

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

JUN 22 2016

Shirley C. Robinson

SC Court of Appeals

Appellate Case No.: 2015-001519

Unpublished Opinion No. 2016-UP-281

James A. Sellers, #243348

Appellant

v.

South Carolina Department of Corrections

Respondent

PETITION FOR REHEARING

On June 8, 2016, this Court upheld the Administrative Law Court's Order affirming the South Carolina Department of Corrections' decision to deny the Petitioner eligibility for sentence-reduction credits on his sentence for Accessory. In support of this Petition for Rehearing, which is being submitted on today's date pursuant to Rules 221, 240, and 267 of the South Carolina Appellate Court Rules, the petitioner submits the following:

The Petitioner was convicted of Trafficking in Crank, and Accessory Before the Fact to a Felony; To wit: Murder. He was sentenced to two, concurrent, terms of twenty-five years. His sentence, on the Accessory charge, did not follow the sentencing options outlined in the 1996 version of the Punishment For Murder statute. Due to the actual sentence opposed, the Petitioner contends that SCDC is mistakenly calculating his sentence under the criteria listed in §16-3-20; denying him the benefit of sentence-reduction credits.

In the opinion, this Court concedes "The statute's plain language indicates ineligibility for parole or sentence-reduction credits requires a person to be sentenced to a mandatory minimum term of thirty years". This has

been the Petitioner's contention all along. The Court then retreats, and says that allowing the Petitioner to receive sentence-reduction credits "would lead to a result so plainly absurd that it could not have been intended by the legislature or would defeat plain legislative intention." The Petitioner will argue that is in error, and an improper application of case law.

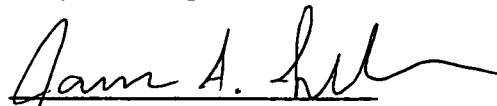
Both sides, the Petitioner and the South Carolina Department of Corrections, have admitted that the 1996 version of S.C. Code Ann. §16-3-20 is a prime example of "a clear and unambiguous statute". It sets forth three, separate, and very distinct, sentencing options. Then outlines the restrictions attached to each. The Petitioner's sentence falls under none of them.

The Petitioner, in his Final and Reply Briefs, supplied caselaw discussing statutory language and legislative intent. State v. Taub, 336 S.C. 408, 519 S.E.2d 797, (S.C. App 1999), Bryant v. Charleston, 295 S.C. 408, 368 S.E.2d 899 (1988), State v. Muldrow, 348 S.C. 264, 559 S.E.2d 847 (2002), State v. Jacobs, 393 S.C. 584, 713 S.E.2d 621 (S.C. 2011). All of which support the Petitioner's argument.

The Punishment for Murder statute, §16-3-20, is clearly a penal statute, so State v. Blackmon, 304 S.C. 270, 273; 403 S.E.2d 660, 662 (1991) does apply. When "... construed strictly against the state and in favor of the defendant ..." the Petitioner's sentence is eligible for credits because it is not "a mandatory minimum term of imprisonment for thirty years".

The Petitioner respectfully asks the Court to re-examine the record; specifically the language of §16-3-20.

Respectfully submitted,



James A. Sellers, 243348

Wateree River CI

P.O. Box 189

Rembert, SC 29128

This 21th day of June, 2016.

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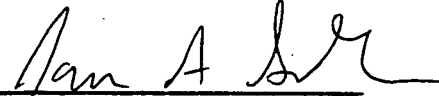
CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served copies of this Petition for Rehearing, in the above entitled action, upon all parties to the cause by depositing one or more copies thereof, in the United States mail, postage prepaid, or in the Interagency Mail Service, addressed to the party(ies) or their attorneys.

One (1) original and six (6) copies have been served on the Clerk of the South Carolina Court of Appeals, at P.O. Box 11629, Columbia, SC 29211, and another copy has been served on SCDC's Office of General Counsel at P.O. Box 21787, Columbia, SC 29211-1787.

This 21st day of June 2016.

(s)


James A. Sellers, #243348
Wateree River CI
P.O. Box 189
Rembert, SC 29128

Pro se Appellant

SUBSCRIBED AND SWORN TO before me

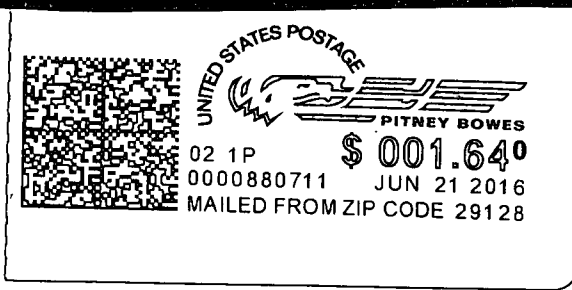
This 21 day of June, 2016.



Notary Public for South Carolina

My Commission Expires: 5-13-24.

James A. Sellers
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Columbia, SC
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