

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT
Deborah B. Durden, Administrative Law Judge

Appellate Case Number 2015-000478

Bernard Bagley, #175851,

Appellant,

v.

South Carolina Department of Probation,
Parole and Pardon Services,

Respondent.

RECORD ON APPEAL

Bernard Bagley
#175851/HD133/KER.CI
4848 Goldmine Hwy.
Kershaw, SC 29067

Pro Se

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

Counsel For Respondent

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WITNESSES

DOCKET NO.

90GS405849

THE STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

COURT OF GENERAL SESSIONS

#07

OCTOBER TERM 1990

THE STATE

vs.

BERNARD BAGLEY

ARREST WARRANT NO. C 746074

ACTION OF GRAND JURY

TRUE BILL

Way White
FOREMAN OF GRAND JURY

VERDICT

GUILTY

INDICTMENT FOR

MURDER

S. C. Code §16-3-20

(116)

William H. Kuchel
FOREMAN OF PETIT JURY

DATE:

bk

CERTIFIED TRUE COPY
OF ORIGINAL FILED

James H. McBride
CLERK OF COURT
RICHLAND COUNTY
SOUTH CAROLINA

SENTENCE

Murder

STATE OF SOUTH CAROLINA

CASE NO. 90-GS-5849

Richland COUNTY

The defendant Bernard Bagley is committed to the State Department of Corrections/County for a term of Life ^(the balance of his NATURAL Life) ~~months/years~~ and/or to pay a fine of \$ _____; provided upon the service of _____ months/years and/or payment of \$ _____, plus pay/waive costs and assessments as applicable*, ~~the balance suspended with probation for~~ _____ months/years. Consecutive.

Restitution

For physical injury \$ _____

Yes/No

property damage \$ _____

to be paid _____

to clerk for _____.

Other conditions Consecutive to 90-GS-40-5864

Date April 12, 1991

[Signature]
Presiding Judge

*Costs and Assessments

Non-waivable	\$ _____
Not waived	\$ _____
Total	\$ _____

CERTIFIED TRUE COPY
OF ORIGINAL FILED,
Jeannette W. M. Brude
C.C.C.P.&G.S.
RICHLAND COUNTY
SOUTH CAROLINA

[Signature]
Clerk of Court

**Pay to Victim's Compensation Fund if subrogated.

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

FILED

IN THE COURT OF GENERAL SESSIONS
ORDER FOR DESTRUCTION OF ARREST RECORDS

The State of South Carolina

01 APR -4 PM 3:19

Race: Blk. Sex: M Age: 44

vs.

BARBARA A. SCOTT
C.C.C. & G.S.

DOB: [REDACTED] SSN: [REDACTED]

Bernard Bagley,
Defendant.

Charges were disposed of in the Court of
GENERAL SESSIONS

PLEASE TAKE NOTICE, IT APPEARS that the defendant, Bernard Bagley is entitled to have all records relating to this offense expunged and destroyed according to the applicable section of the South Carolina Code of Laws indicated below:

Warrant/GS No. C746073 Date of Arrest: 8/23/90 Place of Arrest: Richland
County, S.C. Arrest Charge: burglary 1st degree, Indictment No. 90-GS-40-5864.
§17-1-40, the charge was not pressed on or about August 22, 1996.

IT IS ORDERED that all records relating to such arrest and subsequent discharge pursuant to the above-referenced section be dismissed, expunged and immediately destroyed and that no evidence of such records pertaining to such charge shall be retained by any municipal, county or state agency (except non-public information retained by SC Law Enforcement Division (SLED) pursuant to the applicable laws of the State of South Carolina).

[Signature]

Circuit Court Judge

Signed this 4th day of April, 2001.

On Motion of: *[Signature]*

Bernard Bagley, Defendant
175851/ker.c.i.
4848 Goldmine Rd.
Kershaw, S.C. 29067

March 16, 2001

WE CONSENT:

Elizabeth Luz
Fifth Circuit Solicitor's Office

CERTIFIED TRUE COPY
OF ORIGINAL FILED,
Jeanette Williams
C.C.C.P.&G.S.
RICHLAND COUNTY
SOUTH CAROLINA

**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**

Bernard Bagley, Appellant,

v.

South Carolina Department of Probation, Parole and
Pardon Services, Respondent.

Appellate Case No. 2013-000042

Appeal From The Administrative Law Court
Ralph King Anderson, III, Administrative Law Judge

Unpublished Opinion No. 2014-UP-326
Submitted February 1, 2014 – Filed August 27, 2014

REVERSED AND REMANDED

Bernard Bagley, pro se.

Tommy Evans, Jr., of the South Carolina Department of
Probation, Parole and Pardon Services, of Columbia, for
Respondent.

PER CURIAM: Bernard Bagley appeals the order of the Administrative Law
Court (ALC) affirming the denial of his parole. Bagley argues (1) the ALC erred
in failing to find the parole board was required to administer and consider a

validated individualized risk assessment according to sections 24-21-10(F)(1) and 24-21-5(2) of the South Carolina Code (Supp. 2013); (2) the parole board erred in failing to administer the individualized risk assessment and in failing to consider all factors required by South Carolina Department of Probation, Parole and Pardon Services (the Department) policy and section 24-21-640 of the South Carolina Code (2007 & Supp. 2013); (3) the ALC erred in failing to find the parole board's decision was arbitrary and capricious because it considered additional irrelevant factors during his parole hearing; (4) the ALC erred in failing to find the lack of a validated individualized risk assessment constituted a failure of substantial evidence, which the parole board was required to provide in denying his parole; (5) the parole board erred in denying his parole twice on the basis of two factors that he describes as "fixed" as of the date of his offense and unable to be changed by his conduct while incarcerated; (6) the ALC erred in failing to find the doctrine of res judicata barred the parole board's denial; (7) the ALC erred in failing to find the parole board's denial violated his right to equal protection under the law; and (8) the ALC erred in failing to find his parole hearing did not provide adequate due process. We reverse and remand.¹

1. As to issues one, two, and four: we find the parole board properly considered all factors required by Department policy and section 24-21-640 of the South Carolina Code (2007 & Supp. 2013). However, we find section 24-21-10(F)(1) of the South Carolina Code (Supp. 2013) requires the parole board to evaluate an inmate's risk using the Department's adopted assessment tool in reaching a decision to grant or deny parole. See § 24-21-10(F)(1) ("The [D]epartment must develop a plan that includes the . . . establishment of a process for adopting a validated actuarial risk and needs assessment tool consistent with evidence-based practices and factors that contribute to criminal behavior, *which the parole board shall use in making parole decisions . . .*" (emphasis added)). Because the ALC failed to make this finding, its order is affected by an error of law. We therefore reverse and remand to the parole board for a new parole hearing. The parole board is ordered to evaluate Bagley's risk using the Department's assessment tool and consider the results of the evaluation in reaching its decision regarding Bagley's parole.² See *James v. S.C.*

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

² In its filings, the Department notified this court that Bagley is currently scheduled to receive a new parole hearing within the next ninety days. Nothing in this opinion precludes the parole board from implementing the requirements of our decision at the upcoming proceeding, in lieu of holding a separate hearing pursuant

Dep't of Prob., Parole & Pardon Servs., 377 S.C. 564, 566, 660 S.E.2d 288, 290 (Ct. App. 2008) ("Section 1-23-610 of the South Carolina Code . . . sets forth the standard of review when the court of appeals is sitting in review of a decision by the ALC on an appeal from an administrative agency."); S.C. Code Ann. § 1-23-610(B) (2005 & Supp. 2013) ("The court of appeals . . . may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is . . . affected by other error of law . . . "); *Cooper v. S.C. Dep't of Prob., Parole & Pardon Servs.*, 377 S.C. 489, 499, 661 S.E.2d 106, 112 (2008) (holding an inmate has a state-created liberty interest in requiring the parole board to adhere to statutory criteria in rendering a decision).³

to this decision. Because we are reversing Bagley's 2012 denial of parole, we direct the parole board not to consider the 2012 denial as a prejudicial factor in reaching its decision at the upcoming proceeding or in future decisions.

³ The Department argues that under section 1-23-600(D) of the South Carolina Code (Supp. 2013), the ALC did not have jurisdiction to hear Bagley's appeal. See § 1-23-600(D) ("An administrative law judge shall not hear . . . an appeal involving the denial of parole to a potentially eligible inmate by the Department of Probation, Parole and Pardon Services."). We disagree. See *Howard v. S.C. Dep't of Corr.*, 399 S.C. 618, 630, 733 S.E.2d 211, 218 (2012) ("[A] matter is reviewable by the ALC where an inmate's appeal *also* implicates a state-created liberty or property interest . . . "); *Cooper*, 377 S.C. at 499, 661 S.E.2d at 112 (holding an inmate has the right to require the parole board to adhere to statutory requirements in rendering a decision, and failure by the board to consider the requisite statutory criteria constitutes an infringement of a state-created liberty interest and warrants minimal due process procedures). The Department also argues this case is moot because Bagley is scheduled for another parole hearing in October 2014 and any judgment in Bagley's favor would not have a practical effect because it would not be implemented until after the hearing. See *Curtis v. State*, 345 S.C. 557, 567, 549 S.E.2d 591, 596 (2001) ("A case becomes moot when judgment, if rendered, will have no practical legal effect upon [the] existing controversy."). We assume *arguendo* the Department is correct; however, we find this case is nonetheless reviewable as capable of repetition but evading review. See *Byrd v. Irmo High Sch.*, 321 S.C. 426, 431, 468 S.E.2d 861, 864 (1996) ("[A] court can take jurisdiction, despite mootness, if the issue raised is capable of repetition but evading review." (internal quotation marks omitted)).

2. As to issue three, we find the parole board acted within its discretion in considering additional factors beyond those specifically enumerated in its parole form. We note the parole form allows the board to consider other factors it considers relevant to a particular case, and the enumeration of factors on the form is not intended to limit the discretion of the parole board. We find no error here. *See* S.C. Code Ann. § 24-21-640 (2007 & Supp. 2013) (directing the parole board to establish criteria for the granting of parole).

3. We find issues five through eight were not raised below; thus, they are not preserved for appellate review. *See Brown v. S.C. Dep't of Health & Envtl. Control*, 348 S.C. 507, 519, 560 S.E.2d 410, 417 (2002) ("[I]ssues not raised to and ruled on by the AL[C] are not preserved for appellate consideration."); *Risher v. S.C. Dep't of Health & Envtl. Control*, 393 S.C. 198, 208, 712 S.E.2d 428, 433 (2011) (stating when the ALC does not rule on an issue, a party must file a post-hearing motion requesting a ruling on the issue in order to preserve it for appeal).

REVERSED AND REMANDED.

WILLIAMS, KONDUROS, and LOCKEMY, JJ., concur.

STATE OF SOUTH CAROLINA
In the Administrative Law Court

Docket Number: 15-ALC-15-0003-AP

APPEAL OF FINAL DECISION
SOUTH CAROLINA DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES

Bernard Bagley, (#175851),

Appellant,

v.

S.C. Department of Probation, Parole
and Pardon Services,

Respondent.

RULE 59(e)(g) MOTION, SCRCP
pursuant to ALC RULE 63

On February 12, 2015, ALC Judge Durden filed her order dismissing Appellant's appeal, in which he received on the 23rd of February, 2015. Wherefore, this Motion follows: Appellant request that (1) the ALC judge take judicial notice and alter and amend her order in an effort to rule on all eleven (11) of his issues in his principal brief of appellant in order to preserve for consideration and appellate review.

February 23, 2015



Bernard Bagley
175851/HD133/KER.CI
4848 goldmine Hwy.
Kershaw, SC 29067

STATE OF SOUTH CAROLINA
In the Administrative Law Court

Docket Number: 15-ALC-15-0003-AP

APPEAL OF FINAL DECISION
South Carolina Department of Probation, Parole and Pardon Services

Bernard Bagley, (#175851),

Appellant,

v.

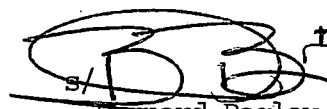
S.C. Department of Probation, Parole
and Pardon Services,

Respondent.

CERTIFICATE OF SERVICE

I, Bernard Bagley, the Appellant, certify that I have served the Rule 59(e)(g) Motion, SCRCPP pursuant to ALC Rule 63, on the Respondent this 23rd day of February, 2015, by depositing a copy of the same in the U.S. Mail, postage prepaid, addressed to: Deputy Director of Legal Services
SCDPPPS
P.O. Box 50666
Columbia, SC 29250

Deborah B. Durden,
Administrative Law Judge
SCALC
Edgar A. Brown Bldg.
1205 Pendleton St., Ste. 224
Columbia, SC 29201


s/ Bernard Bagley
#175851/HD133/KER.CI
4848 Goldmine Hwy.
Kershaw, SC 29067

February 23, 2015

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Bernard Bagley (#175851)

Appellant,

vs.

South Carolina Department of Probation,
Parole and Pardon Services,

Respondent.

NOTICE OF APPEAL

DOCKET NO. 15 ALC-150003-AP

Notice is hereby given that Bernard Bagley, (#175851), the Appellant does hereby appeal the final decision of the South Carolina Department of Probation, Parole and Pardon Services dated 01/15/15 and received on January 22, 2015, a copy of which is attached. A **general** statement of the grounds for appeal is (See S.C. Code Ann. § 1-23-380(A)(6)):

On January 14, 2015, Bernard Bagley appeared before the Parole Board. Upon the conclusion of this hearing, the Board's procedure employed denied the Appellant a ^{regulatory} privilege and opportunity to be granted parole due to its boilerplate language that stated: 1) nature and seriousness of current offense; 2) indication of violence in this or previous offense; and 3) use of deadly weapon in this or previous offense. The Appellant has made two (2) previous appearances before the Board, his initial appearance was on 9/8/10, and he later appeared again on 10/10/12, in which both previous appearances the procedure employed by the Board

Bernard Bagley (#175851) ^{100f 5}
Appellant's Name HD-133
4848 Goldmine Hwy., KER.CI

Signed

January 26, 2015

Mailing Address

Kershaw, SC 29067

Dated

City, State, Zip Code

CERTIFICATE OF SERVICE

I hereby certify that I, Bernard Bagley (your name), on the 26 day of January, 20 15, in Kershaw (city), South Carolina, served a copy of the foregoing Notice of Appeal on all parties to this matter by depositing the same in the United States Mail, postage paid, or in the mail room of the undersigned's institution and addressed as follows:

Name of person/Agency served: Tommy Evans, Jr., SCDPPPS Assistant General Counsel

Address: P.O. Box 50666

City, State, Zip Code: Columbia, SC 29250-0666

Bernard Bagley
Print your name

(See reverse side for instructions)

[Signature]
Sign your name

regulatory
denied Bagley the privilege to be granted parole. On August 27, 2014, in the S.C. Court of Appeals Unpublished Opinion No. 2014-UP-326, the Court reversed and remanded Appellate Case No. 2003-000042, Bagley v. SCDPPPS, October 2012, because the ALC erred in failing to find Appellant's parole hearing did not provide adequate due process, and that the board is ordered to evaluate Bagley's risk according to §24-21-10(F)(1), and consider the results of the evaluation in reaching its decision regarding Bagley's parole, and reverse and remand to the parole board for a new hearing. Bagley submitted a petition for re-hearing requesting for a review of after-acquired information and material evidence for reconsideration to grant parole under SCDPPPS policy, on 1/15/15. The petition is currently pending. Now, the Appellant file his notice of appeal of the Board's procedure employed denying Appellant's privilege to grant him parole. Bagley is not challenging the denial of parole, but instead, the procedure employed by the Parole Board in denying him a privilege to be granted parole on 1/14/15. The grounds for appeal as follows: 1) The Board is arbitrary and capricious and committed error of law when it considered the 10/10/12, denial as a prejudicial factor in reaching its decision at the 1/14/15 parole proceeding, making Bagley ineligible for the privilege to grant him parole under number 15, other factors it considers relevant to a particular case from the parole criteria form 1212; 2) The Board is arbitrary or capricious and committed error of law for failure to properly consider the results of Bagley's risk using the validated individualized risk assessment evaluation that made Bagley ineligible for the privilege to grant him parole in reaching its decision on 1/14/15, under §24-21-10(F)(1), and §24-21-5(2) as outlined, of S.C. Code of Laws; 3) The Board is is arbitrary or capricious and committed error of law when Bagley's procedurally defected notice of rejection dated 1/15/15, did not provide a

detailed conclusions regarding the law after careful consideration of the factors outlined in §24-21-5(2), of S.C. Code of Laws, and the Evidence Act Exception according to §19-5-510, of S.C. Code of Laws, and the substantial reason requirement, making Bagley ineligible for the ^{regulatory} privilege to grant him parole, and judicial review; 4) The Board is arbitrary and capricious and committed error of law when Bagley's procedurally defected notice of rejection dated 1/15/15, did not provide a detailed findings regarding the fact after consideration of the factors outlined in §24-21-5(2), of S.C. Code of Laws, and a rational (logical) nexus between the characteristics of offense, factors published in Department Form 1212, and the factors outlined in §24-21-640, of S.C. Code of Laws, and a determination of current dangerousness under the Evidence Act Exception, §19-5-510, of S.C. Code of Laws; thus, making Bagley ineligible for the privilege to grant him parole, and judicial review; 5) The Board is arbitrary or capricious and committed error of law because Bagley an eligible prisoner or person with pain issues, pressured speech, being verbally overproductive, and flight of ideas, along with poor circulation was automatically made ineligible for the privilege of parole in violation of the Title II of the Americans with Disabilities Act (ADA), and §24-21-700, of S.C. Code of Laws when it failed to seek approval by the Veterans Affairs or Veterans Hospital committee appointed to commit Bagley to the VA Hospital, under §24-21-700, and the ADA, and the Rehabilitation Act of Article 12, §2, of the S.C. Constitution, along with State statutes. NOTE: The Appellant's issue is that the Board did not seek any approval from the Veterans Administration for his release to the custody to the V.A. Hospital. The Appellant is a service-connected veteran that suffers from pain, and has experienced traumatic events in his past in the official capacity of a law enforcement officer, and prior stress disorders in the official capacity of a law enforcement officer, in which the Veterans Administration is equipped to provide adequate and effective treatment if required for his condition. The Department (SCDPPPS) is placing the Appellant in a position to cover the cost of measures necessary to ensure non-discriminatory treatment, equal opportunity to enjoy services, programs, or activities, or discriminatory eligibility standards, and rules. The Board has discriminated against Bagley because the Department does not ensure him effective communication. See §19-5-510, of S.C. Code of Laws, Evidence Act Exception.

6) The Board is arbitrary or capricious, and committed error of law in an unlawful procedure when it failed to review Bagley's parole case every two (2) years for the purpose of a determination of parole, thus, making him ineligible for the interest to a parole hearing in a timely manner as outlined in §24-21-645, §16-1-60, of S.C. Code of Laws. Both statutes specifically applies. NOTE: The Appellant's issue is that the Board extended Appellant's 9/8/10, hearing denial date until (a) new hearing (four (4) years and four (4) months, or four (4) months, or 124 days to be exact, i.e. instead of a hearing in 9/2014, the parole hearing was held 1/15/15, 124 days from Bagley's original initial parole appearance, 7) The Board is arbitrary or capricious and committed error of law when it failed to adhere to a statutory requirement of the judgment in Bagley v. SCDPPPS, Appellate Case no. 2013-000042, (S.C.Ct.App. 2014-UP-326 2014), an existing controversy, as after-acquired information, and material evidence after the Board made its final decision on 1/15/15, according to the Department's policy outlined in its operation manual, and the Evidence Act Exception §19-5-510, of S.C. Code of Laws. The policy and statute specifically applies. 8) The Board is arbitrary or capricious and committed error of law when its unlawful procedure employed made the Appellant ineligible for a ^{regulatory} privilege to grant him parole because of three (3) immutable fixed factors as of the date of the offense that are unable to change by Bagley's conduct while incarcerated. Section 19-5-510 of S.C. Code of Laws specifically applies under the Evidence Act Exception that evidence must demonstrate a "rational nexus" between Bagley's current behavior and his behavior related to the commitment offense. NOTE: The Federal Constitution 14th Amendment provides that "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States." The issue is a claim for denial of equal protection and denial of due process, predicated upon an unlawful procedure and error of law that there is no evidence supporting the Board's decision to make Bagley ineligible to a privilege whether to deny or grant him parole. 9) The Board is arbitrary or capricious and committed error of law when it considered inappropriate factor(s), Bagley's 2012 denial of parole in making its determination, thus, making Appellant ineligible for the privilege to be granted parole, in violation of the Court's ruling outlined in

Bagley v. SCDPPPS, 2014-UP-326 (2014), and Rule 268(d)(2), SCACR. The Court's ruling specifically applies. And 10) The Board is arbitrary or capricious and committed error of law in an unlawful procedure when it retaliated and demonstrated reprisal by considering inappropriate factors because Bagley appealed the 2012 denial of parole, and **as a result**, the Board has made him ineligible for the ^{regulatory} privilege to be granted parole on 1/14/15, and in future parole decisions. Bagley v. SCDPPPS, 2013-000042, S.C.Ct.App. 2014-UP-326, 8/27/14, and Rule 268(d)(2), SCACR applies. Attached and incorporated herein is the Board's, SCDPPPS procedurally defective notice of rejection dated January 15, 2015, stating the boilerplate language in which Appellant is challenging the unlawful procedure employed by the Parole Board in denying him a privilege to be granted parole on 1/14/15. The Board and Department has no evidence to support denying Bagley the privilege to grant him parole according to the Evidence Act Exception outline in §19-5-510, of S.C. Code of Laws, that should be a rational (logical nexus between Bagley's offense, earlier criminal record, or in-prison record, and a determination of current dangerousness, and it must be based upon hard evidence of that nexus found. In addition, it can be a violation of due process to eternally hold Bagley to be an unreasonable risk of danger to society if released based solely on the fixed factors of the offense itself and those opposed his parole.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 26 day of January, 2015



Signature of  Bernard Bagley (#175851)
KER.CT



Mobic

Generic Name: meloxicam (mel OKS i kam)

Brand Names: *Mobic*

What is Mobic?

Mobic (meloxicam) is a nonsteroidal anti-inflammatory drug (NSAID). Meloxicam works by reducing hormones that cause inflammation and pain in the body.

Mobic is used to treat pain or inflammation caused by osteoarthritis or rheumatoid arthritis in adults and children who are at least 2 years old.

Mobic may also be used for purposes not listed in this medication guide.

Important information

Mobic may cause life-threatening heart or circulation problems such as heart attack or stroke, especially if you use it long term. Do not use Mobic just before or after heart bypass surgery (coronary artery bypass graft, or CABG).

Get emergency medical help if you have chest pain, weakness, shortness of breath, slurred speech, or problems with vision or balance.

Mobic may also cause serious effects on the stomach or intestines, including bleeding or perforation (forming of a hole). These conditions can be fatal and can occur without warning while you are taking Mobic, especially in older adults.

Call your doctor at once if you have symptoms of stomach bleeding such as black, bloody, or tarry stools, or coughing up blood or vomit that looks like coffee grounds.

Avoid drinking alcohol. It may increase your risk of stomach bleeding. Ask a doctor or pharmacist before using any other cold, allergy, or pain medicine. Medicines similar to meloxicam are contained in many combination medicines. Check the label to see if a medicine contains an NSAID (non-steroidal anti-inflammatory drug) such as aspirin, ibuprofen, ketoprofen, or naproxen.

Before taking this medicine

Do not use Mobic just before or after heart bypass surgery (coronary artery bypass graft, or CABG).

This medicine may cause life-threatening heart or circulation problems such as heart attack or stroke, especially if you use it long term.

Mobic may also cause serious effects on the stomach or intestines, including bleeding or perforation (forming of a hole). These conditions can be fatal and can occur without warning while you are taking Mobic, especially in older adults.

You should not use Mobic if you are allergic to meloxicam, or if you have a history of allergic reaction to aspirin or other NSAIDs.

Mobic may cause a delay in ovulation (the release of an egg from an ovary). You should not take meloxicam if you are undergoing fertility treatment, or are otherwise trying to get pregnant ☒.

Suffering from knee pain? Find out how real people manage OA of the Knee. [Watch Video](#)

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

NIKKI R. HALEY
Governor



JERRY B. ADGER
Interim Director

2221 Devine Street, Suite 600
Post Office Box 50666
Columbia, South Carolina 29250
Telephone: (803) 734-9220
Fax: (803) 734-9440
www.dppps.sc.gov

January 15, 2015

Mr. Bernard Bagley #00175851
Kershaw Correctional Institution
4848 Goldmine Hwy.
Kershaw, SC 29067

RE: NOTICE OF REJECTION

Dear Mr. Bagley:

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 Department Form 1212 (Criteria for Parole Consideration); and (3) the factors outlined in Section 24-21-640 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,

A handwritten signature in black ink, appearing to read "Larry Ray Patton, Jr.".

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

South Carolina Department of Probation, Parole and Pardon Services
Criteria For Parole Consideration

SC Board of Probation, Parole and Pardon Services
P. O. Box 50666
Columbia, SC 29250

Inmate Name

SCDC #

Dennard Bagley

175851

Criteria For Parole Consideration

The South Carolina parole law creates no right to be released on parole. Parole in South Carolina is strictly a matter of privilege or grace. The South Carolina Board of Probation, Parole and Pardon Services has absolute discretion to grant or deny parole. As such, the publication of these parole criteria in no way creates an expectancy of release; nor does it bind the Parole Board in any way to a favorable parole decision or establish any presumptions of entitlement to parole.

In deciding whether or not to grant parole, the Parole Board considers, among other things, the inmate's record before incarceration as well as during incarceration. The record itself is prepared through investigations conducted for the Parole Board, and it becomes a part of the inmate's parole file. These files are maintained by the Department of Probation, Parole and Pardon Services and are, by the statute, privileged and confidential. The confidentiality of the parole file is far reaching; inmates themselves have no right to inspect the contents of their files. If the inmate thinks his/her file is somehow incomplete or contains some error or other inaccuracy, he/she must notify the Board of the specific error or inaccuracy. The Board will investigate the inquiry and notify the inmate of the action taken.

Inmates do, however, enjoy certain rights in the parole process. The inmate has the right to appear at his parole hearing. If the inmate fails to appear, the Board may decide his/her case in absence. The inmate has the right to be represented by an attorney; however, he/she has no right to have an attorney appointed if he/she cannot afford one. At the hearing, the inmate has the right to present witnesses and evidence on his/her own behalf, but an inmate does not have a right to confront witnesses.

In deciding whether or not an inmate should be granted parole, the Board or Panel of the Board exercises its absolute discretion to the limits allowed by state and federal law. The discretion of the Board or panel aims at protecting the best interest of both society and the inmate being considered for parole. In its concern for the protection of society's and the inmate's best interests, the Board or Panel deliberates upon the "reasonable probability" that an inmate will not again violate the law, if parole is granted. When deliberating upon the reasonable probability that an inmate will not again violate the law, the Board or Panel weighs the factors listed below. The Board or Panel, in its absolute discretion, also considers any other factors not listed below which it considers relevant in a particular case.

1. The risk the inmate poses to the community;
2. The nature and seriousness of the inmate's offense, the circumstances surrounding the offense, and the inmate's attitude toward it;
3. The inmate's prior criminal records and his/her adjustment under any previous programs or supervision;
4. The inmate's attitude toward his/her family, the victim, and authority in general;
5. The inmate's adjustment while in confinement, including his/her progress in counseling, therapy, and other similar programs designed to encourage the inmate to improve himself/herself;
6. The inmate's employment history, including his/her job training and skills and his/her stability in the work place;
7. The inmate's physical, mental and emotional health;
8. The inmate's understanding of the cause of his/her past criminal conduct;
9. The inmate's efforts to solve his/her problems, such as seeking treatment for substance abuse, enrolling in academic and vocational education courses, and in general using whatever resources the Department of Corrections has made available to inmates to help with their problems;
10. The adequacy of the inmate's overall parole plan. This includes inmates living arrangements, where he/she will live and who he will live with; the character of those with whom the inmate plans to associate in both his/her working hours and his/her off-work hours; the inmate's plans for gainful employment;
11. The willingness of the community into which the inmate will be released to receive the inmate;
12. The willingness of the inmate's family to allow him/her to return to the family circle;
13. The attitudes of the sentencing judge, the solicitor, and local law enforcement officers respecting the inmate's parole;
14. The feelings of the victim's family, and any witnesses to the crime about the release of the inmate;
15. Other factors considered relevant in a particular case by the Board.

Reservation of Discretionary Power of the Parole Board

These criteria in no way limit the absolute discretion of the Parole Board or Panel to make parole decisions on a case-by-case basis and to grant or deny parole as it determines to be in the best interest of society and the inmate under review.

In some cases, the Board may decide that an inmate should be granted parole if the inmate completes one or more stated conditions. When this is the case, the Board may grant a parole that becomes effective when the inmate completes one or more stated conditions. Should the inmate disobey any rule or regulation of the South Carolina Department of Corrections before satisfying the stated conditions to make his parole effective, the Board may rescind the inmate's parole and treat the case as though parole had been rejected. In other cases, the Board may feel it needs more time to form its decision. In such cases, the Board may simply take the parole consideration under advisement and reschedule it at a later date. Similarly, the Board may postpone a parole hearing in order to dispose of detainees or pending charges.

If the Board rejects an inmate for parole, the inmate will be given written notice of rejection stating the reasons for rejection. Decisions of the Board have no precedential effect whatever and in no way limit the Board's absolute discretion at later parole hearings.

After rejection for parole, the procedure of scheduling of rehearing is as follows:

1. An individual serving time for a violent offense defined in §16-1-60 of the South Carolina Code of Laws 1976 will be reheard for parole two years following the date of parole rejections. Applicable legal exceptions may allow for a one year hearing.
2. An individual serving time for a nonviolent offense defined in §16-1-70 of the South Carolina Code of Laws 1976 will be reheard for parole one year following the date of parole rejections.

I certify that the above material has been explained to me, and I have received a copy.

Inmate's Signature <i>Dennard Bagley</i>	Date <i>7-9-14</i>	Witness <i>Dennard Davis</i>	Date <i>7/9/14</i>
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STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED
JUL 28 2015
SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Deborah B. Durden, Administrative Law Judge

Appellate Case No. 2015-000478

Bernard Bagley, #175851,

Appellant,

v.

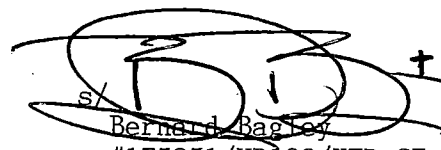
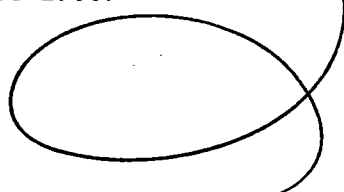
South Carolina Department of Probation,
Parole, and Pardon Services,

Respondent.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all
material proposed to be included by the parties.

July 13, 2015


s/ Bernard Bagley
#175851/HD133/KER.CI
4848 Goldmine Hwy.
Kershaw, SC 29067


THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT
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Appellate Case No. 2015-000478

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South Carolina Department of Probation,
Parole and Pardon Services,

Respondent.

CERTIFICATE OF SERVICE

I certify that I have served the Record on Appeal on Tommy Evans, Jr., the Respondent, by depositing a copy of the same in the U.S. Mail, postage pre-paid, on July 13, 2015, addressed to him at SCDPPPS, P.O. Box 50666, Columbia, SC, 29250.

July 13, 2015

s/ 
Bernard Bagley
#175851/HD133/KER.CI
4848 Goldmine Hwy.
Kershaw, SC 29067



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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July 09, 2015

Bernard Bagley, 175851
Kershaw Correctional Institution
4848 Goldmine Highway
Kershaw SC 29067

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JUL 28 2015

SC Court of Appeals

Re: Bernard Bagley v. SCDPPPS (2)
Appellate Case No. 2015-000478

Dear Mr. Bagley:

Enclosed is the order of the Court. The Record on Appeal must be served and filed within ten days of the date of the enclosed order.

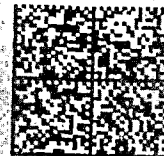
Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Tommy Evans, Jr., Esquire

BERNARD BAGLEY
75851-HD133-REC'd
348 GOLDMINE HWY
PERSHAW, S.C. 29067



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SC Court of Appeals

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