

Larry E. Hendricks
7901 Farrow Road
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Columbia, S.C. 29203-3220

Office of the Clerk
Supreme Court of South Carolina
Columbia, SC

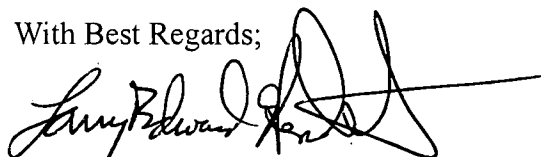
May 26, 2014

Dear Sir or Madam;

I hope that this letter finds you and yours in the best of health and spirits. Please find enclosed the requested Explanation. Please note for the record the above address as my current location.

I appreciate your time and attention to enclosed matter. Have a good day.

With Best Regards;

A handwritten signature in black ink, appearing to read "Larry Edward Hendricks", with a long horizontal line extending to the right.

Larry Edward Hendricks

cc: Chris D. Florian, Esq.

RECEIVED

MAY 28 2014

S.C. Supreme Court

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

MAY 28 2014

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Columbia, SC

S.C. Supreme Court

Ralph King Anderson, III
Chief Administrative Law Judge

Appellate Case No.: 2013-000612
ALC Case No.: 2004-ALJ-04-00612-A-AP

Larry Edward Hendricks, Petitioner,

vs.

S.C. Dept. of Corrections, Respondent.

PETITIONER'S EXPLANATION

The Petitioner, Larry Edward Hendricks, proceeding pro-se, humbly submits this Explanation regarding the above action. The Petitioner is in receipt of a letter from the Clerk of Court dated May 14, 2014. The letter was stamped on the same date but not postmarked until May 20, 2014, and received by the Petitioner on May 22, 2014. In the letter the Clerk ask why the pending proceedings should not be considered moot. The Petitioner was given 20 days from the date of the letter to explain his position, or the matter would be dismissed.

It is the Petitioner's understanding, based on the precedent of this Court, that a "moot" case exists where a judgment rendered by the court will have no practical legal effect upon an existing controversy

because an intervening event renders any grant of effectual relief impossible for the reviewing court. Sloan v. Friends of Hunley, Inc., 630 SE2d 474 (2006); Collins Music Co. Inc. v. IGT, 619 SE2d 1 (SC App. 2005).

Because the Petitioner brought forth several questions in his Writ and believes a substantive Due Process violation is the consequences of the Respondent's actions, the matters concerned are ripe rather he is incarcerated presently, or not, especially when there are other avenues for relief upon this Court's determination, through a declaration in its order to the questions asked.

Pursuant to S.C. Code of Law §15-53-10 et seq., and Rule 57 of the South Carolina Rules of Civil Procedures (SCRCP), a Declaratory Judgment could be made. Ones who civil or political rights are directly affected by a statute may have the necessary interest to challenge the validity of the statute by a declaration judgment proceeding. Lee v. Clark, 77 SE2d 485 (SC 1953).

Specifically, the two questions presented were: Whether the Court of Appeals should have held that the Administrative Law Court's decision, that retroactively applied S.C. Code §1-23-600(D) to the remanded decision, violated this Court's Mandatory precedent; and whether the Court of Appeals should have granted the Petition for rehearing and decide that the Administration Law Court (hereafter "ALC") violated the Separation of Powers Doctrine in its application of a revised statute in the Petitioner's case?

Further, the Court of Appeals showed a bias when it ignored its own rules, whereas they allowed the Respondent to violate Rule 208(a)

(4), SCACR, which proclaims that if a Respondent fails to file an Initial Brief, this Court may therefore, "take such action as it deems proper".

The Petitioner sought relief pursuant to Rule 220(a), SCACR, through a motion because this matter has been in litigation since 2004, during that period it had been back and forth in the lower courts. In the latest Remand of the Honorable G. Thomas Cooper, Jr., the Order clearly told the S.C. Administrative Law Court that it Granted, "... jurisdiction to reconsider this matter on its merits and not merely on procedural grounds." The Circuit Court clarified the jurisdictional issue, questioned previously by the ALC, pursuant to the decision of the South Carolina Supreme Court in Furtick v. SCDC, 649 SE2d 35 (SC 2007). The ALC refused to follow those instructions.

Respondent stayed non-responsive throughout the whole proceeding, in both the ALC, the Court of Common Pleas and then the Court of Appeals. The ALC, without any input from the Respondent, decided against the Petitioner and went against the Order of Judge Cooper. Now close to ten years later the Petitioner deserves a declaration from this Court.

The fact is that the Petitioner lost 204 days of Earned work Credit and 20 days of Good Time Credit for a disciplinary conviction that was denied proper judicial review. The Petitioner had standing based upon Al-Shabazz v. State, 527 SE2d 742, 753 (2000) ("An inmate brings a contested case for the purposes of judicial review when he challenges a disciplinary outcome, calculation of sentence related credits, custody status, or other conditions of imprisonment;") and

S.C. Code Ann. §1-23-600(D) (Supp. 2010) (providing the ALC "shall preside over all appeals from final decisions of contested cases"); S.C. Code Ann. §1-23-310(3) (Supp. 2005) (defining "contested case" as a proceeding "in which the legal rights, duties, or privileges of a party are required by law to be determined by an agency after an opportunity for hearing"). The ALC "sits in an appellate capacity to review" the decisions or challenges to the outcome of disciplinary hearings. Furtick, supra.

This Court previously acknowledged that "[t]he statutory right to sentence-related credits is a protected 'liberty' interest under the Fourteenth Amendment, entitling an inmate to minimal due process to ensure the state-created right was not arbitrarily abrogated." Al-Shabazz, 527 SE2d at 750.

This Court has inherent power to do all things reasonably necessary to insure that just results are reached to the fullest extent possible. Robinson v. Estate of Harris, 698 SE2d 801 (2010). Inherent power of courts to do all things reasonably necessary to insure that just results are reached to fullest extent possible necessarily includes looking at the separation of powers question to establish whether the ALC of the Executive Branch can not perform a ministerial task given it from the Judicial Branch. Id. Substantive due process in particular protects against the arbitrary infringement of "fundamental rights that are so 'implicit in the concept of ordered liberty' that 'neither liberty' nor justice would exist if they were sacrificed." Dykes, supra (quoting Palko v. Connecticut, 302 U.S. 319, 325-326 (1937)).

The purpose of the substantive due process clause is to prohibit government from engaging in arbitrary or wrongful acts Regardless of the fairness of the procedures used to implement them. State v. Dykes, 728 SE2d 455 (SC 2012); County of Sacramento v. Lewis, 523 U.S. 833, 840 (1998).

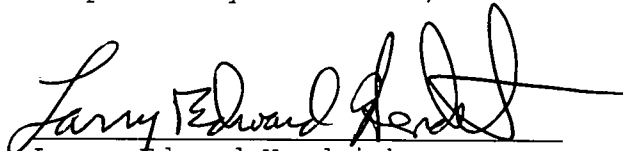
At a minimum, the declaration of this Court through its Order will establish the Petitioner's rights under S.C. Code of Law §15-78-50.

CONCLUSION

Based on the above precedent and established facts, the Petitioner humbly requests that this matter be allowed to proceed and not be declared moot.

THIS THE PETITIONER HUMBLY PRAYS!

Respectfully Submitted,



Larry Edward Hendricks

Petitioner, Pro-se

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Columbia, SC 29203-3220

May 26, 2014

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Columbia, SC

Ralph King Anderson, III
Chief Administrative Law Judge

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Larry Edward Hendricks, Petitioner,

vs.

S.C. Dept. of Corrections, Respondent.

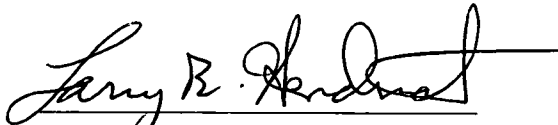
CERTIFICATE OF SERVICE BY MAIL

I, Larry E. Hendricks, the Petitioner, Pro-se, in the above captioned matter do hereby certify, that I have this date served: Petitioner's Explanation; by depositing one copy of each via the U.S. Postal Service, fist class postage prepaid, and addressed as follows:

Chris D. Florian, Esq.
Staff Attorney, SCDC
Office of General Counsel
PO Box 21787
Columbia, SC 29221-1787

This 26th day of May 2014.

Respectfully Submitted,

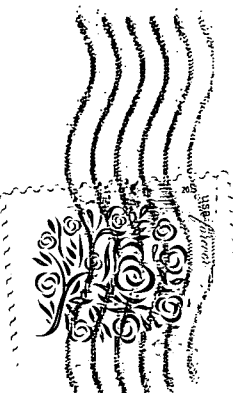


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