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SEP 07 2018

STATE OF SOUTH CAROLINA
In The Court of Appeals

SC Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of General Sessions

AUG 17 2018

Judge Clifton Newman, Circuit Court Judge

SC Court of Appeals

1917962

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

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

v.

Stacardo Grissett,.....Appellant.

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FILED
JEANETTE M. REYNOLDS
C.C.P. & G.S.

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.

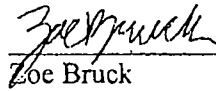
At Mr. Grissett's probation violation hearing on May 18, 2018, Judge Newman found Mr. Grissett in violation of the terms of his Community Supervision. He revoked 298 days and ordered that Mr. Grissett not be given credit for the 198 days that he had spent in custody since the issuance of his violation 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 Grissett is entitled to the 198 days that he spent in custody before his probation was revoked as neither exception for denial of credit applies.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 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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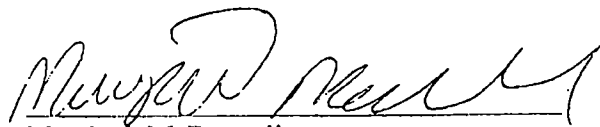
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JEANETTE W. McBRIDE
C.C.P. & G.S.

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.

Matthew Buchanan, General Counsel
South Carolina Department of Probation, Parole and Pardon Services
P.O. Box 50666
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August 17, 2018



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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

State of South Carolina

v.

Stacardo Grissett

Defendant


) IN THE COURT OF GENERAL SESSIONS
) FIFTH JUDICIAL CIRCUIT
) Warrant No. W40170389
) Indictment No. 2013GS4007241

SC Court of Appeals

ORDER DENYING
MOTION TO RECONSIDER SENTENCE

This matter comes before the Court upon Motion to Reconsider Sentence filed by Defendant on May 24, 2018. Having fully considered Defendant's request, the Court finds that the sentence imposed is not improper nor excessive under the circumstances.

The Court therefore finds that the Motion to Reconsider Sentence should be DENIED.
AND IT IS SO ORDERED


Clifton Newman
Presiding Judge

August 7, 2018
Columbia, South Carolina

FILED
2018 AUG -7 PM 12:59
JENNIFER W. HARRIS
C.C.P. & G.S.