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STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from the Administrative Law Court, Final Decision
From the Honorable Judge Phillip Lenski Docket No. 20-ALJ-15-0020

CHUCK MCCULLOUGH, #311608 Appellant

v.

SOUTH CAROLINA DEPARTMENT OF PROBATION
PAROLE AND PARDON SERVICES, RESPONDENT

RECORD ON APPEAL

RECEIVED

JUL 12 2021

SC Court of Appeals

The Honorable Judge Phillip Lenski
Administrative Law Court
1205 Pendleton St. Suite 224
Columbia, S.C. 29201

Chuck McCullough #311608
Appellant Pro SE

Livesay Correctional Inst.
P.O. Box 580
UNA, S.C. 29378

South Carolina Department of
Probation, Parole, Parole Services
Counsel - Matthew C. Buchanan
P.O. Box 207
Columbia, S.C. 29202
Attorney for Respondent
(803) 734-9220

Resubmitted on this 9 day of July 2021

INDEX Amended

	<u>PAGE</u>
1. Notice of Rejection (Dated March 25, 2020)	1
2. Appellant's Request for Rehearing	2
3. Respondent's Response letter to Request for Rehearing (Dated April 9, 2020)	4
4. Criteria for Parole Form 1212	5
5. Letter from Appellant's Daughter Charity McCullough	6
6. Letter from Appellant's Aunt Donna Kind (Dated May 1, 2020)	7
7. Copy of Envelope Letters were sent	9
8. Copy of Hearing protocol that was sent after Appellant's Hearing	10
9. Plea Transcript page 12, Line 1-11, Dated August 1, 2012	11
10. Certificate of Service (Dated July 9, 2020)	12
11. Motion for Complete Record (Dated July 9, 2020) DENIED (Dated July 21, 2020 by Judge Leuski)	13
12. Certificate of Service original Dated June 29, 2021	14
13. Motion to Object to Motion to Dismiss (Dated July 23, 2020)	15
14. Copies of Respondent's Designation for Record on Appeal	16

NOTE:

Pages 6-15 of this Record on appeal has the original page numbers 1-10 on the documents as they were originally referred to in Appellant's Brief, and listed in Designation of Matter to be included.

Resubmitted on July 9, 2021

State of South Carolina
Department of Probation, Parole and Pardon Services

HENRY McMASTER
Governor



JERRY B. ADGER
Director

293 Greystone Boulevard
Post Office Box 207
Columbia, South Carolina 29202
Telephone: (803) 734-9220
Fax: (803) 734-9440
www.dppps.sc.gov

March 25, 2020

Mr. Chuck Mccullough #00311608
Livesay Pre-Release Center
P.O. Box 580
Una, SC 29378

RE: NOTICE OF REJECTION

Dear Mr. Mccullough:

It is my responsibility to inform you, on behalf of the South Carolina Parole Board, that the Board has reached a decision regarding your parole hearing. The Board hereby makes the following CONCLUSION OF LAW:

After careful consideration of: (1) the characteristics of your current offense(s), prior offense(s), prior supervision history, prison disciplinary record, and/or prior criminal record, as described in the findings of fact below; (2) the factors published in Department Form 1212 (Criteria for Parole Consideration); (3) the factors outlined in Section 24-21-640 of the South Carolina Code of Laws, and (4) actuarial risk and needs assessment factors pursuant to Section 24-21-10 (F) (1) of the South Carolina Code of Laws. The Parole Board had determined that your parole must be denied.

You will be notified 30 days prior to your next scheduled parole consideration date.

FINDINGS OF FACT:

Nature And Seriousness Of Current Offense
Criminal Record Indicates Poor Community Adjustment
Failure To Successfully Complete A Community Supervision Program
Vote Count: Unanimous To Reject

Sincerely,

A handwritten signature in cursive script, appearing to read "Nettie C. Jacobs".

Nettie C. Jacobs
Board Support Services

3/25/2020 B

P.1 of 16

March 31, 2020

Jerry B. ADGER / Director
Nettie C. Jacobs / SCDPPP
293 Greystone Boulevard
P.O. Box 207
Columbia, S.C. 29202

Chock Edward McCullough #311608
Livesay C.I. 6-34-B
P.O. Box 580
UNA, S.C. 29378

IN RE : Parole Reconsideration for New Hearing Request

Dear Nettie C. Jacobs, and Jerry B. ADGER

I am writing to request a Parole Reconsideration in light of SCDPPP's Form 1212 Line 3, 12, 14, 15. Due to the Corona Virus Pandemic, my Aunt Donna Kind (864-205-5196) and Daughter Chasity McCullough was denied entry at Perry Correctional on March 25, 2020. Due to the virus the DPPP's should have rescheduled my hearing knowing visitors were not allowed. My family was a witness to the crime and was going to give testimony. She tried to contact DPPP's and was told you were working from home and you would return her call in three days. NO ONE returned her call. I have a right to have her present.

The Rejection letter (Exhibit #1) stated that after careful consideration of "(2) the factors published in Department Form 1212 (Criteria for Parole Consideration.)) and the three other factors that parole was denied.

For determining Line 3 of Form 1212 (Exhibit #2) I believe the Board had some wrong information. To clarify I was in prison one time prior to my current sentence. That was in 2005 to 2007. I was released in 2007 and completed my probation in 2009 successfully under Agent Foust in Spartanburg County. The Rejection letter (Exhibit #1) stated I failed to successfully complete a community supervision program. That is incorrect.

p. 1

For determining Line 12, 14, 15 of Form 1212 (Exhibit # 2). The Board would have heard testimony from my family and evidence that would have weighted heavy on the decision to grant parole. Due to the virus outbreak, and the DPPP's failure to reschedule my parole hearing that right was infringed and resulted in a negative determination. For this reason I ask for consideration of a new hearing.

lastly, at my last parole hearing (Exhibit # 3) the reason for my denial was the "Nature and Seriousness of Current Offense." that was the only reason. Now at my new parole hearing there are two new reasons to deny parole. ("How does the parole Board add new reasons when nothing warrants it?")

To clarify, I have graduated the 40 weeks Jumpstart program, I am in the 25 week Celebrate Recovery program, I am in the NA/AA program voluntarily. I have been on the same job paying taxes, and voluntarily Childsupport to my 11yr. old Daughter. I have been disciplinary free for 9 years, and I have passed all Drug test.

I have demonstrated that I can follow rules, Laws, obey Authority, and adjust in my community. Therefore, I ask the Board to consider granting a new hearing so I can present my witnesses and evidence to the Board.

Thank you for your time in this Matter.

On This 31st day of March 2020

Chuck E. McElroy

Acc 54

State of South Carolina
Department of Probation, Parole and Pardon Services

HENRY McMASTER
Governor



JERRY B. ADGER
Director

293 GREYSTONE BLVD
POST OFFICE BOX 207
COLUMBIA, SOUTH CAROLINA 29202
Telephone: (803) 734-9220
Facsimile: (803) 734-9440
www.dppps.sc.gov/

April 9, 2020

Chuck McCullough #311608
Livesay Correctional Institution
P.O. Box 580
Una, South Carolina 29378

Dear Mr. McCullough:


I have been asked to respond to your letter in which you have requested a reconsideration because your supporters were denied entry at the correctional institution.

Please be aware that the Department of Probation, Parole and Pardon Services has no control over the policies and actions of the Department of Corrections. Furthermore, the Department acted due to the severe risk the coronavirus pandemic poses to inmates and Governor McMasters' declaration of emergency authorizing state agencies to suspend provisions of existing regulations in order to prevent the spread of the disease.

This restriction not allowing supporters to physically attend parole hearings did not affect just you, but also all inmates receiving hearings that day. To grant a rehearing on that reason alone would render the entire day's worth of hearings invalid, which the Department is not prepared to do in light of the prudent actions of the Department of Corrections to prevent the spread of the coronavirus.

Your additional concern regarding the addition of other grounds in which to deny your parole is also not a valid reason for a rehearing. The Parole Board makes its decisions in its own discretion and it offered valid reasons for the denial of parole.

I hope this addresses your concerns.

Sincerely,

Matthew C. Buchanan
General Counsel



South Carolina Department of Probation, Parole and Pardon Services

Criteria for Parole Consideration

Inmate Name MCCULLOUGH, CHUCKE.	SCDC# 00311608
------------------------------------	-------------------

SC Board of Probation, Parole and Pardon Services P.O. Box 207 Columbia, SC 29202

Criteria for Parole Consideration

The South Carolina parole law creates no right to be released on parole. Parole in South Carolina is strictly a matter of privilege or grace. The South Carolina Board of Probation, Parole and Pardon Services has absolute discretion to grant or deny parole. As such, the publication of these parole criteria in no way creates an expectancy of release; nor does it bind the Parole Board in any way to a favorable parole decision or establish any presumptions of entitlement to parole.

In deciding whether or not to grant parole, the Parole Board considers, among other things, the inmate's record before incarceration as well as during incarceration. The record itself is prepared through investigations conducted for the Parole Board, and it becomes a part of the inmate's parole file. The files are maintained by the Department of Probation, Parole and Pardon Services and are, by the statute, privileged and confidential. The confidentiality of the parole file is far reaching; inmates themselves have no right to inspect the contents of their files. If the inmate thinks his/her file is somehow incomplete or contains some errors or other inaccuracy, he/she must notify the Board of the specific error or inaccuracy. The Board will investigate the inquiry and notify the inmate of the action taken.

Inmates do, however, enjoy certain rights in the parole process. The inmate has the right to appear at his parole hearing. If the inmate fails to appear, the Board may decide his/her case in absence. The inmate has the right to be represented by an attorney; however, he/she has no right to have an attorney appointed if he/she cannot afford one. At the hearing, the inmate has the right to present witnesses and evidence on his/her own behalf, but an inmate does not have a right to confront witnesses.

In deciding whether or not an inmate should be granted parole, the Board or Panel of the Board exercises its absolute discretion to the limits allowed by state and federal law. The discretion of the Board or panel aims at protecting the best interest of both society and the inmate being considered for parole. In its concern for the protection of society's and the inmate's best interests, the Board or Panel deliberates upon the "reasonable probability" that an inmate will not again violate the law, if parole is granted. When deliberating that an inmate will not again violate the law, the Board or Panel weighs the factors listed below. The Board or Panel, in its absolute discretion, also considers any other factors not listed below which it considers relevant in a particular case.

1. The risk the inmate poses to the community;
2. The nature and seriousness of the inmate's offense, the circumstances surrounding the offense, and the inmate's attitude toward it;
3. The inmate's prior criminal records and his/her adjustment under any previous programs or supervision;
4. The inmate's attitude toward his/her family, the victim, and authority in general;
5. The inmate's adjustment while in confinement, including his/her progress in counseling, therapy, and other similar programs designed to encourage the inmate to improve himself/herself;
6. The inmate's employment history, including his/her job training and skills and his/her stability in the work place;
7. The inmate's physical, mental and emotional health;
8. The inmate's understanding of the cause of his/her past criminal conduct;
9. The inmate's efforts to solve his/her problems such as seeking treatment for substance abuse, enrolling in academic and vocational education courses, and in general using whatever resources the Department of corrections has made available to inmates to help with their problems;
10. The adequacy of the inmate's overall parole plan. This includes inmates living arrangements, where he/she will live and who he will live with; the character of those with whom the inmate plans to associate in both his/her working hours and his/her off-work hours; the inmate's plans for gainful employment;
11. The willingness of the Community into which the inmate will be released to receive the inmate;
12. The willingness of the inmate's family to allow his/her to return to the family circle;
13. The attitudes of the sentencing judge, the solicitor, and local law enforcement officers respecting the inmate's parole;
14. The feelings of the victim's family, and any witnesses to the crime about the release of the inmate
15. The actuarial risk and needs assessment outlined in section 24-21-10 (F)(1) of the S.C. Code of laws; which evaluates based on Criminal Involvement, Relationships/Lifestyle, Personality/Attitudes, Family, Social Exclusion and Mental Health.
16. Other factors considered relevant in a particular case by the Board.

Reservation of Discretionary Power of the Parole Board

These criteria in no way limit the absolute discretion of the Parole Board or Panel to make parole decisions on a case-by-case basis and to grant or deny parole as it determines to be in the best interest of society and the inmate under review.

In some cases, the Board may decide that the inmate should be granted parole if the inmate completes one or more stated conditions. When this is the case, the Board may grant a parole that becomes effective when the inmate completes one or more stated conditions. Should the inmate fail to complete any one of these conditions or disobey any rule or regulation of the South Carolina Department of Corrections before satisfying the stated conditions to make his parole effective, the Board may rescind the inmate's parole and treat the case as though parole had been rejected. In other cases, the Board may feel it needs more time to form its decision. In such cases, the Board may simply take the parole consideration under advisement and reschedule it at a later date. Similarly, the Board may postpone a parole hearing in order to dispose of detainees or pending charges. If the Board rejects an inmate for parole, the inmate will be given written notice of rejection stating the reasons for rejection. Decisions of the Board have no precedential effect whatever and in no way limit the Board's absolute discretion at later parole hearings.

After rejection for parole, the procedure of scheduling of rehearing is as follows:

1. An individual serving time for a violent offense defined in §16-1-60 of the South Carolina Code of Laws 1976 will be reheard for parole two years following the date of parole rejections. Applicable legal exceptions may allow for a one year hearing.
2. An individual serving time for a nonviolent offense defined in §16-1-70 of the South Carolina Code of Laws 1976 will be reheard for parole one year following the date of parole rejections.

I certify that the above material has been explained to me, and I have received a copy.

Inmate's Signature: <i>Chuck E. McCullough</i>	Date: 12/19/2019	Witness Signature: <i>[Signature]</i>	Date: 12/19/2019
--	------------------	---------------------------------------	------------------

Dear Honorable Judge Lenoki,

I was gonna support my Daddy on the parole hearing March 25th 2020. Due to the coronavirus me and my aunt (Donna) kind) couldn't attend the parole hearing. SCOC also denied us/our entry to be present. I had a few things that I wanted to say to possibly help my Daddy finally get out of jail. But the parole board held the hearing without us. I think they should give him another hearing. Please and thank you! I need my Daddy in my life more than ever!

Sincerely,

Chasity McCullough

5/1/2020

Dear Honorable Judge Lombardi,

I am writing in regards to Chuck McLullough's parole hearing. We were not able to attend due to the coronavirus effect on each and everyone's health. There was so much I wanted to say in regards to the decision of parole. I am Donna Shorter Kild, his Aunt by marriage. I have had his daughter since she was fourteen months old and she is eleven years old. She has been to see her daddy since he is now at a pre-release center where he can work and ^{visit} ~~not visit~~. She is very active in school academics, attends church and loves to read. She has made many comments that she wants her daddy home, she loves him. I knew Chuck when he first married my niece and he was a hard worker. He didn't do those bad drugs. He seems to have changed and loves Charity his daughter. He sends her money twice a month from the top of his check since he's been working. He sends more if she needs something special for school etc. I've been praying about this issue. Both of my husband and niece children went to college. Daughter is a teacher with her

Master's degree. Our son attended College
and works in the business office of
Wichita Air. I ask you Honorable Judge Benko,
if Mr. McCullough hearing was rescheduled
he may have got parole, after hearing
our statements, his family. There were
others that their hearing were rescheduled.
Thank you very much for your attention
and consideration to this issue for another
hearing so we could be there.

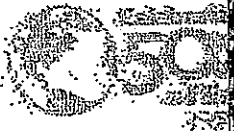
Sincerely,
Dorinda Houston Bird
8674 705-5196

Ex. 1

D. Kindal
113 North Avenue
Duncan S.C. 29334

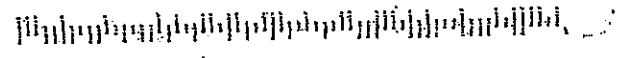
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GREENVILLE SC 296
13 MAY 2020 PM 2 L



Chuck E. McCallough # 311608
Livesay C.I. 6-3A-B
P.O. Box 580
LMA S.C. 29378

4 P. 9 of 15



UNTIL FURTHER NOTICE

In an effort to protect the inmate population, during the current global pandemic surrounding Coronavirus-19, the state is taking measures to prevent the spread of disease to the residents of correctional facilities. The SC Department of Corrections has limited access to their correctional institutions by suspending all visitation at their facilities until further notice. No supporters or family members will be allowed to attend parole hearings until such time as this ban has been lifted:

Note: At this time, there is no change regarding attorney attendance. Attorneys will be allowed to attend the hearings, per the normal procedure.

In an effort to ensure that every inmate has the right to present witnesses/evidence on his/her own behalf, the SC Department of Probation, Parole and Pardon Services is creating a Hearing Witness Portal that will allow supporters or family members who would have attended the parole hearing along with the inmate to submit a written statement of support via e-mail or US Postal Service at the addresses listed below. Please be reminded that the instructions received from SCDC limit the number of attendees to five. See below.

The inmate who is being considered for parole by the Parole Board may have up to five (5) total persons appear with him/her. Of the five, one (1) can be a minister/spiritual adviser, one (1) can be an attorney, and no more than three (3) can be family, friends, employers, etc.

Due to this normal restriction, only five statements per inmate from the Hearing Witness Portal will be presented to the Board. Any other statements received will be listed as Supporters, per the normal procedure.

In order to submit written Witness Testimony, use the link.

HearingWitnessPortal@ppp.sc.gov

OR submit your statement in writing to

SCPPPS Hearing Witness Portal

PO Box 207

Columbia, SC 29202

statements must be received at least 48 hours prior to the actual hearing date.

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pseudoephedrine in the months leading up to the date of the incident.

Your Honor, I do want to point out to you that -- that the toxicology report -- there was a toxicology report done on the -- the child, as well as an autopsy. And both of those are -- the autopsy is inconclusive as to how the baby died.

They -- they did note that there was vomit and -- or what appeared to be vomit and that the baby had probably asphyxiated on that.

The toxicology did come back negative for any drugs. And they did not find any of the caustic substances that you would expect to be found in the -- in the baby's tissue if it had inhaled the meth lab. So I do think that's important to -- to be fair to -- to everyone that we're clear on that fact.

Your Honor, as part of the -- the record, I -- many of the items which I told you about; the phone calls, a photo of the -- of the -- the box in which the body was placed, a copy of the meth lab search warrant return, and the items and where they were found, I would like to enter that into evidence.

There is a -- the meth check records, which showed the pseudoephedrine logs, there is a copy of that I would like to enter which shows their purchases leading up to the incident date.

And, Your Honor, there's Carissa McCullough's statement, which was given after *Miranda* warnings, and the statement of her sister, Amanda Padgett.

Your Honor, also a copy of the DSS notes from the interview which he gave in jail, we want to enter all of those in as exhibits so that the record could appropriately reflect what I've summarized.

MR. WHELCHER: I have reviewed those, Judge.

STATE OF SOUTH CAROLINA
In The Administrative Law Court
Docket Number 20-ALJ-15-0020

APPEAL OF FINAL DECISION
Department of Probation, Parole, and Pardon Services

CHUCK McCULLOUGH, # 311608 APPELLANT

v.
S.C. DEPARTMENT OF PROBATION, PAROLE, AND PARDON SERVICES RESPONDENT

CERTIFICATE OF SERVICE

I, Chuck McCullough, hereby certifies that I have served a "Motion for complete RECORD on APPEAL dated July 9, 2020 on all parties in this appeal pursuant to Rule 54, by depositing a copy of the same in the United States Mail, postage prepaid, on the 9 day of July 2020 to the following addresses:

The Honorable Judge LenSKI
S.C. Administrative Law Court
1205 Pendleton St. Suite 224
Columbia, S.C. 29201

Director Jerry B. Adger / Counsel Matthew Buchanan
S.C. Dept. Probation, Parole, Pardon Services
293 Crestone Blvd.
P.O. Box 207
Columbia, S.C. 29202

5/ Chuck McCullough

Subscribed and Sworn before me
this 9 day of July, 2020
Audrey Alicia Webster Hunt

Notary Public for South Carolina
County of Spartanburg
My Commission Expires 02/07/2024

Chuck Edward McCullough # 311608
Appellant Pro SE

Livesay C.I. 6-34-B
P.O. Box 580
UNA, S.C. 29378

STATE OF SOUTH CAROLINA
In The Administrative Law Court
Docket Number 20-ALJ-15-0020

DENIED

7-21-2020
Date

APPEAL OF FINAL DECISION
Department of Probation, Parole, and Pardon Services

Pr. Mag. Leneki
Administrative Law Judge

CHUCK McCULLOUGH, # 311608 APPELLANT

S.C. DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES RESPONDENT

MOTION for complete RECORD ON APPEAL
Pursuant to Rule 58, Rule 61

This issue comes to this court by way of "Motion for complete RECORD ON Appeal. Appellant received the Record on Appeal from (DPPS) on July 7, 2020. After review, Appellant noticed that none of the documents that were filed with his brief and sent on May 15, 2020 to (DPPS) was in the RECORD ON APPEAL.

Rule 61. The record on appeal shall consist of the transcript of the proceedings before the agency, if any, and the record of the contested case as described by Rule 58.

Rule 58.(A) " All documents filed . . .

Therefore, the request is made that all documents filed to include Appellants Brief and all supporting documents (pages 1-22 of initial Brief) become part of (DPPS's) Record on Appeal, or explanation why (DPPS) did not include those documents and failed to comply with 58, 61. These documents Must be preserved for future Appeals.

on this 9 day of July 2020

OFFICER OF SERVICE

[Faint, mostly illegible text]

[Signature]

Respectfully Submitted,

[Signature: Chuck McCullough]

Chuck McCullough # 311608
120 SE Appellant

FILED

JUL 21 2020

STATE OF SOUTH CAROLINA
In the Administrative Law Court

Docket Number 20-ALJ-15-0020

APPEAL OF FINAL DECISION
Department of Probation, Parole, and Pardon Services

Chuck McCullough #311608 APPELLANT

v.

S.C. DEPARTMENT OF PROBATION, PAROLE, AND PARDON SERVICES RESPONDENT

CERTIFICATE OF SERVICES

I, Chuck McCullough #311608, hereby certify that I have served the "Motion to OBJECT" dated July 23, 2020 on all parties in this appeal pursuant to Rule 54, by depositing a copy of the same in the United States Mail, postage prepaid, on the 23 day of July 2020 to the following addresses:

The Honorable Judge Lewski
S.C. Administrative Law Court
1205 Pendleton St Suite 224
Columbia, S.C. 29201

Director Jerry B. Alder / Counsel Janell H. Gergory
S.C. Dept. Probation, Parole, Pardon Services
293 Graystone Blvd.
P.O. Box 207
Columbia, S.C. 29202

St. Chuck McCullough

SWORN TO AND SUBSCRIBED

BEFORE ME THIS 23 DAY OF July, 2020

AUDREY ALEEN WEBSTER HORTON

Audrey Aileen Webster Horton
NOTARY PUBLIC, STATE OF SOUTH CAROLINA

My Commission Expires 02/07/2024

Chuck McCullough #311608
Appellant (P/S)

Livesay C.I. 6-34-B
Box 580
LAW, S.C. 29378

STATE OF SOUTH CAROLINA
In the Administrative Law Court
Docket No. 20-ALJ-15-0020

APPEAL OF FINAL DECISION
Department of Probation, Parole, and Pardon Services

CHUCK McCULLOUGH, # 311608 APPELLANT

v.

S.C. Department of PROBATION, PAROLE AND PARDON SERVICES. RESPONDENT

MOTION TO OBJECT TO MOTION TO DISMISS

Comes now, Chuck McCullough (Appellant), respectfully states his objections to the motion to dismiss filed by (SCDPPPS) to dismiss motion to Amend the Departments record on Appeal. The Department claims on page 3 last paragraph that "The remaining exhibits Appellant seeks to include are letters of rejection from 2017 and 2019, two letters from his family members, and an excerpt from his plea transcript, and that they are irrelevant

OBJECTION:

The documents (Exhibits) are directly relevant. First the rejection letters from 2017 and 2019 are Appellants evidence to support ISSUE # 3 of his brief. It shows how (SCDPPPS) continues to take away and new reasons to deny parole. Reason that are inconsistent and incorrect, violating Compton v. SCDPPPS

Secondly, letters from Family members are also directly relevant. They go to the Issue # 1 as evidence that due process was violated by not allowing Family members to be at the hearing, and not following all 15 points of criteria on 1212 Form.

These documents are relevant to Appellants appeal and shall be included as part of the record on Appeal, and they were not considered by the Parole Board, and was the reason for a reconsideration, because of failure to reschedule hearing due to covid-19

Therefore, Appellant request that his objection be considered and the Motion to Dismiss be Dismissed and Motion to Amend Granted.

This 23 day of July 2020

Respectfully Submitted,
S/ Chuck E. McCullough
Chuck E. McCullough
P. 15 of 15

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from the Administrative Law Court, Final Decision
From the Honorable Judge Phillip Lenski

Appellate Case No. 2021-000447

CHUCK MCCULLOUGH, # 311608
Appellant,

v.

SOUTH CAROLINA DEPARTMENT OF
PROBATION, Parole, Pardon Services
Respondent.

RECEIVED

JUL 12 2021

SC Court of Appeals

CERTIFICATE OF COUNSEL (PRO-SE)

The undersigned certifies that this Record on Appeal complies with SCACR 210 and contains all material proposed to be included in the Record on Appeal by all of the parties and not any other material irrelevant.

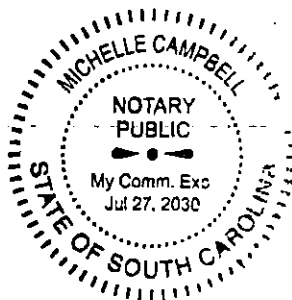
This 29 day of June 2021

S/Chuck McCullough

Chuck McCullough # 311608
Appellant PRO SE

Duly Sworn and Prescribed Before Me
on this 29th day of JUNE 2021
[Signature]
MICHELLE CAMPBELL
Notary for South Carolina
My Commission Expires JULY 27, 2030

Livesay Correctional Inst.
P.O. Box 580
UNA, S.C. 29378



STATE OF SOUTH CAROLINA
In The Administrative Law Court
Docket Number 20-ALJ-15-0020

APPEAL OF FINAL DECISION
Department of Probation, Parole, and Pardon Services

CHUCK MCCULLOUGH, #311608APPELLANT

v.

S.C. DEPARTMENT OF PROBATION, PAROLE AND
PARDON SERVICES,RESPONDENT

RECORD ON APPEAL

Matthew C. Buchanan
General Counsel

**South Carolina Department of Probation,
Parole and Pardon Services
P. O. Box 207
Columbia, South Carolina 29202
(803) 734-9220**

ATTORNEY FOR RESPONDENT

State of South Carolina
Department of Probation, Parole and Pardon Services

HENRY McMASTER
Governor



JERRY B. ADGER
Director

March 25, 2020

293 Greystone Boulevard
Post Office Box 207
Columbia, South Carolina 29202
Telephone: (803) 734-9220
Fax: (803) 734-9440
www.dppps.sc.gov

Mr. Chuck McCullough #00311608
Livesay Pre-Release Center
P.O. Box 580
Una, SC 29378

RE: NOTICE OF REJECTION

Dear Mr. McCullough:

It is my responsibility to inform you, on behalf of the South Carolina Parole Board, that the Board has reached a decision regarding your parole hearing. The Board hereby makes the following CONCLUSION OF LAW:

After careful consideration of: (1) the characteristics of your current offense(s), prior offense(s), prior supervision history, prison disciplinary record, and/or prior criminal record, as described in the findings of fact below; (2) the factors published in Department Form 1212 (Criteria for Parole Consideration); (3) the factors outlined in Section 24-21-640 of the South Carolina Code of Laws, and (4) actuarial risk and needs assessment factors pursuant to Section 24-21-10 (F) (1) of the South Carolina Code of Laws. The Parole Board had determined that your parole must be denied.

You will be notified 30 days prior to your next scheduled parole consideration date.

FINDINGS OF FACT:

Nature And Seriousness Of Current Offense
Criminal Record Indicates Poor Community Adjustment
Failure To Successfully Complete A Community Supervision Program
Vote Count: Unanimous To Reject

Sincerely,

A handwritten signature in cursive script, appearing to read "Nettie C. Jacobs".

Nettie C. Jacobs
Board Support Services

3/25/2020 B

March 31, 2020

Jerry B. ADGER / Director
Nettie C. Jacobs / SCOPPP
293 Greystone Boulevard
P.O. Box 207
Columbia, S.C. 29202

Chuck Edward McCullough #311608
Livesey C.I. 6-34-B
P.O. Box 580
UNA, S.C. 29378

IN RE : Parole Reconsideration for New Hearing Request "

Dear Nettie C. Jacobs, and Jerry B. ADGER

I am writing to request a Parole Reconsideration in light of SCOPPP's Form 1212 Line 3, 12, 14, 15. Due to the Corona Virus Pandemic, my Aunt Denna Kind (864-205-5196) and Daughter Chasity McCullough was denied entry at Perry Correctional on March 25, 2020. Due to the virus the DPPP's should have rescheduled my hearing knowing visitors were not allowed. My family was a witness to the crime and was going to give testimony. She tried to contact DPPP's and was told you were working from home and you would return her call in three days. NO ONE returned her call. I have a right to have her present.

The Rejection letter (Exhibit #1) stated that after careful consideration of "(2) the factors published in Department Form 1212 (Criteria for Parole Consideration.)) and the three other factors that parole was denied.

For determining Line 3 of Form 1212 (Exhibit #2) I believe the Board had some wrong information. To clarify I was in prison one time prior to my current sentence. That was in 2005 to 2007. I was released in 2007 and completed my probation in 2009 successfully under Agent Foust in Spartanburg County. The Rejection letter (Exhibit #1) stated I failed to successfully complete a community supervision program. That is incorrect.

p. 1

For determining Line 12, 14, 15 of Form 1212 (Exhibit # 2). The Board would have heard testimony from my family and evidence that would have weighted heavy on the decision to grant parole. Due to the virus outbreak, and the DPPP's failure to reschedule my parole hearing that right was infringed and resulted in a negative determination. For this reason I ask for consideration of a new hearing.

Lastly, at my last Parole hearing (Exhibit #3) the reason for my denial was the "Nature and Seriousness of Current Offense." that was the only reason. Now at my new parole hearing there are two new reasons to deny parole. ("How does the parole Board add new reasons when nothing warrants it?")

To Clarify, I have graduated the 40 weeks Jumpstart program, I am in the 25th week Celebrate Recovery program, I am in the NA/AA program voluntarily, I have been on the same job paying taxes, and voluntarily Childsupport to my 11yr. old Daughter. I have been disciplinary Free for 9 years, and I have passed all Drug test.

I have demonstrated that I can follow rules, Laws, obey Authority, and adjust in my community. Therefore, I ask the Board to consider granting a new hearing so I can present my witnesses and evidence to the Board.

Thank you for your time in this Matter.

On This 31st day of March 2020

Chuck E. McElroy

ALLEN

State of South Carolina
Department of Probation, Parole and Pardon Services

HENRY McMASTER
Governor



JERRY B. ADGER
Director

293 GREYSTONE BLVD
POST OFFICE BOX 207
COLUMBIA, SOUTH CAROLINA 29202
Telephone: (803) 734-9220
Facsimile: (803) 734-9440
www.dppps.sc.gov/

April 9, 2020

Chuck McCullough #311608
Livesay Correctional Institution
P.O. Box 580
Una, South Carolina 29378

Dear Mr. McCullough:

I have been asked to respond to your letter in which you have requested a reconsideration because your supporters were denied entry at the correctional institution.


Please be aware that the Department of Probation, Parole and Pardon Services has no control over the policies and actions of the Department of Corrections. Furthermore, the Department acted due to the severe risk the coronavirus pandemic poses to inmates and Governor McMasters' declaration of emergency authorizing state agencies to suspend provisions of existing regulations in order to prevent the spread of the disease.

This restriction not allowing supporters to physically attend parole hearings did not affect just you, but also all inmates receiving hearings that day. To grant a rehearing on that reason alone would render the entire day's worth of hearings invalid, which the Department is not prepared to do in light of the prudent actions of the Department of Corrections to prevent the spread of the coronavirus.

Your additional concern regarding the addition of other grounds in which to deny your parole is also not a valid reason for a rehearing. The Parole Board makes its decisions in its own discretion and it offered valid reasons for the denial of parole.

I hope this addresses your concerns.

Sincerely,


Matthew C. Buchanan
General Counsel



South Carolina Department of Probation, Parole and Pardon Services

Criteria for Parole Consideration

Inmate Name MCCULLOUGH, CHUCK E.	SCDC# 00311608
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SC Board of Probation, Parole and Pardon Services P.O. Box 207 Columbia, SC 29202

Criteria for Parole Consideration

The South Carolina parole law creates no right to be released on parole. Parole in South Carolina is strictly a matter of privilege or grace. The South Carolina Board of Probation, Parole and Pardon Services has absolute discretion to grant or deny parole. As such, the publication of these parole criteria in no way creates an expectancy of release; nor does it bind the Parole Board in any way to favorable parole decision or establish any presumptions of entitlement to parole.

In deciding whether or not to grant parole, the Parole Board considers, among other things, the Inmate's record before incarceration as well as during incarceration. The record itself is prepared through investigations conducted for the Parole Board, and it becomes a part of the Inmate's parole file. The files are maintained by the Department of Probation, Parole and Pardon Services and are, by the statute, privileged and confidential. The confidentiality of the parole file is far reaching; inmates themselves have no right to inspect the contents of their files. If the inmate thinks his/her file is somehow incomplete or contains some errors or other inaccuracy, he/she must notify the Board of the specific error or inaccuracy. The Board will investigate the inquiry and notify the inmate of the action taken.

Inmates do, however, enjoy certain rights in the parole process. The inmate has the right to appear at his parole hearing. If the inmate fails to appear, the Board may decide his/her case in absence. The inmate has the right to be represented by an attorney; however, he/she has no right to have an attorney appointed if he/she cannot afford one. At the hearing, the inmate has the right to present witnesses and evidence on his/her own behalf, but an inmate does not have a right to confront witnesses.

In deciding whether or not an inmate should be granted parole, the Board or Panel of the Board exercises its absolute discretion to the limits allowed by state and federal law. The discretion of the Board or panel aims at protecting the best interest of both society and the inmate being considered for parole. In its concern for the protection of society's and the inmate's best interests, the Board or Panel deliberates upon the "reasonable probability" that an inmate will not again violate the law, if parole is granted. When deliberating that an inmate will not again violate the law, the Board or Panel weighs the factors listed below. The Board or Panel, in its absolute discretion, also considers any other factors not listed below which it considers relevant in a particular case.

1. The risk the inmate poses to the community;
2. The nature and seriousness of the inmate's offense, the circumstances surrounding the offense, and the inmate's attitude toward it;
3. The inmate's prior criminal records and his/her adjustment under any previous programs or supervision;
4. The inmate's attitude toward his/her family, the victim, and authority in general;
5. The inmate's adjustment while in confinement, including his/her progress in counseling, therapy, and other similar programs designed to encourage the inmate to improve himself/herself;
6. The inmate's employment history, including his/her job training and skills and his/her stability in the work place;
7. The inmate's physical, mental and emotional health;
8. The inmate's understanding of the cause of his/her past criminal conduct;
9. The inmate's efforts to solve his/her problems such as seeking treatment for substance abuse, enrolling in academic and vocational education courses; and in general using whatever resources the Department of corrections has made available to inmates to help with their problems;
10. The adequacy of the inmate's overall parole plan. This includes inmates living arrangements, where he/she will live and who he will live with; the character of those with whom the inmate plans to associate in both his/her working hours and his/her off-work hours; the inmate's plans for gainful employment;
11. The willingness of the Community into which the inmate will be released to receive the inmate;
12. The willingness of the inmate's family to allow his/her to return to the family circle;
13. The attitudes of the sentencing judge, the solicitor, and local law enforcement officers respecting the inmate's parole;
14. The feelings of the victim's family, and any witnesses to the crime about the release of the inmate
15. The actuarial risk and needs assessment outlined in section 24-21-10 (F)(1) of the S.C. Code of laws; which evaluates based on Criminal Involvement, Relationships/Lifestyle, Personality/Attitudes, Family, Social Exclusion and Mental Health.
16. Other factors considered relevant in a particular case by the Board.

Reservation of Discretionary Power of the Parole Board

These criteria in no way limit the absolute discretion of the Parole Board or Panel to make parole decisions on a case-by case basis and to grant or deny parole as it determines to be in the best interest of society and the inmate under review.

In some cases, the Board may decide that the inmate should be granted parole if the inmate completes one or more stated conditions. When this is the case, the Board may grant a parole that becomes effective when the inmate completes one or more stated conditions. Should the inmate fail to complete any one of these conditions or disobey any rule or regulation of the South Carolina Department of Corrections before satisfying the stated conditions to make his parole effective, the Board may rescind the inmate's parole and treat the case as though parole had been rejected. In other cases, the Board may feel it needs more time to form its decision. In such cases, the Board may simply take the parole consideration under advisement and reschedule it at a later date. Similarly, the Board may postpone a parole hearing in order to dispose of detainers or pending charges. If the Board rejects an inmate for parole, the inmate will be given written notice of rejection stating the reasons for rejection. Decisions of the Board have no precedential effect whatever and in no way limit the Board's absolute discretion at later parole hearings.

After rejection for parole, the procedure of scheduling of rehearing is as follows:

1. An individual serving time for a violent offense defined in §16-1-60 of the South Carolina Code of Laws 1976 will be reheard for parole two years following the date of parole rejections. Applicable legal exceptions may allow for a one year hearing.
2. An individual serving time for a nonviolent offense defined in §16-1-70 of the South Carolina Code of Laws 1976 will be reheard for parole one year following the date of parole rejections.

I certify that the above material has been explained to me, and I have received a copy.

Inmate's Signature: <i>Chuck E. McCullough</i>	Date: 12/19/2019
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Witness Signature: <i>[Signature]</i>	Date: 12/19/2019
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STATE OF SOUTH CAROLINA
In The Administrative Law Court
Docket Number 20-ALJ-15-0020

APPEAL OF FINAL DECISION
Department of Probation, Parole, and Pardon Services

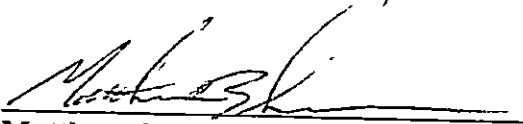
CHUCK MCCULLOUGH, #311608 APPELLANT

v.

S.C. DEPARTMENT OF PROBATION, PAROLE AND
PARDON SERVICES, RESPONDENT

CERTIFICATE OF COUNSEL

The undersigned certifies that this Record on Appeal complies with Rule 61 of the Rules of Procedure for the Administrative Law Court and contains all material proposed to be included in the Record on Appeal by all of the parties and not any other material.


Matthew C. Buchanan,
General Counsel

South Carolina Department of
Probation, Parole and Pardon Services
P. O. Box 207
Columbia, South Carolina 29202
(803) 734-9220

July 1, 2020