

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of General Sessions

Judge Clifton Newman, Circuit Court Judge

Case Nos. 2009GS4001494 and 2009GS4001495
Warrant No. W40170389

RECEIVED

AUG 17 2018

SC Court of Appeals

The South Carolina Department of Probation, Parole and Pardon Services,.....Respondent,

MM

v.

Stacardo Grissett,.....Appellant.

NOTICE OF APPEAL

Stacardo Grissett appeals his sentence in this probation violation. The sentence was imposed by the Honorable Judge Clifton Newman on May 18, 2018. Defense Counsel filed a Motion to Vacate and Reconsider Sentence on May 24, 2018. The Office of Probation, Parole and Pardon Services filed a Reply to Defendant's Motion to Reconsider. Judge Newman denied the Defendant's Motion to Reconsider Sentence without hearing on August 7, 2018.

At Mr. Grissett's probation violation hearing on May 18, 2018, Judge Newman found Mr. Grissett in violation of the terms of his Community Supervision. He revoked 298 days and ordered that Mr. Grissett not be given credit for the 198 days that he had spent in custody since the issuance of his violation warrant.

Pursuant to SC Code § 24-13-40 and the holding of State v. Boggs (388 S.C. 314, Ct. App. 2010), it is mandatory that a defendant receive credit for the time that he was held awaiting sentencing. In Boggs, the plea judge requested that the defendant not be given credit for time served. The South Carolina Court of Appeals overruled the lower court, stating that SC Code § 24-13-40 "mandates prisoners receive credit for the time they served prior to trial unless one of two exceptions exist, either: (1) the prisoner was an escapee or (2) the prisoner was already serving a sentence on a different offense." Id. at 316. Mr. Grissett is entitled to the 198 days that he spent in custody before his probation was revoked as neither exception for denial of credit applies.

SC Code § 24-21-560(C)(5) states that if a prisoner is in violation of his community supervision, the court "may revoke the prisoner's community supervision and impose a sentence of up to one

year for violation of the community supervision program” (emphasis added). Mr. Grissett, having already served 198 days he is statutorily entitled to receive, can only serve 167 more days in the custody of the South Carolina Department of Corrections for this revocation. Mr. Grissett’s current sentence, which denies him he pre-trial credit, is effectively a 496 day sentence, 130 days over the maximum revocation allowed by statute.

August 17, 2018



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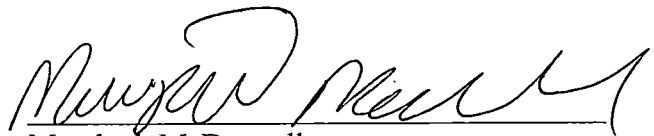
Stacardo Grissett,.....Appellant.

PROOF OF SERVICE

The undersigned paralegal hereby certifies that a true copy of the Notice of Appeal in the above-referenced case has been served upon opposing counsel by first class mail, postage prepaid as follows.

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August 17, 2018



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