

The South Carolina Court of Appeal

Aug. 29, 2022

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SC Court of Appeals

The State v. Jamie Goss
Appellate Case No. 2021-001271

Dear Jacqueline

Upon receiving your letter Aug 2, 2022 giving me 30 day to order Transcrip, Both court reporter was paid in full with in 30 day, Please connect amended this paper work with Rule 241; Also I want to thank you for being so nice and for your great service.

575 (10th Cir. 1980)(Citation Omitted) Cert. denied, 450 U.S. 1041, 101 S Ct. 1759, 68 L.Ed 2d 239. Also Todaro v. Ward, 565 F2d 48, 52 (2d Cir. 1977)

Code 1976 § 24-1-20

"It shall be the policy of the State in the operation and management of the Department of Corrections to manage and conduct the Department in such a manner as will be consistent with the operation of a modern prison system, and with the view of making the system self-sustaining, and that those convicted of violating the law and sentenced to a term in the state penitentiary shall have humane treatment, and be given opportunity, encouragement and training in the matter of reformation."

When a state imposes imprisonment for crime, it accepts the obligation to provide persons in its custody with a medical care system that meets minimal standards of adequacy.

Covid-19 created a Pandemic that was unforeseen by legislative powers and so no policy or procedure was in place for such circumstances. Supreme law of the land recognizes the natural tendencies of human nature, and the powers that be.

Parties seeking to invoke a Force Majeure clause is most likely to catch-all language like "Acts of God" as the most likely language to cover Covid-19. Historically, Courts indeed defined "Acts of God" to encompass sickness. See e.g., Herter v. Mullen, 159 N.Y. 28, 37(1899)

In context relative to petitioner, SCDC has a statutory obligation to petitioner in regards to his health, safety, and livelihood, Force Majeure identifies extraordinary circumstances in statutory language. In application to the matters at hand, Covid-19 has established "extraordinary circumstances" in regards to compassionate release. The non-existence of any protocol to manage institutions throughout SCDC during the pandemic, further supplements petitioner's legal view, and raises the argument of negligence on behalf of SCDC.

(A)Statement of Facts

- (i) Petitioner filed, Pro Se, a Motion for Compassionate Release Under Extraordinary Circumstances in the jurisdiction of Horry County of Common Pleas. Presiding Judge, Honorable ~~Shepherd~~^{Corther} denied aforementioned motion, consequently closing the case. Petitioner appealed, drafting a Motion to Amend/Supplement Fact Finding under the Provisions of S.C. Rules of Civil Procedure (59)(e) and S.C. Rules of Civil Procedure (52)(b); and Humbert v. State, 345 S.C. 332, 548 S.E. 2d 862(June 25, 2001), and Marljar v. State, 375 S.C. 407, 653 S.E. 2d 266 (Nov. 5, 2007) "Question of Law and Fact."
- (ii) Petitioner has served not less than 15 years from a 2~~X~~ year sentence less the calculations of credits of good conduct. Petitioner has been incarcerated throughout various institutions within SCDC. SCDC has a public reputation for not meeting the statutory burden of Humane treatment, for reasons not limited to; short of staff in each department, most severely in security and mental health staff. This decade old reputation has been unforeseen through statutory provision, all through overcrowding.
- (iii) Petitioner's mother is hosting a life threatening illness which requires her to rely on respiratory breathing machines, whom is also the legal guardian of two of petitioner's children, ages 14 and 15.
- (iv) Petitioner's wife is currently in custody of Immigration Detention facing deportation. She has custody of Petitioner's other two children, ages 15 and 16.
- (v) Petitioner was incarcerated in SCDC for the 2019 Pandemic of Corona Virus. SCDC did not have protocol in the case of an event, circumstances, or situation in managing Covid-19. Clearly establishing the unforeseen Element of Extraordinary Circumstance.
- (vi) Petitioner is petitioning the Court to grant a supersedeas through bond or undertaking.
- (vii) Petitioner is Pro Se and is limited to studies at the institution.

(B) Grounds for Petition

(i) Rule 241 of S.C. ACR (c)(1);

"In a case subject to exception, any party may move for an order imposing supersedeas of matters decided in the order, judgment, decree or decision on appeal"... "The effect of granting a supersedeas of matters decided in the order, judgment, decree, or decision on an appeal is to suspend them..."

(c)(3) "The granting of supersedeas or lifting of the automatic stay under the Rule may be conditioned upon such terms, including but not limited to the filing of a bond or undertaking..."

(ii) S.C. Constitutional Article I § 15

"Excessive bail shall not be required, nor shall excessive fines be imposed, nor shall cruel, nor corporal, nor unusual punishment be inflicted, nor shall witnesses be unreasonably detained."

"Cruel and unusual punishment is burdened with two elements: (1) objectively whether the injury is sufficiently serious to deprive the prisoner of the minimal civilized measure of life's necessities and (2) subjectively, whether the prison official's actual state of mind was one of deliberate indifference to the deprivation."

I have experienced first-hand the unconstitutional conditions of the SCDC. The Courts have recognized the rights of prisoners, in the light of the overall prison conditions to include, the duration of a certain condition. Fact Finders have shown SCDC's statistics have substantially fallen below the standards of a modern prison. There was a substantial risk of harm with overcrowding and remaining closed quarters during Covid-19. Quarantine has the effect of raising the risk due to shortage of staff in Medical and Security.

"When systematic deficiencies in staffing, facilities, or procedures make unnecessary suffering inevitable, a court should not hesitate to use the injunctive powers." *Todaro v. Ward*, 565 F2d 48, 52 (21 Cir. 1977)

As a practical matter, Deliberate indifference can be evidenced by "repealed examples of negligent acts which disclose a pattern of conduct by the prison medical staff" or it can be demonstrated by proving there are such systematic and gross deficiencies in staffing facilities, equipment, or procedures..." *Ramos v. Lamm*, 639 F2d 559,

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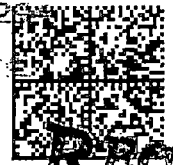
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