

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Judge Ralph K. Anderson, III
Case No. 18-ALJ-15-0008-AP

Thomas Thompson #80681 - - - - - Appellant

v.

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

RECEIVED
DEC 31 2018
SC Court of Appeals

Appellate Case No. 2018-001557

RECORD ON APPEAL

Tommy Evans, Jr.
Assistant General Counsel

**South Carolina Department of Probation,
Parole and Pardon Services
P.O. Box 50666
Columbia, South Carolina 29250**

Thomas Thompson #80681
Pro Se Litigant
Tyger River CI 1-225B
200 Prison Road
Enoree, S.C. 29335

APPELLANT

December 26, 2018

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State of South Carolina
Department of Probation, Parole and Pardon Services

ROA-1

HENRY McMASTER
Governor



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January 31, 2018

Mr. Thomas Thompson #00080681
Tyger River
200 Prison Road
Enoree, SC 293359309

RE: NOTICE OF REJECTION

Dear Mr. Thompson:

It is my responsibility to inform you, on behalf of the South Carolina Parole Board, that the Board has reached a decision regarding your parole hearing. The Board hereby makes the following CONCLUSION OF LAW:

After careful consideration of: (1) the characteristics of your current offense(s), prior offense(s), prior supervision history, prison disciplinary record, and/or prior criminal record, as described in the findings of fact below; (2) the factors published in Department Form 1212 (Criteria for Parole Consideration); (3) the factors outlined in Section 24-21-640 of the South Carolina Code of Laws, and (4) actuarial risk and needs assessment factors pursuant to Section 24-21-10 (F) (1) of the South Carolina Code of Laws. The Parole Board had determined that your parole must be denied.

You will be notified 30 days prior to your next scheduled parole consideration date.

FINDINGS OF FACT:

Nature And Seriousness Of Current Offense
Indication Of Violence In This Or Previous Offense
Use Of Deadly Weapon In This Or Previous Offense
Vote Count: Unanimous To Reject

Sincerely,

A handwritten signature in black ink, appearing to read "Larry Ray Patton, Jr.", written over a horizontal line.

Larry Ray Patton, Jr.
Director of Parole Board Support Services

1/31/2018

STATE OF SOUTH CAROLINA
In The Administrative Law Court

Judge Ralph K. Anderson III

Case No. 18P008

Thomas Thompson #80681
Appellant,

vs.

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

APPEAL OF PAROLE
BOARD DECISION

APPELLANT'S BRIEF

Appellant
Thomas Thompson #80681
Pro Se Litigant
TyRCI 10-204A
200 Prison Road
Enoree, S.C. 29335

Date: 3-5-2018

STATEMENT OF ISSUES ON APPEAL

1) The Parole Board violated Appellant's 14th Amendment right to Equal Protection of the Law.

STATEMENT OF THE CASE

Inmate Thomas Thompson #80681 was sentenced to life with ten year parole eligibility for the murder of George Upchurch in Cherokee County in December 1975 at the age of 16. The sentence was the result of a plea agreement whereas he plead guilty to murder with the other charges against him being dropped and this sentence being imposed so as to assure his serving ten years as punishment but also to allow a chance for parole after that period based on his conduct.

Thompson has appeared before the Board 18 times over the past 32 years with parole being denied each time based solely on his offense. In doing so the Parole Board has treated Thompson extremely harsher than other similarly situated inmates serving sentences of life for murder.

This appeal does not question whether proper procedures were followed or whether the denial of parole was routine but rather if despite this the Board has violated the rights afforded Thompson under both the South Carolina and United States Constitutions to the equal protection of the law.

Pursuant to S.C. §1-23-630, Powers of Law Judges, Thompson respectfully requests a ruling in this case.

ARGUMENT


The 14th Amendment forbids the state to "deny any person within it's jurisdiction the equal protection of the laws". That means that "all persons similarly situated should be treated alike". All persons sentenced for the crime of murder to a sentence of life with parole eligibility are similarly situated as Thompson. These persons may be categorized a number of different ways; 1) juveniles sentenced as adults, 2) those sentenced during the same period of time as Thompson when the death penalty could be imposed but not executed due to a US Supreme Court ruling, 3) all those with ten year parole eligibility, 4) all those with parole eligibility of any length, 10,20 or 30 years, etc. A thorough examination of the records of the Parole Board as to the granting of parole to these persons will reveal the great disparity in treatment Thompson has received. The overwhelming majority of those sentenced with ten year eligibility were paroled after serving substantially less time than Thompson. Many of these have violated parole and been re-paroled, some more than once. Some of these persons were sentenced to multiple life terms for multiple murders or to the death penalty and it was commuted or overturned into a life sentence. The Courts expressed their desire for harsh punishment for some by giving additional sentences unlike the Court in this case which chose to state it's desire that Thompson have a second chance while still young.

Thompson has currently served over 42 years for a single crime without release. That amounts to over 71% of his entire life spent incarcerated. It is highly likely that this amounts to the largest percentage of a life spent in prison for one offense without a prior criminal record in the history of this state! The State has invested the Parole Board with the sole authority to grant parole however this authority does not override the rights granted under the respective Constitutions of the United States and the state of South Carolina. The Board operates as a quasi-judicial entity and it's actions, whether in a

particular incident or taken as a body of work must be subject to judicial review. "Where Constitutional rights are alleged to have been violated judicial review of agency decisions with respect to parole cannot be absolutely banned." 18 USCA §4201. Failure to review the Board's actions in this case would constitute a denial of Due Process.

CONCLUSION

The Parole Board has clearly subjected Thompson to a treatment disparate than other similarly situated persons. Thompson has clearly shown a disposition to reform; merited a lessening of the rigors of his confinement; that in the future he will obey the law and lead a correct life and that the interest of society will not be impaired by his release on parole. Thompson respectfully requests that this Court order the Parole Board to remedy this by granting immediate parole.

s/ 
Thomas Thompson #80681

Date: 3-5-2018

STATE OF SOUTH CAROLINA
In the Administrative Law Court
Docket Number 18-ALJ-15-0008

APPEAL OF FINAL DECISION
Department of Probation, Parole and Pardon Services

THOMAS THOMPSON, #80681.....APPELLANT

v.

S.C. DEPARTMENT OF PROBATION, PAROLE AND
PARDON SERVICES,.....RESPONDENT

BRIEF OF RESPONDENT

Tommy Evans, Jr.
Assistant General Counsel

**South Carolina Department of Probation,
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P.O. Box 50666
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ATTORNEY FOR RESPONDENT

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STATEMENT OF ISSUES ON APPEAL

- 1. Did the Board violated the Appellant rights of equal protection in the denial of his parole?**

STATEMENT OF THE CASE

On October 4, 1975, a car was spotted on the side of the road near the Cherokee Creek Bridge in Cherokee County. The Sheriff's Department was called and upon responding they found two men inside the vehicle. One shot in the back in the head and deceased; the other, shot in the temple and was alive but in critical condition. It was determined that both was shot with same caliber gun. Upon an investigation the Appellant and his co-defendants Walter Gordon and Ben Holmes were arrested. The victim who was shot in the temple survived however he did lose an eye.

Per plea negotiations between the Appellant and the solicitor's office, the Appellant was convicted of murder with all of the other charges being dismissed. On December 11, 1975, the Appellant appeared before the Honorable Robert Hayes for this offense. Upon the conclusion of this appearance the Appellant was given a term of incarceration for the remainder of his natural life.

At the time the Appellant committed this offense an inmate serving a life sentence for murder was eligible for parole upon the service of ten years. The Appellant made his initial appearance before the Board on February 6, 1985. Upon the conclusion of this appearance the Board decided to deny parole. Since this initial appearance the Appellant has appeared before the Board an additional seventeen times each resulting in a denial of parole. His most recent appearance occurred on January 31, 2018, parole was denied due to: 1) the nature and seriousness of the current offense; 2) an indication of violence in this or a current offense; and 3) the use of a deadly weapon in this or a previous offense. Upon being informed of this decision the Appellant filed a notice of appeal before the Administrative Law Court (ALC).

Within his appeal the Appellant argues that he is being denied equal protection under the law. It is the opinion of the Appellant that he is being treated differently than other inmates in a similar situation.

The Respondent will argue that the Appellant has not revealed to the ALC that he has been held to a different standard than any similar situated inmate. The Respondent will also argue that the Board followed the mandates proscribed by the Supreme Court in the *Cooper* decision. The brief of the Respondent supporting these argument follows.

ARGUMENTS

1. There exist no violation of equal protection in the Appellant's denial of parole.

The Appellant alleges that the denial of parole violates equal protection. 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 life, liberty or property, without due process or law; nor deny to any person within its jurisdiction the equal protection of the laws. U.S. Const. Amend. XIV. The Appellant alleges that he has been treated differently than others with a similar conviction. He argues that other inmates convicted of murder have been release on parole. It is his position that the amount of time spent incarcerated is longer than most inmates so he is being denied equal protection. To establish an equal protection violation, a party must show that similarly situated person 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). The Appellant has not presented any evidence that he has been treated any differently than any other individual who has appeared before the Parole Board. The Appellant has been allowed to appear before the Board and present evidence in mitigation. The identical criteria was applied by the Board on his case as any other prisoner.

And the identical amount of votes needed to be granted parole applied to the Appellant as any other individual with a similar conviction.

The Appellant argues that other individuals who were convicted of even doing worse acts has been released on parole. There are certain criteria that must be considered by the Board prior to a final decision. These criteria can be found in South Carolina law which states:

The board must carefully consider the record of the prisoner before, during and after imprisonment, and no such prisoner may be paroled until it appears to the satisfaction of the board: that the prisoner has shown a disposition to reform; that, in the future he will probably obey the law and lead a correct life; that by his conduct he has merited a lessening of the rigors of his imprisonment; that the interest of society will not be impaired thereby; and, that suitable employment has been secured for him.

S.C. Code Ann. §24-21-640 (1990).

There are Department created criteria¹ as well as a risk assessment² that the Board must also apply. It has been shown within the order of denial that these criteria was considered prior to the final decision. The Appellant accuses the Respondent of violating equal protection. He makes this argument due to the fact some individuals convicted of murder has been granted parole. Each case is different regarding what is presented and considered by the Parole Board. There are many factors that determine whether or not a person is granted parole. The fact that one person was granted parole and another was not does not reveal a violation of equal protection. Even if both individuals were convicted of the same offense. The Appellant has never revealed he had to receive a greater number of votes than another inmate convicted of murder. The Appellant did not show

¹ The Board must establish written, specific criteria for the granting of parole and provisional parole. This criteria must reflect all of the aspects of this section and include a review of a prisoner's disciplinary and other records. S.C. Code Ann. §24-21-640 (1990).

² The Department must develop a plan that includes the following: (1) establishment of a process for adopting a validated actuarial risk and needs assessment tool consistent with evidence-based practices and factors that contribute to criminal behavior which the parole board shall use in making parole decisions, including additional objective criteria that may be used in parole decision. S.C. Code Ann. §24-21-10(F)(1)(2012).

that he had a different criteria applied to his case than similar cases. It is the duty of the Appellant to prove his cause of action. Appellant for relief, or a privilege has the burden of proof and the burden of proof rest upon who files the claim with an administrative agency to establish that required conditions of eligibility have been met. *Leventis v. South Carolina Department of Health and Environmental Control*, 340 S.C. 118, 530 S.E.2d 643 (2000). No evidence has been provided revealing that he has been treated differently than any other inmate in a similar position. So there exist no violation of equal protection.

2. The Respondent followed the mandates proscribed by the South Carolina Supreme Court in the *Cooper* opinion, so the denial of parole should be upheld.

A final decision shall include a finding of fact and conclusion of law separately stated. S.C. Code Ann. §1-23-350(2017) It is the Respondent's position that the order of denial of parole followed the standards found in the above referenced statute. The order also followed the standards decided by the South Carolina Supreme Court in the case of *Cooper v. S.C. Dept. of Probation, Parole and Pardon Services*, 377 S.C. 489, 661 S.E.2d 106 (2008).

In *Cooper*, the Supreme Court decided that a finding of fact was included; however, the Court determined that the Parole Board neither "offered an explanation nor indicated that it considered the statutory criteria of section 24-21-640, and the fifteen criteria listed on the parole form." *Id.*, at 500. The Supreme Court decided that if the Parole Board failed to consider and apply the statutory-related criteria, it has the effect of rendering an inmate parole ineligible, which warrants review by the ALC. *Id.*, at 502.

In *Cooper*, the Court established what a future Parole Board order should consist of, it specifically states:

We emphasize that in future parole review hearings the Parole Board may avoid the result in the instant case if it clearly states in its order denying parole that it considered the factors outlined in section 24-

21-640 and the fifteen factors published in its parole form. If the Board complies with this procedure, the decision will constitute a routine denial of parole and the ALC would have limited authority to review the decision to determine whether the Board followed proper procedure.

Id.

Since *Cooper*, the General Assembly added an additional requirement. The Department is now required to create and acknowledge a risk assessment. Since this mandatory element was added to South Carolina law, each inmate has had a COMPAS risk assessment completed prior to their hearing. These results are always considered prior to the final decision. This is considered a conclusion of law and is included in the order of denial. The order of denial also lists the reasons for denial which are the findings of fact.

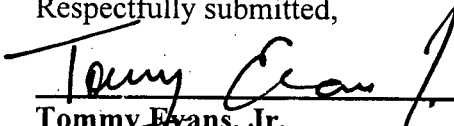
In *Cooper*, the Court determined that the order of denial was unlawful due to it not presenting any conclusions of law. It was the opinion of the Court that in order for the Board to prove the proper procedure were followed, it must not only state a findings of fact, but the statute, policy and risk assessment considered prior to the final decision. The final order in the present case displayed that all of these required criteria were considered, once that is revealed no further review by the ALC is necessary.³ The Respondent will request this Court affirm the decision of the Board denying the Appellant's parole.

³ The Parole Board clearly stated in its notice of rejection that it considered the statutory criteria and the criteria set forth Form 1212 which is sufficient under *Cooper. Compton v. S.C. Dept. of Probation, Parole and Pardon Services*, 385 S.C. 476, 684 S.E.2d 175 (2009).

CONCLUSION

The Appellant has provided no evidence that he was treated any differently than any other inmate in similar situation. No evidence was presented revealing that a violation of equal protection has occurred. The Respondent have also shown within their order of denial that all of the mandatory criteria and risk assessment was considered prior to denial. Based on these reasons the Respondent respectfully request the final decision of the Department be affirmed.

Respectfully submitted,



Tommy Evans, Jr.
Assistant General Counsel

South Carolina Department of Probation,
Parole and Pardon Services
P.O. Box 50666
Columbia, South Carolina 29250

Columbia, South Carolina
June 12, 2018

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, §1² 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.

² 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

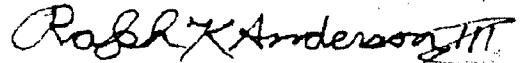
appropriate statutory and Department criteria in making its determination. *See Compton v. S.C. Dep't of Probation, Parole & Pardon Servs.*, 385 S.C. 476, 479, 685 S.E. 2d 175, 177 (2009) (holding that an order denying parole and showing consideration of all statutory and Department criteria is sufficient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



Ralph King Anderson, III
Chief Administrative Law Judge

August 6, 2018
Columbia, South Carolina

Inmate Name <i>Thomas H. Thompson</i>	SCDC# <i>80681</i>
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SC Board of Probation, Parole and Pardon Services P.O. Box 50666 Columbia, SC 29250

Criteria for Parole Consideration

The South Carolina parole law creates no right to be released on parole. Parole in South Carolina is strictly a matter of privilege or grace. The South Carolina Board of Probation, Parole and Pardon Services has absolute discretion to grant or deny parole. As such, the publication of these parole criteria in no way creates an expectancy of release; nor does it bind the Parole Board in any way to favorable parole decision or establish any presumptions of entitlement to parole.

In deciding whether or not to grant parole, the Parole Board considers, among other things, the inmate's record before incarceration as well as during incarceration. The record itself is prepared through investigations conducted for the Parole Board, and it becomes a part of the inmate's parole file. The files are maintained by the Department of Probation, Parole and Pardon Services and are, by the statute, privileged and confidential. The confidentiality of the parole file is far reaching; inmates themselves have no right to inspect the contents of their files. If the inmate thinks his/her file is somehow incomplete or contains some errors or other inaccuracies, he/she must notify the Board of the specific error or inaccuracy. The Board will investigate the inquiry and notify the inmate of the action taken.

Inmates do, however, enjoy certain rights in the parole process. The inmate has the right to appear at his parole hearing. If the inmate fails to appear, the Board may decide his/her case in absence. The inmate has the right to be represented by an attorney; however, he/she has no right to have an attorney appointed if he/she cannot afford one. At the hearing, the inmate has the right to present witnesses and evidence on his/her own behalf, but an inmate does not have a right to confront witnesses.

In deciding whether or not an inmate should be granted parole, the Board or Panel of the Board exercises its absolute discretion to the limits allowed by state and federal law. The discretion of the Board or panel aims at protecting the best interest of both society and the inmate being considered for parole. In its concern for the protection of society's and the inmate's best interests, the Board or Panel deliberates upon the "reasonable probability" that an inmate will not again violate the law, if parole is granted. When deliberating that an inmate will not again violate the law, the Board or Panel weighs the factors listed below. The Board or Panel, in its absolute discretion, also considers any other factors not listed below which it considers relevant in a particular case.

1. The risk the inmate poses to the community;
2. The nature and seriousness of the inmate's offense, the circumstances surrounding the offense, and the inmate's attitude toward it;
3. The inmate's prior criminal records and his/her adjustment under any previous programs or supervision;
4. The inmate's attitude toward his/her family, the victim, and authority in general;
5. The inmate's adjustment while in confinement, including his/her progress in counseling, therapy, and other similar programs designed to encourage the inmate to improve himself/herself;
6. The inmate's employment history, including his/her job training and skills and his/her stability in the work place;
7. The inmate's physical, mental and emotional health;
8. The inmate's understanding of the cause of his/her past criminal conduct;
9. The inmate's efforts to solve his/her problems such as seeking treatment for substance abuse, enrolling in academic and vocational education courses, and in general using whatever resources the Department of corrections has made available to inmates to help with their problems;
10. The adequacy of the inmate's overall parole plan. This includes inmates living arrangements, where he/she will live and who he will live with; the character of those with whom the inmate plans to associate in both his/her working hours and his/her off-work hours; the inmate's plans for gainful employment;
11. The willingness of the Community into which the inmate will be released to receive the inmate;
12. The willingness of the inmate's family to allow his/her to return to the family circle;
13. The attitudes of the sentencing judge, the solicitor, and local law enforcement officers respecting the inmates; parole;
14. The feelings of the victim's family, and any witnesses to the crime about the release of the inmate
15. The actuarial risk and needs assessment outlined in section 24-21-10 (F)(1) of the S.C. Code of laws; which evaluates based on Criminal Involvement, Relationships/Lifestyle, Personality/Attitudes, Family, Social Exclusion and Mental Health.
16. Other factors considered relevant in a particular case by the Board.

Reservation of Discretionary Power of the Parole Board

These criteria in no way limit the absolute discretion of the Parole Board or Panel to make parole decisions on a case-by case basis and to grant or deny parole as it determines to be in the best interest of society and the inmate under review.

In some cases, the Board may decide that inmate should be granted parole if the inmate completes one or more stated conditions. When this is the case, the Board may grant a parole that becomes effective when the inmate completes on or more stated conditions. Should the inmate fail to complete any one of these conditions or disobey any rule or regulation of the South Carolina Department of Corrections before satisfying the stated conditions to make his parole effective, the Board may rescind the inmate's parole and treat the case as though parole had been rejected. In other cases, the Board may feel it needs more time to form its decision. In such cases, the Board may simply take the parole consideration under advisement and reschedule it at a later date. Similarly, the Board may postpone a parole hearing in order to dispose of detainers or pending charges. If the Board rejects an inmate for parole, the inmate will be given written notice of rejection stating the reasons for rejection. Decisions of the Board have no precedential effect whatever and in no way limit the Board's absolute discretion at later parole hearings.

After rejection for parole, the procedure of scheduling of rehearing is as follows:

1. An individual serving time for a violent offense defined in §16-1-60 of the South Carolina Code of Laws 1976 will be reheard for parole two years following the date of parole rejections. Applicable legal exceptions may allow for a one year hearing.
2. An individual serving time for a nonviolent offense defined in §16-1-70 of the South Carolina Code of Laws 1976 will be reheard for parole one year following the date of parole rejections.

I certify that the above material has been explained to me, and I have received a copy.

Inmate's Signature <i>Thomas H. Thompson</i>	Date <i>9-15-17</i>
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Witness <i>Anna Latham</i>	Date <i>9-15-17</i>
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The State of South Carolina

INDICTMENT FOR

County of CHEROKEE

MURDER AND
ACCESSORIES BEFORE THE FACT TO
MURDER

At a Court of General Sessions, convened on the 8th day of December,

19 75, the Grand Jurors of CHEROKEE County present upon their oath:

COUNT ONE

That Thomas N. Thompson

did in CHEROKEE County on or about the 4th day of October,

19 75, with malice aforethought kill one George Upchurch while in the process of robbing him while armed with a deadly weapon, to wit, a pistol, and did shoot him with the said pistol and that the said George Upchurch did die in Cherokee County as a proximate result thereof on or about the 4th day of October, 1975, in violation of Section 16-52 of the 1974 Cumulative Supplement to the Code of Laws of S. C., 1962.

COUNT TWO

That Ben Holmes and Walter Edgar Gordon

did in CHEROKEE County on or about the 4th day of October,

19 75, did feloniously, willfully and unlawfully become and be accessories before the fact to the murder of George Upchurch, which murder was done and committed by Thomas N. Thompson on the 4th day of October, 1975, in the County of Cherokee and State aforesaid, in that they the said Ben Holmes and Walter Edgar Gordon on the 4th day of October, 1975, in the County of Cherokee and the State of South Carolina, before the commission of the felony by Thomas N. Thompson did feloniously, willfully and unlawfully advise or procure and aid the said Thomas N. Thompson to commit the murder of the said George Upchurch,

I, Walter Edgar Gordon hereby appear in my own proper person and plead guilty to accessory before the fact to the murder of George Upchurch count on the within indictment

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I, Ben Holmes, hereby appear in my own proper person and plead guilty to accessory after the fact to the murder of George Upchurch on the within indictment.

H

Walter Edgar Gordon

WITNESS:

Paul K. Clary
C.C.C.P. & G.S.

Witness:

Ben Holmes
Paul K. Clary
C.C.C.P. & G.S.

I, Thomas N. Thompson, hereby appear in my own proper person and plead guilty to murder under other circumstances than those set forth in Sub-paragraphs (1), (2), (3), (4), and (5) of Section 16-52 of the 1974 Cumulative Supplement to the Code of Laws of South Carolina, 1962, on the within indictment.

Witness:

Thomas N. Thompson
Paul K. Clary
C.C.C.P. & G.S.

The sentence of the Court is that the Defendant, Walter Edgar Gordon be confined at hard labor upon the public works of Charleston during your whole lifetime

75-G.S.-11

The State of South Carolina

County of CHEROKEE

COURT OF GENERAL SESSIONS

DECEMBER

THE STATE

VS.

A- THOMAS N. THOMAS

B- BEN HOLMES

C- WALTER EDGAR

INDICTMENT

MURDER

ACCESSORIES BEFORE THE FACTS
MURDER

T. R. ...

Foreman

...

Witnesses

E. Harrington

Otis Spencer

Joe Wallace

Donald Hodge

The sentence of the Court is that the Defendant, *Thomas N. Thomas*, be confined at hard labor upon the public works of Cherokee County for a term of *10 years* or that he be confined in a life manner for a *life term* in the State Penitentiary, or that he pay a fine of *See attached document*.

Date: *12/19/75*

Foreman

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

S 

Thomas Thompson #80681
Tyger River CI 1-225B
200 Prison Road
Enoree, S.C. 29335

December 26, 2018

RECEIVED
DEC 31 2018
SC Court of Appeals