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State of South Carolina
In the Court of Appeals

Appeal from Administrative Law Court
Docket No.: 19-ALJ-15-0033-AP
Appellate Case No.: 2020-000004

Jerome Scott#153381

Appellant


v

South Carolina Department of Probation,
Parole and Pardon Services

Respondent

**Motion
For
Re-address**

The Appellant moves before this Honorable court via the higher courts ruling, in the above stated case. Appellant seeks to redress based upon the merits within the enclosed brief for finality at the lower court level. The Appellant humbly seeks resolution as well as release from his incarceration based upon the enclosed brief.

Respectfully,

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

State of South Carolina
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Statement of Case

After being denied parole for over seven times I (Appellant) sought relief through the proper channels, afforded prisoners within the Dept. of Corrections. I filed a timely appeal with the Administrative Law Court Docket No.:19-ALJ-15-0033-AP. On Dec. 4, 2019 the Honorable Administrative Judge Phillip Lenski signed off on "Order of Agreement"; however, Judge Lenski did cite that the parole board needed to be more inclusive in their rulings. Also duly noted, due to the "**Broader**" scope of merits the Administrative Law court only had limited scope of concerning the application of law. Therefore, I timely filed an appeal with the S.C. Court of Appeals. I've enclosed the order sent to me from the court of appeals, as well as my brief fore-address if it pleases he court.

Appellate will provide this honorable court with two weighty questions for review;

1. Did the Parole Board create a Liberty Interest that appellant sought to satisfy through the willingness to change and better himself?
2. Can any prisoner change the seriousness and nature of offense once convicted?

South Carolina Court of Appeals

Question 1

1. Did the Parole Board create a "Liberty Interest" through form 1212 and the Offender Management System, which Appellant sought to satisfy through his willingness n to change and better himself?

Respondent (Parole Board) admitted within the body of its reply brief to Appellant's appeal (See page 2 and 3 of Respondent's Argument in their reply brief) 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 or provisional parole. This mandatory language does give rise to a prisoner's expectation of parole upon meeting these specific guidelines and adhering to the governing rules. In instant case Appellant has been a pillar within a character program for well over 10years that's designated for prisoner's to show Leadership, Responsibility, Honesty, Integrity, Selflessness, Equality, Respect, etc., etc. All of which is outlined in the Offender Management System under S.C. Codes of Law §24-22-30, as well as policy PS-1017 signifying that Appellant does possess an acceptable risk score, custody level, and no major disciplinary action within the past 6 months to a year. All of which ,if met as outlined by the Parole Board form 1212 gives prisoner's a legitimate expectation of parole, or "Liberty Interest" that cannot be denied without "Due Process". In Swarthout v. 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 through the Offender Management system, as well as comply with the criteria set forth by the Parole Board. This ordeal that has placed me in confinement for well over 35years is a thing of the past. This conviction is the only thing that stands between me (Appellant) and my freedom. If I had the power to

change the past, I'd humbly do so. However, no prisoners can change his or her conviction unless their sentence is overturned by the courts. Moreover, the state acknowledges the various classes and progress Appellant has made over the years. In which has helped to establish Appellant's Liberty Interest. In the court's ruling of Franklin v. Shields, 569 F.2d 784, 789-90 (4th Cir. 1977) the court ordered that when a regulatory statute has been met or even fulfilled concerning a "Liberty Interest", conditioned release must be granted until further rulings can take place.

Parole is a system of release from prison before the completion of a sentence, on condition that the prisoner abides by certain rules for the remainder of the sentence; quoting Morrissey v. Brewer 408 U.S. 471, 477 (1972). This Appellant has shown that he has the ability to do so. In Cohen v. Beneficial Industrial Loan Corp. 337 U.S.541, 546 (1949) [case adjudicated] court articulated an exception to the final judgement when it is determined that issues are completely separate from the issue of a defendant's guilt.

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 Statue 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.

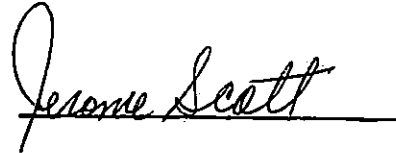
The Petitioner concluded with a humble voice that once his brief and the contents thereof is viewed in its full scope, then by God's grace a rehearing or release will be granted to the Petitioner.

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,

A handwritten signature in cursive script that reads "Jerome Scott". The signature is written in black ink and is positioned above a horizontal line.

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

The Supreme Court of South Carolina

Jerome Scott, #153381, Petitioner,

v.

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

Appellate Case No. 2020-001280

Lower Court/Tribunal No. 2019ALJ50033AP

ORDER

By order dated July 30, 2020, the South Carolina Court of Appeals dismissed the appeal in this matter. When no petition for rehearing or reinstatement was received, the Court of Appeals sent the remittitur on August 21, 2020.¹

Petitioner has now filed a notice of appeal seeking review of the decision of the South Carolina Court of Appeals. This notice of appeal was served on opposing counsel on September 21, 2020. Since decisions of the Court of Appeals are reviewed by a petition for a writ of certiorari under Rule 242 of the South Carolina Appellate Court Rules (SCACR), this notice of appeal has been construed as a petition for a writ of certiorari.

Under Rule 242(a), SCACR, this Court will only review a final decision of the Court of Appeals, and a decision is not final for the purposes of review until a petition for rehearing or reinstatement has been acted on by the Court of Appeals. Rule 242(c), SCACR. Since no petition for rehearing or reinstatement has been ruled on by the Court of Appeals in this matter, there is no final decision for this Court to review.

Further, when no petition for rehearing or reinstatement was received by the Court of Appeals, the Court of Appeals sent the remittitur. Rule 221, SCACR. The

¹ Before the Court of Appeals, the Appellate Case Number was 2020-000004.

sending of the remittitur ended appellate jurisdiction over this case. *Wise v. S.C. Dept. of Corr.*, 372 S.C. 173, 642 S.E.2d 551 (2007).

Accordingly, the petition for a writ of certiorari is dismissed.

FOR THE COURT

BY



CLERK

Columbia, South Carolina
September 25, 2020

cc: Janell H Gregory, Esquire
Mr. Jerome Scott, 153381
The Honorable Jenny Abbott Kitchings



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
CHIEF DEPUTY CLERK

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August 21, 2020

The Honorable Jana E. Shealy
Edgar A. Brown Building
1205 Pendleton Street
Suite 224
Columbia SC 29201

REMITTITUR

Re: Jerome Scott, #153381 v. SCDPPPS
Lower Court Case No. 2019ALJ150033AP
Appellate Case No. 2020-000004

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,


CLERK

Enclosure

cc: Jerome Scott, 153381
Janell H Gregory, Esquire

State of South Carolina
In the Court of Appeals

Appeal from Administrative Law Court
Docket No.: 19-ALJ-15-0033-AP
Appellate Case No.: 2020-000004

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Jerome Scott#153381

Appellant

v

South Carolina Department of Probation,
Parole and Pardon Services-

Respondent

Certificate of Service

I, Jerome Scott #153381 do hereby state that I place within the U.S. Postal Service mail service on Thursday November 05, 2020 a copy of my Motion to Re-address to the following parties.

Honorable Jenny Kitchings
Clerk of Court
1205 Pendleton Street Ste. 224
Columbia, S.C. 29201

Matthew C. Buchanan
Office of General Counsel
P.O. Box 207
Columbia, S.C. 29202

South Carolina Administrative Law Court
Honorable S. Phillip Lenski
Edgar A. Brown Building
1205 Pendleton Street
Columbia, S.C. 29202

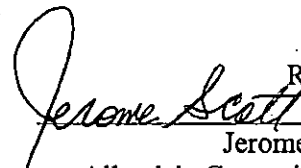
Sworn to before me
On this 5th day of November 2020



My Commission Expires:

February 05, 2025


Respectfully,



Jerome Scott#153381
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Jerome Scott #153381
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