

SUPREME COURT OF SOUTH CAROLINA

Compton v. South Carolina Department of Probation, Parole & Pardon Services, 385 S.C. 476

685 S.E.2d 175 (2009) · No. No. 26730 · Decided October 12, 2009

SUMMARY

The Supreme Court of South Carolina held that an order of the Administrative Law Court remanding a parole matter to the Parole Board was not directly appealable because review of the final agency decision would provide an adequate remedy. Exercising certiorari jurisdiction, the court concluded that the Parole Board's amended notice sufficiently stated that it had considered the statutory and regulatory parole criteria, as required by Cooper. The court reversed the Administrative Law Court's remand order and remanded with instructions to issue an order consistent with its opinion.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Chief Justice Toal; Justice Waller; Justice Pleicones; Justice Beatty; Justice Kittredge
JURISDICTION	South Carolina
DECIDED	October 12, 2009
DOCKET	No. 26730
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Department petitioned for a writ of certiorari to review the Court of Appeals' dismissal of its appeal from an Administrative Law Court remand order. The Supreme Court denied certiorari as to the direct appeal because the ALC order was not directly appealable, but issued a writ under Rule 245, SCACR, to review the ALC's decision.
STANDARD OF REVIEW	An intermediate or procedural ALC order is not directly appealable when review of the final agency decision would provide an adequate remedy. On certiorari review, the Supreme Court determined whether the Parole Board complied with the requirements stated in Cooper.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of South Carolina; binding state precedent.

PARTIES

South Carolina Department of Probation, Parole and Pardon Services
v. James Compton

TOPICS

writ of certiorari appellate jurisdiction judicial review of agency action administrative law
agency adjudication

PRACTICE AREAS

Administrative law Appellate procedure Parole

QUESTIONS PRESENTED

1. Whether the ALC's remand order was directly appealable.
2. Whether the Parole Board's amended notice of rejection complied with Cooper by stating that it considered the statutory and Form 1212 parole criteria.
3. Whether the ALC erred by remanding the matter to the Parole Board for additional findings of fact and conclusions of law.

HOLDINGS

1. The ALC's preliminary, procedural, or intermediate remand order was not directly appealable because review of the final agency decision would provide an adequate remedy.
2. The Parole Board complied with Cooper by clearly stating that it had considered the statutory criteria in section 24-21-640 and the fifteen factors published in Form 1212, while also identifying the reasons for denying parole.

KEY QUOTATIONS

“a preliminary, procedural, or intermediate action or ruling in an administrative proceeding is immediately reviewable only if review of the final agency decision would not provide an adequate remedy” (385 S.C. at 478)

“In the instant case, the Parole Board clearly stated in its notice of rejection that it considered the statutory criteria and the criteria set forth in Form 1212, which is sufficient under Cooper.” (385 S.C. at 479)

FACTUAL BACKGROUND

Compton appeared before the Parole Board on January 24, 2007, and was denied parole. The Board's amended notice stated that it had considered the statutory criteria in S.C. Code Ann. § 24-21-640 and the factors in Form 1212, and identified the nature and seriousness of the offense, violence in the current or a prior offense, and use of a deadly weapon as reasons for denial. The ALC concluded that the Board had not separately stated findings of fact and conclusions of law and ordered another remand.

PROCEDURAL HISTORY

The Parole Board denied Compton parole after a January 24, 2007 hearing. After rehearing was denied, Compton appealed to the Administrative Law Court, which remanded the matter to the Parole Board for a decision conforming to *Cooper v. S.C. Department of Probation, Parole and Pardon Services*. The Board issued an amended notice stating that it had considered the statutory criteria and Form 1212 factors and identifying three reasons for denying parole. The ALC nevertheless found only partial compliance and remanded again, after which the Court of Appeals dismissed the Department's appeal. The Supreme Court reversed the ALC's second remand and remanded for an order consistent with its opinion.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the Administrative Law Court with instructions to issue an order in compliance with the Supreme Court's opinion.

CASES CITED

- *Leviner v. Sonoco Products Co.*, 339 S.C. 492, 530 S.E.2d 127 (2000)
- *Cooper v. S.C. Dep't of Prob., Parole & Pardon Servs.*, 377 S.C. 489, 661 S.E.2d 106 (2008)
- *Ex parte Gregory*, 58 S.C. 114, 36 S.E. 433 (1900)