

STATE of SOUTH CAROLINA

Court Of Appeals

Harry Newlest Charles II

APPEAL

Appellant

Docket # _____

v.

South Carolina Probation, Parole,
and pardon Services

Respondent

Procedural History

This matter comes before the Court by way of an Appeal submitted on the 21st day of December 2015. The Appellant was convicted by a jury of Armed Robbery and Criminal Conspiracy in August 2000. On August 9, 2000 the Honorable B. Hicks Harwell sentenced him to confinement of twenty years for A.R. and five years for Conspiracy, the latter to run concurrent.

During an August 21, 2000 hearing prompted by a motion to reconsider the sentence, Appellant plead guilty to the remaining two counts of Armed Robbery from the August 2000 indictment. The Honorable B. Hicks Harwell revised the existing sentence as follows: the August 9th conviction of Armed Robbery was reduced to ten years imprisonment with the Conspiracy conviction of five years to run concurrent and the judge sentence Appellant to ten years imprisonment for each of the two remaining counts of A.R. with one of them to run concurrent with the first A.R. conviction and the other to run consecutive. Thus, Appellant was sentenced to an aggregate twenty years in confinement. (see Exhibits 1-4 Sentence Sheets)

This sentence was never amended pursuant to S.C. Code of Laws section 24-21-560 Community Supervision Program; eligibility; time periods, supervision, and determination of completion; violations; revocation; notifications of release to community supervision. (see Exhibits A-D[1])

Pursuant to S.C. Code of Laws section 16-11-330(A), Appellant was eligible for parole at the completion of at least seven years of the sentence which means Appellant should have been eligible for parole. (see Exhibit E-E[1])

Findings Of Fact And Conclusions Of Law

This Court has had the opportunity to review the record in its entirety closely pass upon its credibility and weight accordingly. While this Appeal is pending Appellant will not be required to report according to the COMMUNITY SUPERVISION PROGRAM CERTIFICATE where he signed UNDER DURESS. (see Exhibit F) Also, Appellant has a Federal Writ of Habeas Corpus pending to exonerate him of these same charges. (see Exhibit G Case No. 8:15-cv-04188-MBS Date Filed 12/10/15)

Conclusion

Based on the foregoing, this Court finds and concludes that the Appellant should not be required to serve 17 years on a 20 year sentence to be released to Community Supervision Program until June 2017 knowing that the Honorable B. Hicks Harwell did not sentence him to CSP.

Further, the completion of this sentence is still pending in the U.S. District Court concerning his exoneration. Therefore, this COMMUNITY SUPERVISION PROGRAM CERTIFICATE must be denied, rescinded and dismissed with prejudice.

IT IS THEREFORE ORDERED:

1. The Community Supervision Program Certificate is denied, rescinded, and dismissed with prejudice;

2. The Appellant not be required to report to any S.C.P.P.S. Agent during the pending of the Federal Writ of Habeas Corpus and this Appeal.

AND IT IS ORDERED this _____ day of _____, 201__.

Presiding Judge

Florence, South Carolina

STATE of SOUTH CAROLINA

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Court of Appeals

PROOF OF SERVICE

Docket # _____

I the Appellant, do hereby certify that on this 29th day of December, 2015, I the foregoing NOTICE OF APPEAL, APPEAL as well as PROOF OF SERVICE in this matter by depositing a true copy of it in the United States Mail, postage prepaid, on December 29th addressed to the following as indicated below: S.C.P.P.S.

P.O. Box 50666
Columbia, S.C. 29250

S.C.P.P.S.
180 North Irby Street
Florence, S.C. 29506

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NOTICE OF APPEAL

Docket # _____

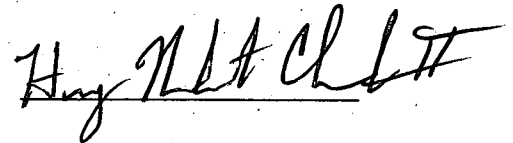
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DEC 30 2015

SC Court of Appeals

Appellant appeals his release to the COMMUNITY SUPERVISION PROGRAM in this case. The Sentence Sheets (Exhibits 1-4) signed by the Honorable B. Hicks Harwell did not require him to be released to CSP, thus, placing judgment on him beyond Court order.

December 29, 2015



Harry Newlest Charles II

Original

We Conquer Productions
L.L.C. & Making Others Better Foundation
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Florence



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