

**RECEIVED**

OCT 27 2022

SC Court of Appeals

~~THE STATE OF SOUTH CAROLINA~~

IN THE SUPREME COURT

APPEAL FROM ADMINISTRATIVE LAW COURT

SHIRLEY E. ROBINSON, ADMINISTRATIVE LAW JUDGE

Appellate Case No. 2022-UP-276  
Docket No. 17-ALJ-04-0591-LJ

ISIAH JAMES, JR., Petitioner

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, Respondent.

PETITION FOR WRIT OF CERTIORARI  
TO SOUTH CAROLINA COURT OF APPEALS

Other Counsel of Record:

Christana Catee Bigelow  
OFFICE OF GENERAL COUNSEL  
Post Office Box 21787  
Columbia, SC 29221-1787

Isiah JAMES, Jr  
1810 O Street  
Brunswick, Georgia 31520

INDEX

Certificate of Petitioner	.....	1
Question(s) Presented	.....	1
Statement of the Case	.....	1
Argument(s):		
THE COURT OF APPEALS' ORDER ADDRESS <del>IMPROPERLY</del> THE ISSUE(S) PETITIONER PRESENTED TO THE ALC AND THE COURT OF APPEALS ERRED FURTHER WITH REFERENCE TO DECISION(S) OR RULING(S) ON THE CLAIM(S)	.....	2-4
Conclusion	...	4
Certificate of Service		5

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the ALC issued its ruling on 23 August 2021; he filed a timely appeal to South Carolina Court of Appeal which issued Unpublished Opinion No. 2022-UP-276 on 29 June 2022.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 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 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. Wilberger, (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.C. 376, 264 S.E.2d 420 (1980). Therein

\*Therein "The lower court held that although appellant was twenty years old 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."

But see Busby v. Moore, 498 S.E.2d 883 (1998) "The Court's primary function in interpreting a statute is to ascertain the intent of the General Assembly. State v. Baker, 310 S.C. 510, 427 S.E.2d 670" 330 S.C. 203. Also stated therein:

Section 24-15-210(a) as the Code States:

A prisoner convicted of an offense against the State, . . . ., and sentenced to custody of the Department of Correction . . . ., whose record of conduct shows that he has faithfully observed all the rules of the institution . . . . . beginning with the day on which the service of his sentence commences to run, computed at the rate of twenty days for each month served. Id.

Moreover, SCDC policy mentions when one completes a sentence,<sup>1</sup> it is closed—no earned work credits (EWC) and/or statutory goodtime credit(s) (SGC) can be taken therefrom for a disciplinary and/or etc. Petitioner completed both voluntary manslaughter sentence(s) on or about 4.12.2010 (see App. p. 20) Important to notice there was only one (1) conviction or for sure James would have been subjected to violations of the double jeopardy clauses of the State and Federal constitutions. This would suggest or demonstrate the 60 years consecutive sentence (2 30 years) was satisfied after he served a term of imprisonment for approximately or more than 32 years without parole release.

There is no indication in the record that he received 5 days a month for each year served, for the 5 and 6 days a month set forth herein above nor any SGC on the 5 month(s) served and 20 day for each month would constitute another 100 days SGC, There was not any adjustment(s) therewith which would constitute due process violation associated with the liberty interest(s) of statutory goodtime. But why would the Court dictate or write in Busby:

The calculation advanced by petitioners reduces the time prisoners serve to one-third of their sentences. Under the calculation advanced by the Department of Corrections, a perfectly behaved prisoner's sentence would be reduced by three-fifths. 330 S.C. 201.

1. This would be SCDC policy OP-22-09.

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.

s/ Isiah James, Jr.  
Isiah JAMES, Jr.  
1810 O Street  
Brunswick, Georgia 31520

~~THE STATE OF SOUTH CAROLINA~~

**RECEIVED**

IN THE SUPREME COURT

OCT 27 2022

APPEAL FROM ADMINISTRATIVE LAW COURT

SC Court of Appeals

SHIRLEY B. ROBINSON, ADMINISTRATIVE LAW JUDGE

Appellate Case No. 2022-UP-276  
Docket No. 17-ALL-04-0591-1F

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  
POB 11629  
Columbia, SC 29211

Christina C. Biglow  
POB 21787  
Columbia, SC 29221

s/ *Isiah James Jr.*

Isiah James  
1810 O St. N  
Brunswick, GA 31520

U.S. POSTAGE PAID  
FORM 3876  
BRUNSWICK, GA  
31520  
3/27/24, 22  
AMOUNT  
**\$1.44**  
R2304H106620-10

TO: Hon. Jenny A. Kitching, CLERK  
S.C. Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

**RECEIVED**  
OCT 27 2022  
SC Court of Appeals