

The South Carolina Court of Appeals

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| KENNETH STUART, scdc# 388211-Pro SE |) | |
| APPELLANT |) | Appellant Brief |
| V. |) | |
| South Carolina Department of Probation, Parole, and Pardon services, |) | Appellant Case No: |
| RESPONDANT |) | 2025-000392 |

The Parole Board made a proper conclusion of law and findings of fact determination with the denial of parole on this date. After the imposition of the trafficking methamphetamine conviction, the Respondant deviated from S.C. Code of law 24-21-640, rendering its final decision negative determination without considering the appropriate criteria required by law, essentially abrogating the Appellant's due process parole eligibility hearing and infringing on a state created liberty interest warranting a minimal due process protection.

The Administrative Law Court relied upon S.C. Code of Law 24-13-100 which was passed into law in 1995 and defining a no parole offense, and did not apply S.C. Code of Law 24-21-640 which was passed by the General Assembly and put into law on April 28, 2010. This law reflects legislative intent and includes statutory protections by stating in part, "The Parole Board MUST carefully consider the record of the prisoner BEFORE, DURING, and AFTER imprisonment." The August 7, 2024 final decision letter clearly reflects the Parole Board rendered its decision without applying the mandatory criteria under S.C. Code of law 24-21-640 arbitrarily, capriciously depriving him of a state liberty interest.

The Respondant incorrectly argues the S.C. Code of law 24-21-640 is now moot, however this isn't correct. The Appellant is required under S.C. Code of law 24-13-150 to participate in a community supervised program, after the completion of his prison sentence. The Community Supervised program is equivalent to parole for other offenders.

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SC COURT of Appeals

KENNETH STUART, sCDC# 389211-PROSE,)
APPELLANT)
V.)
South Carolina Department of Probation,)
Parole, and Pardon services,)
RESPONDANT)
)

Appellant Brief
Appellant Case No:
2025-000392

The mootness doctrine would apply, in the event the Appellant's motion for relief and award him missing credit from the community supervision home detention program towards his sentence and parole eligibility. The Appellant successfully completed community supervised court ordered home detention from October 2, 2020 until October 14, 2022, the day he was incarcerated into SCDC. The Appellant's attorneys failed to ask the court to include this missing time and apply it towards his sentence. The term of court has now passed and the Appellant has asked the FLC to award this credit. The court never ruled upon this argument/motion. The Appellant has filed two complaints with the office of disciplinary counsel, for this alleged ineffective counsel complaint.

Appellant MOTION

The Appellant motions to have the Administrative Law Court's decision set aside, and to have a due process parole eligibility hearing, and for the court award him the missing credit time for the community supervised home detention portion of his sentence.

Kenneth Stuart
Kenneth Shane Stuart
sCDC # 389211

THE SOUTH CAROLINA COURT OF APPEALS

KENNETH STUART, SCDC# 389211 - PROSE,)
APPELLANT)
V.)
South Carolina Department of Probation,)
Parole, and Pardon Services,)
RESPONDANT)

PROOF OF SERVICE

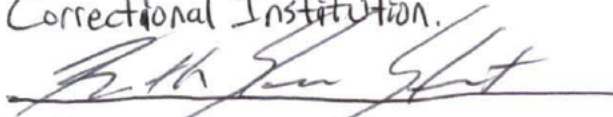
Appellate Case No:

2025-000392

Appellant Brief

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I, KENNETH SHANE STUART, SCDC# 389211, certify that I have served the Appellant Brief to the following addresses, by depositing a copy of the document in the United States mail, postage paid via the prison mail box of Wateree River Correctional Institution.


KENNETH SHANE STUART

4-APRIL-2025
DATE

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