

~~THE STATE OF SOUTH CAROLINA~~

IN THE SUPREME COURT

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APPEAL FROM ADMINISTRATIVE LAW COURT

SHIRLEY G. ROBINSON, ADMINISTRATIVE LAW JUDGE

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Appellate Case No. 2022-UP-276

Docket No. 17-ALJ-04-0591-LJ

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ISIAH, JAMES, JR., Petitioner

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, Respondent.

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PETITION FOR WRIT OF CERTIORARI  
TO SOUTH CAROLINA COURT OF APPEALS

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OCT 27 2022

S.C. SUPREME COURT

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CERTIFICATE OF PETITIONER

Petitioner hereby certifies that the petition for rehearing was made and finally ruled on by the Court of Appeals on 28 September 2022. (App. pp. 34-35)

QUESTION(S) PRESENTED

Does the Court of Appeals' Order address properly all issues(s) petitioner presented to the ALC and whether the Court of Appeals erred further with reference to decision(s) or ruling(s) on the claim(s)?

STATEMENT OF THE CASE

James was serving a long-term sentence in South Carolina Department of Corrections (SCDC) when he was subsequently granted parole release in December 2017; he filed grievance(s) within SCDC prior to parole release; he filed grievance(s) appeals that were appealed which were appealed to the Administrative Law Court (ALC); then appeals to South Carolina Court Appeals and to South Carolina Supreme Court; subsequently he prevailed on these appeals which required the ALC to rule on the merit(s) of his appeal(s) (App. pp. 27-30)

When the ALC issued its ruling on 23 August 2021; he filed a timely appeal to South Carolina Court of Appeal which issued Unpublished Opinion No. 2022-UP-276 on 29 June 2022. (App. pp. 31-33) The Court issued an Order denying the petition for rehearing on 28 September 2022. (App. p. 36).

ARGUMENT(S)

I. DOES THE COURT OF APPEALS' ORDER ADDRESS PROPERLY ALL ISSUE(S) PETITIONER PRESENTED TO THE ALC AND WHETHER THE COURT OF APPEALS ERRED FURTHER WITH REFERENCE TO DECISION(S) OR RULING(S) ON THE CLAIM(S)?

Petitioner James comes to this court contending that the court of appeals improperly decided the appeal herein; the 6.29.22 unpublished opinion points, "when James was sentenced for his conviction in 1979, sentences were calculated using a 360-day year." (App. p. 32) There was only one conviction, just stacking of sentences. Whether the sentences were were real and true does not escape or evade the fact that there is 365 days in a year and 366 days in a leap/fourth year. What about the 5 days every 3 years and the 6 days every 4th year? James who served a long-term and excessive sentence should not be penalized by not re-receiving credit(s) for those days when this Court has repeatedly ruled;

"a penal statute must be construed strictly against the State and in favor of the defendant." Brown v. State, 540 S.E.2d 846. (2001)

The rule of statutory interpretation has been cited in a long line of case law(s) interpretation. 343 S.C. 342, 348 Brown. Citing Williams v. State, 306 S.C. 89, 91, 410 S.E.2d 563, 564 (1991) The Court pointed even to U.S. v. Wiltberger, (18 U.S.) 5 Wheaton 76, 95-96, 5 L.Ed. 37, 42 (1820) therein stating "The rule that penal laws are to be construed strictly ... is founded ... on the plain principle that the power of punishment is vested in the legislative, not in the judicial department. It is the legislature, not the court, which is to define a crime, and ordain its punishment...." Id

So how does the conviction and sentence of 25 years consecutively for a non-defined offense by the legislative branch, which the legislative branch (S. C. General Assembly) justifies no good-time for those 5 and 6 day(s) when petitioner has served for 39 years. See State v. Cutler, 274 S.E. 366, 264 S.E.2d420 (1980).

\*Therein "The lower court held that although appellant was twenty years old when he committed the crime, he was ineligible to be sentence under the Youthful Offenders Act ... because he was twenty-one years old when convicted of the crime."



Second, the unpublished opinion of the South Carolina Court of Appeals footnote 1 set forth, "To the extent James argues the ALC erred by finding SCDC properly credited James with earned work credits and good time credit, we hold James abandoned this issue on appeal by failing to provide an explanation of his argument or specify the amount of credit he failed to receive." (App. P. 32) The information written above herein does not support the ruling. Surely the lower agency (court) and court of appeals have erred and failed to perform the function(s) of the office(s).

Third, as far as moot is concerned; the change(s) in SCDC's policies and criminal/statutory/penal law(s) which affect his max-out date; these issue(s) can never be classified as moot--there is the liberty interest in the actual max-out date, the ex post facto clause is highly relevant thereto and all the credit(s) statutory goodtime and EWC's are intertwined even into the custody aspect of the Agency because there has been changes in the Agency's policies; partial no-parole law(s) and full implementation(s) of no parole law(s) by the General Assembly. Of course, all of this could had been avoided; had the Department recommended an earlier parole release date.

He respectfully requests to fully brief all the issue(s) herein because 39 years of actual imprisonment and 5 years on parole release, he still suffers collateral consequence(s) therewith. The law(s) and policies have engaged change(s) that one cannot comprehend and understand.

This 24<sup>th</sup> day of October 2022.

*Isiah James, Jr.*  
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1810 O Street  
Brunswick, Georgia 31520

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ISIAH JAMES, JR., Petitioner,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS (SCDC), Respondent.

CERTIFICATE OR PROOF OF SERVICE

The undersigned hereby certifies that he has cause true and correct copies of the PETITION FOR WRIT OF CERTIORARI etc. to be mailed, post-paid, to the parties set forth below herein this 24<sup>th</sup> day of October 2022.

Hon. Jenny A. Kirching  
Clerk, SC Court of Appeals  
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s/

*Isiah James Jr.*