THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Clifton B. Newman, Circuit Court Judge

RECEIVED

MAY 25 2018

S.C. SUPREME COURT

Appellate Case No. 2018-000787

City of Columbia, ... Petitioner,

v.

Robert S. Bruce, ...Respondent.

RETURN TO PETITION FOR WRIT OF CERTIORARI

Jessica E. Sturgill
Assistant Public Defender

Richland County Public Defender's Office
P.O. Box 192
Columbia, SC 29201
(803) 765-2592

Attorney for Respondent

TABLE OF CONTENTS

COUNTER-QUESTION PRESENTED

I. Did the Court of Appeals correctly affirm the Circuit Court's Order ruling that the statutory construction of S.C. Code Ann. § 24-13-40 (2016) and the holding in Allen v. State, 339 S.C. 393, 395 (2000) require the trial court to credit a defendant with time served in pretrial detention on all charges pending at that time, regardless of which charge is technically holding the defendant?

COUNTER-STATEMENT OF THE CASE

Respondent was arrested on October 8, 2014 in the City of Columbia and charged with Shoplifting, value $2,000 or less (ticket number 16002GY). Respondent received a $2,130 personal recognizance bond and was released from Alvin S. Glenn Detention Center on October 9, 2014. Respondent requested a jury trial on October 17, 2014.

While this charge was pending and Respondent was awaiting trial, he 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, Respondent was financially unable to post bond and remained incarcerated at Alvin S. Glenn Detention Center. On January 11, 2016, Respondent pleaded guilty to the reduced charge of Shoplifting, value $2,000 or less on the same warrant and was sentenced to thirty days with credit for time-served. Respondent was released after serving 301 days of pretrial incarceration.

On March 23, 2016, Respondent was tried and convicted on the October 8, 2014 shoplifting charge (ticket number 16002GY) in the Columbia Municipal Court. (App. pp. 12-17). At sentencing, Respondent argued S.C. Code Ann. § 24-13-40 requires that credit be given to Respondent for the 301 days spent in pretrial incarceration while this ticket was pending. (App. p. 14, lines 3-11). Judge Steven Dennis rejected this argument and sentenced Respondent to twenty-one days of incarceration with only one day of credit for time-served. (App. p. 14, lines 12-13, 15; p. 17, lines 1-8).

That same day, Respondent filed a Writ of Habeas Corpus arguing he was being detained unlawfully for the same reasons argued on appeal. At that hearing on March 29, 2016, the merits of that argument were not reached and instead Respondent was granted a $5,000 personal recognizance appeal bond by Judge Tanya Gee. On March 30, 2016, Respondent filed a Notice

of Appeal. (App. pp. 7-9). Respondent was released that same day from Alvin S. Glenn Detention Center, after serving an additional seven days of incarceration.

On August 26, 2016, this appeal was heard before the Honorable Judge Clifton B. Newman in the Richland County Court of Common Pleas. (App. P. 19). After oral arguments, Judge Newman requested both parties submit proposed orders for his consideration. (App. p. 67, lines 6-8; p. 68, lines 3-19). On September 19, 2016, Judge Newman signed an Order remanding the case and instructing the City of Columbia Municipal Court to credit Respondent with time-served for the entirety of his twenty-one day sentence. (App. pp. 4-6).

The City of Columbia filed an appeal with the Court of Appeals on October 19, 2016. (App. p. 10). On January 31, 2018, the Court of Appeals issued a per curium decision affirming the Circuit Court's decision. (App. p. 102-03). On February 15, 2018, the City of Columbia filed a Petition for Rehearing with the Court of Appeals. (App. p 104-06). That Petition was denied on March 26, 2018. (App. p. 107). The City of Columbia then filed a Petition for Writ of Certiorari with the Supreme Court on April 25, 2018. This return follows.

ARGUMENT

I. While the Supreme Court of South Carolina has full power and discretion to grant review in this case, the Court should deny the Petition for Writ of Certiorari because there are no special or important reasons to grant certiorari in this case.

Rule 242 of the South Carolina Appellate Court Rules explains that a "writ of certiorari is not a matter of right, but of sound judicial discretion, and will be granted only where there are special and important reasons." Rule 242, SCACR. The same appellate rule, while not limiting the scope of the power and discretion of the Supreme Court, lists examples that "indicate the character of reasons which will be considered" by the Supreme Court. Id. Those reasons are: (1) where there are novel questions of law; (2) where there is a dissent in the decision of the Court of Appeals; (3) where the decision of the Court of Appeals is in conflict with a prior decision of the Supreme Court; (4) where substantial constitutional issues are directly involved; and (5) where a federal question is included and the decision of the Court of Appeals conflicts with a decision of the United States Supreme Court. Id.

None of the five situations enumerated in SCACR 242 are present in this case. While those five situations are not an exhaustive list of reasons that the Supreme Court will grant a petition for writ of certiorari, they provide examples of the compelling nature the reason must have. Here, the Petitioner argues that the "special and important reason" the Supreme Court should grant a writ of certiorari in this case is that the Court of Appeals reached their decision affirming the Circuit Court's Order "through an improper statutory interpretation of [S]ection 24-13-40 of the South Carolina Code [of Laws] and a misapplication of the holding in [Allen v. State, 339 S.C. 393, 529 S.E.2d 541 (2000)]." (Pet. Cert. 3). Essentially, it appears Petitioner's special and important reason the Supreme Court should grant their Petition is simply that they disagree with the decision reached by the Circuit Court and the Court of Appeals. Their disagreement is not a

special or important reason that is required for the Supreme Court to grant their Petition, especially when the Court of Appeals and Circuit Court were correct in their rulings.

II. The Court of Appeals was correct in affirming the Circuit Court's Order ruling that the statutory construction of S.C. Code Ann. § 24-13-40 (2016) and the holding in Allen v. State, 339 S.C. 393, 395 (2000) require the trial court to credit a defendant with time served in pretrial detention on all charges pending at that time, regardless of which charge is technically holding the defendant.

Standard of Review

"In criminal cases, the appellate court sits to review errors of law only." State v. Wilson, 345 S.C. 1, 5-6, 545 S.E.2d 827, 829 (2001) (citing State v. Cutter, 261 S.C. 140, 199 S.E.2d 61 (1973)). Therefore, "[o]n review, [the appellate court is] limited to determining whether the trial judge abused his discretion." Wilson, 345 S.C. at 6 (citing State v. Reed, 332 S.C. 35, 503 S.E.2d 747 (1998)). "An abuse of discretion occurs when the trial court's ruling is based on an error of law." State v. Wright, 391 S.C. 436, 442, 706 S.E.2d 324, 326 (2011) (quoting Clark v. Cantrell, 339 S.C. 369, 389, 529 S.E.2d 528, 539 (2000)). Statutory interpretation is a question of law for appellate courts to review. Bryant v. State, 384 S.C. 525, 529, 683 S.E.2d 280, 282 (2009) (citing Catawba Indian Tribe of S.C. v. State, 372 S.C. 519, 524, 642 S.E.2d 751, 753 (2007)).

A. Credit for pretrial detention must be given in all cases but for two exceptions—where the defendant was an escapee or serving an active sentence on another offense—because the terms of S.C. Code Ann. § 24-13-40 are clear, and therefore courts must apply those terms according to their literal meaning.

The Supreme Court of South Carolina has explained that "[t]he cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature." Charleston County School Dist. v. State Budget and Control Bd., 313 S.C. 1, 5, 437 S.E.2d 6, 8 (1993) (citing Bankers Trust of South Carolina v. Bruce, 275 S.C. 35, 267 S.E.2d 424 (1980)). Furthermore, "[a] statute's language must be construed in light of the intended purpose of the statute," and

[w]henever possible, legislative intent should be found in the plain language of the statute itself." State v. Gaines, 380 S.C. 23, 33, 667 S.E.2d 728, 733 (2008). The South Carolina Court of Appeals further elaborated in stating that "[t]he legislature's intent should be ascertained primarily from the language of the statute...[t]he language must be read in a sense which harmonizes with its subject matter and accords with its general purpose." State v. Sweat, 379 S.C. 367, 375, 665 S.E.2d 645, 649 (Ct. App. 2008).

Section 24-13-40 of the South Carolina Code of Laws governs the computation of time served by prisoners in this state. It provides:

> The computation of the time served by prisoners under sentences imposed by the courts of this State must be calculated from the date of the imposition of the sentence. However, when (a) a prisoner shall have given notice of intention to appeal, (b) the commencement of the service of the sentence follows the revocation of probation, or (c) the court shall have designated a specific time for the commencement of the service of the sentence, the computation of the time served must be calculated from the date of the commencement of the service of the sentence. In **every case** in computing the time served by a prisoner, **full credit against the sentence must be given for time served prior to trial and sentencing,** and may be given for any time spent under monitored house arrest. **Provided, however, that credit for time served prior to trial and sentencing shall not be given: (1) when the prisoner at the time he was imprisoned prior to trial was an escapee from another penal institution; 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."

S.C. Code Ann. § 24-13-40 (2016)(emphasis added).

In 2000, the Supreme Court of South Carolina issued its seminal opinion on the meaning of § 24-13-40 in Allen v. State, 339 S.C. 393, 529 S.E.2d 541 (2000). In ruling, the Supreme Court of South Carolina pointed to the canon of statutory construction that "where the terms of a statute are clear, the court must apply those terms according to their literal meaning." Allen, 339 S.C. at 395. The Supreme Court continued, "[t]he words of the statute must be given their plain and ordinary meaning without resorting to subtle or forced construction to limit or expand its scope." Id. Per the

rules of statutory construction, the Supreme Court held that § 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." Id. (emphasis added). The Court held that when neither exception applies, pretrial detention must be credited to the defendant. See id. at 395–96.

This strict interpretation of the language of § 24-13-40 has not only been upheld in the eighteen years since Allen was decided, it has been strengthened. The Supreme Court in 2002 made clear that 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, 562 S.E.2d 689, 694 (2002). In 2008, the Court of Appeals addressed this statute as it applied to pretrial detention in different jurisdictions. State v. Suber, 2008 WL 9848567 (S.C. Ct. App. Dec. 9, 2008). The Court held that where a prisoner is being detained pretrial on two sets of charges in two different counties, the prisoner was entitled to credit on both sets of charges for all time spent pre-sentencing. Id. The Court only excluded credit from the latter resolved set of charges for the time the defendant spent incarcerated after sentencing on the first set of charges, per the specified statutory exception in § 24-13-40 for a prisoner serving an active sentence. Id. In 2010, the Court of Appeals reinforced that there are only two exceptions to § 24-13-40 when it held that "[a] judge's disappointment in the maximum sentence he can impose is not one of the exceptions to the mandatory language in section 24-13-40." State v. Boggs, 388 S.C. 314, 316, 696 S.E.2d 597, 598 (Ct. App. 2010). Then in 2015, the Court of Appeals specified that the same strict interpretation of § 24-13-40 – there being only two exceptions to the mandatory nature of credit for pretrial detention – applies to split sentences, stating that "[t]he statute does not make a distinction for split sentences; thus, under the plain language of the statute, we find the pre-trial detention time should apply against a probation revocation whenever a

probationer receives a split sentence." Hayes v. State, 413 S.C. 553, 560, 777 S.E.2d 6, 10 (Ct. App. 2015).

Additionally, the courts' strict interpretation of § 24-13-40 and application of only two exceptions to mandatory credit for time-served has not been disturbed by the Legislature. Allen and Blakeney v. State, 339 S.C. 86, 529 S.E.2d 9 (2000) were decided in 2000 and McCord was decided in 2002. Although the Legislature amended § 24-13-40 in 2010 and 2013, the mandatory nature of credit for pretrial time and the strict two exceptions to this credit remain unchanged.[1] Importantly, no additional exceptions or preconditions have been added.

In the present case, Respondent spent 301 days before conviction and sentencing incarcerated at Alvin S. Glenn Detention Center while Ticket 16002GY was pending and while he was awaiting trial. Neither exception listed in § 24-13-40 applies to Respondent's situation; Respondent was not detained as an escapee of another penal institution nor was Respondent serving an active sentence on another offense. As such, the Circuit Court was correct in ruling – and the Court of Appeals correct in affirming that ruling – that per the plain language of § 24-13-40 and the holding in Allen, Respondent is entitled to credit for that time towards his sentence on Ticket 16002GY. Therefore, there was no abuse of discretion and the Court should deny the Petition for Writ of Certiorari.

B. There is no requirement in S.C. Code Ann. § 24-13-40 that bond be revoked on the charge being sentenced in order to trigger entitlement to that pretrial detention credit.

Petitioner contends that revocation of the original bond upon re-arrest is required in order to continue accruing credit towards that sentence. As explained above, the plain language of §

[1] Specifically, in the 2010 amendment the legislature "substituted 'must be calculated from' for 'shall be reckoned from' in the first and second sentences, substituted 'However, when' for 'But when' in the second sentence, and made other nonsubstantive changes." Then in 2013, the amendment added ', and may be given for any time spent under monitored house arrest' at the end of the third sentence" after the portion stating that credit must be given for pretrial time. S.C. Code Ann. § 24-13-40 (2016).

24-13-40 does not support such a construction. Petitioner may be relying upon dicta in Allen to come to this conclusion, but the holding in Allen does not require revocation as a precondition to obtaining credit.

In Allen, Ricky Lee Allen was arrested and incarcerated for two counts of grand larceny and one count of malicious injury to property on June 4, 1996. 339 S.C. at 394. Eighteen days later, on June 22, 1996, he was released on bond. Id. On June 26, 1996, he was arrested on new charges: breaking into a motor vehicle and petit larceny. Id. His bond from the June 4th arrest was revoked (at some unspecified time), and he remained in jail until September 12, 1996 when he pleaded guilty to all five offenses. Id. The Supreme Court held that the trial judge erred in not giving Mr. Allen credit on the three June 4th offenses for the time he did from June 26th through September 12th. Id. at 396.

As explained in subsection A, the Supreme Court held that since Mr. Allen was neither an escapee nor serving an active sentence, neither exception applied and credit must be given. Allen, 339 S.C. at 395. That is the holding of Allen. The Court then goes on to explain, "[m]oreover, Allen's bond was revoked on the first set of charges." Allen, 339 S.C. at 396. The choice to use this word, "moreover," is important. The Court had already made its determination that the lower court had erred in not crediting Mr. Allen with the pretrial time because of the plain language of the statute. That reasoning alone was sufficient for their holding. The use of the word, "moreover[2]" implicates a separate, additional reason to reject the argument raised by the State, not a necessary precondition.

Furthermore, in Allen, the Supreme Court held Mr. Allen was entitled to credit for time from the day he was arrested, not the day bond was revoked. 393 S.C. at 396. While the facts of

[2] Merriam-Webster's Dictionary defines "moreover" as "in addition to what has been said: besides." Merriam-Webster Dictionary, *available at* https://www.merriam-webster.com/dictionary/moreover.

the case do not specify when bond on his first set of charges was actually revoked, based on common practice, bond would not have been revoked immediately. When the government wants to revoke a defendant's bond, they must file a motion, give notice to all parties, and then schedule the hearing with the court. It is not an immediate process and takes several days at a minimum. Thus, it appears the actual revocation of bond is unnecessary and instead, incarceration while a charge is pending is the touchstone for calculating credit for time-served.

This view is further supported by the Supreme Court's definition of "time-served" provided that same year in Blakeney. There, the Court pointed to Crooks v. State, 326 S.C. 171, 485 S.E.2d 374 (1997) and clarified that "'time-served' in § 24-13-40 means the time during which a defendant is in pre-trial confinement and **charged** with the offense for which he is sentenced (so long as he is not serving time for a prior conviction)." 339 S.C. at 88. The Court specifically did **not** say "held" on the offense for which is sentenced. Therefore, revocation of bond or being held on the offense being sentenced is not a requirement to be entitled to the mandatory credit for pretrial time under § 24-13-40; instead, Allen, Blakeney and the plain language of the statute dictate that credit must be given for those offenses which have been charged while a defendant is serving pretrial detention (not as an escapee or on an active sentence on another offense).

There is no South Carolina case law that states revocation of bond on that specific pending charge is a necessary precondition. Nor is there any South Carolina case law that states the defendant can only receive credit for time-served if the pending charge "relates" to the one holding him in pretrial detention. The plain language of § 24-13-40 simply does not include either revocation of bond on or relation back to the sentenced offense.

The statute is not ambiguous and no South Carolina case law has held otherwise. Even if the Court were to consider an argument that there is ambiguity in the statute based on the dearth of case law specifically addressing whether revocation is necessary or whether a defendant needs to be held specifically on the offense for which he is sentenced, the rule of lenity would apply. The rule of lenity resolves any doubt in favor of the defendant. State v. Samuels, 403 S.C. 551, 558 743 S.E.2d 773, 777 (2013)(citing Bryant v. State, 384 S.C. 525, 533, 683 S.E.2d 280, 284 (2009)). The Supreme Court has held that penal statutes must be construed strictly against the government and in favor of the defendant. Samuels, 403 S.C. at 558 (citing State v. Blackmon, 304 S.C. 270, 273, 403 S.E.2d 660, 662 (1991)). To construe § 24-13-40 in favor of the defendant would mean not reading in requirements for revocation of bond or relation back to the offense holding the defendant, two requirements that are simply not in the text of the statute.

Here, Respondent was incarcerated pretrial – not as an escapee and not serving an active sentence – and charged with Ticket 16002GY for over 300 days. Per § 24-13-40, Allen, and Blakeney, the fact that the City chose not move to revoke his bond on Ticket 16002GY does not affect Respondent's entitlement to credit. That requirement is not in the plain language of the statute, it is not required per the holding in Allen, and is not required per the definition of time-served from Blakeney. Such a condition would contribute an additional reason, a "moreover," to Respondent being entitled to that credit. There is no ambiguity as to whether this is a precondition but even if the Court were to find genuine ambiguity, the rule of lenity requires the statute be resolved in favor of Respondent and no such precondition be read into § 24-13-40. As such, the Court of Appeals and the Circuit Court were correct in their rulings and the Court should deny the Petition for Writ of Certiorari.

C. Petitioner's view of the Court of Appeals ruling affirming the Circuit Court's Order is overbroad and the case law cited by Petitioner only serves to illustrate the ways in which the South Carolina Legislature could have chosen—but did not so choose—to limit the scope of credit applied to pretrial detention.

Petitioner's claim that the Circuit Court's and the Court of Appeals' statutory interpretation of § 24-13-40 would apply credit to "any trial and any sentence" (Pet. Cert. 7) is overbroad and simply incorrect; the universe encompassed by the mandatory nature of § 24-13-40 is finite. The plain language of § 24-13-40 and the Circuit Court's strict interpretation of that language would only require that Respondent's 301 days of pretrial incarceration be credited towards those offenses charged against Respondent and pending at the time of the 301 days of pretrial incarceration. As explained in Blakeney, the prisoner must be charged with the offense while in pretrial detention in order to receive credit. 339 S.C. at 88. Any time served before the defendant is charged is excluded from the mandatory nature of this statute. Furthermore, the second exception listed in § 24-13-40 excludes any time spent incarcerated post-sentencing, as a result of an active sentence on another offense. For example, had Respondent been convicted on Ticket 16002GY and sentenced to twenty-one days on the first day he was also incarcerated pretrial on Warrant 2015A4021600611, those twenty-one days would be an active sentence and therefore excluded by the plain language of § 24-13-40 from credit for pretrial time calculated for Warrant 2015A4021600611. Respondent would then have only been statutorily entitled to 280 (rather than 301) days of pretrial credit for time-served on Warrant 2015A4021600611. [3] This of course was not the situation here, and only serves to illuminate the finite nature of the universe encompassed by the plain language of § 24-13-40.

[3] It is important to note that the sentencing judge on Warrant 2015A4021600611 could of course use his or her discretion and choose to give Respondent credit for those twenty-one days. The point is that in this hypothetical situation, under § 24-13-40, the judge would not be required to give credit for those twenty-one days because Respondent would have been serving an active sentence.

Additionally, Petitioner cites to case law outside of South Carolina, specifically People v. Prieskorn, 424 Mich. 327, 381 N.W.2d 646 (Mich. 1985) and Rash v. United States of America, 2010 WL 6794692 *1 (N.D.W.Va. Feb. 16, 2010), arguing that these cases address similarly situated defendants. However, the statutes at issue in those cases are not substantially similar to § 24-13-40. These cases are not controlling law but they do illustrate how South Carolina's Legislature could have chosen to word § 24-13-40 to be more narrow if that was their intent.

In Prieskorn, the statute at issue was Michigan's sentence credit statute, M.C.L. § 769.11b (2016), which provides that "[w]henever any person is hereafter convicted of any crime within this state and has served any time in jail prior to sentencing because of being denied or unable to furnish bond for the offense of which he is convicted, the trial court in imposing sentence shall specifically grant credit against the sentence for such time served in jail prior to sentencing." This statute is plainly different from South Carolina's statute. Section 24-13-40 is a general rule mandating credit for pretrial detention in all cases subject to two exceptions. Michigan's statute, instead, only carves out one situation in which credit for pretrial detention must be granted: when the defendant is detained because he was not granted bond or was unable to pay it, and explicitly limits its application to the offense for which he is convicted. In Prieskorn, the Michigan Supreme Court held that the legislature's intent was to give a right to presentence jail time specifically for the offense which he is convicted. 424 Mich. at 651. The Court explains that "[h]ad the Legislature intended that convicted defendants be given sentence credit for all time served prior to sentencing day, regardless of the purpose for which the presentence confinement was served, it would not have conditioned and limited entitlement to credit to time-served 'for the offense of which [the defendant] is convicted.'" Id.

In comparison, South Carolina's statute does not condition credit for time-served on being held specifically for the sentenced offense. Instead, § 24-13-40 conditions entitlement to credit for pretrial time-served on that time not being the result of two situations: the defendant is an escapee from another penal institution or the defendant is serving an active sentence. Had the South Carolina legislature intended to limit credit for time-served only to the offense for which the defendant is convicted, they could have included that language as Michigan chose to do.

In Rash, the statute at issue is the federal statute governing credit for prior custody, 18 U.S.C. § 3585(b) (2015), which states that credit is only granted where 1) the time spent in custody resulted from "the offense for which the sentence was imposed" or 2) the time spent in custody resulted from another charge, which the defendant committed after he was arrested on the offense for which he is sentenced. Petitioner cites Rash for the proposition that "[i]n both cases [of 18 U.S.C. § 3585(b)], credit for time served will not be granted where the time in custody was credited against another offense." 2010 WL 6794692 at *1. (Pet. Cert. 6). However, neither the statute nor the holding in Rash support Petitioner's interpretation of § 24-13-40. Instead, both support Respondent's interpretation and both rulings by the Circuit Court and Court of Appeals in this case.

First, this federal statute governing credit for time-served cited in Rash actually requires credit to be granted for time served in the **exact** situation here in Respondent's case. Section 2 of 18 U.S.C. § 3585(b) states that credit is granted where the time spent in custody resulted from another charge, which the defendant committed after he was arrested on the offense for which he is sentenced. The 301 days Respondent spent in pretrial detention was a result of another charge, which the defendant committed after he was arrested on Ticket 16002GY – the offense for which he was sentenced in this case. So while this case is not controlling, looking to the federal statute

on credit for time served pretrial and presentencing for guidance actually favors Respondent receiving credit for those 301 days.

Second, even applying the rule quoted from Rash – that "credit for time served will not be granted where the time in custody was credited against another offense" – still supports Respondent receiving credit for time-served on the entirety of his twenty-one day sentence in this case. Only thirty of the 301 days Respondent spent incarcerated from March 17, 2015 to January 11, 2016 were credited towards, or used up by, his second charge – warrant 2015A4021600611. That leaves 271 days of pretrial detention while Respondent was charged with Ticket 16002GY that have not been credited towards another offense. Again though, the federal statute discussed in Rash is not the same statute as South Carolina's statute and there is no South Carolina case law analyzing § 24-13-40 and holding that credit cannot be used towards more than one offense. But even so, applying the federal statute and Rash rule cited by Petitioner to Respondent's situation actually still supports the Court of Appeals ruling affirming the Circuit Court's Order to remand the case and grant Respondent credit for time-served on the entirety of his twenty-one day sentence.

If anything, the cases from other jurisdictions that Petitioner cites in her Petition are examples of how the South Carolina legislature could have drafted § 24-13-40 if the intention was to limit the availability of time-served credit. The South Carolina Legislature chose not to include such limiting language, to only limit the applicability of time-served credit to two enumerated exceptions (when someone is an escapee or serving an active sentence), and as such, the Court of Appeals was correct in affirming the Circuit Court's ruling and the Court should deny the Petition for Writ of Certiorari.

CONCLUSION

For the above-stated reasons and those already in the Appendix, Respondent respectfully requests this Court deny the Petition for Writ of Certiorari. In the event this Court grants the Petition for Writ of Certiorari, Respondent would request permission under the rules to fully brief the issue presented.

Respectfully submitted,

Jessica E. Sturgill

Jessica E. Sturgill
Bar No. 102377
Assistant Public Defender

Attorney for Respondent

This 25th day of May, 2018

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Clifton B. Newman, Circuit Court Judge

RECEIVED
MAY 25 2018
S.C. SUPREME COURT

Appellate Case No. 2018-000787

City of Columbia, ... Appellant,

v.

Robert S. Bruce, ... Respondent.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Return to Petition for Writ of Certiorari in the above-referenced case has been served upon Jessica R. Mangum at the Office of the City Attorney located at 1401 Main Street, Suite 1000, Columbia, SC 29202 by leaving this document with her secretary or other person of authority at said office.

Steven Harper
Clerk

Richland County Public Defender's Office
P.O. Box 192
Columbia, South Carolina 29202
(803) 765-2592

This 25 day of May, 2018