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In The State of South Carolina

In The Court of Appeals

Appeal From The Administrative Law Court

Deborah Brooks Durden - Administrative Law Judge

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

Appellate Case no 2014-05-1060

Charles Ray Carter-246054

Appellant

South Carolina Department of Corrections

Respondent

Final Brief of Appellant

Charles R Carter 246054
P.O. Box 2039
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February 12th 2015

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SC Court of Appeals

The State of South Carolina
In The Court of Appeals

Appeal From The Administrative Law Court
Deborah Brooks Darden - Administrative Law Judge
Case No 13-ALJ-04-5772-AP. Appellate Case No 2016-01060

Charles Ray Carter 246051

Appellant



South Carolina Department of Corrections

Respondent

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Statement of issue on Appeal

Because Appellant's sentence was recalculated and modified by prison officials and the office of general counsel outside the record by expedite contact with court officials nearly year after he started his sentence without Appellant being aware of it, Appellant was denied due process of law which increased his sentence and the amount of time he must serve by 10 years.

Count

Page 2

Table of Authorities

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

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 DWI & 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 102² Warrant # E 45557 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 I.C.C. Board and told that his Parole Date was on January 2004 and his Max. Parole 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 case worker 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 - Dis - ETC That was completely different from the drug statute in Appellant's original indictment. The statute 3585 was not even enacted 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 is 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 contains 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 8-16-98, 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 - Dis - 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 to 26-98 for 808Bb 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 ^{without} Appellant knowing or being
Involved. On 10-4-2012 Appellant Filed A Step one grievance
and The Wardens 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 Verifies¹ 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. Ronald Brooks Darden.

Argument and Conclusion

Pursuant To Court US S&DC-718-Sc2d-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 Army Statute and Code of F 3585 - Manufacturing
Dist- Etc actually Constitutes Appellant Being Retried
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 ODR code 112 which indicates a 150
OFense

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. 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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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.

Appeal From The Administrative Law Court
Deborah Brooks Darden-Administrative Law Judge
Case No -13-ALJ-04-0972-AP
Appellate Case No -2014-001660

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SC Court of Appeals
Appellant

Charles R Carter 246054

South Carolina Department of Corrections Respondent

Certificate of Counsel For
Final Brief

The Appellant Hereby certifies that this
Brief contains no matter that is irrelevant to
this Appeal

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2-12-2015

In The State of South Carolina
In the Court of Appeals

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Appeal From The Administrative Law Court
Deborah Brooks Duchen - Administrative Law Judge
Case No 13-ALJ-04-0772-AP
Appellate Case No - 2014-00-1060

SC Court of Appeals

Charles R Carter 246054 *[Signature]* Appellant

South Carolina Department of Corrections *[Signature]* Respondent

Final Brief
Certificate of Service

I Here By Certify That I have served a copy of the Final Brief on the Respondent by depositing a copy of it in the U.S. Mail, postage prepaid, addressed to Daniel J Crooks Esquire at P.O. Box 21787 Columbia SC 29221 and to The S.C. Court of Appeals V. Claire Allen c/o P.O. Box 11629 Columbia SC 29211 on this Day of February 12th 2015. with Certificate of Counsel

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