

December 23, 2021

THE SUPREME COURT OF SOUTH CAROLINA
THE HONORABLE PATRICIA A. HOWARD, Clerk of Court
P.O. Box 11330
COLUMBIA, SC 29211

RECEIVED

DEC 29 2021

S.C. SUPREME COURT

RE: MICHAEL BRAXTON V. STATE
Appellate Case No. 2021-001432

Dear Honorable Clerk,

As directed by the court, the Petitioner now provides his explanation as required under Rule 243(c).

The State of South Carolina initiated its argument by asserting that the Petitioner had not been prejudiced by its "OUT OF TIME" Filing of its return on APRIL 26, 2021. SEE RULE 12(a), SCRCP. THE STATE OFFERED NO explanation for this delay.

The "Demonstrable Prejudice" suffered by the Petitioner is the IRREPAIRABLE harm that has resulted from him being continuously illegally and unlawfully incarcerated under an EXPIRED sentence!

This has been an abrogation of the Petitioner's Constitutional "Liberty Interest", as well as in violation of his DUE PROCESS rights under the 5th, 8th and 14th amendments OF THE UNITED STATES.

The material facts of the Petitioner NOT receiving a timely Probable cause or Revocation hearing, then having to endure the indifference of being extradited to an EXPIRED sentence, set the stage for the South Carolina Department of Corrections to impose a NEW sentence on the Petitioner WITHOUT DUE PROCESS!

The misapplication of the Petitioner's Earned Good Time and Earned Work Credits BEFORE and AFTER revocation of his Parole, is blatantly illustrated within the scope of the record; and the arrogance of this disregard is amplified by

The South Carolina Department of Corrections REFUSAL to recognize the directive of the South Carolina Court of Appeals on July 1, 2020. BRAXTON v. SCDC, case No. 2017-001964.

The Petitioner has presented, and presents before this honorable Court genuine issues of "Material Fact" that necessitates an evidentiary hearing. Additionally, the "Prima Facie" showing which entitles him to an equitable review is entrenched within our honorable Supreme Court's directive which provides;

"Collateral Consequences may survive after a prisoner's unconditional release making his habeas action NOT moot. Carras v. Lovell, 391 U.S. 234, 237-38, 88 S. Ct 1554 20 L. Ed 2d 554 (1968).

The Petitioner again relies on the Supreme Court of South Carolina in his appeal for equitable tolling. The order issued in the Petitioner's cause on February 8, 2017, Case No. 2017-005062, directed him to the Administrative process, which was still in effect upon his release.

The Petitioner prays that he has satisfied his preliminary burden in this cause.

Respectfully Submitted,

Michael Braxton

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cc. F.1E