

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
H.W. Funderburk Jr, Administrative Law Judge

Case No: 2017-000694

Jerome Owens Appellant
v.
South Carolina Department of Corrections Respondent

RECORD ON APPEAL

RECEIVED

AUG 18 2017

SC Court of Appeals

Jerome A. Owens
Allendale Corrections
Barnwell B-64
P.O. Box 1151
Fairfax, S.C. 29827

Annie Laurie Rumler
Office of General Counsel
S.C. Department of Corrections
P.O. Box 21787
Columbia, S.C. 29221
(803) 896-1355

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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.

15/ Jerome A. Owens Sr.
Jerome A. Owens
Allendale C.I.
Barnwell B-64
P.O. Box 1151
Fairfax, S.C. 29827
Appellant

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Jerome Owens, #299108,

Appellant.

vs.

South Carolina Department of Corrections,

Respondent.

Docket No. 16-ALJ-04-0730-AP

Grievance No.: ACI 290-16

ORDER OF DISMISSAL

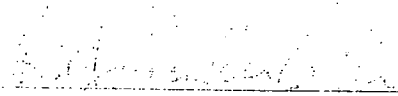
This matter is before the South Carolina Administrative Law Court ("ALC") pursuant to the Notice of Appeal filed October 13, 2016, by Jerome Owens ("Appellant"), an inmate in the custody of the South Carolina Department of Corrections ("SCDC").

Pursuant to the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000), an "inmate must file and serve a notice of appeal upon specified parties within thirty days of receipt of written notice of Department's final decision." *Id.* at 377. 527 S.E.2d at 754. SCALC Rule 59 further provides that "[t]he notice of appeal from the final decision to be heard by the Administrative Law Court shall be filed with the Court and a copy served on each party, including the agency, within thirty (30) days of receipt of the decision from which the appeal is taken." Appellant has not timely provided proof of service that the Notice of Appeal has been served on SCDC. Pursuant to SCALC Rule 62, this matter shall be dismissed due to noncompliance with SCALC Rule 59. It is therefore,

ORDERED that this appeal is **DISMISSED**.

AND IT IS SO ORDERED.

Columbia, South Carolina
March 8, 2017


H. W. Funderburk, Jr.
Administrative Law Judge

FILED

MAR 08 2017

SC ADMIN. LAW COURT

STATE OF SOUTH CAROLINA
IN THE ADMINISTRATIVE LAW COURT

Jerome A. Owens Sr. ²⁹⁹¹⁰⁸
Appellant

v

S. C. D. C.
Respondent

Docket No: 16-ALJ-04-0730-AP
Grievance No. ACI 290-16
Hon. H.W. Funderburk Jr.

BRIEF ON APPEAL

RECEIVED

STATEMENT OF THE CASE

APR 06 2017

SC Court of Appeals

This matter comes now before this Court on Appeal of Jerome A. Owens Sr. an inmate at present confined at Allendale C.I.

This case was assigned to this Court October 20, 2016. And the Appellant proceeds respectfully.

Appellant has been confined in S.C.D.C since January 15, 2004. After transfer to a level 2 prison from a level three prison in July 2014, Appellant had learned that his sentence had been changed from the Trial Court Pronouncement and Order.

There was no notification of what the trial judge had desired even after 10 years of incarceration. Neither was there any notification at trial concerning any sentencing factors in connection with the ~~£~~ Judgement of the trial court which had become final.

S.C.D.C. employee changed Appellant sentence June 24, 2014 and it has continued to effect the liberty of the Appellant.

After learning what S.C.D.C. had done, a grievance was filed by the Appellant prior to the one on Appeal before this Court.

On June 20, 2016 classification case workers Ms. Moore and Mr. Irons initiated a tape recorded hearing for S.C.D.C. for a clarification/revision of the Appellant's sentence.

At this time Ms. Moore and Mr. Irons pronounced a sentence 'not pronounced' by the trial judge Reginald I. Lloyd. At this hearing Appellant was resentedenced by S.C.D.C. to serve a (25) twenty five year mandatory day for day sentence.

Appellant contested that the trial judge did not pronounce such a sentence and Appellant's sentencing sheet does not record a 25 year mandatory sentence. Regardless of Appellant's assertion of this sentencing pronouncement, it is a fact that since June 24, 2014 S.C.D.C. resentedenced the Appellant to 25 years mandatory day for day.

And Appellant argued that S.C.D.C. did not have 'judicial authority' to change Appellant's sentence. That is, after 13 years had elapsed and sentence begun and no motion was pending at trial court to change the sentence passed.

ARGUMENT

In accordance with the United States Constitution and the South Carolina Constitution the Appellant believes he is to be given Due Process. Appellant's Liberty Interest is at stake and he proceeds with the following.

Unambiguous Pronouncement of Sentence
Unambiguous Sentencing sheets?

In *Tant V. S.C.D.C. 408 S.C. 334, 759 S.E.2d 398 (2014)* The Supreme Court of South Carolina discussed several issues of the law on the power of this department.

S.C.D.C. contended several ways to invoke a sentence. Appellant only contends that S.C.D.C. has ~~exceeded~~ exceeded its authority by adding a new condition to his sentence other than what the trial Court ordered.

In *State V. Archie 470 S.E.2d 380 (1996)* Although subject to statutory and constitutional restrictions, the imposition of sentences is a judicial function. *State V. DeLaCruz 393 S.E.2d 184 (1990) 16 CJS Constitutional Law 173 (1984)*

Appellant's sentencing at trial by the Court verbatim. The Court: Obviously, the minimum fine is fifty thousand dollars (\$50,000.00) You will be ordered to pay that. I will give you credit for the time on this prior to the trial.

Your sentence on this indictment, 03-185, though sir, is twenty-eight (28) years. I will run that concurrent.

The sentencing sheet before this Court indicates the trial Court pronouncement of (28) twenty eight years. There is one discrepancy with the final judgement passed. The signatures of the trial Court Solicitor and Deputy Clerk are bearing on this document. There is also a \$ 103,750.00 fine assessment bearing on this sentencing sheet.

Appellant contends any increase of any kind to his sentence outside of his presence is a violation of his due process right to be present at every stage of trial. This sentencing sheet may be found conflicting just as found in the recent case of *Boon V. State* 388 S.C. 272, 695 S.E.2d 850 (2010)

Here, in such a situation the Supreme Court ruling is fundamentally rooted on a defendant being present at every stage of trial.

The Appellant was not present when this fine was assessed. The fundamental requirement of due process is notice and an opportunity to be heard in a meaningful way. See United States Const. Amend XIV and South Carolina Const. Amend 133; *State V. Binarr* 400 S.C. 156, 165 (2012)

In this particular situation, there is no way, that, since the judgement of this case had become final some (14) years ago, S.C.D.C invokes an authority over a sentence, not, decreed by the Judicial Authority at the trial.

In *State V. Campbell* 212, 215, 650 S.E. 2d 371, 373 (2008) if a solicitor, counsel or judge vested with authority to entertain a criminal matter at a term of court at which judgement is passed, any disagreement with a post trial matter should be addressed accordingly pursuant to

Rule 29 of the South Carolina Rules of Criminal Procedure (Noting the long standing rule of law that a trial judge is without jurisdiction to consider a criminal matter once the term of court during which judgement entered expired.

S.C.D.C circumvented the process of having the Judge over this trial declare his final judgement over (14) fourteen years ago. Judge Reginald I. Lloyd is no longer a Judicial Officer at Richland. Nothing was pending or no motion was filed for determination at this time. And the law is settled, even judge Lloyd can not pronounce a new sentence.

To assume a power or authority not vested upon this department determining a criminal case violates the doctrine of separation of powers State V. Archie, State V. DeLaCruz Supra.

Finally, the Appellant urges this Court to follow the Tant v. S.C.D.C Court. Correspondence by the trial Court can not be considered in determining the length of Appellant's sentence, even if both the sentencing sheet and the transcript are vague or unclear. The sentence of (28) twenty-eight years at 85% service of time is susceptible as to punishment.

Absent ambiguity the department is confined to the sentencing sheet. However, judicial officer must find sentencing sheets ambiguous and must interpret sentencing sheet along with the transcript. Tant, 759 S.E.2d at 402

Something that must be done and S.C.D.C. can not do of it's own volition.

The Constitutional requirements of Due Process apply at sentencing. Cf. *Tasco v. Butler* 851 F2d 1120.

S.C.D.C. is in violation of such rights and Appellant's sentence must not be interpreted in no other way but as pronounced by Judge Lloyd February 19, 2004.

By: *Jerome A. Owens Sr.*

I, Jerome A. Owens do hereby certify that I have on this 15 day of February 2017 mailed this Appellate Brief prepaid U.S. postage to the parties below.

The Honorable H.W. Funderburk Jr.
South Carolina Administrative Law Judge
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, S.C. 29201

Office of General Counsel
4444 Broad River Road
Columbia, S.C. 29221

By: *Jerome A. Owens Sr.*
APPELLANT
Allendale C.I.
Barwell B-28
P.O. Box 1151
Fairfax, S.C. 29827

Dear Appellant:

10/28/2016

Page 8

Below is information regarding your case which has been filed with the ALC. Please refer to the Rules of Procedure (enclosed) for the time frames on filing briefs and other matters.

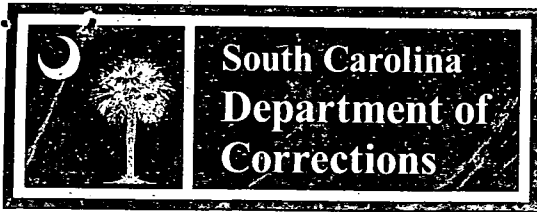
Case number	Inmate number	Inmate first name	Inmate last name	Grievance No	Respondent	Filing date	Date Assigned	Judge last name
16C0730	299108	JEROME	OWENS	ACI 290-16	DOC	10/13/2016	10/28/2016	FUNDERBURK

You must file all original documents and correspondence regarding this case directly with the above-named Judge and serve a copy on the Dept. of General Counsel, S.C. Dept. of Corrections, PO Box 21787, Columbia, SC 29221.

FILED

OCT 28 2016

ADMIN. LAW COURT



HENRY McMASTER, Governor
BRYAN P. STIRLING, Director

January 31, 2017

The Honorable H. W. Funderburk, Jr.
South Carolina Administrative Law Court
Edgar A. Brown Building, Suite 224
1205 Pendleton Street
Columbia, South Carolina 29201

Reference: Inmate Jerome Owens, #299108, vs. SCDC
Docket No. 16-ALJ-04-0730-AP

Dear Judge Funderburk:

Find enclosed an original and one copy of the *Respondent's Motion to Dismiss* on the above referenced case. Please file the original in your office and return a clocked-in copy to me in the enclosed self-addressed envelope.

If you have any questions or concerns, please do not hesitate to contact me at (803) 896-3922.

Sincerely,

A handwritten signature in black ink, appearing to read "Cheron Hess", is written over a large, stylized "X" mark. The signature is positioned above the typed name and title.

Cheron Hess
Administrative Assistant
Office of General Counsel

Enclosures

cc: Inmate Jerome Owens, #299108
File

**STATE OF SOUTH CAROLINA
IN THE ADMINISTRATIVE LAW COURT**

Jerome Owens, #299108,)	Docket No.: 16-ALJ-04-0730-AP
)	[<u>Grievance No.: ACI 290-16</u>]
Appellant,)	
)	<i>Hon. H. W. Funderburk, Jr.</i>
v.)	
)	
South Carolina Department of Corrections,)	RESPONDENT'S MOTION TO DISMISS
)	
Respondent.)	
_____)	

STATEMENT OF THE CASE

This matter is before the South Carolina Administrative Law Court ("ALC") pursuant to the appeal of Jerome Owens ("Appellant"). The case was assigned on October 28, 2016. Respondent, South Carolina Department of Corrections ("SCDC"), filed the record on December 21, 2016. Appellant's brief was due by January 26, 2017. As of today's date, January 31, 2017, Appellant has not filed a brief.

ARGUMENT

The ALC's jurisdiction to hear this matter is derived entirely from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). In *Al-Shabazz*, the Supreme Court created a new avenue by which inmates could seek review of final decisions of SCDC in "non-collateral" matters, *i.e.*, matters in which an inmate does not challenge the validity of a conviction or sentence, by appealing those decisions to the ALC. *Id.* at 373, 376, 527 S.E.2d at 752, 754. The language in Rule 60 states:

Unless otherwise ordered, the party first noticing the appeal shall file an original brief within ninety (90) days after the date of the assignment. Within one-hundred-ten (110) days after the date of assignment, the respondent shall file an original brief in response. A reply brief may be filed within one-hundred-twenty (120) days after the date of assignment. The principal briefs shall not exceed ten (10) pages and the reply brief shall not exceed five (5) pages... At the time of filing the brief with the Court, one copy of the brief and any appendix shall be served on each party to the appeal.

Rule 62 states that:

Upon motion of any party, or on its own motion, an Administrative Law Judge may dismiss an appeal for failure to comply with any of the rules of procedure for appeals, including the failure to comply with any of the time limits provided by this section

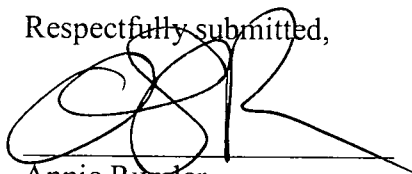
Here, although Appellant has filed a Notice of Appeal, pursuant to Rule 60, Appellant was required to file and serve an original brief “within ninety (90) days after the date of assignment.” This case was assigned on October 28, 2016; therefore, Appellant’s brief was due by January 26, 2017. Rule 62 provides that “upon motion of any party, or on its on motion, an Administrative Law Judge may dismiss an appeal for failure to comply with any of the rules of procedure, *including the failure to comply with any time limits provided by this section.* R. Admin. L. Ct. 62.

Here, Appellant had an obligation to advance his position and has been given ample time to do so. Moreover, Appellant has not notified SCDC of any extenuating circumstances regarding his failure to file a brief. As of today’s date, January 31, 2017, Appellant has failed to file a brief in support of his appeal.

CONCLUSION

WHEREFORE, SCDC respectfully requests the Court dismiss this appeal.

Respectfully submitted,



Annie Rumler
Staff Attorney
South Carolina Department of Corrections
4444 Broad River Road
Columbia, South Carolina 29221
(803) 896-1355

January 31, 2017
Columbia, South Carolina

1 MR. OWENS, THE BEST THING TO DO FOR YOURSELF, I'M
2 GOING TO RUN IT CONCURRENT, WITH YOUR CURRENT SENTENCE.

3 OBVIOUSLY, THE MINIMUM FINE IS FIFTY THOUSAND DOLLARS
4 (\$50,000.00), YOU WILL BE ORDERED TO PAY THAT. I WILL GIVE
5 YOU CREDIT FOR THE TIME YOU HAD SERVED ON THIS PRIOR TO THE
6 TRIAL.

7 YOUR SENTENCE ON THIS INDICTMENT, 03-185, THOUGH, SIR,
8 IS TWENTY-EIGHT (28) YEARS. I WILL RUN THAT CONCURRENT.

9 MR. WILSON: JUDGE, THAT WOULD BE CONCURRENT WITH THE
10 P.W.I.D., CONVICTION OF TWELVE (12) YEARS?

11 THE COURT: RIGHT. THE P.W.I.D. AND THE FAILURE TO
12 STOP. ALL RIGHT.

13 MR. WILSON: THANK YOU, YOUR HONOR.

14 THE COURT: THANK YOU, COUNSEL.

15 GOOD LUCK TO YOU, MR. OWENS.
16
17

18 --- END OF REQUESTED TRANSCRIPT OF RECCRD ---
19
20
21
22
23
24
25

STATE OF SOUTH CAROLINA)
COUNTY OF BAMBERG)

INDICTMENT

At a Court of General Sessions, convened on December 1, 2003 the Grand Jurors of Bamberg County present upon their oath:

TRAFFICKING IN CRACK COCAINE

That JEROME OWENS did in Bamberg County on or about December 30, 2002, commit the offense of Trafficking in Crack Cocaine, to wit: Jerome Owens did knowingly or intentionally have in actual or constructive possession more than 10 grams but less than 28 grams of Crack Cocaine, a controlled substance under provisions of §44-43-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended.

INMATE RECORDS OFFICE
2004 FEB 23 PM 3:32

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


BARBARA R. MORGAN, SOLICITOR

A TRUE COPY
with a true copy
of the original
filed in the
court records
of Bamberg County
South Carolina
February 23, 2004

STATE OF SOUTH CAROLINA

COUNTY OF STATE

Bamberg

299108

IN THE COURT OF GENERAL SESSIONS

2003 -GS- 85 INDICTMENT/CASE# 185

AW#: G673672 Date of Offense: 12/30/02 S.C. Code §: 44-53-375C CDR Code #: 0141512

AKA: Jerome Owens Race: BIK Sex: Male Age: 30 DOB: 8-15-73 SS#: 263-55-4643 Address: 288 Cypress Ave City, State, Zip: Denmark SC 29042 DL#: SC011546782 SID#

CASE RESTORED SENTENCE PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Traffic Crack >10 < 23 gms 3-off in violation of § 44-53-375C of the S.C. Code of Laws, bearing CDR Code # 0141512

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: [Signature] Solicitor Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, and/or to pay a fine of \$56,000.00 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.

RESTITUTION: Heard, Waived, Ordered Total: \$ plus 20% fee: \$ Payment Terms: set by SCDPPPS

SPECIAL CONDITIONS:

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:

Table with 2 columns: Description and Amount. Includes items like \$14-1-206 (Assessments 107.5%), \$14-1-211(A)(1) (Conv. Surcharge), \$14-1-211(A)(2) (DUI Surcharge), \$56-5-2995 (DUI Assessment), \$35:13 (Public Def/Prob), \$73.3, 1B TP (Law Enforce. Funding), \$33.7, 1B TP (Drug Court Surcharge), \$50-21-114 (BUI Breath Test Fee), \$56-5-2942(J) (Vehicle Assessment), 3% to County (if paid in installments), TOTAL \$103,750.00

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

PRESIDING JUDGE [Signature] Judge Code: Sentence Date: 2-15-04

[Signature] Clerk of Court/Deputy Clerk Court Reporter:

A TRUE COPY [Signature] CLERK OF COURT BAMBERG COUNTY, SC

White - Clerk Green - Corrections Canary - Probation

Pink - Defendant SCCA/217 (7/2003)

STATE OF SOUTH CAROLINA)
COUNTY OF BAMBERG)

INDICTMENT

At a Court of General Sessions, convened on December 1, 2003 the Grand Jurors of Bamberg County present upon their oath:

TRAFFICKING IN CRACK COCAINE

That JEROME OWENS did in Bamberg County on or about December 30, 2002, commit the offense of Trafficking in Crack Cocaine, to wit: Jerome Owens did knowingly or intentionally have in actual or constructive possession more than 10 grams but less than 28 grams of Crack Cocaine, a controlled substance under provisions of §44-3-110, et. seq., Code of Laws of South Carolina (1976), as amended.

INMATE RECORDS OFFICE
2004 FEB 23 PM 3:26

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


BARBARA R. MORGAN, SOLICITOR

A TRUE COPY
will be given
to the
S. C. DEPT. OF CORRECTIONS

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF STATE

Bamberg
vs. Jerome Owens

AKA: _____
Race: Blk Sex: Male Age: 30
DOB: 8-15-73 SS#: 263-55-4643
Address: 288 Cypress Ave
City, State, Zip: Denmark SC 29042
DL# SC01546782 SID# _____

INDICTMENT/CASE#: 2003-GS-05-126
AW#: 62673673
Date of Offense: 12/30/02
S.C. Code §: 44-53-445(B)(2)
CDR Code #: 0111018
 CASE RESTORED SENTENCE
 PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: POSSESSING WITH INTENT TO SELL

in violation of § 44-53-445(B)(2) of the S.C. Code of Laws, bearing CDR Code # 0111018

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:

[Signature]
Solicitor

[Signature]
Defendant

[Signature]
Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 12 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	\$
\$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	\$
\$50-21-114(BUI Breath Test Fee)	\$50	\$
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$
TOTAL	\$	\$

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: _____

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

PRESIDING JUDGE [Signature]

Judge Code: 2111313

Sentence Date: 1/14/04

A TRUE COPY

[Signature]
Pink - Attestant
CLERK OF COURT
RAMBERG COUNTY SC
SOCA/217 (7/2003)

White - Clerk Green - Corrections Canary - Probation

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF STATE

Bamberg
Jerome Owens

INDICTMENT/CASE#: 2003 -GS- 05 - 187
AW#: 6673669
Date of Offense: 12-30-02
S.C. Code §: 56-5-750
CDR Code #: 0101615
 CASE RESTORED SENTENCE
 PLEA TRIAL

AKA:
Race: BIK Sex: Male Age: 30
DOB: 8-15-73 SS#: 263-554643
Address: 288 Cypress Ave
City, State, Zip: Denmark SC 29042
DL# SCD1154678 SID#

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

in violation of § 56-5-750 of the S.C. Code of Laws, bearing CDR Code # 0101615
 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: [Signature] Solicitor
[Signature] Defendant
[Signature] Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 3 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: 1/14/04
 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
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: 30

Recipient: ___
*Fine: ___
\$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 \$ ___
\$35.13 (Public Def/Prob) \$500 \$ ___
\$73.3, 1B TP (Law Enforce. Funding) \$25 \$ ___
\$33.7, 1B TP (Drug Court Surcharge) \$100 \$ ___
\$50-21-114(BUI Breath Test Fee) \$50 \$ ___
\$56-5-2942(J) (Vehicle Assessment) \$40/ea \$ ___
3% to County (if paid in installments) \$ ___
TOTAL \$ ___

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

PRESIDING JUDGE [Signature]
Judge Code: 2 11 13 13
Sentence Date: 1/14/04

[Signature] Clerk of Court/ Deputy Clerk
Court Reporter: [Signature]

A TRUE COPY
[Signature] J.B. [Signature]
CLERK OF COURT
BAMBERG COUNTY

SCCA/217 (7/2003)

White - Clerk Green - Corrections Canary - Probation

CMTI100D
OMCOMITA

SCDC OFFENDER MANAGEMENT SYSTEM
COMMITMENT APPLICATION
CONVICTION SUMMARY

11/15/16
C056427

SCDC# > 299108
OWENS, JEROME -

CURR LOC: ALLENDAL
SCDC CLASSIFICATION...: VIOLENT

OFFENDER TYPE: ADULT-STRAIGHT SENTENCE

NUM	CONVICTION OFFENSE	INCARC	SENT	SENT	SENT	PROJ	COMP	STAT	IND	CONV	VIO
		YRS	MO	DYS	DATE	START					
- S00002	FAIL TO STOP FOR OFF	003	00	000	01/14/04	06/06/03	03/28/2011	ACT	N	N	
- S00001	CRACK DISTRIB PROX S	012	00	000	01/14/04	06/06/03	09/20/2009	ACT	N	N	
- * S00003	TRAFFICKING IN CRACK	028	00	000	02/10/04	03/13/03	03/06/2028	ACT	V	V	

PAGE: 0001

MAKE A SELECTION AND PRESS <ENTER>...

PF3-ADD PF4-MODIFY/REVOKE PF6-DISPLAY CONSEC PF9-DETAIN PF12-SUMREPT

15:30:16 Tuesday, November 15, 2016

ROAI200D
ROAI200M
OMROAUDA

SCDC OFFENDER MANAGEMENT SYSTEM
RECORD AUDIT APPLICATION
DISPLAY RECORD AUDIT

11/15/16
C056427

SCDC#: 299108
NAME.: OWENS, JEROME -

CURR STATUS.: INCARCERATED
CURR LOC....: ALLENDALE
CURR CUSTODY: MI2

AUDIT TYPE: 01 RECORDS AUDIT

AUDIT DATE: 01/28/04

UPDATED BY: EPPS, ALICE

DATE: 01/28/04

RECORD AUDIT DISPLAYED...
CLEAR:SUMMARY

ENTER:DISPLAY NOTES

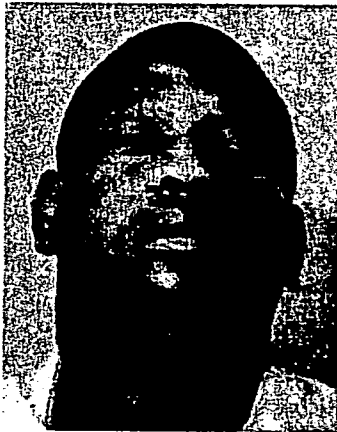
PF8:FORWARD

INCARCERATED INMATE SEARCH

SCDC ID: SID:
 First Name: Last Name: Phonetic Match

SCDC ID	Name	Sex	Race	Height	Weight	Age
00299108	OWENS, JEROME	MALE	BLACK	5' 10"	290	40

1 Inmate Found



Picture Date 06/17/2008

Inmate Description		Inmate Sentence and Location	
<u>Name</u>	OWENS, JEROME	<u>Offender Type</u>	ADULT-STRAIGHT SENTENCE
<u>SCDC ID</u>	00299108	<u>Offense</u>	TRAFFICKING IN CRACK COCA
<u>SID</u>	SC01460763	<u>Sentence Start Date</u>	03/13/2003
<u>DOB</u>	08/15/1973	<u>Sentence Length</u>	28 YRS, 0 MOS, 0 DYS
<u>Citizenship</u>	CITIZEN - NATIVE	<u>Admission Date</u>	01/15/2004
<u>Build</u>	BORN	<u>Committing County</u>	BAMBERG
<u>Complexion</u>	LARGE	<u>Location</u>	LIEBER
<u>Hair Color</u>	MEDIUM BROWN	<u>Projected Release Date</u>	12/23/2026
<u>Eye Color</u>	RED OR AUBURN	<u>Projected Parole Eligibility</u>	Not Eligible
	BROWN	<u>Supervised Furlough Eligibility</u>	Not Eligible



Corrected
COPY

BJ

6-27-16

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

**RECORD OF HEARING FOR SENTENCE
CLARIFICATION/REVISION**

TO: *Jerome Owens*

SCDC#: *#299108*

INSTITUTION: *Allendale Correctional Institution*

Based upon the evidence disclosed at the hearing your sentence calculation (circle one) has has not been revised. As a result, your projected dates are as follows:

Projected Maxout Date: *3-6-2028* Projected Parole Date: *N/A*

The above dates are subject to change if you lose or fail to earn good time, earned work, earned education, or other credits. You have a right to appeal this decision by filing an inmate grievance pursuant to SCDC Policy GA- 01.12, "Inmate Grievance System".

Classification Case Manager/Designee: *[Signature]*

Inmate Signature: *Jerome A. Owens* Date: *6/20/2016*

Inmate Request

Today's Date: 2/13/15 8:18

Name: OWENS, JEROME
 Booking #: 299108
 Permanent #: 299108

Reference #: 14-150337
 Date Requested: 07/10/14 21:06
 Request Type: Inmate Records
 Requested By: Kiosk

Request Details: MS. WILLIS ONLY A COURT OF LAW CAN DECIDE MY SENTENCE YOU ARE IN VIOLATION OF MY RIGHTS . THE JUDGE AT MY TRIAL DID NOT SENTENCE ME TO A MANDATORY TERM OF 25 YEARS FROM THE BENCH . THAT IS IN HIS OFFICIAL CAPACITY. THANK YOU .

Disposition: Complete
 Officer:
 Disposition Date: 08/05/14 16:28

Request Responses

Date	Author	Note
07/23/14 16:29	c020290	Inmate Owens: Your concerns has been addressed by the Institutional Classification Case Manager. She has explained to you about the changes to your sentence per state law.
08/05/14 17:11	willist	Please refer to the first response I sent you concerning this matter. Reference the Law Library for an explanation of your CDR code and statute.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

STEP 1

INMATE NAME: <u>Jerome A. Owen</u> SCDC NUMBER: <u>299108</u> INSTITUTION: <u>Allendale</u> JAN 06 2016 HOUSING UNIT: <u>Barnwell B-10</u> WORK ASSIGNMENT: <u>Cafeteria</u>	<div style="font-size: 2em; font-weight: bold; opacity: 0.5; position: absolute; top: 50px; left: 50px;">RECEIVED</div> OFFICE USE ONLY Grievance No. <u>ACI 0005-16</u> Code: General _____ Policy _____ Disc. Hear. _____ Class. <input checked="" type="checkbox"/> _____ PREA _____ Date Received <u>01/11/16</u> IGC Initials <u>ps</u>
WARDEN'S OFFICE ACI <u>CS</u>	

STATEMENT OF GRIEVANCE (Indicate the date of incident, and if the grievance is a challenge to SCDC Policy, specify which policy. Include supporting documentation and attach answered RTSM or Kiosk reference number.)

on 6/24/2014 Stephanie Willis of Inmate Records violated my U.S. Const. Rights XIV and S.C. Const Art. 153 rights and the precedent case law of Tant v. S.C.D.C. 408 S.C. 334, 759 S.E.2d 398 (S.C. 2014).

On the above date I was denied life, liberty, and property without due process of law. It is now recorded herein. S.C.D.C. kiosk machines were not operating during the above date and on 6/26/2014 I was transferred to Allendale from Lieber where on 7/16/2014 I learned my sentence had been changed prior to 7/10/2014, that is, on 6/24/2014.

Therefore any informal resolution and grievance procedure had been rendered inadequate to protect my liberty interest.

Tant v. S.C.D.C. is controlling of this situation and the Supreme Court of this state ruled that Due Process required S.C.D.C. to give INMATES NOTICE of any potential change or calculations to their sentence prior to this department changing an Inmates sentencing structure due to any ambiguity. Inmate Records Stephanie Willis added almost 2 years to my sentence on 6/24/2014 without NOTICE to me prior to such. she also restructured my sentence to reflect that my sentencing judge sentenced me to do a MANDATORY 25 years instead of 20 years at 85% interpreting the 44-53-375(c) statutory law by using a CDR code instead of any WRITTEN ORDER by my sentencing judge.

Jerome A. Owen Sr.
 Grievant Signature 1/5/2016 Date

ACTION REQUESTED: My sentence to be changed back to what the Judge at my Trial Pronounced during 2/19/2004

ACTION TAKEN BY IGC: PROCESSED UNPROCESSED OTHER

This grievance is a duplicate to an issue addressed in ACI-0072-15. Therefore, it is being returned to you unprocessed (per SCDC Policy GA-01.12 Inmate Grievance System). If you disagree with IGC's action, you can appeal within 10 days by sending this unprocessed grievance and all documentation to the Inmate Grievance Branch.

Pam Smith 01/11/16
 IGC Signature Date

(CONTINUE ON REVERSE SIDE)

WARDEN'S DECISION AND REASON:

GRIEVANCE # ACI-0290-16

JEROME OWENS – SCDC #299108

Inmate Owens:

Ms. D. Moore, Case Manager for Allendale was contacted about this classification issue. Records indicate you were appeared a Sentence Clarification/Revision (Due Process) Hearing on June 20, 2016, and advised of the modification to your sentence. According to the SC Code of Law, Section 44-53-375(C)(1)(c), under which you were sentenced, you are required to serve a mandatory minimum term of imprisonment of not less than 25 years nor more than 30 years. Records indicate you were sentenced to a total of 28 years by Judge Lloyd. Therefore, based on your sentence start date on 03-13-2003, your projected max out date (03-06-2028) is correct, as it is the equivalent of an approximate 25 years sentence.

Your grievance is denied.

for M. D. Moore Also 7/5/16
Warden Signature Date

- I accept the Warden's decision and consider the matter closed.
- I do not accept the Warden's decision and wish to appeal.

Jerome A. Owens Jr.
Grievant Signature 7/20/2016 Date

Pam Smith 7/20/16
IGC Signature 7/6/16 ps Date

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM

1. An informal resolution shall be attempted prior to the filing of Step 1 by sending an Inmate Request to Staff Member (RTSM) form or Kiosk reference number to the appropriate supervisor. A copy of the answered RTSM must be attached to the grievance when the grievance is filed.
2. Complete each section in its entirety writing only in the space provided for inmate use. No additional pages will be permitted.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form by placing it in the Grievance Box at your institution within eight (8) working days of the date on the RTSM response; policy grievances can be filed at any time. Disciplinary and Classification Review appeals must be submitted within five (5) working days of the hearing/review. Do not write in the space provided for the Warden's response.
5. If you are not satisfied with the Warden's decision, you may appeal to the appropriate responsible official within five (5) days of your receipt of the Warden's decision, by placing your Step 2 appeal form in the Grievance Box at your institution.

RECEIVED

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

AUG 01 2016 INMATE GRIEVANCE FORM
STEP 2 AUG 29 2016

Office Use Only
Date 7-25-16

INMATE GRIEVANCE

INMATE NAME:

Jerome A. Owens Sr.

DIVISION: INMATE RECORDS Grievance No. ACC 0090-16

General Policy _____

SCDC NUMBER:

299108

RECEIVED

Disc. Hear. _____

INSTITUTION:

Allendale

Class

PREA _____

HOUSING UNIT:

Barnwell B-28

JUL 26 2016

Date Received: 7/26/16

IGC Initials: JS

WORK ASSIGNMENT:

Cafe

WARDEN'S OFFICE

ACI CL

Date Received: _____

IGA Initials: _____

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

The change of my sentence was not Court ordered by Judge Reginald I Floyd. He sentenced me over 13 years ago and the pronouncement of my sentence was not ordered to be served 25 years mandatory day for day. S.C.D.C. employee Stephanie Willis nor S.C.D.C. are Judicial authority, neither have the independent sentencing authority. S.C.D.C. does not have the power to interpret the 'Exempt Statute' as a Mandatory day for day statute with CDR Cochen. Grievant Signature Jerome A. Owens Date 7/22/2016

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

I have reviewed your complaint. You are serving a sentence of 28 years with a mandatory service requirement of 25 years for Trafficking in Crack Cocaine 44-53-375(C).

Therefore, I consider the matter resolved.

You may appeal this decision under the Administrative Procedures Act. In order to appeal, you must fill out the attached Notice of Appeal Form and submit it as instructed on the form within 30 days of receipt.

Responsible Official Signature

John D. Sofka Date 8/30/16

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

Grievant Signature

Date

IGC Signature

Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

APR 06 2017

SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
H. W. Funderburk Jr.; Administrative Law Judge
Case No. 2017 - 000 694

Jerome A. Owens Sr. # 299108

Appellant,

v.

South Carolina Department of Corrections

Respondent,

CERTIFICATE OF SERVICE

The undersigned pro se appellant hereby certifies that a true copy of the Record on Appeal of the Appellant in the above referenced case has been served upon the Clerk of this Court Jenny Abbott Kitchings this April 4, 2017. A copy of the Record on Appeal have also been served on Cheron Hess at the South Carolina Department of Corrections

*D.C.D.C. employee
will not notarize
my documents*

Jerome A. Owens Sr.

Jerome A. Owens Sr.

Allendale C.I.

Barnwell B-28

P. O. Box 1151

Fairfax, SC 29827

RECEIVED

AUG 18 2017

SC Court of Appeals

SWORN AND SUBSCRIBED TO
before me this 5th day of April 2017

Notary Public for South Carolina

My Commission Expires: _____