

In The State of South Carolina  
In The Court of Appeals

Appeal From Administrative Law Court  
Administrative Law Judge Carolyn C. Matthews

Case No: 11-ALJ-04-0871-AP

Joshua Gallishaw, #251362 . . . . . Appellant,  
v  
S.C. Dept. of Corrections . . . . . Respondant,

Record On Appeal of Appellant

Joshua Gallishaw, pro se  
Walden Corr. Inst.  
Bldg #1 C-1T  
4340 Broad River Road  
Columbia, S.C. 29210  
pro, se

Chris Florian  
Deputy General Counsel  
S.C. Dept. of Corrections  
P.O. Box 21787  
Columbia, S.C. 29221  
Attorney For Respondant(s)

**RECEIVED**  
FEB 22 2013  
SC Court of Appeals

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**JAIL TIME REPORT FOR SCDC TRANSFER**  
 SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
 INMATE RECORDS OFFICE, PO BOX 21787, COLUMBIA, SC 29221-1787  
 OFFICE #: (803) 896-8531 FAX #: (803) 896-1217

**COUNTY SUBMITTING FORM:** Sumter County

PURSUANT TO SC STATUTE 24-13-40 ... In every case inn computing the time served by a prisoner, full credit against the sentence shall be given for time served prior to and sentencing...

**FILE**

Name: Joshua L. Gallishaw		Date of Birth: 08/15/78 <b>NOV 22 2000</b>		
Social Security #: 250-39-2159		Race/Sex: <b>BM</b>		
SID #:		FBI #: <b>ECI = Classification</b>		
Arrest Date	Charge	Warrant # (or) Indictment #	Release Date	Reason for Release*
02/23/98	Voluntary Manslaughter	W # F 562934	07/27/98	SCDC other charges
		I # 98-685		
02/23/98	Poss WDVC	W # 199800685A	07/27/98	SCDC other charges
		I # 98-6850		
02/23/98	Poss. Pistol <21 YOA	W # 199800685B	07/27/98	SCDC other charges
		I #		
		W #		
		I #		
		W #		
		I #		
		W #		
		I #		
Approved By: <i>Theresa Lee</i>		Date: November 16, 2000		

\*Reason for Release (i.e., Explain if transferred to another county/city jail, or if inmate bonded). Please submit this form at the time of the inmate's transfer and admission to the SCDC, however, if unable to do so, please mail or fax to the address or number listed above.

COUNTY OF Sumter

STATE VS.

JOSHUA L. GALLISTON

CERTIFIED TRUE COPY  
OF ORIGINAL FILED

98 -GS- 43 - 685

DEPUTY CLERK OF COURT

A/W#: 199800685B

SUMTER COUNTY  
SOUTH CAROLINA

Date of Offense: 02-23-98

AKA: \_\_\_\_\_

Race: BLACK Sex: MALE

S.C. Code §: 16-23-30

DOB: 08-15-78 Age: 22

SSN: 250-39-2159

CDR Code #: 0131211

DL#: SC 7478813

SID#: \_\_\_\_\_

SENTENCE

PLEA  TRIAL

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO:

Possession of a Pistol by One Less than 21 Years of Age  
in violation of § 16-23-30 of the S.C. Code of Laws, bearing CDR Code # 0131211

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  17-25-45

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury.

The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST:  
W.H. Conner, Sr.  
Solicitor

Defendant

M.M. Jordan  
Attorney for Defendant

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center, for a determinate term of 5 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The Defendant is to be given credit for \_\_\_\_\_ days/months jail time. See Ct 1

CONCURRENT or  CONSECUTIVE to sentence on: Cts 1 & 2 Concurrent Sentence Same Term

SPECIAL CONDITIONS:

RESTITUTION  Heard,  Waived,  Ordered

PTUP \_\_\_\_\_  
\_\_\_\_\_ days/hours Public Service Employment

Total: \$ \_\_\_\_\_ plus 20% fee \$ \_\_\_\_\_

Obtain GED \_\_\_\_\_  
Attend Voc Rehab. or Job Corps \_\_\_\_\_

Payment Terms: \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

set by SCDPPPS \_\_\_\_\_

Substance Abuse Counseling \_\_\_\_\_

Recipient: \_\_\_\_\_

Random Drug/Alcohol Testing \_\_\_\_\_

\*Fine: \_\_\_\_\_ \$

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_

§ 14-1-206 - Assessments 100%..... \$

\$ \_\_\_\_\_ paid to Public Defender Fund.

§ 14-1-211 - Surcharge..... \$ 100.00

(Exceptions: See § 14-1-211)

§ 56-5-2995 (DUI)..... \$

County (3%)..... \$ 3.00

TOTAL..... \$ 103.00

Clerk of Court/Deputy Clerk O.V. Playe

PRESIDING JUDGE [Signature]

Court Reporter: K. Simms

Judge Code: 1015A

Sentence Date: 11/15/00

STATE OF SOUTH CAROLINA )  
 COUNTY OF Sumter )  
 STATE Justice Gallishaw VS. )  
 AKA: \_\_\_\_\_ )  
 Race: B Sex: M )  
 DOB: 8-15-77 Age: 21 )  
 SSN: 2502142159 )  
 DL#: SC 007478813 )  
 SID#: \_\_\_\_\_ )

IN THE COURT OF GENERAL SESSIONS  
 INDICTMENT/CASE#: 364  
98 -GS- 43-1128  
 A/W#: 1563830  
 Date of Offense: 02-18-98  
 S.C. Code §: 44-53-375  
 CDR Code #: 0111113

CERTIFIED TRUE COPY  
 OF ORIGINAL FILED  
 DEPUTY CLERK OF COURT  
 SUMTER COUNTY  
 SOUTH CAROLINA

SENTENCE

PLEA  TRIAL

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO: Distribution of CRACK COCAINE 2nd Offense

in violation of § 44-53-375 of the S.C. Code of Laws, bearing CDR Code # 0111113

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  17-25-45

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury.  
 The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST:  
Henry Cornwell  
 Solicitor

John H. Hester  
 Defendant

Sharon Baker Clark  
 Attorney for Defendant

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center, for a determinate term of 7 YEARS days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ 50,000.00, provided that upon the service of \_\_\_\_\_ days/months/years and/or payment of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The Defendant is to be given credit for 557 DAYS days/months jail time.

CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_

SPECIAL CONDITIONS:

RESTITUTION  Heard,  Waived,  Ordered  
 Total: \$ \_\_\_\_\_ plus 20% fee \$ \_\_\_\_\_  
 Payment Terms: \_\_\_\_\_  
 set by SCDPPPS \_\_\_\_\_

PTUP \_\_\_\_\_  
 \_\_\_\_\_ days/hours Public Service Employment  
 Obtain GED \_\_\_\_\_  
 Attend Voc Rehab. or Job Corps \_\_\_\_\_  
 May serve W/E beginning \_\_\_\_\_  
 Substance Abuse Counseling \_\_\_\_\_  
 Random Drug/Alcohol Testing \_\_\_\_\_  
 Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
 \$ \_\_\_\_\_ paid to Public Defender Fund.  
 Other: \_\_\_\_\_

Recipient: \_\_\_\_\_  
 \*Fine: ..... \$ 50,000.00  
 § 14-1-206 - Assessments 100%..... \$ 50,000.00  
 § 14-1-211 - Surcharge..... \$ 100.00  
 (Exceptions: See § 14-1-211)  
 § 56-5-2995 (DUI)..... \$ \_\_\_\_\_  
 County (3%)..... \$ 3,003.00  
 TOTAL..... \$ 103,103.00

Clerk of Court/Deputy Clerk O V Payer  
 Court Reporter: Margaret Sullivan

PRESIDING JUDGE Daniel Payer  
 Judge Code: 0111018 Payer  
 Sentence Date: 03-08-2000

Pg 3 DW

ARREST WARRANT

F- 563830

STATE OF SOUTH CAROLINA

County/  Municipality of SUMTER

THE STATE against

JOSHUA LATRON GALLISHAW

Address: \_\_\_\_\_  
Phone: \_\_\_\_\_ SSN: \_\_\_\_\_  
Sex: M Race: B Height: 506 Weight: 135  
DL State: \_\_\_\_\_ DL #: \_\_\_\_\_  
DOB: 08-15-78 Agency ORI #: 6430000  
Prosecuting Agency: SC SD  
Prosecuting Officer: INV. MISTY LEE  
Offense: DISTRIBUTION OF CRACK COCAINE/  
CRACK WITHIN 1/2 MILE SCHOOL  
Code/Ordinance Sec. 44-53-375/44-53-445

This warrant is CERTIFIED FOR SERVICE in the \_\_\_\_\_  
 County/  Municipality of \_\_\_\_\_  
The accused is to be arrested and brought before me to be dealt with according to law.

Signature of Judge \_\_\_\_\_ (L.S.)

Date: \_\_\_\_\_

RETURN

copy of this arrest warrant was delivered to defendant \_\_\_\_\_  
on \_\_\_\_\_  
at \_\_\_\_\_

Signature of Constable/Law Enforcement Officer \_\_\_\_\_

RETURN WARRANT TO:

#98014599

STATE OF SOUTH CAROLINA

County/  Municipality of SUMTER

AFFIDAVIT

Form Approved by S.C. Attorney General July 26, 1990 SCCA 518

Personally appeared before me the affiant INV. MISTY LEE being duly sworn deposes and says that defendant JOSHUA LATRON GALLISHAW did within this county and state on 02-18-98 State of South Carolina (or ordinance of  County/  Municipality of SUMTER) violate the criminal laws of in the following particulars:

DESCRIPTION OF OFFENSE: DISTRIBUTION OF CRACK COCAINE / DISTRIBUTION OF CRACK COCAINE WITHIN PROXIMITY OF SCHOOL. I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts: THAT DEFENDANT DID DISTRIBUTE A QUANTITY OF CRACK COCAINE LESS THAN 10 GRAMS TO AN UNDERCOVER AGENT SAID OFFENSE HAVING OCCURRED AT AMERICAN MOBILE HOME PARK ON 378 WEST, LOCATED IN THE COUNTY OF SUMTER, STATE OF S.C.

THIS OFFENSE OCCURRED WITHIN 1/2 MILE OF CHERRYVALE SCHOOL. PROBABLE CAUSE: THE SUMTER COUNTY DRUG UNIT CONDUCTED AN UNDERCOVER OPERATION WHERE SAID DEFENDANT SOLD A QUANTITY OF CRACK COCAINE TO AN UNDERCOVER AGENT IN EXCHANGE FOR \$40.00 IN STATE FUNDS. SAID OFFENSE OCCURRED WITHIN 1/2 MILE OF CHERRYVALE SCHOOL.

Sworn to and subscribed before me on \_\_\_\_\_

Signature of Issuing Judge \_\_\_\_\_ (L.S.)

Signature of Affiant Misty L. Lee  
Affiant's Address 107 E HAMPTON AVE SUMTER SC 29150  
Affiant's Telephone 773-1561

STATE OF SOUTH CAROLINA

County/  Municipality of SUMTER

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY: It appearing from the above affidavit that there are reasonable grounds to believe that defendant JOSHUA LATRON GALLISHAW did violate the criminal laws of the State of South Carolina (or ordinance of  County/  Municipality of SUMTER) as set forth below:

DESCRIPTION OF OFFENSE: DISTRIBUTION OF CRACK COCAINE (44-53-375) / DISTRIBUTION OF CRACK COCAINE WITHIN PROXIMITY OF SCHOOL (44-53-445)

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Signature of Issuing Judge \_\_\_\_\_ (L.S.)  
Judge's Address \_\_\_\_\_  
Judge's Telephone \_\_\_\_\_

Issuing Court:  Magistrate  Municipal  Circuit

ORIGINAL

STATE OF SOUTH CAROLINA

COUNTY OF SUMTER

STATE

Anna M. Prescott  
DEPUTY CLERK OF COURT  
SUMTER COUNTY  
SOUTH CAROLINA

INDICTMENT/CASE#:

JOSHUA J. GALLISHAW VS

98 -GS-43 - 085

AKA: \_\_\_\_\_  
Race: BLACK Sex: MALE  
DOB: 08-15-78 Age: 22  
SSN: 250-39-2159  
DL#: SC 7478813  
SID#: \_\_\_\_\_

A/W#: F562934  
Date of Offense: 02-23-98  
S.C. Code § : 16-3-10420  
CDR Code #: 011116

SENTENCE

PLEA  TRIAL

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO: VOLUNTARY MANSLAUGHTER

in violation of § 16-3-50 of the S.C. Code of Laws, bearing CDR Code # 012117

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  17-25-45

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury.  
The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST:

W. H. Conner, Jr  
Solicitor

Defendant

M. M. Jordan  
Attorney for Defendant

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center, for a determinate term of 10 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The Defendant is to be given credit for \_\_\_\_\_ days/months jail time. 2/23/98 - 7/27/98  
 CONCURRENT or  CONSECUTIVE to sentence on: cts 2+3

SPECIAL CONDITIONS:

RESTITUTION  Heard,  Waived,  Ordered  
Total: \$ \_\_\_\_\_ plus 20% fee \$ \_\_\_\_\_  
Payment Terms: \_\_\_\_\_  
 set by SCDPPPS \_\_\_\_\_

PTUP \_\_\_\_\_  
\_\_\_\_\_ days/hours Public Service Employment  
Obtain GED \_\_\_\_\_  
Attend Voc Rehab. or Job Corps \_\_\_\_\_  
May serve W/E beginning \_\_\_\_\_  
Substance Abuse Counseling \_\_\_\_\_  
Random Drug/Alcohol Testing \_\_\_\_\_  
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
\$ \_\_\_\_\_ paid to Public Defender Fund.  
Other: \_\_\_\_\_

Recipient: \_\_\_\_\_  
\*Fine: .....\$  
§ 14-1-206 - Assessments 100%.....\$  
§ 14-1-211 - Surcharge.....\$ 100.00  
(Exceptions: See § 14-1-211)  
§ 56-5-2995 (DUI).....\$  
County (3%).....\$ 300  
TOTAL.....\$ 103.00

Clerk of Court/Deputy Clerk OV Player Jr

Court Reporter: K. Simmons

PRESIDING JUDGE [Signature]  
Judge Code: 10514  
Sentence Date: 11/15/00 Pg 5

STATE OF SOUTH CAROLINA

2 of 3  
CERTIFIED TRUE COPY IN THE COURT OF GENERAL SESSIONS  
OF ORIGINAL FILED  
Indictment/CASE#:

COUNTY OF Sumter

Anna M. Probst  
DEPUTY CLERK OF COURT  
SUMTER COUNTY  
SOUTH CAROLINA

STATE JOSHUA L. GALLISHAW VS.

98 -GS- 43 - 685

AKA: \_\_\_\_\_  
Race: BLACK Sex: MALE  
DOB: 08-15-78 Age: 22  
SSN: 250-39-2159  
DL#: S 7478813  
SID#: \_\_\_\_\_

A/W#: 199800685A  
Date of Offense: 02-23-98  
S.C. Code § : 16-23-490  
CDR Code #: 1121415

SENTENCE

PLEA  TRIAL

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO: POSSESSION OF A FIREARM DURING A VIOLENT CRIME  
in violation of § 16-23-490 of the S.C. Code of Laws, bearing CDR Code # 1121415

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  17-25-45

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury.  
The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST:

W.H. Conner, Jr Solicitor M.M. Jordan Attorney for Defendant  
Defendant

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center, for a determinate term of 5 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The Defendant is to be given credit for \_\_\_\_\_ days/months jail time. see ct 1  
 CONCURRENT or  CONSECUTIVE to sentence on: cts 1 + 3 + Current Sentence

SPECIAL CONDITIONS: Being Served

RESTITUTION  Heard,  Waived,  Ordered  
Total: \$ \_\_\_\_\_ plus 20% fee \$ \_\_\_\_\_  
Payment Terms: \_\_\_\_\_  
 set by SCDPPPS \_\_\_\_\_

PTUP \_\_\_\_\_  
\_\_\_\_\_ days/hours Public Service Employment  
Obtain GED \_\_\_\_\_  
Attend Voc Rehab. or Job Corps \_\_\_\_\_  
May serve W/E beginning \_\_\_\_\_  
Substance Abuse Counseling \_\_\_\_\_  
Random Drug/Alcohol Testing \_\_\_\_\_  
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
\$ \_\_\_\_\_ paid to Public Defender Fund.  
Other: \_\_\_\_\_

Recipient: \_\_\_\_\_  
\*Fine: ..... \$ \_\_\_\_\_  
§ 14-1-206 - Assessments 100%..... \$ \_\_\_\_\_  
§ 14-1-211 - Surcharge..... \$ 100.00  
(Exceptions: See § 14-1-211)  
§ 56-5-2995 (DUI)..... \$ \_\_\_\_\_  
County (3%)..... \$ 3.00  
TOTAL..... \$ 103.00

Clerk of Court/Deputy Clerk OV Playonix  
Court Reporter: Kolman

PRESIDING JUDGE [Signature]  
Judge Code: 101517  
Sentence Date: 11/15/00

ARREST WARRANT

F- 562934

STATE OF SOUTH CAROLINA

County/  Municipality of

SUMTER

THE STATE

against

6770 Goshen Rd

JOSHUA LATRON GALLISHAW

Address: ~~104 Oakland Ave~~ ~~Sumter SC 29154~~

Phone: 499-2536 SSN: 250-39-295

Sex: M Race: R Height: 5'06" Weight: 137

DL State: SC DL #: 007478813

DOB: 08/15/78 Agency ORI #SC0430000

Prosecuting Agency: 00

Prosecuting Officer: 0299/TURNER

Offense: MURDER

Offense Code: 0116

Code/Ordinance Sec. 16-3-10

This warrant is CERTIFIED FOR SERVICE in the

County/  Municipality of

The accused

is to be arrested and brought before me to be

dealt with according to law.

Signature of Judge (L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Joshua Latron Gallishaw

on 2-23-98

Signature of Constable/Law Enforcement Officer: T.W. James Turner 0299

RETURN WARRANT TO:

Del. 2-27-98/warrant Only

STATE OF SOUTH CAROLINA

County/  Municipality of

SUMTER

Personally appeared before me the affiant INV. J TURNER being duly sworn deposes and says that defendant JOSHUA LATRON GALLISHAW

did within this county and state on 02/23/98 violate the criminal laws of the State of South Carolina (or ordinance of  County/  Municipality of SUMTER SOUTH CAROLINA)

the following particulars:

DESCRIPTION OF OFFENSE: INCIDENT # 98016144

MURDER (16-3-10)

further state that there is probable cause to believe that the defendant named above did commit

the crime set forth and that probable cause is based on the following facts:

THAT THE DEFENDANT DID COMMIT THE ABOVE STATED OFFENSE IN THAT HE DID WITH MALICE, AND AFORETHOUGHT, SHOOT AND KILLED ONE, CLARENCE D FORD, WITH A HANDGUN IN THE ROADWAY IN AMERICAN MOBILE HOME PARK, IN THE COUNTY OF SUMTER, STATE OF SC.

PROBABLE CAUSE: LAW ENFORCEMENT HAS WRITTEN STATEMENTS FROM EYEWITNESSES IMPLICATING THE DEFENDANT AS THE SHOOTER.

Sworn to and subscribed before me on

Signature of Affiant: James R Turner

Affiant's Address: INV. J TURNER/107 HAMPTON ST SUMTER, SC 29150

Signature of Issuing Judge (L.S.): [Signature]

Affiant's Telephone: 773-1561

STATE OF SOUTH CAROLINA

County/  Municipality of

SUMTER

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on 02/23/98 defendant JOSHUA LATRON GALLISHAW

did violate the criminal laws of the State of South Carolina (or ordinance of

County/  Municipality of SUMTER ) as set forth below:

DESCRIPTION OF OFFENSE: MURDER (16-3-10)

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Signature of Issuing Judge (L.S.): [Signature]

Judge's Address: 115 N HARVIN ST/PO BOX 1394 SUMTER, SC 29151

Signature of Issuing Judge (L.S.): [Signature]

Judge's Telephone: 803-436-2200

Judge Code: 0299

Issuing Court:  Magistrate  Municipal  Circuit

ORIGINAL

AFFIDAVIT

Form Approved by S.C. Attorney General July 26, 1996 SCCA 518 CERTIFIED COPY OF ORIGINAL FILE

Barbara [Signature]

DEPUTY CLERK OF COURT SUMTER COUNTY

RECORDED

'98 FEB 27 PM 2:49

O.V. PLAYER JR. DEPUTY CLERK OF COURT

SUMTER COUNTY, S.C.

W-43-98-0119

SID# 1049273

# STATE OF SOUTH CAROLINA

COUNTY OF Sumter

## ARREST WARRANT PROBATION

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF Sumter

AND ANY CONSTABLE OF THIS MAGISTERIAL DISTRICT:  
Joshua Gallishaw

It appearing from the attached affidavit that there are reasonable grounds to believe that (name of defendant):  
did on the \_\_\_\_\_ day of April, 1998

violate the criminal laws of the State of South Carolina as set forth below:

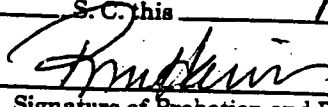
### DESCRIPTION OF OFFENSE

Violation of Probation pursuant to Section 24-21-430.

Now, therefore, you are empowered and directed to arrest the said defendant and bring Joshua Gallishaw before me forthwith to be dealt with according to law.

A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Done at Sumter S.C. this \_\_\_\_\_ day  
of April, 1998

  
Signature of Probation and Parole Agent (L.S.)  
Rexford Harris

# STATE OF SOUTH CAROLINA

COUNTY OF Sumter

## AFFIDAVIT

**RECEIVED**

JUN 20 2012

Personally appeared before me, one Rexford Harris  
who, first being duly sworn, deposes and says that (name of defendant)  
Joshua Gallishaw

**SC Court of Appeals**

did within this County and State on the \_\_\_\_\_ day of April, 1998, violate  
the criminal laws of the State of South Carolina in the following particulars:

### DESCRIPTION OF OFFENSE

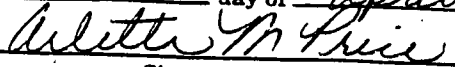
By violating conditions of Probation 1, 2, 6, 7, 10, & S.C. ordered in Cause Number  
96-GS-43-1241 by the Sumter County Court of General Sessions.

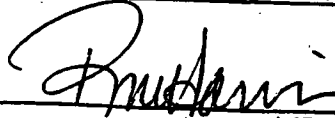
The Affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that  
such probable cause is based on the following facts:

#10) The offender failed to follow the advice and instructions of Agent of the SODPPS by the following: #1) The  
Offender did fail to report on 12/15/97, 1/5/98, & 2/5/98. Furthermore the offender has not called this dept. to explain  
or justify his absence since his last report on 11/6/97. #2) The Offender did change his address from 6770 Goshen  
Rd, Sumter, SC without notifying the DPPPS. The Offender did list his address as 104-F Oakland Plantation Apts, Sumter  
SC 29150 when arrested 2-23-98. #6) The Offender did not refrain from the violation of Federal, State, & Local Laws.  
The Offender, having been arrested, did fail to contact the DPPPS and inform his agent of his arrests: On 6/26/97\*

Sworn to and Subscribed before me

this 1st day of April, 1998

  
Signature of Notary Public (L.S.)

  
Affiant

Address 115 N. Harvin Street  
Sumter, SC 29150

Phone 778-5185

My commission expires: 10-2-2002

(Form Continues on Back)

\*\* Joshua Gallishaw was arrested by the City of Sumter police Dept for: DUS & Speeding. He was fined \$304.00 for  
DUS and \$75.00 for Speeding. On 2/25/98 Joshua Gallishaw was arrested by the Sumter County Sheriff's Dept. for:

(over)

19

Constable or Law Enforcement Officer

A copy of this Arrest Warrant was delivered by me to the following defendant:

X Joshua Gallishaw  
in the 3<sup>rd</sup> day of April

9 98  
Constable or Law Enforcement Officer

This Warrant is certified for service in

County. The accused is to be arrested and brought before me to be dealt with according to law.

Signature of Judge (L.S.)

Failure to Stop for a Blue Light and Siren; & DUS 2nd. The Subject did fail to notify his agent of this arrest. On 2/23/98 Joshua Gallishaw was arrested by the Sumter County Sheriff's Dept. for Murder. The subject did fail to notify his agent of this arrest. #7) The Offender did fail to make supervision fee payments, being 3 payments in arrears (\$50.00). (Additional Condition) The Offender did fail to perform Public Service Employment having been terminated prior to 11-06-97.

Furthermore the Offender has not reported back to the DPPPS to be reassigned to a worksite.

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County of Sumter

THE STATE against Joshua Gallishaw

ARREST WARRANT

Offense Violation of Probation

Code Section 24-21-430

Date April 1, 1998

Officer and Agency SC Probation, Parole, and Pardon Services

Disposition

Sentence

Co-Defendants

Name Joshua Gallishaw  
Address 667 Goshen Rd, Sumter, SC  
104 F Oakland Plantation Apt  
Sumter, SC  
Phone  
Sex M Race B Height 511  
Weight 147 Birthdate 8-15-78  
Social Security Number 250-39-2959

INFORMATION ON WITNESSES

Name  
Address  
Phone  
Name  
Address  
Phone  
Name  
Address  
Phone

PRELIMINARY HEARING held by

Magistrate  
on , 19  
with  
Attorney for Defendant.  
Decision:

BAIL

Date Set , 19  
Magistrate  
Amount  
Surety

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
INMATE GRIEVANCE FORM**

**STEP 1**

INMATE NAME: Joshua Gallishaw AUG 17 2010  
 SCDC NUMBER: 251362 Rm  
 INSTITUTION: Waterce C.I.  
 HOUSING UNIT: D-3-B-17  
 WORK ASSIGNMENT: Dairy

Office Use Only  
 Grievance No. WRC-0394-10  
 Code: General \_\_\_\_\_  
 Policy \_\_\_\_\_  
 Disc. Hear. \_\_\_\_\_  
 Class. CL (10-2-1)  
 Date Received 8-23-10  
 IGC Initials sdn

**STATE GRIEVANCE** (include documentation, and date of incident; if SCDC Policy, indicate which policy)  
 I'm writing to correct my max-out date. I was locked up 2-23-98 for Murder, subsequent to that I got some other charges and was sentenced to S.C.D.C. shortly thereafter I went to trial on my Murder charge in Nov. 2000. S.C.D.C. has my max-out in 2015 on my 18 years. S.C.D.C. has told me to contact the Courts to get an amended sentence from the Courts. The Courts tell me to contact S.C.D.C. My max-out should be around July, 2013, instead of March, 2015. Judge Casper has wrote S.C.D.C. telling them if its a problem to let him know and he'll fix it! (copy of letter is in my files).

**ACTION REQUESTED:** I'm asking S.C.D.C. to write the Courts on S.C.D.C. headed paper for an amended sentence or to just give me all my time from Feb 23, 1998 to present.

**SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:**  
 I've wrote the Courts see enclosed correspondence and I've wrote classification, both I've wrote numerous times. I am trying to work with classification to deal with this.  
 with 3 enclosures  
Josh Gallishaw 8-15-10  
 Grievant Signature Date

**ACTION TAKEN BY IGC:**  
 All pertinent documentation and information has been thoroughly reviewed. Classification Staff has been interviewed. SCDC Policy has been reviewed. There is no evidence or documentation to indicate that an error has been made in calculating Inmate Gallishaw's "Max-Out Date" or by SCDC failing to give Mr. Gallishaw credit for "jail time". See Warden's Response.

Shirley Hairfield 9/30/10  
 IGC Signature Date

I accept the action taken by the IGC and consider the matter closed.  
 I do not accept the action taken and wish to appeal.

Step 2  
due 10/6/10

Inmate Joshua Gallishaw

#251362

WRCI-0394-10

This is in response to WRCI-0394-10, regarding your allegations that the South Carolina Department of Corrections (SCDC) is failing to give you all jail time credits. Also, you request that either SCDC write to the Courts requesting an "Amended Sentencing Sheet" or just give you "all your time from February 23, 1998 to present." All pertinent information and documentation has been thoroughly reviewed. The Staff in the Classification Department have been interviewed. Per Classification documentation, (Staff Request response from Offender Records dated 4-17-09) the following information was given to you in writing.

Your jail time credit was modified to 350 days. You received credit from February 23, 1998 until your YOA **VIOLATION** which was on June 1, 1998 which equals 98 days. You "maxed-out your YOA sentence on June 30, 1999. You do not earn Jail time from June 1, 1998 until June 30, 1999, because you were in SCDC custody serving time on a separate charge. Therefore, you were eligible for and received "Jail Time Credit" for June 30, 1999 until March 8, 2000 which equals 252 days, plus the 98 days mentioned above which would equal the 350 days.

Based on the investigation of the information supplied by you and the South Carolina Department of Corrections, the Classification Division has complied with SCDC Policy, procedure, and protocol. The South Carolina Department of Corrections has complied with South Carolina State Law as ordered by the Presiding Judge. If you are not satisfied with my response, you may file a Step 2 appeal grievance within five (5) calendar days of receiving this Step 1 response. At the time you are served this response, the Inmate Grievance Coordinator will explain the Step 2 Appeal process to you, if needed.

*[Signature]* 9-29-10  
Warden Signature Date

*[Signature]* 10/1/10  
IGC Signature Date

*[Signature]* 10-1-10  
IGC Signature Date  
*Signed in error*

- I accept the Warden's decision and consider the matter closed.
- I do not accept the Warden's decision and wish to appeal.

*[Signature]* 10-1-10  
Grievant Signature Date

**INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM**

1. An informal resolution shall be attempted prior to the filing of Step 1.
2. Complete each section in its entirety, writing only in the space provided for inmate use.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form to the Institutional Grievance Coordinator within fifteen (15) days of an alleged incident; policy grievances at any time. Do not write in the space provided for the Warden's response.
5. If you are not satisfied with the Warden's decision, you may appeal to the appropriate responsible official within five (5) days of your receipt of the Warden's decision, via the Institutional Grievance Coordinator.

Pg. 10

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
INMATE GRIEVANCE FORM  
STEP 1**

INMATE NAME: Joshua Gallishaw  
 SCDC NUMBER: 251362  
 INSTITUTION: Waterce C.I.  
 HOUSING UNIT: D-3-B-17  
 WORK ASSIGNMENT: Dairy

Office Use Only  
 Grievance No. WRC-0394-10  
 Code: General \_\_\_\_\_  
 Policy \_\_\_\_\_  
 Disc. Hear. \_\_\_\_\_  
 Class. CL (10-2-1)  
 Date Received 8-23-10  
 IGC Initials ROLN

**STATE GRIEVANCE** (include documentation, and date of incident; if SCDC Policy, indicate which policy)

I'm writing to correct my max-out date. I was locked up 2-23-98 for murder, subsequent to that I got some other charges and was sentenced to S.C.D.C. shortly thereafter I went to trial on my Murder charge in Nov. 2000. S.C.D.C. has my max-out in 2015 on my 18 years. S.C.D.C. has told me to contact the Courts to get an amended sentence from the Courts. The Courts tell me to contact S.C.D.C. My max-out should be around July, 2013, instead of March, 2015. Judge Casper has wrote S.C.D.C. telling them if its a problem to let him know and he'll fix it! (copy of letter is in my files)

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I've wrote the Courts see enclosed correspondence and I've wrote classification, both I've wrote numerous times. I am trying to work with classification to deal with this.

with 3 enclosures  
Josh Gallishaw 8-15-10  
 Grievant Signature Date

**ACTION TAKEN BY IGC:**

All pertinent documentation and information has been thoroughly reviewed. Classification Staff has been interviewed. SCDC Policy has been reviewed. There is no evidence or documentation to indicate that an error has been made in calculating Inmate Gallishaw's "Max-Out Date" or by SCDC failing to give Mr. Gallishaw credit for "jail time". See Warden's Response.

Shirley Hanfield 9/30/10  
 IGC Signature Date

- I accept the action taken by the IGC and consider the matter closed.
- I do not accept the action taken and wish to appeal.

Step 2  
due 10/6/10

Inmate Joshua Gallishaw

#251362

WRCI-0394-10

This is in response to WRCI-0394-10, regarding your allegations that the South Carolina Department of Corrections (SCDC) is failing to give you all jail time credits. Also, you request that either SCDC write to the Courts requesting an "Amended Sentencing Sheet" or just give you "all your time from February 23, 1998 to present." All pertinent information and documentation has been thoroughly reviewed. The Staff in the Classification Department have been interviewed. Per Classification documentation, (Staff Request response from Offender Records dated 4-17-09) the following information was given to you in writing.

Your jail time credit was modified to 350 days. You received credit from February 23, 1998 until your YOA **VIOLATION** which was on June 1, 1998 which equals 98 days. You "maxed-out your YOA sentence on June 30, 1999. You do not earn Jail time from June 1, 1998 until June 30, 1999, because you were in SCDC custody serving time on a separate charge. Therefore, you were eligible for and received "Jail Time Credit" for June 30, 1999 until March 8, 2000 which equals 252 days, plus the 98 days mentioned above which would equal the 350 days.

Based on the investigation of the information supplied by you and the South Carolina Department of Corrections, the Classification Division has complied with SCDC Policy, procedure, and protocol. The South Carolina Department of Corrections has complied with South Carolina State Law as ordered by the Presiding Judge. If you are not satisfied with my response, you may file a Step 2 appeal grievance within five (5) calendar days of receiving this Step 1 response. At the time you are served this response, the Inmate Grievance Coordinator will explain the Step 2 Appeal process to you, if needed.

*[Signature]* 9-29-10  
Warden Signature Date

- I accept the Warden's decision and consider the matter closed.
- I do not accept the Warden's decision and wish to appeal.

*[Signature]* 10/1/10  
*[Signature]* 10-1-10  
IGC Signature Date  
*signed in error*

*[Signature]* 10-1-10  
Grievant Signature Date

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM

1. An informal resolution shall be attempted prior to the filing of Step 1.
2. Complete each section in its entirety, writing only in the space provided for inmate use.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form to the Institutional Grievance Coordinator within fifteen (15) days of an alleged incident; policy grievances at any time. Do not write in the space provided for the Warden's response.
5. If you are not satisfied with the Warden's decision, you may appeal to the appropriate responsible official within five (5) days of your receipt of the Warden's decision, via the Institutional Grievance

Pg. 10

Step 2 Due 10/6/10

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
INMATE GRIEVANCE FORM

STEP 2

INMATE NAME: Joshua Hallishaw  
SCDC NUMBER: 251362 251362  
INSTITUTION: W. R. I  
HOUSING UNIT: D-3-B-17  
WORK ASSIGNMENT: Dairy

Office Use Only  
Grievance No. WRCI-0344-10  
Code: General \_\_\_\_\_  
Policy \_\_\_\_\_  
Disc. Hear. \_\_\_\_\_  
Class. CH  
Date Received 10/5/10  
IGC Initials solh

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

I was locked up originally for murder 2-23-98, subsequent to this my probation was violated cause of my arrest - other charges were served on me. I believe I'm entitled to my time between June 1, 1998 through Nov. 14, 2000. Judge Cooper wrote S.C.D.C. classification noting that if I still felt as though my time was in correct he would correct it if S.C.D.C. wrote him! I need S.C.D.C. classification to write him to end my sentence! (in short)

Josh Hallishaw 10-3-10  
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

I have reviewed your grievance. Inmate Records confirmed that your current projected release date of March 16, 2015 is accurate. Warden Beckwith addressed your concerns appropriately on your SCDC 10-5, Step 1 Inmate Grievance Form.

Therefore, your grievance is denied.

You may appeal this decision under the Administrative Procedures Act to the Administrative Law Court. In order to appeal, you must fill out the attached Notice of Appeal Form and submit it as instructed on the form within 30 days of receipt.

James S. [Signature] 10/21/11  
Signature Date

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

Josh Hallishaw 11-1-11  
Grievant Signature Date

Shirley DeHouff 11/1/11  
IGC Signature Date

## INSTRUCTIONS FOR COMPLETING STEP 2 GRIEVANCE FORM

1. Complete form in its entirety, writing only in the space provided for inmate use.
2. State your specific reason for further appeal. Do not submit any new issues for review.
3. Submit this completed form with your original Step 1 attached, to the Institutional Grievance Coordinator within five (5) days of your receipt of the Warden's decision. Do not write in the space provided for the responsible official.
4. The decision rendered by the responsible official exhausts the appeal process of the SCDC Inmate Grievance Procedure.

**FILED**

FEB 24 2012

**STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT**

SC ADMIN. LAW COURT

Joshua Gallishaw, #251362,	)	Docket No. 11-ALJ-04-00871-AP
	)	
Appellant,	)	<b>ORDER OF DISMISSAL</b>
vs.	)	
	)	
South Carolina Department of Corrections,	)	
	)	
Respondent.	)	
_____	)	

**STATEMENT OF THE CASE**

This matter is before the Administrative Law Court pursuant to the Appellant's appeal filed on November 3, 2011, in which he contends that South Carolina Department of Corrections (Department) has calculated the length of his sentence incorrectly. This matter was assigned to the undersigned judge on November 16, 2011. Appellant filed his brief on November 28, 2011. Appellant's Record was filed by the Department on January 3, 2012. The Department filed its brief on February 10, 2012. Appellant alleges that he is entitled to credit for additional time he served.

**STANDARD OF REVIEW**

The Court's jurisdiction to hear this matter is derived entirely from the decision of the South Carolina Supreme Court in Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). The Court's appellate jurisdiction in inmate appeals is limited to state created liberty interests typically involving: (1) cases in which an inmate contends that prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; and (2) cases in which an inmate has received punishment in a major disciplinary hearing as a result of a serious rule violation.

When reviewing the Department's decisions in inmate grievance matters, the Court sits in an appellate capacity. Consequently, the review in these inmate grievance cases is limited to the Record presented.

An Administrative Law Judge may not substitute his judgment for that of an agency "as to the weight of the evidence on questions of fact." S.C. Code Ann. § 1-23-380(A)(6) (Supp. 2005). Furthermore, an Administrative Law Judge may not reverse or modify an agency's

decision unless substantial rights of the Appellant have been prejudiced because the decision is clearly erroneous in view of the substantial evidence on the whole Record, arbitrary or affected by an error of law. See Section 1-23-380(A)(6); See also Marietta Garage, Inc. v. South Carolina Dep't of Public Safety, 337 S.C. 133, 522 S.E.2d 605 (Ct. App. 1999); South Carolina Dep't of Labor, Licensing and Regulation v. Girgis, 332 S.C. 162, 503 S.E.2d 490 (Ct. App. 1998). "'Substantial evidence' is not a mere scintilla of evidence nor the evidence viewed blindly from one side of the case, but is evidence which, considering the Record as a whole, would allow reasonable minds to reach the conclusion that the administrative agency reached or must have reached in order to justify its action." Lark v. Bi-Lo, 276 S.C. 130, 135, 276 S.E.2d 304, 306 (1981). Accordingly, the possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's finding from being supported by substantial evidence. Grant v. South Carolina Coastal Council, 319 S.C. 348, 461 S.E.2d 388 (1995). Administrative Agencies are afforded wide latitude in interpreting their own regulations, as demonstrated by the deferential standard of appellate review. Heater of Seabrook, Inc. v. Public Service Commission of South Carolina, 332 S.C. 20, 503 S.E.2d 739 9 (S.C. 1998).

### DISCUSSION


Appellant was arrested on February 23, 1998 on a charge of voluntary manslaughter. On June 1, 1998, after 98 days in the county detention center stemming from the voluntary manslaughter arrest, Appellant's Youthful Offender Act (YOA) parole related to other previous charges was revoked and he was sent to the custody of South Carolina Department of Corrections. On June 30, 1999, Appellant completed service of his YOA sentence, and he was transferred back to the county detention center pending disposition of other pending charges. On March 8, 2000, 252 days after his release from South Carolina Department of Corrections custody, Appellant plead guilty to a charge of distribution of crack cocaine, second offense. Appellant returned to the Department's custody. Appellant was convicted of voluntary manslaughter on November 15, 2000.

Appellant has been given credit on his voluntary manslaughter sentence for pre-conviction jail time from February 23, 1998 to June 1, 1998, and from June 30, 1999 to March 8, 2000. This amount equals 350 days of jail time credit. Appellant argues that he should receive credit for the periods while he was incarcerated for his YOA parole violation and for his

conviction of distribution of crack cocaine. Appellant is not entitled to the credit he seeks pursuant to S.C. Code Ann. § 24-13-40 (Supp. 2011) which states, credit for time served prior to trial and sentencing shall not be given . . . 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.

Therefore, pursuant to S.C. Code Ann. § 24-13-40 (Supp. 2011), Appellant is not entitled to jail time credit on his sentence for voluntary manslaughter for periods when he was serving a sentence in the Department's custody for YOA parole violation or for his conviction of distribution of crack cocaine, second offense.

**IT IS ORDERED** that, for the foregoing reasons, the decision appealed from is **AFFIRMED** and this appeal is **DISMISSED, WITH PREJUDICE**.

  
**CAROLYN C. MATTHEWS**  
Administrative Law Judge

February 24, 2012  
Columbia, South Carolina

CERTIFICATE OF SERVICE  
This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or in the Interagency Mail Service addressed to the party(ies) or their attorney(s).

This 24 day of February 2012  
By: Page P. Lynch  
Administrative Law Clerk

# GOINGS v. MISSOURI DEPARTMENT OF CORRECTIONS

Gary GOINGS, Appellant, v. MISSOURI DEPARTMENT OF CORRECTIONS,  
Respondent.

No. SC 81589.

-- December 21, 1999

Gary Goings, Jefferson City, pro se. Jeremiah W. (Jay) Nixon, Atty. Gen., Michael J. Spillane, Asst. Atty. Gen., Jefferson City, for Respondent.

Gary Goings was on parole from prison after serving a portion of his five-year sentence on Franklin County convictions when he was arrested in 1996 on a felony stealing charge from Stoddard County. After it was determined that Goings had violated conditions of his parole, Goings was returned to the custody of the department of corrections in August 1996. Thereafter the circuit court for Stoddard County sentenced Goings, in December 1997, to a five-year term on the stealing charge, to be served concurrently with his earlier sentences, which apparently were for stealing and second-degree assault.<sup>1</sup> The department of corrections refused to give Goings credit for time served, pursuant to section 558.031,<sup>2</sup> against the five-year sentence imposed in December 1997 in the circuit court for Stoddard County.

Goings, confined in the Algoa Correctional Center in Cole County, brought this declaratory judgment action in Cole County Circuit Court challenging the department's refusal to give him credit for time served prior to his December 1997 sentencing on the felony stealing charge.<sup>3</sup> The court denied relief, and Goings appealed to this Court, challenging the constitutionality of section 558.031 and the legality of the department's refusal to grant him credit for time served prior to the December 1997 sentencing. Because Goings challenges the constitutionality of a statute, we have jurisdiction under art. V, sec. 3 of the Missouri Constitution.

The dispositive issue is whether Goings was "in custody related to" the offense for which he was sentenced in December 1997 and, therefore, should be credited with time served in

the department of corrections prior to that sentencing. We believe that the statute, section 558.031, requires such a credit. We therefore reverse and remand.

Goings is entitled to credit for time served prior to sentence if the time in custody is "related to that offense." The statute, section 558.031.1, provides:

A sentence of imprisonment shall commence when a person convicted of a crime in this state is received into the custody of the department of corrections or other place of confinement where the offender is sentenced. Such person shall receive credit toward the service of a sentence of imprisonment for all time in prison, jail or custody after the offense occurred and before the commencement of the sentence, when the time in custody was related to that offense.

In interpreting the statute, both sides cite *State ex rel. Blackwell v. Sanders*, 615 S.W.2d 467 (Mo.App.1981). In *Blackwell*, after spending 362 days in jail, a defendant received a suspended execution of sentence and five years of probation pursuant to a guilty plea in 1977. In 1980, the defendant was arrested on an assault charge, his probation was revoked, and the 1977 sentence was executed. A new sentence on the 1980 assault conviction was imposed to run concurrently with the 1977 sentence. At the time of his 1980 sentencing defendant had spent 64 days in jail after his arrest. The end result was that defendant was entitled to credit the 64 days spent in jail in 1980 against the 1980 sentence; he received no credit against the 1980 sentence for the 362 days spent in jail prior to the 1977 sentence, which was a probation term on a suspended execution of sentence. *Id.* at 467, 469.

Here, Goings seeks to apply the time he spent in state custody from August 16, 1996, to December 18, 1997, against his Stoddard County sentence. The statute plainly allows such a credit for time spent in custody "after the offense occurred and before the commencement of the sentence, when the time in custody was related to that offense." Section 558.031.1 (emphasis added). Generally, credit for time spent in custody is unavailable for offenses unrelated to the one underlying the sentence. *Blackwell*, 615 S.W.2d at 468.<sup>4</sup>

The purpose of section 558.031 undoubtedly is to eliminate the disparity of treatment between indigent defendants, who typically are in custody prior to sentencing, and non-indigents who typically are free on bond prior to sentencing. See *id.* at 469. From this apparent purpose, the state argues that the statute should not be applied to Goings because, as a parole violator, he was not entitled to be free on bond pending his sentencing on the Stoddard County charge. But this statute is not so limited. The statute requires only that the time in custody be "related to" the offense. In construing the statute, we are guided by the principle that criminal statutes must be "construed strictly against the [s]tate and liberally in favor of the defendant." *State v. Jones*, 899 S.W.2d 126, 127 (Mo.App.1995); *State v. Liffick*, 815 S.W.2d 132, 134 (Mo.App.1991). In the present case, the time Goings spent in custody prior to receiving his Stoddard County sentence was "related to" that sentence. It was the Stoddard County charge that resulted in revocation of his parole on his earlier Franklin County sentences. His arrest on the

16

Stoddard County charge placed him in custody in the first place on the current stealing charge.

The state can of course argue that Goings' incarceration is "related to" his earlier convictions. But that is not inconsistent with our conclusion that his custody is "related to" the current offense. The statute's use of the very broad term "related to" instead of, for example, "caused by" or "the result of" compels the conclusion that his custody can be "related to" both offenses and the statutory credit will nevertheless apply.

In making our determination as to the proper interpretation of the statute, we do not reach Goings' contention that the statute is unconstitutional. Since Goings' Stoddard County sentence is to run concurrently with his Franklin County sentences, we conclude that, under section 558.031, Goings is entitled to credit for the time spent in the custody of the department of corrections after his arrest on the Stoddard County charge prior to the imposition of the sentence on that charge.

The judgment of the circuit court accordingly is reversed, and the cause is remanded for entry of a declaratory judgment consistent with this opinion.

#### FOOTNOTES

1. As to the nature of the earlier, Franklin County convictions, the legal file contains only the warrant for parole violation that shows a plea of guilty to felony stealing and second-degree assault. There are references in the record that the earlier conviction was from St. Francois County, not Franklin County, but those references appear to be incorrect. There is, of course, no question that his earlier conviction resulted in a prison term followed by parole, and that his present Stoddard County offense constituted a violation of his parole.

2. All statutory cites are to RSMo Supp.1998 unless otherwise indicated.

3. In his petition for declaratory judgment, Goings sought credit for time served in the custody of the department of corrections from August 16, 1996, to December 18, 1997, only. It is unclear from the record whether Goings received a credit for time spent in custody after his arrest and before his return to the department of corrections. Since this issue was not raised in his petition, we need not address it here.

4. Two appellate decisions have rejected the notion that a defendant is entitled to a credit for time in state custody to be applied against a new sentence to run consecutively to the conviction for which parole or probation was revoked. See *Viers v. State*, 755 S.W.2d 617 (Mo.App.1988); *Davis v. State*, 829 S.W.2d 610 (Mo.App.1992). However, those cases do not apply here, for a consecutive sentence generally would not commence until its predecessor sentence was finished.

MICHAEL A. WOLFF, Judge.

ALL Concur

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In The State of South Carolina  
In The Court of Appeals

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Appeal From Administrative Law Court  
Administrative Law Judge C. Matthews

---

Case No: 11-ALS-04-0871-AP

---

Joshua Gallishaw - - - - - Appellant  
v

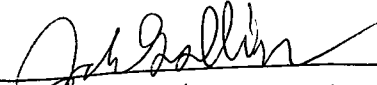
S.C. Dept. of Corrections - - - - - Respondent

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Certificate of Counsel

The undersigned certified that this Record on Appeal  
Complies with Rule 211 (b), S.C.A.C.R.

date: 2-14-13

5/   
Joshua Gallishaw # 251362  
Warden Corr. Institution  
Bldg # 1 C-1-T  
4340 Broad River Road  
Columbia, S.C. 29210

In The State of South Carolina  
Court of Appeals

Appeal From Admin. Law Court  
Judge Carolyn Matthews

Case No: 11-ALS-04-0871-AP

Joshua Callishaw - - - - -	Appellant
✓	
S.C. D.C. - - - - -	Respondent

Certificate of Service

I hereby certify that I've served Respondent a copy of the foregoing Record of Appellant by depositing a copy of same in U.S. Mail at Wolden C.F. addressed as follows:

Chris Florion  
S.C. Dept. of Corrections  
P.O. Box 21787  
Columbia, S.C. 29221  
Attorney for Respondents

Date: 2-14-13

S. J. Jullin  
4340 Broad River Rd  
Columbia, S.C. 29210