

State Of South Carolina
IN The Court Of Appeals

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MAY 12 2023

Appeal from Horry County SC Court of Appeals

Honorable R Ferrell Cothran, Jr Circuit Court Judge

Honorable William H Seal Jr, Circuit Court Judge

Honorable Bruce William Cheif Appeal Court Judge

Appellate Case No 2021-001271

The State,

Respondent

VS

Jamie Goss

Appellant

Final Brief Of Appellant

Jamie Goss 294885
Pro Se Appellant

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Case Law IN Court OF Appeal

S.C. Rules of Civil Procedure 59(e)

S.C. Rules of Civil Procedure 52 b

Humbert v. State 345 S.C. 332 549 S.E. 2d 862 (June 25, 2001)

Marlary v. State 375 S.C. 407, 653 S.E. 2d 266 (Nov 5, 2007)

Rule 241 of S.C. ACR (c)(4)

S.C. Constitution Art. 1-15

Ramos v. Lamm, 639 F.2d 559, 575 (10 Cir. 1980) Citation Omitted
Cert, 450 U.S. 1041, 101 S.Ct. 1759, 68 L.Ed.2d 239

Todaro v. Ward 52 (2d Cir 1977)

Pursuant to 18 USC: 3582

South Carolina Executive Order 2021-22 State of Emergency

Declaration of Policy 24-1-20

Herter v. Mullen 159 N.Y. 28, 37 (1899)

S.C. Const. Art. 12 section 2

Article VI, Clause 2 (Supremacy Clause)

Nichols v. Patterson 222 S.C. 352, 25 S.E. 2d 155, 156 (1943)

Title 24 section 2 S.C. Code Annotated 1976

S.C. Code 24-1-150

Care Act Section 12003(b)(2)

S.C. Code 17-15-50

S.C. Const Art I section 8

Stokes v. Metro Life Ins Co 351 S.C. 606, 609-10 571 S.E. 2d
711, 713 (Ct. App 2002)

S.C. Const 24-21-920

Erie R.R. Co v Tompkins 304 U.S. 64 78, 58 S.Ct 817, 82
L. ED. 1188 (1938)

Other Case Authorities

LEGAL MAIL

- Robinson vs. Shell Oil Company, 117 S.Ct. 843, 846 (1977)
U.S. vs Ron Parr Enterprises, Inc, 109 S.Ct 1026, 1030 (1989)
Connecticut National Bank vs Germain 112 S.Ct 1146 (1992)
U.S vs. Myers 106 F.3d 936, 941 (CA10 1997)
Association of Civilian Technicians vs. Federal Labor
Relation Auth. 22 F.3d 1150, 1153 (DC Cir 1994)
Smith vs. Robertson 210 S.C 99, 41 SE 2d, 631 (1947)
McLamore vs. State 257 S.C. 413, 196 SE 2d 250 (1972)
Elliot vs. McNair 250 S.C. 75 156 S.E. 2d 421
Anton vs. SC Coastal Council 469 S.E. 2d 604 (1996)
State vs. Whitener 225 S.C 249, 91 SE 2d 784 (1954)
Logan vs. Zimmerman Brush Co. 455 US. 422 430-31 (1982)
Ken Moorhead Oil Co. vs. Federated Mut. Ins 476 SE 481 (1996)
Jones vs. Grinnel Corp 362 A2d 139, 143
U.S. Outdoor Advert, Inc vs. S.C Dept. of Transportation (1997)
Hunter and Walden Co vs. S.C. State licensing Bd of Contractors
272 S.C. 211 251 SE 2d 186 (1979)
Goodman vs. City of Columbia 318 S.C 483, 459, S.E 2d (1995)
Anderson vs. Douglas Co. 4 F.3d 574 577 8th Cir
Tropp vs. Dulles 79 S.Ct 590 598 (1958)
Personnel Admins. of Mass vs. Feeny 99 S.Ct. 2282
Feeny vs. Comm of Mass 475 F. Sup. Log affirmed S.Ct 1075
Brown vs. Evatt 470 SE 2d 848, 851, 1996
Sandin vs. Conner 115 S.Ct. 2293 (1995)
Slezak vs. Evatt 21 F.3d 590 4th Cir

Introduction Fact Of Law

Petitioner file Pro se motion for compassionate release under extraordinary circumstances in the jurisdiction of Horry County Court of Common Pleas. Presiding Judge Honorable Benjamin Culbertson denied aforementioned motion consequently closing the case. Petitioner appealed drafting a motion to amend supplement fact finding under the provision of S.C. Rules of Civ. Procedure 59(e) and S.C. Rules of Civ. Procedure 52(b) and *Humbert v. State*, 345 S.C. 332 548 S.E. 2d 862 June 25 2001 and *Maryland v. State* 375 S.C. 407 653 S.E. 2d 266 (Nov 5, 2007) question of law and fact later denied by Honorable William H. Seal, Later I appealed this motion to the court of appeal in mean while waiting on the appeal I file a motion to the Court of appeal for emergency extraordinary circumstance bond which later was denied by Honorable Bruce William chief Judge in the Court of Appeal

I have served 17 year incarcerated throughout various institutions within SCDC. SCDC has a known Public reputation for not meeting the statutory burden of humane treatment for reason including but not limited to: shortness of staff in each department (most severely in security and mental health); This decade old reputation has been unforeseen through statutory provision all through overcrowding and short of staff

South Carolina Constitution Article XII section 2 Articulates specific Requirement the manner by which the state must treat it's prisoners.

In the early 1970 the General Assembly and the people of this state amended the South Carolina Constitution to mandate that the state provide specific services to it prisoners. The amendment reads as follows: Article XII section 2 Institution for confinement of person convicted of crimes. The General Assembly shall establish institution for the confinement of all person convicted of such crime as may be designed by law, and shall provide for the custody maintenance health, welfare, education and rehailitation of of the in-mate. In order to understand the meaning of any legal statute or phrase of law, it is necessary to determine the meaning of the language as it is used in the particular context.

Robinson v. Shell Oil Company 117 S.Ct. 843-846 (1977) Our first step interpreting a statute is to determine whether the language at issue has a plain and unambiguous meaning with regard to the particular dispute in the case. Our inquiry must cease if the statutory language is unambiguous and the statutory scheme is coherent and consistent U.S. v. Ron Pair Enterprise Inc. 109 S.Ct 1026 1030 (1989) See also Connecticut Nat Bank v. German 112 S.Ct 1149-50 (1992)

571 S.E. 2d 711, 713 (Ct. app. 2002)

S.C. Code Annotated 17-15-50

S.C. Const. Art. 1 Section 15

S.C. Const. Art. 1 Section 8

Article XII section 2 utilizes the word shall provide. In this context, shall is mandatory (U.S. v Myers, 106 F 3d 936 941 (CA10 1997)). It is basic canon statutory construction that the use of the word shall indicates a mandatory intent (Association of Civilian Technicians v. Federal Relations Auth. 22 F.3d).

While the focus of this argument is on the constraints placed on the legislature to provide meaningful rehabilitation to state prisoners, it should be noted that Article XII section 2 stands as a command and state constitutional guarantee. The legal meaning of Rehabilitation is found in Black's Law Dictionary 6th Ed 1990 which states: Investing or clothing again with some right authority or dignity, Restoring person or thing to a former capacity; reinstating Qualifying again Restoration of Individual to his greatest potential, whether, physically, mentally, socially or vocationally. Accordingly there can be no doubt rehabilitation in the context of Article XII section 2 restoring the prisoner to a capacity where he can physically, mentally, socially and vocationally reenter society as a productive member. Furthermore, to ensure that the Commands of the Constitution were abided by the General Assembly and the people of South Carolina left no doubt as to their intention in this regard by placing severe restriction on the activities of all branches, agencies department and subdivisions of state government thus limiting their authority only to that allowed by the Constitution.

Article I Section 23 provision of Constitution Mandatory. The provision of the Constitution shall be taken, deemed and construed to be mandatory and prohibitory and not merely directory except where made directory or permissive by its own terms.

Hence the Constitution of South Carolina is limitation upon rather than a grant of Legislative powers (South v. Robertson 210 S.C. 99, 41 S.E. 2d 631 (1947)). In other words the Government must abide by and limited to terms granted to it in the Constitution.

Although the Commands of the Constitution are quite clear there exist some confusion over the Court interpretation on this Constitutional amendment because of two citations under the Case Notes of Article XII section 2 the citations are from a case brought under the Post Conviction Relief Statute of South Carolina in *McLamore v. State* 257 S.C. 413 196 S.E. 2d 250 (1972) which states: There is no duty to educate or rehabilitate prisoners certain constitutional rights follow a person into confinement but there is no constitutional duty imposed on any governmental entity to educate or rehabilitate him it's not a requirement of the due process and equal protection clauses of either the State or the United States Constitution, that if the state undertakes to provide rehabilitation facilities it must provide such facilities to all prisoners or to none.

However *McLamore* was brought in 1969 under S.C. Const. Article XII section 2 which at the time was entitled and read as follows: Convict sentenced to hard labor; all convicts sentenced to hard labor, by any of the courts in this state may be employed upon the public works of the State or the Counties and upon the public highways.

A clear reading of the present South Carolina Constitution show that Article XII Sub section 6 was repealed at the time of the enactment of Article XII section 2. Therefore at the time *McLamore* filed his action, Article XII sub section 2 did not exist as it is written today otherwise that case would have been decided differently. In light of these facts once the Commands of South Carolina Constitution are

are given your proper consideration there is an unavoidable conclusion that the state must provide rehabilitation for its prisoners.

An due process analysis of South Carolina Constitution requires a different interpretation of substantive and procedural due process, equal protection and the ban against cruel and unusual punishment, that which is required under United States Constitution.

Like every other Article, clause, phrase or word in the Constitution, Article XII section 2 of the S.C. Constitution is a command. It is not meaningless phraseology without specific intent and purpose. The State Constitution does not allow the legislature unbridled authority in passage of laws.

The General Assembly may only enact law that are not expressly or by clear implication prohibited by the Constitution. *Elliot vs. McNair*, 250 S.C. 75, 156 S.E. 2d 421. In other word the legislature must abide by and is limited to the term granted to it in the Constitution. The Constitution is the Supreme Law. *Anton vs Coastal Council*, 469 S.E. 2d 604 (1996) (emphasis added) where there is a conflict between a statute and the State Constitution, the constitution overrides the statute. *State vs. Whitener* 225 S.C. 244 91 S.E. 2d 784 (1954)

Simply put the General Assembly made a contract with the people and prisoners of this state to ensure that the prisoners would receive the sufficient rehabilitation during their incarceration. Thus, ensuring them a greater chance at being a successful and productive citizen if released back into society,

The Constitutional obligation cannot be abridge or avoided simply by the passage of more restrictive sentencing law. the passage of any restrictive sentencing laws that alter deny or otherwise interfere with the command of the

CONstitution, makes that law UNConstitutional. Hence Article XII section 2 is equivalent to a constitutional contract in which state prisoners have a liberty and property interest that must be honored, Logan Vs. Zimmerman Brush Co. 455 US 422 430-31 (1982) see also Ken Moorhead Oil Co. Vs. Federated Mut. Ins 476, 485, (SC 1996)

Therefore South Carolina Constitution Article XII section 2 limits legislative authority to providing for the custody, maintenance, health, welfare, education and rehabilitation of the inmates in order to ensure that any prisoner returned to society would be physically mentally socially and vocationally prepared to be productive member of society. (Jones vs Grinnell) Corp 362 A2d 139, 143] Any attempt by the legislature or other department cannot avoid its constitutional duty by putting slippage in the joints that allow a state department or agency "unbridled discretion in its decision making process. US Outdoor Advert Inc vs. SC. Dept. of Transport 491 SE 2d 112, 113, (1997).

An administrative regulation is valid so long as it is reasonably related to the purpose of the enabling legislation. Hunter and Walden Co vs. SC State Licensing Bd of Contractors 272 SC 211, 251 S.E. 2d 186 [1978]

However although regulations have the force of law they may not alter or add to the terms of a statute Croodman vs City of Columbia, 318 S.C. 488, 458 S.E. 2d 531 (1995) Society of Prof'd Journalist vs. Sexton 382 S.C. 563 324 SE 2d 313 (1984)

Hence any law passed by the legislature which denies or interferes with a prisoners rehabilitation or any delegation of authority to any state agency which does the same is unconstitutional.

It is undisputed that under the United States Constitution although states must provide the basics to a prisoner *Estell vs Gamble* 97 SC. At 290-910 they are not required to rehabilitate them (*William vs McGinnis*) 755 F Supp 230) However unlike the federal constitution. The South Carolina Constitution does require that prisoners be rehabilitated. Accordingly Federal right can flow from a courts interpretation of a state constitution *Mathis vs. Eli Lilly and Co.* 719 F.2d 134 137 (1983)

When presented with challenge to constitutionality of state statute under State Constitution, federal court must look to the decision of the State supreme Court and if there are none must determine how the State Supreme court would rule if presented with the same issue

Hence when a court takes into consideration the fact that the South Carolina Constitution demands rehabilitation for its prisoners and that this Constitution itself is a mandate to government from the people, the federal constitution take on a different meaning. When a state violates its own constitution and the mandates of it's people, that would be "truly Irrational" in violation of substantive due process. *Thompson vs. Ellenrecker* 935 F.2d sup 1037, 1040 (DCSD 1995).

The eighth Circuit explained "a plaintiff asserting a substantial Due Process claim must establish that the government action complained of is truly Irrational

that is something more than arbitrary capricious or in violation of state law. Anderson vs. Douglas County 4 F. 3d 574 8th cir 1991)

Moreover the Eight Amendment to the US Constitution most also take on a different meaning since the people set the minimum standard of civilized decency in South Carolina by mandating rehabilitation as part of their Constitution. Tropp vs. Dulles 78 S.Ct 590 598 (1958)

The basic concept underlying the Eighth Amendment is nothing less than the dignity of man. The amendment must draw its meaning from evolving standard of decency that mark the progress of a maturing society.

Finally the Equal Protection Clause also requires more protection as South Carolina has elevated its prisoner to protected class. Any legislation enacted that denies rehabilitation to them must be judged under strict scrutiny. (Personnel Adm of Mass vs Feeney 99 S.Ct 2282 Feeney vs. Comm of Mass 475 F Supp 109 affirmed 100 S.Ct 1075 1980)

The problem in South Carolina can be summed up in one case Brown vs. Evatt 470 SE 2d 848 851 (1996) The Federal Constitution vest no liberty interest in retaining or receiving any particular security or custody status as long as the challenged conditions or degree of confinement are within the sentence imposed and are not otherwise violative of the

Constitution *Sandlin vs. Conner* 115 S.Ct 2293 1995
Slezak vs. Evatt 21 F.3d 590 (4th Cir) Within
these limits and custody classification of state
prison inmates is a matter for state prison official
discretion whose exercise is not subject to federal
procedural due process constraints, *Sandlin vs*
Conner supra) Nonetheless a liberty interest in
state inmates to retain or attain a particular
security or custody classification may be created
by state law regime mandates both a
detailed procedural process for making classification
decision and substantive criteria to be
used in make this decision, No Constitutionally
protected liberty interest is created if the
regime either the

the primary decision maker or any reviewing authority is authorized to override as a matter of discretion, any classification suggested by application of the prescribed substantive criteria (Slezak vs Evatt, Supra Holding that Brown had no liberty Interest because "neither the state statutes which creates and define the powers of SCDC, SCDC's operational Classification regulation create the required liberty Interest"... .

It is important to note that Brown brought his case under the United States Constitution without asking the court to consider the mandates of South Carolina Constitution Article XII section 2. Had Brown brought his claim Under Article XII section 2 the state would have been forced to implement procedures which are outcome determine by placing "substantive limitation on official discretion and a detailed procedural process for making classification decision" along with a substantive criteria to be used in making those decision as required by the mandatory language of Article XII

Once the allegations contained in the plaintiff's Complaint along with law and contained in the facts of the Brief (infra) are give proper consideration, it is clear that the legislature has violated the command's of the state and federal Constitution by passing laws which directly deny prisoners of access to meaningful rehabilitations program. They have further violated the

Constitution by passing law which allow or create slippage in the Joint's which permits the department of correction and parole Board to deny rehabilitation to prisoners by using "unbridled discretion" and no "detailed procedural process" or substantive criteria upon which their decision must be made. Since the Legislative has clearly exceeded the scope of authority granted to it by the Constitution, the Constitution, the conditions of confinement must be corrected as a matter of law.

Ground For Bond

Did Judge In Both Court fail to give me bond because I could not breath; Do to not being available ~~meant~~ for C.P.A.P during Covid-19?

Ground For Appeal Court Err in Bond hearing

Did the appeal court Judge err in failing to give Jamie Goss bond according to Gov Executive order 2021-22 State of emergency, as to a life and death situation?

Did the appeal court err in failing to use injunction power during Covid 19 because SCDC cannot follow CDC guidelines when those guidelines was not made for short of staff?

Did appeal Judge err in failing to release Jamie Goss under extraordinary circumstances pertaining to the Care Act?

Did appeal judge err in failing to give Jamie Goss bond due to overcrowding and short of staff in every department ~~there~~ especial when denied for C.P.A.P. machine?

Excessive bail shall not be required nor shall excessive fines be imposing nor shall cruel nor corporal nor unusual punishment be inflicted nor shall witnesses be unreasonably be detained Cruel and unusual punishment is burdened with two element: Objectively whether the injury is sufficiently serious to deprive the prisoner of the minimal civilized measure of life necessities and 2 subjectively whether the prison official actual state of mind was one of deliberate indifference to the deprivation.

I have experienced firsthand the unconstitutional condition of SCDC. The Court has recognized the right of prisoner, in the light of the overall prison condition to include the duration of a certain condition. Fact finders have shown SCDC statistics have substantially fallen below the standard of a modern prison. There was a substantial risk of harm with overcrowding and remaining close quarters during Covid-19. Quarantine has the effect of raising the risk due to shortage of staff in medical and security. When systematic deficiencies in short of staffing facilities or procedures makes unnecessary suffering inevitable a court should not hesitate to use the injunctive power *Todaro v. Ward* 565 F2d 4852 (2d Cir 1977). The South Carolina Code of law are embodied within the State Constitution. In Uniform are the right afforded to its citizens including those convicted of crimes. The statutory limitations imposed by legislation is to ensure the citizens are entitled to equal protection under the law. During the time of my sentencing it was an unforeseen circumstance that the very order of imprisonment would lose its statutory duty to the overcrowding and understaffing of the Department of Correction. Although legislature has laws in place to prevent such circumstance, they have proven to be deficient in preventing understaffing and consequently the irreparable harm that accompanies these circumstances. After serving 17 years under applicable law the SCDC has lost its essential components legislation has intended. I further

for discharge or release under these extraordinary circumstances to prevent an irreparable harm such as but not limited to exacerbation of any mental disorder, sickness or death caused by sickness; physical harm or death by negligence or at the hand of others inmates. I Jamie Goss responds to address matter unclarified and questions of law to answer. In accordance with Article VI Clause 2 the Supremacy clause of the Constitution of the United States state law. Addressing a conflicting of interest unprecedented, allows federal laws made pursuant to it an improper authority, the first conflicting in question is the Extraordinary Circumstances element of Appellant Motion Pursuant to 18 USC Section 3582. As amended by the First Step Act and the Care Act the Compassionate release statute allows court to reduce sentences for extraordinary and compelling reasons. The Covid-19 pandemic which some health experts policy makers and many courts around the country recognize as especially dangerous in the confines of correctional Institution is an extraordinary and compelling circumstance. These compelling reasons are identified and addressed in South Carolina Executive Order 2021-22 State of Emergency. The Executive order addresses the duties and responsibilities of any and all State Agent including by not limiting to; The D.O.C. Appellant argued the standard to meet for the ACM fellow below standard Appellant contend the fact recorded by SCDC with evidence in the form of affidavits and Institution recorded. The question of the D.O.C. ability to meet the burden of the Executive Order should be viewed

in light most favorable to the facts. In response to the Executive Order created a policy governing Covid-19. Upon creation, these policies creation these policies create a statutory obligation to Appellant from the D.O.C. Due to overcrowding and short of staff, this difficult burden has provided a state-wide calamity for D.O.C. There is a severe lack of everything in D.O.C. Appellant has firsthand knowledge of the operation of institution during Covid-Quarantine and Appellant argues here lies a substantial risk of harm to his health. A separate question of law is whether the Court of Appeal should grant a bail bond under extraordinary circumstance, Appellant has present circumstance meeting extraordinary circumstance so the question lies in the discretion of the court of appeal. Using its discretion, it will look at: 1. probability of success on appeal; 2. Nature of offense; 3. Does he or she pose a threat to community; 4. the likelihood appellant will forfeit bail; 5. Character and circumstance of the individual; and 6. The defendant personal attitude toward society and Government. I Jamie Goss has completed over 60% of his imprisonment sentence. Any legislation prior to the Covid pandemic was subject to amendment legislative intent most not be construed to deny the right of any class of people it specifies. Legislation interpretation opposing bail for certain prison sentences could not have included the extraordinary circumstance of Covid-19 while over-crowded and understaffed.

I Jamie Goss is the father and character of persuasion in his community, when determining the character of Appellant has learned the role of a father to his four kids and any other human. This is a character role that does not change. The likelihood of being a danger or risk of forfeit are little to none in light of Appellant's position a father Appellant has also assumed the role of primary caretaker in the decision making of his terminally ill mother. I Jamie Goss would also like to address Exhibit C of State RETURN the personal protection equipment has not been allocated as report or mandated because short of staff in every department nothing can operate under these extraordinary circumstance the division of operations when in regard to the aforementioned standard for the SCDC. In Nichols v. Patterson was afforded good conduct in the calculation of his sentence whereas appellant is under a conflicting provision of 24-1-150 where is specifically stating good conduct credits are not applicable toward no parole offense discriminating toward a class of people. This discrimination creates a liberty interest towards appellant physical liberty. Without the incentive of good conduct credits one has little reason to abide by guidelines and policies yet appellant has done so and other accomplishment throughout his tenure as an inmate in SCDC. It is exactly this type of conflict of interest that create extraordinary circumstance within its political

Sub division SCDC. Nicholes was not denied a proper hearing on the merits of his bond during which so the Appellate Court ruled in his favor A. proper hearing is warranted as a matter of law accompanied by fact there is an unprecedented string of event attached to provision and statutes that are unconstitutionally structured and the results showing themselves in S.C.D.C.

Statement OF Issues

Was Jamie Goss argument raised in proper form and Venue?

Did Judge err in failing to apply Federal Statutes where state statute did not exist?

Did Judge err in to consider release Due to all institution operating under a SCDC Recognized short of staff security concern Inmate population being over crowded, not providing proper disinfecting cleaning supplies that are vitally important to prevent both viral and bacterial person to person transfer, the grossly inadequate filtration of air conditioning within dorm rooms, is reasonably noted, yet ignored) Inmats forced to consume precooked prepared cold meal while locked-down in assigned cells that have leaking toilets and black mold proven to cultivate E-coli and other food born

illnesses as states condition above cannot be remedied or otherwise due to inability of inmates to directly address the depl. necessary to contact, staff or lack thereof does not consider a priority. No food temp monitoring no gloves or any form of PPE is worn by inmates serving trays during lockdown receiving food from the kitchen in dorm is not monitored to deter tampering. The abundance of every and everything that could potentially cause death, is readily available and has killed others at institutions throughout the state under SCDC's operation. Overcrowding caused severe covid-19 transfer between inmates, without the South Carolina Dept. of Correction having a plan of action to operate under policy and procedure for this extraordinary circumstances. This in itself was cause for multiple deaths and should be cause for release for inmates that have pre-existing medical issues deemed dangerous and lethal according to the CDC.

Did Judge err in failing to release Jaime Goss because his wife is currently in the custody of the Dept. of Immigration awaiting deportation to South America. She has custody of our 2 children, singly providing child care for both our children ages 15 and 16. This in itself burdens tax paying for me to live 900. As I should be given opportunity to help my spouse through parental responsibility and financially contributing to my family. SCDC does not afford

this necessary parental responsibility as I am willing and able to perform with adequate compensation.

Did court fail to acknowledge my mother is hosting a life threatening illness which requires her to rely on respiratory breathing machines whom is also the legal guardian of two petitioner's children ages 14 and 15. As of Today my mother is still suffering 3 year later bring's me to the concern of my hert problem at a later date.

Did court fail to acknowledge Covid-19 as a condition in the language of statute governing Compassionate release in South Carolina?

I Jamie Goss is moving the court for compassionate release extraordinary circumstance in accordance with the language of Care Act Section 12003 B 2. I argues the Supremacy Clause gives rise to the right which have been violated in accordance with S.C Const Art. 1 section 15. The State has raised their objection stating my argument are not in the proper venue to receive the relief he seeks the state also contend South Carolina has a governing statute regarding compassionate release although does not acknowledge the Covid-19 pandemic as the Care Act I have contracted Covid-19 which has

Proved to be a life threatening illness under unpredictable circumstance. The word including the BOP has acknowledged the dangers of over crowded confinement cause the Care Act to be amended and effective S.C. has no state statute with language governing release to inmates after Covid-19. The substantial risk that present on a consistent basis lead to a motion for Compassionate Release for extraordinary circumstance

Statement Of Case

I'm an inmate is SCDC governed by 24-1-20 after serving 17 years of a 28 year's sentence for 12.3 grams of crack cocaine. In 2021 petition submitted a letter to the Department of Probation Parole and Pardon Services requesting a compassionate release due to extraordinary circumstance Care Act Section 12003 B 2. The DOP denied petition request to Warden of Institution After being denied petition filed the motion in Horry County Court of Common pleas. An oral hearing was conducted before the honorable Judge Cothran on April 16 2021. Defendant raised his argument using language in the S.C. Const. Art I Section 15 Cruel and unusual punishment. I Jamie Goss argued I was entitled to relief under extraordinary circumstance in the Care Act. The deprivation of his constitutional right initiated the Supremacy Clause Supreme

law of the land petition directed his argument to the statutory standard placed in 24-1-20 also that he is the only legal guardian of his children succeeding his mother whom has a terminal illness still to this day from Covid-19. Judge Cothran stated the court had no jurisdiction to grant petitioner relief. A rehearing was conducted in Henry County before the Honorable William Seal Jr. His opinion was similar of Judge Cothran and so the motion was denied. Latter file a bond motion that with Honorable Bruce William motion was also denied.

Stand of Review

Unless the parties otherwise provide the question of arbitrability of claim is an issue for judicial determination. *Zabinski v. Bright Acres Assocs*, 346 S.C. 590 596 553 S.E. 2d 110 118 2001. Determination of arbitrability are subject to de novo review but if any evidence reasonably support the circuit courts factual finding this court will not overrule those findings. *Stokes v. Metro Life Ins. Co.* 351 S.C. 606 609-10 571 S.E. 2d 711 713 Ct app 2002.

An Appellate court reviews the circuit court ruling is based upon an error of law such as application of the wrong legal principle or when based upon factual conclusion the ruling is without evidentiary support.

or when the Circuit court is vested with discretion but the ruling reveals no discretion was exercised or when the ruling does not fall within range of permissible decision applicable in a particular case such as it may be arbitrary and capricious, S.C. Code Annotated 17-15-50 Amendment of Order states,

The Court with Jurisdiction of the offence at any time after notice and hearing may amend the Order to impose additional or different condition of release S.C. Art I section 15 address the Cruel and unusual Standard Const. Art. I section 8 addresses Judicial discretion in sentencing also acknowledging the restriction of Legislatures by State and Federal Statutes alike

Argument

The South Carolina Constitution gives the Judge of the court discretionary power to conduct the subject matter and its constitutionality, I Jamie Goss argued the Agency South Carolina Department of Correctional does not provided a copy of protocol to meet the statutory provisions set by the Declaration of Policy Statute in the 1976 Code Annotated 24-1-20 Petition argues the DOC have not implanted these policies which would violate

the 24-1-20 statutory provision infringing right under the South Carolina Const. Art 1 section 15 Prohibition of Cruel and Unusual Punishment to address these concern with on agency Warden and Department of Probation Parole and Pardon which is vested the power of Clemency through 24-21-920 of the SC, Code 1976 Annotated, After I have gone through the procedural process of notifying and responsibility to an the least review claims. The argument that they have not in favor of petitioner creates a question of law eligible for review under the jurisdiction of the Court presiding over the case of petitioner.

Argument

Except in matters governed by the Federal Constitution or by act of congress. the law to be applied in any case law of the state Erie RR Co Vs. Tompkins 304 us 64 78 58 SCT 817 82 LED 1188 (1938) and whether the law of the state shall be declared by its legislature in a statute or by its highest court in a decision is not a matter of Federal Concern. There is NO Federal Common Law. Petitioner argues the Supremacy Clause provide the Preemption is Compelled whether Congress Command is explicitly

Stated in the Statutes language or implicitly contained in its structure. In this particular case petitioner raise the argument of the unconstitutionality of the Operation of SCDC not its ruling governing statutes that the DOC is operating under extraordinary circumstance which would be overcrowded and understaffed during the Covid-19 pandemic. At the very least the court have an obligation powered by the Constitution to review claims of constitutional right of a person is infringed upon in accordance with S.C Const. Art 1 section 15 in petitioner Motion for release under extraordinary circumstance he pleaded with the court to use power of a federally enacted law that congress intended to help prison and families during and after the Covid-19 while understaffed and overcrowded the circuit Judges ruling were in fact conceived in error of law. The state argued the court had no jurisdiction on the matter which was a premature argument. The subject matter was never reviewed through fact and question of law. The state raise claimed to having a statute that address sentence reduction but failed to mention covid-19 protocols were not amended within its language herein lies the error of law.

S.C. Const Art. V section 11 vest the circuit court with original Jurisdiction in civil and criminal cases and shall have appellate jurisdiction as provided by law. The court claim of No jurisdiction is clear abuse of discretion

Argument

I Jamie Goss Objection to Argument because Gov. McMaster executive order Gives me permission to All Government resources in the United State at the time of Covid-19 when South Carolina Codes does not exist No Protocol During Covid-19 Can be Operated when 1 Ofc. on duties is require to do the Job Requirement of 4 Personnel, and sometime 8 to 12 personel running 2 or 3 dorm. I have experieced first hand the unconstitutional Conditions of SCDC Staff for more than 15 years working with out extra pay Under extraordinary circumstances CDC. did not made the policy concerning short of staff which creates a Qusstion of law of the Protocol of Covid-19. Lead to S.C. Const. Art I section 15

Conclusion

IN conclusion argues motion for compassionate release under extraordinary circumstances was argued in the proper form and venue. Circuits Judges have an obligatory duty to reviews any and all constitutional infringement

Specifically those of prisoner in this case. The Federal Care Act preempts state law due to it conflict of interest explicitly the fact that South Carolina does not provide Covid-19 relief to prisoner even under the extraordinary circumstance of over crowding and short of staff when CDC did not planted policy for short of staff. Release is Granted for Jamie Goss.

Jamie Goss