

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

S. Phillip Lenski, *Administrative Law Judge*

Lower Case No. 2016-ALJ-04-0844-AP

Appellate Case No. 2017-001181

Bernard McFadden, # 199135,.....Appellant,

v.

South Carolina Department of Corrections.....Respondent.

MOTION TO DISMISS APPEAL AS MOOT

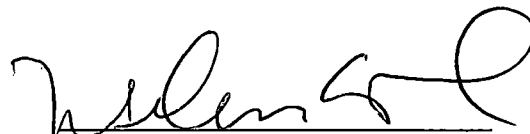
COMES NOW, Respondent, South Carolina Department of Corrections (SCDC or Department) and, pursuant to Rule 240, SCACR, moves this Honorable Court for an order dismissing this appeal.

Appellant's appeal should be dismissed because the case is now moot as the Appellant has completed his sentence and been released from state custody. "A case becomes moot when judgment, if rendered, will have no practical legal effect upon [the] existing controversy. This is true when some event occurs making it impossible for [the] reviewing court to grant effectual relief." *Mathis v. South Carolina State Highway Dep't*, 260 S.C. 344, 346 (1973). An appellate court should not make an adjudication where

there remains no legal controversy. *Curtis v. State*, 345 S.C. 557, 567 (2001). In the instant case, Appellant, ultimately, seeks return of the good time he lost as a result of a disciplinary conviction in 2015. However, Appellant was released from state custody on June 30, 2017. *See* Exhibit A. A ruling from this Court in Appellant's favor would "have no practical legal effect" on Appellant's case. Returning good time to Appellant is not possible because he has served his sentence. Therefore, this Court cannot grant Appellant the relief he seeks.

WHEREFORE the Department respectfully requests that the Court dismiss this appeal.

Respectfully submitted,



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Counsel for Respondent

Columbia, South Carolina

July 13, 2017

Exhibit A

Internal Inmate Search

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BERNARD MCFADDEN (00199135)

Search Results [+/-]

Identification	Personal	Case History	Movement	Escapes	Credits	Programs
Transfer Requests						
Movement						
Movement Date	To Location	Reason	Status			
06/30/2017	UNK	EXPIRATION OF SENTENCE	RELEASE			
10/13/2015	KERSHAW	ADMINISTRATIVE	INCARCERATED			
10/12/2015	KIRKLAND	MEDICAL	INCARCERATED			
04/16/2015	KERSHAW	RETURN FROM COURT	INCARCERATED			
04/16/2015	SUMTER CO	TO COURT	AUTH ABSENCE (AWL)			
04/14/2015	KERSHAW	RETURN FROM COURT	INCARCERATED			
04/14/2015	SUMTER CO	TO COURT	AUTH ABSENCE (AWL)			
12/17/2014	KERSHAW	RETURN FROM COURT	INCARCERATED			
12/17/2014	SUMTER CO	TO COURT	AUTH ABSENCE (AWL)			
05/29/2014	KERSHAW	RETURN FROM COURT	INCARCERATED			
05/29/2014	SUMTER CO	TO COURT	AUTH ABSENCE (AWL)			
02/25/2014	KERSHAW	RETURN FROM COURT	INCARCERATED			
02/25/2014	SUMTER CO	TO COURT	AUTH ABSENCE (AWL)			
01/22/2014	KERSHAW	ADMINISTRATIVE	INCARCERATED			
01/22/2014	LEE	COURT/PAROLE HEARING VIA	INCARCERATED			
12/17/2013	KERSHAW	RETURN FROM COURT	INCARCERATED			
12/17/2013	SUMTER CO	TO COURT	AUTH ABSENCE (AWL)			
10/08/2013	KERSHAW	ADMINISTRATIVE	INCARCERATED			
10/07/2013	KIRKLAND	MEDICAL	INCARCERATED			
10/02/2013	KERSHAW	RETURN FROM COURT	INCARCERATED			
10/02/2013	SUMTER CO	TO COURT	AUTH ABSENCE (AWL)			
06/16/2013	KERSHAW	ADMINISTRATIVE	INCARCERATED			
06/16/2013	CLARENDON CO	FUNERAL/DEATH BED VISIT	AUTH ABSENCE (AWL)			
05/16/2013	KERSHAW	ADMINISTRATIVE	INCARCERATED			
05/16/2013	KIRKLAND	MEDICAL	INCARCERATED			
06/13/2012	KERSHAW	ADMINISTRATIVE	INCARCERATED			
06/12/2012	KIRKLAND	MEDICAL	INCARCERATED			
07/20/2011	KERSHAW	RETURN FROM COURT	INCARCERATED			
07/20/2011	CLARENDON CO	TO COURT	AUTH ABSENCE (AWL)			
06/14/2011	KERSHAW	ADMINISTRATIVE	INCARCERATED			
06/14/2011	KIRKLAND	MEDICAL	INCARCERATED			

Movement Date	To Location	Reason	Status
03/29/2011	KERSHAW	ADMINISTRATIVE	INCARCERATED
11/22/2010	KIRKLAND	NEW ADMISSION	INCARCERATED
08/31/2007	UNK	EXPIRATION OF SENTENCE	RELEASE
02/28/2007	WATEREE RIVER	ADMINISTRATIVE	INCARCERATED
02/28/2007	LEE	COURT/PAROLE HEARING VIA	INCARCERATED
04/18/2006	WATEREE RIVER	ADMINISTRATIVE	INCARCERATED
04/17/2006	KIRKLAND	MEDICAL	INCARCERATED
02/08/2006	WATEREE RIVER	ADMINISTRATIVE	INCARCERATED
02/08/2006	LEE	COURT/PAROLE HEARING VIA	INCARCERATED
11/28/2005	WATEREE RIVER	ADMINISTRATIVE	INCARCERATED
11/28/2005	KIRKLAND	MEDICAL	INCARCERATED
10/24/2005	WATEREE RIVER	ADMINISTRATIVE	INCARCERATED
10/24/2005	KIRKLAND	MEDICAL	INCARCERATED
10/10/2005	WATEREE RIVER	ADMINISTRATIVE	INCARCERATED
10/10/2005	KIRKLAND	MEDICAL	INCARCERATED
10/03/2005	WATEREE RIVER	RETURN FROM COURT	INCARCERATED
10/03/2005	SUMTER CO	TO COURT	AUTH ABSENCE (AWL)
09/21/2005	WATEREE RIVER	ADMINISTRATIVE	INCARCERATED
09/20/2005	KIRKLAND	MEDICAL	INCARCERATED
09/06/2005	WATEREE RIVER	ADMINISTRATIVE	INCARCERATED
09/01/2005	KIRKLAND INFRM	MEDICAL	INCARCERATED
05/23/2005	WATEREE RIVER	ADMINISTRATIVE	INCARCERATED
05/23/2005	KIRKLAND	MEDICAL	INCARCERATED
05/12/2005	WATEREE RIVER	ADMINISTRATIVE	INCARCERATED
05/12/2005	KIRKLAND	MEDICAL	INCARCERATED
04/27/2005	WATEREE RIVER	ADMINISTRATIVE	INCARCERATED
04/26/2005	KIRKLAND	MEDICAL	INCARCERATED
03/28/2005	WATEREE RIVER	ADMINISTRATIVE	INCARCERATED
03/28/2005	KIRKLAND	MEDICAL	INCARCERATED
02/17/2005	WATEREE RIVER	RETURN FROM COURT	INCARCERATED
02/17/2005	RICHLAND CO	TO COURT	AUTH ABSENCE (AWL)
01/05/2005	WATEREE RIVER	ADMINISTRATIVE	INCARCERATED
01/04/2005	KIRKLAND	MEDICAL	INCARCERATED
12/15/2004	WATEREE RIVER	ADMINISTRATIVE	INCARCERATED
12/15/2004	LEE	COURT/PAROLE HEARING VIA	INCARCERATED
10/25/2004	WATEREE RIVER	ADMINISTRATIVE	INCARCERATED
10/25/2004	KIRKLAND	MEDICAL	INCARCERATED
07/26/2004	WATEREE RIVER	ADMINISTRATIVE	INCARCERATED
07/26/2004	KIRKLAND	MEDICAL	INCARCERATED
01/22/2004	WATEREE RIVER	ADMINISTRATIVE	INCARCERATED
01/22/2004	KIRKLAND	MEDICAL	INCARCERATED
11/20/2003	WATEREE RIVER	ADMINISTRATIVE	INCARCERATED
09/29/2003	KIRKLAND	NEW SENT W/OUT PAROLE-REV	INCARCERATED
10/24/2001	SUMTER CO	PAROLE BOARD ACTION	PAROLE
09/25/2001	KERSHAW	ADMINISTRATIVE	INCARCERATED

Movement Date	To Location	Reason	Status
02/09/2001	MANNING	RETURN FROM COURT	INCARCERATED
02/09/2001	SUMTER CO	FUNERAL/DEATH BED VISIT	AUTH ABSENCE (AWL)
07/13/1999	MANNING	RETURN FROM COURT	INCARCERATED
07/09/1999	CLARENDON CO	TO COURT	AUTH ABSENCE (AWL)
07/02/1999	MANNING	ADMINISTRATIVE	INCARCERATED
03/30/1999	WATEREE RIVER	ADMINISTRATIVE	INCARCERATED
03/29/1999	KIRKLAND	MEDICAL	INCARCERATED
11/04/1998	WATEREE RIVER	ADMINISTRATIVE	INCARCERATED
11/02/1998	KIRKLAND	MEDICAL	INCARCERATED
10/07/1998	WATEREE RIVER	ADMINISTRATIVE	INCARCERATED
10/06/1998	KIRKLAND	MEDICAL	INCARCERATED
08/17/1998	WATEREE RIVER	ADMINISTRATIVE	INCARCERATED
01/26/1998	ALLENDALE	ADMINISTRATIVE	INCARCERATED
10/09/1997	LIEBER	RETURN FROM COURT	INCARCERATED
10/08/1997	CLARENDON CO	TO COURT	AUTH ABSENCE (AWL)
08/14/1997	LIEBER	ADMINISTRATIVE	INCARCERATED
08/13/1997	KIRKLAND	MEDICAL	INCARCERATED
06/04/1997	LIEBER	RETURN FROM COURT	INCARCERATED
06/02/1997	CLARENDON CO	TO COURT	AUTH ABSENCE (AWL)
02/05/1997	LIEBER	RETURN FROM COURT	INCARCERATED
02/04/1997	CLARENDON CO	TO COURT	AUTH ABSENCE (AWL)
10/30/1996	LIEBER	RETURN FROM COURT	INCARCERATED
10/29/1996	CLARENDON CO	TO COURT	AUTH ABSENCE (AWL)
09/07/1995	LIEBER	ADMINISTRATIVE	INCARCERATED
08/25/1995	LIEBER R&E	PROBATION VIOLATOR	INCARCERATED
05/27/1994	CLARENDON CO	SFII COMPLETED	PROBATION
12/01/1993	CLARENDON CO	SUPERVISED FURLOUGH	SFII-SUPERVISED FURL.II
09/01/1993	PALMER CAMP	ADMINISTRATIVE	INCARCERATED
08/06/1993	LIEBER R&E	NEW ADMISSION	INCARCERATED

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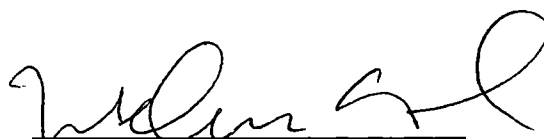
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v.

South Carolina Department of Corrections.....Respondent.

AMENDED CERTIFICATE OF SERVICE

I hereby certify that on **July 13, 2017**, I served a copy of the foregoing **MOTION TO DISMISS APPEAL** upon Appellant by depositing a copy of same in the United States Mail, addressed to: Bernard McFadden, 314 Markham Rise, Columbia, SC 29229.



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July 13, 2017