

The South Carolina Court of Appeals.

Emmanuel M.C. Fadden, Appellant.

v,
South Carolina Court of Department of Probation
Parole and Pardon Service, Respondent.
Appellate Case No: 2013-DD-2805.

Rule 221(B)
Motion
Rehearing and Remittus

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SC Court of Appeals

cc: _____

Emmanuel M.C. Fadden
Pro. Se. 00124011

The State of South Carolina Court of Appeal.

Emmanuel, M^c Fadden, Appellant.

v.
South Carolina, Department of Probation
Parole, and Pardon Service. Respondent.

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Appellant Case No #. 2013-002805.

SC Court of Appeals

Motion for Rehearing
Under Rule 221(B)

The appellant is Objecting to Order, date 4/13/14, the Order is base upon a statement of the Court Records. It stated the appellant had file what this Court construes as a Petition for Rehearing. After Careful Consideration of the Petition for Rehearing it also stated the Court is unable to discover that any Material Fact or Principle of law has been either overlook or disregarded, and hence, there is no basis for granting a Rehearing.

The appellant is strong disagree base upon Court Records, the Respondent. fail to turnover Key Material of the discovery of Motion which is the heart of my case. There is a numbers overlook area, The appellant has a Right to a full discovery for a production of documents, the appellant, ask for the Complete of the Prison Records, and all written statements, Original or Copies and identifiable as reports about the Parole Board Members denials for the following.

May 8, 2000, April 24, 2001, April 30, 2002 April 15, 2003.
April 21, 2004 April 20, 2005. April 19, 2006. Sept, 13, 2007.
Oct 8, 2008. Nov 17, 2009. Jan 6, 2011. April 11, 2012 July, 10,
2013. the Respondent, fail to give up this information to the
appellant, also see letter date 9/12/13, that stated, Respondent
does not intend to Respond to appellant's Request. My Questions
to this Honorable Court, why the appellant hasn't received a
full disclosure, from the Probation, Parole and Pardon Service

There is a number of overlook area in this case, (1) the
failure to give up the vote of (Yes) and (No) vote of Members
of the Parole Board (2) The Institutional Records of the Appell-
-ant, is a mistake of law or of fact in tribunal, Judgment
or Order, Case, Federal Civil Procedure Key 2658 Judgment
Key 355-356. C.J.S Judgment 314-315, an inmate has a
Right of review by the ALJD after a final decision
that he is ineligible for Parole, but that a Parole eligible
inmate does not have the same right of review after
a decision denying Parole; the Parole board is, however
Required to review an inmate's Case every twelve Month
after a Negative Parole determination S.C. Code Ann 24-21
- 620 (Supp. 2002) The Court explained further that procedural
due process was guaranteed only when an inmate was
deprived of an interest encompassed by the Fourteenth
amendment's Protection of Liberty and Property.

The Respondent, stated it was a special appeals, but it was misconstrued to fact, of a Civil action, of the Production of document. The Records, shown Respondent does not intend to respond to appellant's Request. The United States Supreme Court, decided Sandin v. Conner, 515 U.S. 472, 115 S. Ct. 2293, 132 L. Ed. 2d 418 (1995). In Sandin, the Supreme Court Reexamined the Circumstances Under which state Prison regulations afforded inmates a liberty interest protected by the Due Process Clause. In Sandin Court recognized that a state may create liberty interests which are generally limited to freedom from restraint which imposes atypical and a significant hardship on the inmate in relation to the ordinary incidents of prison life.

(1) Constitutional Law Key 257.5

It is a due process violation to punish a person for exercising a protected Constitutional or statutory right U.S.C.A. Court amends 5.14.

(2) Criminal Law Key 986.216) 40 Make a statement, By the Respondent, Presumption that Prosecutor does not intend to respond to appellant's Request, has acted vindictively in respond to defendant's exercise of a statutory or Constitutional Right to be heard on the need to guard against actual vindictiveness in the sentencing process.

Conclusion

For the reason discussed, the Court must conclude the action, to not allow a discovery, the Presumption of Vindictiveness of the (W/O) vote of the Parole Board Members, and Right to inspection the discovery, In, the Present Case, it is clear, when the Respondent Order is Vague and incomprehensible, or when it is supported by baseless factual allegations, and should be set aside for a full and complete discovery Records,

Emmanuel M. Linder

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State of South Carolina
County of Richland

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Proof of Service

The undersigned hereby Certifies that a true copy of the attached Matter had been served upon the Parties listed below, by Mailing (1) One copy in an envelope properly addressed to each Party, with U. S. Postage Prepaid this 16 day of April 2014, Such Matter being petitioned for Rehearing and Remitted with affidavit in support of Motion.

Ernest M. Smith
Pro Se #. 00124011

cc: Clerk of Courts

SCDC

APR 16 2014

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The South Carolina Court of Appeals

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April 03, 2014

Emmanuel McFadden, 00124011
Turbeville Correctional Inst.
P.O. Box 252
Turbeville SC 29162

Re: Emmanuel McFadden v. SCDPPPS
Appellate Case No. 2013-002805

Dear Counsel:

Enclosed is the decision of the Court. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Tommy Evans, Jr., Esquire
Matthew C. Robertson, Esquire

The South Carolina Court of Appeals

Emmanuel McFadden, Appellant,

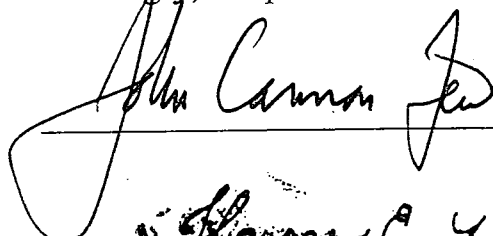
v.

South Carolina Department of Probation Parole and
Pardon Services, Respondent.

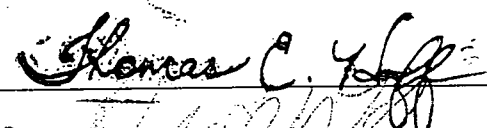
Appellate Case No. 2013-002805

ORDER

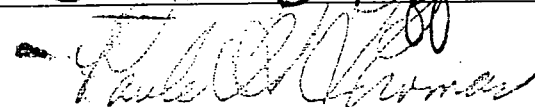
This appeal was dismissed on February 20, 2014, and Appellant has filed what this Court construes as a petition for rehearing. After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.



C.J.



J.



J.

Columbia, South Carolina

cc:

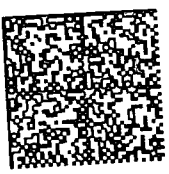
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Emmanuel M Jackson
TCF Tans card B-150
P.O. Box 252
Tomball, SC 29162

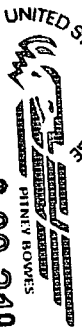
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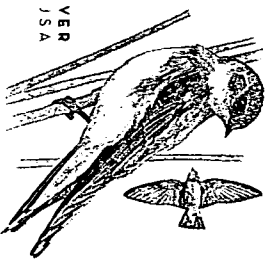


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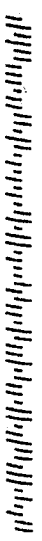
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SC Court of Appeals

Jenny AB Bott Kitching
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