

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM PICKENS COUNTY

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The Honorable J. Cordell Maddox, Jr., Circuit Court Judge
DEC 20 2017

SC Court of Appeals

Case No. 2015-000210

THE STATE,APPELLANT,

v.

ARTHUR M. FIELD,RESPONDENT.

Unpublished Opinion 2017-UP-455, filed December 6, 2017

Petition for Rehearing

On December 6, 2017, this Court issued an opinion in which it affirmed the decision of the sentencing Court's order granting Respondent credit for pre-trial time during which he was on GPS monitoring but not on home confinement. State v. Field, Unpub. Op. No. 2017-UP-455 (S.C. Ct. App. filed December 6, 2017). Appellant respectfully petitions for rehearing per Rule 221, SCACR.

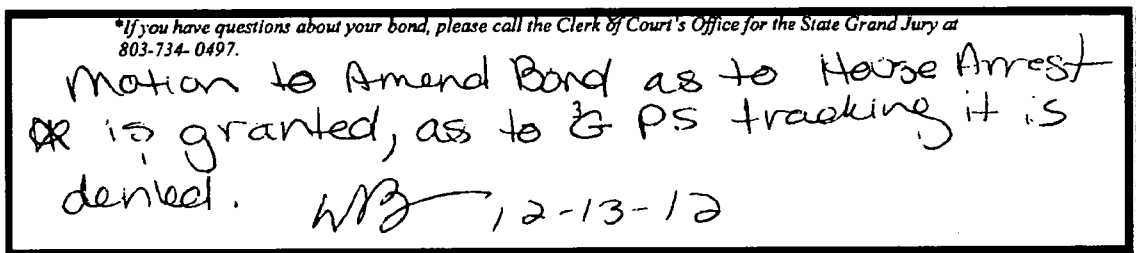
Appellant absolutely agrees with this Court's legal analysis. Appellant does however respectfully submit that this Court's legal conclusion is

predicated on a factual error. This Court's decision states the following:

Field was placed on home confinement and GPS monitoring when he was released on bond. After Field moved to have both restrictions removed, the presiding circuit court judge ruled from the bench she would “take the house arrest off so he can go” but would “leave the bracelet on.” The written order issued after the hearing, however, specified “home confinement except to meet with attorney, doctor visit, religious service.” Notwithstanding the circuit court judge's verbal comments, the written order controls. (“[A] judge is not bound by [a] prior oral ruling and may issue a written order which is in conflict with the oral ruling.”). Therefore, we hold the credit Field received was for “time spent under monitored house arrest” pursuant to section 24-13-40 of the South Carolina Code (Supp. 2016).

State v. Field, Unpub. Op. No. 2017-UP-455 (S.C. Ct. App. filed December 6, 2017) (internal citations removed).

Appellant submits that there is nothing inconsistent with the written and verbal orders amending the bond conditions – the amendment is written on the bottom of the page of the order. (R. p. 153). The written Bond Order signed by Judge Benjamin **amended on December 13, 2012** – the day of the hearing expressly removed the House Arrest component, “[t]he Motion to Amend Bond as to House Arrest is granted; as to GPS tracking it is denied”. (R. pp. 151 – 154). This amendment was done so – verbally **and in writing**:



(R. p. 153). The Court must have overlooked this handwritten amendment.

As explained in the Final Brief of Appellant, it was Respondent who made the motion to reconsider bond, which was heard before Judge Benjamin

on December 13, 2012. Respondent's counsel expressly asked that Respondent be taken off of the house arrest *and* the GPS monitoring. (**R. pp. 142 - 143**). Judge Benjamin – as requested by Respondent – removed the house arrest component, and did so in writing. (**App. Br. pp. 4 - 5**). Both monitoring and house arrest must be present, and Respondent simply did not have house arrest after December 13, 2012 despite the fact that he was monitored, then by the plain and unambiguous language of S.C. Code § 24-13-40 he was not legally entitled to credit beyond that date.

WHEREFORE, because the Order removing House Arrest was done so in writing, Appellant requests this Court grant the Petition for Rehearing and rehear the case.

Respectfully submitted,


ALAN WILSON
Attorney General

S. CREIGHTON WATERS
Senior Assistant Deputy Attorney General

BRIAN T. PETRANO
Senior Assistant Attorney General

Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

By: _____


ATTORNEYS FOR THE APPELLANT

Columbia, South Carolina

December 18, 2017.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Appeal from Pickens County
The Honorable J. Cordell Maddox, Jr., Circuit Court Judge

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SC Court of Appeals

Appellate Case No. 2015-000210

THE STATE,

Appellant,

vs.

ARTHUR M. FIELD,

Respondent.

PROOF OF SERVICE

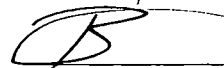
I certify that I have served the *Petition for Rehearing* by depositing a copy in the United States Mail; postage prepaid, on December 18, 2017, addressed to his attorney of record:

Mr. James Todd Rutherford
The Rutherford Law Firm, LLC
PO Box 1452
Columbia, SC 29202-1452

December 18, 2017.

ALAN WILSON
Attorney General

BRIAN T. PETRANO
Assistant Attorney General



BRIAN T. PETRANO
Office of the Attorney General
PO Box 11549 Columbia, SC 29211
(803) 734-3693
BPETRANO@SCAG.GOV
ATTORNEYS FOR THE
STATE OF SOUTH CAROLINA



ALAN WILSON
ATTORNEY GENERAL

December 18, 2017

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

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SC Court of Appeals

RE: State v. ARTHUR M. FIELD,
Appellate Case No. 2015-000210

Dear Ms. Kitchings:

Enclosed for filing in the above matter are the following:

- (1) Original plus six (6) copies of the *Petition for Rehearing*.
- (2) Proof of Service of the above items to Respondent's attorney of record.

Sincerely,

BRIAN T. PETRANO
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3693
BPETRANO@SCAG.GOV

cc: Mr. James Todd Rutherford
The Rutherford Law Firm, LLC
PO Box 1452
Columbia, SC 29202-1452

ATTORNEY FOR RESPONDENT

ATTORNEYS FOR THE APPELLANT