

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Honorable Robert L. Reibold
Case No.24-ALJ-15-0023-AP

RECEIVED
DEC 23 2024
SC Court of Appeals

Thomas Thompson #80681)	
)	Appellate Case No. 2024-002022
)	
Vs.)	APPELLANT'S INITIAL
)	BRIEF
South Carolina Department of Probation, Parole and Pardon Services)	
Respondent.)	

Thomas Thompson, Appellant, is an inmate sentenced to a life sentence for murder in 1975. On March 6, 2024 he appeared before the Parole Board for the 21st time. Appellant was allowed to view a copy of the parole file (case summary report) assembled for the Board's use in its decision making process for the first time. The four member board denied parole by a vote of three against and one for parole. Upon receiving the letter of denial from the Parole Board, Appellant immediately filed a notice of Appeal in the Administrative Law Court. This notice listed Appellant's name and number, Respondent (SCDPPPS), the date of the letter of denial, the date Appellant received the letter of denial, and a general statement of the grounds for appeal;

- 1-The Case Summary Report prepared by the Department was replete with factual errors, mis-statements, and omissions to such an extent as to render the decision of the Board arbitrary and capricious.
- 2-S.C. statute law requires the Parole Board to establish factors and criteria to determine if an inmate meets the conditions for parole stated in Section 24-21-640. The letter of denial lists 24-21-640 as one of the factors or criteria.
- 3-The hearing before a four member board violates Appellant's liberty interest in a hearing before the full seven member board for parole. This violates due process.
- 4-The Parole Board continues to enforce statutes passed into law after Appellant was sentenced and had become eligible for parole against appellant in violation of the ex-post-facto clause.
- 5-Appellant, a juvenile when he committed the crime, has been subjected to a much harsher punishment than similarly situated adult offenders.

This Notice of Appeal dated March 13, 2024 was accompanied by a certificate of service on Respondent. The Clerk's Office of the ALC returned this Notice stating that it was not on the proper form. While the form used to return the Notice clearly stated that the proper form was attached for convenience, no such form was attached. Appellant immediately filed a second Notice of Appeal on the only "Notice of Appeal in the ALC" form available at his institution, a form used for appealing grievances. Appellant enclosed a letter stating that this was the only form available and that a proper form had not been attached. Consequently the Clerk's Office returned this Notice of Appeal with the proper form attached. Appellant immediately filed this Notice of Appeal on the proper form which was dated May 14, 2024 due the preceding events.

Appellant received a form from the ALC Clerk's Office dated 5/22/24 which listed the date of assignment as 5/23/24 to Judge Reibold. Appellant then received a copy of the Record submitted to the Court from the SCDPPPS. At that time Appellant filed a Motion to have the parole file (Case Summary Report) included in the record.

On 8/28/24 Judge Reibold issued an Order of Dismissal stating that the Court lacked jurisdiction due to the Notice being untimely. Appellant then sent a letter on 9/11/24 to the ALC Clerk's Office requesting to be informed whether Judge Reibold was aware of the above circumstances prior to his ruling and if not could he be made aware of them. Subsequently Appellant received from the ALC a copy of a letter dated 9/23/24 sent to counsel for Respondent stating that the above letter was being deemed a Motion to Reinstate pursuant to Rule 260, SCACR, and SCALC Rule 68. Appellant sent a copy of the 9/11/24 letter to Respondent and a Certificate of Service of this letter on Respondent to Judge Reibold. The Respondent filed a response to the Motion to Reinstate and Appellant responded to this.

Judge Reibold then issued an Order on 10/22/24 denying the Motion to Reinstate. At that time Appellant filed a Notice of Appeal in the Court of Appeals.

ARGUMENT


Appellant made every good faith effort to file a proper Notice of Appeal. As an inmate filing pro se Appellant had no control over the availability of proper forms. The original Notice had all the relevant information contained on the proper form. Appellant was assigned a Judge and case number, the Respondent filed the Record, and Appellant filed a Motion to compel Respondent to file the whole record. Appellant clearly had reason to believe that he had properly initiated the

appeal. Appellant has requested the ALC Clerk's Office submit records as to correspondence between Appellant and their office during the time period, 3/13/24 to 5/14/24, when these events occurred. Appellant has also requested Respondent submit copies of all Notices of Appeal received in regard to this matter. Appellant will swear under an affidavit that the events described above are true.

CONCLUSION

Appellant has demonstrated "good cause" for the reinstatement of his appeal. As an inmate Appellant has no control over the availability of legal forms nor can he be held responsible for the ALC Clerk's failure to attach the proper form to the first letter rejecting his original Notice of Appeal. Appellant is being held to a higher standard than he should be expected to meet. The case should be judged on its merits.

Respectfully submitted,



Thomas Thompson #80681
Tyger River CI 10-103
200 Prison Road
Enoree, South Carolina 29335

December 19, 2024

*-Appellant has not addressed the issues of his appeal regarding the parole hearing as they have not been ruled upon by the ALC.

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Appellant,) Appellate Case No. 2024-002022
Vs.) CERTIFICATE OF SERVICE
South Carolina Department of Probation,)
Parole and Pardon Services)
Respondent.)

I, Thomas Thompson, do hereby certify that I have served the Respondent in the above matter with a copy of Appellants Initial Brief and Designation of Matter For The Record on Appeal by depositing copies of same in the US Mail, postage prepaid, on this day addressed as follows;

Matthew C. Buchanan, General Counsel
S.C. Department of Probation, Pardon and Parole Services
293 Greystone Boulevard, Post Office Box 207
Columbia, South Carolina 29202



Thomas Thompson #80681
Tyger River CI 10-103
200 Prison Road
Enoree, South Carolina 29335

December 19, 2024

Thomas Thompson
80681 TyRC1 10-103
200 Prison Road
Enoree, S.C. 29335

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TYGER RIVER MAILROOM

LEGAL

South Carolina ^{SC} Court of Appeals of Appeals
Jenny Abbott Kitchings, Clerk
Post Office Box 11629
Columbia, South Carolina

29211-162929

