

# The South Carolina Court of Appeals

Robert Koon, 227826, Appellant,

v.

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

Appellate Case No. 2014-000803

**RECEIVED**

MAY 02 2014

**SC Court of Appeals**

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## ORDER

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By order dated April 21, 2014, this matter was transferred to the South Carolina Court of Appeals. Appellant has now filed a motion to reconsider and asks this Court to retain jurisdiction over this case. The motion is denied, and this appeal shall remain at the Court of Appeals.

Since this appeal is pending at the Court of Appeals, this Court will take no action on the request to appoint counsel for this appeal.

  
C.J.  
FOR THE COURT

Columbia, South Carolina  
April 30, 2014

cc: Robert Holland Koon, 00227826  
Matthew C. Buchanan, Esquire  
The Honorable Jenny Abbott Kitchings (with copy of motion)

CLERK OF COURT  
SUPREME COURT  
PO BOX 11330  
COLUMBIA SC 29201

Robert Koon  
227826 LCT  
PO BOX 205  
RIDGEVILLE SC 29472

4/28/14

KOON V. SCOPERS  
2014-000803

PLEASE FIND ENCLOSED A MOTION FOR THE  
FULL COURT TO RECONSIDER TRANSFER TO  
SC COURT OF APPEALS - AND A PETITION TO  
RETAIN JURISDICTION OF THIS NOVEL ISSUE  
OF STATUTORY INTERPRETATION = RULE OF LENITY  
OF 17-25-45(E)

CAN YOU PLEASE SEND ME A CLOCK STAMP  
COPY OF MY NOTICE OF APPEAL AND ATTACHED.

KOON V. STATE (HABEAS)

IS A SEPARATE MATTER DID YOU RECEIVE THE  
FILING FEE FROM MR. HARRY LOVELACE FOR THE  
HABEAS CORPUS PETITION - \$2500

PLEASE LET ME KNOW

Robert Koon

**RECEIVED**

APR 30 2014

S.C. SUPREME COURT

The Supreme Court of South Carolina

ROBERT KOON . . . . Appellate

v.

SCDPSS . . . . . Respondent

Appellate Case # 2014-000803

Appeal From ALC 2013-ALJ-15-0018 AP

(\*)

\* MOTION TO RECONSIDER & PETITION TO RETAIN JURISDICTION

The PROSE Appellant RECEIVED A ORDER FROM THE Supreme COURT DATED APRIL 21, 2014 Signed by Honorable DANIEL SHEAROUSE TRANSFERRING the Appeal to SC COURT OF APPEALS the PRO Appellant would respectfully MOVE THIS COURT RECALL that ORDER AND RETAIN JURISDICTION over the Appeal.

A BRIEF SYNOPSIS OF THE Appeal ISSUES IS ATTACHED TO THIS MOTION - A MOTION TO RECONSIDER FILED IN ALC - AS THE COURT CAN SEE A NOVEL ISSUE HAS BEEN PRESENTED BY ONE OF FIRST DEFENDANTS IN SC - FIRST IN 7th CIRCUIT - TO RECEIVE 3 STRIKE LIFE Koon v. ST. 643 SE2d 680 (2007) THAT CALLS INTO QUESTION THAT STATUTORY INTERPRETATION OF ~~17-27-E~~ 17-25-45(E) THAT APPELLANT MAY BE CONSIDERED FOR PAROLE IF HE CAN PRODUCE A "EXTRAORDINARY CIRCUMSTANCES" OF COURSE PUR. TO RULE OF LENITY BiFulco v. US (US SUP. CT) CRIMINAL STATUTES ARE TO BE CONSTRUED IN FAVOR OF THE ACCUSED - THIS IS BLACK LETTER LAW. AND WORDS IN STATUTE ARE TO BE GIVEN THEIR PLAIN AND ORDINARY MEANINGS (ALSO BLACK LETTER LAW.)

COUNSEL  
↓

(\*) APPELLANT REQUESTS RULING FROM FULL COURT (APPOINTMENT OF

Appellant asserts a issue of this magnitude MAGNITUDE affects LWOP 17-25-45 A) b) PRISONERS throughout the state in so far as provisions of 17-25-45 (E) ARE CONCERNED AGAIN THIS IS A NOVEL ISSUE OF STATUTORY INTERPRETATION AND APPELLANT ASKS THIS COURT TO RETAIN JURISDICTION, AND APPOINT COUNSEL. TO DECIDE THE STATUTORY MEANING OF 17-25-45 (E)

IT MUST BE NOTED A ADDITIONAL ISSUE MANIFESTS ITSELF, AS SET FORTH IN ATTACHED ALS PLEADING, SC DEPT OF PROBATION, PAROLE, PARDON SERVICES WAS THE VICTIM IN APPELLANT 3RD STRIKE STATE V. KOON 2000 UP 291 (CT APP 2000) CERT. DENIED (SC 2001) AND IT IS ASSERTED THE VICTIM SHOULD NOT, CANNOT ACTUALLY, BE IMPARTIAL TO DETERMINE IF A EXTRAORDINARY CIRCUMSTANCE EXISTS PER 17-25-45 (E) TO WARRANT PAROLE. C SCPPPS POSITION WAS APPELLANT WOULD NOT BE CONSIDERED FOR PAROLE AS NO PROVISION EXISTS WHICH IS A ERROR OF LAW.

AND SCPPPS OMITTED DOCUMENTATION FROM R.O.A THAT ESTABLISHED 'EXTRAORDINARY CIRCUMSTANCE' TO WARRANT PAROLE AND ALS WOULD NOT ALLOW A MOTION TO EXPAND THE RECORD. C TO PRODUCE DOCUMENTS ACTUALLY SENT TO SCPPPS BY APPELLANT AND VICTIM TO SUPPORT PAROLE (SEE NOTICE OF APPEAL DOCUMENTS)

ALC Alluded to a process outlined by 17-25-45(E)  
but no such process exists, and process followed  
was to Petition SCPPPS directly w/ volumes of  
info to constitute (under lenity) an extraordinary  
circumstance - Appellant was advised he could only  
receive a pardon not parole CF: 17-25-45(E)

Perhaps the most compelling reason to retain  
jurisdiction is writ of Habeas corpus <sup>①</sup> filed in  
original jurisdiction of this court sets for  
itself a 'extraordinary circumstance' and  
is based upon defects in proceedings in  
1986 convictions that show "a denial of fundamental  
fairness shocking to universal sense of justice"  
(Inter Alia) state did not establish corpus delicti

for and strike 643 seed 680, 683 CUDD-LOVELACE  
"NO PROOF OF NIGHTTIME AT ALL" on NIGHTTIME BURGLARY  
(SEE ROA HABEAS PETITION) IT IS THE VICTIM HARRY LOVELACE  
who offers proof to ALC - Appellate courts that the  
CUDD-LOVELACE OFFENSE should NOT be a STRIKE  
OR COUNTED AS A STRIKE per 17-25-45(E)

The Appellant asks this court to Retain Jurisdiction  
and Appoint Counsel.

Robert Koontz

① FILING Fee PENDING

Pray of Service.

A TRUE COPY WAS MAILED TO  
MATHEW BUCHANAN SCOPPS PO BOX 50666  
COLUMBIA SC 29205 THIS DAY APRIL  
2014 BY US MAIL

Under oath



FILED

APR 10 2014

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Motions for Reconsideration  
are Prohibited.  
See ALC Rule 65.

SC ADMIN. LAW COURT

ROBERT KOON

227826

Appellant

v.

SC DEPT OF PROBATION, PAROLE

AND PARDON SERVICES

} # 13-ALS-15-0018

} MOTION TO RECONSIDER

} ORDER OF DISMISSAL

} SCRPC 59(E)

} TO ALTER OR AMEND JUDGMENT

The Appellant would respectfully move this Honorable  
to ALTER, AMEND the JUDGMENT pur to Rule 59(E) SCRPC  
AND TO RECONSIDER the ORDER OF DISMISSAL RECIEVED 4/4/14  
by Appellant.

(1) THIS COURT COMMITTED A ERROR OF LAW, AMOUNTING TO  
ABUSE OF DISCRETION FONTAINE V. PEITZ, holding that  
pur to 17-25-45(E) he IS NOT ELIGIBLE FOR PAROLE: 17-25-45(E)  
CLEARLY, SETS FORTH the CRITERIA to be established FOR  
Appellant to be considered FOR PAROLE (IE) A EXTRAORDINARY  
CIRCUMSTANCE. Appellant submitted EXTRAORDINARY CIRCUMSTANCES  
TO SC DPPP

The COURT states @ pg 3 " while SC CODE ANN §  
17-25-45 OUTLINES the PROCESS Appellant MUST FOLLOW to be  
considered FOR PAROLE, he has NOT complied w/ that process.

FIRST, 17-25-45(E) DOES NOT OUTLINE "ANY PROCESS Appellant must  
follow to be considered FOR PAROLE. What Appellant AND  
VICTIM OF HIS SECOND STRIKE HANN LOUCLACE

(SEE 643 SE22 680, 683)

id was Petition the CHAIRMAN of the PAROLE BOARD  
to GRANT Petitioner a "HEARING" where he could Present  
his EVIDENCE comprising the MOST "EXTRAORDINARY  
CIRCUMSTANCES". BY LETTER DATED MARCH 21, 2013  
SCDPPPS RESPONSE WAS "BECAUSE YOU ARE SERVING  
A LIFE SENTENCE w/o the possibility of PAROLE  
the ONLY option Available to you is a PARDON. ID (R.O.A.#1)  
THIS IS A INCORRECT STATEMENT OF the LAW 17-25-45(E)  
this COURT posits I HAVE NOT COMPLIED WITH A PROCESS  
that IS NOT STATED IN 17-25-45(E)

The EVIDENCE PRESENTED to the PAROLE BOARD by APPELLANT  
AND VICTIM OF SECOND STRIKE MR. COVELACE IN the  
R.O.A. AND EXPANDED R.O.A. CONSTITUTE PRIMA FACIE  
EVIDENCE OF EXTRAORDINARY CIRCUMSTANCES, TO WARRANT  
A HEARING BEFORE SCDPPPS per 17-25-45(E)

THIS COURT ALSO FAILED to ADDRESS the COERENT FACT  
SCDPPPS IS the VICTIM OF HIS CURRENT 3RD STRIKE.  
AND AS SUCH DOES NOT HAVE SUFFICIENT IMPARTIALITY  
to DISCERN whether EVIDENCE HAS BEEN SUBMITTED  
COMPRISING A "EXTRAORDINARY CIRCUMSTANCE", AND INDEED  
AS the CRIME VICTIM HAS MISCONSTRUED 17-25-45(E)  
to STATE I AM NOT PAROLE ELIGIBLE NOTWITHSTANDING

THE EXTRAORDINARY CIRCUMSTANCES SET FORTH TO SCOPPS.

FOR THESE REASONS it is humbly REQUESTED  
this COURT RECONSIDER its ORDER AND REMAND  
to a "IMPARTIAL TRIBUNAL OTHER THAN SCOPPS"  
to CONDUCT A HEARING to determine IF APPELLANT  
HAS PRESENTED SUFFICIENT EXTRAORDINARY CIRCUMSTANCES  
Purs to 17-25-45 (E) to be CONSIDERED FOR PAROLE.

Respectfully

Robert Koon 4/4/14

PROOF OF SERVICE

I ROBERT KOON did SERVE A COPY upon  
GENERAL COUNSEL SCOPPS PO BOX 50666 COLUMBIA SC 29205  
this 4th day APRIL 2014 by US MAIL

under oath



CERTIFICATE OF SERVICE  
This is to certify that the undersigned has this date  
served this order in the above entitled action upon all  
parties to this cause by depositing a copy hereof,  
in the United States mail, postage paid, or in the Interagency  
Mail Service addressed to the party(ies) or their attorney(s).

This 14 day of April 2014

By: [Signature]  
Judicial Law Clerk

**FILED**

APR 10 2014

SC ADMIN. LAW COURT