

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Honorable Ralph K. Anderson, III, Administrative Law Judge

Case No. 10-ALJ-04-0637-AP

RECEIVED
MAY 25 2012
SC Court of Appeals

Thomas J. Torrence, #094651 APPELLANT

v.

S.C. Department of Corrections RESPONDENTS

MOTION TO DENY RESPONDENT'S MOTION TO DISMISS

Thomas J. Torrence, the *pro se* Appellant herein, respectfully moves this Honorable Court to deny Respondent's Motion to Dismiss the above-referenced case, dated May 16, 2012. In support of this motion the Appellant shows this Honorable Court the following:

1. Appellant has a constitutional right to be awarded pre-conviction jail time credit. *Ohio v. Johnson*, 476 U.S. 493, 499 (1984).
2. S.C. Code Ann. §24-13-40 contains no exception to the mandate "In every case in computing the time served by a prisoner, *full* credit against the sentence shall be given for *time served prior to*

trial and sentencing..." for whether or not the prisoner is eligible for parole or release.

3. The commitment order contained in Respondent's Exhibit B (Charleston County 87-GS-10-2761 - Accessory after the fact to Murder) is a nonviolent crime.
4. Appellant's post-conviction relief application (2011-CP-32-1727) challenging the interpretation of Appellant's sentence(s) upon which Respondents rely in their Exhibit A, is currently pending in the Lexington County Court of Common Pleas.
5. Respondent fails to rely upon any precedent on appeal for denial of jail credit being moot.

WHEREFORE, based on the foregoing facts and argument, Respondent's motion to dismiss is improper and Appellant respectfully moves this Honorable Court to deny that Motion.



Thomas J. Torrence

#094651

Lieber Corr. Inst. SA-43

P.O. Box 205

Ridgeville, SC 29472-0205

May 21, 2012

APPELLANT, Pro se

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PROOF OF SERVICE

I, Thomas J. Torrence, certify that I have today served the within Appellant's Motion to Deny Respondent's Motion to Dismiss upon Respondent by depositing a copy of same in the United States Mail, first-class postage pre-paid. I further certify that all parties required by Rule to be served have been served this 22nd day of May 2012, addressed as follows:

Christopher D. Florian
Office of General Counsel
S.C. Dept. of Corrections
PO Box 21787
Columbia, SC 29221-1787



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May 21, 2012

Honorable V. Claire Allen
Deputy Clerk
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: *Thomas J. Torrence, #94651 v. SC Dept. of Corrections*
Case No. 10-ALJ-04-00637-AP

Dear Ms. Allen:

Please find enclosed for filing in the above-referenced ALC matter Appellant's Motion to Deny Respondent's Motion to Dismiss and Proof of Service on the Respondents.

Your assistance in this matter is sincerely appreciated.

With kindest regards, I remain,

Sincerely,

A handwritten signature in cursive script that reads "Thomas J. Torrence". The signature is written in black ink and is positioned above the typed name.

Thomas J. Torrence
APPELLANT, Pro se

Cc: Christopher Florian, Esq.

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