

**FILED**

JUL 12 2013

**STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT**

**SC ADMIN. LAW COURT**

Stewart Buchanan, 069848,

Docket No. 12-ALJ-15-0026-AP

Appellant,

vs.

**ORDER**

South Carolina Department of Probation,  
Parole and Pardon Services,

Respondent.

**STATEMENT OF THE CASE**

This matter is before the South Carolina Administrative Law Court ("ALC" or "Court") pursuant to the appeal of Stewart Buchanan ("Appellant"), an inmate incarcerated with the South Carolina Department of Corrections. On June 13, 2012, the South Carolina Department of Probation, Parole and Pardon Services ("Department") notified Appellant that the South Carolina Parole Board ("Board") rejected him for parole. In a motion dated July 12, 2012, the Appellant requested reconsideration, but was denied a rehearing by the Board on August 10, 2012. On September 13, 2012, the Appellant filed a Notice of Appeal with the Court. The Appellant seeks judicial review of the Board's denial of parole based on the grounds that the Board's decision is not supported by law and that the Department willfully denied the Appellant his right to due process.

**DISCUSSION**

An individual has a right to ALC review of a final decision of the Board only when that decision affects a liberty interest for which due process is required. See Furtick v. S.C. Dep't of Probation, Parole and Pardon Services, 352 S.C. 594, 576 S.E.2d 146, 149, 150 (2003); see also Sullivan v. South Carolina Dep't of Corrections, 355 S.C. 437, 586 S.E.2d 124, 127 (2003) (explaining the nature of the right to ALC review). In Furtick, the South Carolina Supreme Court held that although an inmate has a liberty interest in parole *eligibility* pursuant to S.C. Code Ann. § 24-21-620, the statute creates no such liberty interest in the granting of parole itself. Furtick, 352 S.C. at 598, 576 S.E.2d at 149 n.4. Therefore, claims arising from the Board's

decision denying parole are not appealable to the ALC, only claims that the Board failed to consider the appropriate criteria so as to be tantamount to an abrogation of parole eligibility. Cooper v. S.C. Dep't. of Probation, 377 S.C. 489, 661 S.E.2d 106 (2008).

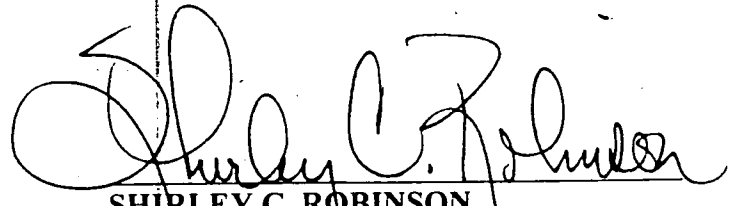
The Appellant challenges the sufficiency of the Board's consideration process and final order. In Cooper, the court used language which would seem to criticize a decision denying parole supported solely by the circumstances of the crime; however, the court went on to state, "these reasons would be sufficient to deny parole in the Board's discretion, if the Board's decision evinced consideration of Section 24-21-640 and its own criteria." Cooper v. S.C. Dep't. of Probation, 377 S.C. 489, 661 S.E.2d 106 (2008). Therefore, as in this instance, the Board has the discretion to deny parole based solely on the seriousness of the current criminal offense, indication of violence and use of a deadly weapon in this or a previous offense, and the Appellant's record of poor community adjustment so long as it considers all the factors required by statute. Here, the Board's decision indicates that each statutory factor was considered in the Appellant's case.

**ORDER**

For the foregoing reasons,

**IT IS HEREBY ORDERED** that the Department's decision denying the Appellant parole is **AFFIRMED**.

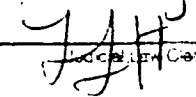
**AND IT IS SO ORDERED.**

  
**SHIRLEY C. ROBINSON**  
Administrative Law Judge

July <sup>12th</sup> 12, 2013  
Columbia, South Carolina

CERTIFICATE OF SERVICE  
This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or in the emergency Mail Service addressed to the party(ies) or their attorney(s).

This 12 day of July, 2013

By:   
Judicial Clerk