

Record of Appeal
THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Dorothy Brooks Durden, Administrative Law Judge

ALC Case No. 16-ALJ-04-0869-AP
Appellate Case No. 2017-001484

Vincent Rice # 316178, Appellant

v

South Carolina Department of Corrections, Respondent

Record of Appeal

Annie Bruner,
4444 Broad. River Rd
Columbia, S.C. 29221
Staff Attorney
for Respondents

Vincent Rice #316178
E.C-1
P.O. Box 205
Ridgeville, S.C. 29472

RECEIVED

OCT 05 2017
SC Court of Appeals

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

RECORD OF HEARING FOR SENTENCE
CLARIFICATION/REVISION

TO: Vincent Rice

SCDC#: 316178

INSTITUTION: Lee

There was no evidence or "hearing". Inmate was "interfered" by classification by a decision that was made prior to the hearing. 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: 3-25-17 Projected Parole Date: 3-23-17

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: Vanderhul - Caseworker

Inmate Signature: Vin R. Date: ~~9-14-16~~ ^{VR} 9-14-16

→ This was the "final decision" the department gave the inmate after the "Due Process hearing." Being that this was a state created due process "liberty interest" protected by the 14th Amendment. Due process clause and clarified "due process for prisoners in Wolff vs. McDonnell, McNeil vs. S.C.D.C., thus the department was required to state their finding of facts and conclusions of law, including the evidence that weighed their decision."

~~VR~~

1.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

F-2-2147

INMATE GRIEVANCE FORM

Disc 10/25/16

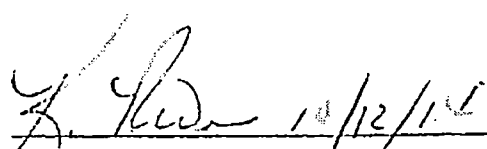
STEP 1

INMATE NAME: <u>Vincent Rice</u>	OFFICE USE ONLY
SCDC NUMBER: <u>316178</u>	Grievance No. <u>LEC10455-16</u>
INSTITUTION: <u>L.C.I</u>	Code: General _____
HOUSING UNIT: <u>FA-2145</u> <u>SEP 30 2016</u>	Policy _____
WORK ASSIGNMENT: <u>Form worker</u>	Disc. Hear. _____
	Class. <input checked="" type="checkbox"/>
	PREA _____
	Date Received <u>10/21/16</u>
	IGC Initials <u>XH</u>

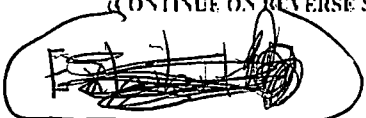
STATEMENT OF GRIEVANCE (Indicate the date of incident, and if the grievance is a challenge to SCDC Policy, specify which policy. Include supporting documentation and attach answered RTSM or Kiosk reference number.) Inmate files this appeal due to a decision made on Sept 21, 2016, that clearly misinterpreted inmate as "violent 0/0 35," and thus miscalculated his sentences, which was a result of due process errors and non-compliance with SCDC policy along with Federal and state statutes. Inmate was scheduled to be released on Sept 1, 2016, however inmate records informed inmate that he would "Not" be released the "day before" Sept 1, 2016. As a matter of law inmate was not afforded "adequate due process" under the 14th Amend, and the process/decision infringed inmate's "Liberty Interest," cf. Al-Shubert vs State, No findings of facts were produced along with "Valid legal authority" Wolff vs. McDonell U.S. The decision was clearly arbitrary and illegal, inmate is a "NON-VIOLENT" offender as established in the "SENTENCING SHEET" TITLE 44-53-770, and policy OP. 21-04 14.3; thus SCDC had no legal jurisdiction to change this classification or penalty. The interpretation of inmate's conviction was clearly ruled on in Bolin vs. SCDC, inmate does not have a "TRAFFICKING" charge!! The "SOLICITOR" should NOT have been contacted to interpret if inmate is "VIOLENT" It should be noted inmate filed a grievance regarding "MISCALCULATION" of his sentence twice, see ACI-0356-14, ACI-0117-15, the following SCDC policies were not complied with or "consulted": OP. 21-04 "Inmate Records Plan" 6.3.1, 6.10, 6.15, 9.3.3, 11.1, 14.3, 14.13, 14.4, 20.2, 21.1.1, 21.1.2. THIS IS AN EMERGENCY GRIEVANCE, ~~to~~ to life and

ACTION REQUESTED: That inmate be converted back to (liberty are at the eligible work or credits that the convicting statute 44-530) Jepardy!! and be immediately released. IVE EARNED MY FREEDOM, THIS IS ILLEGAL

ACTION TAKEN BY IGC: PROCESSED UNPROCESSED OTHER


 IGC Signature _____ Date 10/12/16

(CONTINUE ON REVERSE SIDE)

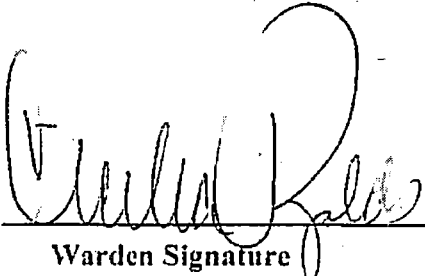


WARDEN'S DECISION AND REASON:

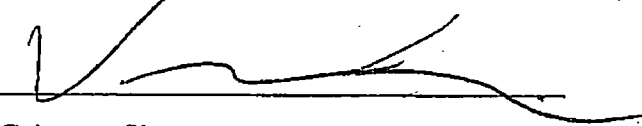
Inmate Rice:

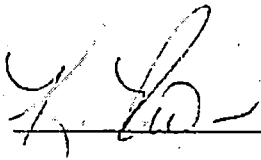
This is in response to LEECI-0488-16. All pertinent information and documentation has been reviewed. In your grievance, you stated that you think you deserve to be considered for early release from incarceration due to the recent ruling *Bolin v. SCDC*. Classification Case Manager Ms. Reames was contacted and she advised me that she spoke with you regarding this issue. It is noted that a sentence clarification Due Process Hearing was conducted on 9/14/16 to correct an error that was determined as a result of an audit. It is noted that your projected max out date is 11/13/18. Based on the information that has been provided, I see no further action warranted on this issue. Your grievance is denied.

If not satisfied with my response, see Step 5 below.


Warden Signature 10/13/16
Date

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


Grievant Signature Date


IGC Signature 10/15/16
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.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM

Lee CI 0455-11

STEP 2

ECI-098776

Office Use Only

Lee CI 1455-16

INMATE NAME: Vincent Rice

NOV 0

Grievance No. Lee CI 1455-16

Code: General

SCDC NUMBER: 316178

INMATE GRIEVANCE

Policy

INSTITUTION: Lee CI Evans

Disc. Hear.

HOUSING UNIT: F3-1110

OCT 24 2016

Class.

Date Received 10/24/16

WORK ASSIGNMENT: _____

BY: [Signature]

IGC Initials TR

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): Inmate, still seeks an appeal of the Warden's decision rendered on 10/13/16. First of all Inmate does not "think" he should be released, or classified as a parole eligible offender based on Bolin vs. SCDC. Inmate, asserts this right based on the law of the S.C. statute, 44-53-770(b)(2) as reflected in the codes on sentencing sheet, Bolin vs. SCDC, clearly emphasized that the "plain language of the statute should be used. Therefore Inmate is not a "no-parole offender. Secondly, the department along with the Warden's decision is not made on any facts or conclusion of law, being that this is a "liberty interest", what was the error? what did Reames speak to inmate about, Inmate asserts since the 2010 obvious Act All Non-traffic drug convictions are parole non-violent. Thus is not in compliance with the law, and definition of sentence of statute 44-53-770, and did not follow the Dept. policies of, OP-21-09, 6.21, 6.10, 8.15, 9.7.3, 11.1, 14.3, 14.13, 14.4, 20.2, 21.1.1, 21.1.2. Dept is indifferent to inmates. Due process rights. Release me.

Vincent Rice 10/27/16
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

I have reviewed your concerns. In your grievance you stated that your sentence calculation is incorrect. You stated that you should be released earlier in view of Bolin vs SCDC. The Warden responded to your concerns on SCDC Inmate Grievance Form Step 1 dated October 13, 2016. SCDC Classification Staff have reviewed your concerns, and there are no errors in your sentence calculation. You have not shown that SCDC Staff have performed their job duties inappropriately.

Therefore, your grievance is denied.

You may appeal this decision under the Administrative Procedures Act to the Administrative Law Court. 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.

Beverly McKee 11/28/16
Signature Date

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)

4

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS 5-20yrs
FO-F20,

COUNTY OF Richland
STATE VS.

INDICTMENT/CASE#: 2012GS4001613

Vincent Jermaine Rice

A/W#: DP12073

AKA: _____

Date of Offense: 1/25/2012

Race: BLACK Sex: M Age: _____

S.C. Code § : 44-53-0370(b)(2)

DOB: _____ SS#: _____

CDR Code #: 0188

Address: _____

City, State, Zip: _____

DL#: _____ 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: Drugs / MDP, poss. of Marijuana w.i.t.d. - 3rd or sub. offense

CONVICTED OF or PLEADS

in violation of § 44-53-0370(b)(2) of the S.C. Code of Laws, bearing CDR Code # 0188

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45
w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)

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

ATTEST: _____ cap of 10 yrs

Alle Britton SC Bar# 78660 Defendant Attorney for Defendant SC Bar# 69874

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 7 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 _____

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	\$
§ 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 (SCCJA 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: _____

ATU

Appointed PD or appointed other counsel,

§ 47.12 requires \$500 be paid to Clerk

during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

Jocanette McBride
B. Kelly

Presiding Judge

Judge Code: 216

Sentence Date: 12-3-13

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

NOTICE AND RECORD OF HEARING FOR
SENTENCE CLARIFICATION

TO: Vincent Rice

SCDC#: 316178

INSTITUTION: Lee

Be advised that the South Carolina Department of Corrections has determined that it may be necessary to revise the calculation of your sentence due to:

- Audit
- New Documentation Received: _____
- Other: _____

This revision may result in a later projected parole date and/or projected maxout date. You will have the opportunity to be heard in this matter on:

Hearing Date: 9-14-16
Hearing Time: 10:00 AM

Inmate was "informed" about this change at the hearing, there was no fact finder, or conclusion of evidence. "No Due Process"

Date & Time Notified: * 8-31-16 9:24 (AM/PM)

Classification Case Manager/Designee (Printed Name): C. Vandeker

Signature: C. Vandeker

Inmate Signature: [Signature]

SCDC #: 316178

Date: 8/31/16

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

RECORD OF HEARING FOR SENTENCE
RECALCULATION

TO:

SCDC#:

INSTITUTION:

Note, the Department does not state the date of the "recalculations". This occurred right after the Bolin ruling, alleviating non-trafficking drug offenses. They are not admitting the retroactive Bolin ruling here.

Because of a recent setback in the automated system, all SCDC inmates' sentences were recalculated to ensure accuracy. Out of the 21, 221 inmates in SCDC whose sentence was recalculated, 16 resulted in a projected release date change. Your sentence is one of the sentences that was amended. Your date change has been verified and is accurately calculated based on accumulated service time, good time and earned work/education credits.

As of (today's date), your schedule release date is:

Projected Maxout Date: 3-25-17 Projected Parole Date: 3-23-17

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: C. Vanderbilt

Inmate Signature: [Signature] Date: 8-31-16

[Signature] [Signature]

Presented this paper on 8/31/16, and also in march 2016

Exhibit (2)

2338

Audrey Crum (CrumAud)

From: Christina Bigelow (C057846)
Sent: Tuesday, August 30, 2016 8:44 AM
To: Audrey Crum (CrumAud)
Subject: RE: scdc#316178 Vincent Rice

Agrees with former solicitor's opinion

I agree he needs to be converted to 85% for his 3rd drug offenses after having a due process hearing. - Message # 3

Christina Catoe Bigelow
Deputy General Counsel
South Carolina Department of Corrections Post Office Box 21787
1444 Broad River Road
Columbia, South Carolina 29210
Phone: (803) 896-1738
Fax: (803) 896-1766

-----Original Message----- - message # 2

From: All, Britton [mailto:BALL@RCSD.NET]
Sent: Monday, August 29, 2016 8:48 PM
To: Audrey Crum (CrumAud) <Crum.Audrey@doc.sc.gov>
Cc: msawyer@sinklaw.com; Wanda Blanding (BlandWa) <Blanding.Wanda@doc.sc.gov>; Joette Scarborough (Scarbor) <Scarborough.Joette@doc.sc.gov>; Christina Bigelow (C057846) <Bigelow.Christina@doc.sc.gov>
Subject: RE: scdc#316178 Vincent Rice

I reviewed Mr. Rice's RAP sheet. There is a 2008 conviction for PWID/MDP Cocaine 1st [44-53-370(b)(1)]. He got 2 years suspended to 1 year probation. To answer your question, in my legal opinion based on his RAP, his prior record contains at least one conviction more serious than a simple possession, and thus, based on the information you're providing to me, he should be classified as an 85% offender.

I cannot speak to the Court's intent. According to my reading of the law, he should be sentenced under 24-13-150 for 85%, and does not meet the exception under Bolin/Fowler vs. SCDC. That being said, I am not offering an official legal opinion, nor should you rely on this. I would advise you independently run a RAP and have your general counsel review it. I don't know what kind of access you all have to RAP's, but if you need me to run it for you and send it, just have your general counsel let me know and I'll send it over.

Britton All - was not a solicitor at the time she was contacted, works for police dept.

-----Original Message----- - message # 1

From: Audrey Crum (CrumAud) [mailto:Crum.Audrey@doc.sc.gov]
Sent: Thursday, August 25, 2016 10:57 AM
To: All, Britton
Cc: msawyer@sinklaw.com; Wanda Blanding (BlandWa); Joette Scarborough (Scarbor); Christina Bigelow (C057846)
Subject: FW: scdc#316178 Vincent Rice

Asst. Solicitor All

Re: VM Vincent Jermaine Rice, SCDC# 316178

This office is seeking clarification in referencing to statute 44-53-0370(b)(1), Drug/Manuf. poss. Of other substance Sch. III III or Phunitrobarb w/it. 1 - 3rd or sub. Offense (0188). Per the Judicial System CDR 0188 is reflecting a Felony C, which requires the inmate to satisfy 85% of his sentence, but Per Bolin/Fowler vs SCDC this offense may not require 85%. Per General Counsel the interpretation and statute deems inmate eligible for Bolin/Fowler vs SCDC based on a prior Manuf/Dist of any drug offense. What we are looking for is information concerning the

the 1 Dept knows inmate is no longer 85%

8

offender's prior record. If the inmate prior record contains things more serious than simple possession (i.e., distribution, PWID, manufacturing, conspiracy, etc.) then he must be classified as an 85% offender who is not eligible for parole. If his prior drug record contains ONLY simple possession, he would not be an 85% offender. Please inform this office of the court intent of this charge. This inmate is SCHEDULE to be release on September 01, 2016 to SUPERVISOR RE-ENTRY. I will be awaiting your response. Please feel free to contact me if you have any question or concerns.

Audrey Crum
Inmate Records Office
Record Processing Supervisor
Crum.Audrey@doc.sc.gov
(803)896-1994

Message 1 continued
*I should have verified on OP, 2104
and ~~Attorney~~*

-----Original Message-----

From: DONOTREPLY
Sent: Thursday, August 25, 2016 10:24 AM
To: Audrey Crum (CrumAud) <Crum.Audrey@doc.sc.gov>
Subject: Scan from a Xerox WorkCentre

Please open the attached document. It was scanned and sent to you using a Xerox WorkCentre.

Attachment File Type: PDF

WorkCentre Location: Inmate Records Upstairs (DC000124) 896-8531

For more information on Xerox products and solutions, please visit <http://www.xerox.com>

Mrs. Belen

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
RECORD OF DUE PROCESS HEARING
3rd Offense Drug Offenders

TO INMATE: Anthony Tate

SCDC #: 355103

INSTITUTION: Evans C.I.

SCDC General Counsel's recent interpretation of S.C. Code § 44-53-0370 and § 44-53-375, in conjunction with Bolin v. South Carolina Department of Corrections, is that inmates convicted of 3rd offense drug offenses are to be treated as 85% offenders unless all of the offender's prior drug offense are for simple possession under the same subsection (either § 44-53-0370 and § 44-53-375). If an offender has prior drug convictions for Manufacturing, Distribution, Possession with Intent to Distribute, or Conspiracy, he or she must be treated as an 85% offender on the 3rd or subsequent offense.

The Inmate Records Office has been informed that because of your prior conviction (s) for Manufacturing, Distribution, Possession with Intent to distribute, or Conspiracy, your current sentence of a 3rd or Subsequent Drug Offense should be calculate at 85%.

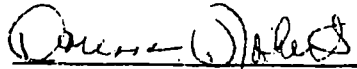
Your new projected dates are:

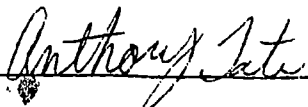
Projected Maxout Date: 7/31/2026 Projected Parole Date: NONE

If you provide additional information to counter this interpretation, that information will be forwarded to the SCDC General Counsel's office for review and necessary action (if warranted).

You have the right to appeal this decision by filing an inmate grievance pursuant to SCDC Policy GA-01.12, "Inmate Grievance System".

Classification Case Manager/Designee (Print Name): Doressa Roberts

Signature: 

Inmate Signature:  Date: 2/4/17 Time: 12:04 PM

10

SCDC POLICY OP, 21.09 - Inmate Records Plat

6.2.1 - overall review of an inmate central record, the inmate records audit will;

6.3.1 - Review such commitment orders for offense dates, sentences, signatures, indictments, warrants numbers, and any special conditions indicated by the court. In addition, a check for a previous SCDC number will be completed,

6.3.2 - Compare information on commitments with NLSC/FBI. compare information in the CRT with committing documents of entries.

6.10 - Audit completion; The Inmate Records Audit system will complete an SCDC form 18-14 "Audit Checklist" detailing each aspect of auditing procedures reviewed, enter completion on CRT,

8.15 - The Assistant Division Director of the inmate records office will be responsible for ensuring that staff properly interpret court/commitment orders and properly enter data for sentence calculations.

9.3.3 - The records Analyst and supervisors in the inmate records will make necessary contacts with clerks of court to investigate and obtain necessary documents when the court action is known.

Note: This was submitted by me during the hearing to show depart was failing to comply with the constitution law. Being with federal and state law, and it's very own policy.

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Vincent Rice, #316178,

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

) Docket No.: 16-ALJ-04-0869-AP

) Grievance No.: LEECI 455-16

) *Hon. Deborah Brooks Durden*

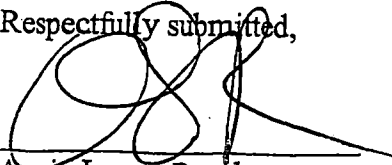
) **RESPONDENT'S MOTION
TO FILE OUT OF TIME**

COMES NOW, Respondent, South Carolina Department of Corrections, and requests that this Honorable Court grant Respondent leave to file its Brief out of time. In support of this request, Respondent shows this Honorable Court the following:

1. This matter comes before the Court by way of Appellant's challenge to his sentence calculation.
2. The Department's brief was due by May 2, 2017.
3. The undersigned, the attorney handling this case, accidentally misfiled this case as completed and therefore failed to file a Brief in a timely manner. The mistake was realized today, May 4, 2017.

WHEREFORE, Respondent apologizes to the court and Appellant for this mistake and respectfully requests to file and serve Respondent's Brief out of time in this matter.

Respectfully submitted,


Annie Laurie Rumler
Staff Attorney
South Carolina Department of Corrections

Columbia, South Carolina
May 4, 2017



Certificate of Counsel

I, Vincent Rice, certify that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

October 2, 2017

Vincent Rice
s/s Vincent Rice
L.C. 1
P.O. Box 205
Ridgeland, S.C. 29472

RECEIVED

OCT 05 2017

SC Court of Appeals

VJR