

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Administrative Law Judge

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Judge D. B. Durden, Administrative Law Judge

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Case # 2013-002712

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Thomas Thompson #80681 - Appellant

v.

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

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Appellant's Final Brief

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Thomas Thompson  
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4848 Goldmine Hwy  
Kershaw, S.C. 29067

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**SC Court of Appeals**

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Statement of Issues on Appeal

1. Has the Parole Board given careful consideration of the statutory criteria when denying Appellant's parole?
2. Does the Court have the authority to act in the cause of justice?
3. Has the Parole Board's denial of parole violated Appellant's constitutional rights?

## Statement of Case

On December 11, 1975, the Appellant appeared before the Honorable Robert Hayes for the crimes of murder, robbery, and assault with the intent to kill. At that time this was termed a Capitol Crime with a statutory death penalty if found guilty at trial.\* However, a plea agreement had been reached and the county sheriff Ernest Harrington was asked to address the court with the details. Mr. Harrington stated that an agreement had been reached by himself, the solicitor, the judge, the victim's family and the defendant's attorneys in which the Appellant and Mr. Gordon would receive life sentences.\*\* He stated that the agreed upon purpose of this sentence was to ensure that the defendants served a minimum of ten years for their crimes but also had a chance to start new lives due to their young ages. Appellant made his initial appearance before the Parole Board on Feb 5, 1985. He has since appeared before the Board an additional 15 times, each resulting in denial.

Prior to Appellant's last appearance before the Parole Board he knew that due to the longevity of his incarceration and the change from paper to computer records, there were inconsistencies and his records were incomplete. However, at his hearing he was asked a series of questions which left no doubt that he had not been given the consideration due by statute law. Appellant filed an Appeal with the Administrative Law Court on Nov 26, 2013, the Honorable Deborah Brooks Durden, Administrative Law Judge issued an order of dismissal. Appellant then filed a notice of appeal before this Honorable Court. Appellant contends that the Respondent failed to adhere to S.C. law when denying his parole. He also puts forth the question whether this long time "rubber stamp" denial of parole has deprived him of equal justice and caused him to suffer cruel and unusual punishment.

\*While the Death Penalty was not enforceable at that time, it was still given out to indicate the court's desire for maximum punishment.

\*\*Mr. Gordon was paroled in 1990 after serving 15 years. His nephew, Bev Holmes received a ten year sentence for accessory after the fact.

## Arguments

1. The Parole Board did not consider the statutory criteria when denying appellant's parole, therefore its decision is arbitrary and capricious.

At Appellant's Parole Hearing on Oct 2, 2013 the Board asked a series of questions about his employment opportunities both future and past. The first of these was a standard question as to where he would work upon release. After stating that he had signed up for the Parole Employment Program, was in good health and had numerous marketable job skills, the Appellant was asked what kind of work he did prior to incarceration. Even a brief examination of Appellant's record before incarceration would reveal the fact that he was a 16 year old juvenile High School student when he committed the crime. Also, any consideration of his employment history per item #6 on Parole Criteria form 1212 should indicate that his first job came while at Work Release in 1984. After stating that he had went to High School, Appellant was then asked "How long he worked at this High School." This question essentially turns the Parole Hearing into a cruel farce.

Appellant, having served 38 years at this time was being considered for parole a 16th time over a 28yr span. It is not unreasonable to assume that this was a thoroughly researched case familiar to the Parole Board. However, that clearly was not so.

Respondent argues that by stating in its notice of rejection that it considered the factors outlined in section 24-21-640 and the fifteen criteria listed on the parole form, it has not made an error of law. The ALC's decision concurred with this. Appellant argues that this notice of rejection is no more than a "form" letter sent to everyone who is denied parole. It is quite unreasonable for anyone to trust the validity of this statement after having heard the question of the Board which ended with "How long did you work at this High School".

2. Appellant does not propose to know the scope of this Court's authority, only to seek to correct the injustice being shown to him in this matter. However, the Courts decisions can effectively reverse a Parole Board decision as was the case in Barton vs. S.C. Dept of Probataion, Parole, and Pardon Services (S.C. Sup Crt Opinion #27281 July 3, 2013) Appellant brings it to the court's notice that this same ex-pos facto violation and misinterpretation of parole statutes has been perpetrated against him and it is entirely possible that he has gained the necessary votes of attending Parole Board members at some point in the past to grant parole but been denied. This information is not on the Audio/CD of his Oct 2 Parole Hearing nor was it on cassette recordings obtained of his 2003 and 2005 Parole Hearings.

3. Does the Parole Board's denial of Parole violate Appellant's constitutional rights?

The U.S. Supreme Court has over the years made several rulings pertaining to the sentencing of juveniles in adult court. Having previously abolished the death penalty in such cases, in 2013 the U.S. Supreme Court abolished the sentence of life without parole for juveniles sentenced as adults. The S.C. Parole Board has essentially imposed this sentence on Appellant in this case. The Board had stated that it's decision was made because the fact that Appellant had committed this crime meant that there was a risk that he would commit further crimes. Since Appellant's crime is an immutable fact which he is powerless to change, he has no possibility of ever making parole.

Appellant does not protest his original sentence of life with 10 year minimum service. He committed a serious crime for which a harsh punishment was justified. However, the Parole Board has harshened his punishment above and beyond that of other such offenders with the same sentence. Appellant's punishment has certainly been out of proportion with the overwhelming majority of offenders sentenced to life with ten year eligibility for the crime of murder. There was a front page article in the Sunday edition of the Greenville News (circa Jan 1991) which stated that some nearly 400 inmates sentenced to life for murder had been paroled after an average of 12 years. There are no circumstances

in Appellant's record to justify this discrepancy. It would be understandable if there was a previous history of violence as a juvenile, the crime was part of a series of violent acts, there was a record of violence while incarcerated or if he had been found mentally unstable. None of this is the case. In fact, Appellant has been required to pass psychological exams specifically formulated to reveal violent tendencies in order to advance his custody status. The Solicitor and County Sheriff approved Appellant to work and go on weekend pass prior to placement on Work Release in 1983. At his 2005 Parole Hearing Mr. and Mrs. Hodges appeared and stated that they just didn't know if he should be given parole. This is hardly a vehement objection.

Respondent states that the Appellant has offered no proof as to the veracity of his statements concerning the disparity in treatment he has received yet offers no denial. These facts are part of the public record. Respondent seeks to gain advantage from Appellant's status as a pro se litigant and prisoner. In today's age of information, anyone with access to the internet can get this information. An examination of the Department of Probation, Parole and Pardon Services' records would verify these facts.

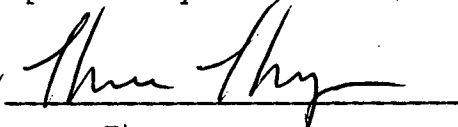
It is Respondent who shows contempt for the facts as evidenced by the numerous errors contained in its brief.

Conclusion

Appellant should have a right to a reasonable expectation of serving the sentence he was given. The Parole Board should not be allowed to make his punishment harsher than other offenders with like crimes and sentences. Granting of Parole does not end Appellant's sentence but only moves it to another phase. A careful consideration of the record will show that he has merited this lessening of the rigors of his confinement.

Appellant begs the Court to use its authority to ensure that justice is served in this case.

Respectfully submitted,

s/ 

Thomas Thompson

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April 27, 2014

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Certificate of Service

I, Thomas Thompson hereby certify that I have served the within Appellant's Final Brief and Record on Appeal dated April 27, 2014, on Respondent by depositing a copy of the same in the U.S. Mail, postage prepaid, addressed to:

Tony Evans, Jr.

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April 27, 2014

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