

The State of South Carolina
In The Court of Appeals

Appeal From The Administrative Law Court

Deborah Brooks Dunden-Administrative Law Judge

Case No-13-ALJ-04-0772-AP

Appellate Case No-2014-001060

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SC Court of Appeals

Charles R Carter 246054

Appellant

v

South Carolina Department of Corrections

Respondent

Final Brief of Appellant

Charles R Carter 246054

1-27-2015

P.O. Box 2039

Ridgeland SC 29936

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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 one 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 by 10 years - See Respondent's Final Brief - Page 9 - line 15 - states that sentence was recalculated without a due process hearing, as required by SC Supreme Court's ruling in *Timis* SCDC-759 Serd-398-2014.

TABLE OF AUTHORITIES

Page 1 TANT vs SCDG 718-SE 2d 983-7593 and 398
US-USA Hill-Ex Rel- Wampler-298-US-460

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 30 years on 12-11-97 for PLW.D Crack in York County by Judge John C Hayes - see exhibit #4 line 6 - after being found guilty by Jury Trial see exhibit #8 - verdict form and was provided with a copy of his sentencing sheet filled out and signed by Judge Hayes - offense code 162 - violation # 455557 and a 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 CE on or about 1-14-1998 where he was classified by the J.C.C. Board and told that his parole date was 1-5-04 and max out date DEC-7-2013 and was provided with documentation in support and proof of this information which was his release date screen - see exhibit #6 line 6 and line 9.

Facts

During The Late Part of 1998 while working on his P.C.A., Appellant sought a copy of certain documents from his case worker at McCormick C.E. Upon doing so he discovered S.C.D.C.'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 Care 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 Solicitors 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 2016 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 he adjusted Appellant's records after Ex Parte contact with the York County Clerk of Court.

See Exhibit # 8: 10-26-98 Per Stobbe 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 15-2004. That The Sentence indeed had
been changed but This was Six years later and that
He Had No Jurisdiction over The Condition at That
Time. All This was done ^{without} Appellant knowing or being
involved. On 10-8-2012 Appellant Filed A Step one grievance,
and The Wardens Response States That The Sentence Had Been
modified, and That Appellant Must Serve 25 year 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 Verifications # 11 The original offense code of 102
which is The General Session Docket 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. Ronald Brooks Darden.

Conclusion

Pursuant To Cant US S&DC-718 Sec 2-753. Appellant was
denied due process of law and a protected Liberty Interest
was taken away from ^{him} unlawfully Pursuant To The 14th
Amendment. Due process Requires - notice - A Hearing and Judicial
Review. The Drug Statute and Code of 3585 - Manufacturing
Dist - Etc actually constitutes Appellant being Re-arrested
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.
Appellants indictment is coded CDR code 112 which indicates a 1st
Offense.

4) Therefore Appellant Has Been Placed Under
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. Therefore 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.

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

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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.

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Appellate Case no-2014-007060

Charles R Gantner 246054

Appellant

South Carolina Department of Corrections

Respondent

Final Brief
PROOF OF SERVICE

I certify that I have served a copy of the Final Brief on the Respondents by depositing a copy of it in the US Mail, Postage Prepaid addressed to Staff Attorney Daniel J Crooks III at P.O. Box 21787 29223 ColASC 29223 and to The Honorable Jimmy ABBOTT Kitchings at The SC Court of Appeals at P.O. Box 11629 ColASC 29211 on this day of ~~Jan~~ Jan 27th 2015.

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