

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
16-ALJ-04-0550-AP
THE HONORABLE S. PHILLIP LENSKI

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MAR 16 2017

SC Court of Appeals

CASE NO. 2017-000232

Jimmy D. Meggs Jr., 277400,

APPELLANT,

v.

South Carolina Department of Corrections, SCDC,

RESPONDENT.

MOTION TO PROCEED
IN FORMA PAUPERIS

South Carolina Department of Corrections
Mrs. Christina Catoe Bigelow
Office of General Counsel
4444 Broad River Rd.
P.O. Box 21787
Columbia, SC 29221-1787
(Counsel for Respondent)

Jimmy D. Meggs Jr., 277400
TCI SA-227
1578 Clarence Coker Hwy.
Turbeville SC 29162
(Appellant Pro-Se)

The Appellant would Humbly request to be allowed to proceed on Appeal "In Forma Pauperis" due to the issues presented in this Appeal. Appellant was arrested on 1-10-00 and was released on bond on 4-3-00 (84 days later), but a stipulation of this bond required maintaining electronic monitoring. The Appellant remained in full compliance until his conviction and sentence on 9-9-01 (16 months later), in Florence County and was sentenced by the Honorable James E. Brogdon. On June 7 2013, South Carolina Legislature amended South Carolina code § 24-13-40 to bring to the forefront to allow the court to give individuals credit for the time they served on Monitored House Arrest²

Appellant thereafter discovered and filed his request with the South Carolina Department of Corrections who ultimately denied this request. The Appellant timely filed his Grievance with the Department denied his step 1 and 2 grievance, and in their response they instructed the Appellant to go back to the circuit court to obtain an Order from the Court specifically granting the credit for Monitored House Arrest.

As this case is over 16 years old and Trial counsel is a solicitor and the trial judge is no longer a judge but a C.E.O. with C.P.L. (Power Company). The Appellant has no other remedy other than this appeal.

The Appellant avers that the analysis relied on by the Department and ruled on is in error. Specifically, State v. Varner 423 S.E.2d 133 is dealing with the Retroactivity of a Criminal State Statute that had in deed became final.

The issue here is sentence related credits as the Court knows in 24-13-100, 125, 150 it states that an inmate would receive 3 days of Good Time Credit for "each month served" where he would not be subject to misconduct." Likewise, a Inmate would receive 6 days per month for "Productive Duty Assignment. In any rate, the credit is applied month by month and finality would not attached. In Short, the Retroactive Argument is not compelling. and as it relates to the "May" argument. The Department has just recently been reversed for the very same logic in both Fowler and Bolin, The Department there argued "May" being discretionary and this Court rejected that argument and reversed the ALC Order. The Offenders there raised issues about receiving sentence related credits for those who are serving time for thier first or second Drug Offense under 44-53-370 ,

In the Authur Field case the state made the same retroactive argument, which the Court there rejected and granted him his credit and more to the point. One Shannon Bogan from Spartanburg County (Indictment No. 2012-GS-42-784) he was arrested and released on bond (on Monitored House Arrest) on 9-3-2011, He was indicted 2-3-12 and plead guilty on 11-28-12 (all before the enactment of the June 7 2013 bill). He had spent a total of 483 days on Monitored House Arrest. On June 7 2013, some seven months after his plea and sentence his case under the logic here would have been final. on or about 2016, Bogan filed for a PCR and both the State consented and the Court granted Bogan his credit for the time clearly before the enactemnt of the 2013 bill. Futher, without full discovery from the State it can only be presumed that this practice is wide spread. The

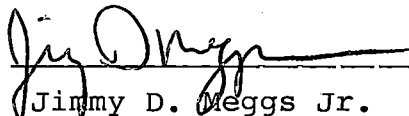
Department contentions and the ALC's ruling is completely at odds here. The Appellant should be appointed counsel for this Appeal and or Appointed Counsel to allow him to petition the Lower Court an opportunity to "May" grant Appellant's his time spent under Monitored House Arrest.

Lastly, as outlined in both Al-Shabazz v. State 527 S.E.2d. 742, and, Wicker v. S.C. Dept. of Corrections 602 S.E.2d. 56 Procedural Due Process is guaranteed when an inmate is deprived on an Interest encompassed by the Fourteenth Amendment's Protection of Liberty and Property.

CONCLUSION

Due to the issue presented by this appeal. The Appellant **Prays** that this Court allows him to proceed "In Forma Pauperis" and rule on all the issues raised in th ALC. **Reverse** the ALC's ruling and **Grant** the Appellant his 16 months spent under Monitored House Arrest. Or any other releif that this Court deems just and proper.

This 13th day of March 2017.


Jimmy D. Meggs Jr.

STATE OF SOUTH CAROLINA

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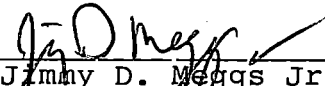
RESPONDENT.

PROOF OF SERVICE

I hereby certify that I have served my Motion to proceed "In Forma Pauperis" on Respondent's Counsel of Record: South Carolina Department of Corrections **Mrs. Christina Catoe Bigelow** by depositing the same in the United States Mail, Postage Prepaid at the following address:

South Carolina Department of Corrections
Mrs. Christina Catoe Bigelow
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4444 Broad River Rd.
P.O. Box 21787
Columbia, SC 29221-1787
(Respondents Counsel of Record)

This 15th day of March 2017.


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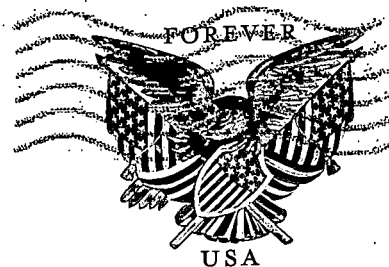
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LEGAL MAIL

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