

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS  
APPELLATE CASE NO: 2013-000483

APPEAL FROM THE ADMINISTRATIVE LAW COURT  
HONORABLE SHIRLEY C. ROBINSON  
ADMINISTRATIVE LAW JUDGE

APPEAL FROM FINAL DECISION  
S. C DEPT OF CORRECTIONS

12-ALJ-04-0945-IJ  
GRIEVANCE KRCI-0149-12

CURTIS RICHARDSON # 269166

RECEIVED APPELLANT  
MAY 30 2013  
SC Court of Appeals

V

S C DEPARTMENT OF CORRECTIONS

RESPONDENT

BRIEF OF APPELLANT

I SWEAR UNDER PENALTY OF PERJURY THE CONTENTS  
OF THIS BRIEF ARE TRUE AND CORRECT

SWORN TO BEFORE ME THIS  
2 DAY OF April 2013

MY COMMISSION EXPIRES My Commission Expires December 31, 2013  
Catherine A. Omax

NOTARY PUBLIC OF SOUTH CAROLINA

st Curtis Richardson  
CURTIS RICHARDSON  
269166 PB47  
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KERSHAW SC 29067

# TABLE OF CONTENTS

TABLE OF AUTHORITIES

ii

STATEMENT OF ISSUES ON APPEAL

iii

STATEMENT OF THE CASE

1

ARGUMENTS

2, 3, 4, 5

1. DID THE RESPONDENTS FAILURE TO RESPOND TO THE APPELLANTS MOTION RENDER DEFAULT JUDGMENT?

2. DID THE RESPONDENTS FAILURE TO RESPOND TO APPELLANTS STEP 2 EXHAUST ADMINISTRATIVE REMEDIES?

3. DID THE SCD's CHANGING APPELLANTS SENTENCE FROM NONVIOLENT AND PAROLE ELIGIBLE TO VIOLENT AND NOT PAROLE ELIGIBLE CONSTITUTE AN EX POST FACTO VIOLATION

CONCLUSION

6

# TABLE OF AUTHORITIES

## CASES

ALLEN V LOWDER 875 F2D 82 (4TH CIR 1989)

BROWN V EVATT 470 SE2D 848

CAIFFIN V STATE 433 SE2D 862

JERNIGAN V STATE 534 SE2D 507

LANCE V MATHIS 717 SCT 891 (1997)

FENDER V THOMPSON 883 F2D 303 (4TH CIR 1989)

MELVIN V NIKOLOPOULOS 864 F2D 301

SHAWANZ V MUNCEP 834 F2D 396 (4TH CIR 1987)

WARDEN V MARRERD 94 SCT 2532

WEAVER V GRAHAM 101 SCT 960

ROLLER V CAVANUGH 984 F2D 120 (4TH CIR, CT APP)

PAYNE V BAKER 595 F2D 197 (4TH CIR 1979)

ELMORE V STATE 409 SE2D 397

## STATUTES

SC RULES OF CIVIL PROCEDURE 65 (F) (1)

SC CODE ANN 24-21-620

ADMINISTRATIVE LAW COURT RULE 63

INMATE GRIEVANCE POLICY RESPONSES II. RESPONSES

# STATEMENT OF ISSUES ON APPEAL

1. DID THE RESPONDENTS FAILURE TO RESPOND TO THE APPELLANTS MOTION RENDER DEFAULT JUDGMENT?
2. DID THE RESPONDENTS FAILURE TO RESPOND TO APPELLANTS STEP 2 EXHAUST ADMINISTRATIVE REMEDIES?
3. DID THE SCD C'S CHANGING APPELLANTS SENTENCE FROM NONVIOLENT AND PAROLE ELIGIBLE TO VIOLENT AND NOT PAROLE ELIGIBLE CONSTITUTE AN EX POST FACTO VIOLATION?

## STATEMENT OF THE CASE

IN SEPTEMBER 2011, I WAS SENTENCED TO (5) FIVE YEARS IN PRISON NONVIOLENT AND PARDON ELIGIBLE BY THE MORAY COUNTY COURT OF GENERAL SESSIONS.

UPON ADMISSION TO THE SCDL. THE SCDL CHANGED MY COURT ORDERED SENTENCE TO VIOLENT AND NOT PARDON ELIGIBLE.

BASED ON THIS ADMITTEDLY FALSE INFORMATION I WAS DENIED A TIMELY HEARING AND SUBJECTED TO AN ILLEGAL SENTENCE UNDER THE EX POST FACTO PROHIBITION

# ARGUMENT 1

RESPONDENTS FAILURE TO RESPOND TO APPELLANTS MOTION RESULTED IN DEFAULT JUDGMENT.

PRIOR TO THE ALJ DISMISSAL. (ADMINISTRATIVE LAW JUDGE) APPELLANT FILED A MOTION FOR RELEASE FROM PRISON AND AWARD OF DAMAGES. THIS MOTION WAS DATED DECEMBER 26, 2012 AND TIMELY AND PROPERLY SERVED ON THE COURT (ALJ) AND RESPONDENTS WHOM AS OF THE CURRENT DATE FILED NO RESPONSE.

PURSUANT TO RULE 63 AND 62 OF THE ALC, THE ALJ SHOULD HAVE GRANTED RELIEF IN APPELLANTS FAVOR.

HOWEVER, WITHOUT EVEN A RULING ON APPELLANTS MOTION THE ALJ DISMISSED THE APPEAL ERRONEOUSLY.

## ARGUMENT 2.

THE FAILURE TO RESPOND TO APPELLANT'S STEP 2. AS OF THE CURRENT DATE EQUALS AN EXHAUSTION OF THE SCDC ADMINISTRATIVE GRIEVANCE REMEDIES.

THE STEP 2 WAS FILED IN MARCH OF 2012, HOWEVER THE RESPONDENTS HAVE FAILED TO ANSWER THE STEP 2 IN VIOLATION OF THEIR OWN SCDC ESTABLISHED POLICY (SEE ATTACHED) EXHIBIT C

THEREFORE, THIS HONORABLE COURT SHOULD DEEM THE GRIEVANCE PROCEDURE IS EXHAUSTED AS APPELLANT SHOULD NOT HAVE TO WAIT FOREVER FOR RESPONDENTS RESPONSE.

THIS COURT SHOULD RULE THAT IT WILL NOT TOLERATE THE RESPONDENTS FAILURE TO ADHERE TO ITS OWN ESTABLISHED POLICY.

## ARGUMENT 3.

UPON ADMISSION TO THE SCDC, THE SCDC CHANGED MY COURT ORDERED SENTENCE TO VIOLENT AND NOT PAROLE ELIGIBLE IN VIOLATION OF THE EX POST FACTO CLAUSE.

BASED ON THIS ADMITTEDLY FALSE INFORMATION I HAVE BEEN DENIED PAROLE ELIGIBILITY AND DENIED A PAROLE HEARING AND EQUAL PROTECTION AND APPLICATION OF LAW.

(DENIAL OF PAROLE BASED ON ADMITTEDLY FALSE INFORMATION DENIES DUE PROCESS) SEE PAINE V BAKER 595 F2D 197 4TH CIR 1979 CERT DENIED 444 US 925. ALSO SEE MONROE V TUGHEN 932 F2D 1437.

24-21-620 ESTABLISHES "WITHIN 90 DAYS PRECEDING HAVING SERVED 1/4 OF HIS SENTENCE THE BOARD EITHER ACTING IN A THREE-MEMBER PANEL OR MEETING AS A FULL BOARD SHALL REVIEW THE CASE."

I THEN BEGINNING IN SEPTEMBER 2011 STARTED MY COMPLAINTS VIA GRIEVANCE PROCEDURE.

HOWEVER THE SCDC GRIEVANCE PROCEDURE IS EXHAUSTED AS STEP 2 WAS FILED FEBRUARY 2012.

4.

AS FOR PAROLE ELIGIBILITY AND NONVIOLENT AS PART OF PLEA 1 I WAS ADVISED BY COUNSEL AND COURT THAT I WOULD BE SAME.

HOWEVER THE SCDC HAS FAILED TO REPLY AS OF THE CURRENT DATE IN VIOLATION OF THE 214 DAYS TIME LIMIT TO COMPLETE THE SCDC GRIEVANCE PROCEDURE RESPONSES

ALTERNATIVELY PCA COUNSEL HAS STATED THAT HE "CAN NOT AND WILL NOT RAISE THIS ISSUE ON PCA"

MY SENTENCE HAS BEEN ILLEGALLY ALTERED EXTENDED AND ENHANCED AND MY CLASSIFICATION / CUSTODY INTENSIFIED BY SCDC

PETITIONER RELIES ON BROWN V EDAT 7470 SE2D 848, FENDER V THOMPSON 883 F2D 303 (4TH CIR 1989), ROLLER V CADAMBAUGH 984 F2D 301, WEAVER V GRAHAM 101 SCT 960, WARDEN V MARLER 94 SCT 2532, SCHWARTZ V MUNCY 834 F2D 396 (4TH CIR 1987) "ALL IN SUPPORT OF HIS POSITION."

ALSO SEE GRIFFIN V STATE 432 SE2D 864, LYNCE V MATHIS 117 SCT 891 (1997), JENNIGAN V STATE 531 SE2D 507. ALSO SEE ELMORE V STATE 409 SE2D 397, WHERE THE COURT HELD "PROVIDING INCREASED PAROLE ELIGIBILITY TIME WOULD RESULT IN AN EX POST FACTO VIOLATION."

## CONCLUSION

THIS HONORABLE COURT ISSUE AN ORDER GRANTING RELEASE FROM PRISON AND DAMAGES PURSUANT TO RULE 65 (F) (1) AS PETITIONER IS SUBJECTED TO AN ILLEGAL SENTENCE BASED ON THE SCDC APPLICATION OF EX POST FACTO LAW TO SENTENCE AND ANY OTHER RELIEF DEEMED JUST AND PROPER WITHIN THE JURISDICTION OF THIS COURT.

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Curtis Richardson

STATE OF SOUTH CAROLINA  
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ADMINISTRATIVE LAW JUDGE

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APPEAL OF FINAL DECISION  
S. C. DEPARTMENT OF CORRECTIONS

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CURTIS RICHARDSON

APPELLANT

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S.C. DEPT OF CORRECTIONS

RESPONDENT

PROOF OF SERVICE

THIS IS TO CERTIFY THAT I SERVED ~~OF~~ A COPY OF ORIGINAL BRIEF OF APPELLANT ON THE FOLLOWING PARTIES BY PLACING A COPY OF SAME IN THE U.S. MAIL POSTAGE PREPAID ON MARCH 31, 2013, ADDRESSED

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St Curtis Richardson

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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CASE NO: 12-ALJ-04-0945 - I J  
GENV NO: KRCI-0149-12

CURTIS RICHARDSON

APPELLANT

VS

S. C. DEPT OF CORRECTIONS

RESPONDENT

MOTION AND AFFIDAVIT FOR LEAVE TO PROCEED IN FORMA PAUPERIS

FURTHER TO EX PARTE LEXINGTON COUNTY 442  
SE21) 589, LONG V IOWA 87 SCT 362, GRIFFIN V  
WILLIAMS, ILLINOIS 76 SCT 585, LANE V BROWN  
83 SCT 768, WILLIAMS V ST LOUIS COUNTY 812 F21)  
1079. APPELLANT DUE TO INDIGENCY MOVES TO PROCEED  
WITHOUT PREPAYMENT OF FILING FEE IN THIS MATTER.  
(SEE SCJC FINANCIAL CERTIFICATE ATTACHED)

GENERAL COUNSEL OF RECORD:  
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FEBRUARY 25, 2013

HONORABLE SHIRLEY ROBINSON  
S. C. ADMIN LAW JUDGE  
1205 PENNINGTON ST, SUITE 224  
COLUMBIA SC 29201

St. Curtis Richardson