

STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

S. Phillip Lenski, Administrative Law Judge
Case No. 21-ALJ-15-0007-AP/2021-001145

SC Court of Appeals

CHARLES WILLIAMS, #086721.....APPEALANT,

v.

SOUTH CAROLINA DEPARTMENT OF PROBATION, PAROLE,
AND PARDON SERVICES.....RESPONDENT.

RECORD ON APPEAL

Charles Williams, SCDC #086721
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State of South Carolina
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Director
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APR 20 2021

BRO
MAILROOM

March 24, 2021

Mr. Charles Williams #00086721
Broad River Correctional Institution
4460 Broad River Rd.
Columbia, SC 29210

RE: NOTICE OF REJECTION

Dear Mr. Williams:

It is my responsibility to inform you, on behalf of the South Carolina Parole Board, that the Board has reached a decision regarding your parole hearing. The Board hereby makes the following CONCLUSION OF LAW:

After careful consideration of: (1) the characteristics of your current offense(s), prior offense(s), prior supervision history, prison disciplinary record, and/or prior criminal record, as described in the findings of fact below; (2) the factors published in Department Form 1212 (Criteria for Parole Consideration); (3) the factors outlined in Section 24-21-640 of the South Carolina Code of Laws, and (4) actuarial risk and needs assessment factors pursuant to Section 24-21-10 (F) (1) of the South Carolina Code of Laws. The Parole Board had determined that your parole must be denied.

You will be notified 30 days prior to your next scheduled parole consideration date.

FINDINGS OF FACT:

Nature And Seriousness Of Current Offense
Vote Count: Unanimous To Reject

Sincerely,

A handwritten signature in cursive script that reads "Nettie C. Jacobs".

Nettie C. Jacobs
Board Support Services

1

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

RECEIVED

APR 20 2021

BRCI
MAILROOM

Charles Williams-086721

Appellant,

vs.

South Carolina Department of Probation,
Parole and Pardon Services.

NOTICE OF APPEAL

DOCKET NO. -ALJ-15-

Notice is hereby given that Charles Williams-086721 does hereby appeal the final decision of the South Carolina Department of Probation, Parole and Pardon Services dated March 24-21 and received on March 26-21, a copy of which is attached. A general statement of the grounds for appeal is (See S.C. Code Ann. § 1-23-380(A)(6)):

(1) The SCDPPPS' Application of Department Form 1212 Constituted an Ex Post Facto violation of The U.S. Constitution

(2) The SCDPPPS determined its Findings of Fact upon unlawful procedure

Charles Williams-086721

Appellant's Name
Broad River CI, GRN 2104.
4460 Broad River Rd.

Mailing Address

Columbia, SC 29210

City, State, Zip Code

Charles Williams
Signed

April 16-21
Dated.

CERTIFICATE OF SERVICE

I hereby certify that I, Charles Williams (your name), on the 16 day of April, 2021 in Columbia (city), South Carolina, served a copy of the foregoing Notice of Appeal on all parties to this matter by depositing the same in the United States Mail, postage paid, and addressed as follows:

Name of person/Agency served: S.C. Dept. of Probation, Parole and Pardon Services

Address: 293 Greystone Boulevard, PO Box 207

City, State, Zip Code: Columbia, SC 29202

Charles Williams

Print your name

(See reverse side for instructions)

Charles Williams
Sign your name

STATE OF SOUTH CAROLINA
In The Administrative Law Court
Docket Number 21-ALJ-15-0007

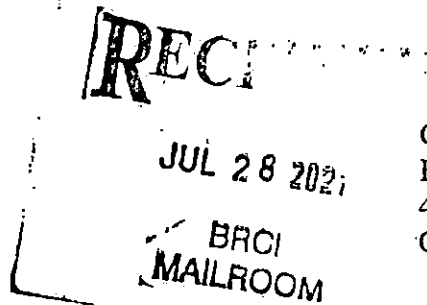
APPEAL OF FINAL DECISION
Department of Probation, Parole, and Pardon Services

CHARLES WILLIAMS, #086721.....APPELLANT

v.

DEPARTMENT OF PROBATION, PAROLE, AND
PARDON SERVICES.....RESPONDENT

BRIEF OF APPELLANT



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STATEMENT OF THE CASE

This matter is before the Administrative Law Court ("ALC") pursuant to the appeal filed against the South Carolina Department of Probation, Parole, and Pardon Services ("Respondent") by Charles Williams ("Appellant"), an inmate of the South Carolina Department of Corrections ("SCDC") presently confined at the Broad River Correctional Institution ("BRCI") in Columbia, South Carolina.

Appellant was convicted on April 16, 1976 for the murders of Rhonda Adams, Cynthia Jones, and Kathy Smith, and was sentenced by the Honorable Judge Frank Epps to death by electrocution. This sentence was later reversed due to the South Carolina Supreme Court decision of *State v. Rumsey*, 267 S.C. 236, 226 S.E.2d 894 (1976) (the statute imposing a mandatory death sentence upon a finding of murder is unconstitutional). Appellant reappeared before Judge Epps and was sentenced to a term of life with the possibility of parole for each offense of murder. At the time Appellant committed these offenses on September 26, 1975, South Carolina law allowed an inmate serving a life sentence for murder parole eligibility upon service of ten years.

Appellant made his initial appearance before the Parole Board on December 19, 1984. At all parole hearings relevant to this appeal, to include the most recent parole hearing on March 24, 2021, Respondent has denied Appellant the opportunity to be released on parole due to the nature and seriousness of the offense.

Following Respondent's denial of parole on March 24, 2021, Appellant submitted a Notice of Appeal to the ALC on April 16, 2021, by depositing the same via U.S. Mail at the BRCI mailroom. This appeal was filed by the clerk on April 20, 2021, and was assigned to the Honorable Judge Lenski on April 28, 2021. This Appellant's Brief now follows pursuant to Rule 60 of the Special Appeals Rules, whereby the following issues are presented:

ISSUES ON APPEAL

- I. The SCDPPPS' application of Department Form 1212 constituted an ex post facto violation of the U.S. Constitution.
- II. The SCDPPPS determined its findings of fact upon unlawful procedure.

ARGUMENT

I. Retroactive application of the current parole criteria for parole consideration, Dept. Form 1212, nature and seriousness of offense, results in an ex post facto violation

The Appellant contends that the Respondent's retroactive application of its current Dept. Form 1212, nature and seriousness of the offense, constitutes an ex post facto violation. The Appellant asserts that because his offense occurred prior to section 24-21-640's amendment, as part of Act No. 100, 1981), to establish a written criteria, the statutory version of section 55-612, in sole effect at the time Appellant committed his offense, should solely apply to his case by the respondent in determining its decision. See *State v. Tessnear*, 257 S.C. 290 (1971) (The law in effect at the time the crime was committed control the imposition of sentence). See *State v. Dawson*, 402 S.C. 160, 740 S.E.2d 501 (2013) (In the absence of a controlling statute, the common law requires that a convicted criminal receive the punishment in effect at the time he is sentenced, unless it is greater than the punishment provided for when the offense was committed).

The United States and South Carolina Constitutions specifically prohibit the passage of ex post facto laws, U.S. Const. art. 1, section 9, 10; S.C. Const. art. 1, section 4. A measure is an ex post facto law when it retroactively alters the definition of a crime or increases the punishment for a crime. *Jernigan v. State*, 340 S.C. 256, 261, 531 S.E.2d 507, 509 (2000). The relevant inquiry regarding an increase in punishment is whether a legislative amendment "produce a sufficient risk of increasing the measure of punishment attached to the cover crimes.

To determine whether the application of the Respondent's current criteria for parole consideration, nature and seriousness of the offense to Appellant results in an ex post facto violation the "question is whether the amended discretionary rule produces a sufficient risk of prolonging incarceration to the nature of the offense." *Garner v. Jones*, 529 U.S. 244, 251 (2000); *Jernigan v. State*, 340 S.C. 256, 261, 531 S.E.2d at 509. "When the rule does not by its own terms show a significant risk, the inmate must demonstrate, by evidence drawn from the rule's practical implementation by the agency charged with exercising discretion, that its retroactive application will result in a longer period of incarceration than under the earlier rule." *Garner*, at 255; *Jernigan*, 340 S.C. at 261, 531 S.E.2d 509 (Courts must analyze "the effect of the statute on the quantum of punishment" imposed) (quoting *Lynce v. Mathis*, 519 U.S. 433, 444-45 (1997)).

A. Ex Post Facto by Criteria for Parole Consideration

The General Assembly substantively amended the parole statute in 1981 as a part of Act. No. 100 that authorized the Respondent to establish a specific discretionary criteria that increased the requirements for parole with disadvantaged standard. This change in the law makes it more difficult to convince the Respondent to accept an inmate's shown disposition to reform over the nature and seriousness of the inmate's past offense. Moreover, as this substantive change in the rule makes obtaining parole more disadvantageous by its own discretionary terms and standard, it creates a "significant risk" of increased incarceration, and the Court need go no further to find an ex post facto violation. *Garner*, at 255; *Jernigan*, 340 S.C. at 265, 531 S.E.2d at 512. See *Cooper v. S.C. Dept. of Probation, Parole, and Pardon Services*, 377 S.C. 489, 661 S.E.2d 106 (2008) citing *State v. Walls*, 348 S.C. 26, 30, 558 S.E.2d 524, 525 (2002) (recognizing that while both the United States and South Carolina Constitutions specifically prohibit ex post facto laws, two critical elements must be present for a law to fall within the prohibition: (1) the law must apply to events that occurred before its enactment' and (2) the offender of the law must be disadvantaged by the law).

B. Ex Post Facto Demonstrated

The Appellant contends that the examination of the evidence drawn from the 1981 amendment's practical implementation of the Respondent's current disadvantaged criteria confirms that the retroactive application of this change to the parole standard of criteria creates an ex post facto violation. *Garner*, at 255.

Since Appellant made his initial appearance before the Parole Board on December 19, 1984, 37 years of appearances, the Respondent has denied Appellant the opportunity to be released on parole due to the disadvantageous criteria, nature and seriousness of the offense. Therefore, if the Respondent had applied to the Appellant the version of the parole statute in effect at the time of his committed offense, by the record of his decades of shown disposition of reformed conduct and achievements, the Appellant would have received parole. Instead, the Respondent applied its current criteria for parole consideration standard, nature and seriousness of the offense, that continues to result in being denied parole.

The Appellant has undeniably demonstrated that he has experienced a longer period of incarceration under the Respondent's current criteria for consideration standard than under the version of section 55-612. Appellant contends he has established an ex post facto violation.

II. Unlawful Procedure

The Appellant contends the Respondent failed to utilize the procedure promulgated by the Legislature's intent in section 55-612 of the S.C. Code and its mandatory standards of parole release for good conduct. Instead, the Respondent's procedure deviates from the appropriate criteria that accounts for the mandatory standards of the law, solely in effect at the time of his committed offense, and employs its retroactive factor, nature and seriousness of the offense, in determining its decision of Appellant's parole review, abrogating Appellant's right to parole eligibility and infringing on a state-created liberty interest. See *Cooper v. S.C. Dept. of Probation, Parole, and Pardon Services*, 377 S.C. 489, 661 S.E.2d 106 (2008). "Undoubtedly, the Parole Board is the sole authority with respect to decisions regarding the granting or denial of parole. However, the Legislature created this Board to operate within certain parameters. We do not believe the Legislature established the Board and intended for it to render decisions without any means of accountability."

A. Applicable Languages of the Law

In contrast, the Appellant contends that the applicable languages of the Law that mandates the procedure for the statutory standards of the current statute, section 24-21-640, is not identical to the language that mandates the procedure for the statutory standards of section 55-612's parole release for good conduct. See Ch. 11, Probation, Parole, and Pardons, Article 4, release for good conduct, section 55-612; and the current section 24-21-640.

The Appellant contends that under the rules of statutory interpretation, use of words such as "shall" or "must" indicates intent to enact a mandatory requirement. See *Collins v. John Doe*, 352 S.C. 462, 470, 574 S.E.2d 739, 743 (2002). The word "may" signifies permission and generally means the action spoken of is optional or discretionary. See *Robertson v. State*, 276 S.C. 356, 358, 278 S.E.2d 770, 771 (1981).

The Appellant contends the word "shall" in the version of section 55-612, replaced by the word "may" in the version of section 24-21-640, affects the procedure of the mandatory requirements the Respondent is to use in its determination of parole for the Appellant. The word "may" gives the Respondent discretion to choose whether to adhere to the mandatory requirement, no such prisoner shall be paroled until it shall appear, to the satisfaction of the Board, that the Appellant has shown a disposition to reform, as the sole statutory standard

the Respondent is mandated to use in determining parole for the Appellant. This substantive amended change in the current statutory language of section 24-21-640 disadvantages the Appellant and abrogates his right to parole eligibility and infringes on a state-created liberty interest awarded to him under the sole effect of section 55-612. See *Cooper v. S.C. Dept. of Probation, Parole, and Pardon Services*, 377 S.C. 489, 661 S.E.2d 106 (2008). “Cooper does have a right to require the Board to adhere to statutory requirements in rendering a decision.

The Appellant contends, unlike section 55-612’s statutory provisions that determine the decision of Appellant’s parole reviews, the Respondent employed its retroactive factor, the nature and seriousness of the offense, for its standard to determine whether Appellant is to be parole. See Ch. 11, Probation, Parole, and Pardons.

B. Future Parole Hearings

The Appellant contends that the Court’s opinion emphasized in future parole review hearings to avoid the result in the “instant case of Cooper” by rendering its decision from the appropriate criteria of section 24-21-640 and the fifteen factors of the Respondent’s parole form, do not apply to Appellant’s case. The Appellant’s offense was committed before the Legislature’s authorization to the Respondent to establish its Dept. Form 12-B and revised Form 1212’s nature and seriousness of the offense. The Court in its opinion used the term “instant case,” avoiding the assertion to include offenses that were committed before the substantive amendment to section 24-21-640 that would violate the ex post facto clause. See *Cooper v. S.C. Dept. of Probation, Parole, and Pardon Services*, 377 S.C. 489, 661 S.E.2d 106 (2008). “We agree with the Department’s assertion that the Parole Board did not violate the ex post facto clause in denying Cooper parole. Cooper acknowledges that section 24-21-640 has not been substantively amended since “he” was convicted.”

C. Penal in Nature

The Appellant contends that the statutory provisions and the Respondent’s criteria for parole consideration are penal in nature and purpose, both versions criteria cover the offense of murder. See *Cooper v. S.C. Dept. of Probation, Parole, and Pardon Services*, 377 S.C. 489, 661 S.E.2d 106 (2008). “This Court has the authority to interpret the parole statute. In interpreting the statutes, we look to the plain meaning of the statute and the intent of the Legislature. *Hinton v. S.C. Dept. of Probation, Parole, and Pardon Services*, 357 S.C. 327, 332, 592 S.E.2d 335, 338 (Ct. App. 2004). Because the statute is penal in nature, the Court

(5)

must construe it strictly in favor of the defendant and against the State. See *Hair v. State*, 305, 77, 79, 406 S.E.2d 332, 334 (1991) (construing in favor of the defendant the different time frames for parole eligibility found in the general parole statute and in a statute regarding parole eligibility for burglary).

CONCLUSION

For reasons set forth above, Appellant respectfully requests that the ALC find that the Respondent violated the ex post facto clause of the U.S. Constitution by applying its current retroactive criteria for parole consideration based on unlawful application of South Carolina law, and its unlawful procedure to determine its decision.

Respectfully submitted,

Charles Williams

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APPELLANT PRO SE

STATE OF SOUTH CAROLINA
In The Administrative Law Court
Docket Number 21-ALJ-15-0007

APPEAL OF FINAL DECISION
Department of Probation, Parole and Pardon Services

CHARLES WILLIAMS, #086721.....APPELLANT

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S.C. DEPARTMENT OF PROBATION, PAROLE AND
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BRIEF OF RESPONDENT

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S.C. Code Ann. §24-21-640 (2010)..... 3, 4

S.C. Code Ann. § 55-612 (Supp. 1962).....3, 4

STATEMENT OF THE ISSUES ON APPEAL

1. Does the Parole Board's use of its stated parole consideration criteria, which was not in existence at the time Appellant committed his crime, constitute an ex post facto violation?
2. Whether the Board followed lawful procedures?

STATEMENT OF THE CASE

On September 26, 1975, Appellant left a night spot with three females ranging in age from 15-17 years old. About a month later, on October 26, 1975, the bodies of all three females were found floating in the Reedy River about fourteen miles outside of Greenville County. The investigation revealed Appellant took all three victims and gave them some pills, which they consumed leading to their death a short time later. Appellant then drove to a wooded area by the Reedy River and rolled each body into the water. Due to the age of the case, information regarding his indictment and conviction are limited. On April 16, 1976, Appellant was sentenced to death by electrocution, however, on April 14, 1977, the South Carolina Supreme Court vacated Appellant's death sentence and remanded his case to the lower court for resentencing. On April 20, 1977, Appellant was sentenced to three life sentences which were set by the court to run consecutive to each other.

Appellant became parole eligible in August 1984. Since that time, Appellant has had twenty parole hearings with the most recent review taking place on March 24, 2021. Following Appellant's appearance, the Board unanimously rejected his request for parole citing the nature and seriousness of Appellant's offense as the reasons for their rejection.

Upon being informed of his denial of parole, Appellant filed a notice of appeal before the Administrative Law Court (ALC). In his appeal, Appellant alleges the application of Form 1212 to Appellant's parole hearing violates the ex post facto clause of the U.S. Constitution, and the Board determined their findings of fact upon unlawful procedure because of the change of a single word in the relevant parole statute outlining the Board's consideration of parole.

The Respondent argues that the changes in the criteria is minimal and not penal in nature so there exists no violation of ex post facto. The Respondent will further argue that the change to

the statute did not appreciably change the Board's required procedure and was therefore not unlawful.

The Respondent's brief follows.

ARGUMENT

1. The Board's use of its current parole consideration criteria does not result in an ex post facto violation.

Appellant argues that the use of the parole consideration criteria found in S.C. Code §24-21-640 and the criteria listed in the Board's current Form 1212 constitutes an ex post facto violation. Because he committed his crime in 1975, he argues that the criteria the Board uses should solely be that which was used at the time of his offense.¹

The Respondent submits that the changes to the parole criteria do not retroactively alter the definition of the crime or increase the punishment for a crime. As discussed in Jernigan v. State, 340 S.C. 256, 261, 531 S.E.2d 507, 509 (2000), ex post facto violations occur when "the legislative amendment 'produces a sufficient risk of increasing the measure of punishment attached to the covered crimes.'" Id., quoting California Dep't of Corrections v. Morales, 514 U.S. 499 (1995).

In Jernigan, the legislative change at issue was a change from yearly parole hearings to biannual hearings for violent offenders. The Supreme Court determined that the change violated ex post facto because increasing the time between parole hearings "effectively increases the 'quantum of punishment.'" Jernigan at 265, 340 S.E.2d at 512, quoting Lynce v. Mathis, 519 U.S. 433, 444-45 (1997).

¹ Appellant has unsuccessfully submitted this identical argument to this Court and the Honorable Deborah Brooks Durden under Docket No. 19-ALJ-15-0002 (Order filed July 22, 2019).

At the time the Appellant committed the offense, S.C. Code Ann. § 55-612 (Supp. 1962) defined the mandatory criteria the Parole Board was obligated to apply to an inmate seeking parole. Section 55-612 of the South Carolina Code of Laws specifically stated:

The Probation, Parole and Pardon Board shall carefully consider the record of the prisoner, before during and after imprisonment, and no such prisoner shall be paroled until it appear to the satisfaction of the Board, that the prisoner has shown a disposition to reform; that in the future he will probably obey the law and lead a correct life; that by his conduct he has merited a lessening of the rigors of his imprisonment; that the interests of society will not be impaired thereby; and that suitable employment has been secured for him.

S.C. Code Ann. §55-612 (Supp. 1962)

In comparing this to the current statute, the only difference is the word “shall” is replaced by the word “may.” This change does not affect the Board members nor the criteria used in the determination of parole. This minor difference must be considered procedural, and not a violation of ex post facto. A procedural change is not ex post facto even though it may work to an inmate’s disadvantage. State v. Bryant, 382 S.C. 505, 675 S.E.2d 816 (Ct. App. 2009).

The Appellant alleges that the consideration of the Department’s fifteen criteria found in Form 1212 violates ex post facto.² He argues that since this criteria did not exist, and that he has not received parole since he started receiving hearings in 1984, then it must be to his detriment. This argument is flawed, as correlation does not necessarily imply causation.

Furthermore, neither the statutory nor Department criteria is penal in nature so it does not violate ex post facto. In order for ex post facto clause to be applicable, the statute or the provision in question must be criminal or penal in purpose and nature. State v. Huiett, 302 S.C. 169, 394 S.E.2d 486 (1990). The Department criteria does not increase punishment; nor does it change the

² The Board must establish written, specific criteria for the granting of parole and provisional parole. S.C. Code Ann. §24-21-640 (1990).

parole board or add to the amount of votes necessary to be awarded parole. The use of the current criteria is merely a procedural change; therefore, it does not violate ex post facto. Therefore, the decision of the Parole Board should be upheld.

2. The Parole Board's procedure was not unlawful.

Appellant argues the Board did not utilize the procedure outlined by the South Carolina Code as it existed at the time of the commission of his offense.

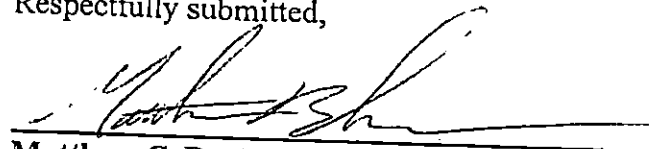
This argument, the Respondent submits, is a re-worded ex post facto argument that Appellant already stated above. Despite his assertions that the changes to the law since the commission of his offense are penal in nature, the differences in the law are procedural and do not increase the punishment.

The sole change of the §55-162 to §24-21-640 changes the word "shall" to "may." As discussed above, this is a procedural change that does not constitute a change that would be an ex post facto violation. In no way, based on the plain language of the statute, does the earlier inclusion of the word "shall" imply that the Board must parole Appellant. The statute still confers absolute discretion to the Board over the matter of granting or denying parole. The only time an inmate *shall* be paroled (or *may* be paroled) is upon the satisfaction of the Board.

CONCLUSION

Based on the foregoing arguments, the Department respectfully requests the Appellant's arguments be dismissed and the final decision of the Board be affirmed.

Respectfully submitted,



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Columbia, South Carolina
August 11, 2021

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Hair v. State, 305, 77, 79, 406 S.E.2d 332, 334 (1991)..... 3

Jernigan v. State, 340 S.C. 256, 261, 531 S.E.2d 507, 509 (2000)..... 1

Lynce v. Mathis, 519 U.S. 433, 444-45 (1997)..... 1

Robertson v. State, 276 S.C. 356, 358, 278 S.E.2d 770, 771 (1981)..... 2

CONSTITUTION

U.S. Const. art. 1, section 10

STATUTES

S.C. Code Ann. §55-612(1962).....2, 3, 4, 5

Dept. Form 12-B (attached to Appeal Brief)

The Appellant's Reply Brief follows

ARGUMENT

The Respondent's use of its current parole nature and seriousness of offense criteria does result in an ex post facto violation.

Respondent argues that Appellant contends the use of parole criteria found in S.C. Code section 55-612 constitutes an ex post facto violation.

Appellant contends that the use of the retroactive nature and seriousness of the offense criteria constitutes an ex post facto violation.¹

The Respondent argues that the change to the parole criteria, nature and seriousness of the offense, does not retroactively alter the definition of the crime or increase the punishment for the crime.

The Appellant contends, "The relevant inquiry regarding an increase in punishment is whether a legislative amendment produces a sufficient risk of increasing the measure of punishment attached to the covered crimes." Id. (quoting *Cal. Dept. of Corr. v. Morales*, 514 U.S. 499, 509 (1995). Also see *Barton v. South Carolina Dept. of Prob., Parole and Pardon Services*, 404 S.C. 395, 745 S.E.2d 110.)

The Appellant contends the distinctions between section 55-612's criteria of substantive qualification standards for release for good conduct and Dept. Form 1212's criteria are evident in the nature and seriousness of the offense requirement. The nature and seriousness of the offense is the default provision of Dept. Form 1212, and the required standard compels the Appellant to convince the members of the Parole Board to favor his disposition of reform over the influences of the nature and seriousness of his past offenses. See *Barton v. South Carolina Dept. of Prob., Parole and Pardon Services*, 404 S.C. 395; *Jernigan*, 340 S.C. S.E.2d, 511 (relying on *Lynce v. Mathis*, 519 U.S. 433, 444-45 (1997)).

The Appellant contends statutory amendment that authorized the Respondent with absolute discretion to create the nature and seriousness of the offense criteria for the granting or denying parole for persons convicted of violent offenses, in contrast to prior criteria version of statute allowing Parole Board to authorize granting or denying parole by disposition to reform,

¹ Unlike this appeal, Appellant's previous arguments to this Court were not well founded.

altered the substantive parole qualification standards, violating constitutional prohibition against "ex post facto law" as applied retroactively. See *Barton v. South Carolina Dept. of Prob., Parole and Pardon Services*, 404 S.C. 395.

The Appellant contends also that at the time of his offense, there was no statute requirement of parole hearings to consider the nature and seriousness of the offense as a reason to grant or deny parole. Statute authorizing the Respondent with absolute discretion to establish the nature and seriousness of the offense as a criteria standard in parole reviews was enacted several years after Appellant's offense was committed, and amended statute provided criteria of greater disadvantage on parole eligibility than Appellant was originally entitled to. U.S.C. A. Const. Art. 1, section 10, Cl. 1; Code 1976 section 24-21-645.

The Respondent contends that in comparing the current statute to section 55-612, the only difference is that the word "shall," used before the words "be paroled," is replaced by the word "may," and that it does not affect the Board members determination of parole. The Respondent has over looked the deletion intent of the word "shall" used before the word "appear" of section 55-612, deleting a state-created liberty interest in the expectancy of no such prisoner shall be paroled until the prisoner has shown a disposition to reform. Rules of statutory interpretation use of words such as "shall" indicates intent to enact a mandatory requirement. See *Collins v. John Doe*, 352 S.C. 462, 470, 574 S.E.2d 739, 743 (2002). The word "may" is discretionary. See *Robertson v. State*, 276 S.C. 356, 358, 278 S.E.2d 770, 771 (1981).

The Appellant contends this difference is not procedural. The difference is a statutory change in the language that mandates the legislative intent.

The Respondent contends that the Appellant's argument that the nature and seriousness of the offense criteria, of Dept. Form 1212, did not exist at the time of his crime, and that he has not received parole, is flawed, as correlation does not imply causation.

The Appellant contends that the correlation of the nature and seriousness of the offense criteria standard, retroactively applied into the decision whether to grant or deny him parole has been the causation for parole rejection for 37 years.

The Respondent contends that the statutory nor the nature and seriousness of the offense criteria is not penal in nature and does not violate ex post facto laws.

The Appellant contends that, "Because the statute is penal in nature, the Court must construe it strictly in favor of the defendant and against the state. See *Cooper v. S.C. Dept. of Probation, Parole, and Pardon Services*, 377 S.C. 489, 661 S.E.2d 106 (2008); *Hair v. State*, 305, 77, 79, 406 S.E.2d 332, 334 (1991). The nature and seriousness of the offense criteria produces a sufficient risk of increasing the measure of punishment attached to the covered crimes. Id. (quoting *Cal. Dept. of Corr. v. Morales*, 514 U.S. 499, 509 (1995)).

The Respondent argues that the use of the current nature and seriousness of the offense criteria is merely a procedural change.

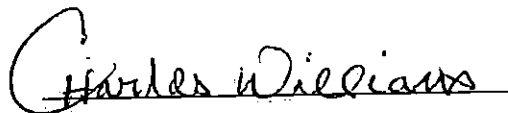
The Appellant contends that the nature and seriousness of the offense criteria is in conjunction with the current parole statute as a guideline in denying parole, and that the Board will not parole an individual if it determines the factor is the nature and seriousness of the offense, the offense is one of murder. See parole criteria, Dept. Form 12-B, section 2. Appellant contends that the revised Dept. Form 1212 currently uses the nature and seriousness of offense to deny parole. Appellant contends that the nature and seriousness of the offense essentially abrogates the Appellant's right to parole eligibility and, thus, infringes on a state-created liberty interest.

CONCLUSION

Based on the foregoing arguments, the Appellant respectfully requests the Appellant's Appeal Brief and Reply Brief be granted.

August 24, 2021

Respectfully submitted,



Charles Williams, SCDC #086721
Broad River C.I., GRN 2104
4460 Broad River Rd.
Columbia, S.C. 29210

APPELLANT PRO SE

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**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Charles Williams, #086721,)
)
Appellant,)
)
v.)
)
South Carolina Department of Probation,)
Parole and Pardon Services,)
)
Respondent.)
_____)

Docket No. 21-ALJ-15-0007-AP

FINAL ORDER

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to an appeal filed on April 20, 2021, by Charles Williams (Appellant), an inmate in the custody of the South Carolina Department of Corrections (SCDC). On March 24, 2021, the South Carolina Department of Probation, Parole and Pardon Services (Department or Respondent) notified the Appellant of the South Carolina Parole Board's (Board) unanimous decision deny the Appellant parole. The Appellant challenges the Board's denial of parole on the basis that the Department's application of Form 1212 constituted an ex post facto violation of the U.S. Constitution. After careful consideration of the parties' briefs, the Department's determination is affirmed.

BACKGROUND

On April 16, 1976, the Appellant was sentenced to death by electrocution for the murder of three (3) females. On April 14, 1977, the South Carolina Supreme Court vacated the Appellant's death sentence and remanded his case for resentencing. On April 20, 1977, the Appellant was sentenced to three (3) consecutive life sentences. On March 24, 2021, following his most recent parole eligibility hearing, the Board voted unanimously to deny the Appellant parole due to the nature and seriousness of the Appellant's offense. On April 20, 2021, the Appellant timely appealed the Board's decision to this court arguing that the Department's application of Form 1212 constituted an ex post facto violation of the U.S. Constitution, and that the Department determined its findings of fact upon unlawful procedure.



ISSUE ON APPEAL

Whether the Department violated the Appellant's due process rights in denying him parole?

STANDARD OF REVIEW

The court's jurisdiction to review this matter is derived from the South Carolina Supreme Court decisions in *Al-Shabazz* and *Furtick*. See *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000) (establishing an administrative review process for inmate appeals); see also *Furtick v. S.C. Dep't of Prob., Parole & Pardon Servs.*, 352 S.C. 594, 576 S.E.2d 146 (2003) (incorporating final decisions of the Department into that review process). As explained by the *Al-Shabazz* Court, "procedural due process is guaranteed when an inmate is deprived of an interest encompassed by the Fourteenth Amendment's protection of liberty and property." *Wicker v. S.C. Dep't of Corrs.*, 360 S.C. 421, 424, 602 S.E.2d 56, 58 (2004) (citation omitted).

Since parole is a privilege, not a right, the routine denial of parole does not constitute such a liberty interest. See *Cooper v. S.C. Dep't of Prob., Parole & Pardon Servs.*, 377 S.C. 489, 495-96, 661 S.E.2d 106, 109-10 (2008) (citation omitted). If, however, the Board "deviates from or renders its decision without consideration of the appropriate [statutory] criteria, . . . it essentially abrogates an inmate's right to parole eligibility and, thus, infringes on a state-created liberty interest." *Id.* at 499, 661 S.E.2d at 111. Thus, this court may review decisions from the Department for violations of statutory procedure or procedural due process only, but may not review the Board's substantive decision to deny an appellant parole.

In reviewing such matters, the court sits in its appellate capacity. See *id.* at 497, 661 S.E.2d at 110 (citation omitted); *Al-Shabazz*, 338 S.C. at 377, 527 S.E.2d at 754 (citation omitted). Under the Administrative Procedures Act, the court's review in appellate matters is confined to the record. S.C. Code Ann. § 1-23-380(4). The court may modify or reverse the decision of the agency when substantial rights of the appellant have been prejudiced. S.C. Code Ann. § 1-23-380(5). Substantial rights of the appellant are prejudiced when the agency's findings, inferences, conclusions, or decisions are: (a) in violation of constitutional or statutory provisions; (b) in excess of the statutory authority of the agency; (c) made upon unlawful procedure; (d) affected by other error of law; (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. *Id.*

DISCUSSION

As stated *supra*, parole is not a right, but a privilege. *State v. Dingle*, 376 S.C. 643, 649, 659 S.E.2d 101, 104 (2008) (citing *Sullivan v. S.C. Dep't of Corrs.*, 355 S.C. 437, 443, 586 S.E.2d 124, 127 n.4 (2003)). The discretion to grant parole lies solely with the Board. *Id.* at 649, 659 S.E.2d at 104-05 (citing *State v. McKay*, 300 S.C. 113, 115, 386 S.E.2d 623, 623-24 (1989)). If, in denying parole, the Board follows proper procedure, then its decision will constitute a routine denial of parole and summary dismissal of the case would be appropriate. *See Cooper*, 377 S.C. at 500, 661 S.E.2d at 112; *see also Compton v. S.C. Dep't of Prob., Parole & Pardon Servs.*, 385 S.C. 476, 479, 685 S.E.2d 175, 177 (2009). The proper procedure for the Board to follow includes considering the factors outlined in Section 24-21-640 of the South Carolina Code, as well as those listed in the Department's parole form. *Cooper*, 377 S.C. at 500, 661 S.E.2d at 112; *Compton*, 385 S.C. at 479, 685 S.E.2d at 177; *see also* S.C. Code Ann. § 24-21-640 (Supp. 2019) (setting forth the statutory factors warranting parole). Additionally, the Board must utilize an actuarial risk and needs assessment tool, known as COMPAS, in making its parole determinations. *See* S.C. Code Ann. § 24-21-10(F) (Supp. 2019).

If the Board fails to follow proper procedure, giving due consideration to the specified factors, an appellant is denied his liberty interest in parole eligibility. *Cooper*, 377 S.C. at 499, 661 S.E.2d at 111. If, however, the Board adheres to procedure and considers all the requisite factors, the appellant's liberty interest is protected, and the Board has the discretion to deny parole based on any of the factors found in Section 24-21-640 or its own criteria. *See id.* at 499, 661 S.E.2d at 111-12. Here, the Board's order plainly reflects that it considered all the appropriate factors – including those set forth in Section 24-21-640, the Department's own criteria for parole consideration, and an actuarial risk and needs assessment – before making its decision to deny the Appellant parole. Thus, as a routine denial of parole, the court's ability to further review this matter is limited:

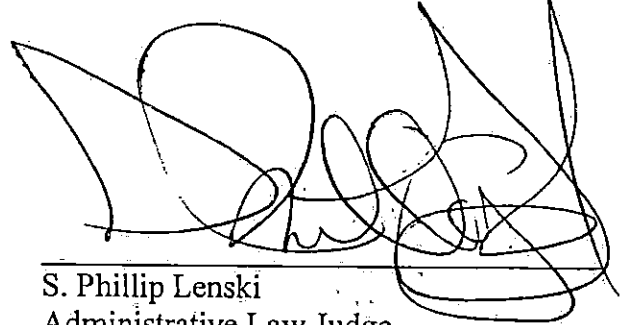
[T]he [] Board may avoid [reversal of its parole determinations] if it clearly states in its order denying parole that it considered the factors outlined in [S]ection 24-21-640 and the fifteen factors published in its parole form. If the Board complies with this procedure, the decision will constitute a routine denial of parole and the ALC would have limited authority to review the decision to determine whether the Board followed proper procedure. Under that scenario, the ALC can summarily dismiss the inmate's appeal.

Cooper, 377 S.C. at 500, 661 S.E.2d at 112; see *Compton*, 385 S.C. at 479, 685 S.E.2d at 177. Consequently, because the record reflects that the Board routinely denied the Appellant parole after complying with the necessary procedure, the court may not interfere with the Department's determination.

ORDER

THEREFORE, for the foregoing reasons, the Department's decision denying the Appellant parole is hereby **AFFIRMED**.

AND IT IS SO ORDERED.



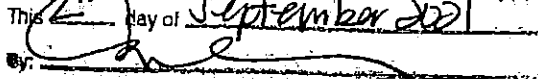
S. Phillip Lenski
Administrative Law Judge

September 2, 2021
Columbia, South Carolina

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States Mail, postage paid, or in the Interagency Mail Service addressed to the party(ies) or their attorney(s)

This 2nd day of September 2021

By: 
Judicial Law Clerk

entered discharge the defendant. (1952 Code § 55-594; 1942 Code § 1038-4; 1942 (42) 1456; 1949 (46) 311.)

Cross reference.—As to sentence being suspended for time prescribed in the order of suspension, see § 17-558. Stated in *Maxey v. Manning*, 224 S. C. 320, 78 S. E. (2d) 633 (1953).

Quoted in *Lovell v. State*, 223 S. C. 112, 74 S. E. (2d) 570 (1953).

§ 55-595. Arrest for violation of terms of probation; bond.—At any time during the period of probation or suspension of sentence the court, or the court within the venue of which the violation occurs, may issue or cause the issuing of a warrant and cause the defendant to be arrested for violating any of the conditions of probation or suspension of sentence. Any police officer or other officer with power of arrest, upon the request of the probation officer, may arrest a probationer. In case of an arrest the arresting officer shall have a written warrant from the probation officer setting forth that the probationer has, in his judgment, violated the conditions of probation and such statement shall be warrant for the detention of such probationer in the county jail or other appropriate place of detention, until such probationer can be brought before the judge of the court, or of the court within the venue of which the violation occurs. Such probation officer shall forthwith report such arrest and detention to the judge of the court, or of the court within the venue of which the violation occurs, and submit in writing a report showing in what manner the probationer has violated his probation. *Provided*, that any person arrested for the violation of the terms of probation shall be entitled to be released on bond pending a hearing, and such bond shall be granted and the amount thereof determined by a magistrate in the county where the probationer is confined, or by the magistrate in whose jurisdiction the alleged violation of probation occurred. (1952 Code § 55-595; 1942 Code § 1038-4; 1942 (42) 1456; 1949 (46) 311; 1955 (49) 72; 1959 (51) 320.)

Cross reference.—See note to § 55-596.

§ 55-596. Action of court in case of such violation.—Upon such arrest the court, or the court within the venue of which the violation occurs, shall cause the defendant to be brought before it and may revoke the probation or suspension of sentence and shall proceed to deal with the case as if there had been no probation or suspension of sentence except that the circuit judge before whom such defendant may be so brought shall have the right, in his discretion, to require the defendant to serve all or a portion only of the sentence imposed. Should only a portion of the sentence imposed be put into effect, the remainder of such sentence shall remain in full force and effect and the defendant may again, from time to time, be brought before the circuit court so long as all of his sentence has not been served and the period of probation has not expired. (1952 Code § 55-596; 1942 Code § 1038-4; 1942 (42) 1456; 1949 (46) 311; 1959 (51) 320.)

Order of revocation need not be made during this period the warrant shall be issued, which is the pertinent jurisdictional fact. *Lovell v. State*, 223 S. C. 112, 74 S. E. (2d) 570 (1953). This section and § 55-595 do not require that the order of revocation be made within the probationary period. It is only provided that

ARTICLE 4.

Parole Generally and Release for Good Conduct.

§ 55-611. When Board may parole prisoner.—In all cases cognizable under this chapter the Probation, Parole and Pardon Board may, upon ten days' written notice to the solicitor and judge who participated in the trial of any prisoner, parole such prisoner convicted of a felony and imprisoned in the State Penitentiary, in any jail or upon the public works of any county:

- (1) Who, if sentenced for not more than thirty years, shall have served at least one third of the term for which he was sentenced,
- (2) Who, if sentenced to life imprisonment or imprisonment for any period in excess of thirty years, shall have served at least ten years, or
- (3) Who, if he is a first offender and is sentenced for an indeterminate term shall have served the minimum for which he was sentenced,

Not deducting in any instance any allowance of time for good behavior. (1952 Code § 55-611; 1942 Code § 1038-10; 1942 (42) 1456; 1949 (46) 311.)

Applied in *Bearden v. Manning*, 238 S. C. 187, 119 S. E. (2d) 670 (1961). Cited in *State v. Williams*, 221 S. C. 107, 69 S. E. (2d) 371 (1952).

§ 55-611.1. When prisoner entitled to review.—After a prisoner has served one third of his sentence, if such sentence exceed one year, the Board shall review his case, irrespective of whether or not any application has been made therefor, for the purpose of determining whether or not such prisoner is entitled to any of the benefits provided for in this chapter. (1952 Code § 55-611.1; 1942 Code § 1038-10; 1942 (42) 1456; 1949 (46) 311.)

§ 55-612. Circumstances warranting parole; reports of parolees.—The Probation, Parole and Pardon Board shall carefully consider the record of the prisoner, before and after imprisonment, and no such prisoner shall be paroled until it shall appear, to the satisfaction of the Board, that the prisoner has shown a disposition to reform that, in the future, he will probably obey the law and lead a correct life, that by his conduct he has merited a lessening of the rigors of his imprisonment, that the interests of society will not be impaired thereby and that suitable employment has been secured for him. The paroled prisoner shall, as often as may be required, render a written report to the Board giving such information as may be required by the Board which shall be confirmed by the person in whose employment the prisoner may be at the time. (1952 Code § 55-612; 1942 Code § 1038-11; 1942 (42) 1456; 1949 (46) 311.)

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SOUTH CAROLINA PAROLE AND COMMUNITY CORRECTIONS BOARD
P. O. Box 50666 (Five Points Station)
Columbia, S. C. 29250

PAROLE CRITERIA

The South Carolina Parole and Community Corrections Board is mandated under Code of Laws of South Carolina 1976 Section 14-21-640 to consider "Circumstances Warranting Parole". The Board establishes the following criteria for the granting of parole:

"The Board shall carefully consider the record of the prisoner, before and after imprisonment, and no such prisoner shall be paroled until it shall appear, to the satisfaction of the Board, that the prisoner has shown a disposition to reform, that in the future, he will probably obey the law and lead a correct life, that by conduct he has merited a lessening of the rigors of his imprisonment, that the interests of society will not be impaired thereby and that suitable employment has been secured for him."

In conjunction with the above criteria, the South Carolina Parole and Community Corrections Board establishes the following guidelines in denying parole. The Board will not parole an individual if it determines

1. That there is a substantial risk that the individual will not conform to the conditions of parole based on one or more of the following factors:
 - a. Criminal Record.
 - b. Length and seriousness of criminal record.
 - c. Indications of assaultive or violent behavior.
 - d. Previous experience under parole or probation supervision.
 - e. Refusal to be supervised on parole.
 - f. No acceptable employment and/or residence.
 - g. Results of psychological or psychiatric evaluations indicating individual is not likely to conform.
 - h. Indication of habitual criminal activity.
2. That the individual's release would depreciate the seriousness of the crime or prompt disrespect for the law based on one or more of the following factors:
 - a. Nature and seriousness of the offense.
 - b. Use of a deadly weapon in current or previous offenses.
 - c. The offense is one of Murder, Attempted Murder or Killing of an Individual, Robbery with a Weapon, Rape, Indecent Liberties, Lewd or Lascivious Acts on a Minor, Deviate Sexual Assault, Kidnapping, Armed Violence, Aggravated Arson, Treason or Calculated/Drury Conspiracy.
3. That the individual's release would have a substantially adverse effect on institutional discipline based on one or more of the following factors:
 - a. Physical attack upon another inmate or institutional staff.
 - b. Possession of weapons or drugs.
 - c. Repeated violation of institutional rules.
 - d. Violation of any act prohibited by law.
4. That the individual's continued correctional treatment will substantially enhance his/her capacity to lead a law abiding life upon released at a later date based on one or more of the following factors:
 - a. Lack of immediately available community treatment resources.
 - b. Need for vocational counseling or other training which could be more readily provided in the institution.
 - c. Need for psychiatric or medical treatment which could not be feasibly obtained outside the institution.

In all cases considered for parole where the individual receives favorable consideration but lacks suitable employment and/or residence or the Board needs additional time to further evaluate the individual's case the Board may grant a Provisional Parole. The individual will be informed of the goals he must accomplish before the parole can become effective. In all cases where Provisional Parole has been granted, the individual must obey all rules and regulations of the South Carolina Department of Corrections during the provisional period or the Provisional Parole may be rescinded and the individual may be rejected.

Any individual who refuses to be heard for parole will be rejected for parole by the Board and will not be eligible for further consideration until one year from the date of rejection. The Board will not allow the postponement of a parole hearing for the purpose of disposing of detainees or pending charges.

An investigation will be conducted by the staff of the Parole Board to compile the information as outlined above to be considered by the Parole Board. A decision for or against parole may be made in the absence of the inmate, but any inmate rejected in absence will have an opportunity to request a personal appearance before the Board if he so desires.

The publishing of this criteria in no way binds the Parole Board to favorable parole consideration in any case under consideration.

I certify that the above has been read and explained to me and I hereby receipt for a copy of this Parole Criteria. I also understand that I am to pay \$120.00 per year supervision fee as required by South Carolina Statutory Law.

Signature of Inmate

No. _____

Parole Agent

Date _____

SCDC 19-109 (JAN 82)



South Carolina Department of Probation, Parole and Pardon Services

Criteria for Parole Consideration

Inmate Name WILLIAMS, CHARLES -.	SCDC# 00086721
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SC Board of Probation, Parole and Pardon Services P.O. Box 207 Columbia, SC 29202

Criteria for Parole Consideration

The South Carolina parole law creates no right to be released on parole. Parole in South Carolina is strictly a matter of privilege or grace. The South Carolina Board of Probation, Parole and Pardon Services has absolute discretion to grant or deny parole. As such, the publication of these parole criteria in no way creates an expectancy of release; nor does it bind the Parole Board in any way to favorable parole decision or establish any presumptions of entitlement to parole.

In deciding whether or not to grant parole, the Parole Board considers, among other things, the inmate's record before incarceration as well as during incarceration. The record itself is prepared through investigations conducted for the Parole Board, and it becomes a part of the inmate's parole file. The files are maintained by the Department of Probation, Parole and Pardon Services and are, by the statute, privileged and confidential. The confidentiality of the parole file is far reaching; inmates themselves have no right to inspect the contents of their files. If the inmate thinks his/her file is somehow incomplete or contains some errors or other inaccuracy, he/she must notify the Board of the specific error or inaccuracy. The Board will investigate the inquiry and notify the inmate of the action taken.

Inmates do, however, enjoy certain rights in the parole process. The inmate has the right to appear at his parole hearing. If the inmate fails to appear, the Board may decide his/her case in absence. The inmate has the right to be represented by an attorney; however, he/she has no right to have an attorney appointed if he/she cannot afford one. At the hearing, the inmate has the right to present witnesses and evidence on his/her own behalf, but an inmate does not have a right to confront witnesses.

In deciding whether or not an inmate should be granted parole, the Board or Panel of the Board exercises its absolute discretion to the limits allowed by state and federal law. The discretion of the Board or panel aims at protecting the best interest of both society and the inmate being considered for parole. In its concern for the protection of society's and the inmate's best interests, the Board or Panel deliberates upon the "reasonable probability" that an inmate will not again violate the law, if parole is granted. When deliberating that an inmate will not again violate the law, the Board or Panel weighs the factors listed below. The Board or Panel, in its absolute discretion, also considers any other factors not listed below which it considers relevant in a particular case.

1. The risk the inmate poses to the community;
2. The nature and seriousness of the inmate's offense, the circumstances surrounding the offense, and the inmate's attitude toward it;
3. The inmate's prior criminal records and his/her adjustment under any previous programs or supervision;
4. The inmate's attitude toward his/her family, the victim, and authority in general;
5. The inmate's adjustment while in confinement, including his/her progress in counseling, therapy, and other similar programs designed to encourage the inmate to improve himself/herself;
6. The inmate's employment history, including his/her job training and skills and his/her stability in the work place;
7. The inmate's physical, mental and emotional health;
8. The inmate's understanding of the cause of his/her past criminal conduct;
9. The inmate's efforts to solve his/her problems such as seeking treatment for substance abuse, enrolling in academic and vocational education courses, and in general using whatever resources the Department of corrections has made available to inmates to help with their problems;
10. The adequacy of the inmate's overall parole plan. This includes inmates living arrangements, where he/she will live and who he will live with; the character of those with whom the inmate plans to associate in both his/her working hours and his/her off-work hours; the inmate's plans for gainful employment;
11. The willingness of the Community into which the inmate will be released to receive the inmate;
12. The willingness of the inmate's family to allow his/her to return to the family circle;
13. The attitudes of the sentencing judge, the solicitor, and local law enforcement officers respecting the inmate's parole;
14. The feelings of the victim's family, and any witnesses to the crime about the release of the inmate
15. The actuarial risk and needs assessment outlined in section 24-21-10 (F)(1) of the S.C. Code of laws; which evaluates based on Criminal Involvement, Relationships/Lifestyle, Personality/Attitudes, Family, Social Exclusion and Mental Health.
16. Other factors considered relevant in a particular case by the Board.

Reservation of Discretionary Power of the Parole Board

These criteria in no way limit the absolute discretion of the Parole Board or Panel to make parole decisions on a case-by case basis and to grant or deny parole as it determines to be in the best interest of society and the inmate under review.

In some cases, the Board may decide that the inmate should be granted parole if the inmate completes one or more stated conditions. When this is the case, the Board may grant a parole that becomes effective when the inmate completes one or more stated conditions. Should the inmate fail to complete any one of these conditions or disobey any rule or regulation of the South Carolina Department of Corrections before satisfying the stated conditions to make his parole effective, the Board may rescind the inmate's parole and treat the case as though parole had been rejected. In other cases, the Board may feel it needs more time to form its decision. In such cases, the Board may simply take the parole consideration under advisement and reschedule it at a later date. Similarly, the Board may postpone a parole hearing in order to dispose of detainers or pending charges. If the Board rejects an inmate for parole, the inmate will be given written notice of rejection stating the reasons for rejection. Decisions of the Board have no precedential effect whatever and in no way limit the Board's absolute discretion at later parole hearings.

After rejection for parole, the procedure of scheduling of rehearing is as follows:

1. An individual serving time for a violent offense defined in § 16-1-60 of the South Carolina Code of Laws 1976 will be reheard for parole two years following the date of parole rejections. Applicable legal exceptions may allow for a one year hearing.
2. An individual serving time for a nonviolent offense defined in § 16-1-70 of the South Carolina Code of Laws 1976 will be reheard for parole one year following the date of parole rejections.

I certify that the above material has been explained to me, and I have received a copy.

Inmate's Signature: ***No signature required due to COVID-19 Pandemic***	Date: 1/1/0001	Witness Signature: 	Date: 9/29/2020
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The State of South Carolina

INDICTMENT FOR

County of Greenville

Murder

At a Court of General Sessions, convened on the 2nd day of February

1976 the Grand Jurors of Greenville County present upon their oath:

That CHARLES WILLIAMS, alias CHARLES MCCRARY, alias "GOLDIE"

did in Greenville County on or about the 26th day of September

1975 / feloniously, and wilfully and with malice aforethought kill one Cynthia Jones by administering to her an unknown substance causing her to become incapacitated and thereafter by causing her to be abandoned in an area adjacent to the Reedy River where, as a natural and probable result of the incapacity and/or the exposure to the elements without care and/or the water of the Reedy River, she did die.

Against the peace and dignity of the State, and contrary to the statute in such case and made and provided.

William W. Williams, Jr.

Solicitor

The State of South Carolina

INDICTMENT FOR

County of Greenville

MURDER

At a Court of General Sessions, convened on the 2nd day of February

1976 the Grand Jurors of Greenville County present upon their oath:

That CHARLES WILLIAMS, alias CHARLES MCCRARY, alias "GOLDIE"

did in Greenville County on or about the 26th day of September

1975 / with malice aforethought kill one Kathy Smith by administering to her an

unknown substance causing her to become incapacitated and thereafter by causing her to be abandoned in an area adjacent to the Reedy River where, as a natural and probable result of the incapacity and/or the exposure to the elements without care and/or the water of the Reedy River, she did die.

Against the peace and dignity of the State, and contrary to the statute in such case and made and provided.

William W. Wilkins Jr.

Solicitor

The State of South Carolina

INDICTMENT FOR

County of Greenville

MURDER

At a Court of General Sessions, convened on the 2nd day of February
19 76, the Grand Jurors of Greenville County present upon their oath:

That CHARLES WILLIAMS was CHARLEY MCCRARY, alias "GOLDIE"

did in Greenville County on or about the 26th day of September
19 75, / feloniously and wilfully, and
with malice aforethought, kill one Rhonda Adams by administering to her an
unknown substance causing her to become incapacitated and thereafter causing her to be
abandoned in an area adjacent to the Reedy River where, as a natural and probable
result of the incapacity and/or the exposure to the elements without care and/or the
water of the Reedy River, she did die.

Against the peace and dignity of the State, and contrary to the statute in such case and made and provided.

William H. Williams
Solicitor

Columbia International University

The Trustees of
Columbia International University
upon the recommendation of the Faculty have conferred upon

Charles Williams
the degree of
Associate of Arts

with all honors, rights and privileges appertaining thereto.
Given at Columbia in the State of South Carolina, in this
month of August, in the year of our Lord two thousand eleven.

Max R. Schmitt
Chairman of the Board of Trustees



William H. Jones
President

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CERTIFICATE *of* ACHIEVEMENT

THIS ACKNOWLEDGES THAT

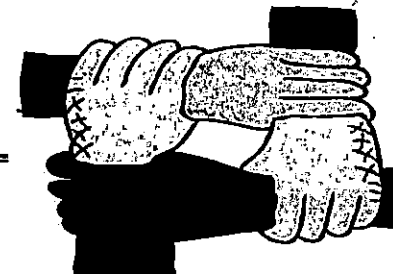
Charles Williams

HAS SUCCESSFULLY COMPLETED THE

W *W* Inmate Companion Program *W* *W*

FEBRUARY 4
2020

John Taylor
JOHN TAYLOR, Ph.D., Chief of Psychology



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Certificate of Completion

This Certifies That

Charles Williams

has completed the requirements of

5 Stages of Incarceration Rehabilitation Program

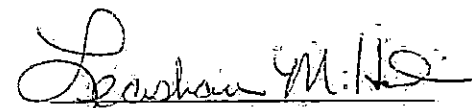
and is awarded this certificate

Given at **Broad River Road Correctional Institution**

This 19th Day of September Year of 2017


Workshop Facilitator




On-Site Facilitator

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Broad River Correctional Institution



Inmate Representative Committee

Due Diligence



Steadfastness



Patience



This Certificate recognizes that

Charles Williams

Has served with integrity and diligence as a Representative of the
"2016-2017 Inmate Representative Committee"

At Broad River Correctional Institution

Michael Stephan, A/W & IRC Sponsor

Dennis Bush, Warden

40

• ALERTNESS • ATTENTIVENESS • AVAILABILITY • BENEVOLENCE • BOLDNESS • CAUTIOUSNESS • COMPASSION •
• HONOR • HOSPITALITY • HUMILITY • INITIATIVE • JOYFULNESS • JUSTICE • LOYALTY • MEEKNESS

FLEXIBILITY • FORGIVENESS • GENEROSITY • GENTLENESS • GRATITUDE • GRATEFULNESS • WISDOM •
THRIFTINESS • TOLERANCE • TRUTHFULNESS • VIRTUE

CONTENTMENT • CREATIVITY • DECISIVENESS • DEFERENCE • DEPENDABILITY •
OBEDIENCE • ORDERLINESS • PATIENCE • PERSUASIVENESS • PUNCTUALITY

South Carolina Department of Corrections Character Club

Recognizes

Charles Williams

For exhibiting the character quality of

Initiative

By

Recognizing and doing what needs to be done

Date April, 2014



Sharonda Sutton-AW Broad River



Reginald Stanmar-Education Coordinator

• THOROUGHNESS • SINCERITY • SENSITIVITY • SELF-CONTROL • SECURITY • RESPONSIBILITY • RESOURCEFULNESS •
• FAITH • ENTHUSIASM • ENDURANCE • DISCRETION • DISCERNMENT • DILIGENCE • DETERMINATION •

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CERTIFICATE OF ACHIEVEMENT

Charles Williams

has successfully completed

Janitorial Services

Continuing Education Units

7.0

December 4, 1996 - January 23, 1997



**Midlands
Technical
College**

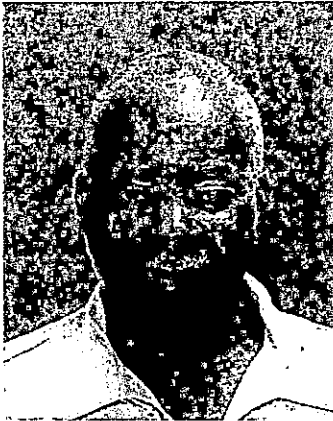
COLUMBIA, SOUTH CAROLINA

Van H. Guter

Dean, Continuing Education Division

James L. Higgins

President, Midlands Technical College



INMATE DESCRIPTION		INMATE SENTENCE AND LOCATION	
SEX:	MALE	SCDC ID:	00086721
RACE:	BLACK	SID:	SC00109563
HEIGHT:	5' 09"	OFFENDER TYPE:	ADULT-STRAIGHT SENTENCE
WEIGHT:	165 lbs.	ADMISSION DATE:	04/21/1977
AGE:	67	LOCATION:	BROAD RIVER
CITIZENSHIP:	CITIZEN - NATIVE BORN	DORM-ROOM-BUNK:	GRN-2104-B
BUILD:	STOCKY	EWC LEVEL:	3F5
COMPLEXION:	MEDIUM BROWN	EEC LEVEL:	
HAIR COLOR:	BLACK	PROJECTED RELEASE DATE:	NOT ELIGIBLE
EYE COLOR:	BROWN	PROJECTED PAROLE ELIGIBILITY:	11/17/2018
PICTURE DATE:	11/29/2011	SUP. FURLOUGH ELIGIBILITY:	NOT ELIGIBLE

CURRENT OFFENSES

OFFENSE	SENTENCE TYPE	YRS	MOS	DYS	COUNTY	START DATE	V/NV	CAT	INDICT	STATUS
MURDER	ADULT-STRAIGHT SENTENCE	LIFE SENTENCE			GREENVILLE	12/29/1975	U	5	7623414-6	ACTIVE

ESCAPES

NO ESCAPES DURING CURRENT INCARCERATION

DISCIPLINARIES

SANCTIONS NOT AVAILABLE IN THE AUTOMATED SYSTEM PRIOR TO JANUARY 2009

NO DISCIPLINARIES DURING CURRENT INCARCERATION

MOVEMENT

MOVEMENT DATE	TO LOCATION	STATUS	REASON
03/27/2018	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
03/27/2018	KIRKLAND	INCARCERATED	MEDICAL
01/25/2018	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
01/25/2018	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
11/14/2017	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
11/14/2017	OUTSIDE MEDICAL	AUTH ABSENCE (AWL)	MEDICAL
10/28/2017	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
10/26/2017	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
07/31/2017	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
07/31/2017	KIRKLAND	INCARCERATED	MEDICAL
07/27/2017	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
07/27/2017	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
07/19/2017	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
07/19/2017	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
07/17/2017	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
07/17/2017	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
07/13/2017	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
07/13/2017	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
02/02/2017	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
02/02/2017	OUTSIDE MEDICAL	AUTH ABSENCE (AWL)	MEDICAL
01/05/2017	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
01/05/2017	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
01/04/2017	BROAD RIVER	INCARCERATED	RETURN FROM COURT
01/04/2017	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT

MOVEMENT			
MOVEMENT DATE	TO LOCATION	STATUS	REASON
05/15/2008	LEE	INCARCERATED	ADMINISTRATIVE
05/15/2008	OUTSIDE MEDICAL	AUTH ABSENCE (AWL)	MEDICAL
05/14/2008	LEE	INCARCERATED	MEDICAL
04/21/2008	EVANS	INCARCERATED	ADMINISTRATIVE
04/21/2008	SUMTER CO	AUTH ABSENCE (AWL)	MEDICAL
02/07/2008	EVANS	INCARCERATED	ADMINISTRATIVE
02/06/2008	KIRKLAND	INCARCERATED	MEDICAL
01/15/2008	EVANS	INCARCERATED	ADMINISTRATIVE
01/15/2008	SUMTER CO	AUTH ABSENCE (AWL)	MEDICAL
11/10/2007	EVANS	INCARCERATED	MEDICAL
11/09/2007	SUMTER CO	AUTH ABSENCE (AWL)	MEDICAL
09/07/2007	EVANS	INCARCERATED	MEDICAL
09/07/2007	SUMTER CO	AUTH ABSENCE (AWL)	MEDICAL
08/07/2007	EVANS	INCARCERATED	ADMINISTRATIVE
08/07/2007	SUMTER CO	AUTH ABSENCE (AWL)	MEDICAL
06/07/2007	EVANS	INCARCERATED	ADMINISTRATIVE
06/06/2007	KIRKLAND	INCARCERATED	MEDICAL
02/06/2006	EVANS	INCARCERATED	ADMINISTRATIVE
06/01/2005	ALLENDALE	INCARCERATED	ADMINISTRATIVE
05/31/2005	KIRKLAND	INCARCERATED	MEDICAL
02/17/2005	ALLENDALE	INCARCERATED	ADMINISTRATIVE
02/17/2005	KIRKLAND	INCARCERATED	MEDICAL
06/30/2004	ALLENDALE	INCARCERATED	ADMINISTRATIVE
05/14/2003	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
05/14/2003	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
01/09/2003	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
10/21/2002	LIEBER	INCARCERATED	ADMINISTRATIVE
10/21/2002	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
07/02/2002	LIEBER	INCARCERATED	ADMINISTRATIVE
07/02/2002	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
06/20/2002	LIEBER	INCARCERATED	ADMINISTRATIVE
06/20/2002	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
05/08/2002	LIEBER	INCARCERATED	ADMINISTRATIVE
05/08/2002	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
03/21/2002	LIEBER	INCARCERATED	ADMINISTRATIVE
03/21/2002	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
07/20/2001	LIEBER	INCARCERATED	ADMINISTRATIVE
09/13/1997	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
09/02/1997	STEVENSON	INCARCERATED	RETURN FROM COURT
08/29/1997	GREENVILLE CO	AUTH ABSENCE (AWL)	TO COURT
08/13/1997	STEVENSON	INCARCERATED	ADMINISTRATIVE
05/03/1996	MANNING	INCARCERATED	ADMINISTRATIVE
06/19/1992	STEVENSON	INCARCERATED	RETURN FROM COURT
06/16/1992	GREENVILLE CO	AUTH ABSENCE (AWL)	TO COURT
06/20/1990	STEVENSON	INCARCERATED	ADMINISTRATIVE
* 09/15/1987	WATKINS	INCARCERATED	ADMINISTRATIVE
11/21/1984	STEVENSON	INCARCERATED	ADMINISTRATIVE
11/09/1984	MIDLANDS R&E	INCARCERATED	ADMINISTRATIVE
* 09/04/1984	CAMPBELL	WORK RELEASE	WORK PROGRAM

MOVEMENT

MOVEMENT DATE	TO LOCATION	STATUS	REASON
* 09/01/1984	RICHLAND CO	AUTH ABSENCE (AWL)	FURLOUGH
* 07/05/1984	WATKINS	INCARCERATED	ADMINISTRATIVE
* 07/02/1984	RICHLAND CO	AUTH ABSENCE (AWL)	FURLOUGH
* 07/06/1983	WATKINS	INCARCERATED	ADMINISTRATIVE
09/28/1982	STEVENSON	INCARCERATED	ADMINISTRATIVE
04/21/1977	CENTRAL	INCARCERATED	ADMINISTRATIVE
04/21/1977	MIDLANDS R&E	INCARCERATED	NEW ADMISSION

EARNED WORK CREDITS

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LEVEL
* PARA-PROF COUNS#1 SKILL	11/07/2017			3F5
WARDKEEPER ASSISTANT	05/20/2014	11/06/2017	LATERAL TRANSFER	3F5
* CHAPLAIN ASSISTANT	11/19/2013	05/19/2014	LATERAL TRANSFER	3F5
WARDKEEPER ASSISTANT	03/21/2013	11/16/2013	INMATE REQUEST	3F5
WARDKEEPER	09/21/2011	08/22/2012	INSTIT TRANSFER	3F5
* CIU PROGRAM	08/11/2009	09/20/2011	COMPLETED EDUC PROGRAM	3F5
CUSTODIAL WORKER	10/23/2008	08/10/2009	INSTIT TRANSFER	3F5
CUSTODIAL WORKER	04/10/2006	05/19/2008	INSTIT TRANSFER	3F5
SCDC INM AD CONL REP	10/11/2005	01/30/2006	PLACED IN ST/SP CUSTODY	3F5
* PROFESSIONAL PERSONNEL	07/19/2005	10/10/2005	INMATE REQUEST	3F5
* GENERAL WORKER	07/01/2004	07/18/2005	INMATE REQUEST	3F5
WARDKEEPER ASSISTANT	01/09/2003	06/30/2004	INSTIT TRANSFER	3F5
* LIBRARY HELPER	08/22/2001	01/08/2003	INSTIT TRANSFER	3F5
WARDKEEPER ASSISTANT	07/27/2001	08/21/2001	LATERAL TRANSFER	3F5
WARDKEEPER ASSISTANT	06/29/2001	07/20/2001	INSTIT TRANSFER	3F5
WARDKEEPER ASSISTANT	06/12/2001	06/28/2001	CUSTODY REVIEW	2F5
* MACHINE OPERATOR	11/17/2000	06/11/2001	INMATE REQUEST	2F5
* MACHINE OPERATOR	11/17/2000	11/17/2000	CUSTODY REVIEW	3F5
* MACHINE OPLRATOR	11/07/1998	11/16/2000	CUSTODY REVIEW	2F5
* IND. GROUP/SECTION LEAD	10/02/1998	11/06/1998	LATERAL TRANSFER	2F5
* IND. GROUP/SECTION LEAD	09/15/1998	10/01/1998	CUSTODY REVIEW	3F5
* IND. GROUP/SECTION LEAD	09/02/1998	09/14/1998	CUSTODY REVIEW	2F5
* MACHINE OPERATOR	09/15/1997	09/01/1998	INMATE REQUEST	2F5
* PRINT MACHINE OPERATOR	09/02/1997	09/13/1997	INSTIT TRANSFER	2F5
* PRINT MACHINE OPERATOR	08/14/1997	09/01/1997	CUSTODY REVIEW	3F5
WARDKEEPER	06/25/1997	08/13/1997	INSTIT TRANSFER	3F5
WARDKEEPER ASSISTANT	09/16/1996	06/24/1997	REMOVAL FROM 7 DAY CREDIT	3F7
WARDKEEPER ASSISTANT	05/14/1996	09/15/1996	CUSTODY REVIEW	5F7
* SENIOR CANTEEN OPERATOR	04/03/1991	05/03/1996	INSTIT TRANSFER	2F7
WARDKEEPER	07/30/1990	04/02/1991	PROMOTION	3F7
* GENERAL WORKER	07/06/1990	07/29/1990	INMATE REQUEST	7F5
* BRICKMASON HELPER	06/25/1990	07/05/1990	LATERAL TRANSFER	5F5
* SENIOR CANTEEN OPERATOR	03/02/1989	06/20/1990	INSTIT TRANSFER	2F7
* SENIOR COOK	09/15/1987	03/01/1989	INMATE REQUEST	2F7
* FOOD SERVICE/AIDE	05/13/1987	09/14/1987	INSTIT TRANSFER	5F7
* FOOD SERVICE AIDE	07/02/1986	05/12/1987	INMATE REQUEST	5F5
* TEACHER ASSISTANT	11/26/1984	07/01/1986	INMATE REQUEST	3F5
* LABOR CREW/WORK PROGRAM	09/05/1984	11/09/1984	INSTIT TRANSFER	2F5
* LABOR CREW/WORK PROGRAM	09/02/1984	09/04/1984	INSTIT TRANSFER	2F5

EARNED WORK CREDITS

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LEVEL
* LABOR CREW/WORK PROGRAM	08/13/1984	09/01/1984	FURLOUGH	2F5
* SENIOR CANTEEN OPERATOR	07/06/1983	08/12/1984	INSTIT TRANSFER	2F7
* PROFESSIONAL PERSONNEL	12/01/1982	07/05/1983	INSTIT TRANSFER	2F7
* GATE ATTENDANT	09/29/1982	11/30/1982	PROMOTION	5F7
* OFFICE CLERK	02/12/1982	09/28/1982	INSTIT TRANSFER	5F5
* LIBRARY HELPER	01/29/1982	02/11/1982	LATERAL TRANSFER	5F5
* CANTEEN OPERATOR HELPER	09/18/1978	07/01/1980	LATERAL TRANSFER	5F7
TITLE CHANGED TO 05360	07/03/1978	09/06/1978	TERM CODE CHG TO 13 OR 14	7F7

EARNED EDUCATION CREDITS

EEC DESCRIPTION	START DATE	END DATE	TERMINATION REASON
BONUS 15 OR MORE	07/01/2004	08/17/2004	INMATE REQUEST

STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

APR 12 2022

APPEAL FROM THE ADMINISTRATIVE LAW COURT
S. Phillip Lenski, Administrative Law Judge
Case No. 21-ALJ-15-0007-AP/2021-001145

SC Court of Appeals

CHARLES WILLIAMS, #086721.....APPEALANT,

v.

SOUTH CAROLINA DEPARTMENT OF PROBATION, PAROLE,
AND PARDON SERVICES.....RESPONDENT.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

February 25, 2022

Charles Williams

Charles Williams, SCDC #086721
Broad River C.I., GRN 2104
4460 Broad River Rd.
Columbia, S.C. 29210

APPELLANT PRO SE