

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

**RECEIVED**

JUL 14 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

Larry Edward Hendricks, ..... Petitioner,  
vs.

S.C. Dept. of Corrections, ..... Respondent.

**PETITION FOR REHEARING**

NOW COMES THE PETITIONER, Larry Edward Hendricks, proceeding pro se, who has received a decision of this Court dated June 25, 2014, that was received on July 2, 2014.

Pursuant to Rule 221(a), South Carolina Appellate Court Rules (SCACR), the Petitioner hereby asks this Court for a Rehearing to secure or maintain uniformity of its previous decisions.

This Petition is in accordance with Rule 240(c) SCACR, and the precedent establish in Arnold v. Carolina Power & Lights, Co., 167 SE 35 (SC 1933). The Petitioner will show the following points that were either overlooked or misapprehended by the Court necessitating that a rehearing take place because:

THE DECISION OF THE COURT CONFLICTS WITH THE STATE'S  
CONSTITUTION'S SEPARATION OF POWERS DOCTRINE AND APPELLATE  
JURISDICTION.

The Petitioner received a letter requesting a reason why the issues raised before the Court would not now be considered moot. The Petitioner responded in a timely fashion. The Court still issued an Order dismissing the opportunity for review.

The Petitioner had raised a question in his Writ that dealt with both appellate jurisdiction and the separation of powers doctrine. He succinctly brought before the Court precedent based on the case McConnell v. Haley, 711 SE2d 886 (SC 2011) ("the legislative, executive, and judicial powers of the government shall be forever separate and distinct from each other, and no person or persons exercising the functions of one said department shall assume or discharge the duties of any other."), that there was a violation of the State's Constitution.

The question of compliance with rules, regulations, and statutes governing an appeal is one of appellate jurisdiction rather than subject matter jurisdiction. Allison v. W.L. Gore & Associates, 714 SE2d 547 (SC 2011). As such the question raised by the lower court was not questionable.

By the then appellate Court granting the Rule 60(b), SCRCP, and remanding with specific instructions, the holdings of that Order is the law of the case. Toler's Cove Homeowners Ass'n Inc. v. Trident Const. Co., Inc., 586 SE2d 581 (SC 2003).

The order of the ALC directly went against that order. The Circuit Court acting in an appellate capacity would operate and fall under the same appellate standard as this Court, that once a remittitur is sent down from a superior court, the lower court acquires jurisdiction to enforce the judgment and take any action consistent with the superior court's decision. Muller v. Myrtle Beach Golf & Yacht Club, 438 SE2d 243 (SC 1993); Martin v. Paradise Cove Marina, 559 SE2d 348, 351-52 (Ct. App. 2000).

The legal right to performance of the Remand Order is not doubtful, nor is performance discretionary. City of Rock Hill v. Thompson, 563 SE2d 101 (SC 2002). Under the mandate rule, an inferior court has no power or authority to deviate from the mandate issued by an appellate court. Independent Petroleum v. Babbit, 235 F3d 588 (CADDC 2001).

The Court of Common Pleas specifically told the ALC to "not consider" the matter on procedural grounds. The ALC judge's Order of Dismissal was not in accordance. The ALC "sits in an appellate capacity to review" the decisions or challenges to the outcome of disciplinary hearings. Furtick v. SCDC, 649 SE2d 35 (SC 2007).

Clearly the amending of S.C. Code of Law (Ann.) §1-23-600(D), came after the events in question occurred, and would violate the Constitutional provisions of S.C. Constitution. Art. 1, §4; State v. Gaster, 564 SE2d 87 (SC 2002), Sanders v. SCDC, 665 SE2d 231 (Ct. App. 2008).

The definition of Remand is an act or an instance of sending something back for further action to a lower court or tribunal.

Black's Law Dictionary 1319 (West, 8<sup>th</sup> Ed, 2004). If the Respondent questioned the original remand's jurisdiction, it should have challenged that prior decision. It did not; equitable estoppel now precluded such challenges. R.J. Griffin & Co. v. Beach Club Homeowners, Assn., 384 F3d 157 (CA4, (SC) 2004).

This Court has the inherent power to do all things reasonably necessary to insure that just results are reached to the fullest extent possible. State v. Langford, 735 SE2d 471 (SC 2012), Robinson v. Estate of Harris, 698 SE2d 801 (SC 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.

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 v. State, 527 SE2d 742, 750 (2000).

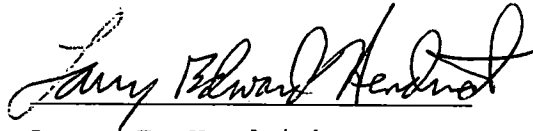
As far as the question of relief is concerned, this Court has the ability to, under its original jurisdiction, to make a declaratory judgment that would clarify the questions posed, and it should do so. This would enable the Petitioner through other avenues to petition for appropriate relief. Lee v. Clark, 77 SE2d 485 (SC 1953).

CONCLUSION

Based on the above, the Petitioner desires that the Court grant this Petition for rehearing and allow the Writ to be heard.

**THIS THE PETITIONER HUMBLLY PRAYS!**

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Larry E. Hendricks", written in a cursive style.

Larry E. Hendricks

Petitioner, Pro se,

7901 Farrow Road

Bldg. 3, 3<sup>rd</sup> Floor,

Columbia, S.C. 29203-3220

July 10, 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

---

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.

---

CERTIFICATE OF SERVICE BY MAIL

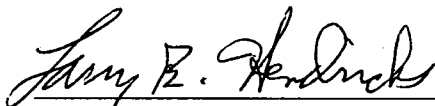
---

I, Larry E. Hendricks, the Petitioner, Pro-se, in the above captioned matter do hereby certify, that I have this date served: Petitioner's Petition for Rehearing; 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 10<sup>th</sup> day of July 2014.

Respectfully Submitted,



---

Larry E. Hendricks, 254256  
Petitioner, Pro se,  
7901 Farrow Road  
Columbia, SC 29202-3220

Larry Edward Hendricks  
7901 Farrow Rd., Bldg. #3, 3rd. Floor  
Columbia, S.C. 29203-3220

COLUMBIA, S.C. 29203

11 FEB 2011 11:41



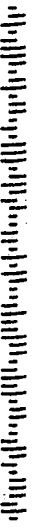
Office of the Clerk

Supreme Court of South Carolina

P.O. Box 11330

Columbia, SC 29211-1330

2011133030



RECEIVED  
JUL 10 2014  
By \_\_\_\_\_