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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Administrative Law Judge Milton G. Kimpson

ALC Case No. 19-ALJ-04-0575-AP
APPELLATE CASE No. 2020-001512

Buddy Newsome #220855

Appellant,

v.

South Carolina Department of Corrections

Respondent.

APPELLANT'S FINAL BRIEF

s/ Buddy Newsome

Buddy Newsome #220855

Tyger River Corr. Inst.
200 Prison Road U-11, 227
Enoree, SC 29335

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SC Court of Appeals

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TABLE OF AUTHORITIES

1.) Statute: 24-3-40 (B)(2)

2.) Cases:

Greenholtz v. Inmates of Nebraska Penal and Correctional Complex, 442 U.S. 1, 99 S.Ct. 2100 (1979).

Furtick v. S.C. Dept. of Prob., Parole and Pardon Services, 352 S.C. 594, 576 S.E.2d 146 (2003).

Wicker v. S.C. Dept., of Corrections, 360 S.C. 421, 602 S.E. 2d 56 (2004).

Torrence v. S.C. Dept., of Corrections, 373-S.C. 586, 646 S.E.2d 866 (2007).

STATEMENT OF ISSUES ON APPEAL

THE ADMINISTRATIVE LAW COURT ERRORED IN DISMISSING APPELLANT'S APPEAL WHERE APPELLANT'S DE FACTO LIFE SENTENCE IS ELIGIBLE FOR DISTIRBUTION OF HIS ESCROWED WAGES UNDER THE DEFINITIONS OF S.C. CODE § 24-3-40 (B)(2).

STATEMENT OF CASE

This matter comes before this Honorable Court pursuant to the appeal of Buddy Newsome ("appellant"), an inmate incarcerated within the South Carolina Department of Corrections ("SCDC"). On September 17, 2019, Appellant filed a step one grievance requesting to have access to his escrowed wages the same as inmates who are serving life in prison, pursuant to S.C. Code (B)(2). On September 27, 2019, SCDC denied the step one grievance and Appellant appealed. Appellant filed a step grievance alleging that his sentence of 100 years exceeds his life expectancy and is a de facto-life-sentence-within-the-meaning of S.C. Code (B)(2). On October 31, 2019, SCDC denied the step two grievance. Appellant appealed to the Administrative Law Court (ALC). on October 8, 2020, the Honorable Milton G. Kimpson dismissed Appellant's appeal determining that parole eligibility excluded the Appellant's request under S.C. Code § 24-3-40 (B)(2).

ARGUMENT

THE ADMINISTRATIVE LAW COURT ERRORED IN DISMISSING THE APPELLANT'S APPEAL WHERE APPELLANT'S DE FACTO LIFE SENTENCE IS ELIGIBLE FOR DISTRIBUTION OF ESCROWED WAGES WITHIN THE MEANING OF S.C. CODE § 24-3-40(B(2)).

S.C. Code § 24-3-40 (B)(2) states: " a prisoner serving life in prison ", (emphasis). The language of the section is general and is not specific to the definition of a de jure life sentence. Thus, serving " life in prison ", would include sentences that essentially de facto life—sentences, which would include sentences that exceed one's life expectancy.

The Appellant is serving a 100 year sentence, a sentence that exceeds life expectancy. Appellant argues that his sentence falls within the meaning of the general term and language of the section (B)(2); " serving life in prison ", the Respondent's premise, and the Administrative Law Court that, because Appellant is parole eligible his sentence doesn't fall under this definition were true then S.C. Code § 24-3-40 would create a due process right to parole, where the denial of parole release would equate to a denial of a property interest, Wicker v. S.C. Dept., of Corrections, 360 S.C. 421, 602 S.E.2d 56 (2004), Torrence v. S.C. Dept., of Corrections, 373 S.C. 586, 646 S.E. 2d 866 (2007).

However, the Appellant avers that United States Supreme Court precedent, Greenholtz v. Inmates of Nebraska Penal and Correctional Complex, 442 U.S 1, 99 S.Ct. 2100 (1979), and South Carolina Supreme Court precedent, Furtick v. S.C. Dept., of Probation Parole and Pardon Services, 352 S.C. 594, 576 S.E.2d 146 (2003), make it abundantly clear that parole release is not a right but a fallacious hope and privilege, thus Respondent's argument must fail.

CONCLUSION

WHEREFORE, for all reasons stated above, the Court should reverse the decision of the Administrative Law Court in this case.

RESPECTFULLY SUBMITTED

A handwritten signature in cursive script that reads "Buddy Newsome". To the left of the signature, the letters "S#" are written.

Buddy Newsome #220855

Appellant Pro Se

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200 Prison Road U-11, Rm 227

Enoree, SC 29335