

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

S.C. SUPREME COURT

Shirley C. Robinson, Administrative Law Judge

Case No. 2016-000188  
Lower Court No. 2015-ALJ-04-0331-AP

South Carolina Department  
of Corrections,

Respondent,

Ronald Ceo #258464

v.

Appellant.

INITIAL BRIEF OF APPELLANT

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## STATEMENT OF ISSUE ON APPEAL

1. BECAUSE THE RESPONDENT IS ENFORCING A ILLEGAL POLICY OP 21.09 INMATE RECORD PLAN 14, TRUTH-IN-SENTENCING WHICH DERIVES FROM A UNCONSTITUTIONAL PROVISION OF LAW DOES THE ENFORCEMENT OF THE TRUTH-IN-SENTENCING POLICY RENDERS APPELLANT SENTENCE UNLAWFUL?

## STATEMENT OF THE CASE

This matter is before the Supreme Court of South Carolina pursuant to the appeal of Ronald Geo #25846 of an inmate incarcerated with the South Carolina Department of Corrections. The Appellant is serving a thirty-five (35) year sentence for homicide by child abuse. On January 23, 2015 the Appellant filed a Step One grievance claiming that the truth-in-sentencing provisions that is being enforced toward his sentence by SCDC policy OP-21.09 Inmate Record Plan 14, truth-in-sentencing is illegal. Bill 3096 Act 83 which included the truth-in-sentencing provisions violated the South Carolina Constitution Single Subject Clause Article III, §17. Because when enacted the Bill included numerous topics that was not germane. The Department denied the Step one and Two grievances respectively on June 18, 2015. The Appellant appeal to the Administrative Law Court on July 6, 2015 alleging that the truth-in-sentencing policy being enforced by the Respondent is illegal. The Administrative Law Court denied the Appeal by a order on January 6, 2016. On January 28, 2016 the appellant served the Notice of the intent to appeal on the Respondent.

## ARGUMENT

I. BECAUSE BILL 3096 ACT 83 WHICH INCLUDED THE TRUTH-IN-SENTENCING PROVISIONS VIOLATED THE SOUTH CAROLINA CONSTITUTION SINGLE SUBJECT CLAUSE ARTICLE III, §17 THEREFORE RESPONDENT ENFORCEMENT OF OP 21.09 TRUTH-IN-SENTENCING POLICY TOWARDS APPELLANTS SENTENCE IS ILLEGAL.

Bill 3096 Act 83 which includes the truth-in-sentencing law, violates the single subject clause of the South Carolina Constitution Art. III §17. This clause provides in relevant part. ("Every Act or resolution having the force of law shall relate to but one subject, and that shall be expressed in the title" S.C. Const. art. III §17). Bill 3096 was initially designed to address the single subject of the truth-in-sentencing law. However the Bill includes numerous separate subjects involving, unrelated topics. The Bill's subject: homicide by child abuse included a host of diverse subjects that was not germane to the Bill subject. The Bill addresses such diverse subjects as: the restructure of state government; the basic duties of Magistrate Judges, the basic duties of law enforcement officers; duties of Departmental Directors, the duties of probation agents, Compensation of Victims of Crime, Shipwreck and Salvage operation, Commitment of Juveniles, and Truth-in-sentencing legislation. The three objectives of the constitutional provision of Art. III, §17 in requiring that each Act relate to one subject are 1) apprise the members of the General Assembly of the contents of an Act by reading the title, 2) prevent legislature logrolling 3) inform the people of the state

of the matters with which the General Assembly concerns itself. See: Debach v. Scheper, 188 S.C. 21, 198 S.E. 409 (1938); Arthur v. Johnson, 185 S.C. 324, 194 S.E. 151 (1937). The House of Representatives incorporated riders to the Truth-in-Sentencing Bill and the riders were unrelated to the Bill's intended purpose. Contrary to the prohibitions of Article III, §17 one subject, which clearly states that only one subject can be placed on a Bill. This is critical for a proper debate prior to the Bill being passed. The House also introduced other subject material that was inconsistent to the original nature of the original Bill, that being truth-in-sentencing. The Senate passed the Bill in its entirety and insisted upon Amendments. The House incorporated with the contours of Bill 3096 a number of matters, in addition to the single subject of truth-in-sentencing. These additional matters included the following: 1) Magistrates duties and Jurisdiction, 2) Departments of State Government, 3) Shipwreck and Salvage operations, 4) duties of law enforcement officers, 5) Community Corrections Plan, 6) State Prison System, 7) Prisoners Generally, 8) Poison Control substances, 9) Compensation of Victims of crimes, 10) Victim and Witness Services, 11) Probation, parole and pardon services. The House renamed the Bill an Act to Amend the Code of Laws of South Carolina (1976). The House passed the Bill and returned it to the Senate for further approval. Although the Senate debated over the Amended Bill its discussions addressed only the truth-in-sentencing provisions before debate was interrupted by adjournment. The Senate passed the Bill in its amended form. Bill 3096 later ratified in the House Act 83 was passed into law on June 7, 1995 by then Governor David Beasley. Bill 3096 Act 83 is comprised of over sixty two sections with several provisions that was not

indicated in the title of the Bill in violation of Article III §17. Respectively Section 9 included §16-1-60 S.C. Code of law, Section 10 included §16-3-20 S.C. Code of law, Section 11 included §16-3-625 S.C. Code of law, Section 60 included §16-25-90 S.C. Code of law. (The purpose of S.C. Constitution Art. III, §17 is to prevent the General Assembly from being misled into the passage of bills containing provisions not indicated in their titles, and to apprise the people of the subject of proposed legislation there by giving them an opportunity to be heard). Westavco Corp. v. S.C. Dept of Revenue, 467 S.E2d 739. Bill 3096 Act 83 deals with at least eleven (11) various unrelated subjects and topics. The South Carolina Legislature is not allowed to use such a sweeping and vague Bill to unite unrelated measures, for such would render the South Carolina Constitution Article III, §17. One Subject meaningless. There is no natural and logical connection that could justify the enactment of these various matters in one Act. There is no logical connection with the bills subject: homicide by child abuse, with duties of Magistrate Judges, duties of law enforcement officers, Juveniles, Shipwreck and Salvage, Restructure of State Government, Truth-in-sentencing legislation. (Article III, §17 requires that the subject matter of an Act relate to but one subject, with the topics in the body of the Act being kindred in nature and having a legitimate and natural association, with the subject of the title, and that the title of an Act convey reasonable notice of the subject matter to the legislature and the public). Id. Westavco Corp, 467 S.E2d 741. The Judicial Branch is duty bound under the Constitution to ensure that the legislature refrains from the practice of bringing together into one Bill

Subjects diverse in their nature. The One Subject of the S.C. Constitution Art. III, §17 prevents passing of Bills that would not otherwise secure votes needed without log-rolling unrelated subjects into the Bill to secure needed votes. In the case of People v. Reedy, The Illinois Supreme Court held that the General Assembly violated the Single subject Clause of the Illinois Constitution, by enacting Public Act 89-404 which was design to address the singular subject of the criminal insanity defense. Public Act 89-404 address over five separate legislative subjects including truth-in-sentencing law which both defendants were sentenced under. The Illinois Supreme Court held that Public Act 89-404 was unconstitutional in its entirety. See: People v. Reedy, 1999, 186 Ill.2d 1, 237 Ill. Dec 74, 708 N.E. 2d 1114. Although similar to Illinois single subject clause violation, the S.C. General Assembly violated its own Single subject clause to the extreme. The fact that their is over eleven (11) unrelated topics including provisions that was not indicated in the Bills title is evident that the One Subject Clause of the South Constitution was ignored. Assuming that the Court find that Bill 3096 Act 83 is unconstitutional. The crux of the Respondent enforcing the truth-in-sentencing toward the Appellant sentence is at issue. Whether the Sentencing Judge exceeded its authority, by sentencing the Appellant in accordance with the truth-in-sentencing provisions. The Constitution limits the Judges authority, he cannot impose a sentence under a statute that is unconstitutional. It is well established that jurisdictional limits cannot be exceeded and have been long recognized in South Carolina. American Agr. Chemical Co. v. Thomas, 34 S.E. 2d 592 (1954).

Therefore if the Court finds a single Subject Clause violation, In the Alternate Appellant ask this court to find that the Sentencing Judge lack jurisdiction to impose the sentence. (Lack of jurisdiction of the cause or subject matter can be raised at any time, including for the first time on appeal to the Supreme Court). See: State v. Funderburk, 191 S.E.2d 520. (Lack of subject matter jurisdiction may not be waived, even by consent of the parties and should be taken notice of by the Supreme Court) State v. Gentry, 610 S.E.2d 494. A unconstitutional law is no law therefore to enforce a regulation or policy based on it is illegal. (An unconstitutional statute is void and not law. the judge is without jurisdiction to impose the sentence) See: Ex parte Hollman, 60 S.E.19 (1908)

## CONCLUSION

The Appellant respectfully request that the Court will declare Act 83 Bill 3096 unconstitutional, and order the Respondent to not apply the truth-in-sentencing policy toward my sentence, and release the Appellant from custody.

February , 2016

Respectfully submitted,  
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PROOF OF SERVICE

I certify that I have served the INITIAL Brief of the Appellant by depositing a copy in the Institution Mail Room service made thru interagency mail on February 24, 2016 to the Respondent, including the Designation of matter.

February 24, 2016

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