

STATE OF SOUTH CAROLINA
Court of Appeals

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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Unpublished Opinion No. 2022-UP-008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

APPENDIX

Bernard Bagley
#175851/MB64/KER.CI
4848 Goldmine Hwy.
Kershaw, SC 29067

Pro Se

SCDPPPS Office of General Counsel
Tommy Evans, Jr., Esq.
P.O. Box 207
Columbia, SC 29202

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

HENRY McMASTER
Governor



JERRY B. ADGER
Director

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January 8, 2019

Mr. Bernard Bagley SCDC#175851
Kershaw Correctional Institution
4848 Goldmine Hwy.
Kershaw, South Carolina 29067

RE: Pardon

Dear Mr. Bagley:

This is in response to your November 30 letter relating to your previous request for a pardon. As stated in my earlier letter, since you are currently eligible for parole you cannot be considered for a pardon while incarcerated.

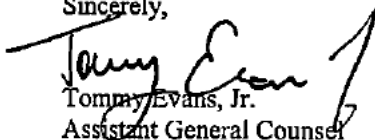
In your letter you stated that your position is that you believe that since the statute does not specifically state the words "currently" or "initially," it may not be the intent of the legislature that it means "currently" or "initially" eligible for parole. However, the statute does state, "an inmate must be considered for pardon before a parole eligibility date." Once your parole eligibility date has passed you are at that time eligible for parole. So you are currently eligible for parole as evidenced by appearing before the Board four times. Since you are currently eligible for parole you cannot be considered for a pardon.

You have referred to a changing of the law regarding the inference of malice when a deadly weapon is used. That is irrelevant due to the fact you continue to serve a life sentence for murder. At the time you were convicted South Carolina allowed an individual serving a life sentence for murder parole eligibility upon the service of twenty years. You became eligible for parole on September 8, 2010, so you cannot be considered for a pardon.



Since you are currently eligible for parole you cannot be considered for a pardon pursuant to South Carolina law. Therefore, I cannot assist you in your request. I would no longer be answering any more correspondence regarding this matter.

Good luck in all of your future endeavors. With kind regards I remain,

Sincerely,


Tommy Evans, Jr.
Assistant General Counsel

TE:te

 "Nation's First Probation Agency accredited by the Commission on Accreditation for Law Enforcement Agencies (CALEA)." 

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

HENRY McMASTER
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November 7, 2018

Mr. Bernard Bagley SCDC#175851
Kershaw Correctional Institution
4848 Goldmine Hwy.
Kershaw, South Carolina 29067

RE: Pardon

Dear Mr. Bagley:

This correspondence is in response to your October 5 letter regarding a request for clemency. Within this letter you raise a Court decision that stated malice can no longer be inferred due to the use of a deadly weapon. It is your position that this should be considered an extraordinary circumstance that could allow you an opportunity to receive a pardon. Unfortunately, due to the fact you are currently eligible for parole you are cannot be considered for a pardon.

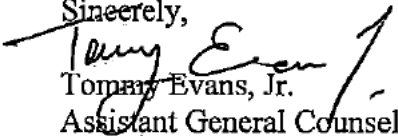
You are currently serving a life sentence for the offense of murder, with parole eligibility upon the service of twenty years. You initially became eligible for parole on June 28, 2010. Since this initial hearing you have been before the Parole Board an additional four times each resulting in a denial of parole. You are again scheduled to appear before the Board on March 15, 2019.

Pursuant to South Carolina law, "An inmate must be considered for pardon before a parole eligibility date only when he can produce evidence comprising the most extraordinary circumstances." S.C. Code Ann. §24-21-950(A)(4)(1981). So pursuant to this statute an inmate who is currently eligible for parole cannot receive a pardon.

As for commuting a sentence, in South Carolina the Parole Board is only able to grant a pardon. The Board can offer a recommendation to the Governor to commute a sentence of death to life. You are currently serving a sentence that will not result in the death penalty. Therefore, your sentence cannot be commuted.

I hope this has answered all of the questions you may have regarding this matter. Good luck in all of your future endeavors. With kind regards I remain,

Sincerely,


Tommy Evans, Jr.
Assistant General Counsel

TE:te

Cc: Nettie Jacobs, Board Support Services Supervisor



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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:

SCDPPPS Office of General Counsel
Tommy Evans, Jr., Esq.
P.O. Box 207
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


s/ Bernard Bagley
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Kershaw, SC 29067

Pro Se 