

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

John D. McLeod, Administrative Law Judge

Unpublished Opinion No. 2015-UP-063

Submitted December 1, 2014 - Filed February 2, 2015

S.C. Dept. of Corrections Respondent.

V.

Stefen Harris, 208563 Appellant.

PETITION FOR REHEARING

Stefen Harris, # 208563
Her. C. I. / PB-33
4848 Goldmine Hwy.
Kershaw, S.C. 29067
Pro Se, Appellant

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FEB 25 2015

SC Court of Appeals

Now comes the appellant, pursuant to Rule 221(a), SCACR to show with particularity the points supposed to have been overlooked or misapprehended by the Court.

S.C.D.C.'s RECALCULATION of appellant's sentence changing appellant's anticipated max-out date from August 1, 2012 to November 1, 2020; when the department proposes to reinter-pret a sentence in a manner that would increase the time an inmate must serve, the Dept. of Corr. must notify the inmate of the proposed change.

When the D.O.C. decides its original recordation of a sentence was erroneous it must afford an inmate formal notice of the amended sentence. The D.O.C. must provide an inmate with timely, formal notice when it seeks to recalculate its initial determination of his sentence.

The interpretation of the unclear sentence must be made by a judicial officer and not by an executive agency. The importance of accuracy in the statement of the terms of the sentence is a right which is accorded every defendant. If it is vague and indefinite the terms will run as defined as the judgement formally pronounced by the court or Judge upon the defendant after conviction in a criminal prosecution, imposing the punishment to be inflicted.

A prisoner, while suffering the penalty of the law, should always have preserved to him whatever remains of his rights and condition. A sentence should be so complete as to need no construction of a court to ascertain its import. Fundamental requirements of due process include notice, an opportunity to be heard in a meaningful way and judicial review.

The length of an inmates incarceration implicates a constitutional liberty interest for due process purposes, ambiguity or doubt relative to sentence should be resolved in favor of the accused.

Prior to sentencing must the court advise the defendant of the nature and crucial elements of the charge. The trial judge failed to apprise appellant of the elements of the offense or to insure that appellant was aware of the elements of the offense. The Circuit Court also failed to advise the appellant

is the court required to advise accused of the range of punishment attached to the offense charged such as a mandatory minimum sentence required. The Court failed to include elements of a mandatory minimum term before sentencing. The Court must be certain that the defendant understands the charges and the consequences.

The record should indicate the defendant was fully aware of the consequences. A consequence of a mandatory minimum term the defendant must be informed of is one which impacts the sentence imposed on the defendant, and as such is a direct consequence.

Before sentencing the trial court must give the defendant an adequate warning of the consequences of his sentence which should include an expectation. The imposition of a sentence may have a number of collateral consequences in a constitutional sense if the defendant is not informed of the collateral consequences of his sentence, and typically a mandatory minimum term is considered a collateral consequence of a sentence.

CONCLUSION

For the reasons stated appellant asks the Court to grant relief sought.

Respectfully Submitted,

Stefen Harris

Stefen Harris, 208563

Ker. C.I. / PB - 33

4848 Goldmine Hwy

Kershaw, S.C. 29067

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PROOF OF SERVICE BY MAIL

I, Stefen Harris, 208563, a person presently incarcerated at Kershaw Correctional Institution, do hereby affirm that:

PETITION FOR REHEARING

was delivered into the hands of prison officials with First Class Postage duly affixed and a return address clearly indicated on the envelope for deposit in the United States Postal Service, addressed to the following person

(s): S.C. Court of Appeals
Clerk of Court
P.O. Box 11629
Columbia, S.C. 29211

S.C. Supreme Court
Clerk of Court
P.O. Box 11330
Columbia, S.C. 29211

Office of General Counsel
S.C. Dept. of Corrections
P.O. Box 21787
Columbia, S.C. 29221

Dated: 2.19.15

Respectfully Submitted,

Stefen Harris

Affirmed to and Subscribed Before Me
on this 19 day of February, 2015.

Christine A. Amason

My Commission Expires December 22, 2018

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SC Court of Appeals

Stefen Harris, #208583
Ker. C. I. / PB-33
4848 Goldmine Hwy.
Kershaw, S.C. 29067

Feb. 19, 2015

S.C. Court of Appeals
Clerk of Court
P.O. Box 11629
Columbia, S.C. 29211

Dear Clerk of Court:

Please find enclosed Appellants Petition For Rehearing, to be filed with the Court.

Respectfully Submitted,

St. Steffen Harris

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SC Court of Appeals

Steten Harris, 208565
Ker. C.I. / PB-33
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Kershaw, S.C. 29067

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