



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

June 21, 2018

The Honorable Jana E. Shealy
1205 Pendleton Street
Columbia SC 29201

REMITTITUR

Re: Bernard McFadden v. SCDC
Lower Court Case No. 2015ALJ040289AP
Appellate Case No. 2016-000431

RECEIVED
JUL 02 2018
SC Court of Appeals

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: Bernard McFadden, 199135
Christina Catoe Bigelow, Esquire

The South Carolina Court of Appeals

Bernard McFadden, 199135, Appellant,

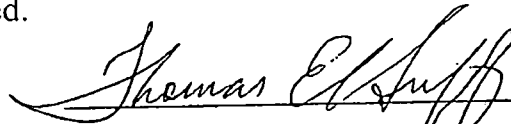
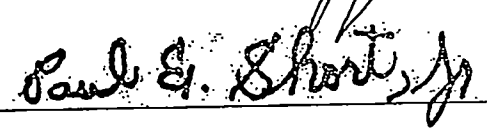
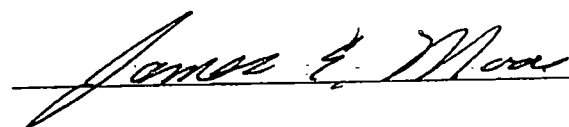
v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2016-000431

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.


_____ J.

_____ J.

_____ A.J.

Columbia, South Carolina

cc:

Bernard McFadden, 199135
Christina Catoe Bigelow, Esquire
The Honorable Shirley C. Robinson

FILED

April 21, 2017

The Supreme Court of South Carolina

Bernard McFadden, 199135, Petitioner,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2017-001176

Lower-Court Case No. 2015-ALJ-04-0289AP

RECEIVED

JUN 19 2018


SC Court of Appeals

ORDER

Based on the vote of the Court, the petition for a writ of certiorari is denied.

FOR THE COURT

BY



CLERK

James, J., not participating

Columbia, South Carolina

June 18, 2018

cc:

The Honorable Jana E. Shealy
The Honorable Jenny Abbot Kitchings
Christina Catoe Bigelow, Esquire
Bernard McFadden, 199135

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Bernard McFadden, #199135, Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2016-000431

Appeal From The Administrative Law Court
Shirley C. Robinson, Administrative Law Judge

Unpublished Opinion No. 2017-UP-054
Submitted December 1, 2016 – Filed January 25, 2017

AFFIRMED

Bernard McFadden, pro se.

Christina Catoe Bigelow, of the South Carolina
Department of Corrections, of Columbia, for Respondent.

PER CURIAM: Bernard McFadden appeals the Administrative Law Court's (the ALC's) order dismissing his inmate grievance, alleging the South Carolina Department of Corrections (SCDC) failed to apply jail time credits to his sentence for his 1995 convictions and miscalculated his projected max-out date. On appeal, McFadden argues the ALC erred by (1) finding the issue moot and (2) finding it

lacked jurisdiction to decide whether SCDC miscalculated his 1995 sentence. We affirm¹ pursuant to Rule 220(b), SCACR, and the following authorities:

1. The ALC did not err in finding the issue of whether McFadden was entitled to credit for time served on his 1995 convictions moot because McFadden was released on August 31, 2007. *See Mathis v. S.C. State Highway Dep't*, 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973) ("A case becomes moot when judgment, if rendered, will have no practical legal effect upon [any] existing controversy. This is true when some event occurs making it impossible for [the] reviewing [c]ourt to grant effectual relief."); *Sloan v. Friends of Hunley, Inc.*, 369 S.C. 20, 25, 630 S.E.2d 474, 477 (2006) ("A justiciable controversy exists when there is a real and substantial controversy which is appropriate for judicial determination, as distinguished from a dispute that is contingent, hypothetical, or abstract."); *Nelson v. Ozmint*, 390 S.C. 432, 434, 702 S.E.2d 369, 370 (2010) ("[P]etitioner was released from SCDC . . . making his underlying claim moot.").

2. The ALC did not err in finding it lacked jurisdiction to consider any collateral attack on McFadden's 2010 conviction and sentence. *See* S.C. Code Ann § 1-23-610(B) (Supp. 2016) (allowing an appellate court to reverse or remand the ALC's decision if its findings are affected by error of law or are characterized by abuse of discretion); *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 331, 605 S.E.2d 506, 508 (2004) ("Summary dismissal may be appropriate whe[n] the inmate's grievance does not implicate a state-created liberty or property interest."); *Sullivan v. S.C. Dep't of Corr.*, 355 S.C. 437, 443, 586 S.E.2d 124, 127 (2003) (stating the only way the ALC can obtain subject matter jurisdiction over an inmate's grievance claim is when the grievance "implicates a [state-created] liberty interest sufficient to trigger procedural due process guarantees"); *Al-Shabazz v. State*, 338 S.C. 354, 367, 527 S.E.2d 742, 749 (2000) (finding PCR is the proper avenue of relief when the applicant mounts a collateral attack challenging the validity of his sentence or conviction).

AFFIRMED.

HUFF and SHORT, JJ., and MOORE, A.J., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.



South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS, CLERK
POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211

RECEIVED

JUL 02 2018

SC Court of Appeals

Hasler

FIRST-CLASS MAIL

06/21/2018

US POSTAGE

\$00.47⁹



ZIP 29201
011D12602824

UTF

BERNARD MCFADDEN, 199135
KERSHAW CORRECTIONAL INSTITUTION
4848 GOLD MINE HWY
KERSHAW SC 29069

RECEIVED

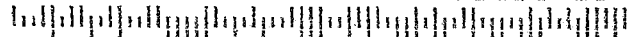
NIXIE 296 FE 1 0006/28/18

RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

UTFK1: 9353389845

UTF

BC: 29211162929 *0454-02629-22-00



Release 1-2017