

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT
The Honorable H.W. Funderburk, Jr., Administrative Law Judge
Case No. 18-ALJ-15-0032-AP
Appellate Case No. 2019-000553

Gregory Mackey, #136609.....Appellant,

v.

S.C. Department of Probation,
Parole and Pardon Services.....Respondent.

DESIGNATION OF MATTER

Appellant proposes the following information in the Record on Appeal:

1. South Carolina Board of Paroles and Pardon Policy and Procedure Manual
Pages 13, 14, & 15.

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Gregory Mackey
Gregory Mackey, #136609
Appellant

SC Court of Appeals

May 9, 2019

b. **Board Annual Training:** Each Board member is required to complete at least eight (8) hours of training annually including (but not limited to):

- Review of Policies and Procedures
- Review of Critical Programs within the Department
- Review of the Department Risk /Needs Assessment Tool
- Review of the Department Public Safety Goals
- Decision Making and Data
- Evidence-Based Practices/Corrections
- Evidence-Based Practices/Crime Victims

Members of the Board shall also participate in additional training as may be required by the Board's Chair and Department Director pursuant to accreditation standards.

5. COMPENSATION

Members of the Board are entitled to reasonable and necessary expenses incurred in the discharge of their official duties and consistent with statutory governing the compensation of board or commission members. Members of the Board receive no salary. In addition to fees for hearings, members of the Board receive per diem compensation for the following activities directly associated with their service on the Board:

- Parole hearings, including revocations;
- Pardon hearings;
- Training required by the Board's Chair and Department Director;
- Review of paroles, parole revocations, and pardons prior to the actual hearing of the matter

6. QUORUM FOR CONDUCTING BUSINESS

Five members of the Board constitutes a quorum for conducting business.

7. RULES AND REGULATIONS FOR CONDUCTING BUSINESS

- a. **Implied Powers.** In the exercise of its statutory powers, the Board may make such rules and regulations as are necessary and proper to conduct its business
- b. **Attendance at Hearings.** Members are required to attend all hearings of the full Board or of their respective panel.

B. PANELS OF THE BOARD

1. COMPOSITION OF PANELS

Parole panels consist of any three members of the Board, as appointed by the Board Chair and the Board Liaison of the Department's Office of Board Support Services (hereinafter "Board Liaison").

2. STATUTORY POWERS

A panel may grant, deny, revoke, or otherwise decide paroles in only those cases involving nonviolent offenders who become eligible for parole after having served one-fourth of their sentence. A panel may also revoke any offender released under EPA and any violent offender released by the full Board.

- a. **Vote.** In all cases properly decided before a three member panel of the Board, a unanimous vote is required to grant parole or to revoke parole of EPA I. A unanimous vote of a panel constitutes the final decision of the Board. Any vote of a panel which is not unanimous must be referred to the full Board for a final decision.
- b. **Pardons.** Panels may not decide pardons. See Part IV.

3. MEETINGS OF THE PANELS

Meetings of the panels are scheduled by the Board Liaison acting under the authority of the Director. Under routine procedure, panel members are assigned the cases for their review no less than two weeks before the date of the hearing.

4. DUAL PANELS

Dual panels of the Board have the same statutory powers to hear cases as single panels. Dual panels are scheduled at the discretion of the Department Director when the need arises because of a backlog of cases. Members are appointed by the Chair and the Director of the Department's Office of Board Support Services Director (hereinafter "Board Support Services Director"), according to the usual procedure.

C. CHAIR OF THE BOARD

1. ELECTION AND TERM OF OFFICE

The Board's Chair is elected annually in January, by majority vote of the Board and serves a one year term. The Chair may not serve more than two consecutive terms in office.

2. GENERAL RESPONSIBILITIES

The Chair manages and oversees the Board. The Chair meets at least monthly with the Board Support Services Director and/or Board Liaison. The following list enumerates the general responsibilities of the Chair in that capacity.

- a. **Policies and Procedures.** The Chair is responsible for seeing that the policies and procedures set forth in this manual are carried out.

- b. **Presiding Over Meetings.** The Chair is responsible for presiding over meetings and proceedings of the full Board and panels of the Board and for maintaining order and proper decorum during proceedings.
- c. **Assigning Members to Panels.** The Chair is responsible for assigning members of the Board to panels as often as is necessary and for appointing a member to serve as Chair on each of the various panels.
- d. **Overseeing Panels.** The Chair is responsible for overseeing the various panels by periodically serving on them.
- e. **Absence of a Panel Member.** The Chair is responsible for arranging a substitute member to serve on a panel whenever a member cannot be present.
- f. **Coordination of Scheduling.** The Chair is responsible for coordinating the scheduling of hearings with the Board Support Services Director.
- g. **Minutes.** The Director is responsible for ensuring that the Board Support Services Director keeps complete and accurate minutes of all public meetings and proceedings of the Board or of its panels.
- h. **New Member Training.** The Chair will participate in and promote appropriate training for new Board members.
- i. **Public Relations.** The Chair or designee is responsible for acting as the Board's spokesperson on matters relating to the work of the Board. Board members shall direct all inquiries from the media to the Department's Office of Public Information.
- j. **Appearances before Legislative Committees.** The Chair or designee is also responsible for appearing before legislative committees from time to time to report on the work of the Board.

D. RESPONSIBILITIES OF THE DEPARTMENT DIRECTOR AND STAFF

1. MANAGING THE DEPARTMENT

As part of the general restructuring of state government brought about by the Restructuring Act of 1993, the responsibility for overseeing and managing the Department has been transferred from the Board to the Department Director. The Department Director, however, still has most, if not all, of the same responsibilities to assist the Board that he/she had before the enactment of this legislation. These responsibilities are considered below.

2. SCHEDULING MEETINGS AND HEARINGS OF THE BOARD

Acting under the Department Director's authority, the Board Support Services Director is responsible for the timely scheduling of meetings and hearings of the Board. See S.C. Code Ann. §24-21-220 (1993).

a. **Number of cases.** The number of cases scheduled for hearing on any given day is set by the Department Director and Chair of the Board.

b. **Violent versus non-violent.** Offenders convicted of a violent crime will be scheduled for parole hearings before the full Board only. Offenders convicted of a non-violent crime may be scheduled for parole hearings before either the full Board or a three-member panel.

3. INVESTIGATING AND PREPARING CASES FOR REVIEW

The Department is responsible for investigating and preparing parole and pardon cases for the Board's review and for ensuring that these cases reach the members no less than two weeks before the date of the hearing.

a. **Date of Eligibility for Parole.** The South Carolina Department of Corrections is responsible for determining the dates of parole eligibility for offenders who are eligible for parole.

b. **Assigning Cases.** The Board Support Services Director is responsible for assigning cases for timely review to members of the Board, as may be necessary.

c. **Preliminary Hearings.** The Department is responsible for scheduling and conducting such preliminary hearings as may be required by law.

4. PROVIDING NOTICE OF HEARINGS TO INTERESTED PARTIES

The Department is responsible for providing timely notice of hearings. See Part II, A., Parole Hearings.

5. EXECUTING DECISIONS AND ORDERS OF THE BOARD

The Department Director and his/her staff are responsible for seeing that the decisions and orders of the Board and its panels regarding paroles, pardons, and revocations are fully carried out.

6. INFORMING THE BOARD OF CURRENT PAROLE LAWS

Through its Office of General Counsel, the Department is responsible for keeping the Board informed of current parole laws as they affect the Board's practices and procedures.

7. MAINTAINING THE OFFICIAL RECORDS OF THE BOARD

The Board Support Services Director and Department's Office of Records Management Services are responsible for maintaining the official records of the Board. These records, including hard copy, electronic and audio, will be maintained until the inmate maxes out, is paroled, until death, or for five

(5) years, whichever is sooner.

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CERTIFICATE OF SERVICE

I, Gregory Mackey, #136609, (The Appellant) being duly sworn upon my oath, depose and state that, I have served the within Motion to Accept Filing of Appellant's Initial Brief and Designated Matter Out-of-Time dated May 9, 2019, on Respondent by depositing a copy of same in the United States mail, postage prepaid, addressed to Tommy Evans, Jr., Assistant General Counsel of the S.C. Dep't of Prob., Parole and Pardon Services, located at 2221 Devine St., Suite 600, P.O. Box 50666, Columbia, S.C. 29250. Also, a copy of same to H.W. Funderburk, Jr., Judge of the Administrative Law Court, 1205 Pendleton St., Suite 224, Columbia, S.C. 29201.

Respectfully submitted,

Gregory Mackey
Gregory L. Mackey
Appellant

200 Prison Road
Enoree, S.C. 29335

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TYRCI MAILROOM

This 9, Day of May 2019,
at Enoree, South Carolina.

Gregory Mackey, #136609
Tyger River Correctional
Institution Unit 1 A118
200 Prison Road
Enoree, S.C. 29335

May 9, 2019

V. Claire Allen
Deputy Clerk
P.O. Box 11629
Columbia, S.C. 29211

RE: Gregory Mackey v. SCDPPPS
Appellate Case No. 2019-00053

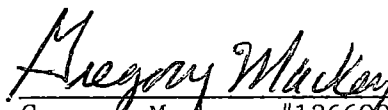
Honorable Allen:

Enclosed is seven (7) copies of Appellant's Motion to accept filing of Appellant's Initial Brief and Designation of Matter Out-of-Time, along with Motion to Proceed in Forma Pauperis and Certificate(s) of service.

If any deficiency have occurred in the matter of the filing of these documents please advise and allow for correction under SCACR rules.

Please return to me a clock-stamped copy of the pleadings for my personal file. Thank you in advance for your invaluable time in this matter.

Sincerely,


Gregory Mackey, #136609
Appellant

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Gregory Mackey, #136609
Tyger River Correctional
Institution Unit 1 A118
200 Prison Road
Enoree, S.C. 29569



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