

The State of South Carolina
In The Court of Appeals

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SC Court of Appeals

Appeal From the Administrative Law Court

Case: 211533/D55973 Docket # 23-ALJ-15-0001
SCDC/FDOC Contested State Agency Decision

A.L.C. Decision Dated: ~~5-2-23~~ Final Order Received: ~~5-4-23~~

South Carolina Department of Probation,
Parole, and Pardon Services

Respondant

PO Box 207
Columbia, SC 29202
dppps.sc.gov

v.

Ronald C. Albright #211533
PO Box 205-SB-38
Ridgeville, SC 29472

Appellant
(Pro Se)

PETITION FOR EQUITABLE TOLLING

APPELLANT, RONALD ALBRIGHT, PETITIONS THIS COURT TO APPLY THE DOCTRINE OF EQUITABLE TOLLING IN ITS SCOPE OF REVIEW, DUE TO THE CONSTITUTIONAL RIGHTS THAT WOULD OTHERWISE BE ABBROGATED BY THE PROCEDURES AND CIRCUMSTANCES OF THIS PARTICULAR CASE. THE DOCTRINE OF EQUITABLE TOLLING MAY BE APPLIED WHEN IT IS JUSTIFIED BY ALL OF THE CIRCUMSTANCES ON THE RECORD ON WHOLE. TO BE ENTITLED TO EQUITABLE TOLLING, PETITIONER MUST SHOW: 1.) THAT HE HAS BEEN PURSUING HIS RIGHTS DILIGENTLY, AND 2.) THAT SOME EXTRAORDINARY CIRCUMSTANCES STOOD IN HIS WAY AND PREVENTED A TIMELY FILING. PETITIONER MUST ALSO SHOW A 'CASUAL CONNECTION' BETWEEN THE IMPEDIMENT(S) AND AN UNTIMELY FILING, (HOLLAND v. FLORIDA 130 S.Ct. 2549; 177 L. Ed. 2d 130-2010). PETITIONER MUST ALSO SHOW AN EXERCISE OF REASONABLE DILIGENCE IN INVESTIGATING AND BRINGING HIS CLAIMS, (MILLER v. N.J. Doc. 145F.3J. 616.)

IN SUPPORT OF THIS PETITION, APPELLANT WILL SHOW THAT HE HAS MET AND SATISFIED ALL OF THE REQUISITES OF APPLYING EQUITABLE TOLLING IN THE FOLLOWING POINTS: ...

(CONTINUED)

5-11-2023

Dated

Respectfully Submitted,

Ronald C. Albright

Signed-Preparer of Document

(C.C.: ADMINISTRATIVE LAW COURT, §
THE S.C. DEPT. OF P.P.P. SERVICES)

POINT ONE

APPELLANT IN THIS CASE DIDN'T TAKE AN EXTENDED BREAK AND ALL OF THE SUDDEN DECIDE TO BRING THESE CLAIMS, HE HAS VEHEMENTLY DENIED THE ALLEGATIONS AGAINST HIM FROM DAY ONE AND HAS DILIGENTLY PURSUED HIS CLAIMS AND DEFENSES AND RIGHTS AS EVIDENCED BY NUMEROUS INQUIRIES, EVIDENCE SUBMISSIONS, AND PLEADINGS TO THE RESPONDANT AS DIRECTED BY THE PRELIMINARY HEARING ADMINISTRATOR, WITHOUT A REPLY OR DETERMINATION ON THESE MATTERS. ALL OF THESE ATTEMPTS ARE IN THE RECORD AND VERIFIABLE. (APPELLANT'S PREHEARING A.L.C. BRIEF AND R.O.A.)

POINT TWO

THE "EXTRAORDINARY CIRCUMSTANCES" THAT STOOD IN THE WAY OF A TIMELY FILING FOR JUDICIAL REVIEW WAS THREEFOLD: FIRSTLY, A STATE STATUTE (S.C. CODE 1976 § 1-23-350, 360, & 380) AND RULES OF COURT (A.L.C.R. 23) PREVENTED THE FILING FOR JUDICIAL REVIEW UNTIL THE BEGINNING OF THE TOLLING OF THE TIMELINE, AND UNTIL A WRITTEN FINAL ORDER FROM THE STATE AGENCY IS RECEIVED, THIS TOLLING DOES NOT BEGIN. THIS WRITTEN FINAL ORDER OF REVOCATION HAS YET TO BE RECEIVED DESPITE REPEATED REQUESTS FOR SUCH. THE FACT THAT THERE HAVE SINCE BEEN OTHER NON-REVIEWABLE DETERMINATIONS (SUBSEQUENT DENIALS OF PAROLE) MADE ON THIS CASE, DOES NOT COVER OVER THE CONSTITUTIONALLY PROTECTED REVIEW OF THE ACTUAL REVOCATION PROCESS WHICH BRINGS ABOUT THE SUBSEQUENT NON-REVIEWABLE DENIALS OF PAROLE.

SECONDLY, THE DIRECTIVES OF THE PRELIMINARY HEARING ADMINISTRATOR ERRONEOUSLY LED PAROLEE TO BELIEVE THAT THE PROPER TIME AND FORMAT TO PRESENT THESE ISSUES AND DEFENSES TO WAS, "TO THE BOARD WHEN YOU GO BACK IN FRONT OF THEM." INSTEAD OF TO HER, RIGHT THEN AND THERE, TO DETERMINE IF THERE WAS PROBABLE CAUSE, AND TO PRESERVE THE ISSUES RAISED BY THE PAROLEE. THE APPELLANT, BEING A LAYMAN AND UNREPRESENTED BY COUNSEL, TRUSTED THESE DIRECTIVES, WHICH ARE NOW ATTEMPTING TO BE USED AGAINST HIM TO BAR HIS CLAIMS AND DEFENSES FROM BEING PROPERLY HEARD OR ADJUDICATED ON.

THIRDLY, AS TO THE "CASUAL CONNECTION" BETWEEN THE IMPEDIMENTS AND NOT FILING FOR JUDICIAL REVIEW IN A TIMELY MANNER TO BE SHOWN BY A PETITIONER FOR EQUITABLE TOLLING, ITS EVIDENCED BY THE PRECEEDING TWO PARAGRAPHS AND THE RECORD ON WHOLE. THESE SHOW NOT ONLY A "CASUAL CONNECTION" BUT AN INTIMATE AND DIRECT CONNECTION.

4TH CIRCUITS "EXTRAORDINARY CIRCUMSTANCES" TEST IN: ('ROUSE' v. LEE, 339 F.3d. 238, 246, 4TH CIR. 2003), PETITIONER IS ONLY ENTITLED TO EQUITABLE TOLLING IF HE PRESENTS: 1.) EXTRAORDINARY CIRCUMSTANCES, 2.) BEYOND HIS CONTROL, OR EXTERNAL TO HIS OWN CONDUCT, THAT 3.) PREVENTED HIM FROM FILING ON TIME. APPELLANT'S CASE AND CIRCUMSTANCES BOTH MEET AND PASS THIS TEST.

EXTRAORDINARY CIRCUMSTANCES, "MAY BE PRESENT IN SITUATIONS WHERE A PETITIONER ALLEGES ABANDONMENT EVIDENCED BY A FAILURE TO RESPOND TO PETITIONER'S MANY INQUIRIES AND REQUESTS OVER A PERIOD OF SEVERAL YEARS." (HOLLAND, 130 S.Ct. at 2568)

IN APPELLANT'S PRESENT CASE, HE ALSO HAS BEEN ABANDONED OVER A PERIOD OF SEVERAL YEARS, BY THE SYSTEM, AND LEFT TO FEND FOR HIMSELF, WITHOUT AN OPPORTUNITY TO MEET THE CLAIM OF VIOLATIONS AGAINST HIM, IN FRONT OF A NEUTRAL AND DETACHED HEARING ADMINISTRATOR, AGAINST A NON-RESPONDING STATE AGENCY (THE S.C.D.P.P.S.), DESPITE NUMEROUS ATTEMPTS ON RECORD.

IN THE EVENT THAT THE COURT IS APPREHENSIVE OF APPLYING THIS DOCTRINE TO THIS PARTICULAR CASE, THE FOLLOWING EXPLANATIONS SEEM TO ALLOW THIS DISCRETION TO JUSTICES, ALONG WITH THE EXISTENCE OF "TESTS" FOR MEETING THE REQUIREMENTS OF APPLYING THE DOCTRINE OF EQUITABLE TOLLING. IF THIS DOCTRINE WAS NOT ENVISIONED TO BE APPLIED TO DIFFERENT SITUATIONS, THEN THERE WOULD BE NO NEED FOR SUCH TESTS OF APPLICABILITY, ALTHOUGH TO BE USED WITH CAUTION, AND ONLY IN CASES TO EFFECTUATE JUSTICE AND FUNDAMENTAL FAIRNESS AND WHERE ALL OF THE CIRCUMSTANCES HAVE BEEN MET. APPELLANT CONTENDS, THAT EVEN THIS IS A NOVEL APPLICATION FOR THIS DOCTRINE, IT'S STILL UNDER THE COURTS DISCRETION AND THIS CASE MORE THAN MEETS THE REQUIREMENTS TO QUALIFY FOR ITS APPLICATION.

THE DOCTRINE OF EQUITABLE TOLLING IS A TRADITIONAL FEATURE OF AMERICAN JURISPRUDENCE AND A BACKGROUND PRINCIPLE AGAINST WHICH CONGRESS DRAFTS LIMITATION PERIODS. FLEXIBILITY INHERENT IN EQUITABLE PROCEEDINGS ENABLES COURTS TO MEET NEW SITUATIONS THAT DEMAND EQUITABLE INTERVENTION AND TO ACCORD ALL RELIEF NECESSARY TO CORRECT PARTICULAR INJUSTICES, AS APPELLANT CLAIMS IN THIS CASE. THE INJUSTICE THAT OCCURS BY NOT ALLOWING EQUITABLE TOLLING IN THIS CASE IS THE ABBROGATION AND DEPRIVATION OF DUE PROCESS RIGHTS AFFORDED ALL CITIZENS BY THE CONSTITUTION, IN THE DEFENSE OF ALLEGATIONS AGAINST THEM.

BOTH 'EQUITABLE TOLLING' AND 'SCOPE OF REVIEW' GO HAND IN HAND WITH PROCEDURES CREATED WITH THE INTENT OF EQUITY AND FUNDAMENTAL FAIRNESS IN THE JUDICIAL REVIEW OF CASES.

5 U.S.C.A. I CHAP. 7 § 706 "SCOPE OF REVIEW"

TO THE EXTENT NECESSARY TO DECISION AND WHEN PRESENTED, THE REVIEWING COURT SHALL DECIDE ALL RELEVANT QUESTIONS OF LAW, INTERPRET CONSTITUTIONAL AND STATUTORY PROVISIONS, AND DETERMINE THE MEANING OR APPLICABILITY OF THE TERMS OF AN AGENCY ACTION. THE REVIEWING COURT SHALL: 1.) COMPEL AGENCY ACTION UNLAWFULLY WITHHELD OR UNREASONABLY DELAYED, AND; ... (CONTINUED)

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- ... 2.) HOLD UNLAWFUL AND SET ASIDE AGENCY ACTIONS, FINDINGS, AND CONCLUSIONS FOUND TO BE:
- A.) ARBITRARY, CAPRICIOUS, AN ABUSE OF DISCRETION, OR OTHERWISE NOT IN ACCORDANCE WITH LAW;
 - B.) CONTRARY TO CONSTITUTIONAL RIGHT, POWER, PRIVILEGE, OR IMMUNITY;
 - C.) IN EXCESS OF STATUTORY JURISDICTION, AUTHORITY, OR LIMITATIONS, OR SHORT OF STATUTORY RIGHT;
 - D.) WITHOUT OBSERVANCE OF PROCEDURE REQUIRED BY LAW;
 - E.) UNSUPPORTED BY SUBSTANTIAL EVIDENCE IN A CASE SUBJECT TO SECT. 556-57 OF THIS TITLE OR OTHERWISE REVIEWED ON THE RECORD OF AN AGENCY HEARING PROVIDED BY STATUTE OR;
 - F.) UNWARRANTED BY THE FACTS TO THE EXTENT THAT THE FACTS ARE SUBJECT TO TRIAL DE NOVO BY THE REVIEWING COURT.

IN MAKING THE FOREGOING DETERMINATIONS, THE COURT SHALL REVIEW THE WHOLE RECORD OR THOSE PARTS OF IT CITED BY A PARTY, AND DUE ACCOUNT SHALL BE TAKEN OF THE RULE OF PREJUDICIAL ERROR. APPELLANT CLAIMS, NOT ONLY ONE, BUT ALL OF THE ABOVE POINTS ARE EVIDENCED IN THIS CASE AND JUDICIAL REVIEW AND ACTION IS WARRANTED AND REQUESTED.

PETITIONER CONTENDS THAT HE HAS SATISFIED THE REQUIREMENTS OF THE ACTION REQUESTED OF THE COURT AND PRAYS HE HAS PRESENTED A REASONABLE AND COMPELLING ENOUGH ARGUMENT FOR THE COURT TO AGREE WITH HIM ON THIS POSITION AND APPLY THE DOCTRINE OF EQUITABLE TOLLING TO THIS CASE IN THE COURTS SCOPE OF REVIEW.

DATED THIS 11TH DAY OF MAY, 2023

CC: THE ADMINISTRATIVE LAW COURT
THE S.C. DEPT. OF P.P.P. SERVICES
FILES.

RESPECTFULLY
SUBMITTED

RONALD C. ALBRIGHT - Pro Se

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MAY 22 2023

**The State of South Carolina
In The Court of Appeals**

SC Court of Appeals

Appeal From the Administrative Law Court

Case: 211533/D55973 SCDC/FDOC Docket # 23-ALTJ-15-0001
Contested State Agency Decision

A.L.C. Decision Dated: 5-2-23 Final Order Received: 5-4-23

**South Carolina Department of Probation,
Parole, and Pardon Services**

Respondant

PO Box 207
Columbia, SC 29202
dppps.sc.gov

v.

Ronald C. Albright #211533

**Appellant
(Pro Se)**

PO Box 205-SB-38
Ridgeville, SC 29472

CERTIFICATE OF SERVICE

THE UNDERSIGNED, RONALD ALBRIGHT, CERTIFIES THAT HE CAUSED TO BE MAILED TO THE BELOW NAMED RESPONDANTS, COPIES OF:

- 1) NOTICE OF APPEAL
- 2) REQUEST FOR RECORD ON APPEAL, AND COMPLETE RECORD/TRANSCRIPTS
- 3) MOTION FOR DESIGNATION OF MATTER TO BE INCLUDED ON RECORD
- 4) MOTION TO PROCEED WITHOUT COSTS OR FEES (IN FORMA PAUPERIS)
- 5) MOTION FOR APPOINTMENT OF COUNSEL
- 6) PETITION FOR EQUITABLE TOLLING
- 7) CERTIFICATE OF SERVICE
- 8) LETTER TO S.C.D.P.P.S. REQUESTING TRANSCRIPTS AND DOCUMENTS.
- 9) MOTION TO COMPEL ISSUANCE OF FINAL ORDER OF PAROLE REVOCATION.

BY PLACING THEM IN THE LIEBER CORRECTIONAL INSTITUTIONAL MAIL ROOM ADDRESSED AS FOLLOWS:
ADMINISTRATIVE LAW COURT - 1205 PENDLETON ST. SUITE 224, COLUMBIA, SC 29201
S.C.D.P.P.S. - LEGAL DEPT. - P.O. BOX 207 - COLUMBIA, SC 29202

Respectfully Submitted,

Ronald C. Albright

Signed-Preparer of Document

5-11-2023

Dated

"RATIO EST RADIUS DIVINI LUMINIS" - "VERITAS NIHIL VERETUR, NISI ABSCONDI"

RONALD C. ALBRIGHT - # 211533
L.C.I. - SB-58 - P.O. Box-205
RIDGEVILLE, S.C. 29472
11TH of MAY, 2023

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S.C. COURT OF APPEALS
CLERK OF COURT
P.O. Box 11629
COLUMBIA, S.C. 29211

MAY 22 2023

(DOCKET No. 23-ALJ-15-0001) SC Court of Appeals

RE: ALBRIGHT v. THE S.C. DEPT. OF P.P.P. SERVICES

HON. CLERK OF COURT

PLEASE FIND ENCLOSED FOR FILING FOR THE ABOVE CAPTIONED CASE ONE OF EACH:

- 1.) NOTICE OF APPEAL
- 2.) REQUEST FOR RECORD ON APPEAL, etc. COMPLETE RECORD/TRANSCR.
- 3.) MOTION FOR DESIGNATION OF MATTER TO BE INCLUDED IN R.O.A.
- 4.) MOTION TO PROCEED WITHOUT COSTS OR FEES (IN FORMA PAUPERIS)
- 5.) MOTION FOR APPOINTMENT OF COUNSEL
- 6.) PETITION FOR EQUITABLE TOLLING
- 7.) CERTIFICATE OF SERVICE
- 8.) MOTION TO COMPEL ISSUANCE OF FINAL ORDER OF PAROLE REVOCATION

COULD YOU BE SO KIND AS TO SEND ME BACK A DATE-STAMPED COPY OF THE ABOVE FILINGS IN THE ENCLOSED SASE.

PLEASE EXCUSE ANY TECHNICAL OR CLERICAL MISTAKES IN FORMAT AS APPELLANT IS A LAYMAN AND FILING PRO-SE. THANK YOU FOR YOUR VALUABLE TIME IN THIS MATTER.

INCLUDED IS A COPY OF A LETTER TO THE SCOPPPS REQUESTING TRANSCRIPTS AND DOCUMENTS. I'M AWARE THIS ISN'T A "FILING" BUT I'M SUBMITTING IT TO THE CLERK FOR DOCUMENTATION OF THE REQUEST TO THIS AGENCY. THANK YOU

- 9.) LETTER TO S.C.D.P.P.P.S. REQUESTING TRANSCRIPTS AND DOCUMENTS. (ATTACHED TO MOTION FOR DESIGNATION OF MATTER TO BE INCLUDED #3 ABOVE)

- 10.) ORDER FROM ALC GRANTING RESPONDANT'S MOTION TO DISMISS

RESPECTFULLY SUBMITTED,

Ronald C. Albright
RONALD C. ALBRIGHT

cc: S.C. COURT OF APPEALS
ADMINISTRATIVE LAW COURT,
THE S.C. DEPT. OF P.P.P. SERVICES,
FILES.

RONALD ALBRIGHT #211533
L.C.I. SB 58- P.O. Box 205
RIDGEVILLE, SC 29472

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SC Court of Appeals

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COLUMBIA, SC 29211

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LIBRARY

INTERDEPARTMENTAL
LEGAL MAIL (5-11-2023)

