

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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APPEAL FROM ADMINISTRATIVE LAW COURT
Honorable Deborah Durden, Administrative Law Judge

SC Court of Appeals

Case No. 15-ALC-15-0009-AP

Appellate Case No. 2015-000689

Thomas Lowery, #083240,

Appellant,

v.

South Carolina Department of Probation,
Parole and Pardon Services,

Respondent.

APPELLANT INITIAL BRIEF

Thomas Lowery, #083240
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4848 Goldmine Hwy.
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pro se

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Respondent

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TABLE OF AUTHORITIES

CASES:

PAGES:

Ferrell v. SCDPPPS, 2014-MO-011 (2014)

Cooper v. SCDPPPS, 661 S.E.2d 106 (2008)

STATUTES:

S.C. Code Ann. §1-23-600(D)

OTHER:

SCDPPPS Criteria Form 1212

STATEMENT OF ISSUE ON APPEAL

1. WHETHER PAROLE BOARD FAR REACHING POWERS ABROGATES THE FAIRNESS DUE TO POTENTIAL ELGIBLE CANDIDATES ENDEAVORING TO OBTAIN A CHANCE AT SOCIETAL RE-ENTRY?

STATEMENT OF THE CASE

This case is before the South Carolina Court of Appeals pursuant to the appeal of Thomas Lowery the Appellant, and individual incarcerated with the South Carolina Department of Corrections since 1976, (39 years). On January 15, 2015, the South Carolina Department of Probation, Parole and Pardon Services (department) notified Appellant that the South Carolina Parole Board (Board) had rejected his request for parole consideration. Appellant challenges the Board's denial of his request for parole consideration on the grounds that findings of fact in the Board's decision are not supported by the evidence, and criteria used in the Board's proceedings in reaching its decision, specifically Form 1212, items 1;2;3;5;7;8; and 15, is not clear.

ARGUMENT

THE PAROLE BOARD FAR REACHING POWERS DOES ABROGATES THE FAIRNESS DUE TO POTENTIAL ELIGIBLE CANDIDATES ENDEAVORING TO OBTAIN A CHANCE AT SOCIETAL RE-ENTRY.

The Order of Dismissal by the Administrative Law Court? This Court in its final decision clearly emphasize its limited jurisdictional authority to review what is assessed as a "routine denial" and refers to S.C. Code Ann. §1-23-600(D), (Supp. 2014) to remedy an ongoing capricious act by the Parole Board, whose far reaching powers abrogates the fairness due to potential eligible candidates endeavoring to obtain a chance at societal re-entry.

Respecting the Court's position, Appellant points this present Court's attention to the far-reaching abrogating powers of SCDPPPS Form 1212 contents. Particular item "15" other factors considered relevant in a particular case by the Board.

Mine is a particular case associated with race and political clot that's absent the clarity to see remorse and find closure. Appellant "emphasize" that he pled guilty with the understanding that he could possibly parole after ten (10) years; however, 40 years have nearly passed and the same plight exist and my adjustment and conduct over the last thirty (30) years is given no consideration that apart of criteria items used to keep me in these sundry confines. The nature and seriousness of current offense is unchangeable, but used arbitrary to abridged my potential chance at parole. Through my labor to do better and obtain resources for a societal return, I have contributed abundantly to the State Victim Witness fund, who don't know me but use my contribution to keep me in manacles.

In this particular case, although a shadow of Ferrell v. SCDPPPS, The Cooper decision best states arbitrary and capricious decisions associated with Form 1212. The twenty (20) plus times before the Board rendered a similar disposition. If a re-bearing was given absent political influence, feeling and emotions associated with race, Appellant's conduct, work ethics, overall adjustment and available resources in the free world could balance the scale tilted forces other than the Form 1212 Criteria.

Appellant move this Court to use its prudence to void the ambiguities of Form 1212, and decide a fair resolve to a far-reaching unfair practices lawfully

given the SCDPPPS.

CONCLUSION

Appellant move this Court to use its prudence to void the ambiguities of Form 1212, and decide a fair resolve to a far-reaching unfair practices lawfully given to SCDPPPS (emphasis).

s/ *Thomas Lowery*
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Kershaw, SC 29067

April 3, 2015

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CERTIFICATE OF COUNSEL

The undersigned certifies that the Appellant Initial Brief and Designation of Matter contains all material proposed to included by the parties.

s/ *Thomas Lowery*
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April 3, 2015

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South Carolina Department of Probation,
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PROOF OF SERVICES

I, Thomas Lowery, the Appellant certify that I have served the within Appellant Initial Brief, Designation of Matter, and Certificate of Counsel dated April 3, 2015, on Respondent this 9th day of April, 2015, by depositing a copy of the same in the U.S. Mail, postage prepaid, addressed to:

Tommy Evans, Jr.,
Assistant General Counsel
SCDPPPS
P.O. Box 50666
Columbia, SC 29250

s/ *Thomas Lowery*
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Date: April 9, 2015

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