

The South Carolina Court of Appeals

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JUL 06 2020

SC Court of Appeals

Jerome Scott#153381.....Appellate

-vs-

South Carolina Department of ProbationRespondent
Parole, and Pardon Services

Appellate Case No. 2020-000004

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South Carolina Department of Probation, Parole and Pardon Services

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Jerome Scott#153381

Appellant

-vs-

South Carolina Department of Probation,
Parole and Pardon Services

Respondent

**Pursuant
To
Rule 203
Appellate Case No.2020-00004**

On December 04, 2019 the Honorable Phillip Linski signed off on an "Order" concerning an appeal from my parole hearing in November of 2019; Administrative Law Court case No. 19-ALJ-15-033-AP concerns this matter. I timely filed an appeal of said order and notified all parties in doing so. However, I was unaware of the above stated S.C. Rules of court and had to send forth a copy of said order. I indeed satisfied this aspect for the Honorable S.C. Court of Appeal. Thank you for helping remedy this aspect of my appeal. Enclosed please find another copy of said Order attached to my "Final Brief".

With Kind Regards,

Jerome Scott#153381
Allendale Correctional Institution
P.O. Box 1151/F3-B25
Fairfax, S.C. 29827

The South Carolina Court of Appeals

Parole Board Denied Parole based upon Seriousness and Nature of Offense

A. Can any prisoner change the Seriousness and Nature of Offense once convicted?

Petitioner challenges this weighty issue that the Parole Board has cited, for their reason in denying Petitioner parole. When viewed in its full light it will become clear to this honorable court that this Petitioner through "Sound Mind and Spirit" as well as, through the Parole Board Criteria form 1212 and South Carolina Code of Law §24-22-30 (Offender Management System) has **indeed** change his life's narrative. Thus altering the Seriousness and Nature of Offense of the person he was then: with honest remorse and rebuilding of self, with the tools provided within the prison system; prisoners who want to change.

Therefore, once I acknowledged that the system does provide the basic tools that I needed to make the change within me. My true journey took root and the renewing of my mind begun, through the format provided by the Offender Management System outlined in S.C. Codes of Law §24-22-30. The Parole Criteria given in form 1212 and the governing South Carolina Dept. of Correction's policy PS-10.15 (Recently Abrogated). As a matter of law "Due Process" is a right upon any and every human being living under the Law of Land/Country. *Al-Shabazz vs. The State* provided prisoner's with a gateway to ensure that their rights to a "Fair Process" will not be denied or infringed upon as deemed fair by the courts. Petitioner acted upon "Good Faith" by participating in the program classes stipulated in their (SCDC) policy. The reward being betterment of self, as well as, classed documented and participation grading system duly noted. However, the Parole Board failed to acknowledge this aspect of Petitioner's incarceration development of self through the agency's very own criteria program. Petitioner through hard work and the willingness to change, took classes that corrected his Critical Thinking Skills, How to Handle Tough Times, Authentic Manhood, Jumpstart, various Victim Awareness, etc, etc, the list goes on. But, the point is true and very clear: this Petitioner didn't received a fair "Due Process" review of his record nor noted changes in his life through these agencies as well as S.C. Codes of Law Criteria Program. If so, then how the Petitioner be overlooked for parole? In *Sandin vs. Conner* 115 S.Ct.2293 the Honorable Supreme Court noted the prejudicial factors that resulted in a lack of adequate consideration for a fair "Due Process" screening of facts. When viewed in its full light, it'll become clear that the Parole Board did indeed err in its ruling concerning this Petitioner. Policy PS-10.15 was signed into and amended into State Statute by then Commissioner Jon Ozmit on Feb. 1, 2010 (*Abrogated Recently*).

Through this "Faith Base" policy this Petitioner was under the impression that he was fulfilling the Eligibility Requirement to participate in the Offender Management System under S.C. Codes of Law §24-22-30 (b) (e) (f) that provides prisoners with a definitive "Guide Post" so that they can utilize the classes, self-help programs, and activities to develop themselves. The Petitioner took a huge step towards meeting the "Goal Oriented Requirement" by transferring to the Allendale Corrections Institution, which is recognized as a "Program Yard". Moreover, in order to reside or be housed at Allendale facility you must first meet the "Disciplinary" criteria as outlined in S.C. Codes of Law §24-22-30 (b) (*Maintaining a clear disciplinary record for at least six months*). Subsection (f) possessing an acceptable risk score (*meaning no history of escape over the past seven years or any assault on staff over the past seven years*). The Petitioner passed this particular requirement of Law with Outstanding merit. The Petitioner further contends that subsection (E) of the S.C. Codes of Law §24-22-30 has also been satisfied by the partaking of the Rehabilitative classes offered within SCDC. (See CRT for confirmation). These confirmations does evidence a clear and conscious effort towards change and erasing the gnawing distress that arises from thoughts of the petitioners past. When viewed under the guise of "Second Chances". Can anyone outside of victim's family say that the petitioner doesn't deserve a second chance. The Petitioner does understand that even though he understands the cause of his past conduct and the feelings of the victim's family-he's only won half the battle. Only God can grant true forgiveness. In *Kamtheen Cooper vs. SCDPPPS*- Mr. Cooper made a clear assessment before the court about the Nature and Seriousness of Offense. No prisoner can change his or her conviction; but every prisoner has the ability to change what's inside his or herself through the tools provided by within the system their being housed and through the support of family and friends. But no prisoner can change the past. The Parole Criteria has set forth (16) factors they consider relevant in their decision making process. The Petitioner has met all sixteen, as well as the criteria set forth in the Offender Management System as outlined within the body of the S.C. Codes of Law §24-22-30 (b)(f)(e). It is clear that the Petitioner has met all of said criteria's set forth; yet consideration was undercut by a lack of adequate "Due Process" in the reviewing of this petitioner. This claim cannot be overlooked considering the facts as well as factors given within this brief.

The Petitioner concluded with a humble voice that once his brief and the contents thereof is viewed in its full scope, then by God's grace a rehearing or release will be granted to the Petitioner.

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Court of Appeals

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SC Court of Appeals

Jerome Scott#153381

Appellant

-vs-

South Carolina Department of Probation,
Parole and Pardon Services

Respondent

**Fed Rules of Court 4(B)
Amendment to Final Brief
Case No.: 2020-000004**

Appellate humbly proceeds through this honorable court with closing statements to Case No. 2020-000004:

Respondent to the above reference matter has realized that a "Created Liberty Interest" has taken place by their own admission within the body of their reply brief. Respondent admitted that a Parole Criteria is set forth in accordance with S.C. Code Ann. §24-21-640 and the General Assembly has made the Board responsible for the establishment of written, specific criteria for granting parole and provisional parole. (See page 2 and 3 of Respondent's Argument in their reply brief). This mandatory language within itself does imply that upon certain conditions parole shall be granted. This language does give a prisoner (in instant Case Appellant Jerome Scott #153381) a legitimate expectation of parole, or "Liberty Interest" that cannot be denied without "Due Process". In *Swarthout Cooke*, 131 S.Ct.859, 862 (2011) the court ruled, "When a State creates a Liberty Interest, the Due Process clause requires fair procedures for its vindication". It is very clear from the state's own acknowledgement that this Appellant has done everything possible, with what was available to him in order to comply; with the criteria set forth by The Parole Board and The Department of Corrections Offender Management System. The only thing that stands between him and his freedom is the actual conviction; a thing that this Appellant has shown tremendous remorse and would change, if he had the power to do so. No prisoner can change his or her conviction unless their sentence is overturned by the courts. However, through dedication and a willingness to change, in order to rewrite his or her life's narrative. Then that person (Appellant Jerome Scott) can only change that's what is within them. Moreover, the state acknowledges the various classes

and progress Appellant has made over the years. This has helped to establish Appellant's Liberty Interest. In *Franklin v. Shields*, 569 F.2d 784, 789-90 (4th Cir. 1977) the court did order that when a regulatory statute has been met or fulfilled concerning a "Liberty Interest", conditional release must be granted until further rulings can take place.

Appellate stands upon the totality of his entire brief, as well as his amended final statements concerning this matter. With praying hands before God and his country the Appellate rests before this honorable court.

Sincerely,

Jerome Scott#153381
Allendale Correctional Institution
P.O. Box 1151/F3-B25
Fairfax, S.C. 29827

The South Carolina Court of Appeals

Conclusion

The South Carolina Codes of Law §24-21-645 is considered to be a "Light Post" to the integrity and maintenance of ensuring that governing guideline are being followed according to the laws of the land. I am aware that Parole isn't a right, but a divine privilege. One in which I pray this court will see fit to grant me based upon the overwhelming body of evidence that proves that I Jerome Scott #153381 has indeed altered the Seriousness and Nature of that which existed inside of me some 30+ years ago.

Sincerely,

Jerome Scott#153381
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**State of South Carolina
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**Certificate of Service
Case No.: 2020-000004**

I hereby state by transmission of the U.S. Postal Service that, I Jerome Scott did place in the U.S. mail service on Friday July 3, 2020 a copy of my Final Brief. The above stated matter to the following parties:

Janell H. Gregory, Esquire.

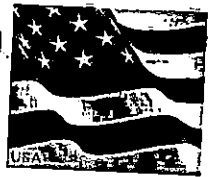
V. Claire Allen
Deputy Clerk
S.C. Court of Appeal

Respectfully,

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