

UNITED STATES DISTRICT COURT
State of South Carolina

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MAR 04 2021

SC Court of Appeals

Thomas Thompson #80681
Appellant,

v.

S.C. Dept. of Probation,
Parole and Pardon Services

Respondent.

SC App. Case No. 2018-001557

PETITION FOR WRIT
HABEAS CORPUS

Appellant, Thompson, having exhausted his claims in the state of South Carolina now petitions the United States District Court for a Writ of Habeas Corpus under 28-USC-§2241. Thompson argues that the Department of Probation, Parole and Pardon Services has violated his 14th Amendment right to the Equal Protection of the Law.

HISTORY

Thompson was sentenced for the murder of George Upchurch in 1975 at the age of sixteen under a plea agreement which court stated purpose was to have him serve 10 years as punishment with a chance to start his life anew while still young based upon his conduct while incarcerated. Thompson first appeared before the Parole Board on February 6th, 1985 and was denied parole based on the serious nature of his offense, indication of violence in the offense and use of a deadly weapon. He has appeared before the Board an additional 18 times over the course of 35 years and been denied parole based on the serious nature of his offense each time. Thompson filed an appeal of his parole denial in 2018 stating that the Board had violated his right to the equal protection of the law. Administrative Law Judge Anderson denied his appeal and affirmed the Board's decision citing the "Cooper" ruling that the Board's letter of denial stated it's decision was a finding of law based on facts and thus it's decision was routine. Judge Anderson stated that Thompson had provided no evidence that his rights had been violated. Thompson then appealed to the SC Court of Appeals.

Thompson stated that he was not challenging the routine procedure of his hearing but the disparate treatment he had received in comparison to other similarly situated persons. The Court of Appeals denied his appeal again citing "Cooper" and stating that he had provided no evidence in his assertion that his equal protection rights had been violated. Thompson filed a Petition for Rehearing which also was denied.

THE CASE

Thompson has argued that the overwhelming majority of those persons similarly situated as himself have been paroled after a very much "less harsher" punishment than himself. These similarly situated persons would be anyone sentenced for the crime of murder to a life sentence with ten year parole eligibility. Thompson cited an article published in the Sunday edition, front page of the Greenville News which stated that some approximately 400 inmates serving this sentence for murder had been paroled after an average of 12 years. Thompson stated that like himself all these persons were guilty of the crime of murder and that this was an unchangeable fact regardless of the fact that they had been paroled. Thompson also stated these persons having been denied parole initially would have been denied for the same reasons-violent crime of a serious nature- as himself. Thompson noted the great discrepancy in the 12 year average these persons served and the 45 years he has now served. These facts have not been disputed by Respondent or the Courts at any time.

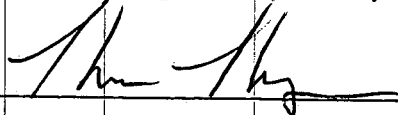
ARGUMENT

The facts show that the Board considers the crime of murder to be sufficient cause for the denial of parole therefore when these similarly situated persons were granted parole the Board had to have somehow "set aside", "looked past" or otherwise eliminated this fact in order to grant parole based on the other factors being considered. Thompson has over the course of 35 years and 19 appearances before the Board never had the opportunity of having his case for parole examined in this manner. Thompson argues that this demonstrates clear evidence of disparate treatment.

CONCLUSION

Thompson acknowledges that he committed a very serious crime for which he deserved a harsh punishment. However it is his honest opinion that giving consideration to the feelings and intent of the Judge, Solicitor and Law Enforcement at the time of his sentencing along with the community in which he lived and committed this crime and his conduct while incarcerated he has merited a lessening of the rigors of his confinement, demonstrated that in the future he will obey the law and therefore earned a chance for parole. Thompson begs the Court to provide a remedy to this claim.

Respectfully submitted,



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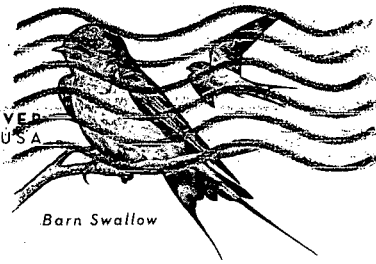
March 1, 2021

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