

THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

AUG 24 2020

S.C. SUPREME COURT

APPEAL FROM THE SOUTH CAROLINA COURT OF APPEALS

Appellate Case NO. 2017-001964

Supreme Court Case No. 2020-001013

MICHAEL BRAXTON

APPELLANT,

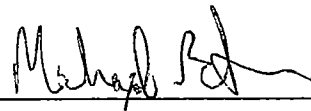
v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

RESPONDENT.

PETITION FOR

WRIT OF CERTIORARI



MICHAEL BRAXTON

4848 GOLDMINE HWY

KERSHAW, SC 29067

APPELLANT, PRO SE

INDEX

CERTIFICATE OF COUNSEL _____

QUESTIONS PRESENTED _____

STATEMENT OF THE CASE _____

ARGUMENT _____

CERTIFICATE OF SERVICES _____

ii

1-2

3

THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

AUG 24 2020

S.C. SUPREME COURT

APPEAL FROM THE SOUTH CAROLINA COURT
OF APPEALS

Appellate Case No. 2017-001964
Supreme Court Case No. 2020-001015

MICHAEL BRAXTON⁷ 119081

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

RESPONDENT.

CERTIFICATE OF COUNSEL

That no motion for rehearing was filed in this matter, and he submits his brief prayerfully in compliance with Rule 242 SCACR.



MICHAEL BRAXTON
9848 GOLDMINE HWY
KERSHAW, SC 29067

Dated: August 19, 2020

QUESTIONS PRESENTED

Should the actual time the Appellant spent incarcerated in Tennessee, along with the Mandated goodtime, BEFORE an AFTER trial and sentencing while under the jurisdiction of South Carolina statute(s), and the constraint of a lawful South Carolina Parole violation warrant/hold/detainer be applied to his original South Carolina sentence?

STATEMENT OF THE CASE

This Matter is before the honorable Supreme Court of South Carolina. The Appellant, Michael Braxton submits his appeal of the South Carolina Court of Appeals, in it's affirmation of Administrative Law Court's final decision dated August 24, 2017 and the South Carolina Court of Appeals Final decision dated July 1, 2020 , of South Carolina Department of Corrections claim ,that the Appellant is NOT entitled to the time he was incarcerated in Tennessee BEFORE and AFTER his trial and sentencing, while consistantly under South Carolina jurisdiction.

ARGUMENT

The Petitioner Michael Braxton seeks consideration before this honorable court, that he should be awarded the time he was incarcerated in Tennessee BEFORE and AFTER he was tried and sentenced on an offense unrelated to his South Carolina conviction.

This time span was from April 16, 1996 after his arrest while he was on Parole, until November 2, 2015 which is when he completed his Tennessee obligation.

The Honorable Court of Appeals failed to consider the language in S.C. Code Ann. 24-13-40 which provides: when a 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 reduction of his sentence for the (SECOND) offense.

The Honorable Court of Appeals apparently construed this statute to reflect that since the Petitioner was confined in Tennessee AFTER his conviction in South Carolina, it didn't relate to the Petitioner, due to his status of a Parolee. However, on remand the Administrative Law Court only awarded the Petitioner from March 31, 1994 - April 16, 1996 as Parole time; eventhough No official Revocation occurred until January 20, 2016.

The Honorable Court of Appeals stated that the Petitioner's status was "akin to an Escapee" after his arrest for the unrelated offense in Tennessee, while on Parole. However, the Petitioner NEVER breeched the statutory jurisdictional boundry set by the State of South Carolina.

S.C. Code Ann: 24-11-10 (INTERSTATE CORRECTIONS COMPAACT), S.C. Code Ann: 24-21-660 (EFFECT OF PAROLE), S.C. Code Ann: 17-11-10 (AGREEMENT ON DETAINERS ENACTED INTO LAW), S.C. Code Ann: 24-13-40 (COMPUTATION OF TIME SERVED) were ALL being enforced from May 28, 1996 until November 2, 2015, under the Parole violation warrant/hold/detainer that was in effect throughout.

The Honorable Court of Appeals was correct in their correlation of the Petitioner's case with that of Robinson v. State, 329 S.C. 65, 69, 495 S.E.2d 433, 435 (1998) which held "that credit for time served may be received for time served in another jurisdiction while a prisoner is subject to a

South Carolina Detainer". BOTH the Petitioner and Robinson breeched a TRUST AGREEMENT, Robinson was on an APPEAL BOND, the Petitioner was on PAROLE. Both were Lawfully released from custody, and the Petitioner was NEVER a FUGITIVE as was Delahoussaye v. State, 369 S.C. 522, 504-28 633 S.E. 2nd 158, 160-62 which is who the Petitioner is supposedly akin with.

Delahoussaye, was an ESCAPEE from a South Carolina institution.

The Honorable Court of Appeals found Robinson distinguishable from the Petitioner, since the Federal Court in Robinson's case intentionally imposed a sentence that was to run concurrently with his South Carolina sentence. However, "[A] foreign jurisdiction is without authority to modify or place conditions on a sentence imposed in South Carolina".

SCDC's own Policy, OP-21.09 (INMATE RECORD PLAN) 13.9.3 specifically states: "At the earliest possible time after trial and sentencing are completed in the receiving state, the inmate MUST be returned to the custody of officials in the sending state and notified of disposition of the charges". In lieu of this policy, the Petitioner was confined in TENNESSEE from April 16, 1996 - November 2, 2015 under the Due Process violation of NOT being afforded a TIMELY PROBABLE CAUSE or REVOCATION hearing until November 18, 2015.

SCDC Policy OP-21.09 (INMATE RECORDS PLAN) 13.9.5 (Tolling of a Prisoner's EWC/EEC's) states: " An Inmates time of imprisonment WILL CONTINUE TO RUN while the inmate is subject to the temporary custody of the receiving state The Inmate WILL CONTINUE TO EARN GOODTIME, but not earned work or educational credits.

For ALL of the Forgoing reasons the Petitioner respectfully request that his writ of certiorari be heard before this honorable court.