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IN THE SUPREME COURT S.C. Supreme Court

Appeal from The Administrative Law Court
Columbia, SC

Ralph King Anderson III, Chief Administrative Law Judge

Sup. Ct. Appellate Case No.: 2013-000612
ALC Case No.: 2004-ALJ-04-00612-A-AP

Larry Edward Hendricks, Petitioner,
v.
South Carolina Dept. of Corrections, Respondent.

PETITIONER'S REPLY TO RESPONDENT'S RETURN
TO PETITIONER'S WRIT OF CERTIORARI

The Petitioner, above named, proceeding pro-se, brings forth this Reply to the Respondent's Return pursuant to Rule 243(g), of the S.C. Appellate Court Rules, received from the RCI's Mailroom on April 23, 2013.

In the Respondent's Return, reliance is placed on the Appeals Court case, Bickerstaff v. Prevost, 727 SE2d 769, 772 (Ct. App. 2012), which questions the law of the case doctrine. True, the law of the case doctrine was brought before this Court as one of the questions presented, but the Respondent's

Stance is misplaced.

The Plaintiff's Writ concerned the appellate jurisdiction of the Administrative Law Court (ALC) in an appeal from the Disciplinary Hearing of the Respondent. As noted in its Procedural History, the Petitioner followed the procedures outlined in Al-Shabazz v. State, 527 SE2d 742 (SC 2000), and State statutory law from Title 1, ^{Chapter 23,} to appeal the agency's decision.

The Petitioner reminds the Court to not overlook the Saving Clause provisions that are a part of Act 387, which was signed into law on June 9, 2006, and became effective on July 1, 2006. Chem-Nuclear Systems, L.L.C. v. S.C. Bdc. of Health and Env'tl. Controls, 648 SE2d 601 (SC 2007). The Saving Clause is significant to this action, because this appeal was not governed by current law. This case predated Act 387, and the subsequent amendments which limit the ALC's ability to hear cases where the Petitioner failed to lose accrued good time credits.

Section 55 of the Act states "The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide." *Id.*, at 603

This Act substantially reformed the S.C. Administrative Procedure Act in order "to provide a uniform procedure for contested cases and appeals from administrative agencies." Act 387, §§ 53 & 55. Those sections are crucial to the analysis of this action. A "saving clause" is a restriction in a repealing act, intended to save rights, pending proceedings, penalties, etc; from the annihilation, which would result from a unrestricted appeal. State v. Brown, _____ SE2d _____, 2013 WL 960676 (SC 2013). The inclusion of a saving clause will have the effect of preserving a pending suit. Id.

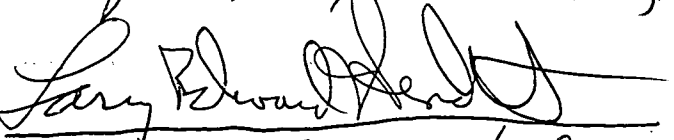
A review of the applicable law in 2005 yields the conclusion that an appeal could be heard by an inmate who did not lose good time, especially after this Court's decision in Furtick v. SCDC, 649 SE2d 35 (SC 2007), which vested the ALC with jurisdiction to hear matters of this nature.

Therefore, the Court of Appeals erred in holding that the ALC lacked jurisdiction to hear Petitioner's appeal, based on current statutory law whereas^{ereas}, the saving clause, permitted the action to be heard.

CONCLUSION

Based on the factual precedent outlined herein, The Petitioner's Writ of Certiorari should be Granted, and the Case Remanded with the appropriate instructions to follow the Order of Remand of January 11, 2010, without further concern for any procedural grounds.

This the Petitioner humbly Prays!

Respectfully Submitted,


Larry Edward Hendricks
Petitioner, Pro-se
10 Faith Lane
Winnsboro, SC 29180

May 1st, 2013

Please Note New address

Proof of Service

The Petitioner, above named, hereby states that he has served the above Reply to the Respondent's Return, upon counsel for the Respondent via the U.S. Postal Service, First Class mail, addressed to: Christopher Florian, SCDC, Office of the General Counsel, P. O. Box 21787, Columbia, SC 29221, this date.