

Terry Smith 160785 F4B 1234
Lee Correctional Institution
990 Wisacky Highway
Bishopville SC 29010

19 December 2018

The Honorable Jenny Abbot Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia SC 29211

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DEC 21 2018

SC Court of Appeals

RE: Appellate Case No.: 2018-001456
Terry Smith, 160785 v South Carolina Department of Corrections

Dear Madam Clerk:

The Respondent sent a letter as an informal reply to the Court's request for an answer to Smith's Reply to the Motion to Dismiss as Premature pending before the Court in the referenced matter. Appellant assumes this means that the Respondent will not file an Answer. Respondent suggested that the Court had asked for a status update, which did not seem to be the purpose of the Court's instruction of December 4, 2018. However, since the Respondent inserted a mis-stated sequence of events for the appeal, the Appellant feels correction is necessary. And so:


Smith grieved his sentence calculation, was denied relief by SCDC, and appealed the matter to the Administrative Law Court ("ALC"), raising two distinct questions. First, did SCDC erroneously calculate Smith's sentence credits and jail time. Second, was Smith's sentence start-date, the presumptive point of beginning calculation, correct at all—since Smith was arrested in 2002 for crimes allegedly committed in 2002, but his purported sentence start-date on these concurrent sentences was reckoned to begin in 2006, four years after his arrest for those crimes? The ALC remanded the grievance for recalculation by SCDC upon the first question, *but did not address the second question.*

Smith appealed the issue of the *second question* to this Court while the remand of the first question was still pending within SCDC. And so the issue directly presented in this appeal is the constitutional propriety of reckoning Smith's sentence start-date at a point four years after his arrest, despite that Smith was held in custody continuously from the time of his arrest.

After a passage of 6 or 8 weeks, SCDC returned the remand by once again claiming, despite the judgment of the ALC, that its erroneous calculation of Smith's sentence credits was correct. This triggered Smith's second appeal to the ALC, of the remand decision. Shortly after this, SCDC filed a Motion to Dismiss as Premature in this referenced matter—and this despite having nullified the decision of the ALC by deliberate inaction in a manner which would presumptively raise both the first *and* second questions to this higher Court.

In any event, the fresh appeal before the ALC addresses the first question—since that was the matter remanded—and the Appellant prays that this Court will hear his appeal in the second question (and also the first, if this Court finds that appropriate.) The Respondent has raised no substantial argument to the Appellant's complaint at any point, and so it seems likely that all of the Respondent's maneuvering is intended purely to delay process and the attendant relief.

Sincerely,


s/ Terry Smith
Terry Smith, Pro Se

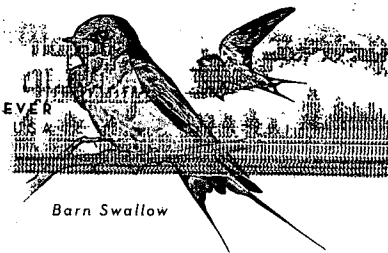
cc: Annie Rumler, SCDC Staff Attorney for General Counsel

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