

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
HONORABLE RALPH KING ANDERSON, III
CASE No. 2022/ALJ040207AP

RICHARD VANDALE CLOWNEY, #276073,
APPELLANT,

V.

SCDC, RESPONDENT.
CASE No. 2022-001813

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INITIAL BRIEF

SC Court of Appeals

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

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~~ SERVED PRIOR TO TRIAL AND SENTENCING, AND MAY BE GIVEN FOR ANY TIME SPENT UNDER MONITORED HOUSE ARREST.

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

CONCURRENT SENTENCES; TANT V. SCDC
BRAXTON 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 BY S.C. CODE 24-13-40 AND REVERSE
SCDC AND THE ALC DECISION TO DE-
NY ME 422 DAYS OF TIME SERVED
CREDIT.

#276073 RICHARD V. CLOWNEY
LVCI Richard V. Clowney
P.O. Box 580

MARCH 4, 2023

UNA, S.C. 29378

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Proof Of SERVICE

MAR 09 2023

SC Court of Appeals

I CERTIFY THAT I HAVE SERVED THE
INITIAL BRIEF AND DESIGNATION OF
MATTER ON SCDC OFFICE OF GENERAL
COUNSEL AT P.O. Box 21787 COLUMBIA
S.C. 29221 AND THE ADMINISTRATIVE
LAW COURT AT 1205 PENNINGTON ST.
SUITE 224 COLUMBIA S.C. 29201.

#276073 RICHARD V. CLOWNEY

L.V.C.I. Richard V. Clowney

MARCH 4, 2023

P.O. Box 580

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S.C. Court Of Appeals
P.O. Box 11629
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