

State of South Carolina
Court of Appeals

Joseph McMorris Jr.
Appellant,

v.

South Carolina Department
of Corrections

Respondent,

In The South Carolina Court
of Appeals:

Docket No: 24-ALJ-04-0387-AP
Grievance No: KCI 88-24

Notice of Appeal
Notice of Motion for Appeal

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SC Court of Appeals

Please take notice that I Joseph McMorris Jr.
Appellant am writing in respect to move for Notice of
Motion for Appeal: Pro-se

This is an informal resolution and request to be
placed in Labor Crew / Work Release Program while serving
85% "No Parole" Sentence.

Work Release; S.C.D.C. Policy - O.P. 21.04, 50-50.3 and
S.C. Code 24-13-125 (2010) at 85% of completed Sentence,
Minimum Custody "No Parole" Offenders.

According to Statutory provisions, Legislative intent
under Omnibus (2010, 2012, 2016,) and SCDC. Classification
Policy; S.C. Code 16-1-60, 16-1-90, 24-13-100, 24-13-150,
24-3-20(B)(3) and O.P. 21-04, 50-50.2 (SCDC), I am
eligible for Work Release.

The only category 4 or 5 offenders eligible for Work Release are sentenced under the 6/2/2010 Sentencing Reform Act. You must be within 5 years of your projected maxout or supervised re-entry date.

"2010 Omnibus Sentencing Reform Act":

Inmate is serving a violent offense for: Voluntary Manslaughter, Kidnapping, Carjacking With or without Bodily Injury, Burglary 2nd - Violent, Armed Robbery, Attempted Armed Robbery, Manufacturing / Distribution of Meth 1st, 2nd, and 3rd. The offense must be on or after June 2, 2010 and you must be within 5 years of your projected max-out or supervised re-entry date.

My trafficking in Meth/Crack Cocaine 28-100 grams is a category (3) offense. My Concurrent Trafficking Meth 2nd is a category (3) offense and 85% "No Parole" and (7) years. My classification score is 1 point.

South Carolina Code 24-13-150 (2010) and 24-13-125 (2015) specifically provide that a "No Parole" offense may participate in work release. *Bolin v. SCDC*, 415 S.C. 276, 781 SE 2d 914 (2016) provides; Section 24-13-150 requires an inmate who has been convicted of a "No Parole" offense to serve Eighty Percent of his sentence

before he is eligible for "Early Release", Discharged, or Community Supervision"... Three additional consequences attached to a conviction for an offense categorized as "No Parole"... (3) No Parole offenders are required to serve Eighty-Percent of their sentences before they are eligible for Work Release ending quote from South Carolina Court of Appeals in Bolin (2016).

The Legislature did intend to confer Work Release to individuals sentenced under this section. The Legislature included a "Notwithstanding" Clause to the service of eighty percent of a sentence that is "No Parole" as defined in S.C. Code 24-13-100.

My statute of conviction is S.C. Code 44-53-375 (c)(2) and does not provide in its language that an inmate may not participate in Work Release. My statute only provides no probation or suspended sentence.

The creation of Legislatures intent in S.C. Code 24-13-125(A) and S.C. Code 24-13-150, Act No. 273 (2010) supports S.C. Code 24-3-20(B)(3), Act No. 255 (2012) language under the Omnibus that the statutes must work together in harmony under the "Notwithstanding" any other provision intent.

A "No Parole" offense may not be released until service of 85% Eighty-Five percent as founded in S.C. Code 24-13-150, 24-13-125 (A). A "No Parole" offender is eligible for Work Release upon service of (80%) Eighty Percent of his/her sentence if he is:

- Level (1) one minimum custody ~~manual~~ and can be placed in/on a minimum custody facility.

S.C.D.C.'s operations policy manual, Policy No. O.P. 21.04, 50- Institutional Classification Procedures in minimum level institutions.

Operations Policy manual sections) 50 50.2 the policy for placement in work release is active and structured under South Carolina Law for "No Parole" offenses of minimum custody inmates for placement upon service of (80%) Eighty Percent of His/Her sentence in accordance with the Omnibus Sentencing Reform Act and the "Notwithstanding" Clause of application of the law enforcing the policy.

In addition the policy of 21.04, 50.3 allows non-violent offenders to commit disciplinary infractions and then after 90-180 days allow the inmate to roll over into the program. SCDC's current classification system is now behavior based (3/19/2020), the purpose of demonstrating good behavior is for the opportunity to participate in programs and living conditions and changing an inmates thinking while in the system.

It is understood that work release is a privilege factor should not be used as a baseline for denial of a "No Parole" inmate from participation. It should be the behavior and custody the language of Legislature Law intended that allows participation.

The Sentence Reform Act of 2010, Act No. 273 and 2012, Act No. 255 (Polin) also cover recitivism of inmates, rehabilitation, and cost effectiveness to conserve tax payer dollars. Allowing those that meet criteria under statute to participate would pay room/board/child support and pay taxes as well as mandatory savings to create a better chance of not coming back. That is the Legislature intent and interest for it's communities and taxpayers for the inmate and it

should be the intent and interest of SCDC as well to provide access to programs that are available in policy created from statute, to participated in the Work Release Program.

I understand it is a privelege. I meet all criteria and that I am required like all non-violent inmates approved for the program to demonstrate suitable behavior or be removed from the Work Release Program, Per Policy OP. 21.04 Section 50.5.

I am currently minimum custody (minimum custody since 2020). My concurrent conviction used as a prior (7 years) is a parole eligible level 3 that has already deteriorated (No Score Value).

I have no major disciplinary. I am currently 50 years of age and participation in Work Release Program would allow me to save necessary funds for a positive start back into society upon release into the community.

I am requesting the oppertunity to participate in the available work release program (Creates by Statute and allows by policy) at the Livesay Correctional Facility and/or Palmer Correctional Facility.

I have read the foregoing Motion to Appeal and hereby verify that the matter alleged therein are true and correct. I certify under penalty and perjury that the foregoing is true and correct. Executed on October 21, 2024 at Livesay Correctional Institution.

October 21th, 2024
Una, South Carolina

Respectfully Submitted,
Joseph McMorris, JR.
x Joseph McMorris
October 29th, 2024

October 29th, 2024

South Carolina Court of Appeals
Clerk's Office
P.O. Box 11629
Columbia, S.C. 29211

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RE: Joseph McMorris Jr. V.S S.C.D.C.

Docket No: 24-ALJ-04-0387-AP

Notice of Appeal:

Dear Clerk's Office,

I Joseph McMorris Jr. am writing in respect to bring forth the enclosed and original and one copy of the Appellant's Notice of Appeal to South Carolina Court of Appeals to Respondent's Motion to Dismiss from "ALC" Court on the above referenced case No. Please file the original and send me a file dated true stamped copy. Pro-se

Thank you for your immediate attention on this matter.

October 29th, 2024
UNK, South Carolina

Respectfully Submitted,
Joseph McMorris Jr.
x *Joseph McMorris*
October 29th, 2024

Pg. 1 of 1

Joseph Penitentiaries, Jr #264508
Livesay Correctional Detm 5/318
P.O. Box 580
Luna, South Carolina 29378

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Jenny A. Kitchings, Clerk
S.C. Court of Appeals
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