

Record on appeal

The State of South Carolina

In the Court of Appeals

Appeal from Administrative Law Court

Deborah Brooks Dorden, Judge S.C. Administrative Law Court

Case No 2017-000486

James Wesley Peterson # 296129, Appellant

VS

SCOPPS, Respondent

Record on appeal

James Wesley Peterson # 296129, Appellant

KCI B2-15

4344 Broad River Rd

Columbia, SC, 29210

RECEIVED

Tommy Evans, Jr, Respondent

MAY 15 2017

2221 Paxton St. Suite 600

SC Court of Appeals

P.O. Box 50666

Columbia, SC 29250

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Certificate of Appellant

The undersigned hereby certifies that the record on Appeal contains all material proposed to be included by any of the parties and not any other material.

May 11, 2017

James W. Patterson
James Wesley Patterson #296129
KCI B2-15
4344 Broad River Rd
Columbia, SC 29210
Appellant

RECEIVED

MAY 15 2017

SC Court of Appeals

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

NIKKI R. HALEY
Governor



JERRY B. ADGER
Director

2221 DEVINE STREET, SUITE 600
POST OFFICE BOX 50666
COLUMBIA, SOUTH CAROLINA 29250
Telephone: (803) 734-9220
Facsimile: (803) 734-9440
www.dppps.sc.gov/

July 25, 2016

James Patterson, #296129
Kirkland Correctional Institution
4344 Broad River Road
Columbia, South Carolina 29210

Dear Mr. Patterson:

On June 12, 2013, you were convicted of Possession and Manufacturing of Meth, third offenses, in Indictment Numbers 11-GS-23-9775, 9776. Pursuant to South Carolina law a person convicted of this offense with two or more aggregate violation of the law relating to drugs is not eligible for parole.

A review of your prior record reveals prior drug convictions, therefore, your current offense is ineligible for parole pursuant to South Carolina law. You will not be considered for parole on this offense.

Sincerely

A handwritten signature in black ink, appearing to read "Matthew C. Buchanan".

Matthew C. Buchanan
General Counsel

MCB:dn

2

WITNESSES

C. Rosier

Greenville County Sheriffs Office

8/16/2011

V.V.

DOCKET NO. 2011-GS-23-
JLK 009775

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

November TERM 2012

6-12-13 THE STATE

ARREST WARRANT NUMBER

J993004

vs.

JAMES WESLEY PATTERSON

ACTION OF GRAND JURY

TRUE BILL

Jonathan P. Spurr
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

3066 v Indictment for
3009

POSSESSION OF METHAMPHETAMINE

VIOLATION § 44-53-0375

RECEIVED

DEC 27 2011

Clerk of Court
Greenville County

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

INDICTMENT FOR
POSSESSION OF METHAMPHETAMINE

At a Court of General Sessions, convened on **NOV 20 2012** the Grand Jurors of Greenville
County present upon their oath:

That JAMES WESLEY PATTERSON did in Greenville County, on or about the 16th day of August 2011,
willfully and unlawfully have in his possession a quantity of Methamphetamine (Crank), a schedule II controlled
substance. This is in violation of §44-53-0375 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

John Monte
SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.

James Wesley Patterson

AKA:

Race: WHITE Sex: M Age: 38

DOB: 10-09-1974 SS#: 251-45-3264

Address: 19 Eagles View

City, State, Zip: Piedmont, SC 29673

DL#: 999999999 SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: possession of methamphetamine 3rd offense

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011GS2309775

A/W#: J993004

Date of Offense: 8/16/2011

S.C. Code §: 44-53-0375 (A)

CDR Code #: 3016

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 44-53-0375 (A) of the S.C. Code of Laws, bearing CDR Code # 3016
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State

ATTEST: Monds, Joyce K. 65331 SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 2011-GS-23-9776
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

Recipient:

Table with 2 columns: Description and Amount. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCA Surcharge) \$5, 3% to County (if paid in installments) \$, TOTAL \$

days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Appointed PD or appointed other counsel. § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk Paul B. Wickensmaier
Court Reporter: A. Huron
SCCA/217 (03/2011)

Presiding Judge
Judge Code: 2137
Sentence Date: 6-12-13

WITNESSES

C. Rosier

Greenville County Sheriffs Office

8/16/2011

WU

ARREST WARRANT NUMBER
J993003

ACTION OF GRAND JURY
TRUE BILL
James P. [Signature]
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date: _____

DOCKET NO. 2011-GS-23-

JLK

009776

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

November

TERM 2011

2011

6-12-13

THE STATE

vs.

JAMES WESLEY PATTERSON

3200 ✓
3198

Indictment for

MANUFACTURING METHAMPHETAMINE

VIOLATION § 44-53-0375

RECEIVED

DEC 27 2011

Clerk of Court
Greenville County

5

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
MANUFACTURING METHAMPHETAMINE

NOV 20 2012

At a Court of General Sessions, convened on
County present upon their oath:

the Grand Jurors of Greenville

That JAMES WESLEY PATTERSON did in Greenville County, on or about the 16th day of August 2011, knowingly manufacture methamphetamine or did knowingly provide financial assistance or otherwise attempt, aid, abet or conspire to manufacture methamphetamine or was knowingly in actual or constructive possession of the common ingredient(s) and/or supplies used in the manufacturing of methamphetamine. This is in violation of § 44-53-375 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

James Monte
SOLICITOR

6

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville
STATE VS. James Wesley Patterson

INDICTMENT/CASE#: 2011GS2309776
A/W#: J993003
Date of Offense: 8/16/2011
S.C. Code § : 44-53-0375
CDR Code #: 3200

AKA:
Race: WHITE Sex: M Age: 38
DOB: 10-09-1974 SS#: 251-45-3264
Address: 19 EAGLES VIEW
City, State, Zip: PIEDMONT, SC 29673
DL#: 9999999999 SID#:

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: manufacture methamphetamine 3rd offense

CONVICTED OF or PLEADS

in violation of § 44-53-0375 of the S.C. Code of Laws, bearing CDR Code # 3200
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Joyce K. Monte 65331 Defendant
Attorney for Defendant (SS35)

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 160 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.
CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114(BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCIA Surcharge) \$5, 3% to County (if paid in installments), TOTAL.

days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other: Adu Rec

Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk Paul B. Witzemann
Court Reporter: A. Heun

Presiding Judge
Judge Code: 2137
Sentence Date: 6-12-13

SCCA/217 (03/2011)

DOCKET NO. 1999-GS-23-04473
SPM

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

JULY TERM 1999

11/15/00

THE STATE

vs.

JAMES WESLEY PATTERSON

PLEAD GUILTY

(J)

RECEIVED
JUL 11 1999

317

T. Sullivan

WITNESSES

ROBERT BLOSE

SCHP

06/11/98

ARREST WARRANT NUMBER
E 658105

Did receive driver's license?
3S NO
if no, explain @ home
James W. Patterson

ACTION OF GRAND JURY
TRUE BILL

Deetta Rogers
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Indictment for

0188

POSSESSION OF MARIJUANA WITH INTENT TO
DISTRIBUTE

VIOLATION § 44-53-370

Foreperson of Petit Jury

Date:

ENTERED
ACCT. ed

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
POSSESSION OF MARIJUANA WITH INTENT TO
DISTRIBUTE

At a Court of General Sessions, convened on JULY 27, 1999 the
Grand Jurors of Greenville County present upon their oath:

That JAMES WESLEY PATTERSON did in Greenville County, on or about the 11th day of June, 1998,
possess with intent to distribute a quantity of Marijuana, a controlled substance, such possession not
having been authorized by law. This is in violation of §44-53-370 of the South Carolina Code of Laws
(1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and
provided.


SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.

James Wesley Patterman
AKA: 165 Frontage Rd Ft. Inn SC 29144
Race: W Sex: M
JOB: 10-90-74 Age: 26
SSN: 251 45 3214
DL#: 00464831
SID#:

IN THE COURT OF GENERAL SESSIONS
INDICTMENT/CASE#:

99 -GS- 23 - 4478
A/W#: E658105
Date of Offense: 6-11-98
S.C. Code §: 44-53-370
CDR Code #: 011816

SENTENCE

PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Possession of marijuana with intent to distribute
in violation of § 44-53-370 of the S.C. Code of Laws, bearing CDR Code # 011816

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

James L. Monts
Solicitor

James W. Patterman
Defendant

[Signature]
Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ 500.00; provided that upon the service of 1 days/months/years and/or payment
of \$ 500.00; plus costs and assessments as applicable*; the balance is suspended with probation for
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

The Defendant is to be given credit for _____ days/months jail time.

CONCURRENT or CONSECUTIVE to sentence on:

SPECIAL CONDITIONS:

RESTITUTION Heard, Waived, Ordered

Total: \$ plus 20% fee \$

Payment Terms:

set by SCDPPPS

Recipient:

PTUP _____

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc Rehab. or Job Corps _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal, consecutive weekly/monthly

prmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund.

Other: _____

*Fine: \$ 500

§ 14-1-206 - Assessments 100%..... \$ 500

§ 14-1-211 - Surcharge..... \$ 100

(Exceptions: See § 14-1-211)

§ 56-5-2995 (DUI)..... \$

County (3%)..... \$

TOTAL..... \$

Clerk of Court/Deputy Clerk Paul W. [Signature]

PRESIDING JUDGE [Signature]

Judge Code: 10710

Sentence Date: 4/15/02

Court Reporter: [Signature]

White - Clerk

Green - Corrections

Canary - Probation

Pink - Defendant

DOCKET NO. 1999-GS-23-SPM

004477

The State of South Carolina

County of Greenville

WITNESSES

Clerk receive driver's license:
YES _____ NO _____
If no, explain: home

ROBERT BLOSE

SCHP

06/11/98

COURT OF GENERAL SESSIONS

JULY TERM 1999

11/15/00

X James W. Patterson

THE STATE

vs.

JAMES WESLEY PATTERSON

PLEAD GUILTY

ARREST WARRANT NUMBER

E 658106

ACTION OF GRAND JURY

TRUE BILL

Deetta Rogers

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Indictment for

T. Sullivan
V0183

POSSESSION OF COCAINE WITH INTENT TO
DISTRIBUTE

VIOLATION § 44-53-370

Foreperson of Petit Jury

Date:

ENTERED
ACCT. cd

209

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
POSSESSION OF COCAINE WITH INTENT TO
DISTRIBUTE

At a Court of General Sessions, convened on JULY 27, 1999 the

Grand Jurors of Greenville County present upon their oath:

That JAMES WESLEY PATTERSON did in Greenville County, on or about the 11th day of June, 1998, possess with intent to distribute a quantity of Cocaine, a controlled substance, such possession not having been authorized by law. This is in violation of §44-53-370 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

[Handwritten Signature]
SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE VS.

James Wesley Pattenman

AKA: 165 Frontage Rd Ft. Inn. SC 29144

Race: W Sex: M

JOB: 10-90-74 Age: 26

SSN: 251 45 3264

DL#: 00464831

SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

99-GS-23-4477

A/W#: E658106

Date of Offense: 6-11-98

S.C. Code §: 44-53-370

CDR Code #: 011813

SENTENCE

PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Possession with Intent to Distribute Cocaine

in violation of § 44-53-370 of the S.C. Code of Laws, bearing CDR Code # 011813

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

James K. Monte
Solicitor

James W. Pattenman
Defendant

[Signature]
Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 5 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference. * 5 1/2 mo.

The Defendant is to be given credit for _____ days/months jail time.

CONCURRENT or CONSECUTIVE to sentence on:

SPECIAL CONDITIONS:

RESTITUTION Heard, Waived, Ordered

Total: \$ _____ plus 20% fee \$ _____

Payment Terms:

set by SCDPPPS

Recipient:

*Fine: \$
§ 14-1-206 - Assessments 100%..... \$
§ 14-1-211 - Surcharge..... \$ 100
(Exceptions: See § 14-1-211)
§ 56-5-2995 (DUI)..... \$
County (3%)..... \$
TOTAL..... \$

Clerk of Court/Deputy Clerk Paul Wachter

Court Reporter: Watts

White - Clerk

Green - Corrections

Orange - Probation

PRESIDING JUDGE

Judge Code: 10190

Sentence Date: 11/15/98

probation begins today

14

DOCKET NO. 2004-GS-23-
JLK 005159

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

JULY TERM 2004

11-10-05

PLEAD GUILTY THE STATE
vs.

JAMES WESLEY PATTERSON

WITNESSES

WAMSLEY *Patterson's*

GCSO

05/04/04

ARREST WARRANT NUMBER

~~803759~~ G 803759

ACTION OF GRAND JURY
TRUE BILL

Picky G Spaulding

FOREMAN GRAND

Foreperson of Grand Jury

VERDICT

0102
0100

Indictment for

POSSESSION OF METHAMPHETAMINE
(CRANK)
VIOLATION § 44-53-375(A)

Foreperson of Petit Jury

Date:

2005

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.

James Patterson

AKA:

Race: W Sex: M Age: 31

DOB: 10-09-1974 SS#: 251-53-24.0

Address: 119 COVENANT CT
PELZER, SC 29669

DL#: SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

2004GS2305159

A/W#: G803759

Date of Offense: 05-04-2004

S.C. Code § : 44-53-0375(A)

CDR Code #: 0102

CASE RESTORED SENTENCE

PLEA TRIAL

CONVICTED OF or PLEADS

In disposition of the said indictment comes now the Defendant who was

TO: POSSESSION OF METHAMPHETAMINE/CRANK, 3RD OFFENSE

in violation of § 44-53-0375(A) of the S.C. Code of Laws, bearing CDR Code # 0102

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

James K. Monte
Solicitor

James Patterson
Defendant

Tom Creech
Attorney for Defendant Tom Creech

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

set by SCDPPPS

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv Surcharge) \$100 \$ _____

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ 100

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 35.13 (Public Def/Prob) \$500 \$ _____

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ _____

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ 25

§ 50-21-114(BUI Breath Test Fee) \$50 \$ 100

§ 56-5-2942(J) (Vehicle Assessment \$40/ea) \$ _____

3% to County (if paid in installments) \$ _____

TOTAL \$ _____

Paul B. Wickens
Clerk of Court/ Deputy Clerk

Court Reporter: *D. Koffsky*

PTUP _____

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: Complete ATR

Appointed PD or appointed other counsel, § 35.13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE *Hamilton*

Judge Code: 2111318

Sentence Date: 11-10-2005

16

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

James Wesley Patterson, #296129;

Docket No. 16-ALJ-15-0038-AP

Appellant,

vs.

ORDER

South Carolina Department of Probation
Parole and Pardon Services,

FILED

JAN 23 2017

Respondent.

STATEMENT OF THE CASE

SC ADMIN. LAW COURT

This matter is before the Administrative Law Court (ALC or court) pursuant to the appeal of James Wesley Patterson (Appellant), an inmate incarcerated with the South Carolina Department of Corrections. On July 25, 2016, the South Carolina Department of Probation, Parole and Pardon Services (Department) issued a final decision letter determining that the Appellant is ineligible for parole based upon his prior drug convictions. On August 24, 2016, Appellant filed a Notice of Appeal with this court challenging the Department's decision. Upon careful consideration of the record on appeal and briefs of the parties, the Department's decision is affirmed.

BACKGROUND

The Department determined that Appellant is ineligible for parole based upon his prior convictions. On June 12, 2013, Appellant was convicted of manufacturing methamphetamine, third offense, pursuant to South Carolina Code Section 44-53-375; and possession of methamphetamine, third offense, pursuant to South Carolina Code Section 44-53-375(A). On November 10, 2005, Appellant was convicted of possession of methamphetamine/crank, third offense, pursuant to South Carolina Code Section 44-53-375(A). On November 15, 2000, Appellant was convicted of possession with intent to distribute marijuana; and possession with intent to distribute cocaine, pursuant to South Carolina Code Section 44-53-370.

ISSUE ON APPEAL

Whether the Department erred in determining that Appellant is ineligible for parole because of his prior drug offenses.

The Department also argues that the appeal should be dismissed because Appellant failed to timely file a brief.

STANDARD OF REVIEW

The court's jurisdiction to hear this matter is derived from the South Carolina Supreme Court decisions in Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000) (establishing an administrative review process for inmate appeals), and Furtick v. S.C. Dept. of Prob., Parole & Pardon Servs., 352 S.C. 594, 576 S.E.2d 146 (2003) (incorporating final decisions of the Department into that review process). The Al-Shabazz decision explained that "procedural due process is guaranteed when an inmate is deprived of an interest encompassed by the Fourteenth Amendment's protection of liberty and property." Wicker v. S.C. Dept. of Corrs., 360 S.C. 421, 424, 602 S.E.2d 56, 58 (2004) (citation omitted). Because being granted parole is a privilege and not a right, the routine denial of parole does not implicate such a liberty interest; however, the denial of eligibility for parole does involve such a liberty interest, and thus is a matter properly before the ALC for review. See James v. S.C. Dept. of Prob., Parole & Pardon Servs., 376 S.C. 392, 395-96, 656 S.E.2d 399, 401-02 (Ct. App. 2008); see also Sullivan v. S.C. Dept. of Corrs., 355 S.C. 437, 443, 586 S.E.2d 124, 127 (2003).

When reviewing a decision of the Department, the ALC sits in an appellate capacity. See Furtick, 352 S.C. at 599, 576 S.E.2d at 149; Al-Shabazz, 338 S.C. at 377, 527 S.E.2d at 754. Under the appellate standard of the Administrative Procedures Act, the court's review is limited to the record. S.C. Code Ann. § 1-23-380(4) (Supp. 2016). The court may modify or reverse the decision of the agency when substantial rights of the appellant have been prejudiced. S.C. Code Ann. § 1-23-380(5) (Supp. 2016). Substantial rights of the appellant are prejudiced when the agency's decision, including the agency's findings, inferences, and conclusions, are in violation of constitutional or statutory provisions; in excess of the statutory authority of the agency; made upon unlawful procedure; affected by other error of law; clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. Id.

DISCUSSION

Appellant argues that the Department misinterprets the statute applicable to his case. The Court disagrees. A review of the relevant statute and Appellant's prior convictions supports the Department's determination that Appellant is ineligible for parole.

Appellant's brief was due November 28, 2016. On September 6, 2016, Appellant filed a Brief that was miscaptioned "Notice of Appeal." The Court declines to dismiss the appeal on the basis of any defect in Appellant's brief.

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In determining whether an inmate is eligible for parole, several different statutes must be reviewed. The foundational rules of parole are contained in Title 24 of the South Carolina Code. Specifically, Section 24-21-610 sets the minimum amount of time that must be served of a sentence before an inmate reaches eligibility. See S.C. Code Ann. § 24-21-610 (2007). However, these baseline rules have been modified by other subsequently enacted or amended statutes. Section 24-13-100, enacted in 1995, defines Class A, B, and C felonies as “no parole offenses.” *Id.* at § 24-13-100.² When an inmate’s crime is a no-parole offense, the inmate is not eligible for “parole” consideration. *Id.* at § 24-21-30; see also *Bolin*, 415 S.C. at 283, 781 S.E.2d at 917 (“It is without doubt that the statutory definition for the term ‘no-parole offense’ in section 24-13-100, i.e., ‘a class A, B, or C felony . . . ,’ simply describes the types of offenses for which the offender is not eligible for parole.”). Instead, the inmate must complete a community supervision program. S.C. Code Ann. § 24-21-30 (2007). Unless provided otherwise, an inmate becomes eligible for the community supervision program after completion of at least eighty-five percent of the actual term of imprisonment imposed. *Id.* at § 24-13-150(A) (Supp. 2016).

However, the rules regarding no parole offenses have been modified for certain offenses. In particular, the part of the sentencing statute under which the Appellant was convicted provides:

Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a first offense or second offense may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsection (A), may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted.

Id. at § 44-53-375(B) (Supp. 2016).³ The Court of Appeals has construed this language to repeal the no-parole offense statute insofar as there is a conflict. *Bolin*, 415 S.C. at 282, 781 S.E.2d at 917 (citation omitted) (“The legislature’s use of the phrase ‘Notwithstanding any other provision

² Offenses classified as Class A, B, and C felonies are listed in Section 16-1-90.

³ The relevant language was amended, effective June 2, 2010, by 2010 S.C. Act Number 273, Section 38. That amendment is construed in the recent *Bolin* case cited above. Because Appellant was sentenced on June 12, 2013, that amendment is relevant in this case. See *State v. Dawson*, 402 S.C. 160, 164, 740 S.E.2d 501, 503 (2013) (citation omitted). Section 44-53-375(B) was again amended by 2016 S.C. Act 154, Section 9. However, no changes were made to the language at issue here.

of law, in the amendments to sections 44-53-375 and -370 expresses its intent to repeal section 24-13-100 to the extent it conflicts with amended sections 44-53-375 and -370.” (emphasis in original)). The holding of the Court of Appeals in Bolin is very specific and does not repeal Section 24-13-100 in all applications of the Omnibus Bill which amended the sentencing statute. The “notwithstanding any other provision of law” language included by the legislature does repeal Section 24-13-100 in regards to a second offense under subsection (B). S.C. Code Ann. § 44-53-375(B) (“Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a first offense or second offense . . . is eligible for parole. . . .”). However, the case at hand involves a third offense. For a third or subsequent offense, all previous drug offenses must have been for possession under Section 44-53-375(A) for the Appellant to be parole eligible:

Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsection (A), may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted.

Id.


The law contained in 24-13-100 still applies in all cases unless there is specifically expressed legislative intent to the contrary. See Bolin, 415 S.C. at 283, 781 S.E.2d at 917 (quoting Strickland v. State, 276 S.C. 17, 19, 274 S.E.2d 430, 432 (1981)) (“Statutes of a specific nature are not to be considered as repealed in whole or in part by a later general statute unless there is a direct reference to the former statute or the intent of the legislature to do so is explicitly implied therein.”). The sentences beginning “notwithstanding” express such intent. However, Appellant does not fall into the parameters set by those sentences (first or second offense, or third with only simple possession priors). Rather, Appellant falls into the category for whom Section 24-13-100 is still binding.

Appellant’s prior drug offenses are not limited to simple possession. Because Appellant does not qualify for the parole eligibility exception for a third offense, the “no parole” rules remain in place. Under those rules, Appellant’s offense is classified as a no-parole offense. S.C. Code Ann. § 24-13-100 (2007) & § 16-1-90(A) (2015). Therefore, the Department did not err in determining that the Appellant is ineligible for parole based upon his prior drug convictions.

ORDER

THEREFORE, IT IS HEREBY ORDERED that the decision of the Department is AFFIRMED.

AND IT IS SO ORDERED.


Deborah Brooks Durden, Judge
S.C. Administrative Law Court

January 23, 2017
Columbia, South Carolina

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof in the United States mail postage paid, or in the emergency Mail Service addressed to the party(ies) or their attorney(s).

The 23rd day of January 2017
By: L.E. Cole
Judicial Law Clerk