

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
S. Phillip Lenksi, Administrative Law Judge
CASE NO: 24-ALJ-04-0333-AP
Appellate Case No: 2026-001549

Steven Freeman #320516,

Appellant

vs.

South Carolina Department of Corrections,

Respondent

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SC Court of Appeals

INITIAL BRIEF OF APPELLANT

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Statutory Code(s):

§24-3-40 (A)(5)
§24-3-40 (B)(1)(2)
§19-1-150
§16-3-20

Other:

Administrative Policy: ADM 15.13 Section 7.4
Administrative Policy 15.10 Section(s) 2.8, 2.9.2.9.1

STATEMENT OF ISSUE ON APPEAL

1.) Does an inmate serving a "Lenghty Term of years" sentence, whose expectations of release fall outside his life expectancy have a right to equal treatment under S.C. Code 24-3-40 to access his Escrwoed Wages.

2.) Does the Department's interpretation of S.C. Code §24-3-40 "as-applied" to Appellant who is serving a lengthy term of years with expectation of release falling outside his life expectancy unconstitutional.

STATEMENT OF CASE

This matter is before thi Honorable Court purusant to the Appeal of Appellant, Steven Freeman, an inmate incarcerated within the South Carolina Department of Corrections (SCDC of Department), who is serving a fifty year sentence for murder pursuant to S.C. Code § 16-3-20. Appellant's sentence of fifty years is a "Lenghty Term of Years", and pursuant to statutory law cannot be reduced by work credits of good time, and has no expectation of parole or release that falls within the Appellant's life time. On January 30, 2024, Appellant filed a step one grievance requesting access to his long term savings account, alleging that his denial of access was unconstitutional as-applied, where his he is serving a lenghty term of years and any expectation of release falls outside his life expectancy. The step one grievance was denied on February 12, 2024. Thereafter, Appellant filed a step two grievance, which was denied on March 11, 2024. On March 22, 2024 Appellant filed a Notice of Appeal witnt he Administrative Law Court. The matter was assigned to the Honorable Phillip Lenski on March 29, 2024. On June 3, 2026 the Honorable Phillip Lenksi issued an Order denying relief. On This Appeal follows.

FACTS

Appellant is serving a sentence of fifty years that is mandatory day for day service. Appellant received the sentence at the age of thirty. At the time of sentencing S.C. Code §19-1-150 stipulated that anyone sentence to such a sentence would fall outside the life expectancy of the Appellant, where such expectancy is 47-49 years. Pursuant to S.C. Code §16-3-20, is mandatory and such statutory law does not not allow for reduction in sentencing or parole eligibility.

The Department interprets such a sentence a a term of years regardless of expectation of any release and such considers S.C. Code 24-3-40 as binding upon appellant in denying access to his long term savings escrow. However, the agency has re-written its policy to allow for inmates serving a life sentence regardless of expecatations of release to receive access, and allows inmates serving sentences, albeit a term of years, to receive access to long term savings while at work release and level one institutions. Thus, only inmates who have lengthy sentences with no expectation of release in one's life time is treated by the Department as binding in denial.

In the present case along with others serving sentences in South Carolina that are lengthy the interpretation is binding simply due to the fact they are a term of years, however, the Rulings of such release expectations are ignored and have rendered such interpretation as absurd in result, where Appellant will never receive the escrowed wages in question during his lifetime under the construct of South Carolina Sentencing guidelines and statutory law. Thus appellant asserts a unconstitutional "As-Applied" application towards such implementation by the Department of deny access solely based upon a term of years without any rational for expectation of release of the appellant.

ARGUMENT

The line between facial and valid is a fluid one, and many constitutional challenges may occupy between purely "as-applied" relief and complete facial invalidation. 16 CJS Constitutional Law §153; at 147 (2015).

A facial challenge is an attack on a statute itself as opposed to a particular application. State vs. Legg, 416 S.C. 9, 13, 785 S.E.2d 369, 371 (2016). One asserting a facial challenge claims that the law is invalid "in-toto" and therefore incapable of any valid application. Steffel vs. Thompson, 415 U.S. 452, 474, 94 S.Ct. 1209, 39 L.Ed.2nd 505 (1974).

In an "as-applied" challenge the party challenging the constitutionality of the statute claims that the "application" of the statute in the particular context, in which he has acted, or in which he proposes to act would be unconstitutional. Ada vs. Guam Soc'y of Obstetricians & Gynecologists, 506 U.S. 1011, 113 S.Ct. 633, 121 L.Ed.2nd 564 (1992). However, finding a statute or regulation unconstitutional as-applied to a particular party does not affect the facial validity of that provision. Travel Scope L.L.R. vs. S.C. Department of Revenue, 391 S.C. 89, 109 N.11, 705 S.E.2d 28, 39 N.11 (2011). Instead, the "Practical Effect" of holding a statute unconstitutional "as-Applied" is to prevent its future application in a similar context, but not to render it utterly inoperative. Ada 506 U.S. at 1011, 113 S.Ct. 633.

In Slocumb vs. State 426 S.C. 297, 827 S.E.2d 148 (2019) the South Carolina Supreme Court relied upon Bunch vs. United States, 685 F.3d 546, 552 (6th Cir. 2012) to recognize that Slocumb's 130 year sentence is a de-facto life sentence. "Describing a de-facto life sentence as one that is expressed as a lengthy term of years, causing the Defendant's eligibility for parole of release to fall outside his projected life expectancy. Bunch at 522..

Appellant is a serving a mandatory term of years of (50) years day for day, albeit a "lengthy term of years" whose eligibility of release falls outside his life expectancy with no parole eligibility, and is challenging the application of S.C.. Code §24-3-40 (B)(1) "as-applied" as unconstitutional.

Section (A)(5) reads as follows:

"Ten percent must be held in an interest bearing escrow account for the benefit of the prisoner".

In Uuno Baum vs. S.C. Department of Corrections, 2019 WL 1164316 (2019); this Court of Appeals addressed Escrow Wages for inmates serving life sentences under section 24-3-40 (B)(2), and read Section (B)(2) in context with Section (A)(5). Thus, this Honorable Court of Appeals determined that a prisoner serving a sentence of life in prison would not receive the benefit of his monies outside of prison. Therefore, the Respondent changed its policy to reflect the following:

ADM 15.13; Section 7.4 "Deductions":

"Any inmate serving life in prison or sentenced to death may request the withdrawal of their "Escrowed Wages" to the person or entities of their choice no more than twice (2) per calendar year." (Added september 16, 2019).

Thus, inmates serving parolable life sentences receive access under this policy change to Escrowed Wages. Also, Inmates who are releasable under "Work Release Policy" ADM 15.10 Sections 2.8, 2.9, 2.9.1, allows access to "Escrowed Wages" upon the approval of the institutional wardens.

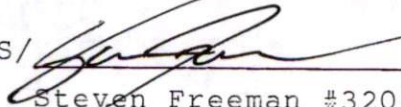
Herc, Appellnat's sentence, a "Lengthy Term of Years" which his release date falls outside his life expectancy, (See S.C. Code §19-1-150; appellant's expected life expectancy at the age of thirty, which appellant was convicted, was 47-49 years)... Also, his sentence by statutory law cannot be reduced by earned work credits or receive parolable release, S.C. Code§16-3-20.

Therefore, the Appellant asserts that the disparity in treatment and the particular context for which the Department of Corrections has acted and relied is unconstitutional as-applied to deny acces to his Long Term savings account. Slocumb. Quoting Bunch, at 522.

The Department's reliance upon an interpretation alone is error; Slocumb, Supra,; and must be read in context with Section (A)(5) which requires those particular wages for the benefit of the prisoner; for those serving a sentence of life. Thus, the same logic applied in Baum, by this Court of Appeals must be applied to Appellant's sentence; otherwise it would render the statute not only unconstitutional as-applied but absurd in in result.

Wherefore, Appellant asks this Honorable Court to issue an order that the Department's interpretation of S.C. Code § 24-3-40 (B)(1) "as-applied" to Appellent's sentence to be unconstitutional.

Respectfully Submitted

S/  .
Steven Freeman #320516

Appellant Pro Se