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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

JUL 08 2016

SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT  
The Honorable Ralph King Anderson, III, Administrative Law Judge

Appellate Case No. 2015-001251

Phillip A. Brown,

Appellant

v.

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

Respondent.

PETITION FOR REHEARING EN BANC

COMES NOW, Phillip A. Brown, Appellant, pro se, petitioning for a rehearing, en banc, of the above referenced matter for the following reasons:

1) The Court of Appeals stated that the issues raised by Appellant had not been raised and therefore could not be ruled on by the Administrative Law Court or the Court of Appeals.

Appellant contends that the [ALC] did not address the issues Appellant raised on pages 11, 12, 13 in his Initial Brief in relation to the violation of the ex post facto clause due to the application of S.C. Code of Law statutes § 24-21-221 and § 24-21-610.

S.C. Code Ann. § 24-21-221 was not enacted until the 1991 Act No. 134 § 5. Well after Appellant's crime and court appearance. Therefore this violation comes under the equal protection clause

of the United States and South Carolina Constitutions. Also the application of the amended statute, S.C. Code Ann. § 24-21-610 is an ex post facto violation due to its application to Appellant in its present form instead of applying the statute as it was written in 1982.

2) The Court of Appeals is in error in stating; "The doctrine of the law of the case prohibits issues which have been decided in a prior appeal from being relitigated in the [ALC] in the same case."

Appellant's due process rights have been violated due to the callous disregard the state of South Carolina has for the rights of the prisoners in its penitentiary. There are solid material, provable issues in this instant matter that must be addressed.

The Supreme Court has elaborated on the scope and nature of the doctrine of law of the case. "A court has the power to revisit prior decisions of its own or of a coordinate court in any circumstance, although as a rule, courts should be loathe to do so in the absence of extraordinary circumstances such as where the initial decision was clearly erroneous and would manifest injustice."

Christian, 486 U.S. at 817, 108 S.Ct. at 2178. "This Circuit has recognized several "extraordinary circumstances" that warrant a court's reconsideration of an issue decided earlier in the course of litigation. They include situations in which; (1) new evidence is available; (2) a supervening new law has been announced; or (3) the earlier decision was clearly erroneous and would create manifest injustice." See Bridge v. U.S. Parole Commission, 981 F.2d 97, 103 (3<sup>d</sup> Cir. 1992).

Appellant contends that relying on the doctrine of law of the case is a serious miscarriage of justice in that the [ALC] refused to address the due process rights violation and instead chose to blindly side with the parole board.

CONCLUSION

Appellant prays that this Court reverse or modify the ALC decision and fully consider the issues raised.

Respectfully Submitted,  
Phillip A. Brown  
Phillip A. Brown, # 118100  
SA-23, Lieber C.I.  
P.O. Box 205  
Ridgeville, S.C. 29472

Date: July 1, 2016

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South Carolina Department of Probation, Parole, and  
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Respondent.

CERTIFICATE OF SERVICE

I, Phillip A. Brown, Appellant, pro se, do hereby certify that I have served one true copy of "Petition For Rehearing En Banc" on Respondents by depositing the same in the United States mail, postage prepaid, first class delivery to: On this 1<sup>st</sup> day of July 2016.

Mr. Tommy Evans, Legal Counsel  
S.C. Department of Probation, Parole, and Pardon Services  
2221 Devine Street, Suite 600  
P.O. Box 50666  
Columbia, S.C. 29250

cc: Ms. Jenny Abbott Kitchings, Clerk  
files

Date: July 1, 2016

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SC Court of Appeals

To: Ms. Jenny Abbott Kitchings, Clerk  
S.C. Court of Appeals  
P.O. Box 11629  
Columbia, S.C. 29211

RE: Court of Appeals, Appellate Case No. 2015-001251  
Phillip A. Brown v. South Carolina Department of Probation,  
Parole, and Pardon Services

Date July 1, 2016

Dear Ms. Kitchings,

Please find enclosed one original and six (6) copies of Appellant's "Petition For Rehearing En Banc", and one original "Certificate of Service" as proof of service upon Respondents, for filing, both date July 1, 2016, in the above referenced matter.

Thank you for your help in this matter.

Respectfully Submitted,  
Phillip A. Brown

cc: Ms. Jana Shealy, Clerk, Administrative Law Court  
Files

Phillip A. Brown, 118100  
SA-23, Lieber,  
P.O. Box 205  
Ridgeville, S.C. 29472

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Ms. Jenny Abbott Kitchings, Clerk  
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SC Court of Appeals

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