

The State of South Carolina  
In The Court of Appeals

Count

Appeal From The Administrative Law Court

Deborah Brooks Dunder - Administrative Law Judge

Case No 13-ALJ-04-0772-AP

Appellate Case No-2014-601666

RECEIVED  
JUN 23 2014  
SC Court of Appeals

Charles R. Carter 246054-

Appellant

v

South Carolina Department of Corrections

Respondent

Initial Brief of Appellant

Charles R. Carter 246054

P.O. Box 2039

Ridgeland SC 29936

Table of Contents

Table of Authorities	ii- Page 1
Statement of Issues on Appeal	i- Page 1
Statement of The Case	Page 1
Facts	Page 1 and 2
Arguments	Page 2
Conclusion	Page 3-4

1. Because Appellant's sentence was recalculated and modified by prison officials and the office of general counsel outside the record by ex parte contact with court officials nearly 1 year after he had started his sentence without Appellant knowing or being involved- Appellant was denied due process of law which increased the amount of time he must serve.

## Table of Authorities

TanT vs South Carolina Dept of Corrections - 718 S.F.2d - 753  
 U.S. vs Hill - Ex-Rel - Wampler - 298 - U.S. - 466

RECEIVED  
 JUN 23 2014

Court of Appeals

## Statement of Issues on Appeal

1. Did The Administrative Law Court Err in Failing To Find That Appellant was not Denied Due process

## Statement of The Case

Appellant was Sentenced To 36 years on 12-11-97 For MWD Crack in York County By Judge John C Hayes - see Exhibit # 4 - Line 6, after Being Found Guilty By Jury Trial. See Exhibit # 3 Verdict Form and was provided with a Copy of His Sentencing Sheet Filled out and signed By Judge Hayes showing offense Code 102 - Warrant # E45557 and 30 year Sentence. See Exhibit # 5 - original Sentencing Sheet. After Being Transported To The R + E Center where inmates are Processed and classified He was Assigned To McCormick C.I. on or about Jan 19th 1998 where He was classified By The T.C.C. Board and Told That His Parole Date was on January 2004 and His Max out Date was October 2013 and was also Provided with a Copy of A Document in Support of This information which was His Release Note Screen. See Exhibit # 6 Line 6 and 9.

## FACTS

During The latter part of 1998 while working on His PCR Appellant sought a Copy of Certain Documents From His caseworker at McCormick C.I. Upon Doing So, He discovered That SCDC's Computer Had a Different offense Code and Drug Statute and That His Release date Had Changed and That He Had No Parole Date.

His Case Worker Told Him That She did not know where the information had come from. The Computer contained a new offense code of 3585 and the Drug statute read Manufacture - Dist - ETC That was completely different from the Drug statute in Appellant's original Indictment. The statute 3585 was not even created at the time Appellant was sentenced and did not even come out until around June 1998.

So Appellant wrote to the York County Clerk of Court for a copy of his sentencing sheet to try and clear up the matter. See letter to Clerk - Exhibit #7. There's nothing in the letter relating to 3rd offense as SCDC would later allege in its defense.

See Exhibit #8 - Clerk's Response Dated 10-13-98 Falsely alleging that Appellant had requested a sentencing sheet showing 3rd offense which was untrue because the original sentencing sheet never contain the words 3rd offense. Subsequently, the original sentencing sheet came to Appellant but had been modified by adding code 114 and 3rd offense to it. See Exhibit #9. Then a

commitment text by L. Cusack verifying that prison officials had been in touch with members of the York County Sheriff Dept named S. Willis and the Solicitor's office named Sally and the York Clerk of Court and that Appellant's sentence was

modified from 102 to 114 per m-stobbe dated 10-16-98, all in Exhibit #10. Finally at Allendale CJ in 2010 Appellant was able to get a copy of a document showing how all this took place.

See Exhibit #11 - Showing offense code 3585 - Manu - Dist - 3rd which is what comes out of the computer when code 114 is entered.

Exhibit #12 is the New Release date screen showing march 2023.

Exhibit #13 is Affidavit of SCDC Records Clerk Michael Stobbe admitting that he adjusted Appellant's records after Ex Parte contact with the York County Clerk of Court.

See Exhibit # 8: 10-26-98 Pers. Bob Be in  
concord with General Counsel

All This was done outside The Record By Prison Officials  
After The Term of Court Had Well expired. Appellant was set  
in going up For Parole and at Least Making out in Oct-2013  
Appellant Wrote To The Sentencing Judge who Responded  
in Letter date Sept 10-2004 That The Sentence indeed Had  
Been Changed But This was Six years Later and That  
He Had No Jurisdiction over The Conviction at That  
Time. All This was done <sup>without</sup> Appellant knowing or Being  
Involved. On 10-8-2012 Appellant Filed A Step one grievance,  
and The Warden's Response States That The Sentence Had Been  
Modified, and That Appellant Must Serve 25 years 6 months. He Then  
Filed Step Two on 1-7-13. The grievance was Held until 9-16-13  
which denied Relief. See exhibit # 15-16 For Grievances  
Also See Exhibit Verifies #1 The original offense Code of 102  
which is The General Session Pocket Report and The Disposition  
of The Trial Arrest and Sentence. Appellant Appealed To  
The Administrative Law Court. Relief Was denied on 5-21-14  
By Judge De. Boralt Brooks Durden.

### Conclusion

Pursuant To Tanit US S&DC-718-Sc2d-753. Appellant was  
denied due process of Law and a Protected Liberty Interest  
was Taken away From <sup>him</sup> unlawfully Pursuant To The 14th  
Amendment. Due process Requires - Notice - A Hearing and Judicial  
Review. The Drug Statute and Code of 3585 - Manu. Facturing  
Dist - Etc actually Constitutes Appellant Being Reindicted  
and Resentenced By Prison Officials. The Only Remedy was To  
Take Appellant Back To Court as in US vs Hill Ex. Rel.  
Wampler - 298 US 460. The Separation of Powers is also Violated  
Appellant's indictment is coded CDR code 112 which indicates a 150  
OFFENSE.

4 Therefore Appellant Has Been Placed Under a new offense Code OF 114 while His indictment is 112 and Sentencing Sheet is 102 and A Different Drug Statute. That He was not indicted under and That Was not created at The Time Appellant was Sentenced. There Fore Appellant's Sentence Expired in Oct-2013 and He Should Be Released From Custody immediately. Prison officials Have Placed Appellant under a Different Sentence other than what His Sentencing Sheet Reveals. See Exhibit #6 For initial Release date.

Where Fore Appellant Pray This Court Grant Him Relief, and That He Be Released From Custody Immediately

Charles R Carter 296084  
P.O. Box 2039  
Ridgeland SC 29936

Christopher Florian  
P.O. Box 21787  
Columbia SC 29221  
Attorney For Respondent

Appellant Should Have Been Released on 10-1-2013 while He is only Given 1 Hour Per Week in The Law Library To work on This Brief which is not Considered a Deadline By The Librarian Here at Ridgeland.

The State of South Carolina

In The Court of Appeals

Court

Appeal From The Administrative Law Court

Deborah H Brooks Darden - Administrative Law Judge

Case No - 13-ALT-04-0772-AP

Appellate Case No - 2014-004066

Charles R Carter 246054

Appellant

South Carolina Department of Corrections

Respondent

PROOF OF SERVICE

I certify that I have served a initial Brief on South Carolina Department of Corrections by depositing a copy of it in The United States mail postage pre paid on 6-20-2014 addressed to Attorney of Record Christopher Florian at P.O. Box 21787 Columbia SC 29221 and to The South Carolina Court of Appeals Jenny A Kitchings at PO Box 11629 Columbia SC 29211 along with designation of matter to be included in Record on Appeal.

6-20-2014

Charles R Carter 246054

P.O. Box 2039

Ridgeland SC 29936

Christopher Florian

P.O. Box 21787

Columbia SC 29221

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 20 DAY OF June

2014

Virginia Robinson

NOTARY PUBLIC  
STATE OF SOUTH CAROLINA

MY COMMISSION EXPIRES May 20, 2021

RECEIVED  
JUN 23 2014  
SC Court of Appeals

In The State of South Carolina  
In The Court of Appeals

Court

Appeal From The Administrative Law Court  
Rebecca Brooks Darden - Administrative Law Judge  
Case No - 13-ALJ-04-0772 AP.  
Appellate Case No 2014-001660

Charles R Carter 246054

Appellant

v

South Carolina Department of Corrections - Respondent -  
South Carolina Court of Appeals

Jenny A Hitchens

P.O. Box 11629

6-28-2014

Columbia SC 29211

Dear Ms Hitchens

Please find enclosed a copy of my initial  
Brief and Designation of Matter in Record on Appeal,  
and PROOF OF SERVICE FOR BOTH. Also included are  
EXHIBITS 1 thru 17 which the Designation of Matter consist  
of. Please send to me a clocked in stamped copy  
when file. Thank you very much for your assistance  
and cooperation as always.

Respect Fully Submitted

Charles R Carter 246054

P.O. Box 2039

Ridge Land SC 29936

**RECEIVED**

JUN 23 2014

SC Court of Appeals

Charles R Carter 246054  
Ridgeland CI SA 28  
P.O. BOX 2039  
Ridgeland SC 29936

RIDGELAND CORRECTIONAL  
INSTITUTION

JUN 20 2014

MAILROOM

LEGAL MAIL

29211+1629

CHARLESTON SC 294

RECEIVED

JUN 23 2014

The Honorable *J. Keith*  
SC Court of Appeals

SC Court of Appeals  
P.O. Box Hb 29  
Columbia SC 29211

