

Court of Appeals
South Carolina

Cornie Morris, Appellant
v

S.C. Dept of Prob, Parole, Pardon

Respondent

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MAR 05 2019

SC Court of Appeals

Appellate Case No. 2017-001063

Unpublished Op. No. 2019-UP-093

Filed February 20, 2019

Petition For Rehearing

Appellant in the above entitled case respectfully Petition this Honorable Court for Rehearing on the attached Order. (case) The appellant would show this Honorable Court that points were overlooked and misapprehended. There was a misrepresentation of the factual predicate and interpretation by this Court of the specific statute §16-11-330(A)

Petitioner request that this Honorable Court reverse and/or modify their decision because the finding, conclusion, and decision is: (1) in violation of South Carolina statutory provisions § 16-11-330(A) Act No. 441 subsection 1 in 1996. (2) in excess of the statutory authority of the agency; (3) affected by other error of law; interpretation clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record and clearly, unwarranted exercise of discretion. See § 16-11-330(A)

South Carolina Code of laws armed robbery statute 16-11-330(A) has always had a mandatory minimum service of 7 years before being eligible for parole, even after § 24-13-100 was enacted in 1995.

Petitioner would request this Court to rehear this matter because Appellant

was convicted of armed robbery in Spartanburg County on July 9, 2009 and sentenced to 38 years. Appellant recognized that under the § 16-11-330(A) and the decisions in Fowler v. SCDC, opinion 2015-UP-517 and Bolin v. SCDC, opinion 5361 held that a sentence cannot be 85% and parole eligible.

It is undisputed that the question whether any ambiguity should be resolved for or against the SCDPSS can only have one answer which points clearly to an interpretation that favors the Appellant. This case will not require breaking new ground because the legislative intent of S.C. Code Ann 16-11-330(A) is controlling.

When cases pertaining to 85% or parole eligibility, as in the case at bar, the South Carolina Court of Appeals has made it abundantly clear that they are not amending the term "No Parole Offense," just if it states differently by statute a prisoner can be eligible for parole, as in the case at bar.

where two statutes are in conflict, the more recent and specific statute should prevail so as to repeal the earlier, general statute, Hodges v. Fairney, id at 533 S.E.2d at 581

General statute 24-13-100 became law by way of Act No. 83 subsection 1 in 1995. Specific statute 16-11-330(A) which is controlling was amended by way of Act No. 441 subsection 1 in 1996. There is a conflict between the two statutes 24-13-100 and 16-11-330(A) because the appellant was convicted of armed robbery in 2009. Clearly, § 16-11-330(A) is controlling.

If a statute's language is plain and unambiguous, and conveys a clear and definite meaning, there is no need to employ rules of statutory interpretation and the court has no right to look for or impose another meaning. Courts should seek a construction that gives effect to every word of a statute rather than adopting an interpretation that renders a portion meaningless.

It is unreasonable to characterize an offense for which the offender is eligible for parole, as a No Parole offense pursuant to section 24-13-100, even if the maximum sentence for the offense places it within a classification encompassed by section 24-13-100. The definition of No Parole 24-13-100 conflicts with the legislative intent of the Act to exempt armed robbery under 16-11-330(A) from all consequences of No-Parole offense.

Words in a statute 16-11-330(A) must be given their plain and ordinary meaning without resorting to subtle or forced construction which limits or expands the statute's operation.

statute 24-13-150 does not apply to this case also because 24-13-100 is not applicable. Statute 24-13-560 does not apply to this case because Appellant has never been convicted of a violent crime, so therefore 24-21-64 does not apply also.

Two cases that are directly on point are Bolin v. SCDC, 781 SE2d 914 and Fowler v. SCDC, 2015 WL 7075488 in which this Honorable Court addressed the contentions identical to this case.

It is beyond dispute that this Honorable Court can prove no set of facts in support of their claims to deny Appellant parole eligibility and a hearing after a thorough review of the timeline of the general statute 24-13-100 and the specific statute 16-11-330A.

Appellant is requesting this Court to reverse its previous judgment and grant relief or whatever this Court deems necessary.

Appellant emphasizes that no other South Carolina Code of Law statute provide for parole in the specific statute as 16-11-330A do. This is because the parole provisions were removed through amendments. The appellant further emphasizes that the legislature would have removed the parole provision

from the specific statute 16-11-330(A)
if it was not intended to provide that
those convicted of this offense to be
eligible for parole .

Conclusion

Based on the foregoing reasons,
the appellant respectfully request
the decision of SCIDPPS and Administrative
Law Court be vacated and a parole
hearing be granted to the Appellant in
45 days

Conrad Morris
2-25-19

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Carnie Norris, Appellant,

v.

South Carolina Department of Probation, Parole and
Pardon Services, Respondent.

Appellate Case No. 2017-001063

Appeal From The Administrative Law Court
S. Phillip Lenski, Administrative Law Judge

Unpublished Opinion No. 2019-UP-093
Submitted January 1, 2019 – Filed February 20, 2019

AFFIRMED

Carnie Norris, pro se.

Tommy Evans, Jr., of the South Carolina Department of
Probation, Parole, and Pardon Services, of Columbia, for
Respondent.

PER CURIAM: Affirmed pursuant to Rule 220(b), SCACR, and the following
authorities: *See S.C. Dep't of Corr. v. Mitchell*, 377 S.C. 256, 258, 659 S.E.2d 233,
234 (Ct. App. 2008) ("Section 1-23-610 of the South Carolina Code ([Supp. 2018])
sets forth the standard of review when the court of appeals is sitting in review of a

State of South Carolina
In The Court of Appeals

2017-001063

2019-UP-093

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SC Court of Appeals

Carrie Morris, Appellant

vs

S.C. Dept of Prob, Parole, Pardon, Respondent

Certificate of Service

I, Carrie Morris #227226 certify that I have served the within Petition for Rehearing on the Respondent's by depositing a copy in the Perry mailroom hands for mailing addressed as follows:

Tommy Evans, Jr. Esq.

Dept of PPPS

2221 Devine St. P.O. Box 50666

Columbia, S.C. 29250

I, Carrie Morris #227226 certify and verify under the penalty of perjury that the foregoing is true and correct.

(8) Carrie Morris 2/25/19

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FEB 28 2019

P.C.I. MAILROOM

Clerk

S. C. Court of Appeals

P.O. Box 11629

1250 Senate St.

Columbia, S.C. 29201

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