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The State of South Carolina In The Court of Appeals

Charles Ray Carter, Appellant

South Carolina Department of Corrections, Respondent
Appellate Case no-2014-001060

Appeal From The Administrative Law Court
Deborah Brooks Purden Administrative Law Judge
UnPublished Opinion no-2015 up-505

Petition For Rehearing En Banc

When Prison officials has recorded a sentence or calculated it erroneously, it must afford the prisoner a due process notice, hearing and judicial review. *H. Fant vs SCDC 789* Second 393-404. *Hill vs Warden-Ex Rel- Wampler-298-US*. In this case, Appellant's sentencing sheet indicated a code 102, His Indictment Code 112. Prison officials I.C.C. informed Appellant that he must serve 15 years-10 months to max out his sentence and that his maxout date was 10-7-2013 and Parole date was Jan-5-2004 and provided Appellant with documents to verify this information.

Almost a year later, Appellant's sentencing sheet was modified by changing the code to 114 and adding the words 3rd offense and the Indictment's statute was changed to 3585 without Appellant being aware, which was done out side the record well after the term of court had expired through Ex Parte contacts by SCDC office of General Counsel and Court officials.

A clerk of Court cannot change the Code on a Sentencing Sheet and then add the words 3rd offense

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SCDC even Admits in its Respondents Final Brief That They Modified Appellants Sentence. This was also a Violation of the Separation of Powers. SCDC also Admits That The Clerk of Court Faxed a new Copy of The Sentencing Sheet. No Clerk or Prison official can carry out a Judicial Function, By Changing a Sentencing document
Conclusion

Appellants Sentence was modified to increase the amount of Time He Must serve From 51% to 85% By Prison officials, office of Gen-Counsel in concert with The York County Clerk of Court, The York Co. Sheriff Dept and The Solicitors office By its own admitting without Appellant knowing which denied Him due process. Therefore His original Sentence and Sentencing Sheet and indictment Statute should be Reinstated and He should be Released immediately.

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The State of South Carolina
In The Court of Appeals

Charles Ray Carter, Appellant
V

South Carolina Department of Corrections, Respondent
Appellate case no- 2014-001060

Appeal From The Administrative Law Court
Deborah Brooks Durdley, Administrative Law Judge

Proof of Service

I certify that I have served a copy of the
Petition For Re Hearing En Banc on All Parties by
depositing a copy of it in the US mail with proper
postage addressed to the SC Court of Appeals, Jenny
Abbott Kitchings at P.O. Box 11629 Columbia SC 29211
and to Attorney Daniel J Crooks, SCDC Office of
General Counsel at P.O. Box 21787 Columbia SC 29221 on

November 17, 2015 and Deborah H. Brooks Durdley-1205 Pendleton
Street Columbia SC 29201

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In The South Carolina Court of Appeals
Certificate of Counsel

I certify that this Petition contains no material
that is irrelevant to this Appeal.

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The South Carolina Court of Appeals

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November 04, 2015

Charles Ray Carter, #246054
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Mr. Daniel John Crooks, III, Esquire
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Columbia SC 29210

Re: Charles Carter v. SCDC (3)
Appellate Case No. 2014-001060

Dear Counsel and Mr. Carter:

Enclosed is the decision of the Court. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: The Honorable Deborah Brooks Durden

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SC Court of Appeals

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

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SC Court of Appeals

Charles Ray Carter, Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2014-001060

Appeal From The Administrative Law Court
Deborah Brooks Durden, Administrative Law Judge


Unpublished Opinion No. 2015-UP-505
Submitted September 1, 2015 – Filed November 4, 2015

AFFIRMED

Charles Ray Carter, pro se.

Daniel John Crooks, III, of the South Carolina
Department of Corrections, of Columbia, for Respondent.

PER CURIAM: Affirmed pursuant to Rule 220(b), SCACR, and the following authorities: S.C. Code Ann. § 1-23-610(B) (Supp. 2014) ("The court of appeals may . . . reverse or modify the [ALC's] decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is: (a) in violation of constitutional or statutory provisions; (b) in excess of the statutory


authority of the agency; (c) made upon unlawful procedure; (d) affected by other error of law; (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion."); *Olson v. S.C. Dep't of Health & Env'tl. Control*, 379 S.C. 57, 69, 663 S.E.2d 497, 504 (Ct. App. 2008) ("To prevail on a claim of denial of due process, there must be a showing of substantial prejudice."); *James Acad. of Excellence v. Dorchester Cty. Sch. Dist. Two*, 376 S.C. 293, 299, 657 S.E.2d 469, 472 (2008) (recognizing the State may cure a procedural deprivation of due process by providing a subsequent procedural remedy); *State v. Bennett*, 375 S.C. 165, 173, 650 S.E.2d 490, 495 (Ct. App. 2007) ("While [CDR] codes were developed and are used to provide an administrative shortcut, they were never intended to replace statutory law."); *id.* ("Any errors in a CDR code do not affect the crime, its characterization as violent or non-violent, for example, or even if someone can be prosecuted for a crime."); *Tant v. S.C. Dep't of Corr.*, 408 S.C. 334, 346, 759 S.E.2d 398, 404 (2014) ("[T]he Department [of Corrections] is confined to an unambiguous sentencing sheet in determining an inmate's sentence, but may consider the sentencing transcript if the sheet is ambiguous.").

AFFIRMED.¹

HUFF, WILLIAMS, and THOMAS, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

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LEGAL MAIL Re: Charles Ray Carter - Appellant

South Carolina Department of Corrections.. Respondent
Case no - 2014-60160 unpublished opinion no - 2015-4P-505

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SC Court of Appeals

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The South Carolina Court of Appeals

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SC Court of Appeals

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CC ~~Ferry~~ DeBoratt Brooks Purley

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Columbia SC 29201

Re: Charles R Carter vs SCDC 3

Appellate Case no 2014-001060

Dear Ms Hitchens - MR Crookes

Enclosed is a Petition For Rehearing En Banc.

Also enclosed are Proof of Service and Certificate
of Counsel.

Charles R Carter 246054

P.O. Box 2039

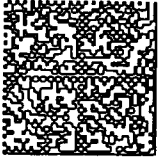
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SC Court of Appeals
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LEGAL MAIL

THE DEPARTMENT OF CORRECTIONS HAS NEITHER
CENSORED NOR INSPECTED THIS ITEM. THEREFORE
THE DEPARTMENT DOES NOT ASSUME RESPONSIBILITY
FOR ITS CONTENTS.

RIDGELAND CORRECTIONAL INSTITUTION
S.C. DEPARTMENT OF CORRECTIONS