

Innovative reference #232835
Evens Correctional Inst
610 Highway Nine West
Beaumontville S.C. 29517

South Carolina Supreme Court
Mr. Daniel E. Shearouse, Clerk of Court
P.O. Box 113300
Columbia, S.C. 29211

RECEIVED
FEB - 1 2016
SC SUPREME COURT

Dear Mr. Shearouse:

With this letter I am including a Notice of Appeals, also, proof of service on the respondent also a petition for the appointment of Counsel. This petition asks that this Court, would waive filing fee and appoint Counsel. For this is an issue who's time has come? The Fourth Circuit has ruled that a prisoner who has knowledge of false or misrepresentations in his/her files can ask the Court to remove these materials. The U.S. Supreme Court, in Keen v Dist. Court 426 U.S. at 408 state a prisoner can have the Court to review, in-camera, the materials and set aside all sensitive materials but factual matter the prisoner could review. I would hope that this statement is taken in proper light? A prisoner can be targeted by a staff member or staff member may retaliate against a prisoner for any reason or no reason at all on just false matter in a prisoners files. Who would find? I would not had not two board members - asked me questions, that should not have been? Some one has laid a foundation that should not be there. It seems that this is done against one, who is unable to defend him self. The false information if not corrected now, forever overshadows all future parole reviews. It will always be there. False witness as true?

This is Not the American way.

Finally if any concept is fundamental to our American system of Justice.

It is not those charged with upholding the law are prohibited from del-
iberately fabricating evidence and framing individuals for crimes they
did not commit. No reasonable law enforcement officer would have thought it
permissible to frame some body for a crime he or she did not commit. Lawrence
- v - United States 277 S. 2d 34.

This petition for writs asks that the Court as a matter of course and
because the times seems to be right, that some light should shine into prison.
That a world of things be and the appointment of counsel
returning foreward

That the foregoing are the true facts, under penalty of perjury, please
out to 28 U.S.C. § 1746, J. Johnny Lawrence, Date: 1-27-2016

Date: 1-27-2016

Johnny Lawrence
Johnny Lawrence #232835
E. Conn Correctional Inst
610 Highway Nine West
Bennettsville, S.C. 29012

RECEIVED

FEB 01 2016

The State of South Carolina
In The Supreme Court

S.C. SUPREME COURT

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

Docket No: 15-AWF-150044-AP

South Carolina Dept. of Probation, Parole and
Pardon Services

Respondent

vs

Johnny Lawrence #232835

Appellant

NOTICE OF APPEAL

Johnny Lawrence #232835, Appellant, the order of the Honorable, Ralph King
Anderson III, Chief Administrative Law Judge, Date, January 8-2016, it
was received by, Appellant on, January 13-2016. The order denied appellant
a copy of his prison record used by the board.

Counsel of record,

South Carolina Dept. of Probation
, Parole and Pardon Services

Mr. Jimmy Evans Jr.

Post Office Box 50666

Columbia South Carolina 29250

Johnny Lawrence

Johnny Lawrence #232835

Evans Correctional Institution

610 Highway, N19E West

Bennettsville, S.C. 29512

Date 1-27-2016

State of South Carolina
In The Supreme Court

Appeal: From The Administrative Law Court:

The Honorable Ralph King Anderson, Chief Administrative Law Judge

Docket No: 15-A.L.J.-150044-AP

South Carolina Dept. of Probation, Parole, and

Prison Services

— —

Respondent

vs

Johnny Lawrence #232835

— —

Appellant

Proof of Service

I, Johnny Lawrence, declare that I have served a copy of Notice of Appeal on the following: Deputy Director of Legal Services, Dept. of P.P.S., P.O. Box 50666, Columbia, S.C. 29250. Also, The Supreme Court of South Carolina, Daniel E. Sherman, Clerk of Court, Post Office Box 11330, Columbia S.C. 29211, by depositing the document in the mail room at, LEXIS C.I., 610 Highway Nine West, Bennettsville S.C. 29512, properly addressed with postage prepaid. This being proper service, under penalty of perjury pursuant to 28 U.S.C. 3176, I, Johnny Lawrence this date: 1-27-2016

Johnny Lawrence #232835
Evans Correctional Inst.
610 Highway Nine West
Bennettsville, S.C. 29512

Date 1-27-2016

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

NIKKI R. HALEY
Governor



JERRY B. ADGER
Director

2221 DEVINE STREET, SUITE 600
POST OFFICE BOX 50666
COLUMBIA, SOUTH CAROLINA 29250
Telephone: (803) 734-9220
Facsimile: (803) 734-9440
www.state.sc.us/ppp

September 8, 2015

The Honorable Ralph King Anderson
Judge, Administrative Law Court
1205 Pendleton Street, Suite 224
Columbia, S.C. 29201

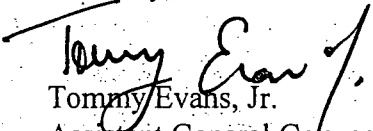
RE: Johnny Lawrence, #232835 v. S.C. Department of Probation, Parole and Pardon Services

Dear Judge Anderson:

I am in receipt of a document from Appellant dated September 4, 2015, captioned "Motion for Order Compelling Discovery." It is my understanding that the South Carolina Rules of Procedure for the Administrative Law Court Division do not provide for discovery in "Special Appeals" cases. Therefore, absent direction from the Court, Respondent does not intend to respond to Appellant's request.

If you have any questions or comments, please do not hesitate to contact me at any time.

Sincerely,


Tommy Evans, Jr.
Assistant General Counsel

TE:dn

cc: Johnny Lawrence, #232835

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

NIKKI R. HALEY
Governor



JERRY B. ADGER
Director

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www.dppps.sc.gov

July 23, 2015

Mr. Johnny Lawrence #00232835
Evans Correctional Institution
P.O. Box 2951202
Bennettsville, SC 295125202

RE: NOTICE OF REJECTION

Dear Mr. Lawrence:

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); (3) the factors outlined in Section 24-21-640 of the South Carolina Code of Laws, and (4) actuarial risk and needs assessment factors pursuant to Section 24-21-10 (F) (1) of the South Carolina Code of Laws. The Parole Board had determined that your 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
Institutional Record Is Unfavorable

Sincerely,

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

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

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Johnny Lawrence, #232835,)
)
 Appellant,)
)
 vs.)
)
 South Carolina Department of Probation,)
 Parole and Pardon Services,)
)
 Respondent.)
 _____)

Docket No. 15-ALJ-15-0044-AP

ORDER

This matter comes before the South Carolina Administrative Law Court (ALC or Court) pursuant to the appeal of Johnny Lawrence (Appellant) regarding the decision of the South Carolina Department of Probation, Parole and Pardon Services (DPPPS or Department) denying his parole request.

FACTUAL/PROCEDURAL HISTORY

By letter dated July 23, 2015, the Department notified Appellant that his request for parole was denied. The Department denied Appellant's request for a rehearing on August 12, 2015. On August 17, 2015, Appellant filed a Notice of Appeal. The Notice of Assignment was filed on August 26, 2015. On September 4, 2015, Appellant filed a "Motion for Order Compelling Discovery." On September 9, 2015, the Department filed a letter with the Court stating that it did not intend to respond to Appellant's motion because the Rules of Procedure for the Administrative Law Court (ALC Rules) did not provide for discovery in "Special Appeals" cases. Appellant filed a response to this letter on September 18, 2015. The Record on Appeal was filed on September 24, 2015. On October 30, 2015, Appellant filed a "Second Motion to Compel Complete Discovery/Objection to the Records [sic] filed with the Court." The Department filed its brief on November 12, 2015, in which it included a request that the Court dismiss Appellant's appeal for failure to file a brief. On November 20, 2015, Appellant filed a brief.

FILED

January 8, 2016

SC ADMIN. LAW COURT

JURISDICTION

The Court's jurisdiction to hear this matter is derived from the decisions of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000) and *Furtick v. S.C. Dep't of Prob., Parole and Pardon Servs.*, 352 S.C. 594, 576 S.E.2d 146 (2003).

DISCUSSION

As an initial matter, the Department argues that Appellant failed to file a brief within sixty-five days of the date of assignment, as required by ALC Rule 60. However, ALC Rule 60 was recently amended.¹ Subsection (A) of ALC Rule 60 now allows ninety (90) days for the party first noticing the appeal to file an original brief. In this case, Appellant had until November 24, 2015 to file his brief. Because Appellant filed his brief on November 20, 2015, his brief was timely filed and will be considered by the Court, regardless of the fact that the Department filed its brief on November 12.

As to Appellant's two motions seeking discovery, the ALC Rules do not allow this Court to order discovery at the appellate stage, either in regular or "special" appeals like this one. Appellant cites ALC Rule 58 for the proposition that he should be entitled to certain documents. However, that rule is prefaced with the phrase "**Where applicable**, the record shall consist of . . ." (emphasis added). In PPS cases, the South Carolina Supreme Court has limited what the ALC can consider to ascertaining whether the Parole Board (Board) "followed proper procedure." *Cooper v. S.C. Dep't of Prob., Parole and Pardon Servs.*, 377 S.C. 489, 499, 661 S.E.2d 106, 111 (2008). Therefore, the Court may summarily dismiss Appellant's appeal unless it determines that the Board considered inappropriate factors in making its determination. *See Compton v. S.C. Dep't of Prob., Parole & Pardon Servs.*, 385 S.C. 476, 479, 685 S.E. 2d 175, 177 (2009) (holding that an order denying parole and stating consideration of all statutory and Department criteria is sufficient to support denial of parole).

Here, the record clearly reflects that the Board considered the nature and seriousness of Appellant's current or prior offense(s), the indication of violence in this and/or a prior offense(s), the use of a deadly weapon in this offense, his ability to adjust to the community based on his criminal record, his unfavorable institutional record, and other statutory criteria of section 24-21-

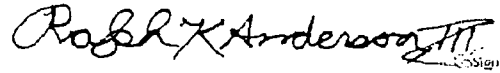
¹ The Rules of Procedure for the ALC were amended effective April 28, 2015.

640, the fifteen factors published in its parole form – Form 1212, and the actuarial risk and needs assessment factors pursuant to S.C. Code Ann. § 24-21-10(F)(1) (Supp. 2015). Thus, there is sufficient information in the record for this Court to determine whether the Board followed the proper procedure. Any other information, such as that which Appellant believes should have been included or that which he believed the Parole Board should not have considered, are beyond what this Court is permitted to review. Therefore, the Court does not consider ALC Rule 58 to be applicable with regard to the extraneous information that Appellant seeks to include in the record on appeal. For this reason, and because the Court cannot compel discovery at the appellate level, Appellant's motions to compel are hereby denied.

In his brief, Appellant disputes the facts found below and argued by the Department. He sets forth his version of the facts. Appellant then argues that he was denied the opportunity to "complete discovery," and that the Board considered "false information," "bold face lies," and "deliberately fabricat[ed] evidence." However, Appellant has not provided any specificity in his brief as to what documents he wished to include in the record that were not already there and how such documents would have been relevant to those factors that this Court is limited to reviewing.

Moreover, as stated above, the record clearly reflects that the Board considered the nature and seriousness of Appellant's current or prior offense(s), the indication of violence in this and/or a prior offense(s), the use of a deadly weapon in this offense, his ability to adjust to the community based on his criminal record, his unfavorable institutional record, and other statutory criteria of section 24-21-640, the fifteen factors published in its parole form – Form 1212, and the actuarial risk and needs assessment factors pursuant to S.C. Code Ann. § 24-21-10(F)(1) (Supp. 2015). Thus, the Board considered all of the factors that this Court is authorized to review in determining whether the Board followed the proper procedure. *See Compton*, 385 S.C. at 478-79, 685 S.E.2d at 176-77 (finding it is "sufficient under *Cooper*" for "a routine denial of parole" that "the Parole Board clearly stated in its notice of rejection that it considered the statutory criteria and the criteria set forth in Form 1212 . . ."). Otherwise, it is not within the province of this Court to second-guess or review the decision of the Parole Board. *See* S.C. Code Ann. § 1-23-600(D) (Supp. 2015) ("An administrative law judge shall not hear an appeal from an inmate in the custody of the Department of Corrections . . . involving the denial of parole to a potentially eligible inmate by the Department of Probation, Parole and Pardon Services.").

IT IS THEREFORE ORDERED that the Department's decision is **AFFIRMED**.
AND IT IS SO ORDERED.

A handwritten signature in black ink that reads "Ralph King Anderson, III". The signature is written in a cursive style with a horizontal line underneath it.

Ralph King Anderson, III
Chief Administrative Law Judge

January 8, 2016
Columbia, South Carolina

COLUMBIA

SC 290

28 JAN '16

PM 3 L

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

EVANS CORRECTIONAL INSTITUTION
S.C. DEPARTMENT OF CORRECTIONS