

**STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT**

Thomas Thompson, #80681, )  
)  
Appellant, )  
)  
vs. )  
)  
South Carolina Department of Probation, )  
Parole and Pardon Services, )  
)  
Respondent: )  
\_\_\_\_\_ )

Docket No. 18-ALJ-15-0008-AP

ORDER

**RECEIVED**  
AUG 24 2018  
SC Court of Appeals

This matter is before the South Carolina Administrative Law Court (ALC or Court) on an appeal filed by Thomas Thompson (Appellant) from a decision of the South Carolina Department of Probation, Parole and Pardon Services (Department) denying him parole.

**FACTUAL/PROCEDURAL HISTORY**

Appellant is in the custody of the South Carolina Department of Corrections after being sentenced to life imprisonment for the offense of murder. The murder took place in October 1975. Appellant pled guilty to the charge in December 1975.<sup>1</sup> At the time of Appellant's offense, South Carolina law provided that a person serving a life sentence for murder was eligible for parole upon the service of ten years' imprisonment. Since 1985, Appellant has appeared before the Parole Board (Board) a total of eighteen times and has been denied parole every time he has appeared. Appellant last appeared before the Board on January 31, 2018, when the Board voted unanimously to deny Appellant parole. The Board gave the following reasons for denying parole: (1) the nature and seriousness of the current offense; (2) an indication of violence in this or a previous offense; and (3) a use of deadly weapon in this or a previous offense.

After the Board unanimously voted to deny Appellant parole on January 31, 2018, he timely filed this appeal with the ALC. Appellant filed his brief on March 5, 2018. The Department filed the Record on Appeal in April 3, 2018, and its brief on June 12, 2018.

<sup>1</sup> Appellant's guilty pleas was the result of a plea agreement where Appellant pled guilty to murder with the other charges against him dropped.

**FILED**

August 6, 2018

SC ADMIN. LAW COURT

## STANDARD OF REVIEW

The Court's jurisdiction to hear this matter is derived from the decisions of the South Carolina Supreme Court in *Furtick v. South Carolina Department of Probation, Parole and Pardon Services.*, 352 S.C. 594, 576 S.E.2d 146 (2003) and *Cooper v. South Carolina Department of Probation, Parole and Pardon Services.*, 377 S.C. 489, 499, 661 S.E.2d 106, 111 (2008). When reviewing the Department's decisions in inmate parole matters, the ALC sits in an appellate capacity. *Furtick*, 352 S.C. at 599; 576 S.E.2d at 149; *see also* S.C. Code Ann. § 1-23-600(E) (Supp. 2016) (directing administrative law judges to conduct appellate review in the same manner prescribed in section 1-23-380 of the South Carolina Code). Consequently, an Administrative Law Judge may not substitute his judgment for that of an agency "as to the weight of the evidence on questions of fact." S.C. Code Ann. § 1-23-380(5) (Supp. 2016). Furthermore, an Administrative Law Judge may not reverse or modify an agency's decision unless the record reflects that substantial rights of the appellant have been prejudiced because the decision is clearly arbitrary or affected by an error of law. *See Marietta Garage, Inc. v. S.C. Dep't of Pub. Safety*, 337 S.C. 133, 137, 522 S.E.2d 605, 607 (Ct. App. 1999); *S.C. Dep't of Labor, Licensing and Regulation v. Girgis*, 332 S.C. 162, 166, 503 S.E.2d 490, 492 (Ct. App. 1998). Finally, "when appealing an agency's decision, the burden rests squarely on the appellant to prove that substantive rights were prejudiced . . . ." *S.C. Dep't of Corr. v. Mitchell*, 377 S.C. 256, 260, 659 S.E.2d 233, 235 (Ct. App. 2008).

## DISCUSSION

In his brief, Appellant states that he is not questioning whether proper procedure was followed or whether the denial of parole was routine but rather whether the Board violated Appellant's equal protection rights under the United States Constitution and the South Carolina Constitution. U.S. Const. amend. XIV, §1<sup>2</sup> provides:

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

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<sup>2</sup> Although Appellant asserts in his brief that the Department has violated his due process rights under the S.C. Constitution, Appellant does not give a cite to the S.C. Constitution to support his contention. The Court notes that the S.C. Constitution, § 3 provides: "[t]he privileges and immunities of citizens of this State and of the United States under this Constitution shall not be abridged, nor shall any person be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws. (1970 (56) 2684; 1971 (57) 315.)"

In his brief, Appellant asserts that his due process rights have been violated because others sentenced for murder at the same time he was sentenced have served less time than he has. Appellant states that he has served over 42 years for the crime he committed when others who committed the same crime has served less time thus giving rise to his equal protection claim. To establish an equal protection violation, a party must show that similarly situated persons received disparate treatment. *TNS Mills, Inc. v. South Carolina Department of Revenue*, 331 S.C. 661, 503 S.E.2d 471 (S.C. App. 1998). Appellant makes this assertion without any evidence to support his argument that he was treated differently than others that appeared before the Board. *See First Sav. Bank v. McLean*, 314 S.C. 361, 363, 444 S.E.2d 513, 514 (1994) (noting an issue is deemed abandoned where appellant fails to provide arguments or supporting authority for his assertion); *Eaddy v. Smurfit-Stone Container Corp.*, 355 S.C. 154, 164, 584 S.E.2d 390, 396 (Ct. App. 2003) ("[S]hort, conclusory statements made without supporting authority are deemed abandoned on appeal and therefore not preserved for our review."); *D.R. Horton, Inc. v. Wescott Land Co., LLC*, 398 S.C. 528, 549, 730 S.E.2d 340, 351 (Ct. App. 2012) (noting that while the appellants cited a case to support a claim, the argument was nevertheless considered "largely conclusory" and still considered abandoned on appeal); *State v. Hill*, 394 S.C. 280, 297, 715 S.E.2d 368, 377 (Ct. App. 2011) (considering a citation to a case "without any analysis whatsoever as to how or why [it] applies" insufficient to preserve an issue on appeal, and thus rendering that issue abandoned on appeal.) Appellant has been allowed to appear before the Board and the same criteria was applied in his case as with other inmates.

The U.S. Supreme Court has held that "[t]here is no constitutional or inherent right of a convicted person to be conditionally released before the expiration of a valid sentence." *Greenholtz v. Neb. Penal Inmates*, 442 U.S. 1, 7 (1979). In other words, "given a valid conviction, the criminal defendant has been constitutionally deprived of his liberty." *Meachum v. Fano*, 427 U.S. 215, 224 (1976). The Department's denial of parole eligibility for the last twenty-three years relates to the Board's exercise of its discretion. Clearly, the Board "is the sole authority with respect to decisions regarding the grant or denial of parole." *Cooper*, 377 S.C. at 499, 661 S.E.2d at 111. Additionally, as explained in *Cooper*, this Court's review is limited to ascertaining whether the Board "followed proper procedure." *Id.* at 500, 661 S.E.2d at 112. Therefore, the Court may summarily dismiss Appellant's appeal unless it determines that the Board failed to consider the

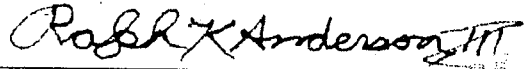
appropriate statutory and Department criteria in making its determination. *See Compton v. S.C. Dep't of Probation, Parole & Pardon Servs.*, 385 S.C. 476, 479, 685 S.E. 2d 175, 177 (2009) (holding that an order denying parole and showing consideration of all statutory and Department criteria is sufficient to support denial of parole).

Here, the Department properly followed all procedures in denying Appellant parole. Appellant specifically asserted that he was not disputing the procedure followed nor was he claiming the denial of parole was routine. The Record clearly reflects that the Board considered the appropriate statutory and Department criteria in making its determination. Specifically, it considered the characteristics of the offense and prison disciplinary record, the statutory criteria of section 24-21-640, the factors published in its parole criteria form (Form 1212), and the actuarial risk and needs assessment factors pursuant to Section 24-21-10(F)(1)).

Ultimately, Appellant is in the exact same position he was in when he was sentenced for his crime: he has a life sentence for murder with the possibility of parole. Furthermore, Appellant has failed to show that the Board did not follow statutory requirements in denying him parole. He also failed to show that the Board actions violate the Constitutional prohibitions cited in his brief.

**ORDER**

**IT IS THEREFORE ORDERED** that the Department's decision is **AFFIRMED**.  
**AND IT IS SO ORDERED.**



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Ralph King Anderson, III  
Chief Administrative Law Judge

August 6, 2018  
Columbia, South Carolina