

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from the Administrative Law Court
The Honorable H.W. Funderburk Jr., Administrative Law Judge
Docket 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

RECORD ON APPEAL

Gregory Mackey

Gregory Mackey, #136609
Pro Se Appellant

Tyger River Correctional
Institution Lower Yard
200 Prison Road
Enoree, S.C. 29335

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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 COUNSEL

The undersigned certifies that this Record on Appeal complies with the Rules of this Court and contains all material proposed to be included in the Record on Appeal by all parties and not any other material.

Gregory Mackey

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January 13, 2020

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