

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APR 08 2020

APPEAL FROM ADMINISTRATIVE LAW COURT  
Deborah B. Durden, ALJ

SC Court of Appeals

Appellate Case No. 2019-002065

Calvin Smith, 090424

Appellant

v.

South Carolina Department  
of Probation, Parole and  
Pardon Services,

Respondent

RECORD ON APPEAL

Calvin Smith, 090424  
KER.CI/HD229  
4848 Goldmine Hwy.  
Kershaw, SC 29067

pro se

Matthew C. Buchanan  
SCDPPPS General Counsel  
P.O. Box 207  
Columbia, SC 29202

Attorney for Respondent

**INDEX**

	<b>Page</b>
Respondent's Notice of Rejection Dated January 24, 2019.....	1
Parole Criteria .....	2
Certificate of Counsel	3

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

HENRY McMASTER  
Governor



JERRY B. ADGER  
Director

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Columbia, South Carolina 29250  
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January 24, 2019

Mr. Calvin Smith #00090424  
Kershaw Correctional Institution  
4848 Goldmine Hwy.  
Kershaw, SC 29067

RE: NOTICE OF REJECTION

Dear Mr. Smith:

It is my responsibility to inform you, on behalf of the South Carolina Parole Board, that the Board has reached a decision regarding your parole hearing. The Board hereby makes the following CONCLUSION OF LAW:

After careful consideration of: (1) the characteristics of your current offense(s), prior offense(s), prior supervision history, prison disciplinary record, and/or prior criminal record, as described in the findings of fact below; (2) the factors published in Department Form 1212 (Criteria for Parole Consideration); (3) the factors outlined in Section 24-21-640 of the South Carolina Code of Laws, and (4) actuarial risk and needs assessment factors pursuant to ~~Section 24-21-10 (F) (1) of the South Carolina Code of Laws. A~~ The Parole Board had determined that your parole must be denied.

You will be notified 30 days prior to your next scheduled parole consideration date.

FINDINGS OF FACT:

Nature And Seriousness Of Current Offense  
Indication Of Violence In This Or Previous Offense  
Use Of Deadly Weapon In This Or Previous Offense  
Vote Count: Unanimous To Reject

Sincerely,

A handwritten signature in cursive script that reads "Nettie C. Jacobs".

Nettie C. Jacobs  
Board Support Services

South Carolina Department of Probation, Parole and Pardon Services  
Criteria For Parole Consideration

SC Board of Probation, Parole and Pardon Services  
P.O. Box 50666  
Columbia, SC 29250

10/15/18  
K. Smith

Inmate Name <b>SMITH, CALVIN</b>	SCDC# <b>00090424</b>
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**Criteria for Parole Consideration**

The South Carolina parole law creates no right to be released on parole. Parole in South Carolina is strictly a matter of privilege or grace. The South Carolina Board of Probation, Parole and Pardon Services has absolute discretion to grant or deny parole. As such, the publication of these parole criteria in no way creates an expectancy of release; nor does it bind the Parole Board in any way to favorable parole decision or establish any presumptions of entitlement to parole.

In deciding whether or not to grant parole, the Parole Board considers, among other things, the inmate's record before incarceration as well as during incarceration. The record itself is prepared through investigations conducted for the Parole Board, and it becomes a part of the inmate's parole file. The files are maintained by the Department of Probation, Parole and Pardon Services and are, by the statute, privileged and confidential. The confidentiality of the parole file is far reaching; inmates themselves have no right to inspect the contents of their files. If the inmate thinks his/her file is somehow incomplete or contains some errors or other inaccuracy, he/she must notify the Board of the specific error or inaccuracy. The Board will investigate the inquiry and notify the inmate of the action taken.

Inmates do, however, enjoy certain rights in the parole process. The inmate has the right to appear at his parole hearing. If the inmate fails to appear, the Board may decide his/her case in absence. The inmate has the right to be represented by an attorney; however, he/she has no right to have an attorney appointed if he/she cannot afford one. At the hearing, the inmate has the right to present witnesses and evidence on his/her own behalf, but an inmate does not have a right to confront witnesses.

In deciding whether or not an inmate should be granted parole, the Board or Panel of the Board exercises its absolute discretion to the limits allowed by state and federal law. The discretion of the Board or panel aims at protecting the best interest of both society and the inmate being considered for parole. In its concern for the protection of society's and the inmate's best interests, the Board or Panel deliberates upon the "reasonable probability" that an inmate will not again violate the law, if parole is granted. When deliberating that an inmate will not again violate the law, the Board or Panel weighs the factors listed below. The Board or Panel, in its absolute discretion, also considers any other factors not listed below which it considers relevant in a particular case.

1. The risk the inmate poses to the community;
2. The nature and seriousness of the inmate's offense, the circumstances surrounding the offense, and the inmate's attitude toward it;
3. The inmate's prior criminal records and his/her adjustment under any previous programs or supervision;
4. The inmate's attitude toward his/her family, the victim, and authority in general;
5. The Inmate's adjustment while in confinement, including his/her progress in counseling, therapy, and other similar programs designed to encourage the inmate to improve himself/herself;
6. The inmate's employment history, including his/her job training and skills and his/her stability in the work place'
7. The inmate's physical, mental and emotional health;
8. The inmate's understanding of the cause of his/her past criminal conduct;
9. The inmate's efforts to solve his/her problems such as seeking treatment for substance abuse, enrolling in academic and vocational education courses, and in general using whatever resources the Department of corrections has made available to inmates to help with their problems;
10. The adequacy of the inmate's overall parole plan. This includes inmates living arrangements, where he/she will live and who he will live with; the character of those with whom the inmate plans to associate in both his/her working hours and his/her off-work hours; the inmate's plans for gainful employment;
11. The willingness of the Community into which the inmate will be released to receive the inmate;
12. The willingness of the inmate's family to allow his/her to return to the family circle;
13. The attitudes of the sentencing judge, the solicitor, and local law enforcement officers respecting the inmates; parole;
14. The feelings of the victim's family, and any witnesses to the crime about the release of the inmate
15. The actuarial risk and needs assessment outlined in section 24-21-10 (F)(1) of the S.C. Code of laws; which evaluates based on Criminal Involvement, Relationships/Lifestyle, Personality/Attitudes, Family, Social Exclusion and Mental Health.
16. Other factors considered relevant in a particular case by the Board.

**Reservation of Discretionary Power of the Parole Board**

These criteria in on way limit the absolute discretion of the Parole Board or Panel to make parole decisions on a case-by case basis and to grant or deny parole as it determines to be in the best interest of society and the intimate under review.

In some cases, the Board may decide that inmate should be granted parole if the inmate completes one or more stated conditions. When this is the case, the Board may grant a parole that becomes effective when the inmate completes on or more stated conditions. Should the inmate fail to complete any one of these conditions or disobey any rule or regulation of the South Carolina Department of Corrections before satisfying the stated conditions to make his parole effective, the Board may rescind the inmate's parole and treat the case as though parole had been rejected. In other cases, the Board may feel it needs more time to form its decision. In such cases, the Board may simply take the parole consideration under advisement and reschedule it at a later date. Similarly, the Board may postpone a parole hearing in order to dispose of detainers or pending charges. If the Board rejects an inmate for parole, the inmate will be given written notice of rejection stating the reasons for rejection. Decisions of the Board have no precedential effect whatever and in no way limit the Board's absolute discretion at later parole hearings.

After rejection for parole, the procedure of scheduling of rehearing is as follows:

1. An individual serving time for a violent offense defined in §16-1-60 of the South Carolina Code of Laws 1976 will be reheard for parole two years following the date of parole rejections. Applicable legal exceptions may allow for a one year hearing.
2. An individual serving time for a nonviolent offense defined in §16-1-70 of the South Carolina Code of Laws 1976 will be reheard for parole one year following the date of parole rejections.

**I certify that the above material has been explained to me, and I have received a copy.**

Inmate's Signature <b>Calvin Smith</b>	Date <b>10/15/18</b>
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Witness <b>K. Smith</b>	Date <b>10/15/18</b>
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South Carolina Department  
of Probation, Parole and  
Pardon Services,

Respondent

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

s/ *Calvin Smith*

Calvin Smith, 090424  
KER.CI/HD229  
4848 Goldmine Hwy.  
Kershaw, SC 29067

March 31, 2020