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SC Court of Appeals

Motions for Reconsideration
are Prohibited.

THE STATE OF SOUTH CAROLINA
IN THE ADMINISTRATIVE LAW COURT

See ALC Rule 65.

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Rondal H. Nixon, #163482)
Appellant)
Vs)
The SC.P,P,P,S,B)
Respondent)

Docket # 14-ALJ-15-0035-AP

MOTION: FOR ORDER ON

ISSUES: AND REINSTATE APPEAL ON

AMENDED ORDER

Before the Honorable: Ralph K. Anderson, III ALJD

I, the undersigned appellant pro se, respectfully moves this court to make a ruling on the remaining issues in the appeal, to preserve same for appeal to judicial branch; and to reinstate the appeal on the amended order of respondent.?

STATEMENT OF CASE

Appellant was convicted by a jury upon a plea of innocence, and sentenced to life in SCDC. He became eligible by law for parole in 1997, with rehearing 2 years from initial eligibility date. He has been denied since, and the subject of this action is denial at hearing on Aug/7/2014, and subsequent written order and petition for reconsideration. I filed timely notice of appeal, initial brief, corrected brief, and reply brief, raising several issues, to include request for constitutional ruling. This court remanded the order to respondents for finding on actuarial assessment of offender risk/needs, dated March/3/2015. The respondents re-wrote the order on same criteria as before, dated 3/5/15, received by me on 3/12/15. I filed a prompt petition for rehearing & consideration.

ARGUMENT

I submit and argue that this court dose have subject and personal matter jurisdiction in this matter because; (court has jurisdiction on moot but repetitive issues evading review) ie Byrd v Irmo High Sch 321 SC 426, 431 468 SE2d 861, 864 (1996), and this case dose present a valid and justicable controversy, ie Midland Guardian Co v Thacker 280 SC 563, 314 SE2d 26, cited in Bagley v

3-14-15, Copy too court, attached.

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SCPPPS 2014 WL 4217379, also holding that to preserve issues not ruled on, a motion to ALC is required, id Risker v SCDHEC 393 SC 198, 208 712 SE2d 428, 433 (2011). It is apparent to the layman that findings of fact and law as applied and interpreted have been ambiguous terms of art, negating the history and purpose of the parole agency, and thus are repetitive evading justicable issues, for the sake of political correctness, and popularity, outside of the elements of §24-21-640 whether moot or ripe.

Among the other issues raised, but not adjudicated are:

- 1> The findings of fact are incorrect and incomplete, and not fairly supported by the record, and thus do not support the law applied in §24-21-640, that state "parole must be denied" exception.
- 2> The findings of fact are noted "fixed immutable criteria" that are misstate the actual facts, and make the decision of the board an arbitrary and capricious exercise of discretion and use of law to deny benefits of parole.
- 3> That [if] the board is relying on third party adverse opinions to deny the grace and privilege of benefits, then it is for political reasons only, and no justice is served, and respondents have not rebutted claims of appellant.
- 4> That information released to appellant, and perhaps the court, are insufficient to determine the correctness and misleading nature to the board.
- 5> That a fair and unbiased actuarial assessment of offender risk/needs have not been found, and applied by the respondents, pursuant to §§ 24-21-10(D)(1-5), (F)(1), 280(c), §24-22-30(F)(1-3) & 2012 act. 223, §1 eff 6/7/12, and "2010 Act.No. 273, §46, eff 1/1/11. The amended order mixes the language up, to give a interpretation, since the words actuarial, assesment, risk, & needs are shown in the Blacks Law Dictionary 2009 (9'th Ed) to be independent nouns/adj, and vary in degrees. I do not know how this system works are applies, but I do know that a correct finding will change the outcome, and I'm no risk; and the amended assessment relies on the same fixed immutable criteria complained of, that causes many controversies.

Other statutes and regulations that use such acturial

assessments are, SC ADC 130-30, R.19-1250, R.69-67, R.69-52, §38-74-20, 29-USC-1023, 26-USC-6692, 42-USC-18022, Honorable Claud McCain 1973 WL 26672, honorable Andrew Shealy 1987 WL 342400 (ministerial duty of actuarial assessments), and Honorable Carroll Campbell 1987 WL 245482 (actuary is ministerial in advisory nature). See also Samuel P Givens, Jr OP. NO. 95-2791, 1996 WL 33475293, 1995 WL 17063776, 0100 Surveys 28, (high risk pools coverage for the uninsurable), as it has commonly been used in health care and insurance fields. It futher appears that the use and interpretation of the criterias areunreasonable and capricious and makes an arbitrary finding of risk.

CONCLUSION

Having made my plea to this court as stated above; I pray and request that the orders be vacated and remanded for a hearing and finding of fact and law that is not unreasonable, arbitrary, or capricious, and that the issues be included in an order to preserve them for futher appeal.

March/16'th/2015

Respectfully Submitted

/s/ Rondal H. Nixon

Rondal H Nixon, 163482
Appellant Pro Se
610 Hwy 9 West
ECI, F-3-B-238
Bennettsville SC 29512
ph # 843-479-4181

Mr. Mathew C. Buchanan, esq
General Counsel for SC.PPPSB
PO. Box 50666
2221 Devine Street, Suite 600
Columbia SC 29250
ph # 803-734-9220

PROOF OF SERVICE

I, the undersigned appellatant, dose certify under oath that, one true copy of this motion has been served on counsel, Mr. Mathew Buchanan as addressed above, by depositing same in the US Mail at Evans CI postage prepaid; and the original with a copy of the 3/14/15 petition for rehearing/consideration has been sent to the ALC. Normal operations are in effect.

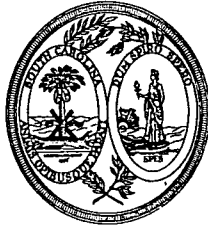
This/ 17th /day of March /2015

s/ Rondal H. Nixon

was to and subscribed before me [redacted]
on 17th day of March 2015
S. Ouellet
(Notary Public of South Carolina)
Commission Expires 2/24

State of South Carolina
Department of Probation, Parole and Pardon Services

NIKKI R. HALEY
Governor



JERRY B. ADGER
Director

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March 5, 2015

Ronald Nixon, #163482
Evans Correctional Institution-F-3-B-238
610 Highway 9 West
Bennettsville, South Carolina 29512

RE: Amended Notice of Rejection Letter from August 7, 2014, Hearing

Dear Mr. Nixon:

It is my responsibility to inform you, on behalf of the South Carolina Parole Board, that the Board has reached a decision regarding your parole hearing. The Board hereby makes the following CONCLUSION OF LAW:

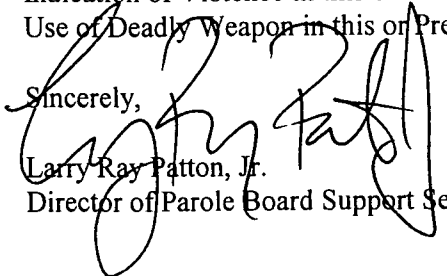
After careful consideration of: (1) the characteristics of your current offense(s), prior offense(s), prior supervision history, prison disciplinary record, and/or prior criminal record, as described in the findings of fact below; (2) the factors published in the department Form 1212 (Criteria for Parole Consideration); (3) the factors outlined in Section 24-21-640 of the South Carolina Code of Laws; and (4) the actuarial risk and needs assessment outlined in Section 24-21-10 (F)(1) of the South Carolina Code of Laws, the Parole Board concludes that parole must be denied.

You will be notified 30 days prior to your next scheduled parole consideration date.

FINDINGS OF FACT:

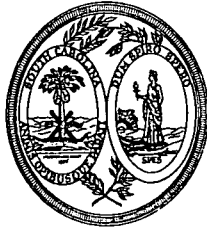
Nature and Seriousness of Current Offense
Indication of Violence in this or Previous Offense
Use of Deadly Weapon in this or Previous Offense

Sincerely,


Larry Ray Patton, Jr.
Director of Parole Board Support Services

State of South Carolina
Department of Probation, Parole and Pardon Services

NIKKI R. HALEY
Governor



JERRY B. ADGER
Director

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March 24, 2015

Rondal Nixon, #163482
Evans Correctional Institution-F-3-B-238
610 Highway 9 West
Bennettsville, South Carolina 29512

Dear Mr. Nixon:

I have been asked to respond to your letter of March 14, 2015, addressed to Mr. Adger, requesting a rehearing of the amended notice of rejection letter. As previously explained to you, pursuant to Judge Anderson's order dated March 3, 2015, in which your case was remanded to the Department to perform an assessment under Section 24-21-10(F0(1) (Supp.20144), it was determined that the Board did rely on the Actuarial Risk Assessment Needs when it made its decision to deny you parole on August 7, 2014. However, this was not indicated on your notice of rejection letter and an amended notice of rejection letter was sent to you on March 5, 2015. Therefore, no rehearing will be held. You will be considered again for parole on or about August 6, 2016.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew C. Buchanan", written over a horizontal line.

Matthew C. Buchanan
General Counsel

MCB:dn

cc: Larry Patton, Director, Board Support Services