

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Thomas Thompson #80681, Appellant

v.

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

Appellate Case No. 2018-001557

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JUN 05 2020
SC Court of Appeals

Appeal From The Administrative Law Court
Ralph King Andrewson, III, Administrative Law Judge

PETITION FOR REHEARING

Thompson, Appellant, petitions the Court for rehearing of it's decision in the above case. The Court has stated in it's decision that Thompson did not provide substantial evidence to support a showing that similarly situated persons, charged with murder and sentenced to life, received disparate treatment from the Department. Thompson argues that this Court as well as the Administrative Law Court has overlooked or otherwise failed to acknowledge the undisputed evidence presented in this case. All persons sentenced to life with ten year parole eligibility for the crime of murder are similarly situated as Thompson. An article from the Greenville News circa 1991 was cited as evidence. This article stated that some approximately 400 inmates serving life for murder had been paroled after an average of 12 years. All these inmates were similarly situated as Thompson who at the time of this appeal was serving his 43rd year. Respondent has not disputed these facts. Is it this Court's ruling that there is no disparity between the serving of 12 years versus 43 years and that the latter is no harsher punishment than the former? Thompson has argued that the overwhelming majority of those similarly situated as him have been paroled after an exceedingly less harsh length of time, another fact undisputed by Respondent. Respondent's sole argument is that it used the same factors when making it's

decisions. The reasons given by the Department for denying Thompson's parole are a universal description of the crime of murder; a serious violent crime committed with a deadly weapon, and apply to all similarly situated persons. The Department offers no other factor as reason for the excessiveness of punishment it has required Thompson to endure.

Thompson begs the Court to recognize this tremendous disparity in punishment as evidence that the Department has violated his Constitutional right to the equal protection of the law.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'Thompson', is written over a horizontal line.

Thomas Thompson #80681
Tyger River CI 1-225B
200 Prison Road
Enoree, SC 29335

June 1 2020

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

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v.

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

Appellate Case No. 2018-001557

Appeal From The Administrative Law Court
Ralph King Anderson, III, Administrative Law Judge

Unpublished Opinion No. 2020-UP-157
Submitted April 1, 2020 – Filed May 27, 2020

AFFIRMED

Thomas Thompson, pro se.

Tommy Evans, Jr., of the South Carolina Department of
Probation, Parole and Pardon Services, of Columbia, for
Respondent.

PER CURIAM: Thomas Thompson appeals the Administrative Law Court's (the ALC's) order affirming the South Carolina Department of Probation, Parole and Pardon Services' (the Department's) decision to deny his parole. On appeal, he argues the Department violated his right to equal protection by imposing a harsher

punishment on him than other similarly situated persons. We hold Thompson did not provide substantial evidence to support a showing that similarly situated persons, charged with murder and sentenced to life, received disparate treatment from the Department. Therefore, we affirm pursuant to Rule 220(b), SCACR, and the following authorities: S.C. Code Ann. § 1-23-610(B) (Supp. 2019) ("The review of the [ALC's] order must be confined to the record. The court may not substitute its judgment for the judgment of the [ALC] as to the weight of the evidence on questions of fact."); *Sanders v. S.C. Dep't of Corr.*, 379 S.C. 411, 417, 665 S.E.2d 231, 234 (Ct. App. 2008) ("Although this court shall not substitute its judgment for that of the AL[C] as to findings of fact, we may reverse or modify decisions which are controlled by error of law or are clearly erroneous in view of the substantial evidence on the record as a whole."); *id.* ("In determining whether the AL[C]'s decision was supported by substantial evidence, this court need only find, considering the record as a whole, evidence from which reasonable minds could reach the same conclusion that the AL[C] reached."); *TNS Mills, Inc. v. S.C. Dep't of Revenue*, 331 S.C. 611, 626, 503 S.E.2d 471, 479 (1998) ("In order to establish an equal protection violation, a party must show that similarly situated persons received disparate treatment."); *Cooper v. S.C. Dep't of Prob., Parole & Pardon Servs.*, 377 S.C. 489, 499, 661 S.E.2d 106, 111 (2008) ("[T]he [p]arole [b]oard is the sole authority with respect to decisions regarding the grant or denial of parole."); *id.* at 500, 661 S.E. 2d at 112 (holding the parole board's decision would "constitute a routine denial of parole and the ALC would have limited authority to review the decision" if the parole board "states in its order denying parole that it considered the factors outline in section 24-21-640 and the fifteen factors published in its parole form").

AFFIRMED.¹

HUFF, THOMAS, and MCDONALD, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

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Ralph King Anderson, III, Administrative Law Judge

PROOF OF SERVICE

I, Thomas Thompson, do hereby certify that I have served a copy of Appellant's Petition for Rehearing on Respondent by depositing a copy of same in the US Mail, postage prepaid, addressed as follows;

Tommy Evans, Jr., Esquire
Post Office Box 11549
Columbia, S.C. 29211



Thomas Thompson #80681
Tyger River CI 1-225B
200 Prison Road
Enoree, SC 29335

June 1, 2020

Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

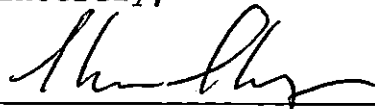
Re; Thomas Thompson #80681 v. SCDPPPS
Appellate Case No. 2018-001557

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SC Court of Appeals

Dear Ms Kitchings,

Please find enclosed for filing Appellant's Petition for Rehearing in the above case along with Proof of Service on Respondent's Counsel. Also enclosed is a copy of the Court's decision filed May 27, 2020 and received by Appellant on June 1, 2020. I have requested that a check be issued from my Cooper Trust Account in the amount of \$25 as payment of Court fees. Thank you.

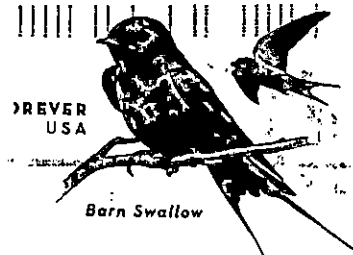
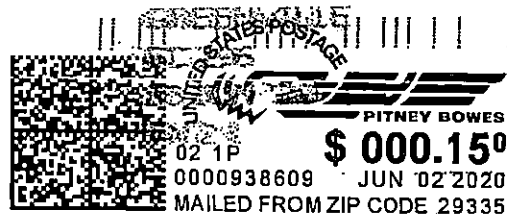
Sincerely,



Thomas Thompson #80681

June 1, 2020

Thomas Thompson #80681
Tyger River CI 1-225B
200 Prison Road
Enoree, SC 29335



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SC Court of Appeals

Jenny Abbott Kitchings
Clerk, SC Court of Appeals
Post Office Box 11629
Columbia, SC 29211

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THE DEPARTMENT OF CORRECTIONS HAS
NOT INSPECTED OR CENSORED THIS ITEM.
THEREFORE, THE DEPARTMENT DOES NOT ASSUME
RESPONSIBILITY FOR ITS CONTENT.
TYGER RIVER CORRECTIONAL INSTITUTION,
SIC. DEPARTMENT OF CORRECTIONS.

