

IN THE STATE OF SOUTH CAROLINA COURT
OF APPEALS
(IN THE SUPREME COURT)

APPEAL FROM ADMINISTRATIVE LAW COURT
THE HONORABLE JOHN MCNEED

DOCKET NUMBER 15-ALJ-15-0018

APPELLATE CASE NO.: 2016-000473

JESSE M. JAMES, 344605

V.

SOUTH CAROLINA DEPARTMENT
OF PROBATION, PAROLE, AND
PAROLE SERVICES

RECEIVED

OCT 17 2016

SC COURT OF APPEALS

APPELLANT,

RESPONDENT.

DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL

APPELLANT, JESSE M. JAMES, PROPOSES THE FOLLOWING BE INCLUDED IN THE RECORD ON APPEAL.

(1) MARCH 5, 2015, SCOPPS "FINAL DECISION" ON THE MATTER OF GRANTING THE APPELLANT PAROLE WHICH IS PROHIBITED DUE TO SECTION 24-21-640 STATED: "EITHER THE BOARD MUST NOT GRANT PAROLE NOR IS PAROLE AUTHORIZED TO ANY PRISONER SERVING A SENTENCE FOR A SECOND OR SUBSEQUENT CONVICTION, FOLLOWING A SEPARATE SENTENCING FOR PRIOR CONVICTION, FOR VIOLENT CRIMES AS DEFINED IN SECTION 16-1-60".

RECEIVED BY U.S. POSTAGE ON MARCH 9, 2015 HERE AT RIDGELAND COLLECTIONAL INSTITUTE.

(2) "RECORD ON APPEAL" DATED MAY 4, 2015 FROM RESPONDENTS ATTORNEY, MR. TOMMY EVANS, JR., ASSISTANT GENERAL COUNSEL.

(3) RECEIVED ON JUNE 22, 2015, "MOTION FOR EXTENSION OF TIME TO FILE RESPONDENTS BRIEF," RECEIVED BY THE APPELLANT FROM RESPONDENTS ATTORNEY, ASSISTANT GENERAL COUNSEL, MR. TOMMY

EVANS, JR.

like for it to be known on the record of appeal that this motion was not actually granted until June 22, 2015 by the Honorable John D. McLeod, in which I, the Appellant received it here at Ridgeland Correctional Institution on the same day granted. (How so?)

(4) Received on July 30, 2015, "BRIEF OF RESPONDENT," by Attorney Tommy Evans, Jr. Assistant General Counsel for the Respondents, S.C. Department of Probation, Parole and Pardon Services.

(5) Received on August 12, 2015, "Motion for Extension of Time to File Appellant's Reply Brief to the Respondent's Brief" which was granted by John D. McLeod, S.C. Administrative Law Judge.

(6) Received on January 7, 2016 letter from Ms. Cheron Hess to the Staff Counsel for Judge John D. McLeod, in which Mr. Christopher P. Whitehead returned/responded.

(7) "Final Order" of Feb. 02, 2016 received on Feb. 04, 2016.

(8) Received on March 10, 2016, the South Carolina Appellate Court Rules (SCAR) sent deficiencies to be corrected.

(9) Received on March 10, 2016, the South Carolina Court of Appeals assigned the Appellate case number No. 2016-000473 which is an order sent to (the) Appellate from the Clerk of the Court whose name is Jenny Abbott Kitchings.

(10) Received on April 18, 2016, from the Clerk of the Court, Jenny Abbott Kitchings of the South Carolina Court of Appeals indicating to the Appellate his second deficiency letter in which the order was not accompanied with this.

(11) Order of June 24, 2016, granting Appellant's motion to proceed "In forma pauperis" received on June 27, 2016.

(12) Received on July 13, 2016, letter from the clerk of the Court, Jenny Abbott Kitchinbs and Deputy Clerk, V. Claire Allen, indicating the appellant had ten (10) days to file his initial brief and designation of matter had passed but gave the Appellant another ten (10) days.

(13) Order of August 2, 2016, granting Appellant extension time for serving AND filing the Appellant's initial brief and designation of matter until September 4, 2016, from Deputy Clerk V. Claire Allen, received on August 5, 2016.

(14) Order of September 28, 2016, from the clerk of the Court, Jenny Abbott Kitchinbs stating to the appellant he must serve and file initial brief and designation of matter within ten (10) days of the date of this letter on the date signed received by the mail clerk when Appellate is in a institution AND IN this matter, IT WAS received on September 26, 2016.

(15) Complaint: Why is the South Carolina Department of Probation, Parole, and Pardon Services, preventing the Appellant from STANDING IN front of the Parole Board to let them either grant or disregard, him from being granted Parole?

(16) Answer: As you will see here are some cases that help establish the answer to the complaint, in which the courts granted parole eligibility at the sentencing, of the individual IN which S.C. CODE 24-21-10(F) 1, 2, & 3 AND S.C. CODE 24-21-640 says not. But in CASE LAW RUDOLPH FRAZIER COOPER V. S.C.D.P.P. & P, 377 SC 489, 461 S.E.2D 106 (2008) AND STEEL V. BENJAMIN 362 S.C. 66, 172 S.E.2D 499, 502 (Ct. App. 2004). IN COOPER V. S.C.D.P.P. & P, 377 SC 489 STATES [489] SAYS THIS:

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"Parole is a privilege and Cooper has no right to require that [Parole Board] to adhere to statutory requirements in rendering a decision." [Alteration Added].

IN STEELE V. BENJAMIN, 362 S.C. 666, 72, 606 S.E. 2d 499, 502 (Ga. App. 2004) which comports with Sullivan, 335 S.C. at 443 n. 4, 586 S.E. 2d at 124 n. 4; SAYS THIS ["FURICK ESTABLISHED THAT AN INMATE HAS A RIGHT TO A ALTD REVIEW OF AN AGENCY'S FINAL DECISION DENYING PAROLE ELIGIBILITY, BUT AN INMATE DOES NOT HAVE A RIGHT TO A REVIEW OF A DENIAL OF PAROLE. THE DISTINCTION IS THAT THE REVIEW OR CONSIDERATION FOR A PAROLE IS A RIGHT GRANTED BY STATUTE WHEREAS PAROLE IS ONLY A PRIVILEGE".]

However, our Court of Appeals has noted that (t)he use of the word permanent in Sullivan and Furick does not mean that there must be a permanent denial of parole eligibility before a sufficient liberty interest is involved. It is merely one of the ways that sufficient liberty interest may be involved. "Steele, 362 S.C. at 72, 606 S.E. 2d at 502.

I certify that this designation contains no matter which is irrelevant to this appeal.
DATE: OCTOBER 4, 2016

151 Jenn M Jones
JESSE M JAMES, 346605
PO BOX 2039
Rt 1 GA-10
RIDGECREST, 29936-2039

AFFIANT declares under the penalty of perjury
the facts set forth above herein are true and
correct this 12th day of October, 2016.

Sworn to before me this 12th day of October, 2016.

Virginia Robinson

NOTARY PUBLIC of South Carolina

COMMISSION EXPIRES May 20, 2021.

Jesse M. James
JESSE M. JAMES, 346605

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SC Court of Appeals

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OCTOBER 12th, 2016

Ms. JENNIFER ABBOTT KITCHINGS
Ms. V. Claire Allen,
Clerk / Deputy Clerk
South Carolina Court of Appeals

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SC Court of Appeals

Hello Ma'am,

I AM WRITING THIS AS AN AFFIDAVIT FOR THE FOLLOWING PAPERWORK THAT IS COMING WITH THIS LETTER WHICH SHOULD HAVE BEEN TO THE COURTS ON OCTOBER 6, 2016 BUT DUE TO THE STORM "HURRICANE MATTHEW", MY INSTITUTION JUST CAME OFF LOCKDOWN AND ALL SERVICES BEGAN AS OF TODAY, (O) OCTOBER 12th, 2016.

Thank you for your appreciation and time in hearing these matters AND I would like this file, please.

Respectfully Submitted

by

Jesse M. James
JESSE M. JAMES

Affiant declares under the penalty of perjury the facts set forth above herein are true and correct this 12th day of OCTOBER, 2016.

Subscribed to before me this 12th day of OCTOBER, 2016.
Virginia Robinson

Notary Expires commission
expires May 20, 2021.

Jesse M. James
JESSE M. JAMES


ESSE M. JAMES, 346605

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OCT 12 2016

Ms. Jenny Abbott Kitchens
Clerk of the Court
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COLUMBIA, SC 29211

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LEGAL MAIL

2921161629 8012

