

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Ralph King Anderson, III, Chief Administrative Law Judge
Case No. 17-ALJ-15-0007-AP

Appellate Case No. 2017-001904

Bernard Bagley, #175851,

Appellant

v.

South Carolina Department of Probation, Parole
and Pardon Services,

Respondent.

APPELLANT'S FINAL REPLY BRIEF

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pro se

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STATEMENT OF ISSUES ON APPEAL

The Appellant submit that he incorporate verbatim the statement of issues on appeal as stated in his Initial Brief of Appellant.

STATEMENT OF THE CASE

The Appellant submit that he incorporate herein the statement of the case verbatim as stated in his Initial Brief of Appellant.

ARGUMENTS

The Appellant submit that he incorporate herein the arguments verbatim as stated in his Initial Brief of Appellant.

REPLY/ARGUMENT

The Appellant assert in response to Respondent's Initial Brief arguments that it has become public record as of November 17, 2017, that the South Carolina statutory law quoted and listed in its table of authorities and contentions may not have had the Great Seal of South Carolina affixed in violation of S.C. Constitution Article III, §18, and as a result being enforce unlawfully. He further asserts that he protest or redress against any act or resolution of S.C. Code Ann. §1-23-600(2016); §24-21-10(F)(1); §24-21-640; and §24-21-645, that he believes injurious to him, because no bill or joint resolution shall have the force of law until it shall..., has had the Great Seal of the State affixed to it,.... SEE: Art. III, §18, S.C. Const. and S.C. Const. Art. III, §26.

The issues now become whether the foregoing statutory laws were in effect during Bagley's parole hearing procedures during the past 10 years?

Whether Bagley's parole hearings were held under improper procedures because statutory laws §24-21-640; and §24-21-5; §24-21-10(F)(1); and §24-21-610 were unlawfully enforced by the Respondent?

Whether the South Carolina Reduction of Recidivism Act of 2010, risk and needs assessment decision regarding Bagley's COMPAS results considered by the Board were unlawfully enforced and held under an improper procedure?

The Appellant also assert that the mandatory criteria under §24-21-640, and risk assessment considered prior to the final decision is arbitrary or capricious under unlawful procedure on the basis that the Great Seal of the State has not been affixed to the statutory laws.

In addition, the Appellant contends that he is serving an invalid sentence that was executed when he was incompetent to assist in his own defense to obtain documents for mitigation, and to obtain witness in his own defense as well to obtain evidence of recent sexual activity and DNA of the same regarding a extra-marital affair.

Article V, §12, of the S.C. Constitution, authorize this court to entertain matters appertaining to persons mentally incompetent under §44-23-410(A), and §44-23-430 of S.C. Code Ann.. On April 12, 1991, the Appellant was sentenced to a natural life sentence without a State v. Blair, hearing (273 S.E.2d 536 (1981)), in the State v. Bagley, CH901-3472, Report of Finding Mental Capacity dated 9/26/90. Also, as required by State v. Singleton, 472 S.E.2d 640 (1996). SEE: Ramirez v. State, S.C. Supreme Court Opinion No. 27696 (1/5/17).

Appellant asserts that his competency is a factor, in which the Board clearly did not consider as relevant in this case before this Court. (Respondent's Initial Brief, p. 2, ¶2). The Respondent want this Court not address this matter when it comes under the umbrella of "The Board used inaccurate information as a basis to deny Bagley parole; and The Parole Board is using false information to deny Bagley parole" under an invalid sentence which is relevant for parole purposes. This factor is not irrelevant, and the matter is controlled by the Board for consideration as a factor to be carefully consider.

The Respondent presented the matter to the ALC when it claimed Appellant was serving a valid sentence which was first raised by the Respondent over 20 years later, and ruled upon by the ALC because it found Bagley serving a valid sentence that has not expired. Appellant asserts that he was given an invalid conviction and invalid sentence on April 12, 1991, and as a result he is being constitutionally deprived of his liberty which is a relevant factor in this matter. Appellant is a first time offender, and now 60 years desistance.

Appellant also contends that his biochemical is a factor that the Board inappropriately considered or failed to consider which a relevant factor that influenced his behavior on the 23rd of August, 1990, and his incompetency between April 10 through April 12, 1991, because of the bipolar and mania disorder, along with the stress disorder he suffered during that period, in which he did not receive any medication nor treatment of the same prior nor during trial. The principle of stare decisis in State v. Blair, 273 S.E.2d 536 (1981), rule was not applied in Bagley's case which involved the same set of facts.

Appellant is a first time offender and the former Board was partial to him whereby granting parole to several repeat offenders similarly situated convictions and sentences between 2015 and 2017. The Respondent can provide this Court proof or evidence regarding the inmates serving life sentences paroled during such time.

The record shows that Bagley was suffering from an emotional disorder severe enough too influence his behavior, and sufficient enough to render him incompetent during his trial, factors that are relevant and inappropriately considered by the Board.

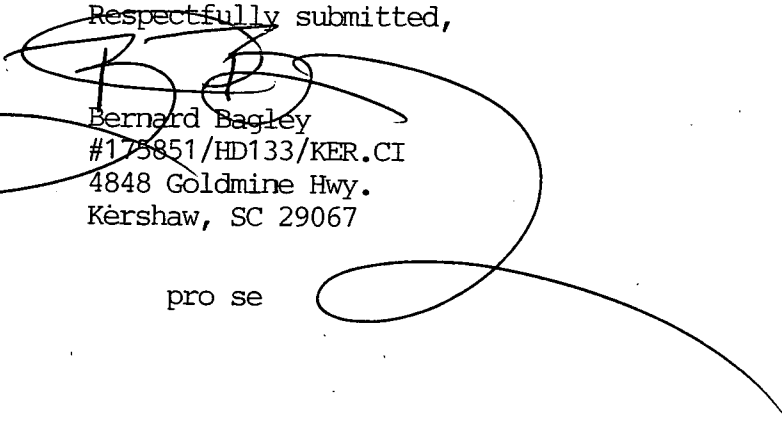
Appellant asserts that SCDC Classification System impinges his parole eligibility in violation of §24-21-610, of S.C. Code Ann., 1/3 parole factor sentence requirement because the former parole Board used an expunged offense 90-GS-40-5864, other factor, or variable, or condition as a consecutive sentence to be served as a parole factor sentence requirement that impinges his parole eligibility by the denial of parole when Appellant's criminal history is long gone, on a parole-eligible sentence without expectancy and liberty interest for parole. A term sentence of natural life is an invalid sentence the Appellant is serving in violation of §44-23-410(A), and §44-23-430, of S.C. Code Ann., and Art. 1, §3, of S.C. Const., and the 14th Amend-

ment of the U.S. Constitution, and the civil rights of an institutionalized person. The convergence of SCDC Classification System and the former Board members impinges his parole eligibility.

CONCLUSION

Based on the foregoing reasons the Appellant respectfully requests the final decision of the Administrative Law Court be remand for a new parole hearing.

Respectfully submitted,



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December 20, 2017

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