

IV. STATEMENT OF CLAIM - continued.

RECEIVED

FEB 07 2017

SC Court of Appeals

The State of South Carolina

In The Court of Appeals

Appeal From the Administrative Law Court [S.C. Dept of Corrections]

Shirley C. Robinson, Administrative Law Judge

Appeal No. 2016-000431

Bernard McFadden, 199135,

Appellant,

vs.

South Carolina Dept. of Corrections,

Respondent.

Rule 221 Petition For Rehearing

Bernard McFadden, 199135

Kershaw CI/ 0132

4848 Goldmine Hwy.

Kershaw, S.C. 29067

Christina Catoe Bledow, Asst.

General Counsel, SCDC, 4444

Broad River Rd., Columbia

South Carolina 29221

This Court affirmed Administrative Law Court's decision on 01/25/2017.

Appellant moves before this Court for a rehearing on the following issues overlooked or not comprehended by the Court:


1) False Information In Prison Record Violates Due Process If Considered

This Court did not determine whether SCDC is violating McFadden's federal due process right under the U.S. Constitution by maintaining the false 6/01/1995 sentence start date, resulting into the incorrect 12/25/2000 max-out date.<sup>1)</sup> And thus, no court will now correct the 2010 Burglary trial court's erroneous determination in its decision making process, within the meaning of Palme vs. Baker, 595 Fed. 197, 202 (U.S. App 4<sup>th</sup> Cir. 1979) for arrest warrant # E-017123.

2) Issue Not Moot, Correct Records Will Give Appellant New Trial / PCR

The SCDC records still being incorrect can cause the S.C. Supreme Court - or any court for that matter - to affirm the denial of McFadden's (PCR) appeal; or that this false 6/01/1995 sentence start date can cause other courts to conclude the 12/25/2000 max-out date is correct.

Classification's willfully refusing to correct this 06/01/1995 start date is a controversy, and should expose record officers to liability from these continual acts for prolonged incarceration from refusal to expunge this incorrect information.

Respectfully Submitted,  
  
Kershaw CI/033  
4848 Goldmine Hwy  
Kershaw, S.C. 29067

Date: 02/01/2017

<sup>1)</sup> See ROA at p. 11; erroneous because McFadden was arrested by George McConner on 4/15/1995 - not 6/01/1995.

RECEIVED

FEB 07 2017

SC Court of Appeals

Proof of Mailing

Case # 2016-000431

The undersigned hereby certifies that a true copy of the attached matter has been mailed to the persons listed below by depositing a properly-addressed-stamped-envelope in the U.S. Mail this 02<sup>nd</sup> day of February, 2017; such Matter being: McFadden's Rule 221 Petition For Rehearing

1) Christina Catoe Bigelow, Assist.  
General Counsel, SCDC, 4444  
Broad River Rd., Columbia  
South Carolina 29221; and

2) Jenny Abbott Kitchings, Clerk  
S.C. Court of Appeals, N.D.  
Box 11629, Columbia, South  
Carolina 29211

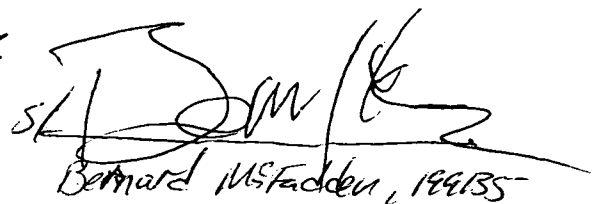
Sworn And Subscribed Before Me

This 2<sup>nd</sup> day of February, 2017

Cathrine A Amos

Notary Public For South Carolina

My commission expires: December 22, 2018



Bernard McFadden, 199135

Plaintiff, pro se

Bernard McFadden, 199135  
Kershaw C.F./0132  
4848 Goldmine Hwy.  
Kershaw, S.C. 29067

McFadden 199135  
**LEGAL**

**RECEIVED**

FEB 07 2011

SC Court of Appeals

Jerry Abbott Kitchings, Clerk  
S.C. Court of Appeals, P.O.  
Box 11629, Columbia, South  
Carolina 29211