and found guilty
13 by a jury. There was a subsequent property third charge
14 in which he was in jail, I believe, for 300 days and that
15 was through the solicitor's office and that was pled down
16 to a shoplifting first. That's what I think I remember
17 from the jury trial. And that's where he got the 300 days
18 from, but it doesn't relate back to the first charge, and
19 so to give him credit for that -- and, Your Honor, perhaps
20 it -- perhaps it's within the judge's discretion to do
21 that. Judge Dennis, who was the trial judge in this case,
22 was well aware of the 300 days --

23 **MR. BRUCE:** Can I speak?

24 **MS. MANGUM:** -- and based on the facts of the case --

25 **THE COURT:** You can't speak while she's speaking.

1 That's contempt of court. That's at least how many days?
2 Go ahead.

3 **MS. MANGUM:** Your Honor, Judge Dennis was well aware
4 of this argument when we had the jury trial. He chose
5 not to give the Defendant credit for the 300 days that he
6 served. I think he's entitled to do that. There's no
7 statutory mandate that he does --

8 **THE COURT:** What do you say again now? Judge Dennis?

9 **MS. MANGUM:** Judge Dennis.

10 **THE COURT:** All right.

11 **MS. MANGUM:** I said perhaps it's within the trial
12 judge's discretion if he wanted to give him credit based
13 on the 300 days that he spent, but there's no statutory
14 requirement that he give that and there's no error of law
15 when the judge did not give him that.

16 **THE COURT:** All right. So at this point Mr. Bruce
17 wanted to speak. Now you're --

18 **MR. BRUCE:** She's my counsel. She'll decide whether
19 I should or not.

20 **THE COURT:** Okay. Well, it's not for her to decide.
21 It's for the Court to decide whether or not there can be
22 hybrid representation, which means --

23 **MR. BRUCE:** May I just say a couple of things very,
24 very briefly?

25 **THE COURT:** All right. We'll take a chance on that.

1 Go ahead. You'll have to stand up.

2 **MR. BRUCE:** I spent 301 days in jail for a 30-day
3 charge. It was for macaroni and cheese and tuna fish.

4 **THE COURT:** Well, they have a guy in Texas who's
5 doing a life sentence for stealing.

6 **MR. BRUCE:** It wasn't for hurting somebody. It was
7 so I could eat and feed my cat. My cat died while I was
8 in jail. The people that I lived with stole all my
9 clothing, all my property, everything I owned, so when I
10 got out I had nothing, and I did ten months in jail for a
11 30-day charge.

12 **THE COURT:** Now you say it was a 30-day charge. I
13 don't know if it's a 30-day charge or not.

14 **MR. BRUCE:** You were the judge.

15 **THE COURT:** I was the judge?

16 **MR. BRUCE:** You sentenced me.

17 **THE COURT:** Oh, I did? Okay.

18 **MR. BRUCE:** And you sentenced me to thirty days for a
19 misdemeanor shoplifting charge.

20 **THE COURT:** And you had already done --

21 **MR. BRUCE:** And I had already done 301 days in jail.
22 That's all I've got to say.

23 **THE COURT:** All right. And you got sentenced to
24 thirty days because the solicitor reduced the charge.

25 **MS. STURGILL:** Correct, Your Honor.

1 **MR. BRUCE:** Because they had no -- never mind. It
2 was tuna fish and macaroni and cheese, Your Honor. I did
3 ten months and I paid hard.

4 **THE COURT:** And crime rarely pays or shouldn't pay
5 either.

6 **MR. BRUCE:** And my life is not that great.

7 **MS. MANGUM:** And, Your Honor, just to be clear, the
8 charge that he was in jail for 300 days was a prop third.

9 **MS. STURGILL:** Yes, Your Honor. I was going to
10 follow up. He was charged with the enhancement and as the
11 current law stands, that's an unfortunate consequence of a
12 third property offence is that it is a higher sentence --
13 potential sentence. But if I may respond to what
14 Ms. Mangum stated.

15 **THE COURT:** Sure.

16 **MR. BRUCE:** I've never heard anything about that.

17 **MS. STURGILL:** Regarding the notes on decisions, yes,
18 there are several, but none of them states that a hold or
19 detainer is required in order to get credit for time served
20 either. All of them point to the statute saying it is
21 strictly interpreted, plain language of the statute, and
22 the plain language of the statute as I outlined in Allen
23 versus State points to those two exceptions. As I said,
24 it is sixteen years old. The Legislature has had the
25 opportunity to amend that statute if they had issues with

1 its strict interpretation giving credit in situations that
2 didn't fall into those two narrow exceptions. They have
3 amended parts of that statute. In 2010, they amended some
4 of the language to say that "must be calculated from"
5 substituted "shall be reckoned from"; "however, when"
6 substituted "but when", so there's particular -- the
7 Legislature has paid attention to the specific language
8 and has carefully drafted it and has not changed it or
9 specified that a defendant must be held on that ticket or
10 that their bond must be revoked in order to get credit for
11 that time.

12 Additionally, Your Honor, I'll just go back to the
13 intent of the Legislature when they drafted it and in the
14 sixteen years post with *Allen v. State* does not specify a
15 hold is required. None of the case law specifically
16 requires a hold or detainer or revocation and that *Allen*
17 versus *State*, the first holding, again, was that if it's
18 not one of those two exceptions, then they must get
19 credit. The moreover part addressed the revocation and
20 that's the only case to have addressed revocation,
21 specifically as an additional ground and not necessary.
22 As such we would ask for this case to be remanded back to
23 city court with an instruction to them to give credit for
24 the entire twenty-one days. Thank you.

25 **THE COURT:** So even this question of whether he was

1 -- so he gets credit for the time served unless he was
2 already serving a sentence on a different offense.

3 Okay. Ms. Mangum.

4 **MS. MANGUM:** Yes, Your Honor.

5 **THE COURT:** Was he already serving a sentence on a
6 different offense?

7 **MS. MANGUM:** At what time?

8 **THE COURT:** The statute mandates prisoner receives
9 credit for time served prior to trial -- prior to trial
10 unless he was already serving a sentence on the prior
11 offense. So he -- did his -- when he plead guilty before
12 me on the general sessions charge, which was reduced to
13 the 30-day charge, he got credit for time served because
14 all of that was pretrial. Did he then -- he then went to
15 the City from there or --

16 **MS. MANGUM:** The charge from the City was prior.

17 **MR. BRUCE:** I had been in jail since --

18 **THE COURT:** I don't need your help on anything,
19 Mister, and you have to stop talking. Go ahead.

20 **MS. MANGUM:** I'm not sure that I understand your
21 question, Judge.

22 **THE COURT:** Well, which -- in this case, what was the
23 sequence? Which case was handled first?

24 **MS. MANGUM:** Handled first was the --

25 **THE COURT:** Disposed of first.

1 **MS. MANGUM:** Was the prop third.

2 **THE COURT:** Okay. Property third. All right. So
3 then after he left my case, then went to City court?

4 **MS. MANGUM:** We had a jury trial.

5 **THE COURT:** Had a jury trial and he was sentenced to
6 thirty -- thirty days with credit for one day?

7 **MS. MANGUM:** Yes, Your Honor. At the time of the
8 jury trial, he had already served 300 days on his property
9 third.

10 **THE COURT:** All right. And so your position when he
11 came to City court, how much -- what kind of lag time was
12 there between his trial in the City and his guilty plea
13 before me? Was he released from jail or stayed in custody
14 after I gave him thirty days?

15 **MS. MANGUM:** He was released, Your Honor, on time
16 served.

17 **THE COURT:** And then later came to --

18 **MS. MANGUM:** And then we -- he was free and out and
19 then we had a jury trial.

20 **THE COURT:** All right.

21 **MS. MANGUM:** Actually, Your Honor, just -- I don't
22 know that it's even relevant, but Mr. Bruce was not present
23 at the jury trial.

24 **THE COURT:** So he gets credit for time served unless
25 he was already serving a sentence on a different offense

1 and your position is that he was serving the 300 days that
2 he -- or whatever number of days he served that was on a
3 different offense?

4 **MS. MANGUM:** Yes, Your Honor.

5 **THE COURT:** And so you -- whereas Ms. Sturgill said
6 it's clear, your argument is that this exception applies
7 because he was -- because the time that he did was on a
8 different offense?

9 **MS. MANGUM:** Right. My position is that the statute
10 -- the language of the statute when it talks about the
11 computation of time served, the Legislature envisions that
12 we're talking about typically one offense. There are
13 times when there is a second offense like in Allen where
14 that second offense can -- the time served on a second
15 offense can relate back to the first offense and in those
16 situations, to borrow Ms. Sturgill's language, is the
17 court has made it clear that the judge does not have
18 discretion if the second offense -- if the detainment
19 from the second offense can relate back to the first
20 offense through a bond revocation, through a probation
21 revocation or through some kind of pre-trial detention.
22 If there's a way to link that back, then the judge has no
23 discretion. The judge has to give credit for time served
24 when there is relation back to the first offense. This
25 case -- it's the City's position that this case is

1 distinguishable from those because there is no relation
2 back to the first offense. The 300 days that Mr. Bruce
3 did stands alone unrelated and that if we're to follow
4 appellant's argument every subsequent offense an offender
5 would get credit for prior jail time, which is illogical,
6 which rewards somebody for bad behavior, which means the
7 person who commits one crime is in a worse off position
8 than a person who commits four crimes. The re-offender
9 wins, Your Honor, under this theory. Had Mr. Bruce been
10 arrested for shoplifting first, then given a surety bond
11 that he could not make or been given a bond and bonded
12 out and then that bond -- and then committed the second
13 offense and that first bond's been revoked, then we
14 wouldn't be here today because the City would have agreed
15 that he is -- that he was required to be --

16 **THE COURT:** So they revoked the bond in Allen,
17 correct?

18 **MS. MANGUM:** Exactly.

19 **THE COURT:** We're clear that --

20 **MS. MANGUM:** Exactly.

21 **THE COURT:** But she's saying that the -- she's
22 banking on the moreover language.

23 **MR. BRUCE:** So you mean being homeless and broke is a
24 crime now?

25 **THE COURT:** Can you call a -- can you get us a deputy

1 in here?

2 **BAILIFF:** Yes, Your Honor.

3 **THE COURT:** Go ahead.

4 **MS. MANGUM:** And, Your Honor, in the State v. Boggs
5 case, which was referenced earlier with Judge Kinard,
6 again, this is what the notes of decision show, it's
7 cases where it has been pre-trial detention that directly
8 relates to that charge that is before that judge and for
9 whatever reason that judge doesn't give credit for time
10 served. Had Judge Dennis said in this case Mr. Bruce
11 served one day, but I don't like what he did, so I'm not
12 gonna give him credit --

13 **THE COURT:** When you say Judge Dennis, I'm thinking
14 Markley. You're gonna have to give me -- if we have a
15 new Judge Dennis, you have to give me the full name.

16 **MS. MANGUM:** I'm sorry.

17 **THE COURT:** There's only one Judge Dennis to my
18 knowledge.

19 **MS. MANGUM:** Judge Steve Dennis.

20 **THE COURT:** Okay.

21 **MS. MANGUM:** When the trial court -- how about that,
22 Your Honor? If the trial court had refused to give him
23 credit for that one day, we would have agreed that that
24 was an error.

25 **THE COURT:** If he didn't give him credit for one

1 day?

2 **MS. MANGUM:** Right. Then would we would be in a
3 Boggs situation, and then we'd be in violation of the
4 statute, Your Honor, but the statute wasn't written to
5 give credit for every time a defendant is incarcerated.
6 There has to be some relation back to that charge and
7 it's just not here in this case.

8 **THE COURT:** Well, you know, it's an interesting --
9 interesting issue. If I can try an analogy just to see
10 how you-all react to it. Say you have a guy who is
11 accused of armed robbery here in Richland County today
12 and he gets a bond, a PR bond, and then next week he
13 commits an armed robbery in Lexington and he gets five
14 years for it. So after he serves his five years in
15 Lexington and gets out of prison, he has to come back to
16 court for the first armed robbery in Richland, and the
17 judge gives him a five-year sentence, the same as he had
18 in Lexington. Under Ms. Sturgill's argument, he must be
19 given credit for five years for the -- on the Richland
20 robbery because he did five years on the subsequent crime.

21 **MS. MANGUM:** While his crime -- the first one was
22 pending.

23 **THE COURT:** Was pending. Go ahead. You jumped up.
24 You must have a different spin on it. Go ahead.

25 **MS. STURGILL:** Yes, Your Honor. In that case, the

1 second charge, that was an active sentence he was
2 serving, so he would not get credit for that time, so
3 that's one of the exceptions carved out in the statute.
4 So Ms. Mangum's assertion that you get credit indefinitely
5 for every time you've ever done before is not accurate per
6 the statute as it's written. You get credit for pending
7 charges, so for any charge that's already been resolved,
8 you're not gonna --

9 **THE COURT:** Pending charge wherever they may be
10 within the State of South Carolina?

11 **MS. STURGILL:** Yes, sir. There are cases where it's
12 outside of the jurisdiction as well, whether it's Richland
13 County, Lexington County, there's some in Georgia, in
14 South Carolina.. Those are -- specifically have holds on
15 them, but there's no --

16 **THE COURT:** Anything that was pending -- well, under
17 my scenario the -- the Richland was pending.

18 **MS. STURGILL:** Yes, Your Honor, but he would get
19 credit for any pre-trial time in Lexington. Under my
20 argument, he would get credit for pre-trial crime in
21 Lexington -- or in Richland, but any active sentence he
22 did on the second charge --

23 **THE COURT:** The pre-trial -- well, he only had one
24 day pre-trial.

25 **MS. STURGILL:** There, so then one day. He would not

1 get five years, but he would get one day under my set of
2 facts.

3 **THE COURT:** Well, your guy did one day.

4 **MS. STURGILL:** Yes, Your Honor, and then 300 days
5 while the first charge was pending. If this first charge
6 had been resolved sooner than two years later or however
7 long it took, then he wouldn't get credit for that 300
8 days. It's not his fault that City court happens to take
9 an inordinate amount of time to resolve charges at jury
10 trial. So if that charge had already been --

11 **THE COURT:** It's not his fault?

12 **MS. STURGILL:** That the City court docket is slower.
13 I'm not being -- I'm not absolving him of blame for the
14 crimes and whatnot. What I'm saying though is that it's
15 a pending charge awaiting trial separate from active
16 sentence. Active sentence is one of the carve-outs of the
17 statute and so it doesn't reward people for every crime
18 they've done. It's just the language of the statute says
19 if it's pending and you're not serving an active sentence
20 and you're not an escapee, then you have to get credit for
21 time served.

22 And in addition, Your Honor, the 301 days that he did
23 was all pre-trial awaiting that general sessions charge.

24 **THE COURT:** So your use of the -- you're saying that
25 he wasn't -- when the statute says he's entitled to credit

1 unless he was already serving a sentence on a different
2 offense, that -- to mean that if he was awaiting trial on
3 a different offense, that's not the same as serving a
4 sentence on a different offense?

5 **MS. STURGILL:** Yes, Your Honor. So in this case he
6 was awaiting trial on the general sessions charge while he
7 was also awaiting trial in the sense of he put in a jury
8 trial request and hadn't had his day in court yet and so
9 the 301 days were all pre-trial. He pled at the end and
10 got credit for thirty of those days, but none of that
11 301 days was an active sentence.

12 **THE COURT:** So when a person is awaiting trial, then
13 he gets credit for any -- and he comes to court throughout
14 the State, he gets credit for all time in all places when
15 he goes -- when they dispose of these respective cases
16 because whether or not the bond is revoked or not he is
17 not serving a sentence so, therefore, he's entitled to
18 credit for time served?

19 **MS. STURGILL:** Per the strict language of the
20 statute, I suppose that would be the case if it was
21 pre-trial and not active and not an escapee, but that is
22 limited --

23 **THE COURT:** Well, Ms. Jessica Mangum, without trying
24 to figure out the intent of the Legislature because we
25 don't know even if they know what the intent is when

1 they pass these various laws, how about that? The
2 plain reading of it says unless he's serving a sentence
3 someplace else he gets credit for the time served and if
4 he's not serving a sentence, if he is awaiting trial, how
5 about that?

6 **MS. MANGUM:** Yes, Your Honor. But I think when you
7 read the statute as a whole it's clear that with all of
8 the sentencing we assume that we're talking about a trial,
9 we're talking about an offense, a charge, and I think that
10 the Legislature included that -- again, how can we know,
11 but included that second prong just to be clear that we
12 are not giving people credit when they are serving a
13 sentence.

14 **THE COURT:** Well, I mean, if he is like in the
15 instance -- I guess in my example she says when he gets a
16 five-year sentence and he comes back, then he doesn't get
17 credit because he was serving a sentence and so that's --
18 clearly you've got a sentence, I sentence you to such and
19 such time, that's clearly serving a sentence, but as long
20 as he is in pre-trial detention prior to sentencing on any
21 form, her contention is he's not serving a sentence so,
22 therefore, he must get credit for all time served.

23 **MS. MANGUM:** And, Your Honor, I can only tell you that
24 I don't read the statute to say that and I don't --

25 **THE COURT:** Well, I'm just looking at the words in

1 the statute. Her view is the plain language of the statute
2 says that and --

3 **MS. MANGUM:** Right. And I --

4 **THE COURT:** Go ahead.

5 **MS. MANGUM:** I'm sorry. I didn't mean to interrupt.
6 And it says -- I mean, the language here says credit for
7 time served prior to trial and sentencing. I mean, I think
8 it's clear that the intent is we're talking about a trial
9 and a sentence. We're not talking about every charge and
10 every detention here. And I think that that misconstrues
11 the statute to pull that out of it, Your Honor.

12 **THE COURT:** Well, are there any cases where the person
13 who -- the person does not get credit for time served when
14 they have other pending charges and they go to court and
15 dispose of the charge and they don't get credit for time
16 served? Are there any instances in which -- any cases in
17 which that sentence was upheld? And we're dealing not with
18 a person doing -- serving a sentence someplace else like,
19 I guess, the Federal people, that's one exception, and even
20 in Blakeney where they had a hold on them, they got credit
21 based on the fact that there was a hold from a different
22 county because they said that's not serving a sentence. I
23 mean, that's just a -- he's got other charges someplace
24 else, but a hold triggers it all. Are there any cases in
25 which your view has been upheld?

1 **MS. MANGUM:** Your Honor, there are no cases in which
2 that fact pattern has ever been before the court.

3 **THE COURT:** Okay. So this is a case of first
4 impression?

5 **MS. MANGUM:** And, Your Honor, I think that's because
6 it is understood that there is no relating back unless
7 we have something like a hold and a hold clearly is a
8 detention and so that should relate back to the first
9 charge. A bond revocation is a detention that relates
10 back to the first charge. Every case, like I said, of the
11 twenty-nine that are cited -- I think more interestingly,
12 Your Honor, there are no cases where a --

13 **THE COURT:** Well, I just typed in this statute just
14 to see what all published and unpublished opinions come up
15 about it. Let's see. We have one of Judge -- a real good
16 friend, one of Judge Barber's cases from Kershaw. Let's
17 see what that's all about. Where Matthew Buchanan is the
18 respondent. Somebody named Annetta Grant. She appeals
19 seeking to have 365 days of time served credit accumulated
20 in Georgia while incarcerated on a South Carolina hold.
21 She wants that applied to her four-year sentence. Okay.
22 And she -- and she has some Georgia time she wants credit
23 for because there was a South Carolina hold. Because of
24 the important constitutional liberty interests implicated
25 by the length of Grant's incarceration, we remand to the

1 probation revocation court for determination as to the
2 nature and extent of the Georgia incarceration and the
3 South Carolina hold, and then they cite this statute again.
4 In every case in computing the time served by a prisoner,
5 full credit against the sentence must be given for time
6 served prior to trial and sentencing. Provided, however,
7 you don't get it if you're an escapee or when the prisoner
8 is serving a sentence for one offense and is awaiting
9 trial and sentence for a second offense in which he shall
10 not receive credit for time served prior to trial in a
11 reduction of his sentence for the second offense.

12 Is that still the same thing? Time served means the
13 time during which a defendant is in pre-trial confinement
14 and charged with an offense for which he's sentenced. In
15 parentheses, so long as he is not serving time for a prior
16 conviction. State v. Boggs. Because the language is
17 mandatory, a judge cannot deny a defendant credit for
18 time served prior to trial unless one or two of the
19 exceptions apply. And then they say Hayes v. State. The
20 requirement that a prisoner receive credit for time served
21 is mandatory. Then there's Tant, T-A-N-T, stating the
22 Department of Corrections is confined to an unambiguous
23 sentencing sheet in determining an inmate's sentence.

24 So that's one of Judge Barber's that was remanded.
25 Does that tell us anything new or it's still the same

1 thing? You-all have been reading all of these cases.
2 Does that tell us anything new or is that the same thing?

3 **MS. STURGILL:** No, Your Honor, I think it's the same
4 thing in that it's still pointing to the fact that there's
5 pre-trial confinement and charged with and that an active
6 sentence doesn't count in this instance where it's in
7 Georgia. There's another case, State versus Dozier, from
8 1974, a similar situation in Georgia wanting credit for
9 time served. And so, again, I think that as you mentioned
10 in Blakeney, there was a hold on the defendant, but the
11 credit for time served was not triggered by that hold, it
12 was triggered by the new offense being charged. So they
13 got credit not when the hold came in, but when the charge
14 -- or the warrant was issued. So I think that still points
15 to the definition of pre-trial confinement and time served
16 being -- pre-trial confinement being charged with, not held
17 with.

18 **THE COURT:** The only time you don't get credit is if
19 you're doing a sentence.

20 **MS. STURGILL:** Or you're an escapee.

21 **THE COURT:** Or an escapee.

22 **MS. STURGILL:** Yes, Your Honor.

23 **THE COURT:** There's the linchpin of their argument
24 and you disagree.

25 **MS. MANGUM:** Yes, Your Honor. And I think the

1 very --

2 **THE COURT:** You're saying sentence doesn't mean
3 sentence.

4 **MS. MANGUM:** No, Your Honor, but I think the very --
5 the language that talks about prior to trial means prior
6 to trial on that charge.

7 **THE COURT:** On that charge?

8 **MS. MANGUM:** Right.

9 **THE COURT:** Well, clearly you get credit for time
10 served -- or time served on the same charge.

11 **MS. MANGUM:** Well, it's not so clear, Your Honor. I
12 mean, it is clear that there are twenty --

13 **THE COURT:** Well, it was clear that -- so clear that
14 Judge Kinard was -- you know, they're saying the judge's
15 disappointment is not -- is insignificant. Judge Kinard.
16 And in Boggs -- it looks like we've read everything that
17 exists on here. Who is this guy named Garcia? Is that
18 anything? Ubaldo Garcia, Junior. Let's see what he's
19 talking about. He has a Court of Appeals case. Let's
20 see what it says. Steve John. He's challenging a motion
21 to reconsider. That's something else.

22 I'm tempted to call in a legal expert back there.
23 I'm sure you-all are experts as well. I'm sure he -- is
24 he part of your argument team, Mr. Pournaras back there?

25 **MS. STURGILL:** He's just a colleague. A fan

1 supporting me.

2 **THE COURT:** You're a public defender?

3 **MS. STURGILL:** Yes, Your Honor.

4 **THE COURT:** All right. Let me just -- well,
5 since you-all work for the same agency, let me hear
6 Mr. Pournaras' spin on it.

7 **MR. POURNARAS:** Good morning, Your Honor.

8 **THE COURT:** Good morning.

9 **MS. POURNARAS:** How are you?

10 **THE COURT:** Fine.

11 **MR. POURNARAS:** I have also looked at this case quite
12 a bit in the past and I think one thing that I'd like to
13 relay to the Court is if the State's argument prevails,
14 then it allows for the State to manipulate credit through
15 the issuance of bond. Imagine should a defendant be
16 charged with three warrants for the same fact pattern and
17 he was given PR bonds on two of the three and a surety
18 bond on the third, the State's logic would say that at
19 sentencing if he spent one year incarcerated at sentencing
20 he would only have credit on one of the three because
21 technically he was not being held on the first two, and I
22 don't think that's a logical understanding of how this
23 works either. It's splitting a hair that doesn't really
24 make sense. I think that all the cases that relate to
25 this issue, they say awaiting trial is awaiting trial,

1 detention is detention, and the only thing that matters
2 is is that detention related to an active sentence or not,
3 and I think that's what we have here today. Nothing would
4 stop -- in my scenario, if Your Honor was sentencing a
5 person on those three charges, but two of them technically
6 were not the reason for his incarceration and he was denied
7 that credit, that wouldn't really make a lot of sense. If
8 Your Honor felt that he shouldn't get that year credit on
9 those other two, he could sentence him consecutively and
10 that wouldn't affect Your Honor's ability to sentence
11 either. So the State's concern that it benefits the
12 recidivist doesn't really hold water in that light either
13 because in my scenario Your Honor would have that
14 discretion to sentence consecutively and those would be
15 treated as one sentence with that one year credit applied
16 as Your Honor saw fit. But there have been instances in
17 the municipal court where that exact a scenario happens.
18 I've had an instance where the young man had a disorderly
19 conduct and a possession of a stolen vehicle, both thirty
20 day offenses. He was given a personal recognizance bond
21 on the disorderly conduct and a cash bond on the stolen
22 vehicle. After thirty days we went to bench trial, he was
23 found not guilty of the stolen vehicle but guilty of the
24 disorderly conduct, and the court argued to me that he
25 must now serve thirty additional days because he was on

1 a PR bond for the disorderly conduct and, therefore, not
2 entitled to credit despite the fact that he just served
3 thirty days on a related offense that he was found not
4 guilty on. So the hinging credit on what charging
5 document the jailer is holding him on doesn't make sense
6 in a reading of the plain language of the statute and it
7 doesn't really make sense in the context of an inmate is
8 an inmate and he's awaiting trial and as such he should
9 be given credit for all that time.

10 **THE COURT:** Yeah, usually when someone comes to me
11 for sentencing, and I get it all the time, then things
12 slip through the cracks. Say that they have three cocaine
13 charges and was served a warrant on two when brought to
14 the Department of Corrections and, of course, when they
15 get to the Department of Corrections then all of a sudden
16 the prisoner starts writing and saying how about this
17 other case, you-all didn't take care of it, please let me
18 come back and deal with my case. And so sometimes the
19 solicitor gets around to it and sometimes they don't, but
20 if the solicitor doesn't get around to it -- say the guy's
21 doing a three-year sentence and they don't get around to
22 this other warrant, but a hold is lodged on him, then they
23 come back to Kingstree, which is where it often happens
24 in, and when they plead guilty and says well, this is a
25 new charge that we didn't deal with, so the State may ask

1 for -- give him three years on this charge that we didn't
2 take care of, but we think he's still a nuisance and didn't
3 get enough time on the other one, I mean, typically I give
4 them, well, if he's been to the Department of Corrections
5 and the whole philosophy behind giving someone a sentence
6 is -- is they've gone through some rehabilitation and
7 stuff, it doesn't matter that he had crack cocaine three
8 times versus two times, he's gotten drug treatment,
9 rehabilitation, so give him credit and let him move on.

10 I mean, I never make it -- I mean, I always -- I
11 never give a person -- rarely give them a new sentence
12 when they've done time unless the type of thing that they
13 didn't do time on is like the fellow we had yesterday who
14 killed someone and never answered to the murder charge
15 that's separate and apart, so.

16 **MR. POURNARAS:** I have one other analogy, Your Honor,
17 that I think might be relevant.

18 **THE COURT:** All right.

19 **MR. POURNARAS:** In this case specifically, I think
20 the City would agree that had they moved to revoke his
21 bond on the shoplifting when he was arrested for the
22 general sessions offense, we would not be here today
23 because under their reading he would be entitled to that
24 credit. Now they chose not to, so that technical
25 difference, there's no incentive for the City ever to seek

1 to revoke a bond if they knew that they could continue to
2 hold that additional thirty days over under their reading
3 of the statute. He still sat in jail, he still had two
4 pending charges, but the fact that the City chose not to
5 revoke bond is why we're here today under their reading.
6 Our reading of the statute is inconsequential whether or
7 not they revoked the bond because both charges were
8 pending, he was awaiting trial on both charges, and he
9 was in detention while both charges were pending. So
10 the City's hyper-technical reading of what literally is
11 holding him would never incentivize the City to move to
12 revoke the bond if they wished to maintain some level of
13 punishment irrespective of the other court. So I don't
14 see the logic in the bond being revoked or not in this
15 context.

16 **THE COURT:** All right. Let me just look at this next
17 one and I see Judge Barber has made the news here again in
18 2008. It's my namesake Clifton, Clifton Suber, he plead
19 guilty to three counts of uttering a fraudulent check and
20 bank fraud and Judge Barber gave him ten years on the
21 fraudulent check, a consecutive ten on another, suspended
22 to five years probation and concurrent ten-year on the
23 remaining charge, and he directed that Suber would receive
24 no credit for time served, so Suber appealed arguing he's
25 entitled to credit for time served -- time spent in custody

1 awaiting trial or sentencing, so they remanded that one.
2 It's in Richland County. During the plea he informed the
3 judge he had been in jail on these charges for about a
4 year and defense counsel corrected that Suber was in on
5 a Lexington charge also, but stated that they were all
6 related. The Lexington charge resulted in him getting a
7 year and six months in the Department of Corrections.
8 Defense counsel explained that prior to that he had been
9 incarcerated about three months in Richland and in
10 Lexington and she wanted Judge Barber to backdate Suber's
11 sentence to August 30th and possibly giving him three
12 months credit roughly and the plea judge, Barber, stated
13 I assume whatever he has done since August he is given
14 credit for on the existing sentence and defense counsel
15 confirmed that he was and the plea judge sentenced him
16 concluded with the statement no credit for time served.
17 Defendant appealed. Oh, boy. And they cite all these
18 same cases. Let's see. Because he was not an escapee nor
19 serving any sentence during the approximate three-month
20 period he was incarcerated prior to his August 30th
21 imprisonment on the Lexington charge, he is entitled to
22 credit for time served.

23 So there's using this word "sentence". If you're not
24 in on a sentence, you're entitled to credit for time
25 served. And we know now, of course, time served means the

1 time in which the defendant is in pre-trial confinement
2 and charged with the offense for which he is sentenced,
3 parentheses, so long as he is not serving time on a prior
4 conviction. The record does not contain any evidence of
5 the exact amount of time Suber spent in jail awaiting trial
6 and sentence prior to imposition of the Lexington sentence
7 and so they remanded that.

8 You know, I think the use of these words, you know,
9 and I can see it skewing some misunderstanding of some
10 things. It seems like you're on the losing end of this
11 argument, Ms. Jessica Mangum. Let me give you one more
12 shot at it.

13 **MS. MANGUM:** Your Honor, the language that you just
14 read talked about that he is charged with the offense that
15 he is being sentenced for.

16 **THE COURT:** Yeah, and then they put in parentheses --

17 **MS. MANGUM:** And I -- and I don't have that case in
18 front of me, Your Honor. I did read a lot of cases
19 yesterday. It's my recollection that there was time that
20 he was -- that he spent in Richland related to that
21 charge, that it was unclear whether or not he was given
22 credit for the charge after he pled in Lexington. That
23 Judge Barber thought that he maybe had gotten credit for
24 that because of the Lexington sentence, and I hope I'm not
25 misrepresenting that, but that was my recollection of the

1 case.

2 **THE COURT:** Yeah. Well, I was reading it kind of
3 fast. I'm not sure either, but we'll look at it again.
4 I have the one where the guy is on house arrest and he's
5 given credit for time served and found the trial court
6 did not err in concluding he was not entitled to time
7 served on house arrest. I think that's depends some, too.
8 So at the end of that case it says because we find our
9 Legislature only intended to allow credit for time served
10 in a penal institution, we find no error where he didn't
11 get credit for being under house arrest while he was on
12 bond. So if the credit for time served is -- was in a
13 penal institution, that equates with use of the word
14 "sentence".

15 **MS. MANGUM:** And, Your Honor, again, I would just
16 point out that each of those cases is talking about one
17 charge and one sentencing. That particular case is
18 talking about a house arrest, so we're not talking about
19 a charge and a second unrelated charge and trying to,
20 again, relate that charge back. Those cases are one
21 charge, one conviction.

22 **THE COURT:** Right. And, of course, from Mr. Bruce's
23 point of view it's one jail because he was in Alvin S.
24 Glenn, one jail. He's in jail. He's got two charges and
25 in one jail, so.

1 All right. Well, this is an interesting one as
2 well. I always just give the person credit for time
3 served unless they're doing a sentence someplace else on
4 another charge and then sometimes I give them credit for
5 time served on that, too, and it's generally not something
6 that's subject to appeal, but I think we'll have both of
7 you do proposed orders and I'll see which one looks the
8 best and I'll ponder it all a little bit more. But it
9 seems to me that it would be a pretty bad precedent for a
10 person to -- to only get credit for time served on the
11 pending charge. I understand the point of view that --
12 because from the City's perspective his bond wasn't
13 revoked, so, therefore, he was on bond on the City charge,
14 but he's in jail, so.

15 And, of course, again, that's kind of confusing to
16 some extent because as relates to these bond recommitment
17 hearings we have when the person is in jail, then the bond
18 is automatically revoked and they go off the bond because
19 you can't be on bond if you're in jail. And that's sort
20 of a unique Richland thing, all of these recommitments
21 and -- but I think statutorily he's in jail, so he's not
22 on bond, and it would -- that would lead to a lot of
23 confusing things if someone is in and you have, you know,
24 a number of charges and you -- your bond hasn't been
25 revoked, but you're in jail and you come to court, you

1 only get credit for time served if it relates only to the
2 case that you're disposing of at the time.

3 I'll see what y'all write up, but I think the other
4 Jessica has won so far, Sturgill. Ms. Sturgill is winning.
5 Mr. Bruce is losing because he interrupted the court and
6 you're hanging in here, so we'll see how it all shakes out
7 in the end.

8 **MS. STURGILL:** Thank you, Your Honor.

9 **THE COURT:** All right.

10 **MS. MANGUM:** Judge, when would you like the proposed
11 order?

12 **THE COURT:** How many days do you-all want? Ten days?

13 **MS. MANGUM:** If I could have two weeks, Your Honor.
14 I have jury trial all next week. I'm sorry.

15 **THE COURT:** All right. Fourteen days, fifteen days,
16 twenty days? It's up to you. I won't be checking my box
17 every day looking for it.

18 **MS. MANGUM:** Fourteen days would be fine.

19 **THE COURT:** All right.

20 **MS. STURGILL:** That's good. Thank you, Your Honor.

21 (Whereupon, the proceedings were concluded at
22 11:13 AM.)

23

24

25

C E R T I F I C A T E

1
2
3 I, Stacy S. Johnson, Official Court Reporter for
4 the Eleventh Judicial Circuit of the State of South
5 Carolina, do hereby certify that the foregoing is a true,
6 accurate and complete transcript of record of all the
7 proceedings had and the evidence introduced in the hearing
8 of the captioned case in Circuit Court on the 26th day of
9 August, 2016.

10 This transcript may contain quoted material. Such
11 material is reproduced as read by the speaker.

12 I do further certify that I am neither of kin,
13 counsel, nor have an interest to any party hereto.

14
15 October 17, 2016

16
17 *Stacy S. Johnson*
18 STACY S. JOHNSON
19 CIRCUIT COURT REPORTER
20
21
22
23
24
25

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Clifton Newman, Circuit Court Judge

Case No. 2016-002144

RECEIVED

NOV 14 2016

SC Court of Appeals

City of Columbia.....Appellant,

v.


Robert S. Bruce Respondent.

**DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

1. Transcript of trial hearing on March 23, 2016: pp. 44-48;
2. Respondent's Notice of Appeal from the City of Columbia Municipal Court;
3. Transcript of appellate hearing on August 26, 2016;
4. Order Granting Appeal, signed on September 19, 2016;
5. Notice of Appeal with proof of service and attachments; and,
6. Appellant's Designation of Matter to be Included in the Record on Appeal dated November 14, 2016.

I certify that this designation contains no matter which is irrelevant to this appeal.



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November 14, 2016

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Clifton B. Newman, Circuit Court Judge

Appellate Case No. 2016-002144

City of Columbia,.....Appellant,

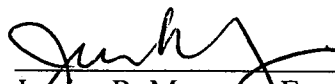
v.

Robert S. Bruce,.....Respondent.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

January 3, 2017



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