

STATE OF SOUTH CAROLINA
Court of Appeals

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JAN 24 2022

SC Court of Appeals

Bernard Bagley, #175851,

APPELLANT,

v.

South Carolina Department
of Probation, Parole and
Pardon Services,

RESPONDENT.

Appellate Case No. 2019-000934
Unpublished Opinion No. 2022-UP-008
Submitted November 1, 2021
Filed January 12, 2022

Appeal From The Administrative Law Court, S. Phillip Lenski, ALJ.

PETITION FOR REHEARING

The Appellant comes now respectfully requests this court for a Rehearing en Banc at its earliest convenience pursuant to Rules 221(a)(c); 219(b); and 240(i), SCACR, along with S.C. Code of Laws §§15-53-20, 15-53-30, and §15-53-120 Declaratory Judgment Act pertaining to §24-21-950(4), "An inmate must be considered for pardon before a parole eligibility date only when he can produce evidence comprising the most extraordinary circumstances." In addition to the Declarations Cause of Action Petitioner pray that the consider whether he is currently eligible for pardon and be considered for a pardon; An inmate who is currently eligible for parole can receive a pardon under S.C. Code Ann. §24-21-950(A)(4). And, Declaration for §24-21-920, "In all other cases than those referred to in §24-21-910, the right of granting clemency shall be vested in the Board."

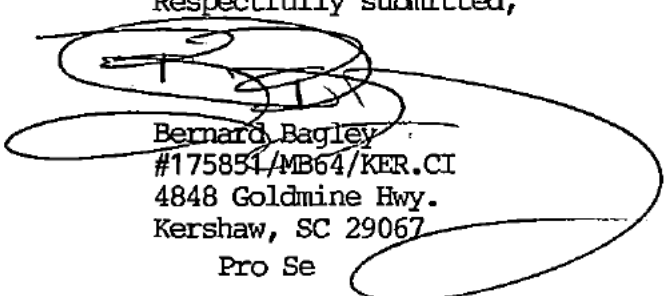
The foregoing points in Declarations were inadvertently overlooked or misapprehended by the court during its rulings, in which the Appellant prays for determination of questions under the statutes listed herein. SEE: Appendix page 1, ¶4, where Respondent stated, "I cannot assist you in your request." Another issue the court inadvertently misapprehended because it's the reason the record does not indicate that Bagley ever submitted, or precluded from

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submitting, a formal pardon application. (Also SEE App. p.2-3). Hazeliv. State, 659 S.E.2d 137 (2008), Common Pleas had jurisdiction to make finding as to whether petitioner's kidnapping offense for which he was convicted involved sexual misconduct as to require him to register as a sex offender, where issue was raised not in General Sessions Court but in the Court of Common Pleas, in a petition for declaratory judgment, which was thus subject to Declaratory Judgment Act, and registration statute was a civil statute. SEE: Carpenter v. SCDC, 848 S.E.2d 346 (S.C.App. 2020), Declaratory judgment claims are creatures of statute; and an individual's right to pursue declaratory judgment derives from that statutory authority. Holden v. Cribb, To state a cause of action under the Declaratory Judgment Act, a party must demonstrate a justiciable controversy, 561 S.E. 2d 634 (S.C.App. 2002).

WHEREFORE, based on the foregoing the Appellant requests for a rehearing (en banc) and prays for declarations because of the facts relied on within the Appendix.

Respectfully submitted,



Bernard Bagley
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Pro Se

January 19, 2022

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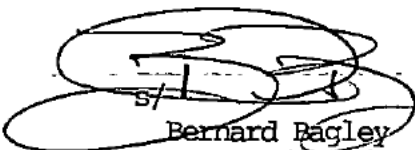
CERTIFICATE OF SERVICE

I hereby certify that I, Bernard Bagley, the Appellant pro se, on the 19th day of January 2022, in Kershaw, SC, served the foregoing Petition for Re-hearing and Appendix on all parties in this matter by depositing the same in the U.S. Mail, postage prepaid, and addressed as follows:

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Tommy Evans, Jr., Esq.
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Columbia, SC 29202

SC Administrative Law Court
S. Phillip Lenski, ALJ
Edgar A. Brown Bldg.
1205 Pendleton St., Suite 224
Columbia, SC 20201

January 19, 2022


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S.C. COURT OF APPEALS

Jenny A. Kitchin, Clerk of Court

P.O. Box 11629

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