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JAN 21 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
Court of Appeals

Bernard Bagley, #175851,

Appellant,

v.

South Carolina Department
of Probation, Parole and
Pardons Services,

Respondent.

Appellate Case No. 2019-002102-

MOTION FOR REHEARING EN BANC
IN ACCORDANCE TO RULE 219(a)(2), SCACR

The Appellant comes now before the Court for a rehearing en banc based on a question of exceptional importance. Appellant received the Court Order dated December 17, 2020, on December 22, 2020, that denied his motions requesting a writ of habeas corpus and an order granting bail.

The Court should have before them filed are Appellant's Submission of Supplemental Materials on Respondent, and and Appendix with index included pages 1-10, in which involves a question of exceptional importance and support for the same.

Appellant's duration of confinement contains matters involving medical judgments which are the sole province of the responsible physician that has become arbitrary or capricious in nexus to this case and the covid-19 global pandemic. There are no arrangements made with health care specialist pertaining the Appellant's medical needs whereby Health Care Director Clark is not certified or has registration requirements, nor credential as a health care specialist as an neurologist and ortho recognition of signs and symptoms pertaining to Appellant's unique medical condition described in Appendix pages 1 through 7. Ms. Clark's credentials are limited under applicable laws and regulations in South Carolina, with no specific training or credentials in specific medical procedures such as an neurologist and orthopedic.

For this Court not to grant bail pending a disposition of the appeal or Appellant's next parole hearing date will be assisting maliciously refusal to provide a health care specialist to correct Appellant's medical condition. Covid-19 is real and the Respondent has denied numerous individuals with similar offenses such as Appellant's.

The Appellant has been informed that he has a parole date and that he is 63 years old and the only treatment he will receive during the duration of his confinement are medications and no surgery intervention. Appellant incorporate herein his Submission of Supplemental Materials on Respondent dated December 7, 2020, along with the Appendix, with index pages 1 through 10 in support for a rehearing en banc.

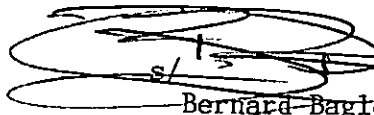
Appellant contends that the only avenue to prevent Appellant from being a medically vulnerable person from contracting covid-19 is to authorize bail so that he can get the medical condition corrected to prevent further hardship on his immune system and pain and suffering.

The proceeding involves a question of exceptional importance, Appellant's duration of confinement regarding any improvement in his ability to function under covid-19 conditions of life activities. In addition, the Respondent has not disputed whether or not granting bail will prejudice or cause harm to society during this extraordinary time regarding covid-19 circumstances.

In essence, the Appellant desire very much to have his medical condition corrected so that he will be betterrequip and able to fight off the covid-19 virus.

WHEREFORE, the appellant prays that the Court will rehear his request for an order granting bail en banc.

Respectfully submitted,


s/ Bernard Bagley
Bernard Bagley
#175851/HD133/KER.CI
4848 Goldmine Hwy.
Kershaw, SC 29067

December 22, 2020

THE STATE OF SOUTH CAROLINA
Court of Appeals

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SC Court of Appeals

Bernard Bagley, #175851,

Appellant,

v.

South Carolina Department
of Probation, Parole and
Pardons Services.

Respondent.

Appellate Case No. 2019-002102

CERTIFICATE OF SERVICE

I hereby certify that I, Bernard Bagley, on the 22nd day of December, 2020, served a copy of a Motion for Rehearing En Banc on the Respondent by depositing the same in the U.S. Mail, postage prepaid, addressed as follows.

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

s/

Bernard Bagley
#175851/HD133/KER.CI
4848 Goldmine Hwy.
Kershaw, SC 29067

December 22, 2020

Bernard Bagley
#175851/HD133/KER.CI
4848 Goldmine Hwy.
Kershaw, SC 29067

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JAN 21 2021

SC Court of Appeals

January 14, 2021

SC Court of Appeals
Jenny A. Kitchings, Clerk
P.O. Box 11629
Columbia, SC 29211

RE: Bagley v. SCDPPPS, Appellate Case No. 2019-002102

Dear Madam Clerk:

Enclosed is my Motion for Rehearing En Banc based off the Order dated December 17, 2020, in which I received on the 22nd. However, due to the covid-19 breakout at the institution and lockdown on the 23rd I have been unable to get copies to mail the Respondent. Be that as it may, please forward a copy of the same to the Respondent and return me a copy clock stamp.

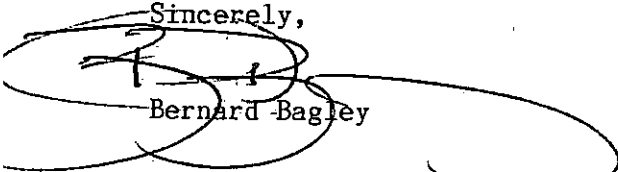
If a motion is required for filing out of time please let me know, but I pray that you will accept the enclosed as is because of the conditions here and the duration of the same. In fact, on the 22nd while working on the motion I was not feeling well and as of today the institution is still on lockdown with a new case in the unit I'm assigned which had the largest or numerous breakout on the compound I'm told.

Nevertheless, it's my prayer that the court reconsider this matter because the court findings will show that the covid-19 pandemic is 5 times higher in prison settings than on the outside society. As such, I'm more likely to contract the virus than being granted parole my next scheduled parole hearing in mid 2021.

I'm ready in mind and resources to be release under any conditions the court setforth through SCDPPPS and SCDC supervision.

Thank you for considering this matter.

Sincerely,



Bernard Bagley

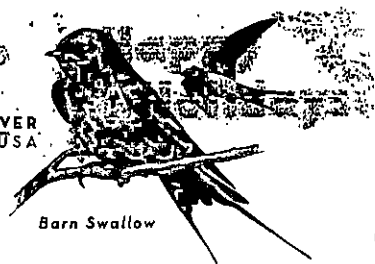
cc: Matthew C. Buchanan, Esq.
file

Enclosures

Bernard Bagley
#175851/HD133/KER.CI
4848 Goldmine Hwy.
Kershaw, SC 29067

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JAN 21 2021

SC Court of Appeals

SC Court of Appeals
Jenny A. Kitchings, Clerk
P.O. Box 11629
Columbia, SC 29211-1629

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JAN 15 2021

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