

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
John D. McLeod, Administrative Law Judge
Case No. 15-ALJ-15-0068-AP

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JUL 28 2016
SC Court of Appeals

Thomas Thompson #80681-----Appellant

v.

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

Appellate Case No. 2016-000781

Reply Brief

Thomas Thompson #80681
Pro Se Litigant
TYRCI 10-204A
200 Prison Road
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Appellant seeks to bring to the Courts attention certain errors in Respondents brief regarding the facts in this case. Judge McLeod made his decision prior to the process for filing briefs being completed per section V, rule 60A (Appellant had not filed a reply brief). Judge McLeod's decision was clearly based on the Departments notice of rejection letter and S.C. Code Ann. §1-23-600(D)(Supp 2015). Appellant argues that the fact that this letter states that the Department abided by statute law and procedure is not substantial evidence of that fact. It is Appellant's argument that the ruling in Cooper is flawed in this respect because it allows the Department to merely change the wording in a computer generated form letter rather than produce the actual records and case summary reports it used to make its decisions. Appellant is being legally denied access to these records and reports yet held accountable for their accuracy and completeness. Shouldn't the Department be ethically obligated to do its utmost to ensure the accuracy and completeness of its information when making a decision of this magnitude?

The Department's statement regarding its policies at the time Appellant committed his offense are completely false. The policy as published in the inmate guide book stated there was a one-time two year waiting period and annual review thence forth. In fact the Department's actual practice when Appellant entered the SCDC was to waive the two year wait and review every year as an examination of the records of parole hearings at the time will reveal. Furthermore, Respondent states that it never changed the amount of votes necessary to obtain parole when in fact it did require Appellant to receive 5 votes for parole to be granted regardless of the number of Board members present from 1987 until the Barton ruling in 2013. a period of 26 years.

Appellant has made no argument regarding persons sentenced to fifteen years or more.

The Equal Protection Clause does not require people to be identically situated. Clearly anyone sentenced to a life sentence for murder with ten year parole eligibility is similarly

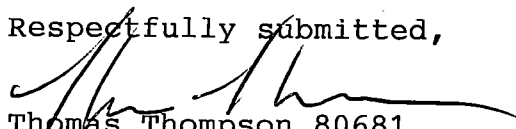
situated to Appellant. The reasons given for the constant denial of Appellants parole (nature of offense, use of a deadly weapon, indication of violence) apply to each and every one. Appellant argues that the overwhelming majority (not just some other inmates) have been paroled after serving far less time than Appellant who has served over forty years (70% of his actual life). This is a great disparity in treatment without due cause.

The sentencing Court gave Appellant this sentence based on the actions of the Parole Board at the time regarding the granting of parole. It certainly was not their only option as the sentencing Court could have allowed a plea to a lesser charge than murder. However it is clear and certain that the Court made a chance for parole based on Appellant's conduct while incarcerated a part of this plea agreement. If the Court had no authority to issue such a sentence, then the plea was not knowingly and willingly made and therefore invalid, Brown v. State 306 SC 381, 412 SE 2d 399(1991).

CONCLUSION

The Department has violated the Constitutional Rights of Appellant in various and continual ways. This Court has the jurisdiction to address and remedy these violations. The Department is being allowed to operate behind a curtain of secrecy without being held to any type of accountability. In this particular case it has decided to substitute its personal judgment as to punishment over that of the sentencing Court. Appellant has a right to due process, both procedural and substantive, to the equal protection of the law, to protection from ex-post-facto laws, cruel and unusual punishment and from what is essentially double jeopardy.

Respectfully submitted,


Thomas Thompson 80681
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200 Prison Road
Enoree, S.C. 29335

July 21, 2016

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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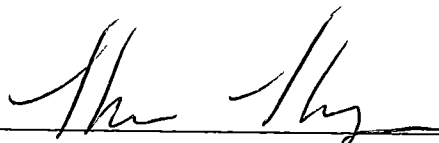
v.

South Carolina Dept. of Probation,
Parole and Pardon Services-----Respondent

Appellate Case No. 2016-00-781

PROOF OF SERVICE

I certify that I have served the Motion for Time Extension and Reply Brief on the South Carolina Dept. of Probation, Parole and Pardon Services by depositing a copy of both in the US Mail, postage prepaid, on July 21, 2016, addressed to the Attorney of record Tony Evans, Jr., 2221 Devine Str., Suite 600, Post Office Box 50666, Columbia, South Carolina, 29250.



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July 21, 2016

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The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

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JUL 28 2016

SC Court of Appeals

RE: Thomas Thompson #80681

v.

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

Appellate Case No. 2016-000781

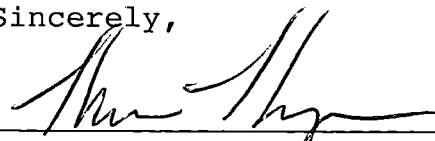
Dear Ms. Kitchings,

Please find enclosed for filing the following:

Motion for Time Extension
Appellant's Reply Brief
Proof of Service on Respondent

Thank you for your assistance in this matter.

Sincerely,



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✓

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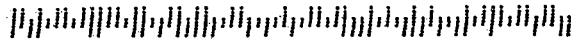
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