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JUN 24 2024

SC Court of Appeals

State of South Carolina
IN THE COURT OF APPEALS
Appeal from The Administrative Law Judge

Honorable Robert L. Reibold, Administrative
Law Judge.

Appellate Case No. 2024-000889

ERIC Canty, 196262 Appellant

✓

South Carolina Dept. of Probation, Parole and
Pardon Services - Respondents

Brief of Appellant

ERIC Canty, 196262
Appellate Case, INST
1057 REVOLUTIONARY TRAIL
FAIRFAX, S.C. 29827

TABLE OF CONTENTS

TABLE OF CONTENTS	-	1
TABLE OF AUTHORITIES	-	2
STATEMENT OF ISSUE ON APPEAL	-	3
STATEMENT OF THE CASE	-	4
STANDARD OF REVIEW	-	5
ARGUMENT	-	6-9
SPECIFICATION OF ARGUMENT	-	10-11
CONCLUSION	-	12
DESIGNATION OF MATTER		13-14
CERTIFICATE OF SERVICE	-	15
CERTIFICATE OF SERVICE	-	16

Table of Authorities

Compton v. S.C. Dept. of Probation, Parole
and Pardon Services, 685 S.E.2d 177 - Pages 8, 9, 11

Snell v. Parlette (S.C. 1979) 273 S.C. 317 - Page 5

South Carolina Code Ann. 24-21-10(F) Pages - 4, 9, 10, 11

South Carolina Code Ann. 24-21-640 (2007) Page 9

South Carolina Dept. of Probation, Parole
and Pardon Services, Form 1212 Page - 9

STATEMENT OF ISSUE ON APPEAL

Does the South Carolina Parole Board render
Petitioner ineligible for Parole by using the incorrect
Criteria in deciding whether to grant Petitioner
Parole?

Statement of the Case

I WAS ARRESTED IN WASHINGTON, D.C. IN 1992 AND WAS EXTRADITED TO SOUTH CAROLINA TO FACE CAPITAL CHARGES FOR MURDER, ARMED ROBBERY, KIDNAPPING, BURGLARY AND C.S.C. 1ST. I WAS SENTENCED IN MARCH OF 1993 TO LIFE SENTENCE FOR MURDER AND BURGLARY 1ST, 25 YEARS FOR ARMED ROBBERY MANDATORY ALL CHARGES CONCURRENT. PAROLE ELIGIBLE AFTER SERVICE OF 20 YEARS. MY FIRST APPEARANCE BEFORE THE PAROLE BOARD WAS IN 2013. TO DATE I HAVE BEEN BEFORE THEM 4 TIMES. MY LATEST APPEARANCE WAS JUNE 21, 2023. MY REQUEST FOR A REHEARING WAS DENIED. I FILED MY NOTICE OF APPEAL TO THE A.L.C. ON AUGUST 31, 2023. ON FEBRUARY 26, 2024 THE A.L.C. JUDGE, THE HONORABLE ROBERT L. REIBOLD, DENIED AND DISMISSED MY APPEAL.

Standard of Review

The Court of Appeals may reverse, affirm or modify the judgment, decree or order appealed in whole or in part as to any or all of the parties, and the judgment shall be remitted to the court below to be enforced according to the law.

The Court may review evidence not to determine preponderance of evidence, but to determine whether there is any evidence that reasonably supports factual findings by the A.L.C. Judge. *Swell v. Parlette* (S.C. 1979) 273 S.C. 317, 256 S.E.2d 410.

Argument

South Carolina Code Ann. 24-21-10 (F)

(F) The department must develop a plan that includes the following:

(1) Establishment of a process for adapting a validated actuarial risk and needs assessment tool consistent with evidence-based practices and factors that contribute to criminal behavior, which the Parole Board shall use in making parole decisions, including additional objective criteria that may be used in making parole decisions.

(2) Establishment of procedures for the department on the use of the validated assessment tool to guide the department, Parole Board and agents of

The department in determining Supervision Management and Strategies for all offenders under the departments supervision, including offender risk classification, and case planning and treatment decisions to address criminal risk factors and reduce offender risk recidivism and,

(3) Establishment of goals for the department, which include training requirements mechanism to ensure quality implementation of the validated assessment tool and safety performance indicators.

The intent of the legislators is clear what they wanted the department to do, and it is incorrect the A.L.C. to accept departments explanation with out proof. To comply with the law without having contact with the prisoner is impossible.

THE A.L.C. in his Order of Feb. 6, 2024, Foot Note #2, "THE COURT REJECT APPELLANTS ARGUMENT THAT THE RISK ASSESSMENT COULD NOT HAVE BEEN CONSIDERED BECAUSE IT DID NOT EXIST". THIS IS INCORRECT, APPELLANT ARGUES THAT HE DID NOT RECEIVE ANY ASSESSMENT.

Foot Note #3 "THIS COURT IS COGNIZANT THAT THE DENIAL LETTER WERE RECITATION THAT THE PAROLE BOARD CONSIDERED THE RISK ASSESSMENT IS NOT CONCLUSIVE EVIDENCE THAT IT WAS IN FACT CONSIDERED; HOWEVER OUR SUPREME COURT'S INSTRUCTION IN COMPTON ARE CLEAR. THE COURT MAY NOT LOOK BEYOND THE WORDING OF THE DENIAL LETTER, SEE COMPTON 385 S.C. AT 479, 685 S.C.2D AT 177".

Compton v. S.C.D.P.P.S., 685 S.E.2d At 177

"After Considering All of the factors published within the DEPARTMENTS (Form) 1212 CRITERIA FOR PAROLE Consideration, AS WELL AS THE FACTORS OUTLINED IN S.C. CODE ANN 24-21-640 (2007) THE PAROLE BOARD HAS DECIDED TO DENY. OCT 1, 2009". This is the instruction of the COURT. NO MENTION OF S.C. CODE ANN 24-21-10 (F) (2010). AT THE PAROLE interview WE ARE REQUIRED TO SIGN AND DATE FORM 1212, HOWEVER ALTHOUGH ON THE MOST RECENT FORM SOME DO LIST 24-21-10 (F) AS PART OF THE CONSIDERATION, BUT NO ASSESSMENT WAS DONE.

Specification of Argument

The Deferential Standard of Review does NOT mean that the Court will accept an Agency decision at face value without requiring the Agency to explain its reasoning. Its decision must be based on documented factual findings from substantial evidence within the whole record. A reading of South Carolina Code Ann. 24-21-10 (F) clearly proves that the South Carolina Dept. of Probation, Parole and Pardon Services must develop a plan, establish a process, establish procedures and establish goals. However the A.L.C. states "The Assessment is instead based upon actual factors such as an inmate's educational background, employment history, and age at the time of conviction. Gathering information about these factors does not require the type of personal interview." For prisoners who are granted

WE ARE REQUIRED TO PASS A Psychological Assessment, in Person.

COMPTON V. S.C.D.P.P.S. Oct. 12, 2009, the LANGUAGE IS CLEAR AND PLAIN, instruction from the COURT. IN 2010 the South Carolina Legislator PASSED S.C. Code Ann 24-21-10(F), INTO LAW, WELL AFTER the instructions from the S.C. SUPREME COURT. THE A.L.C. IS IGNORING THE UNLAWFUL PROCEDURE BEING USED BY THE S.C. Parole Board, WHEN they Add S.C. Code 24-21-10(F) to the instruction by the S.C. SUPREME COURT that was issued a YEAR before S.C. Code 24-21-10(F) became LAW.

WE MUST ACCEPT THE INTENT OF THE South Carolina General Assembly in Creating S.C. Code 24-21-10(F). WE HAVE ASK ARE INTENTION OF THE GENERAL ASSEMBLY BEING MET?

Conclusion

The A.L.C. is allowing the Parole Board to claim that they are following the intent of the Legislators without any proof, by accepting a document 1212 that is clearly not legal and misstating the instruction of the S.C. Supreme Court. APPELLANT WAS NEVER GIVEN ANY ASSESSMENT.

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APPELLATE CASE NO. 2024-000889

ERIC Canty 196262 - Appellant

Certificate of
Service

South Carolina Dept. of Probation, Parole
and Pardon Serv - Respondent

Appellant, Eric Canty, declares under the
penalty of perjury that he mailed a copy of
his designation of matter to the parties listed
below by placing them in the U.S. Mail.

Clerk of The Court
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1015 Sumter St.
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Columbia, S.C. 29211

General Counsel
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Respectfully
Eric Canty
ERIC Canty 196262
Appellate Court Bldg.
1057 Revolutionary Trail
Fairfax, S.C. 29827

Dated: June 18, 2024

cc: File

State of South Carolina
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Appellate Case No. 2024-000889

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Eric Canty, 196262 - Appellant
✓
South Carolina Dept. of Probation,
Parole and Pardon Serv. - Respondent.

Appellant, Eric Canty, declares under the penalty
of Perjury that he mailed a copy of his Brief
of Appellant

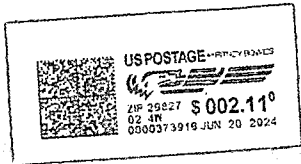
Clerk of the Court
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Respectfully
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Dated: June 18, 2024

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