

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

SEP 23 2021

SC Court of Appeals

Appeal from the Administrative Law Court
The Honorable Ralph K. Anderson, III, Chief Administrative Law Judge
Docket Number 21-ALJ-15-0003-AP

Appellant Case No.: 2021-000785

LYNN JEFFREY CHRONISTER, #189827 APPELLANT

v.

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

BRIEF OF RESPONDENT

Matthew C. Buchanan
General Counsel

**South Carolina Department of Probation,
Parole and Pardon Services
P.O. Box 207
Columbia, South Carolina 29201
(803) 734-9220**

ATTORNEY FOR RESPONDENT

TABLE OF CONTENTS

Table of authorities.....ii

Statement of issue on appeal.....iii

Statement of the case.....1

Standard of review.....2

Arguments

Appellant was properly notified and evaluated by the Board for “medical parole” in accordance with South Carolina law.....2

Conclusion.....4

TABLE OF AUTHORITIES

CASES

Hill v. S.C. Dep't of Health and Envtl. Control, 389 S.C. 1, 698 S.E.2d 612, (2010).....3

STATUTES

S.C. Code Ann. §1-23-610.....2

S.C. Code Ann. §24-21-640 (2010).....4

S.C. Code Ann. §24-21-645 (1993)4

S.C. Code Ann. §24-21-650 (2010).....4

S.C. Code Ann. §24-21-715 (2010)*passim*

STATEMENT OF ISSUE ON APPEAL

Whether Appellant was properly evaluated for medical parole in compliance with South Carolina law?

STATEMENT OF THE CASE

On February 14, 1992, Appellant drove his van to the Duke Power Plant in York County where his wife (Victim) was employed. As Victim was walking into work, Appellant shot her in the head and body killing her. Victim was pronounced dead at the scene. A witness reported seeing Appellant walking away from area of the shooting carrying a rifle. Appellant was eventually extradited from North Carolina and arrested for murder and possession of a weapon during a violent crime (1992-GS-46-1224).

On September 21, 1992, Appellant proceeded to a jury trial before the Honorable Don S. Rushing. The jury returned a verdict of guilty on both charges and Judge Rushing sentenced Appellant to life in prison on the murder charge and a consecutive five years imprisonment for the weapons violation.

Appellant became parole eligible in February of 2012 and, since that time, has had five parole hearings in compliance with South Carolina law. Appellant's most recent biannual review occurred on March 24, 2021. Appellant has also had one special "medical parole"¹ hearing on January 13, 2021, which is the subject of this appeal. Respondent received a letter and petition for a medical parole review from SCDC Director Bryan P. Stirling on October 26, 2020. Based on that petition, Respondent scheduled Appellant's medical parole hearing on January 13, 2021 and mailed him notice of the hearing on December 9, 2020. Following the medical parole hearing, the Board mailed Appellant a notice rejecting his request for medical parole on January 14, 2021, citing the nature and seriousness of Appellant's current offense, and the use of a deadly weapon in this or previous offense as the reasons for rejection. On January 27, 2021, Appellant submitted a motion for reconsideration to Respondent stating he was not provided a thirty-day notice prior to

¹ For the purposes of this brief, "medical parole" refers to the special parole consideration for terminally ill, geriatric, or permanently disabled inmates pursuant to S.C. Code 24-21-715.

the January 13th medical parole hearing, and that the notice of rejection failed to state his medical issues were considered by the Board prior to rejecting his request for medical parole. Appellant also argued the reasons cited by the Board in rejecting his medical parole were the same reasons cited by the Board when denying his subsequent parole hearing. On February 13, 2021, Appellant issued a notice of appeal citing the same issues as he set forth in his motion for reconsideration.

On June 22, 2021, the Honorable Ralph King Anderson, III, chief administrative law judge, issued an order affirming the decision of the Department and Parole Board. The Appellant subsequently filed this appeal, alleging the same issues.

The Respondent's brief follows.

STANDARD OF REVIEW

In an appeal from an ALC decision, the Administrative Procedures Act provides the standard of review. S.C. Code Ann. §1-23-610(B). This Court may only reverse the decision of the ALC if that decision is:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Id. “The [C]ourt may not substitute its judgment for the judgment of the [ALC] as to the weight of the evidence on questions of fact.” *Id.* In determining whether the ALC's decision was supported by substantial evidence, this Court need only find, looking at the entire record on appeal, evidence from which reasonable minds could reach the same conclusion that the ALC reached. Hill v. S.C. Dep't of Health and Envtl. Control, 389 S.C. 1, 9–10, 698 S.E.2d 612, 617 (2010).

ARGUMENTS

1. Appellant received proper notice of the hearing.

Appellant argues his due process rights were violated because he did not receive notice of the hearing thirty days prior to the hearing.

The ALC determined that he received proper notice of the hearing. The Respondent mailed the notice of the hearing on December 9, 2020, which was more than thirty days before his hearing which was held on January 27, 2021. R. at *. The Respondent submits that the ALC did not err in this finding.

2. Appellant was properly evaluated by the Board for ‘medical parole’ in accordance with South Carolina law.

Appellant argues that the Board rejected his medical parole request on the same findings they rejected his biannual parole request; therefore, Appellant believes the Board failed to properly consider his medical parole request. The Respondent agrees with the ALC's finding that the medical parole statute is different from the standard parole process, and the Board properly provided Appellant with their notice of rejection and cited their findings of fact, which is all that is required. Since the Board properly provided Appellant with its reasons for rejecting Appellant's medical parole request, the ALC's order should be affirmed.

As an initial matter, “medical parole” is not the same as routine parole under South Carolina Code §§24-21-640, -645, and -650. Notably, medical parole is initiated upon request from the SCDC director, rather than annual or biannual eligibility after the service of a portion of a sentence. While the Board is authorized to grant medical parole, the Board may only do so after a medical and legal conclusion that the inmate meets the definitions of either terminally ill, geriatric, permanently incapacitated, or a combination of the three, *and* that the inmate “does not pose a threat to society or himself.” §24-21-715(C).

Appellant argues the Board failed to make any findings addressing his medical condition and instead cited the same reasons for rejecting his medical parole as they did for his regular biannual parole hearings, which Appellant believes is an error of law.

Appellant’s routine biannual parole hearings are convened to evaluate Appellant’s parole request in compliance with S.C. Code Ann. §24-21-640 and the factors set forth in Form 1212. Conversely, Medical parole hearings are evaluated pursuant to S.C. Code Ann. §24-21-715, which states, in part:

(C) The parole order issued by the parole board pursuant to this section must include findings of fact that substantiate a legal and medical conclusion that the inmate is terminally ill, geriatric, permanently incapacitated, or a combination of these conditions, and does not pose a threat to society or himself. It also must contain the requirements for the inmate’s supervision and conditions for his participation and removal.

S.C. Code Ann. §24-21-715(C)(2010).

Under South Carolina law, the Board only has to include findings of fact regarding Appellant’s medical conditions if medical parole is *granted*; here, since the Board denied Appellant’s request for medical parole, no findings of fact to substantiate a legal and medical conclusion regarding Appellant’s medical conditions was required.

Appellant also argues his medical parole was not properly evaluated by the Board because the findings of fact in the Board's notice of rejection were based on the nature and seriousness of Appellant's current offense and the use of a deadly weapon in this or previous offense, which Appellant states are the same findings of fact the Board cited after rejecting his routine parole request. Though Appellant correctly states the Board cited the same reasons in denying his medical parole as they did for denying his biannual parole, there is no error of law here because §24-21-715 requires the Board to evaluate Appellant's medical conditions in conjunction with the threat Appellant poses to society or himself as part of their evaluation.

To comply with South Carolina law, the Board must evaluate the circumstances of Appellant's offense in light of his medical conditions when evaluating Appellant's request for medical parole. The Board did not commit an error of law by citing the nature and seriousness of Appellant's offense and this use of a deadly weapon in their notice of rejection for Appellant's medical parole – it stands to reason that based on their grounds for rejection that the Board found the Appellant still poses a threat to society.

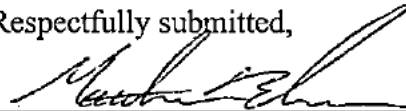
The Respondent therefore submits that Appellant's claim that the Board failed to properly address his medical conditions during their evaluation of his medical parole is meritless. The sole purpose of the medical parole hearing is to consider the inmate's medical condition or conditions against the threat that the inmate may pose to society or himself. The Board is only required to state its medical findings upon the *granting* of parole pursuant to §24-21-715. It strains credulity to presume that the Board did not consider the inmate's medical condition at a hearing specifically for inmates who are or may be terminally ill, geriatric, or permanently incapacitated simply because the Board did not say so in its letter of rejection. As the Board's sole focus during this hearing is evaluating Appellant's medical parole request in accordance with §24-21-715,

Appellant's claim that his medical conditions were not properly evaluated by the Board prior to their rejection is without merit. As the ALC held, §24-21-715 does not require a finding of fact on the medical condition of the petitioner upon a denial of medical parole; only upon the grant of medical parole.²

CONCLUSION

The Board's rejection of Appellant's medical parole based on the nature and seriousness of his offense and the use of a deadly weapon was proper as Appellant's threat to society is properly considered during a medical parole hearing pursuant to South Carolina law. Since there exists no error or violation of law in the denial of Appellant's request for medical parole, Respondent respectfully requests the ALC's ruling be affirmed and the Appellant's appeal be dismissed.

Respectfully submitted,



Matthew C. Buchanan
General Counsel

South Carolina Department of Probation,
Parole and Pardon Services
P.O. Box 293
Columbia, South Carolina 29202
(803) 734-9220

Columbia, South Carolina
September 21, 2021

² The ALC's caution found in Footnote 3 of the order is well taken, however. In future medical parole hearings, the Respondent will more clearly denote medical parole procedures in the forms for both the denial and the granting of medical parole.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

SEP 23 2021

Appeal from the Administrative Law Court
The Honorable Ralph K. Anderson, III, Chief Administrative Law Judge
Docket Number 21-ALJ-15-0003-AP

80 Court of Appeals

Appellant Case No.: 2021-000785

LYNN JEFFREY CHRONISTER, #189827APPELLANT

v.

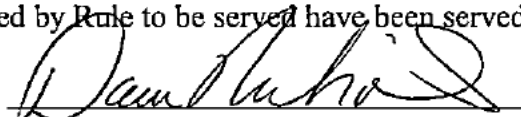
S.C. DEPARTMENT OF PROBATION, PAROLE AND
PARDON SERVICES,RESPONDENT

CERTIFICATE OF SERVICE

I, Dawn K. Nichols, Executive Assistant, hereby certify that I have served the within
Initial Brief of Respondent and Designation of Matter, on Appellant this 21st day of September,
2021, by depositing a copy of the same in the United States mail, postage prepaid, addressed to:

Lynn Chronister, #189827
Kirkland Correctional Institution
4344 Broad River Road
Columbia, S.C. 29210

I further certify that all parties required by Rule to be served have been served.



Dawn K. Nichols
Executive Assistant
South Carolina Department of Probation,
Parole, and Pardon Services
P. O. Box 50666
Columbia, South Carolina 29250

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/

RECEIVED

SEP 23 2021

SC Court of Appeals

September 21, 2021

The Honorable Jenny Kitchings
Clerk of the S.C. Court of Appeals
P. O. Box 11629
Columbia, South Carolina 29211

Re: Lynn Chronister v. SCDPPPS
21-000785

Dear Ms. Kitchings:

Please find enclosed the Initial Brief of Respondent and Designation of Matter dated September 21, 2021, along with proof of service in the above referenced case.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew C. Buchanan", with a long horizontal line extending to the right.

Matthew C. Buchanan
General Counsel


MCB:dn

Enclosures

cc: Lynn Chronister, #189827

State of South Carolina
Department of Probation, Parole, and Pardon Services
293 GREYSTONE BOULEVARD, POST OFFICE BOX 207
COLUMBIA, SOUTH CAROLINA 29202



U.S. POSTAGE >>> PITNEY BOWES

ZIP 29210 \$000.93⁰
02 4W
0000369112 SEP. 21. 2021

RECEIVED

SEP 23 2021

SC Court of Appeals

The Honorable Jenny Kitchings
Clerk of the S.C. Court of Appeals
P. O. Box 11629
Columbia, South Carolina 29211

2921181629 2021

