

STATE OF SOUTH CAROLINA

Administrative Law Court

H.W. Funderburk, Jr.
Administrative Law Judge



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July 27, 2018

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

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JUL 30 2018

SC Court of Appeals

Re: *Jakarta Young*, #276572 v. SCDC
Appeal No.: 2018-001293
Docket No.: 17-ALJ-04-05507-AP

Dear Clerk Kitchings:

On July 11, 2018, the South Carolina Department of Corrections (Department) filed an appeal with the Court of Appeals, as well as a Motion for Supersedeas in the ALC, in the above matter. I have granted the Department's Motion and a copy is attached. However, upon reviewing the Department's Motion, I have discovered an error of law in the order issued by the undersigned and now request, for the sake of judicial economy, that the Court of Appeals remand the case back to the ALC for corrective action.

I look forward to the Court's response. Please let me know if you have any questions.

Respectfully,

A handwritten signature in black ink, appearing to read "H.W. Funderburk, Jr.", with a stylized flourish at the end.

H.W. Funderburk, Jr.
Administrative Law Judge

HWFjr/JES

cc: Jakarta Deshon Young, DOC#276572
Kensey Barrett, Staff Attorney DOC

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SC Court of Appeals

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Jakarta Deshon Young, #276572,)
)
Appellant,)
)
vs.)
)
South Carolina Department of Corrections,)
)
Respondent.)
_____)

Docket No. 17-ALJ-04-0507-AP

**ORDER GRANTING
SUPERSEDEAS**

This matter is before the South Carolina Administrative Law Court (Court or ALC) on the South Carolina Department of Corrections' (SCDC or Department) "Motion for Supersedeas Pending Outcome of Appeal Pursuant to Rule 241, SCACR." The Department seeks to stay the Court's June 20, 2018 Order holding Appellant Jakarta Deshon Young (Appellant) eligible for parole, extended work release, or supervised furlough.¹ As of the date of this Order, Appellant has not responded to the Department's Motion for Supersedeas.

DISCUSSION

Pursuant to Rule 241(d)(1) of the South Carolina Appellate Court Rules (SCACR), "[e]xcept where extraordinary circumstances make it impracticable, an application for an order lifting the automatic stay or for supersedeas must first be made to the lower court or administrative tribunal which entered the order or decision on appeal." According to subsection (a) of Rule 241, SCACR, the general rule is that the service of notice of a notice of appeal stays the matter decided in the order below. Under subsection (b)(11) of Rule 241, SCACR, there is an exception to the general rule for "[a]ppeals from administrative tribunals as provided in S.C. Code Ann. § 1-23-380(A)(2) and 1-23-600(G)(5)."² S.C. Code Ann. § 1-23-600(E) (Supp. 2017). Also, under S.C. Code Ann. § 1-23-610(A)(2) (Supp. 2017), "[e]xcept as otherwise provided in this chapter, the serving and filing of the notice of appeal does not itself stay enforcement of the administrative law judge's

¹ The Department stated in its Motion that a Notice of Appeal has been filed in the South Carolina Court of Appeals in this case.

² It is noteworthy that S.C. Code Ann. § 1-23-600(G)(5) no longer exists. The language from former section 1-23-600(G)(5) is currently contained in S.C. Code Ann. § 1-23-600(H)(5) (Supp. 2017).

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SC ADMIN. LAW COURT

decision.” However, “[u]pon motion, the administrative law judge may grant . . . a stay upon appropriate terms.” *Id.*

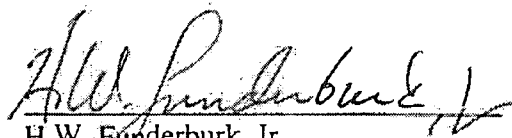
The Department argues that a supersedeas is necessary because if the stay is not granted and Appellant is immediately eligible for parole, extended work release, or supervised furlough, he could be released four years prior to being required to be released to community supervision pursuant to S.C. Code Ann. § 24-21-560(A). Also, if Appellant is granted parole, the Department would have to spend “substantial time and resources” in monitoring someone who should not be parole eligible and would have to locate, apprehend, and reprocess Appellant if this Court is reversed by an appellate court.

Though the Court’s Order only holds Appellant to be parole eligible and does not grant Appellant parole, the Court agrees with the Department that the amount of time and resources it would have to expend in monitoring, locating, apprehending, and reprocessing Appellant should he be granted parole and this Court’s decision be reversed outweigh Appellant’s ability to be considered for parole in the interim.

ORDER

IT IS THEREFORE ORDERED that the Department’s Motion for Supersedeas is **GRANTED**.

AND IT IS SO ORDERED.



H.W. Funderburk, Jr.
Administrative Law Judge

July 27, 2018
Columbia, South Carolina

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this notice/order in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or in the interagency Mail Service addressed to the party(ies) or their attorney(s).

This 27th day of July, 2018

By: Jan E Healy
Judicial Law Clerk

STATE OF SOUTH CAROLINA
Administrative Law Court
EDGAR A. BROWN BUILDING
1205 PENDLETON STREET, SUITE 224
COLUMBIA, SOUTH CAROLINA 29201

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INTER-AGENCY MAIL