

THE STATE OF SOUTH CAROLINA
In the Court of Appeals
[In the Supreme Court]

APPEAL FROM ADMINISTRATIVE
LAW COURT

Phillip S. Lenski, Administrative Law Judge
Case No: 17-ALT-04-0491-AP

Torrey DeAund Manning #364781 Appellant

v.

South Carolina Dept. of Corrections Respondent.

FINAL BRIEF

J D Manning

364781 Torrey DeAund Manning
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RECEIVED

JUN 04 2018
SC Court of Appeals

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STATEMENT OF ISSUES ON APPEAL

DOES THE INTENT OF THE GENERAL ASSEMBLY (2010)
AND S.C. Code Ann. § 44-53-370(E) COMPLY, RESULTING
THE APPELLANT TO BE ENTITLED TO PAROLE
ELIGIBILITY AND THE EARLIEST RELEASE
POSSIBLE.

STATEMENT OF THE CASE

The matter is before the South Carolina Court of Appeals, pursuant to the Notice of Appeal filed March 20, 2018 by Torrey DeAund Manning (Appellant). A inmate incarcerated with the South Carolina Dept. of Corrections. The Appellant argues the department/ALL is in error by applying S.C. Code Ann § 24-13-100 and 24-13-150 to his sentence. The Appellant was indicted by Sumter County Grand Jury. The Appellant ultimately agreed to a plea deal and was sentenced to seven years under S.C. Code Ann § 44-53-370(E)(3)

A) 1. 4 grams or more but less than 14 grams. First offense.

Appellant argues that his conviction is a parole eligible offense. Under the Code of Laws of South Carolina, which is the controlling authority. S.C. Code Ann § 44-53-370(E) and 44-53-375(c) establishes liberty interest to parole eligibility, work release and supervised furlough. Which makes 24-13-100 and 24-13-150 unconstitutional to offenders not serving the 25 years mandatory minimum requirement. Resulting in violations of the Constitutional and Statutory provisions of the 14th Amendment and State Statute S.C. Code Ann 44-53-370(E) and 375(c) Because of these violations the agency/ALL decision can and should be reversed by the higher courts.

Argument

DOES THE INTENT OF THE GENERAL ASSEMBLY (2010) AND S.C. Code Ann. § 44-53-370(E) COMPLY, RESULTING THE APPELLANT TO BE ENTITLED TO PAROLE ELIGIBILITY AND THE EARLIEST RELEASE POSSIBLE.

In interpreting any legislative act the primary objective is to ascertain and effectuate legislative intent if at all possible Mid-State Auto Auction of Lexington, Inc v. Altman 324 S.C. 65, 476 S.E. 2d. 690 (1996)

Section 1 of the Omnibus Crime Reduction and Sentencing Act (2010):

It is the intent of the General Assembly to preserve public safety, reduce crime and use correctional resources most effectively. Currently the South Carolina Correctional system incarcerates people whose time in prison does not result in improved behavior and who often return to South Carolina communities and commit new crimes or are returned to prison for violations of supervision requirements. It is therefore the purpose of this Act to reduce recidivism, provide fair and effective sentencing

options employ evidence-based practices for smarter use of correctional funding, and improve public safety.


The summary of the act's objective is to conserve taxpayer's dollars. By allowing earlier release dates for inmates convicted of less serious offenses. Because of the contrast between the legislature's intent and S.C. Code Ann § 24-13-100 and 150 The Appellant contends that he is entitled to the provisions of parole eligibility, work release and supervised furlough for the provisions are listed in S.C. Code Ann § 44-53-370E which creates liberty interest, therefore violating the Appellant's Due Process of the 14th Amendment/Equal Protection Law, Furthermore these provisions comply with the legislature's intent, Also specific statutes are not to be considered repealed by a later general statute unless there is a direct reference to the earlier statute or the intent of the legislature to do so is explicitly implied Denman v. City of Columbia 387 S.C. 131 (2010). Making S.C. Code Ann § 24-13-100 and 150 unreasonable to be applied to the Appellant's sentence, by statutory language and also conflicting with legislature's intent.

Do to the fact both Statutes S.C. Code Ann § 24-13-100 and 150 are depriving the Appellant from receiving (work and educational credits and good time credits) resulting in the maximum deduction a inmate can receive and earliest release possible. It conflicts with the legislature's intent by extending the burden on the taxpayers' longer then need be.

Conclusion

The Appellant request the courts to sever S.C. Code Ann § 24-13-100 and 150 from being applied to the S.C. Code Ann § 44-53-370 (E)(3)(A)1. Also to receive the provisions listed in 44-53-370(E) which are parole eligibility, work release, supervised furlough. Which would entitled the Appellant to work and Educational credits. Also the Appellant request the courts to grant him immediate release.

June 1, 2018


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Appellate Case No. 2018-000548

CERTIFICATE OF COUNSEL

The undersigned certified that this Final Brief complies with Rule
211(b) SCACR.

Date of Service

June 1, 2018

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