

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Honorable Ralph K. Anderson, III, Administrative Law Judge

Appellate Case No. 2012-210767
Case No. 10-ALJ-04-0637-AP

Thomas J. Torrence, #094651 APPELLANT

v.

S.C. Department of Corrections RESPONDENTS

RECORD ON APPEAL

RECEIVED
OCT 05 2012
SC Court of Appeals

Thomas J. Torrence
#094651
Lieber Corr. Inst. SA-43
P.O. Box 205
Ridgeville, SC 29472-0205

APPELLANT, Pro se

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**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Thomas J. Torrence, #094651)
)
 Appellant,)
)
 vs.)
)
 South Carolina Department of Corrections,)
)
 Respondent.)
 _____)

Docket No. 10-ALJ-04-0637-AP.

ORDER

FILED

March 2, 2012

SC ADMIN. LAW COURT

STATEMENT OF CASE

This matter is before the Administrative Law Court (ALC or Court) pursuant to the appeal of Thomas J. Torrence (Appellant), an inmate incarcerated with the Department of Corrections (Department). In July 2003, Appellant filed a grievance with the Department challenging the Department's calculation of his pre-sentence jail credit. Specifically, Appellant claimed that he was owed approximately five years of pre-sentence jail credit for time he served. After investigating the matter, the Department determined that Appellant was entitled to roughly two hundred four (204) days of pre-sentence jail credit and awarded him that credit. Appellant received the Department's final agency decision regarding the matter on July 12, 2010. On July 28, 2010, Appellant filed this appeal. After a careful review of the record and the arguments presented, the Court affirms the decision of the Department.

BACKGROUND

Appellant began serving a sentence of twenty-one (21) years for armed robbery on January 12, 1979. He was released on parole for that sentence on January 23, 1985. While on parole, the Appellant was implicated in crimes committed in Charleston and Lexington Counties. Appellant was arrested on April 7, 1987 for two counts of murder, armed robbery, and kidnapping in Lexington County, South Carolina. On October 30, 1987, the Appellant was convicted in Charleston County, South Carolina of Accessory After the Fact of Murder and received a ten (10) year sentence. By Order dated January 27, 1988, the Parole Board revoked Appellant's parole because of the October 1987 conviction and ordered the Appellant "to serve the remainder of the original sentence imposed in the first instance; to run from the date of commitment until the final date of expiration of the maximum sentence." In May 25, 1992, a

Lexington County jury found the Appellant guilty of two counts of murder, one count of burglary in the first degree, two counts of armed robbery, kidnapping, first degree burglary and criminal conspiracy. The State Court Judge sentenced the Appellant to three life sentences on the murder and burglary charges, such that the Appellant would not be eligible for parole for thirty (30) years; twenty-five (25) years each for two armed robbery convictions to be served consecutively; and five (5) years for criminal conspiracy to be served consecutively.¹

In May 2003, the Appellant filed a grievance claiming entitlement to jail time for the period from April 6, 1987 until his sentencing on May 25, 1992 for the Lexington County charges.² After the Department conducted an audit, decision dated May 25, 2010 was issued giving the Appellant 206 days of jail credit for time spent in jail from April 7, 1987 to October 30, 1987. The Appellant appeals this determination.

STANDARD OF REVIEW

The Court's jurisdiction to hear this matter is derived from the decision of the South Carolina Supreme Court in Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). The Court's appellate jurisdiction in inmate appeals is limited to state created liberty interests typically involving: (1) cases in which an inmate contends that prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; and (2) cases in which an inmate has received punishment in a major disciplinary hearing as a result of a serious rule violation. Id.³

When reviewing the Department's decisions in inmate grievance matters, the Court sits in an appellate capacity. Id. at 377; 527 S.E.2d at 754. Consequently, the review in inmate grievance cases is limited to the record presented. See S.C. Code Ann. § 1-23-380(4) (as amended by 2008 S.C. Act No. 334) ("The review must be conducted by the court and must be

¹ Appellant filed an action for Post Conviction Relief (PCR) in Lexington County Circuit Court (Circuit Court) in 1995 regarding the sentence start date. The Circuit Court denied PCR relief in December 2002 as the issue was not proper as a PCR matter.

² It appears the Department did not initially handle the grievance properly, and thus it allowed the Appellant to refile his grievance.

³ In Sullivan v. S.C. Dep't of Corrections, 355 S.C. 437, 586 S.E.2d 124 (2003), the Supreme Court also found that other conditions of confinement could potentially implicate a state created liberty interest. However, those interests are "generally limited to freedom from restraint which. . . imposes atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life." Id. at 442, 586 S.E.2d at 126 (quoting Sandin v. Conner, 515 U.S. 472, 484 (1995)).

confined to the record . . .”); see also S.C. Code Ann. § 1-23-600(E) (as amended by 2008 S.C. Act No. 334) (directing administrative law judges to conduct appellate review in the same manner prescribed in § 1-23-380). 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) (as amended by 2008 S.C. Act No. 334). Furthermore, an Administrative Law Judge may not reverse or modify an agency’s decision unless substantial rights of the appellant have been prejudiced because the decision is clearly erroneous in view of the substantial evidence on the whole record, arbitrary or affected by an error of law. See Section 1-23-380(5); see also Marietta Garage, Inc. v. S.C. Dep’t of Pub. Safety, 337 S.C. 133, 522 S.E.2d 605 (Ct. App. 1999); S.C. Dep’t of Labor, Licensing and Regulation v. Girgis, 332 S.C. 162, 503 S.E.2d 490 (Ct. App. 1998).

DISCUSSION

Appellant contends that the Department erred by not granting him jail credit for the period of time when he was arrested for the crimes in Lexington County in April 1987 until his sentencing for those crimes in May 1992.

S.C. Code Ann. § 24-13-40 (2007), provides in pertinent part that:

In every case in computing the time served by a prisoner, full credit against the sentence shall be given for time served prior to trial and sentencing. ***Provided, however, that credit for time served prior to trial and sentencing shall not be given: . . . (2) when the prisoner is serving a sentence for one offense and is awaiting trial and sentence for a second offense in which case he shall not receive credit for time served prior to trial in a reduction of his sentence for the second offense.***

(emphasis added).

The South Carolina Court of Appeals stated in State v. Boggs, 388 S.C. 597, 696 S.E. 2d 597 (SC App. 2010) that Section 24-13-40 mandates prisoners receive credit for the time served prior to trial unless one of two exceptions exist with one of the exceptions being the prisoner is already serving a sentence on a different offense. Importantly, “[o]ur supreme court has defined ‘time served,’ as it is used in section 24-13-40, as ‘the time during which a defendant is in pre-trial confinement *and* charged with the offense for which he is sentenced (so long as he is not serving time for a prior conviction).” State v. Higgins, 357 S.C. 382, 384, 593 S.E.2d 180, 181 (Ct. App. 2004) (quoting Blakeney v. State, 339 S.C. 86, 88, 529 S.E.2d 9, 10-11 (2000)) (emphasis in original).

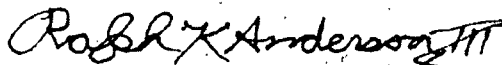
In the present action, Appellant was arrested for the Lexington County murders on April 6, 1987. Appellant was sentenced to ten years for a crime in Charleston County on October 30, 1987. Because the Appellant started serving his ten year sentence for Accessory After the Fact on October 30, 1987, the Appellant is not entitled to jail time served for the period from October 30, 1987 to May 25, 1992. It is undisputed that Appellant began serving his Charleston County sentence on October 30, 1987. In addition, the Appellant's parole was revoked on January 27, 1988, and the Appellant was ordered "to serve the remainder of the original sentence imposed in the first instance; to run from the date of commitment until the final date of expiration of the maximum sentence." Therefore, under Section 24-13-40, Appellant stopped accumulating pre-sentence jail credit on October 30, 1987.

CONCLUSION

The Department has given Appellant jail time credit for the period between his arrest for murder, burglary, kidnapping and conspiracy in Lexington County on April 6, 1987 and his sentencing for accessory after the fact in Charleston County on October 30, 1987. The Appellant was serving a sentence for accessory after the fact beginning October 30, 1987 while the Appellant was awaiting trial on multiple charges in Lexington County. It does not appear that Appellant was entitled to any additional pre-sentence jail credit. In this case, the Department awarded Appellant over six months of pre-sentence jail credit. Accordingly, the Court finds Appellant's appeal to be without merit.

ORDER

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



Ralph King Anderson, III
Administrative Law Judge

March 2, 2012
Columbia, South Carolina

STATE OF SOUTH CAROLINA
In The Administrative Law Court
Docket Number 10-ALJ-04-0637-AP

APPEAL OF FINAL DECISION
South Carolina Department of Corrections

THOMAS J. TORRENCE, APPELLANT

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, . . . RESPONDENT

EXHIBIT 1
(DOC Offender Summary, 5/29/1992)

5

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
OFFENDER SUMMARY

REPORT 1

INMATE NO: 94651

NAME: TORRENCE, THOMAS JOHN

***** PERSONAL/IDENTIFICATION DATA *****

ACE-----: WHITE	FBI NUMBER-----: 795396 P8
EX-----: MALE	BIRTH DATE-----: 12/10/58
HEIGHT-----: 5 FT 9 IN	RELIGION-----: ROMAN CATHOLIC
WEIGHT-----: 179	U.S. CITIZEN-----: CITIZEN - NATIVE BORN
EYE COLOR-----: BROWN	MARITAL STATUS-----: MARRIED
HAIR COLOR-----: BROWN	MEDICAL STATUS-----: NO PHYSICAL LIMITATIONS
SKIN TONE-----: RUDDY	SOCIAL SECURITY #---: ██████████
BODY BUILD-----: MEDIUM	DRIVER LIC # & ST---: NOT ON FILE
MARKS/SCARS---: SEE REPORT 5	AIMS GRP ASSIGNMENT: ALPHA I

***** DATA CURRENT AS OF: 05/29/92 *****

PRR STATUS---: INCARCERATED	TOTAL SENTENCE-----: 999 YRS 0 MOS 0 DYS
PRR INST.----: KCI	CURR SENT SERVING---: 999 YRS 0 MOS 0 DYS
PRR CUST LVL--: BL3	CURR SENT START-----: 05/25/92
PRR ASSIGN.---: CLERK	EWC JOB LEVEL-----: 03060
CAPE/ATTEMPT: SEE ESCAPE HISTORY	CURRENT LOCK-----: B20051B
D/WNT-DETAIN: YES, SEE REPORT 2	SCDC ADMIT DTE-----: 11/30/87
BTIM/WITNESS: NONE ON FILE	PROJ EWC-MAX-OUT---: 99/99/99
PRR CONV OVER 90 DYS---: 0	PROJ EWC FAR-ELIG---: 12/05/92
PRR CONV 90 DYS OR LESS: 6	WORK RELEASE ELIG---: 05/25/90

***** COMMITMENT INFORMATION *****

CURRENT OFFENSE	INCARC SENTENCE			CHAR	CNTS	SENT VIOL			CONS	SUSP	COMM
	YRS	MO	DYS			TYPE	IND	IND			
008 CRIMINAL CONSPIRACY NO PROBATION	5	0	0	F	1	ST	TIM	N	Y		LEXING
007 BURGLARY-1ST DEGREE NO PROBATION	999	0	0	F	1	ST	TIM	V	Y		LEXING
006 ARMED ROBBERY NO PROBATION	25	0	0	F	1	ST	TIM	V	Y		LEXING
005 MURDER NO PROBATION	999	0	0	F	1	ST	TIM	V	N		LEXING
004 ARMED ROBBERY NO PROBATION	25	0	0	F	1	ST	TIM	V	Y		LEXING
003 MURDER NO PROBATION	999	0	0	F	1	ST	TIM	V	N		LEXING
002 MURDER NO PROBATION	10	0	0	Z	1	ST	TIM	N	N		CHARLE
001 ARMED ROBBERY NO PROBATION	21	0	0	F	1	ST	TIM	V	N		CHESTE

STATE OF SOUTH CAROLINA
In The Administrative Law Court
Docket Number 10-ALJ-04-0637-AP

APPEAL OF FINAL DECISION
South Carolina Department of Corrections

THOMAS J. TORRENCE, APPELLANT

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, . . . RESPONDENT

EXHIBIT 3
(Supplemental Appendix to Petition for Writ of Certiorari
Volume VI (95-CP-32-2656) (excerpts))

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Lexington County

Honorable Ralph King Anderson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

THOMAS J. TORRENCE,

APPELLANT.

FINAL BRIEF OF APPELLANT

ROBERT M. DUDEK
Assistant Appellate Defender

South Carolina Office
of Appellate Defense
1122 Lady Street, Suite 940
Columbia, S. C. 29211
(803) 734-1330

ATTORNEY FOR APPELLANT.

point Delgado was representing appellant as appointed counsel. Delgado had earlier left the case because of appellant's inability to pay his fee. Dale DuTremble then represented appellant until he became a United States Attorney. Delgado was then appointed to represent appellant.

At this September 3, 1991 hearing, appellant's appointed counsel, Delgado, moved to be relieved on the following articulated basis: he had "three other death penalty cases, one of which is going to trial in Richland County on October 7, [and] I am counsel on two others, both which are in the appellate stages." ROA p. 32, lines 12-16. Delgado concluded, "I have not had the time to be able to do for Tom what he deserves." ROA p. 33, lines 6-7. Judge Eppes relieved Delgado as appellant's attorney.⁴ ROA p. 35, lines 6-12.

Appellant, pro se, argued his motion to dismiss for the long delay based upon the Sixth Amendment to the United States Constitution and the South Carolina Constitution. ROA p. 5, lines 18-24. Appellant, reading from his motion, told the judge, "in February of 1988, defendant was moved from Central Correctional Institution to Lexington County Jail for the purpose of trial by motion of the defendant's attorney and consent of the solicitor and

trial transcript. The September 3, 1991 hearing is referred to as "Supp. Tr."

⁴ Robert Theo Williams and William Rast were later appointed to represent appellant. The fact they requested a limited continuance at that late point, almost five years after appellant's arrest, and after Judge Eppes' ruling that appellant was not deprived of a speedy trial, is irrelevant. Judge Eppes' order, as will be seen infra, is the law of the case.

the administrative judge." Appellant then told the judge the following:

In May of 1988, defendant was returned to CCI, and one codefendant [Michael Torrence] was tried. In June of 1988, the other codefendant [Donna Torrence] was allowed to plead guilty to reduced charges.

Also, in June of 1988, defendant's attorney wrote the solicitor requesting a disposition of charges, thereby asserting defendant's right to trial.⁵ That's Exhibit B. Supp. Roa p. 44.

In August of 1989, defendant wrote attorney requesting contact with solicitor's office to reiterate plea of not guilty, again asserting right to trial.⁶ See Exhibit C and C-1. Supp. Roa p. 46-47.

In June of 1991, defendant appeared in court for a hearing requested by attorney to withdraw as counsel. Defendant previously wrote presiding judge requesting a speedy trial, among other requests. Trial judge said motion was not in proper form. That's Exhibit D. Defendant has letter from South Carolina Circuit Court Administration stating defendant could make motion in writing. That's Exhibit E.

An unquestionably substantial delay of four years and five months -- that will be on the 6th of this week -- five months has caused defendant to suffer extreme anxiety and prejudice; limited his possibility of defense, suffered severance of family and social contacts; limited possibility of impairing defense; limited ability to confer with potential defense witnesses or even keep track

⁵ In this letter, dated June 10, 1988, appellant's attorney, Dale Dutremble, told the solicitor "I have had this case for over a year and would like to dispose of it by plea or trial." ROA p. 44.

⁶ This letter actually is dated July 13, 1989. This is the same letter in which appellant stated his plea was not guilty and said he had no intention of ever pleading guilty.

of them, impaired memory and willingness of witnesses to testify for defense; loss of opportunity for concurrent sentence . . .

ROA p. 6, line 18 - p. 8, line 16. (emphasis added).

Appellant told the judge that his first attorney [Delgado] withdrew because his parents were having problems paying his fee. ROA p. 8, lines 17-25. Appellant said his next attorney, Dale Dutremble, was assigned to represent him but then went to work as a U.S. attorney. Delgado was then reappointed to represent appellant "because he was familiar with the case." ROA p. 9, lines 1-8.

Appellant apparently was served with a Notice of Intent to Seek the Death Penalty just before this September 3, 1991 hearing. ROA p. 3, lines 9-16. In a colloquy with the judge that spans over seventeen pages of the transcript, appellant discussed the case law surrounding the constitutional right to a speedy trial. ROA p. 9, line 10 - p. 26, line 4.

The solicitor then told the judge that appellant and his brother were charged with two murders, kidnapping, and other related charges. ROA p. 27, lines 1-4. He said, "[w]e had intended, in the middle of 1988, to try both defendants together, and that's what we wanted to do. But, you know, the Supreme Court has said very clearly that the state should not try two people at one time now when both of them are facing the death penalty. So that was the problem back in '88 . . ." ROA p. 35, lines 14-20. The solicitor added:

We tried the brother, Mike Torrence, in 1988, and the jury returned a death penalty verdict.

That case had several novel issues in death penalty law in South Carolina which would apply to this case. So it was the feelings of the parties involved that there's no use to go ahead into the case against Tom Torrence without some guidance on the case with the Supreme Court on Michael Torrence.

ROA p. 27, line 22 - p. 28, line 4.

The solicitor urged that there were some negotiations regarding a possible "thirty year life" sentence "that didn't pan out." ROA p. 28, lines 5-22. The solicitor also cited the "legal technicalities" involved in the Michael Torrence case and the fact that "Mr. Delgado was going to make a motion to be relieved of counsel in this case for Thomas Torrence" as explanations for the delay. ROA p. 29, lines 14-17.

The solicitor then mentioned that, at a hearing before Judge Baggett, appellant said he "wanted Judge Baggett removed from the case because he had appointed two lawyers at two different times by judges of the eleventh judicial circuit, both of which, in his opinion, were ineffective and not conducive to the betterment of his case." This was in June of 1991. Addendum to Supp. Roa, p. 12. The solicitor said Judge Baggett told appellant to bring the matter to this Court's attention. The solicitor added that this Court then instructed that "this matter be brought back down on the Circuit Court level to iron out the attorney conflict." ROA p. 30, lines 4-8.

Responding to the solicitor's remarks, appellant said "I just want to point out that my brother Michael and I are two separate individuals. Now, what the Supreme Court is doing on his case has

CHECKLIST FOR MAGISTRATES AND MUNICIPAL JUDGES TO BE USED IN CRIMINAL CASES IN WHICH AN ARREST WARRANT HAS BEEN ISSUED (INCLUDING TRAFFIC CASES)

The checklist is to be used in all criminal cases on which action is taken pursuant to an arrest warrant (including traffic cases), whether triable in Municipal, Magistrate or General Sessions Court. The checklist should be used in compliance with the Orders of the Chief Justice. The checklist should be used only in those cases where an arrest warrant is issued, not in traffic cases where a Uniform Traffic Ticket is used. The checklist should be attached to every arrest warrant at the time of the bail proceeding or first appearance of the defendant before a magistrate or municipal judge.

The checklist should be retained in the office of the judge for three (3) years, at the end of which time it may be detached from the warrant, and disposed of. It should be transmitted to the Clerk of Court in cases for trial in the circuit court and should be transmitted to the Clerk of Court in appeals.

Judge C. JONES County LEXINGTON Warrant No(s) B-78879
State v. THOMAS J. TORRENCE Offense(s) MURDER

I. BOND PROCEEDING AND CONDITIONS OF BOND (For Non-Bailable Offenses, Proceed to Section II).

1. Date of bond proceeding C
2. Was the defendant informed in person by the judge that he would be ordered released pending trial on his own recognizance without surety in the amount specified by the court, unless the court determined in its discretion that such a release would not reasonably assure the appearance of the defendant as required or unreasonable danger to the community would result? Yes No
3. In determining the conditions of release did the court take into account: the nature and circumstances of the crime charged, the defendant's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions, and any record of flight to avoid prosecution, or failure to appear at other court proceedings? Yes No
4. Which Bail Proceeding form was used? Form 1 Form 2
5. The defendant was informed that he must appear at _____ [place of trial or appearance] on _____, 19____ [date of trial or appearance].
6. In cases within the trial jurisdiction of the circuit court, the defendant was informed orally of his right to a preliminary hearing. Yes No
7. In cases within the trial jurisdiction of the circuit court, the defendant was informed in writing of his right to a preliminary hearing and was furnished a Request for Preliminary Hearing Form (SCCA PH-1).
Yes No

II. FIRST APPEARANCE OF DEFENDANT FOR NON-BAILABLE OFFENSES

8. Date of first appearance 4-7-87
9. In cases within the trial jurisdiction of the circuit court, the defendant was informed orally of his right to a preliminary hearing. Yes No
10. In cases within the trial jurisdiction of the circuit court, the defendant was informed in writing of his right to a preliminary hearing and was furnished a Request for Preliminary Hearing Form (SCCA PH-1).
Yes No

III. RIGHTS OF THE DEFENDANT

11. The Defendant was informed that he has a right to a trial by jury, as provided in the Sixth Amendment to the United States Constitution, and Article I, Section 14 of the South Carolina Constitution.
Yes No
12. The Defendant was informed that pursuant to the Fifth Amendment to the United States Constitution, he has the right to remain silent, and that anything he says can be used against him in a court of law.
Yes No
13. The Defendant was informed that he has the right to talk to a lawyer and have a lawyer present at any time during interrogation or questioning by law enforcement officers. Yes No

following defendant:

Thomas John Torrence

on the 6 day of Apr, 1987

W. T. Sewe
Signature of Constable or Law Enforcement Officer

This warrant is certified for service in
County _____ (Circle one)
Municipality _____ (Circle one)

The accused is to be arrested and brought before me to be dealt with according to law.

Signature of Judge _____ (L.S.)

PRELIMINARY HEARING held by

Judge Keloy Stabler
on Apr 8, 1987
with John Pelgado
Attorney for Defendant

Decision: Bondover
BAIL

Date Set _____, 19____

Judge _____

Amount _____

Surety A TRUE COPY

W. T. Sewe
Lex. Co. C.C.C.P., G.S. & F.C.

No. B 788792

STATE OF SOUTH CAROLINA

LEXINGTON County (Circle one)
Municipality

THE STATE

against

THOMAS JOHN TORRENCE

Address: 1612 Acacia St.
Charleston, S.C.

Phone _____ SSN _____

Sex M Race W Height 510 Weight 170

DOB 12-10-58 DL _____

Offense MURDER

Code (or Ordinance) § _____

Date of Offense 2-11-87

Officer _____

Agency _____

Date of Disposition _____

Disposition _____

Sentence _____

Co-Defendants _____

Address FILED

Phone _____

Name APR 0 3 40 PM '87

Address _____

Phone 41

Name _____

Address _____

Phone 5092

Name _____

Address _____

Phone _____

Name _____

Address _____

Phone _____

CLERK OF COURTS
LEXINGTON, S.C.
JUN 3 6 23 AM '87

FILED

JURORS
A TRUE COPY

W. T. Sewe
Lex. Co. C.C.C.P., G.S. & F.C.

Entered 4-13-87
Page 4/1
Comp
Chevler
County, S.C.

FIRST APPEARANCE HEARING

Date 4/6 1986

Nature of charges:

- 1. Do you understand charges and penalties? Yes No
- 2. You have right to remain silent, and that anything you say can be used against you in a court of law. *yes.*
- 3. You have the right to talk to a Lawyer and have a Lawyer present during interrogation or questioning by Law Enforcement Officers. *yes*
- 4. If you would like to be represented by a Lawyer and cannot afford one, a Lawyer will be appointed to represent you. *yes*
- 5. You have a right to a Preliminary Hearing?
(And was given a form) Yes No
- 6. You have a right to bail hearing before a Circuit Court Judge. You may wish to consult with a Lawyer before this hearing.
- 7. Do you request a bail to be set in your case? Yes No

APR 7 3 44 AM '86
FILED

[Signature]
Judge

4/6/87
Date

Thomas J. Tolence
Defendant

- Administrative Judge
- for 11th Judicial Circuit
- Public Defender
- Defendant's Attorney (if any)
- Solicitor's Office
- Clerk of Court

2659

15 A TRUE COPY
[Signature]
Lex. Co. C.C.C.P., G.S.

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF Charleston)

ACCESSORY AFTER THE FACT OF MURDER

At a Court of General Sessions, convened on _____,

the Grand Jurors of Charleston County present upon their oath:

That Thomas Torrence did in Charleston County on or about the 28th day of March 1987, knowing that Michael R. Torrence had murdered Cynthia Williams, did assist him after the fact by disposing of the body all in an attempt to aid him in escaping punishment.

ATTEST TRUE COPY
CLERK OF COURT (SEAL)
DEPUTY CLERK

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Charles Molony Cor
SOLICITOR

Charles Molony Cor)

STATE OF SOUTH CAROLINA

ARREST WARRANT

COUNTY OF Charleston

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF Charleston, AND ANY CONSTABLE OF THIS MAGISTERIAL DISTRICT:

It appearing from the attached affidavit that there are reasonable grounds to believe that [name of defendant]:

Thomas John Torrence SCSID# 00121646

did on the 30 day of October, 19 87,
violate the criminal laws of the State of South Carolina as set forth below:

DESCRIPTION OF OFFENSE

Violation of parole pursuant to Section 24-21-680.

Now, therefore, you are empowered and directed to arrest the said defendant and bring Thomas John Torrence before me forthwith to be dealt with according to law.

A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Done at Charleston, S. C. this 30 day of October, 19 87.

Karyn F. Malloy (L.S.)
Signature of Probation and Parole Agent
Karyn F. Malloy

STATE OF SOUTH CAROLINA

AFFIDAVIT RECEIVED
OCT 1 1988

COUNTY OF Charleston

Central Records Office

Personally appeared before me, one Karyn F. Malloy
who, first being duly sworn, deposes and says that [name of defendant]
Thomas John Torrence

did within this County and State on the 30 day of October, 19 87, violate
the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE

Parole violation concurrent to Section 24-21-680 in that the parolee herein named has
violation the conditions of his or ~~her~~ parole agreement as approved by the S.C. Parole
and Community Corrections Board on the 23 day of January 1985 and accepted by the
above named parolee on the 23 day of January 1985.

The Affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that
such probable cause is based on the following facts:
Failure to refrain from carrying a concealed weapon during the period of his parole. Failure
to pay supervision fee. (Subject owes \$120.00). By Failure to refrain from the violation of
any state, federal, or municipal law. on October 30, 1987, subject was convicted of
accessory after the fact of murder and received a ten (10) year sentence in
Charleston County General Sessions Court
Such actions constitute violation of conditions 8, 10, and 12 of his original parole agreement.

Sworn to and Subscribed before me
this 31 day of Sept, 19 87.

Claudia M. [Signature] (L.S.)
Signature of Notary Public

My Commission Expires April 2, 1988

Karyn F. Malloy
Karyn F. Malloy Affiant
Address PO Box 2277
Charleston, S.C. 29403
Phone 724-6700

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

IN THE COURT OF GENERAL SESSIONS

IND# 87-GS-32-1418

ARRAIGNMENT

#3

A.W.# B 788 792

THE DEFENDANT _____ IS PUT TO THE
BAR AND ARRAIGNED, AND UPON HIS/HER ARRAIGNMENT PLEADS GUILTY AS CHARGED.

ATTEST:

JOHN A. BEARDEN, CLERK OF COURT
LEXINGTON COUNTY

DEFENDANT
DATE SIGNED _____

Verdict: Guilty

*** SENTENCE ***

THE DEFENDANT Chamara John Corrence IS COMMITTED
TO THE STATE DEPT. OF CORRECTIONS For and during the balance of
his natural life. Specifically, a life sentence is imposed.

The jury found aggravating
circumstances, therefore the defendant will not
be eligible for parole for 30 years.

YES / NO

PROPERTY DAMAGE \$ _____

TO BE PAID _____

TO THE CLERK OF COURT FOR _____

OTHER CONDITIONS No Parole for 30 years

DATE May 25, 1992

*COST AND ASSESSMENTS

NON-WAIVABLE \$ _____

NOT WAIVED \$ _____

TOTAL \$ 40.00

**PAY TO VICTIM'S COMPENSATION FUND IF SUBROGATED

DATE 5-25-92

PRESIDING JUDGE

JOHN A. BEARDEN, CLERK OF COURT
LEXINGTON COUNTY

TRUE COPY

WHITE (CLERK OF COURT) YELLOW (JAIL) PINK (PROBATION) GOLD (DEFENDANT)

18

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)
IND# 87-GS-32-1422)
A.W.# B 788791)

United Negro College
IN THE COURT OF L E R A L S E S S I O N S
A R R A I G N M E N T

#4

THE DEFENDANT _____ IS PUT TO THE
BAR AND ARRAIGNED, AND UPON HIS/HER ARRAIGNMENT PLEADS GUILTY AS CHARGED.

ATTEST:

JOHN A. BEARDEN, CLERK OF COURT
LEXINGTON COUNTY

DEFENDANT _____
DATE SIGNED _____

Verdict: Guilty

*** S E N T E N C E ***

THE DEFENDANT Thomas John Torrence IS COMMITTED
TO THE STATE DEPT. OF CORRECTIONS/ ~~30~~ FOR A TERM OF 25 YEARS.

This is a consecutive sentence.

This is a consecutive sentence.

RESTITUTION FOR PHYSICAL INJURY \$ _____

YES / NO PROPERTY DAMAGE \$ _____

TO BE PAID _____

TO THE CLERK OF COURT FOR _____

OTHER CONDITIONS *This sentence is consecutive to any
other sentence imposed today and consecutive to any
other sentence that defendant is presently serving.*

DATE May 25, 1992
*COST AND ASSESSMENTS
NON-WAIVABLE \$ _____
NOT WAIVED \$ _____
TOTAL \$ 40.00

PRESIDING JUDGE
John A. Bearden
JOHN A. BEARDEN, CLERK OF COURT
LEXINGTON COUNTY

A TRUE COPY

**PAY TO VICTIM'S COMPENSATION FUND IF SUBROGATED:

SA DATE 5-25-92

John A. Bearden
Lex. Co. C.C.C.P., G.S. & F.C.

WHITE (CLERK OF COURT) YELLOW (JAIL) PINK (PROBATION) GOLD (DEFENDANT)

19

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

Richardson
IN THE COURT OF GENERAL SESSIONS

ARRAIGNMENT

IND# 87-GS-32-1425

A. W. # _____

THE DEFENDANT _____ IS PUT TO THE
BAR AND ARRAIGNED, AND UPON HIS/HER ARRAIGNMENT PLEADS GUILTY AS CHARGED.

ATTEST:

JOHN A. BEARDEN, CLERK OF COURT
LEXINGTON COUNTY

DEFENDANT
DATE SIGNED _____

Verdict: Guilty *** SENTENCE ***

THE DEFENDANT Thomas John Jarrence IS COMMITTED
TO THE STATE DEPT. OF CORRECTIONS/COUNTY FOR A TERM OF _____ MONTHS/YEARS
AND/OR TO PAY A FINE OF \$ _____; PROVIDED UPON THE SERVICE OF
_____ MONTHS/YEARS AND /OR PAYMENT OF \$ _____ PLUS PAY/WAIVE COST AND
ASSESSMENTS AS APPLICABLE*, THE BALANCE IS SUSPENDED WITH PROBATION FOR
_____ MONTHS/YEARS.

RESTITUTION FOR PHYSICAL INJURY \$ _____
YES / NO PROPERTY DAMAGE \$ _____

TO BE PAID _____

TO THE CLERK OF COURT FOR

OTHER CONDITIONS

*No sentence allowed
under the law since defendant
found guilty of murder.*

DATE 5/25/92
*COST AND ASSESSMENTS
NON-WAIVABLE \$ _____

PRESIDING JUDGE

NOT WAIVED \$ _____

John A. Bearden
JOHN A. BEARDEN, CLERK OF COURT
LEXINGTON COUNTY

TOTAL \$ _____

**PAY TO VICTIM'S COMPENSATION FUND IF SUBROGATED

TRUE COPY

JA DATE 5-25-92

WHITE (CLERK OF COURT)

YELLOW (JAIL)

PINK (PROBATION)

GREEN (SOLICITOR GENERAL)

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

IN THE COURT OF GENERAL SESSIONS

ARRAIGNMENT

IND# 87-GS-32-1427

#5

A.W.# 0546383

THE DEFENDANT _____ IS PUT TO THE
BAR AND ARRAIGNED, AND UPON HIS/HER ARRAIGNMENT PLEADS GUILTY AS CHARGED.

ATTEST:

JOHN A. BEARDEN, CLERK OF COURT
LEXINGTON COUNTY:

DEFENDANT
DATE SIGNED _____

Verdict: Guilty *** SENTENCE ***
THE DEFENDANT Thomas John Lawrence IS COMMITTED
TO THE STATE DEPT. OF CORRECTIONS for and during the balance of
his natural life. Specifically, a life sentence is imposed.

The Jury found aggravating circumstances
therefore, the defendant will not be eligible for parole
for 30 years

YES / NO _____ PROPERTY DAMAGE \$ _____

TO BE PAID _____

TO THE CLERK OF COURT FOR _____ **

OTHER CONDITIONS No parole for 30 years

DATE May 25 1992 _____

*COST AND ASSESSMENTS
NON-WAIVABLE \$ _____

NOT WAIVED \$ _____

TOTAL \$ 40.00 _____

**PAY TO VICTIM'S COMPENSATION FUND IF SUBROGATED.

SA _____ DATE 5-25-92

21

WHITE (CLERK OF COURT) YELLOW (JAIL) PINK (PROBATION) GOLD (DEFENDANT)

TRUE COPY

John A. Bearden
JOHN A. BEARDEN, CLERK OF COURT
LEXINGTON COUNTY

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

United in unity
IN THE COURT OF GENERAL SESSIONS

IND# 87-GS-32-1432)
A.W.# B 546384)

ARRAIGNMENT

#6

THE DEFENDANT _____ IS PUT TO THE
BAR AND ARRAIGNED, AND UPON HIS/HER ARRAIGNMENT PLEADS GUILTY AS CHARGED.

ATTEST:

JOHN A. BEARDEN, CLERK OF COURT
LEXINGTON COUNTY

DEFENDANT
DATE SIGNED _____

Verdict: Guilty

*** SENTENCE ***

THE DEFENDANT Thomas John Tarrence IS COMMITTED

TO THE STATE DEPT. OF CORRECTIONS _____ FOR A TERM OF 25 YEARS.
THIS IS A CONSECUTIVE SENTENCE.

~~_____~~ *This is a consecutive sentence.*

RESTITUTION FOR PHYSICAL INJURY \$ _____

YES / NO PROPERTY DAMAGE \$ _____

TO BE PAID _____

TO THE CLERK OF COURT FOR _____ **

OTHER CONDITIONS This sentence is consecutive to any

other sentence imposed today and consecutive to any
other sentence that defendant is presently serving.

DATE May 25, 1992

*COST AND ASSESSMENTS
NON-WAIVABLE \$ _____

PRECIDING JUDGE _____

NOT WAIVED \$ _____

John A. Bearden
JOHN A. BEARDEN, CLERK OF COURT
LEXINGTON COUNTY

TOTAL \$ 40.00

TRUE COPY

**PAY TO VICTIM'S COMPENSATION FUND IF SUBROGATED.

SA DATE 5-25-92

John A. Bearden
Lex. Co. C.C.C. 22

WHITE (CLERK OF COURT) YELLOW (JAIL) PINK (PROBATION) GOLD (DEFENDANT)

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

IN THE COURT OF GENERAL SESSIONS

IND# 87-GS-32-1433

ARRAIGNMENT

#7

A.W.# B546389

THE DEFENDANT _____ IS PUT TO THE
BAR AND ARRAIGNED, AND UPON HIS/HER ARRAIGNMENT PLEADS GUILTY AS CHARGED.

ATTEST:

JOHN A. BEARDEN, CLERK OF COURT
LEXINGTON COUNTY

DEFENDANT _____
DATE SIGNED _____

Verdict: Guilty *** SENTENCE ***
THE DEFENDANT Thomas W. Wrence IS COMMITTED
TO THE STATE DEPT. OF CORRECTIONS for and during the balance of
his natural life. Specifically, a life sentence is imposed.
this sentence is consecutive.

This is a Consecutive Sentence.

RESTITUTION FOR PHYSICAL INJURY \$ _____

YES / NO PROPERTY DAMAGE \$ _____

TO BE PAID _____

TO THE CLERK OF COURT FOR

OTHER CONDITIONS This sentence is consecutive to any sentence
imposed today and consecutive to any sentence that the
defendant is presently serving.

DATE May 25 1992

[Signature]
PRESIDING JUDGE

*COST AND ASSESSMENTS
NON-WAIVABLE \$ _____

NOT WAIVED \$ _____

TOTAL \$ 40.00

[Signature]
JOHN A. BEARDEN, CLERK OF COURT
LEXINGTON COUNTY

TRUE COPY

**PAY TO VICTIM'S COMPENSATION FUND IF SUBROGATED.

SA

DATE 5-25-92

[Signature] **23**
Lex. Co. C.C.C.P., G.

WHITE (CLERK OF COURT) YELLOW (JAIL) PINK (PROBATION) GOLD (DEFENDANT)

*PHOTO
CAPTION
DEPT. OF CORRECTIONS
MAY 25 1992*

Criminal Conspiracy

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

IN THE COURT OF GENERAL SESSIONS

ARRAIGNMENT

#8

IND# 88-GS-32-666

N 3-10-93

94651 #

A.W. # _____

P 11-5-89

THE DEFENDANT _____ IS PUT TO THE BAR AND ARRAIGNED, AND UPON HIS/HER ARRAIGNMENT PLEADS GUILTY AS CHARGED.

ATTEST:

JOHN A. BEARDEN, CLERK OF COURT
LEXINGTON COUNTY

DEFENDANT
DATE SIGNED _____

Verdict: Guilty

*** SENTENCE ***

THE DEFENDANT *Thomas John Torrence* IS COMMITTED TO THE STATE DEPT. OF CORRECTIONS ~~FOR~~ FOR A TERM OF *5* YEARS.

This sentence is consecutive.

~~AND/OR TO THE STATE DEPT. OF CORRECTIONS FOR A TERM OF _____ MONTHS/YEARS.~~

~~AND/OR TO THE STATE DEPT. OF CORRECTIONS FOR A TERM OF _____ MONTHS/YEARS.~~ *This is a consecutive sentence.*

RESTITUTION FOR PHYSICAL INJURY \$ _____
YES / NO PROPERTY DAMAGE \$ _____
TO BE PAID _____

RECEIVED
MAY 27 AM 8 13
OFFICE
ALL RECORDS

TO THE CLERK OF COURT FOR

OTHER CONDITIONS *This sentence is consecutive to any sentence imposed today and consecutive to any sentence that the defendant is presently serving.*

DATE *May 25 1992*
*COST AND ASSESSMENTS
NON-WAIVABLE \$ _____
NOT WAIVED \$ _____
TOTAL \$ *40.00*

John A. Bearden
PRESIDING JUDGE
JOHN A. BEARDEN, CLERK OF COURT
LEXINGTON COUNTY

**PAY TO VICTIM'S COMPENSATION FUND IF SUBROGATED

JA

DATE *5-25-92*

John A. Bearden
Lex. Co. C.C.C.P., G.S. & F.C.

TRUE COPY

24

WHITE (CLERK OF COURT) YELLOW (JAIL) PINK (PROBATION) GOLD (DEFENDANT)

MAY 26 1992

FILED

SOUTH CAROLINA DEPARTMENT OF PAROLE AND COMMUNITY CORRECTIONS BOARD
Columbia, SC

T. Taylor
1 Feb 88

ORDER OF PAROLE REVOCATION

2-10/30/93
7-4/30/90

NO:00121646

SCDC: 94651

WHEREAS Thomas Torrence was granted a parole on the 23rd day of January, 1985 by the S. C. Department of Parole and Community Corrections Board, said parole being conditioned upon the compliance of the Parolee with the following conditions, as agreed to by said Parolee on the 23rd day of January, 1985.

1. I shall report immediately upon arrival at my destination to the Parole Agent under whose supervision I am paroled, either by mail, telephone or personal visit.
2. I shall not change my residence or employment or leave the State without first procuring the consent of my Parole Agent.
3. I shall, each month until my final release, make a full and truthful report to the South Carolina Department of Parole and Community Corrections Board as instructed to do so by my supervising Parole Agent.
4. I shall not use narcotic drugs, except when properly prescribed by a licensed physician.
5. I shall not use alcoholic beverages to excess and will not visit places of bad reputation where alcoholic beverages are sold and/or used.
6. I shall avoid injurious habits and shall not associate with persons of bad reputation or harmful character.
7. I shall in all respects conduct myself honorably, work diligently at a lawful occupation, and support my dependents, if any, to the best of my ability.
8. I shall refrain from the violation of any Federal, State or Municipal Penal Law.
9. I hereby waive all extradition rights and process and agree to return when said Board directs.
10. I shall not, during the period of my parole, carry a concealed weapon and will not purchase or use any weapon.
11. I shall promptly and truthfully answer all inquiries directed to me by the State Board and my Parole Agent and allow him to visit me at my home, employment site or elsewhere, and carry out all instructions he gives.
12. In accordance with the Appropriation Act of 1985, as passed by the General Assembly, I shall pay a supervision fee of \$240 per year except for any period(s) of intensive supervision during which the fee will be \$10 per week.

IT NOW APPEARS to the South Carolina Department of Parole and Community Corrections Board that the said Parolee, Thomas Torrence, has violated the terms of his Parole by failing to refrain from carrying a concealed weapon during the period of his parole; by failing to refrain from the violation of any state, federal, or municipal law. (On October 30, 1987, subject was convicted of Accessory After the fact of Murder and received a ten (10) year sentence in Charleston County General Sessions Court); by failing to pay supervision fee. (Subject owes \$120.00).

Such actions constitute violation of conditions 8, 10, and 12 of his original parole agreement.

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FEB 1 1988

Central Records Office

IN CONSEQUENCE WHEREOF the South Carolina Department of Parole and Community Corrections Board, under authority vested in said Board by virtue of Acts 547 and 571 of the Acts of the General Assembly, 1941 (as amended), does hereby declare the parole of Thomas Torrence revoked this 27th day of January, 1988 and herein orders the return of said violator, Thomas Torrence, to the SC Department of Corrections to serve the remainder of the original sentence imposed by the Court in the first instance; to run from date of commitment until the final date of expiration of the maximum sentence.

By the authority provided in Section 24-21-30 of the 1976 Code as amended, this revocation is enacted by the unanimous vote of a three (3) member panel of the South Carolina Parole and Community Corrections Board.

ORDERED THIS 27th DAY OF January, 1988.

J.R. Jackson
Chairman

James M. Neal

Lee Patterson

RECEIVED
FEB 1 1988

Received copy this 27 day of Jan, 1988.

Central Records Office

Roger Watson
Agent

Thomas J. Torrence
Parolee

25

CERTIFICATE OF PRO SE COUNSEL

The undersigned certifies that this Record on Appeal complies with Rule 210(g), SCACR, contains all material proposed by the parties to be included in the ROA, and does not contain any matter not relevant to the appeal.

A handwritten signature in cursive script, reading "Thomas J. Torrence", written over a horizontal line.

Thomas J. Torrence

#094651

Lieber Corr. Inst.

P.O. Box 205

Ridgeville, SC 29472-0205

October 1, 2012

RECEIVED

OCT 05 2012

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Honorable Ralph K. Anderson, III, Administrative Law Judge

Appellate Case No. 2012-210767
Case No. 10-ALJ-04-0637-AP

Thomas J. Torrence, #094651 APPELLANT


v.

S.C. Department of Corrections RESPONDENTS

CERTIFICATE OF SERVICE

The undersigned *pro se* Appellant hereby certifies that he has served a true and correct copy of Appellant's Final Brief and Record on Appeal on counsel for Respondents, Christopher Florian, Esq., by depositing a copy of same in the U.S. Mail, first-class postage affixed thereto, this 2nd day of October, 2012, addressed as follows:

Christopher Florian, Esq.
Office of General Counsel
South Carolina Department of Corrections
P.O. Box 21787
Columbia, SC 29221-1787


Thomas J. Torrence
#094651
Lieber Corr. Inst. SA-43
P.O. Box 205
Ridgeville, SC 29472-0205
APPELLANT, *pro se*