

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

HENRY McMASTER
Governor



JERRY B. ADGER
Director

2221 DEVINE STREET, SUITE 600
POST OFFICE BOX 50666
COLUMBIA, SOUTH CAROLINA 29250
Telephone: (803) 734-9220
Facsimile: (803) 734-9440
www.dppps.sc.gov

August 4, 2019

The Honorable Jenny Kitchens
Clerk of Court
S.C. Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211

RECEIVED
SEP 09 2019
SC Court of Appeals

RE: Gibbs v. SCDPPPS
Case No.: 2019-001369

Dear Ms. Kitchings:

This letter is in response to the motion to dismiss filed by the Respondent Mr. Joseph Gibbs. The Appellant would at this time request that the Court of Appeals not dismiss this appeal since the grounds raised by the Respondent are not sufficient to justify a dismissal.

Within his motion the Respondent refers to matters that could not rationalize this case being subject to dismissal. The notice of appeal was filed within the thirty day time limit imposed under the rules. The Respondent argues that this matter should be subject to a final decision by the ALJ before a determination is made by this court.

Within his final order the ALJ ordered that the Appellant provide within their record on appeal all items presented to the Board. This includes information and data obtained by an agent in the discharge of his official duty which is determined privileged pursuant to South Carolina law. S.C. Code Ann. §24-21-290 (2018) This includes the opinions of victims, law enforcement, the solicitor, and other private citizens that might have spoken against the parole of the Appellant. These individuals have made these comments with the understanding that their identity would be kept confidential. This is the main argument of the Appellant within this case. The Appellant wishes that the Court make a determination as to the privileged nature of this information prior to this case proceeding.

"Nation's First Probation Agency accredited by the Commission on Accreditation for Law Enforcement Agencies (CALEA)."

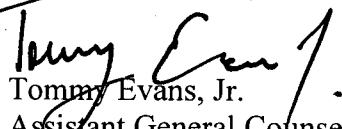


The Respondent also argues that the Appellant failed to provide a transcript of the proceedings. Due to the voluminous amount of hearings that are conducted, the extreme cost which would overwhelm the budget of the Department, and the fact no testimony is made under oath, a court reporter is never present at any parole hearing. Each hearing is audio recorded which the Respondent has already relayed to the Court that he has received a copy.

Due to these reasons the Appellant would wish this Court not dismiss this appeal. If the Court feels that it needs a more formal brief regarding this issue, the Appellant would honor the Court's wishes and file a brief expressing arguments as to why this case should proceed and the Respondent's motion be subject to dismissal.

Thank you for your time and attention regarding this matter. If there are any further comments or questions regarding this matter please do not hesitate to contact me. With kind regards I remain,

Sincerely,


Tommy Evans, Jr.
Assistant General Counsel

TE:te

Cc: Joseph H. Gibbs SCDC#185709, Broad River Correctional Institution
September 4, 2019



"Nation's First Probation Agency accredited by the Commission on Accreditation for Law Enforcement Agencies (CALEA)."



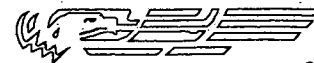
State of South Carolina

Department of Probation, Parole, and Pardon Services

2221 DEVINE STREET, SUITE 600, POST OFFICE BOX 50666
COLUMBIA, SOUTH CAROLINA 29250



U.S. POSTAGE PITNEY BOWES



ZIP 29210 \$ 000.50⁰
02 1W
0001388679 SEP. 05. 2019

RECEIVED
SEP 09 2019
SC Court of Appeals

The Honorable Jenny Kitchens
Clerk of Court
S.C. Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211

2921161629 8012

