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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

S.C. SUPREME COURT

APPEAL FROM PICKENS COUNTY
The Honorable J. Cordell Maddox, Jr., Circuit Court Judge

Appellate Case No. 2015-000210

THE STATE,APPELLANT,

v.

ARTHUR M. FIELD,RESPONDENT.

SUPPLEMENT TO THE RECORD

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THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM THE CIRCUIT COURT

Judge J. Cordell Maddox, Jr.

Case No. 2018-001042

THE STATE, APPELLANT,

v.

ARTHUR M. FIELD
RESPONDENT.

SUPPLEMENT TO THE RECORD

1. *Background.* Respondent previously filed a Supplemental Brief and Motion to Supplement. The Supplemental Brief referenced supplemental case law and two court orders. Respondent wishes to provide clarification to the record. The two court orders are referring to a Clarifying Sentence Order issued by Judge Maddox on November 24, 2018 and an Inmate Clearance/Exit Checklist issued by the Department of Corrections.
2. Respondent submits the following documents to supplement to the record:
 - a. Supplemental Case Law
 - b. Clarifying Sentence Order
 - c. Inmate Clearance/Exit Checklist

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM PICKENS COUNTY

The Honorable J. Cordell Maddox, Jr., Circuit Court Judge

Case No. 2018-001042

STATE OF SOUTH CAROLINA.....PETITIONER

VS.

ARTHUR M. FIELD.....RESPONDENT

Unpublished Opinion 2017-UP-455

Rehearing Denied 5/7/2018

RULE 208(B)(7)

SUPPLEMENTAL CASE LAW IN SUPPORT OF MOTION TO DISMISS APPEAL

J. TODD RUTHERFORD

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Counsel for Respondent Field

TABLE OF AUTHORITIES

Cases

<i>Abela v. Martin</i> , <u>309 F.3d 338, 343</u> (6 th Cir. 2002).....	4
<i>Byrd v. Irmo H.S.</i> , <u>321 S.C. 426, 431</u> , <u>468 S.E.2d 861, 864</u> (1996).....	4
<i>Collins Music Co. v. IGT</i> , <u>365 S.C. 544, 549</u> , <u>619 S.E.2d 1, 3</u> (App. 2005)	3
<i>Curtis v. State</i> , <u>345 S.C. 557, 568</u> , <u>549 S.E.2d 591, 596</u> (2001)	3
<i>Demis v. Sniezek</i> , <u>558 F.3d 508</u> (6 th Cir. 2009).....	4
<i>Heffernan v. City of Paterson, NJ</i> , <u>578 U.S. </u> , <u>136 S.Ct. 1412</u> (2016)	4
<i>Jones v. State</i> , <u>239 So.3d 1294</u> (Fl. 1 DCA 2018).....	4
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<i>Pashby v. Delia</i> , <u>709 F.3d 307, 316</u> (4 th Cir. 2013).....	3
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<i>S.C. Dept. of Social Services v. Shawna O.</i> , <u>2009-UP-145</u> (App. 3/17/2009)	3
<i>Sloan v. Friends of the Hunley, Inc.</i> , <u>369 S.C. 20, 25</u> , <u>630 S.E.2d 474, 477</u> (2006)	3
<i>State v. Green</i> , <u>337 S.C. 67</u> , <u>522 S.E.2d 602</u> (App. 1999).....	4
<i>Taylor v. SCDC</i> , <u>2017-01061</u> (S.C. App. 10/10/2018).....	3
<i>Tinsley v. S.C. Dept. of Probation, Parole & Pardon Services</i> , <u>2016-UP-163</u> (Ct. App. 8/10/2016).....	4
<i>U.S. v. DeLeon</i> , <u>444 F.3d 41, 55</u> (1 st Cir. 2006).....	4
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<u>S.C.C.A. §24-13-210(E)</u>	3
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*Note: Unpublished opinions cited for example purposes only; these are not precedential per SCAR 268, but they are indicative of the treatment of the matter by the Court of Appeals relying on this Court's precedential decisions.

Pursuant to SCAR Rule 208(b)(7), please add the following citations to Field's Brief in Support of Motion to Dismiss Appeal. As to Argument Set forth in Brief:

As a result of Field's re-sentencing and subsequent release in 2019 'maxing out' the 2013 sentence, the appeal is moot and the Court lacks subject matter jurisdiction. BRIEF, SEC. A, p.6 and SEC. D, p.9.

Holden v. Cribb, 349 S.C. 132, 136, 561 S.E.2d 634, 637(Ct.App. 2002); *Pashby v. Delia*, 709 F.3d 307, 316(4th Cir. 2013). Mootness deprives court of subject matter jurisdiction.

Taylor v. SCDC, 2017-01061(Ct.App. 10/10/2018)(dismissed as moot Taylor's appeal of the calculation of good time credits for time served when sentence maxed out.)¹

S.C.C.A. §24-13-210(E). Any person who has maxed out his sentence and is released "is considered upon release to have served the entire term for which he was sentenced."

S.C. Dept. of Social Services v. Shawna O, 2009-UP-145(Ct.App. 3/17/2009)(intervening lower court order moots appeal) citing *Curtis, supra*, and *Collins Music Co. v. IGT*, 365 S.C. 544, 549, 619 S.E.2d 1, 3 (Ct.App. 2005).

¹ "After filing the appeal, Taylor... had been released from prison. Because this court cannot provide effectual relief regarding Taylor's credit for time served, we dismiss the appeal as moot. See *Sloan v. Friends of the Hunley, Inc.*, 369 S.C. 20, 25, 630 S.E.2d 474, 477 (2006) ("Generally, this [c]ourt only considers cases presenting a justiciable controversy."); *id.* at 26, 630 S.E.2d at 477 ("A moot case exists whe[n] a judgment rendered by the court will have no practical legal effect upon an existing controversy because an intervening event renders any grant of effectual relief impossible for the reviewing court."); *Curtis v. State*, 345 S.C. 557, 568, 549 S.E.2d 591, 596 (2001).

Tinsley v. S.C. Dept. of Probation, Parole & Pardon Services, 2016-UP-163(Ct.App. 8/10/2016)(“Tinsley will no longer be subject to parole hearings, and the Parole Board's use of allegedly inaccurate information to deny him parole is no longer capable of repetition... Because no justiciable controversy exists, we dismiss this appeal.” Citing *Byrd v. Irmo H.S.*, 321 S.C. 426,431, 468 S.E.2d 861,864(1996).)

State v. Green, 337 S.C. 67, 522 S.E.2d 602(Ct.App. 1999)(State's appeal dismissed when defendant pled guilty during pendency of appeal).

Abela v. Martin, 309 F.3d 338,343 (6th Cir. 2002). If “events occur during the pendency of [an appeal] which render the court unable to grant the requested relief the case becomes moot.”²

Jones v. State, 239 So.3d 1294(Fl. 1 DCA 2018), dismissed as moot an appeal of revocation of probation and resentencing because the appellant had maxed out his sentence and was released.

State v. Legg, 2018 UT 12(2018). “When a defendant challenging his or her probation revocation serves out his or her sentence, the appeal becomes moot.”

Heffernan v. City of Paterson, NJ, 136 S.Ct. 1412(2016); *Rodarte v. Univ. of South Carolina*, 419 S.C. 592, 799 S.E.2d 912, n.13(S.C. 2017). “After all, in the law, what's sauce for the goose is normally sauce for the gander.” If a convict cannot appeal the calculation of credits after release, the State should not be able to do so either.

²For other examples, see: *U.S. v. King*, 17-10006(9th Cir. 6/4/2018)(dismissing appeal of probation revocation and resentencing after maxing out and release); *U.S. v. Meyers*, 200 F.3d 715(10th Cir. 2000)(Attorney General's motion for dismissal for mootness and lack of jurisdiction granted after maxing out re-sentencing after probation revocation). And, *Demis v. Sniezek*, 558 F.3d 508(6th Cir. 2009)(dismissed as moot after sentence completion citing *Powell v. McCormack*, 395 U.S. 486,496(1969)). And, *Kendrick v. Hamblin*, 606 F.App'x 836(7th Cir. 2015).

The State Did Not Preserve Any Appellate Rights. Any Doubt Concerning Such Waiver Must Be Resolved In Field's Favor. Brief Sec. C, p.9.

United States v. Under Seal, 17-4558(4th Cir. 8/22/2018)

"When interpreting plea agreements, we draw upon contract law as a guide to ensure that each party receives the benefit of the bargain, and to that end, we enforce a plea agreement's plain language in its ordinary sense." *United States v. Warner*, 820 F.3d 678, 683 (4th Cir. 2016) (internal quotation marks omitted);.... As is the case with other contracts, ambiguities in a plea agreement are "construed against the government as its drafter." *United States v. Barefoot*, 754 F.3d 226, 246 (4th Cir. 2014). Indeed, because plea agreements involve waivers of constitutional rights, we review them "with greater scrutiny than we would apply to a commercial contract and hold the Government to a greater degree of responsibility than the defendant for imprecisions or ambiguities in plea agreements." *United States v. Davis*, 714 F.3d 809, 814-15 (4th Cir. 2013). (Emphasis added.)

ARTHUR M. FIELD

BY  _____

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Sept. 24, 2019

NOV 30 2018

JAMES R. PARKS
CLERK, STATE GRAND JURY

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)
THE STATE)
Plaintiff,)
v.)
ARTHUR FIELD)
Defendant.)

IN THE COURT OF GENERAL
SESSIONS
THIRTEENTH JUDICIAL CIRCUIT
Warrant: C-23-18-0573

Original Indictment: 11-GS-47-00008

**ORDER CLARIFYING
SENTENCE**

This matter came before the Court on September 7, 2018 during a probation violation hearing in Anderson, South Carolina. The above-named Defendant had been served with the above citation for violation of probation.

At the hearing, the Defendant had not been provided with necessary medications during his transportation from the Department of Corrections to the county detention center. Therefore, this Court deferred its ruling until the Defendant could have his medications properly administered and discuss the proceedings with his counsel.

After confirming with Defendant's counsel that he understood the proceedings, this Court issued its order revoking nine months of his probation and terminating supervision in an Order dated October 31, 2018.

This Court finds that it was not the fault of the Defendant that the Court's order was delayed to October 31, 2018, and is therefore entitled to receive credit from the date of the September hearing.

Therefore, IT IS THE ORDER OF THIS COURT that the Defendant's probation revocation have the start date of September 7, 2018, and that the Defendant receive credit for his time served since that date.

It is so ordered.

11/24/18
Date



Judge J. Cordell Maddox, Jr.
Presiding Judge

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE CLEARANCE/EXIT CHECKLIST

INSTRUCTIONS:

1. This form will be issued to the inmate and will serve as the Order to Report Form from Operations (any time an inmate is expected to remain away from _____ Correctional Institution at least one night).
2. This form will be completed prior to an inmates' departure from _____
3. This form will be filed in Operations when completed.

SCDC #: 55734 Name: Arthur Field
 Date: _____ Living Assignment/Location: _____
 Bring All Belongings () Bring State Clothing () Bring Nothing ()

PURPOSE OF CLEARANCE/EXIT:

Transferred to: _____ Date: _____ Released To: Parole Date: 11/17
 Paroled to: _____ Date: _____ Other: _____ Date: _____

TO ALL INMATES: It is your responsibility to take this form to the following locations and obtain clearance from each location:

<u>LOCATION</u>	<u>STAFF SIGNATURE</u>	<u>DATE</u>
COMMISSARY/LAUNDRY:	_____	_____
CLASSIFICATION (Forward records to Operations):	_____	_____
EDUCATION/LIBRARY:	_____	_____
LIVING ASSIGNMENT (Turn in Room Key/Room Inspection):	_____	_____
MEDICAL (Forward records to _____):	_____	_____
If Applicable:	_____	_____
INFIRMARY (Physical needs for Pre-Release):	_____	_____
DENTIST:	_____	_____
SPECIAL MEDICAL NEEDS:	_____	_____
MAIL ROOM (Flashcard, Money orders, etc.):	_____	_____
PAYMASTER:	_____	_____
PROPERTY CONTROL:	_____	_____
SOCIAL WORK SERVICES:	_____	_____
WORK ASSIGNMENT:	_____	_____
OTHER: _____	_____	_____
OPERATIONS:	_____	_____
RELEASE ORIENTATION:	_____	_____

THIS IS TO CERTIFY THAT I HAVE ALL MY PERSONAL BELONGINGS AND THAT I HAVE LEFT NOTHING AT _____

INMATE'S SIGNATURE _____ SCDC# _____ DATE _____
 OPERATIONS' SUPERVISOR'S/DESIGNEE'S SIGNATURE _____ DATE _____

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Respectfully Submitted,

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Supplement to the Record was sent by United States Mail, postage prepaid, on December 5, 2019 to:

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