State of South Carolina In The Court Of Appeals

LEGAL MAIL

Appeal From Horry County

Honorable Benjamin Culbertson Circuit Court

Honorable Johnny W. Gentry Circuit Court

Honorable Bruce H. Williams Appeal Court

Honorable Terry D. Crawford Appeal Court

Honorable Perry A. Mullins Appeal Court

State Case # 2021-001571

Jamie Goss

Appellant

vs.

The State

Respondent

Petition For Rehearing

Jamie Goss

Reading Correctional Ia

Post Office Box 2037

Ridgeville, South Carolina

29472

Index

Petition For Rehearing Rule 29.1

The term Force Majeure shall include without limitation by the following enumeration, act of God and Public Enemy, the element fire accident death strong, strikes differences with workmen and any other industrial civil or public disturbance, or any act or omission beyond the control of the party having the difficulty and any restriction or restraint imposed by law. I pray that this court grant petition for rehearing. I don't have control over the circumstances that cause me problems with my court case. I have a major problem with court papers coming up missing. I'm still having problem with getting which is necessary to P.O.S. and everything I received mail like five days late. Along the way file in court. My circumstance is subject to short of staff and prison overcrowded causing me problems. Pertaining my court case. For said reason rehearing should be granted.

1. Was Denise Hayness forced to resign from her job?

2. Did Court fail to acknowledge Lewis's claim of a violation of the language of State Governing Congressional Release in South Carolina?

3. Did appeal Judge err in failing to give Petitioner Lewis a hearing on the merits of his claim in every department?

4. Did the appeal Court judge err in failing to give Petitioner Lewis according Gov. Executive Order 2021-13 Stay of Emergency the strength?

5. Did the appeal Court err in failing to use injunctive powers against County officials?

6. Did the Court violate SCDC guidelines?

7. Did appeal Judge err in failing to release Petitioner under extraordinary circumstances pertaining the CARE ACT?

8. Did Judge err in failing to apply federal statutes where statutes did not exist?

and addressed in the South Carolina Executive Order 2020 23 State Of SC Emergency Record on Appeal page number 5-8. Petition in accordance with the language of CARE ACT section 12003a for Compassionate release extraordinary Circumstance. I argues the Supremacy Clause give rise to the right which have been violated in accordance with S.C. Constitution A.1 Section 15. The state has raised their objection stating my argument are not in the proper venue to receive the relief he seek 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.

Argument

The South Carolina Constitution gives the judge of the Court discretionary power to conduct the subject matter and its constitutionality

Dear Honorable Judge Scholzman,

Our Tribe's Council has unanimously Unanimously voted to oppose Any Resolution with Article VI Clause 2 The Supremacy Clause of the Constitution of the United States. The Supremacy Clause has no bearing since land over which Cowlitz Indian Tribe has Jurisdiction is not in Indian Country pursuant to 18 USC 1151 Indian Country.

The Post Conviction Jury Sentencing Court has Jurisdiction for Sentencing only Statutory Process Exception Circumstances Element of Aggravating Factors pursuant to 18 USC 3592 As amended by the Care Act, Compassionate release Statute allows Courts to reduce sentences for extraordinary and compelling reasons. These compelling reasons are inconsistent

Petitioner cites to the Supreme
Department of Corrections and Probation
to authorize a person not sentence
Respondent Cavalry Protection the Supreme
Provided a copy of prior Court they have
to have and is been sentenced a
Convention of law as a whole Right
has Authorized the Protection to meet the
Statutory provisions set by the
Constitution of Policy Statute in 1974
Case Authority 24-20 Petition argues
the U.S.C. have not implemented these
policies which would violate the
24-20 Statutory provision intending
Fourth Court, the South Carolina Supreme
Act 1 section 15 Rehabilitation Court
and Unusual Punishment. Petition
addresses these Cases with an agency
business and Department of Probation
Parole and Pardon Supreme is vested
the power of Clemency through
24-21-920 of the S.C. Code 1976
Annotated. Article I have Gone

Preserving the processes process
Rehearing and responsibility to serve
Last Trained Clerk. The Department Has
Been Not in Force of Petitioner's
Creates a Question of law which the
Federal Under the jurisdiction of the
Court presiding over the case of Petitioner

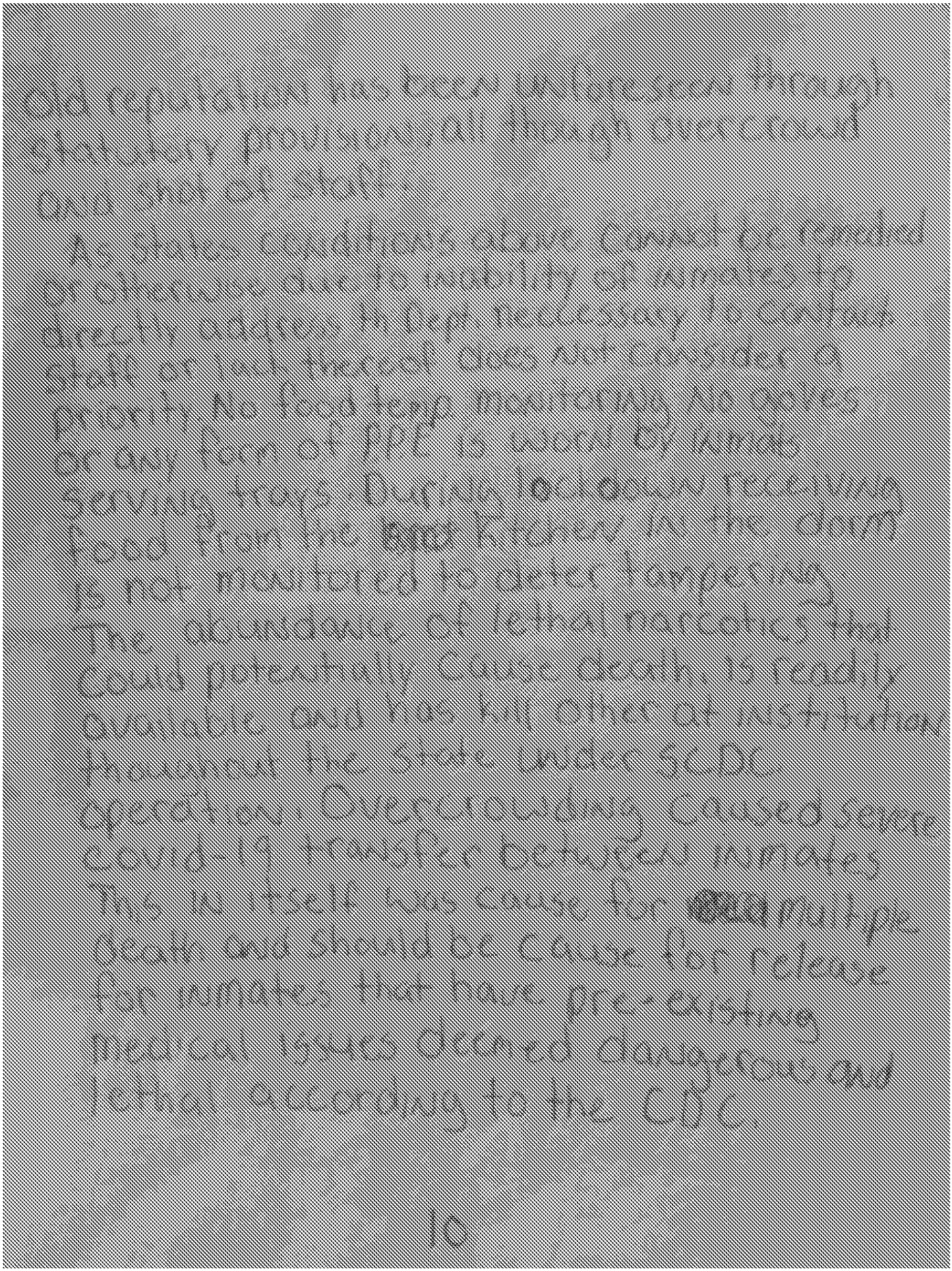
Argument

Except in matter governed by federal
Constitution or by act of Congress the law
to be applied in any case is the law
of the State. Erie R.R. Co. v. Tompkins 304
US 64, 78, 58 (1938) and whether the law
of the State shall be declared by
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. Under the Preemption
is compelled whether Congress Commands
is explicitly stated in the statutory
language or implicitly contained in its
structure and purpose. In this particular case

Petitioner raise the argument of the unconstitutionality of the Operation of Law, not the lower courts erroneously stating that the DOC is operating under extraordinary circumstances which would be over crowded and under staffed during the Covid-19 pandemic. At the very least the court have an obligation pursuant to the Constitution to review claim of constitutional right of a person is infringed upon in accordance with inadequate and overcrowded during the Covid-19 pandemic.

Statement of FACTS

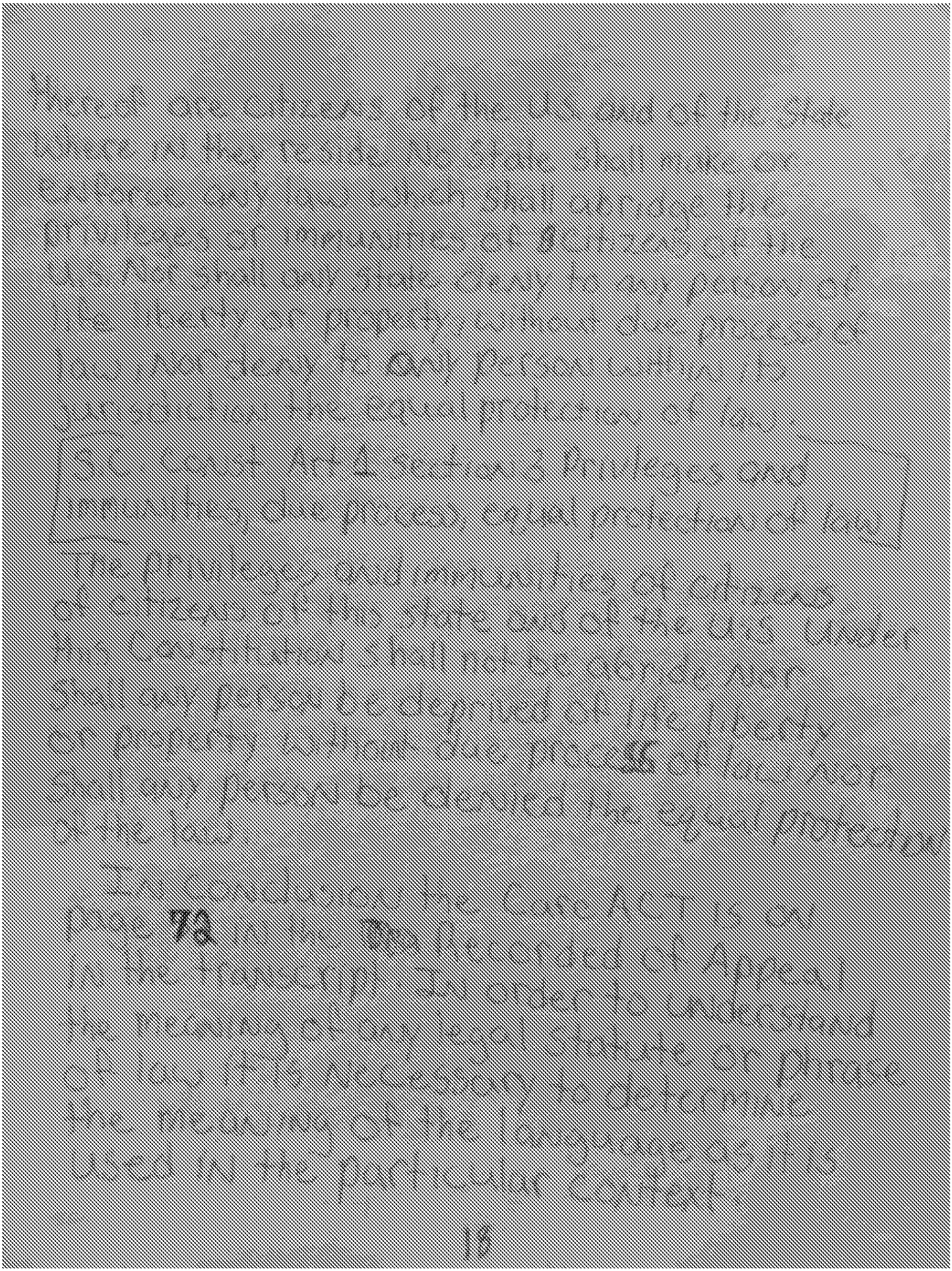
Petitioner File Pro Se Motion For Compassionate Release Under Extraordinary in the Jurisdiction of Perry County Court of Common Pleas presiding Judge Honorable Farrell Conway denied Petitioned motion consequently closing the case. Petitioner appealed ruling Motion

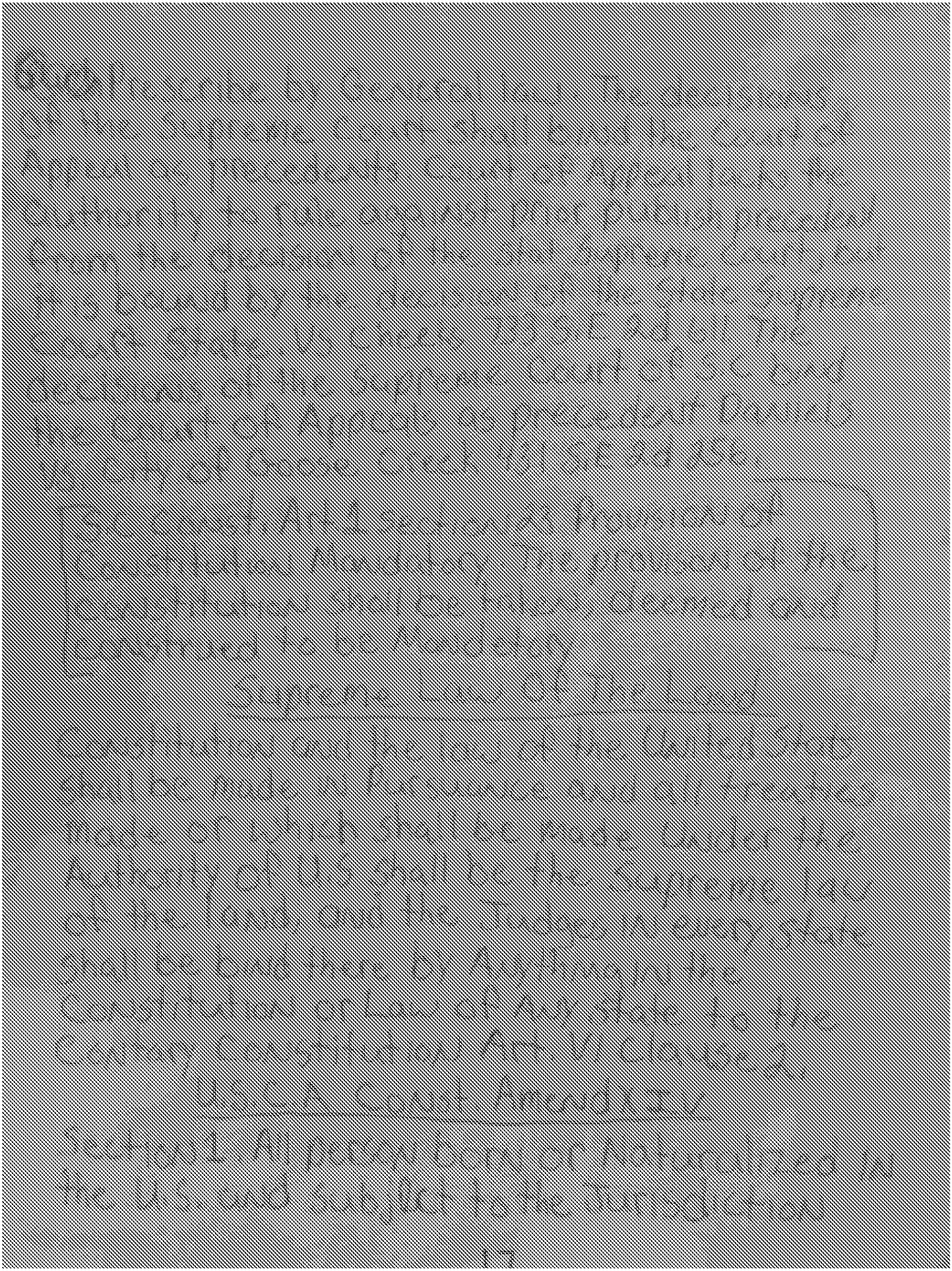


It prescribes an excessive punishment or disparate degrees of punishment for the same conduct committed under the same circumstances by persons similarly situated, including compassionate release for the sole purpose of avoiding pandemic illness under an Act that has deprived many citizens of their life. Covid 19 not only affect the citizens but affect inmates as well for the state of S.C. and D.O.P. to know the and not provide some kind of compassion release for state inmates is intact an act of equal protection of the law discrimination and Due Process violation. Petitioner states equal protection of the law the 14 amendment guarantee guarantee that the Government must treat a person or class of person the same as it treats other person or classes in like circumstances.

Argument

The fundamental requirement of due process is the opportunity to be heard at a meaning





the Supreme law Alton vs SC Coastal Council 409 SE 2d 604 (1990) where there is a Conflict between a Statute and the State Constitution, the Constitution Overrides the Statute. State vs Whitener 225 S C 244 81 S E 2d 784 (1954)

This Constitutional obligation cannot be abridge or avoided simply by the Passage of more restrictive Sentencing laws That Passage of any restrictive Sentencing laws that allow deny or other wise interfere with the Command of the Constitution makes that law Unconstitutional Article IX Section 2 is equivalent to Constitutional Contract in which State prisoners have a liberty and property interest that must be honored Logan vs Zimmerman Brush Co 455 US 422-31 (1982) See also Ked Morhead Oil Co v Federated Mut Ins 473 S E 2d 48, 445 S C (1996) An administrative regulation is valid So long as it is reasonably related

to the purpose of the enabling legislation,
Hearst would be in a quite different
position if it could simply ignore the
requirements of the statute and
proceed without obtaining the required
approval. Hence, they may not
have the right to be heard on
the merits of such a claim.
Mt. Airy Co. v. City of Columbia
Heights Council, 2d 53 (1955)
In Sullivan v. Boston
Society of Medical Surgeons, 2d (1994) hence, any
[illegible] by the legislature which
has passed a [illegible] statute
[illegible] or [illegible] of any delegation of
[illegible] to any state agency should
[illegible] to be unconstitutional
[illegible] the same is unconstitutional
[illegible] the constitution. There is a fundamental
[illegible] government from the people
to the [illegible] and the [illegible] of a
[illegible] Hearst [illegible] a state
[illegible] violates the [illegible] and
the principles of the people that
[illegible] be [illegible] in

Violations of Substantive Due Process
in order to Eliminate the Risk that
Defendants to Disobey Court
Orders or Rules that Tend to
Prejudice the Outcome for Interested
Parties or Merely Delay the Date
Rules of Procedure Clearly Provide
Remedies Upon Court Order. I Pray
for Injunctive Relief that the Court
Grant this Temporary
Restraint 34 and the Court Vacate
and the motion has Life in the
Court of Common Pleas Could
Not have Failed to Provide
Proper Care and Protection
Tried to Convert Due to Short
or Short and Overcharged.

Gerald Day

STATE OF SOUTH CAROLINA
COUNTY OF Horry

IN THE COURT OF GENERAL SESSIONS

State of South Carolina

ORDER IN A CRIMINAL CASE
WARRANT(S) NUMBER

INDICTMENT(S) NUMBER

JAMIE GOSS
(DEFENDANT(S))

MOTION FOR CONDITIONAL RELEASE

This form order: Assistant Def. Defn Office
submitted by:

Attorney for: [X] State [ ] Defendant
or
[ ] Self-Represented Litigant

DISPOSITION TYPE

[X] **DECISION BY THE COURT AFTER HEARING.** This matter came to a hearing before the court. The issues have been heard and a decision rendered. [ ] See below for additional information.

[ ] **DECISION BY THE COURT AFTER STATUS CONFERENCE.** This case came for a status conference before the court. The status of this case and pending issues in this case were discussed and a decision rendered. [ ] See below for additional information.

[X] MOTION:

[ ] GRANTED [X] DENIED [ ] CONTINUED [ ] WITHDRAWN

[ ] WITHDRAWN BY MOVING PARTY: _____
Signature of Moving Party

[ ] OTHER:

IT IS ORDERED AND ADJUDGED: [ ] See Order of the Court below [ ] See attached order
[ ] Formal Order to follow; to be prepared by: [ ] State [ ] Defendant [ ] Other: _____

ORDER INFORMATION

This order [X] ends [ ] does not end the case.
Additional Information for the Clerk:

This is an improper venue for this motion as it is based on a federal statute. However, the Hon. Judge Cathcart heard the motion and denied it. Accordingly, this motion is denied.

Clerk of Court Code

3157
Judge Code

Date

SCRCD Form 4C (03/2013)

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STATE OF SOUTH CAROLINA
COUNTY OF Horry

ORDER IN A CRIMINAL CASE

WARRANTS/ RAISING

IN THE COURT OF GENERAL SESSIONS

PROSECUTOR: [illegible]

State of South Carolina

NAME OF DEFENDANT(S): [illegible]

ATTORNEY(S): [illegible]

Attorney for: [X] State [ ] Defendant

or

[ ] Self-Represented Litigant

This form order referred by: [illegible]

DISPOSITION TYPE

[ ] DECISION BY THE COURT AFTER HEARING. This action came to a hearing before the court. The issues have been heard and a decision rendered. [ ] See below for additional information.

[ ] DECISION BY THE COURT AFTER STATUS CONFERENCE. This case came for a status conference before the court. The status of this case and pending issues in this case were discussed and a decision rendered. [ ] See below for additional information.

[ ] MOTIONS:

[ ] GRANTED [X] DENIED [ ] CONTINUED [ ] WITHDRAWN

[ ] WITHDRAWN BY MOVING PARTY: _____
Signature of Moving Party

[ ] OTHER:

IT IS ORDERED AND ADJUDGED: [ ] See Order of the Court below [ ] See attached order [ ] Factual Order as follows, to be prepared by: [ ] State [ ] Defendant [ ] Other: _____

ORDER INFORMATION

This order [X] ends [ ] does not end the case.
Additional Information for the Clerk:

Circuit Court Judge

Judge Code

Date

SCRCCP Form 4C (03/2013)

Page 1

The South Carolina Court of Appeals

The State, Respondent,

v.

Jamie Owen, Appellant.

Appellate Case No. 2021-001271

ORDER

Appellant has filed a motion to "opposition" to Respondent's initial brief and designation of matter, which we construe as a motion to strike. After careful consideration, the motion is denied.

Respondent has filed a motion to strike the record on appeal filed by Appellant on April 17, 2023, and require Appellant to file an amended record on appeal. After careful consideration, the motion is granted. Within thirty days of the date of this order, Appellant shall file an amended record on appeal that complies with the South Carolina Appellate Court Rules. See Rule 210(c), SCACR ("The Record on Appeal shall include all matter designated to be included by any party under Rule 210 and shall comply with the requirements of Rule 267. The Record shall not, however, include matter which was not presented to the lower court or tribunal."); Rule 210(c)-(g), SCACR (providing the required content and format for the record on appeal).

FOR THE COURT

Columbia, South Carolina

FILED
June 09 2023

The South Carolina Court of Appeals

The State, Respondent,

v.

Jason Cass, Appellant.

Appellate Case No. 2021-001277

The Honorable R. Farrell Cullum, Jr.
Perry County
Trial Court Case No. 2020CP3900733

ORDER

Appellant has failed to serve and file the amended Record on Appeal, as required by Rule 210(d) of the South Carolina Appellate Court Rules, and as directed by the Court's order of June 9, 2023. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b). SO ORDER.

FOR THE COURT

BY: _____
CLERK

Columbia, South Carolina

cc:
Jason Cass, Appellant
Hon. Melissa Wilson Pagnotta
William M. Hinds Jr., Esquire
James A. Richardson II, Esquire

FILED
Jul 17 2023

South Carolina Executive Order 2021-22 State of Emergency

Conclusion

Wherefore, the Defendant respectfully pray that the Honorable Court thereby consider the instant motion grant all relief that he may be entitled to under the Compassionate Release section of 18 U.S.C. 3582(c)(1)(A)(i). If a hearing is needed, please Appoint Counsel G.O. Order 12-3-20.

Respectfully Submitted,

James Goss, Defendant

Date: 2-2-21

STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS (Of Horry County)
COUNTY OF HORRY	Case No. 2006-GS-26-4745
JAMIE GOSS, # 79880	S.C.D.C. 1311/21 SSN# _____
Defendant,	Presiding Judge Honorable Steven John
vs.	Circuit Court Judge
STATE OF SOUTH CAROLINA,	
Release.	**Motion for Compassionate Release for Extraordinary Reasons**

Come now Defendant Jamie Goss #79,880, before this honorable court on a Motion for Compassionate Release for Extraordinary Reasons. This motion is written pursuant to 18 U.S.C. 3582(c)(1)(A)(i), and S.C. Constitution Article 1 Section 15, United States of America v. Lisinski, 728 F.2d 1282 (9th Cir. 1984); Defendant, Pulaski, 4, 2021) 2021 WL 915403. This matter comes before Honorable Steven John Circuit Judge of Horry County Motion for Compassionate Release for Extraordinary Reasons pursuant to 18 U.S.C. 3582 (C)(A)(i), in light of the COVID-19 Pandemic, and also the following reasons, the Defendant respectfully show this Honorable Court the following:

(1) Due to S.C. Department of Corrections Ridgeland Facility and all other SCDC Facilities being short of staff, overcrowded inmate population, lack of clean air and cleaning supplies.

(2) My wife has a life threatening illness which require her to rely upon Respirators breathing machines, and she has custody of my two (2) children, ages 14 and 16.

(3) My wife is currently in custody of Immigration Deportation facility Deportation, she is in custody of my other two (2) children ages 15 and 16.

Jamie Goss (37722)
Pro Se
P.O. Box 2037
Aiken, S.C. 29802

Ms. Renee M. Ellis
Clerk of the Court
Aiken County S.C.

RE: Case 2022-02
Jamie Goss v. State of S.C. and Sedgwick
Civil A.No. 2022-CP-02-00122 and Sedgwick
M.Rule 65 & 4923

Dear Ms. Ellis,

Please file and docket the enclosed Motion and Pleading a Copy to Undersigned Today, the 28th day of July.

Thank you for your assistance
and consideration in this matter.

Respectfully Submitted,
Jamie Goss

July 28, 2023

State of South Carolina
County of Charleston
In the General Sessions Court

Jamie Goss
Defendant,

-vs-

State of South Carolina
and Asst. Sol. Jessica
Hollandsworth,
Respondent.

Case No. 2022-[illegible]
Indictment No. 2022GS
2600735
Jury Trial Requested
Affidavit Attached

Motion to Alter or Amend or
Make Additional Fact Findings
Pursuant to S.C. Rules Civ. Proc. 59(e)
and S.C. Rules Civ. Proc. 52(b) and Hughes
v. State, 392 S.C. 332, 344 S.E.2d 703 (Ct. App. 2010)

Come now Defendant Jamie Goss, Pro Se, Respectfully
this Honorable Court and moves to alter or amend
or make additional fact findings pursuant to
S.C. Rules Civ. Proc. 59(e) and S.C. Rules Civ. Proc. 52(b)
and Hughes v. State, 392 S.C. 339, 344 S.E.2d 703
(Ct. App. 2010) and Parker v. State, 325 S.C. 307,
482 S.E.2d 766 (1997) for the following reasons and facts:

The Defendant Petitioner Respectfully Show This Honorable Court The Following:

Claims Raised By Defendant's Petition For Compassionate Release For Extraordinary Reason are as follows:

(1) Due To S.C. Department of Corrections Highland Facility and an Older Scale Facility Being Short of Staff, over Crowded Inmate Population, and Lack of Sufficient Cleaning Supplies.

(2) Defendant's Sister Has Been Taken Into Custody Which Requires Immediate Care. Her Respiratory Breathing Problems, and She has Custody of Defendant's Two (2) Children ages 14 and 15.

(3) Defendant's Wife is Currently in Custody of Immigration Detention Facility Deportation, She is in Custody of Defendant's other Three Children ages 13 and 16.

The Above Mentioned Claims is Supported By Well Established Law And The U.S. Constitution and Newly Created Circumstances

The U.S. Constitution is unambiguous under the Supremacy Clause, U.S. Const. Art. VI, Cl. 2, and 28 U.S.C. § 1257 that the laws and Constitution of South Carolina are inferior and subordinate.

The Petitioner respectfully requests this honorable Court hear the issue first filed by and fully adjudicated as required by South Carolina Rules of Civil Procedure 56(a) and 56(c), of this Court Rule 56 Count Number 3 @ Procedural Error (2) Abuse of Discretion (3) Question of Law and Fact Rule 56 (4) Abuse of Discretion.

Petitioner Adjudication by Summary Judgment Is Not Appropriate Because Genuine Issue of Material Fact Remain. Petitioner Also Asserted a Right to an Appeal as Stated in the Rules of This Court Including S.C. Code 15-1-30 and S.C. Code 14-1-150 (Appeal of the Case), and S.C. Appellate Court Rule 203 and a Motion Should be Fully Heard Because Petitioner (4) Defendant Should also Have Sought Leave of Court to Amend the Pleadings and Also Request Not Dismissed

I have read the foregoing Affidavit.

Conclusion

Defendant, the Petitioner, respectfully asks this Honorable Court to dismiss the charges in this case, or, in the alternal, release Because since the filing of the petition for compassionate release, defendant testified positive for covid-19, defendant requires the use of a ventilator, and therefore, to avoid contracting the virus, to prevent the spread of the virus, to avoid serious medical risk, and because of the indifference and deliberate medical neglect, the defendant respectfully requests the court to grant the motion for compassionate release.

Date: 8/2/23

Respectfully,

Jamie Goss

Notary Public:

Sworn to and Subscribed

before me this 2nd day of August 2023

Mission Expires: 10-1-25

Court Properly Dismissed Plaintiff's
Sua Sponte Order on the Ground
Collateral Estoppel Bar Invoked And Incorporated
Dismissal of the Counsel Filed Disbarred
Author Represented Defendant at the
Video Hearing Due to the Motion and
Has a Known Documented History of
Professional Misconduct and Criminal Violation
That Resulted Into Suspension Like
Now of Case 4:21-Cv-00-Y, Jackie Hazzard
355 S.E.2d 328 and Jackie Hazzard, 327 S.E.2d 333
and Jackie Hazzard, 350 S.E.2d 67, Despite the
Fact That He Has Been Reinstated to Practice
Law Again Here in the State of South
Carolina, S.C. Court Records Show His Sanction
Action Has Been Lifted. There are Many Reasons
The Motion Could Have Been Denied to
Practice Whether He Has 4 Ks or 500 Years
or and Says Such as to Invite a Pro Q
Non-Attorney Practitioner in the S.C. Court
of Appeals for Unknown Claims Rule 76
Bar Limited Corporate to Practice Law
Stack Has and Represent a Business in
Violation Court S.C. Supreme Rule 24.1.
Not Receiving Also of Any Business Dollars and Time
Having Been Misleading

Affidavit of Service

I Jamie Goss declare under Penalty of Perjury that I am the Defendant in the above Exceptional Matter and I have this 13 August 13 2021 Sent a Motion to alter or amend or make additional fact findings pursuant to S.C. Rules Civ. Proc. 59(e), and S.C. Rules Civ. Proc. 52(b), and Humbert v. State, 345 S.C. 332, a Copy of Motion Has Also Been Sent To The Respondent Asst. Sol. Holly asking and Attorney of Record Ronald W. Hazzard William was Court appoint to represent Defendant. The Copies was Sent By Way of the U.S. Mail with Sufficient Postage affixed and Paid.

Signature:

August 13, 2021 Jamie Goss

Jamie Goss

Notary Public:
Sworn to and Subscribed
Before me: [illegible]
This 13 Day of August 2021
My Commission Expires: 10-1-25

ATTACHMENT TO MOTION FOR COMPASSIONATE RELEASE

IN THE County of Cambria, PA

FOR THE

USA Eastern District of Pennsylvania

State of South Carolina

v.

Jamie Goss

Write your full name here.

Case No. _____
(write the number of your criminal case)

Date: _____

Sent: _____

PROPOSED RELEASE PLAN

In Support of Motion for Sentence Reduction Under 18 Code 3582(c)(1)(A)

NOTICE

The public can access electronic court files. Federal Rule of Criminal Procedure 49.1 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should not contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include only: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

If you provide information in this document that you believe should not be publicly available, you may request permission from the court to file the document under seal. If the request is granted, the document will be placed in the electronic court files but will not be available to the public.

Do you request that this document be filed under seal?

☐ Yes

☒ No

ATTACHMENT TO SECTION FOR COORDINATOR USE ONLY

B. Medical needs

Will you require ongoing medical care if you are released from prison?

☒ Yes

☐ No

Will you have access to health insurance if released?

☒ Yes

☐ No

If yes, provide the name of your insurance company and the last four digits of the policy number. If no, how do you plan to pay for your medical care?

I Am Considering Medicare

If yes, are you willing to apply for government medical services (Medicaid, Medicare, etc.)?

☒ Yes

☐ No

Do you have copies of your medical records documenting the condition(s) for which you are seeking release?

☐ Yes

☒ No

If yes, please include them with your motion. If no, where are the records located?

N/A

N/A

ATTACHMENT TO SECTION FOR COMPASSIONATE RELEASE

If yes, please provide address of the anticipated home or facility and the source of funding to pay for it.

N/A

N/A

Are the people you are proposing to reside with aware of your medical needs?

☒ Yes

☐ No

Do you have other community support that can assist with your medical needs?

☐ Yes

☒ No

Provide their names, ages, and relationship to you. If the person is under 18 years of age please use their initials only.

N/A

N/A

Will you have transportation to and from your medical appointments?

☐ Yes

☒ No

Describe method of transportation.

N/A

N/A

ATTACHMENT TO MOTION FOR EXPUNGEMENT OF MEDICAL RECORDS

IN THE COURT OF COMMON PLEAS
FOR THE
15th CIRCUIT OF BEAUFORT COUNTY

State of South Carolina

Case No. _____
(write the number of your criminal case)

v.

Jamie Goss 294985
(write your full name here)

MEDICAL RECORDS AND ADDITIONAL MEDICAL INFORMATION
In Support of Motion for Sentence Reduction Under S.C. Code 22-5-910(B)(2)

NOTICE

The public can access electronic court files. Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should not contain an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include only: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

If you attach documents to this form that you believe should not be publicly available, you may request permission from the court to file those documents under seal. If the request is granted, the documents will be placed in the electronic court file but will not be available to the public.

Do you request that the attachments to this document be filed under seal?

☐ Yes

☐ No

IN THE COURT OF COMMON PLEAS
FOR THE
13th COUNTY OF Berkeley County

STATE OF SOUTH CAROLINA

v.

Jamie Goss 291985
(Write your full name here.)
(Pendleville Correctional Inst. 11/15/91 SSN: 247-21-715)

Case No.
(write the number of your criminal case)
Order for Jan. 2 70 Burnout
MOTION FOR SENTENCE REDUCTION UNDER S.C. Code 17-25-45(B) and S.C. Code (Compassionate Release) 24-21-715
(Pro Se Prisoner)

Jan 11 2023 Jan 11 2023 Jan 11 2023 FILED

NOTICE

The public can access electronic court files. Federal Rule of Criminal Procedure 49.1 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should not contain an individual's full social security number or full birth date, the full name of a person known to be a minor, or a complete financial account number. A filing may include only the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Does this motion include a request that any documents attached to this motion be filed under seal? (Documents filed under seal are not available to the public.)

☒ Yes

☐ No

If you answered yes, please list the documents in section IV of this form.

Have you personally submitted your request for compassionate release to the Warden of the institution where you are incarcerated?

☒ Yes, I submitted a request for compassionate release to the warden on: SEE ATTACHED EXHIBIT

☐ No, I did not submit a request for compassionate release to the warden.

If not, explain why not:

N/A

N/A

Was your request denied by the Warden?

☒ Yes, my request was denied by the warden on (date): 7-6-23 (SEE EXHIBIT)

☐ No, I did not receive a response yet.

III. GROUNDS FOR RELEASE

Please use the checkboxes below to state the grounds for your request for compassionate release. Please select all grounds that apply to you. You may attach additional sheets if necessary to further describe the reasons supporting your motion. You may also attach any relevant exhibits. Exhibits may include medical records if your request is based on a medical condition, or a statement from a family member or sponsor.

A. Are you 70 years old or older? 18 U.S. Code 1B-35-4SCED

☐ Yes.

☒ No.

If you answered no, go to Section B below. You do not need to fill out Section A.

If you answered yes, you may be eligible for release under 18 Code 3582-35-4B5. If you meet two additional criteria. Please answer the following questions so the Court can determine if you are eligible for release under this section of the statute.

STATEMENT OF CASE

*(1) Petitioner files, Pro Se, a Motion for Compassionate Release under Extraordinary Circumstances in the Jurisdiction of Muscogee County Court of Common Pleas, Presiding Judge, Honorable Benjamin Culbertson Dunlap. Unconstitutional notions concerning the denial of the case, Petitioner submits, drafting a motion as Amend/Supplement Part Finding under the provision of Rule, Rules of Civil Procedure 15(d) and U.S. Rules of Civil Procedure 15(d)(1) and Dunnett v. State, 345 S.E. 2d 320, 322 S.E.2d 302 (Ga. App. 2001), and Martin v. State, 295 Ga. App. 837, 673 S.E.2d 290 (Nov. 5, 2009). "Question of law and facts", based denied by Honorable William M. Scott.

*(2) Petitioner has served not less than 15 years from a 27 year sentence less the calculation of credits of good conduct. Petitioner has been incarcerated throughout various institutions within GDC. GDC has a public reputation for not meeting the statutory duty owedon of humane treatment, for reason not limited to: short or scant in each department most generally in security and mental health staff. This decade old reputation has been unforeseen through statutory provision, all through overcrowding.

*(3) Petitioner's mother is battling a life threatening illness which requires her to rely on respiratory breathing machines, who is also the legal guardian of two of petitioner's children, ages 14 and 15.

*(4) Petitioner's wife is currently in custody of Immigration Detention facing deportation. She has custody of petitioner's other two children, ages 15 and 16.

*(5) Petitioner was incarcerated in GDC for the 2019 Pandemic of Corona Virus. GDC did not have protocol in the case of an exactly different scenario or situation in managing Covid-19, clearly establishing the unforeseen element of Extraordinary Circumstances.

*(6) Petitioner is petitioning the Court to grant a supersedeas through bond or undertaking.

*(7) Petitioner is Pro Se and is limited to studies at the institution.

(B) GROUNDS FOR PETITION

Please explain below the basis for your request. If there is additional information regarding any of these issues that you would like the Court to consider but which is confidential, you may include that information on a separate page, attach the page to this motion, and, in section IV below, request that that attachment be sealed.

The Jasper Pointe Facility and Jan Bernstein, MD are named Subsequent to my original Claims. Attorney Largent and Plaintiff did mistakenly Represent I Already have Received Court Sanctions, however, as a Result of Bad Faith I Ask Leave and Still Request to Add Claims Against Jasper County, which I've Cited Above for.

IV. ATTACHMENTS AND REQUEST TO SEAL

Please list any documents you are attaching to this motion. A proposed release plan is included as an attachment. You are encouraged but not required to complete the proposed release plan. A cover page for the submission of medical records and additional medical information is also included as an attachment to the motion. Again, you are not required to provide medical records and additional medical information. For each document you are attaching to this motion, state whether you request that it be filed under seal because it includes confidential information. S.C. Code 17-25-2(E)(2)(d)

Document	Attached?	Request to seal?
Proposed Release Plan	☐ Yes ☒ No	☐ Yes ☐ No
Additional medical information	☐ Yes ☒ No	☐ Yes ☐ No
Request to Amend	☒ Yes	☐ Yes ☐ No
Request to Add Defendant	☒ Yes	☐ Yes ☐ No

(b) Grounds for revocation (cont.)

(3) Rule (a)(3) of Sec. 2.01(3)

In a case subject to exception, any party may move for an order imposing sanctions or motions in the order, judgment, decree or decision or upon, the effect of granting a motion or motions decision or upon, judgment, order or decision or appeal is in error. ..."

(c)(3) The granting of suspension or lifting of the automatic stay under the rule may be conditioned upon such terms, including but not limited to the filing of a bond or undertaking."

(iii) Bail, Constitution Art. 1-15

Excessive bail shall not be required, nor shall excessive fines be imposed, nor shall cruel, nor cruelly, nor unusual punishments be inflicted, but shall witnesses be unnecessarily be detained." Cruel and unusual punishment is hindered with two elements (1) objectively whether the injury is sufficiently serious to deprive the prisoner of the minimal civilized measure of life's necessities and (2) subjectively whether the prison official's actual state of mind was one of deliberate indifference to the deprivation.

I have experienced first hand the unconstitutional conditions of jail. The courts have recognized the right of prisoners, in the light of the overall prison conditions to include the duration of a certain condition. Fact finders have shown jail's 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 system wide deficiencies in staffing facilities, or procedures make without any suffering inevitable, a court should not hesitate to use the injunctive power. Tudora v. Ward, 565 F.2d 88, 92 (2d Cir. 1977). As a practical matter, deliberate indifference can be evidenced by "repeated examples of negligent act which disclose a pattern of conduct by the medical staff" or it can be demonstrated by showing there are such systematic and gross deficiencies in staffing facilities, equipment, or procedures..."Ramos v. Lamm, 639 F.2d 559,575(10 Cir. 1980) Citation Omitted, Cert. denied, 450 U.S. 1041, 101 S.Ct. 1759, 68 L.Ed2d 239, also Tudora v. Ward, 32 (2d Cir. 1977)

DECLARATION OF RIGHTS

"It shall be the policy of the state in the operation and management of the Department of Corrections to assess and conduct the incarceration in such a manner as will be consistent with the mentality of a modern prison system, and with the aim of ending the prison self-sustainment and that those convicted of violating the law and sentenced to a term in the state penitentiary shall have humane treatment and be given opportunity, encouragement and training in the matter of reformation."

When a state imposes imprisonment for crime, it accepts the obligation to provide person in its custody with a medical care system that meets minimal standards of adequacy.

Covid-19 created a pandemic that was unforeseen by legislative powers and no no policy or procedure was in place for such circumstances. Supreme law of the land recognizes the natural tendencies of human nature, and powers that be.

Parties seeking to invoke a Force Majeure Clause is most likely to substantial language like "Acts of God" as the most likely language to cover Covid-19. Historically, Courts indeed defined "Acts of God" to encompass sickness. See e.g. Butler v. Mullen, 199 N.Y.S. 28,27 (1927).

In context relative to petitioner, SCDC has a statutory obligation to petitioner in regards to his health, safety and livelihood. Force Majeure identifies extraordinary circumstances in statutory language. In application to the matter at hand, Covid-19 has established extraordinary circumstances in regard to compassionate release. The non-existence of any protocol to manage institutions throughout SCDC during the pandemic, further supplements petitioner's legal view and raises the argument of negligence on behalf of SCDC.

In concluding with S.C. Const. Art. 12 § 2 law to cause negligence, I have physical and mental damage, Chalmers v. 300, 250, 150. I've been Eighteen infection for 13 years, Ignoring dental problems (tooth decay), post traumatic stress disorder, sleep apnea, etc.