

SPENCER UTSEY
APPELLANT

V.

S.C. Dept. of
CORR.

RESPONDENTS

IN THE COURT OF APPEALS

8/16/2020

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AUG 11 2020

SC Court of Appeals

NOTICE OF INTENT
to APPEAL/APPEAL

KE# DOCKET NO. 20-
ALS-04-0155-AP,
GRIEVANCE NO. KCF-
1088-19

to obtain judicial review of the ALJ's
final decision, the Appellant comes before this
court with an appeal of the case above.

This matter has been before the
Administrative Law Court, pursuant to an appeal filed
on March 9, 2020. Now ~~to~~ Appellant Spencer Utsey
#192660 comes before the Court of Appeals with an
appeal pursuant to S.C. Code ANN. § 1-23-610(2)(2);
SCACR.

SCOC has me Appellant doing a violent
sentence when the violent box on sentencing sheet
was not checked, this is an enhancement of sentence
and violation of separation of powers doctrine,
not getting the benefit of judicial actions. See STATE
V. ARCHIE (S.C. App. 1996) 470 S.E.2d 380 rehearing
denied.

IN CLEAR VIOLATION OF STATE V. ARCHIE
(S.C. App. 1996) 470 S.E.2d 380 REHEARING
DENIED.

Spencer Utsey #192660
5 | Spencer Utsey

PURSUANT TO TANT V. SOUTH CAROLINA
DEPT. OF CORRECTIONS, SUPREME COURT OF
SOUTH CAROLINA, MAY 28, 2014, 408 S.C.
334, 759 S.E.2d 398.

THE COURT OF APPEALS REVERSED,
HOLDING THE SENTENCING SHEETS CONTROLLED
AND BECAUSE THEY ARE UNAMBIGUOUS, THE AC
AND THE DEPARTMENT ERRED IN CONSIDERING
THE TRANSCRIPT AS WELL. TANT, 395 S.C. AT 44;
718 S.E.2d AT 755.

THERE CAN BE NO DOUBT THE LENGTH OF
AN INMATE'S INCARCERATION IMPLICATES A
CONSTITUTIONAL LIBERTY INTEREST.
GREENHOLTZ V. INMATES OF NEB. PENAL
& CORR. COMPLEX, 442 U.S. 1, 18, 99 S.Ct.
2100, 60 L.Ed.2d 668 (1979)

BY NOT HAVING THE SENTENCING
SHEET VIOLENT BOX NOT CHECKED THIS
IS A LIBERTY INTEREST VIOLATION,
DUE PROCESS STATE AND FEDERAL DUE
PROCESS CLAUSES, NO PERSON SHALL BE
DEPRIVED OF LIFE, LIBERTY OR PROPERTY
WITHOUT DUE PROCESS OF LAW. U.S. CONST.

amend. XIV, § 1; S.C. CONST. ART. 1 § 3

We also reject the Department's claim that the court of appeals erred in holding it can only consider a sentencing transcript if the sentencing sheets are ambiguous. The Department asserts this pronouncement runs contrary to our holding in *Boan v. State*, 388 S.C. 272, 695 S.E. 2d 850 (2010).

Here is also a case of exception because the sentencing sheet wasn't marked within the violent box, so therefore a authority of law cannot assume appellant has a violent sentence and nor does transcripts or nowhere possible can say appellant has a violent sentence. The appellant argues the sentencing sheet was incorrect and therefore NOT an order of the court. ~~for~~ for the above immediately release from prison and herein

8/6/2020

192860
S/ Spencer
Spencer

EGAL
MAIL
ONLY

Table of Authorities

pg 1 • State v. Archie (S.C. App. 1996)
470 S.E.2d 380 rehearing denied; State
v. Archie (S.C. App. 1996) 470 S.E.2d 380
rehearing denied.

pg 2 • TANT v. South Carolina Dept. of
CORRECTIONS, May 28, 2014, 408 S.C. 334,
759 S.E.2d 398; TANT, 395 S.C. at 449
718 S.E.2d at 755; GREENHOLTZ v. FEMALE
OF NEB. PENAL & CORR. COMPLEX, 442 U.S.
118, 99 S.Ct. 2100, 60 L.Ed.2d 668 (1979),
U.S. CONST. amend XIV, § 1

pg 3 • S.C. CONST. art. 1 § 3; BEAN v. STATE
388 S.C. 272, 695 S.E.2d 850 (2010).

pg 4 statement of the case.

statement of The case

SCDC, South Carolina Department of Corrections has me doing a violent sentence, when the violent box on sentencing sheet was not checked, this is an enhancement of sentence and violation of separation of powers doctrine, not getting the benefit of judicial actions.

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1. Name of Judge in the case for the Adm. Law COURT IS H. W. FUNDENBURK, JR. ADMINISTRATIVE LAW Judge.

2. The Counsel for the Respondent is TERESA S. PLAYER, STAFF ATTORNEY. The ADMINISTRATIVE COORDINATOR IS CHERON HESS.

3. A STATEMENT OF WHEN I RECEIVED WRITTEN NOTICE OF ENTRY OF THE ORDER OR JUDGMENT FROM WHICH THIS APPEAL IS TAKEN. SEE RULE 203(e)(2)(c), SCACR.

SPENCER WISEY
Appellant

8/6/2020

v.

S.C. Dept. of
CORR.
Respondents

PROOF OF SERVICE

RE: DOCKET NO. 20-
AJS-04-0155-AP;
GRIEVANCE No. KCF-
1088-19

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I do hereby aver that this is a proof of service, that I Spencer Wisey #192660 did serve the Adm Law Court, S.C. Dept. of CORR. and the COURT of Appeals at P.O. BOX W629, Columbia, S.C. on 8/6/2020 and placed copies in the KCF mail system on 8/6/2020

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S.C. COURT OF Appeals
P.O. BOX W629
Columbia, S.C. 29211

CLERK OF COURT
ADMIRALTY COURT
EDGAR A. BROWN Bldg
1205 PENNINGTON ST. Suite 224
Columbia, S.C. 29201

OFFICE OF GENERAL COUNSEL
P.O. BOX 21787
Columbia, S.C. 29221-1787

8
Spencer Wisey #192660
SPENCER WISEY

SPENCER WISEM
Appellant

v.

South Carolina
Dept. of CORR.
Respondents

8/16/2020

Certificate of
Service

RE: Packet No. 20-
ALJ-04-0155-API
Grievance No. KCF-
1088-19

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A NOTICE of intent to Appeal / Appeal on 8/16/2020
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SPENCER WISEY # 292660

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Mailroom

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4344 Broad River Road
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SC Court of Appeals

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