Brief of Appellant
The State of South Carolina
(In The Court of Appeals)

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SC Court of Appeals

Appeal from The ALC
Judge D. Druden

Case # 2017-001484

Vincent Rice #314178 — Appellant

V.

Annie Rumler
Counsel for S.C.D.C. — Respondents

Final Brief of Appellant

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Appellant

May 1, 2018

Cases

Bolin v.s SCDC _____ 1

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statutes

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Does the Bolin apply to a 3rd offense per S.C 44-53-370 (b) (2)

SCDC and SCDPPPS has determined that, I'm a non-parole eligble; 85% term offender because "I have priors greater than simple possession" It is fact code 24-13-150 was repealed after the 2010 Amendments (Bolin Ruling). The question must arise, exactly how am I still a no-parole offender? The DOC staff has evidently construsced the following colloquy in the Bolin Ruling stricly to support they're error.

"S.C Code Ann §44-53-370(b)(2) a person convicted and sentenced to this subsection for 1st and 2nd offense is eligible for community supervision." In addition, the court stated: "Based on the, foregoing we hold that a second offense ~~is eligible~~ under Section S.C 44-53-375 is no longer a no-parole offender" It should be noted the court relied on the language of section 44-53-375 only to make this holding.

The question here is whether a 3rd offender is eligible for community supervison, etc; And here is where Agency staff have decided to be confused. The court did not rule or mention it a "3rd offender" is no longer a ~~pr~~ no-parole offender simply because Michael Bolin was convicted of a "2nd offense" under S.C 44-53-375, therefore a 2nd offense was the subject matter of the Bolin Ruling. However based on the conclusions of law in the Bolin ruling; **A 3rd offense would had resulted in the same ruling.** Not only because provision 44-53-370 and -375 are identical in language, but the following colloquy in the Bolin ruling supports this fact.

The DOC argued in Bolin: "Only offenders serving sentences for no-parole offenses ~~argued~~ are required to participate in community supervision." However, the Court rebutted: "That may have been true before the amendments of section S.C 44-53-370 and -375 were enacted but these amendments now expressly allow offenders to participate in community supervision as an alternative to use the tax-payer funds to house them in prison"

Consequently, the case in point is the "entire" section of 44-53-370 also "expressly allows" supervison alternative, parole, etc. It is stated in the text, and can be support by a slew of publications.

Note:

I went to two non-violent parole hearings in 2014 + 2015. In 2016 SCDC and SCDPPS "internally determined" I'm a no-parole offender. My March 2017 parole date was "removed from the database" without any notice. My furlough Sept 18, 2016, release was forfeited because of a 2016 determinatio (Bolin) that I'm not eligble for early release. The statute only prohibits "Probation"

S.C Code Ann 24-13-710. supervised furlough permits, screened and selected inmates who have served the mandatory minimum and not have committed a violent crime, nor a no-parole offense defined in section 24-13-100. Enacted June 18, 2017 after 2010 amendments. The courts have ruled and law stated 24-13-100 no longer applies to 44-53-370

Reords Page Refference to Support (pg 5, pg 8-9, pg 10 Record of Appeal

Arbitrary Decision

S.C Code Ann 1-23-310 - contested case means a proceeding in which the legal rights of a party are required by law to be determined by an agency after the opportunity for a hearing....

The final discussion in a contested case, which is adverse to a party must be in writing or stated in the record. It must include findings of fact and conclusions of law, seperately stated. Findings of fact must be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

It is a fact the Lee staff members did not know how or why my Sept 1, 2016 release was forfeited, but instead gave me vague information about a "decision" that was actually made a few days prior in a invalid email that still not how been released for any public scrutiny on behalf of the Dept and syndicate agencies. (See email as exhibit)

The email is a private correspondence between Agency staff and former circuit solicitor Britton All. The document is evidence the Dept relied on former Solicitor's All's advice and opinion, stating, "I should be a 85% offender according to her reading of law," and this was not her, "official legal opinion." It should be noted that Britton All was not a member of the bar at the time of this advice, nor was she in term; Her opinion did not reflect the 2010 amendents to 44-53-370(b)(2) and bolin, or the publice sector. Mrs. All gave unauthorized legal advice. As stated, the document will show that Britton All made the decision and the Sept 14, 2016 Dept hearing was a mere formality to alleviate due process requirements,

Board of Regents of State colleges v. Roth 408 US. 564 Ed. 548 "The requirements of procedural due process apply only to the deprivation of interest encompessed by the 14th Amendment protection of liberty." 473 S.E 2d 870 - Resolution of the issue whether the administrative procedures provided were constitutionally sufficient.

I attest that My Sept 14, 2016 SCDC hearing was not constitutionally sufficient. The "executive" staff members within the emails were obligated to conduct the hearing because they "contested" my immediate release on a question of law, and were also capable of making a decision. Secondly, they were obligated to have at the very least, have the former solicitor called as a witness/accuser as state's/departmental evidence, as a means of quasi-judicial decions that explained the constationally of why I was not released on Sept 1, 2016 after signing release documentions and an supervised furlough certificate.

Record & Appeal Reference: (pg 1, pg 11,)

Conclusion

In Conclusion, my final claims remain the same as my initial claims being they have not been contested or disputed by the Respondents, the Record of Appeal along with all Appellant's brief will prove the facts. I ask the court make a fair and just decision.

Truly

Appellant

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Proof of Service

I Vincent Rice, Appellant did forward a handwritten copy of a Final Brief and Supplement Record to the Respondents by giving to office to drop in mail on May 1, 2018 to the following address

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