

Clerk of Court
P.O. Box 11629
Columbia SC 29211

June 11, 2019

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JUN 14 2019

SC Court of Appeals

Re. 2018 001555

Dear Mrs. Allen:

Enclosed is my "Record on Appeal" as request in your letter dated May 17, 2019. If there is anything improper herewith, please inform me and I will try to comply.

June 11, 2019

cc

Annie Laurie Rumber
4444 BRR
Columbia SC 29221

Attorney for Respondent

Frank M. Gaster

Frank M. Gaster 153004
Evans CT
610 Hwy of west
Bennettsville SC 29512

THE STATE OF SOUTH CAROLINA

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In the Court of Appeals

JUN 14 2019

APPEAL FROM ADMINISTRATIVE LAW COURT

SC Court of Appeals

S. Phillip Lenski, Administrative Law Judge

Appellant Case No. 2018-CO1535

Frank Mitchell Gaster, #153004

Appellant,

v

South Carolina Department of Corrections

Respondent

REQUEST FOR ORDER
OF RECORDS FROM SCIDPP

The Appellant requests this Court to issue an Order to the S.C. Dept. of Probation, Parole and Pardon Services, P.O. Box 30666 Columbia, S.C. 29230, to submit copies of Frank M. Gaster's records to this Court and all parties in this case.

June 11, 2019

Frank M. Gaster

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Attorney for Respondent

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In the Court of Appeals

APPEAL FROM ADMINISTRATION LAW COURT

JUN 14 2019

S. Phillip Lenski, Administrative Law Judge

SC Court of Appeals

Appellate Case No. 2018-001555

Frank Mitchell Gaster, #153004 Appellant,

v.

South Carolina Department of Corrections Respondents.

APPELLANT'S DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL

The Appellant submits that the following should be included in the Record on Appeal.

- (1) All records filed in the Grievance Process;
- (2) All records filed in the ALC Court;
- (3) All records filed in the S.C. Ct. of Appeals;
- (4) All records to be filed by the SCWPPP;
- (5) The ALC's Order of Dismissal dated May 22, 2018.

The undersigned hereby certifies this Designation contains no matter that is irrelevant to this appeal.

June 11, 2019

Frank M. Gaster

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THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT

S. Phillip Lenski, Administrative Law Judge

ALC Case No. 18-ALJ-04-0016-AP

Appellate Case No. 2018-001555

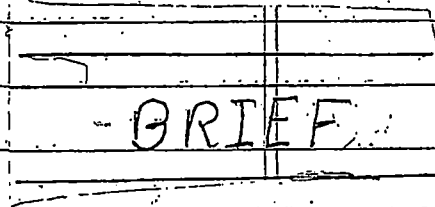
Frank Mitchell Gaster, #153004

Appellant,

V.

South Carolina Department of Corrections

Respondent.



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DEC 17 2018

SC Court of Appeals

Frank M. Gaster appeals the decision of the Honorable
S. Phillip Lenski dated May 22, 2018.

June 11, 2019

Frank M. Gaster

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Frank M. Gaster, 153004

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1. Because the court could have applied state-created liberty interest to decide this case, it should be remanded for reconsideration. 2

2. Because the court could have applied the various Constitutional Amendments to decide whether Appellants' rights were violated, it should be remanded for reconsideration. 2

Conclusion 3

TABLE OF AUTHORITIES

CASES

McNeil v. SCDC 02 AW 00336 AP (2001) 2

Skinner v. SCDC 633 S.E. 2d 910 (Ct. App. - 2006) 2

Slezak v. SCDC 600 S.E. 2d 506 (2004) 2

STATUTES

SC Code 23-3-400 2

SL Code 16-1-60 3

SC Code 16-1-70 3

OTHER AUTHORITIES

1. SCDC Policy OP 21.04 1, 2

2. Constitution Amendments 4th, 5th, 14th, art. I, § 10, cl. 3

3. Grievance form Step 2 2

4. KLOSH 17-660058 cited on Step 1 and Step 2 2

STATEMENT OF ISSUES ON APPEAL

1. Did the ALC Judge err when he failed to rule that Appellant had a state-created liberty interest in his custody status?
2. Did the ALC Judge err when he failed to consider if Appellant's constitutional rights were violated by the application of SCDC Policy OP 21.04, which excludes a certain class of inmates from M1 status?

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STATEMENT OF THE CASE

On April 27, 2017 Appellant, Gaster, was admitted and classified at the Kirkland R&E Center as M12, then shipped [75 days later] to Evans CT, a medium security prison. Normally, inmates with non-violent crimes are classified M1 status, which makes them eligible for less restrictive prisons and work release. The reason given was that a prior sex conviction was being used to exclude M1 status. SCDC Policy OP 21.04 Inmate Classification (dated 3-30-2015) states: "No sex offenses, no current, prior, or pled sex offense convictions or commitments... no prior sex arrest, dismissed/ not proessed within past (10) years." The grievance/ appeal process has now come to the South Carolina Court of Appeals to rule on the Administrative Law Court's Order of Dismissal dated May 22, 2018.

FACTS

Regardless of the pretext legal release response from higher-level prison officials and their lawyers, the real reason for Gaster's classification is revealed by the lower-level staff who entered the data into SCDC's computer system. On grievance form Step 2 dated 12-7-17, it states "... Your classification of security level is based on the number and type of prior commitments that you have ..." and on the SCDC WIOSK #17-660058 dated 8-31-17, it states "... Your sex registry doesn't have a statute of limitations since ..." They are referring to S.C. Code 23-3-400 Sex Registry, and SCDC Policy OP 21.04.

ARGUMENTS

This appeal of the May 22, 2018 Order of Dismissal from the Administrative Law Court, Judge S. Phillip Lenski, is based solely on his interpretation of a "state-created liberty interest" as applied to the appellant, Gaster, citing Slezak and Skipper to be the controlling cases. The language used to define "state-created liberty interest" is repeated in many S.C. cases and as to which one is controlling, we can only guess, but the meaning is clear to those inmates who have been affected by custody status. The controlling sentence is as follows: "The court's appellate jurisdiction in inmate appeals is limited to cases involving: (1) cases in which an inmate contends that prison officials have erroneously calculated his sentence, sentence-related credits, or custody status..." The appellant asserts prison officials erroneously calculated his custody status [M12], thus establishing a "state-created liberty interest." See *Maneill v SCDC* OR ALT 00336 AP (2001). [emphasis added]

The other factor prison officials may have erroneously applied to Appellant's custody status is, changing his classification from nonviolent [16-1-70] to violent [16-1-60]. Appellant's 1988 crime was classified as violent, but his current [2017] crime is classified as nonviolent. This discrepancy can be observed in the Respondents' Records Package, which they submitted to the ALC in a letter dated March 28, 2018. Within their Records Package is a paper titled SCDC Offender Management System Conviction Summary; it states, "SCDC classification . . . violent." However, in the same package on the sentencing sheet, the sentencing Judge checked nonviolent.

Should this court decide that the Appellant does not have a state-created liberty interest, Appellant would ask this Court to consider any other reason(s) to issue an opinion in this matter, including of course, violations of any of the meretricious Amendments to the United States Constitution — 4th, 5th, 14th, art. I, § 10, cl. 1, 3.

CONCLUSION

For the reasons stated, this Court should reverse the judgment of the Administrative Law Court.

June 11, 2019

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Respectfully submitted,

Frank M. Easter

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THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT

S. Phillip Lenski, Administrative Law Judge

Appellate Case No. 2018-001555

Frank Mitchell Gaster, # 153004 Appellant,

v.

South Carolina Department of Corrections Respondent.

PROOF OF SERVICE

I, Frank M. Gaster, #153004, hereby certify that a copy of the foregoing Brief and Designation of Matter was mailed to the Respondents.

June 11, 2019

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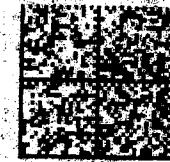
SC Court of Appeals

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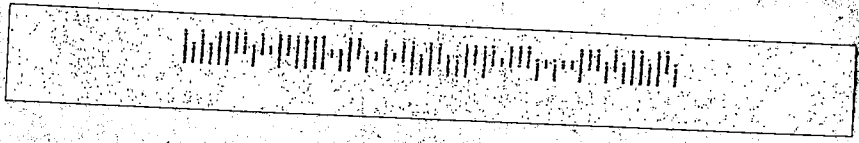
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