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S.C. SUPREME COURT

September 4, 2018

Honorable Daniel E. Shearouse  
 Clerk, South Carolina Supreme Court  
 Post Office Box 11330  
 Columbia, South Carolina 29211


Re: Gregory Daniel Price v. The State of South Carolina  
 Appellate Case No. 2017-001684

Dear Mr. Shearouse:

The issue raised in Gregory Daniel Price's Petition for Writ of Certiorari is not moot because the state wrongfully interpreted S.C. Code Ann. § 24-13-40 (2013) which resulted in Petitioner serving a longer sentence than he was required. That wrongful interpretation can be reasonably expected to cause future inmates the same harm. Friends of the Earth, Inc. v. Laidlaw Env'tl. Servs. (TOC), Inc., 528 U.S. 167, 189 (2000).

The fact that Petitioner's sentence has been served does not "deprive the... court of its power to determine the legality of the practice," because a cessation of the allegedly wrongful conduct does not render a controversy moot. City of Mesquite v. Aladdin's Castle, Inc., 455 U.S. 283, 289 (1982). The United States Supreme Court has held that, "[A] case *might* become moot if subsequent events made it *absolutely clear* that the allegedly wrongful behavior *could not reasonably be expected to recur*. United States v. Concentrated Phosphate Exp. Ass'n, 393 U.S. 199, 203 (1968). (emphasis added) Moreover, the "heavy burden" of persuading the court that the challenged conduct cannot reasonably be expected to recur lies with the party asserting mootness. Id.

Since the state's wrongful interpretation of S.C. Code Ann. § 24-13-40 (2013) is likely to recur and cause future inmates the same difficulty, the case is not moot.

Sincerely,  
  
 Victor R Seeger  
 Appellate Defender

VRS/csb

cc: Johnny Ellis James, Jr. Esquire