

The S.C. Court Of Appeals

Ms. Jenny Abbott Kitchings, Clerk

P.O. Box 11629

Columbia, S.C. 29211

May 25, 2013

Re: Julian Ford, Jr., #155800 V. SCDC

Appellate Case No. 2012-212645

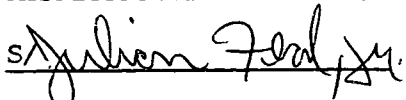
Dear Ms. Kitchings.

Enclosed please find the Original Petition For Rehearing to be filed in your office and presented to the court for review, as you may recall, this court has allowed me to file only one copy due to the fact that the SCDC does not allow inmates to copy materials generated by the inmate, therefore I am requesting that this matter be received as properly filed, I am also providing the Respondent, SCDC Office Of General Counsel, Christopher D. Florian, with One Complete Copy.

I also request of this Court to allow this pleading to be Filed or Held in Abeyance until I am able to pay the Filing Fee, I am scheduled to be Released on Supervised Furlough on June 3, 2013 and I will come to the Court and Hand - Deliver the Filing Fee at that time, or if for some reason that I am not released on that date, I will have a Family Member bring it to the Court, I request this because I do not have the funds in my Account, and I pray that this Court will grant this Request.

Lastly, I would inform this Court that the Court has been placing an Incorrect Inmate Number on the Paper Work, "ID No. #144899," is not my SCDC Number, my number is "155800," I don't know why its there but I thought I would inform this Court. Thank You

RESPECTFULLY SUBMITTED,



Julian Ford, Jr., #155800

CC: Christopher D. Florian, Esquire

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MAY 30 2013

SC Court of Appeals

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From The Administrative Law Court

The Honorable John D. McLeod, Administrative Law Judge

Case No.2012-212645

Julian Ford, Jr.,Appellant,

v.

South Carolina Department Of Corrections.....Respondent

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PETITION FOR REHEARING

I Julian Ford, Jr., the petitioner respectfully request that this court will reconsider its Order dated April 1, 2013 and Filed on May 22, 2013, Unpublished Opinion No.2013-UP-218, and was received by the Petitioner on May 24, 2013. This Petition is based upon the following:

Facts

This matter comes before this court pursuant to an appeal in the Administrative Law Court filed on April 10, 2012 and was denied on July 20, 2012, and appealed to this court on or about August 31, 2012, and would now request a Petition for Rehearing on this Court's Order Filed May 22, 2013, whereby this court has "overlooked and Misapprehended," the following issues and facts, which have to be reviewed and ruled upon in order to properly preserve the matters for further review by the S.C. Supreme Court.

Argument

1. The court of appeals overlooked and misapprehended the fact that the petitioner was not a violent offender from July 24, 1995 to April 11, 1996, and the respondent admitted that fact after the ALC's Ruling, because the petitioner was not serving a violent sentence for criminal sexual misconduct, but was serving a consecutive Non-Violent Sentence for Strong Armed Robbery.

The petitioner tried to show the respondent and the ALC that he was not serving a violent sentence at the time in question, but the respondent and the ALC would not review that fact until after the petitioner continued to raise that fact in this court of appeals, the respondent has admitted to this court in its initial and final briefs that the SCDC found that after reviewing the petitioner's consecutive sentence structure, that the petitioner was not serving a violent sentence in 1995 to 1996, but again, that admission came after the ALC's Final Decision.

The ALC found that the petitioner was not eligible to receive educational or work credits because he was a violent offender in accordance with S.C. Code §24-13-230(F)(2), this statute was not applicable to the petitioner at that time because the petitioner did not begin to serve a violent sentence until September 8, 1998, some two years after his non-violent sentence for strong armed robbery had expired, and as a result, the petitioner has served 10 Months over that portion of his sentences, and furthermore, the ALC's finding cannot be supported by any substantial evidence, as well as the respondent has already given the petitioner 30 Days of the 10 Months owed to him.

The respondent informed the court of appeals that they had given the petitioner educational credits for the time period in question, and requested of this court to find that the ALC's finding was supported by substantial evidence, and the petitioner would ask this court if the ALC would have ruled in favor of the respondent if they had told the court that the petitioner was entitled to educational credits, the ALC was misled as to the issue of the petitioner being a Non-Violent offender at the time in question.

The petitioner filed a Supplemental Brief on September 7, 2012 requesting of this court to order the respondent to give the petitioner the rest of the time owed to him because they had admitted that the petitioner was entitled to educational credits, but this court has not reviewed the Supplemental Brief, nor has it considered the fact that the respondent has admitted that the petitioner was not a violent offender at the time in question, and has given the petitioner 30 Days of the 10 Months owed to him.

The petitioner contends that this case is not about whether he is entitled to credits, but about how much time and credits he is owed, which the petitioner contends is the total amount of time he was assigned to school as his job, and that that amount is the time period of July 24, 1995 to April 11, 1996, whereby he served that much time over his consecutive 10 Year Non-Violent Sentence for Strong Armed Robbery.

2. The court of appeals overlooked and misapprehended the fact that the petitioner is entitled to Work Credits in accordance with S.C. Code §24-13-230 (A) and SCDC Policy OP-21.07, Sect.(2.2) because he was not a violent offender at the time in question, but was instead serving a Non-Violent Sentence for Strong Armed Robbery, and was entitled to be compensated with work credits for the time he was enrolled in school.

S.C. Code §24-13-230(A) also states that inmates who are regularly enrolled and actively participating in an academic, technical, or vocational training program is eligible to receive a reduction from the term of his sentence of zero to one day for every two days he is employed or enrolled, for a maximum annual credit for both work credits and educational credits is limited to one hundred and eighty days, therefore the petitioner did not have to be assigned to a work detail in order to get work credits, as well as SCDC Policy OP-21.07, Sect.(2.2) clearly states that inmates are compensated with work credits for being enrolled in an academic program, and the petitioner contends that school is an academic program under law and policy.

3. The court of appeals overlooked and misapprehended the issue of Good Time Credits, which the petitioner raised in the Supplemental Brief.

The petitioner contends that the court of appeals allowed the him to amend this matter to his appeal, and the respondent did not file an objection or a reply brief in accordance with the S.C. Appellate Court Rules, therefore this issue should be properly before this court for a review, whereby the petitioner has argued all along that the SCDC not only owed him work credits, but that they also owed him the actual time he served over his sentence, the petitioner cannot just be given credits to satisfy the error, because he would still be serving more time than he should have in order to max-out the consecutive 10 year non-violent sentence, therefore good time would also have to be applied to satisfy that sentence.

The SCDC cannot just give the petitioner 30 days and that's it, their the ones who stated the time frame was from July 24,1995 to April 11,1996, not the petitioner, so at the very least, the petitioner cannot receive less than the time for that period, whereby good time have to be included with work credits in order to balance out the term of sentence, therefore good time must be included in the ruling of this court because the respondent has already conceded that the petitioner is entitled to the credits.

Conclusion

Based upon the forgoing, the petitioner would request that this court vacate the Order of May 22,2013, and grant further review of the issues and facts presented in this petition, whereby the court's foot note seem to indicate that the court is aware of the respondent's claims that they have given the petitioner the credits he is owed, because they wanted this court to rule that the matter was now moot, but its not moot because they only gave the petitioner 30 days of the time owed to him, and that he is entitled to work credits in accordance with law and policy, and lastly, because they failed to present these facts to the ALC, and as a result they compelled that court to make an inaccurate ruling, and the petitioner prays that this court will grant this petition.

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From The Administrative Law Court

The Honorable John D. McLeod, Administrative Law Judge

Case No.2012-212645

Julian Ford,Jr.,.....Appellant,

v.

South Carolina Department Of Corrections.....Respondent.

PROOF OF SERVICE

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SC Court of Appeals

The above named Petitioner Swears under the Laws of Perjury that he Mailed the Original Petition for Rehearing to the S.C. Appellate Court, Ms. Jenny A. Kitchings, Clerk, P.O. Box 11629, Columbia, S.C. 29211, and One Complete Copy to the SCDC Office Of General Counsel, Christopher D. Florian, P.O. Box 21787, Columbia, S.C. 29221-1787, by depositing the same in the U.S. Mail Box at the Kershaw Correctional Institution Mail Box, 4848 Goldmine Hwy., Kershaw, S.C. 29067.

Date:May 25,2013

RESPECTFULLY SUBMITTED,

Julian Ford, Jr.

Julian Ford,Jr.,#155800

Sycamore Unit B - 6

Kershaw C.I.

4848 Goldmine Hwy.

Kershaw, S.C. 29067

Petitioner Pro,Se

CC:File