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SC Court of Appeals

INITIAL BRIEF

RICHARD VANDALE CLOWNEY, #276073
APPELLANT,

V.

SCDC, RESPONDENT.

CASE No. 2022-001813

HONORABLE RALPH KING ANDERSON, III
CASE No. 2022ALJ040207AP

INITIAL BRIEF

- (1) DISTRIBUTION OF HEROIN 1ST OFFENSE
S.C. CODE ANN. 44-53-0370; VIOLATION
OF HIP; PAGE 3-4 REC. PAGE 23, 25, 26.
HAYES' CREDIT. REC. PAGE. 27, 28, 29, 30, 31.
- (2) PROBATION REVOCATION S.C. CODE
ANN. 44-53-0370; PAGE 4 REC. PAGE 24.
- (3) UNLAWFUL POSSESSION OF A PISTOL BY
CERTAIN PERSON S.C. CODE ANN. 16-23-
0030; PAGE 4 REC. PAGE 10, 11.
- (4) POSSESSION OF A FIREARM BY A PERSON
CONVICTED OF A VIOLENT CRIME S.C.
CODE ANN. 16-23-500(A); PAGE 5 REC.
PAGE 13, 14.
- (5) UNLAWFUL CARRYING OF A PISTOL

S.C. CODE ANN. 16-23-0020; PAGE 5
REC PAGE 18, 19.

STATEMENT OF ISSUES

DISTRIBUTION OF HEROIN 1ST OFFENSE
8 YR SUSPENDED TO 2 YRS HIP AND 18 MTH
PROBATION. VIOLATION OF HIP 6 MTH.
VIOLATION OF HTP 500 DAYS. PROBATION
REVOCATION 3 YRS. UNLAWFUL
POSSESSION OF A PISTOL 3 YR. POSSESSION
OF A FIREARM 3 YR. UNLAWFUL CARRY-
ING 1 YR.

STATEMENT OF CASE

ON NOVEMBER 13, 2018 I RECEIVED A
SENTENCE OF 8 YRS SUSPENDED TO 2 YRS
HIP AND 18 MONTHS PROBATION FOR
DISTRIBUTION OF HEROIN 1ST OFFENSE.

ON JUNE 11, 2019 I RECEIVED A 6 MTHS
SENTENCE FOR FAILURE TO COMPLY WITH
HIP. ON NOVEMBER 15, 2019 I RECEIVED
A SENTENCE OF 500 DAYS FOR FAILURE
TO COMPLY WITH HIP. ON JANUARY 14,
2022 I RECEIVED A 3 YR SENTENCE
FOR REVOCATION OF PROBATION.

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ON JUNE 1, 2022 I RECEIVED 2 CONCURRENT SENTENCES OF 3 YRS FOR POSSESSION OF A PISTOL AND POSSESSION OF A FIREARM AND A 1 YR CONCURRENT SENTENCE FOR UNLAWFUL CARRYING OF A PISTOL. ON JUNE 8, 2022 I FILED A STEP 1 GRIEVANCE FOR MY 422 DAYS OF TIME SERVED CREDIT THAT WAS DENIED BY THE WARDEN ON JUNE 13, 2022. ON JUNE 16, 2022 I FILED A STEP 2 GRIEVANCE FOR MY 422 DAYS OF TIME SERVED CREDIT THAT WAS DENIED BY THE OFFICE OF GENERAL COUNSEL ON JULY 7, 2022. ON JULY 20, 2022 I FILED A NOTICE OF APPEAL WITH THE ADMINISTRATIVE LAW COURT FOR MY 422 DAYS OF TIME SERVED CREDIT THAT WAS DENIED BY THE HONORABLE RALPH KING ANDERSON III ON DECEMBER 14, 2022.

STANDARD OF REVIEW

PROVIDED BY S.C. CODE OF LAWS
24-13-40 COMPUTATION OF TIME SERVED BY PRISONERS.

IN EVERY CASE IN COMPUTING THE TIME SERVED BY A PRISONER, FULL CREDIT AGAINST THE SENTENCE MUST BE GIVEN FOR TIME ~~SERVED~~ PRIOR TO TRIAL AND SENTENCING, AND MAY BE GIVEN FOR ANY TIME SPENT UNDER MONITORED HOUSE ARREST.

PROBATION ~~&~~ REVOCATION; HAYES V. STATE.

CONCURRENT SENTENCES; TANT V. SCDC

ARGUMENT FACTUAL BACKGROUND

THE ADMINISTRATIVE LAW JUDGE ERRED FOR AFFIRMING SCDC DECISION TO DENY MY STEP 2 GRIEVANCE FINDING THAT I AM NOT ENTITLED TO 422 DAYS OF TIME SERVED CREDIT PROVIDED BY THE RECORD ON APPEAL THE AMOUNT OF TIME SERVED THAT I HAVE SERVED PRIOR TO TRIAL AND SENTENCING.

2-14-17/2-15-17 REC. PG. 30. 2 DAYS. 2-25-18/

2-27-18 REC. PG. 28. 3 DAYS. 11-27-18/

12-11-18 REC. PG. 28. 15 DAYS. 5-24-19/

8-30-19 REC PG. 28. 99 DAYS. 8-31-19 /
9-11-19 REC PG. 29. 12 DAYS. 10-14-19 /
7-1-20 REC PG. 30, 26. 261 DAYS. 4-12-21 /
4-14-21 REC PG. 31. 3 DAYS. 10-3-21 /
10-29-21 REC PG. 31. 27 DAYS. A TOTAL
OF 422 DAYS OF TIME SERVED
PRIOR TO TRIAL AND SENTENCING.
RECORD PAGES 25-31. SCDC DECIS-
ION TO DENY MY STEP 2 GRIEVAN-
CE IS (A) IN VIOLATION OF CONST-
ITUTIONAL OR STATUTORY PROVIS-
IONS; (B) IN EXCESS OF THE STATUT-
ORY AUTHORITY OF THE AGENCY; (C)
MADE UPON UNLAWFUL PROCEDURE;
(D) AFFECTED BY OTHER ERROR OF LAW;
(E) CLEARLY ERRONEOUS IN VIEW OF
THE RELIABLE, PROBATIVE, AND SUBST-
ANTIAL EVIDENCE ON THE WHOLE
RECORD; OR (F) ARBITRARY OR CAPRI-
CIOUS OR CHARACTERIZED BY ABUSE
OF DISCRETION OR CLEARLY UNWAR-
RANTED EXERCISE OF DISCRETION.

CONCLUSION

THE RELIEF REQUESTED IS TO
RECEIVE MY 422 DAYS OF TIME

SERVED CREDIT THAT I AM ENTITLED TO AND BE IMMEDIATELY RELEASED FROM SCDC CUSTODY.

#276073 RICHARD CLOWNEY

LVC I Richard Clowney

P.O. Box 580

AUG. 27, 2023

UNA SC 29378

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PROOF OF SERVICE

I CERTIFY THAT I HAVE SERVED A COPY OF
THE INITIAL BRIEF AND DESIGNATION OF
MATTER ON THE ALC AT 1205 RENDLETON ST.
SUITE 224 COLUMBIA S.C. 29201 AND OFFICE
OF GENERAL COUNSEL AT P.O. BOX 21787
COLUMBIA S.C. 29221.

#276073 RICHARD CLOWNEY

LVCI Richard Clowney

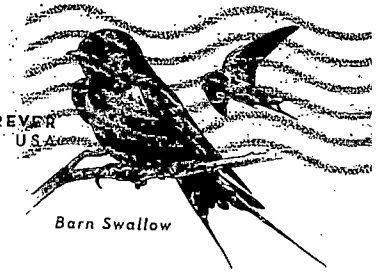
P.O. Box 580

AUG. 27, 2023

UNA S.C. 29378

RICHARD CLOWNEY #216015
VCI 2-17-B
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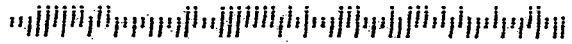
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S.C. COURT OF APPEALS
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COLUMBIA, S.C. 29211

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