

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS  
APPELLATE CASE NO: 2013-000482

APPEAL FROM THE ADMINISTRATIVE LAW COURT  
HONORABLE SHALLEY C. ROBINSON  
ADMINISTRATIVE LAW JUDGE

APPEAL FROM FINAL DECISION  
S. C. DEPT OF CORRECTIONS &

RECEIVED  
APR 10 2013  
SC Court of Appeals

12-ALJ-04-0853-IJ  
GRIEVANCE: KRCI 301-12

CURTIS RICHARDSON # 269166

APPELLANT

V

S C DEPARTMENT OF CORRECTIONS

RESPONDENT

BRIEF OF APPELLANT

I SWEAR UNDER PENALTY OF PERJURY THE CONTENTS  
OF THIS BRIEF ARE TRUE AND CORRECT

SWORN TO BEFORE ME THIS  
2 DAY OF April 2013

st Curtis Richardson

MY COMMISSION ~~EXPIRES~~ My Commission Expires December 22, 2012  
Catherine A. Omer

CURTIS RICHARDSON  
269166 PBY7  
4848 GOLDMINE HWY  
KERSHAW SC 29067

NOTARY PUBLIC OF SOUTH CAROLINA

# TABLE OF CONTENTS

TABLE OF AUTHORITIES

ii

STATEMENT OF ISSUES ON APPEAL

iii

STATEMENT OF THE CASE

1

ARGUMENTS

2, 3, 4, 5

1. DID THE RESPONDENTS FAILURE TO RESPOND TO THE APPELLANTS MOTION RENDER DEFAULT JUDGMENT?
2. DID THE RESPONDENTS FAILURE TO RESPOND TO APPELLANTS STEP 2 EXHAUST ADMINISTRATIVE REMEDIES?
3. DID THE SCDJ'S CHANGING APPELLANTS SENTENCE FROM NONVIOLENT AND PAROLE ELIGIBLE TO VIOLENT AND NOT PAROLE ELIGIBLE CONSTITUTE AN EX POST FACTO VIOLATION

CONCLUSION

6

# TABLE OF AUTHORITIES

## CASES

ALLEN V LOWDER 875 F2D 82 (4TH CIR 1989)

BROWN V EVATT 470 SE2D 848

CAIFFIN V STATE 433 SE2D 862

JERNIGAN V STATE 531 SE2D 507

LANCE V MATHIS 717 SGT 891 (1997)

FENDER V THOMPSON 883 F2D 303 (4TH CIR 1989)

MELVIN V NIKOLOPOULOS 864 F2D 301

SHAWARTZ V MUNCEP 834 F2D 396 (4TH CIR 1987)

WARDEN V MARRERO 94 SGT 2532

WEAVER V GRAHAM 101 SGT 960

ROLLER V CAVANAUGH 984 F2D 120 (4TH CIR, CT APP)

PAYNE V BAKER 595 F2D 197 (4TH CIR 1979)

ELMORE V STATE 409 SE2D 397

## STATUTES

SC RULES OF CIVIL PROCEDURE 65 (F) (1)

SC CODE ANN 24-21-620

ADMINISTRATIVE LAW COURT RULE 63

INMATE GRIEVANCE POLICY RESPONSES 11. RESPONSES

## STATEMENT OF ISSUES ON APPEAL

1. DID THE RESPONDENTS FAILURE TO RESPOND TO THE APPELLANTS MOTION REWARD DEFAULT JUDGMENT?

2. DID THE RESPONDENTS FAILURE TO RESPOND TO APPELLANTS STEP 2 EXHAUST ADMINISTRATIVE REMEDIES?

3. DID THE SCD C'S CHANGE APPELLANTS SENTENCES FROM NONVIOLENT AND PAROLE ELIGIBLE TO VIOLENT AND NOT PAROLE ELIGIBLE CONSTITUTE AN EX POST FACTO VIOLATION?

## STATEMENT OF THE CASE

IN SEPTEMBER 2011. I WAS SENTENCED TO (5) FIVE YEARS IN PRISON NONVIOLENT AND PARDON ELIGIBLE BY THE MORAY COUNTY COURT OF GENERAL SESSIONS.

UPON ADMISSION TO THE SCDC. THE SCDC CHANGED MY COURT ORDERED SENTENCE TO VIOLENT AND NOT PARDON ELIGIBLE.

BASED ON THIS ADMITTEDLY FALSE INFORMATION I WAS DENIED A TIMELY HEARING AND SUBJECTED TO AN ILLEGAL SENTENCE UNDER THE EX POST FACTO PROHIBITION

# ARGUMENT 1

RESPONDENTS FAILURE TO RESPOND TO APPELLANTS MOTION REINFORCED DEFAULT JUDGMENT.

PRIDE TO THE ALJ DISMISSAL. (ADMINISTRATIVE LAW JUDGE) APPELLANT FILED A MOTION FOR RELEASE FROM PRISON AND AWARD OF DAMAGES. THIS MOTION WAS DATED DEC-EMBER 26, 2012 AND TIMELY AND PROPERLY SERVED ON THE COURT (ALJ) AND RESPONDENTS W/IN AS OF THE QUANTUM DATE FILED AND RESPONSE. PURSUANT TO RULE 63 AND 62 OF THE ALJ, THE ALJ SHOULD HAVE GRANTED RELIEF IN APPELLANTS FAVOR. HOWEVER, WITHOUT EVEN A RULING ON APPELLANTS MOTION THE ALJ DISMISSED THE APPEAL EARLIEREST.

## ARGUMENT 2.

THE FAILURE TO RESPOND TO APPELLANT'S STEP 2.  
AS OF THE CURRENT DATE EQUALS AN EXHAUSTION  
OF THE SCDC ADMINISTRATIVE GRIEVANCE REMEDIES.

THE STEP 2 WAS FILED IN MARCH OF 2012 HOW-  
EVER THE RESPONDENTS HAVE FAILED TO ANSWER  
THE STEP 2 IN VIOLATION OF THEIR OWN SCDC  
ESTABLISHED POLICY (SEE ATTACHE) EXHIBIT C

THEREFORE, THIS HONORABLE COURT SHOULD DEEM  
THE GRIEVANCE PROCEDURE IS EXHAUSTED AS APPELLANT  
SHOULD NOT HAVE TO WAIT FOREVER FOR RESPONDENTS  
RESPONSE.

THIS COURT SHOULD RULE THAT IT WILL NOT  
TOLERATE THE RESPONDENTS FAILURE TO ADHERE TO  
ITS OWN ESTABLISHED POLICY.

## ARGUMENT 3.

UPON ADMISSION TO THE SCDC, THE SCDC CHANGED MY COURT ORDERED SENTENCE TO VIOLENT AND NOT PAROLE ELIGIBLE IN VIOLATION OF THE EX POST FACTO CLAUSE.

BASED ON THIS ADMITTEDLY FALSE INFORMATION I HAVE BEEN DENIED PAROLE ELIGIBILITY AND DENIED A PAROLE HEARING AND EQUAL PROTECTION AND APPLICATION OF LAW.

(DENIAL OF PAROLE BASED ON ADMITTEDLY FALSE INFORMATION DENIES DUE PROCESS) SEE PRINCE V BAKER 595 F2D 197 4TH CIR 1979 CERT DENIED 444 US 925. ALSO SEE MONROE V TROUPEN 932 F2D 1437.

24-21-620 ESTABLISHES "WITHIN 90 DAYS PRECEDING HAVING SERVED 1/4 OF HIS SENTENCE THE BOARD EITHER ACTING IN A THREE-MEMBER PANEL OR MEETING AS A FULL BOARD SHALL REVIEW THE CASE."

I THEN BEGINNING IN SEPTEMBER 2011 STARTED MY COMPLAINTS VIA GRIEVANCE PROCEDURE.

HOWEVER THE SCDC GRIEVANCE PROCEDURE IS EXHAUSTED AS STEP 2 WAS FILED FEBRUARY 2012.

4.

AS FOR PAROLE ELIGIBILITY AND NONVIOLENT AS PART OF PLEA 1 I WAS ADVISED BY COUNSEL AND COURT THAT I WOULD BE SAME.

HOWEVER THE SCDC HAS FAILED TO REPLY AS OF THE CURRENT DATE IN VIOLATION OF THE 214 DAYS TIME LIMIT TO COMPLETE THE SCDC GRIEVANCE PROCEDURE RESPONSES

ALTERNATIVELY PCA COUNSEL HAS STATED THAT HE "CAN NOT AND WILL NOT RAISE THIS ISSUE ON PCA"

MY SENTENCE HAS BEEN ILLEGALLY ALTERED EXTENDED AND ENHANCED AND MY CLASSIFICATION / CUSTODY INTENSIFIED BY SCDC

PETITIONER RELIES ON BROWN V EDATT 470 SE2D 848, FENDER V THOMPSON 883 F2D 303 (4TH CIR 1989), ROLLEN V CAVANAUGH 984 F2D 301, WEAVER V GRAHAM 101 SCT 960, WARDEN V MARLER 94 SCT 2532, SCHWARTZ V MUNCY 834 F2D 396 (4TH CIR 1987) "ALL IN SUPPORT OF HIS POSITION."

ALSO SEE GRIFFIN V STATE 433 SE2D 864, LYNCE V MATHIS 117 SCT 891 (1997), JERNIGAN V STATE 531 SE2D 507. ALSO SEE ELMORE V STATE 409 SE2D 397, WHERE THE COURT HELD "PROVIDING INCREASED PAROLE ELIGIBILITY TIME WOULD RESULT IN AN EX POST FACTO VIOLATION."

CONCLUSION

THIS HONORABLE COURT ISSUE AN ORDER GRANTING  
RELEASE FROM PRISON AND DAMAGES PURSUANT TO  
RULE 65 (F) (1) AS PETITIONER IS SUBMITTED  
TO AN ILLEGAL SENTENCE BASED ON THE SLD  
APPLICATION OF EX POST FACTO LAD TO SENTENCE  
AND HAS OTHER DEFECTS DEEMED JUST AND PROPER  
WITHIN THE JURISDICTION OF THIS COURT.

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS  
APPELLATE CASE NO: 2013-000482

APPEAL FROM THE ADMINISTRATIVE LAW COURT  
HONORABLE SHIRLEY C. ROBINSON  
ADMINISTRATIVE LAW JUDGE

APR 10 2013  
SC Court

APPEAL OF FINAL DECISION  
S.C. DEPARTMENT OF CORRECTIONS

12-4-0853-IJ  
GRIE KRCI-0301-12

CURTIS RICHARDSON

APPELLANT



S.C. DEPT OF CORRECTIONS

RESPONDENT

PROOF OF SERVICE

THIS IS TO CERTIFY THAT I SERVED A COPY OF ORIGINAL BRIEF OF APPELLANT ON THE FOLLOWING PARTIES BY PLACING A COPY OF SAME IN THE U.S. MAIL POSTAGE PREPAID ON MARCH 31, 2013 ADDRESSED

HONORABLE V LAIRE ALLEN  
DEPUTY CLERK COURT OF APPEALS  
1015 SUMNER ST  
COLUMBIA SC 29201

CHRISTOPHER D. FLORIAN  
OFFICE OF GENERAL COUNSEL  
4444 BADAM RIVER Rd  
COLUMBIA SC

JANA SHEALY  
ADMINISTRATIVE LAW COURT  
1205 PENNINGTON ST SUITE 224  
COLUMBIA SC

SI Curtis Richardson