

News

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update

A new season

Welcome to the Summer 2012 edition of our newsletter.

Half of the year has passed and we are seeing some dramatic happenings, particularly in the area of pardons. While some aspects of parole hearings have changed, paroles are still being granted on a regular basis. We hope this newsletter helps keep you informed about issues that matter to you.

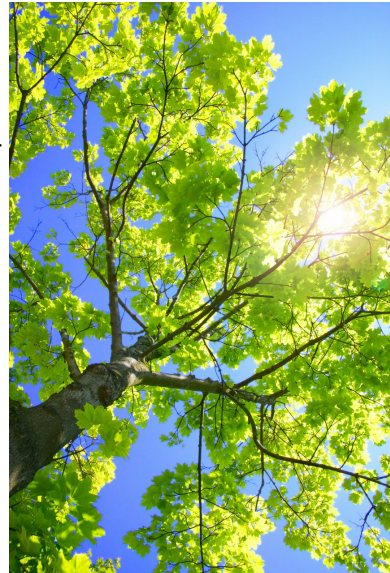
As always, your family is welcome to contact Jackie at jackie@paroleme.com if you have

any questions about anything in this newsletter or any other issues related to your incarceration.

Please have your family members visit our website, www.paroleme.com, for office forms and other information.

We remind you that this newsletter is not intended to be construed as legal advice.

If we can be of service to you, please contact us. We wish you and your family all the best.



Pardons

Having your record pardoned may prove to be extremely beneficial to you as you seek employment and in other areas of life. When you are granted a pardon, your civil rights, including the right to vote and serve on a jury, are restored. While crimes will still appear on your RAP sheet, it is noted that they have been pardoned by the State.

If your probation has been fully completed, including the payment of restitution, or your sentence disposed of, you may be eligible to apply for a pardon. Note that your rap sheet must show a disposition on all charges before they will be considered for pardon.

If you have questions about this process, please contact our office.

Case Law Update

- * In *State v. Whitesides*, (Opinion No. 27110, April 4, 2012), the S.C. Supreme Court affirmed a conviction for possession of a firearm during the commission of the crime of trafficking in marijuana. The Court held that a nexus between the possession of the firearm and the underlying violent crime must be established. Mere proof of constructive possession is insufficient.
 - * In *State v. Latimore*, (Opinion No. 27102, March 14, 2012), the S.C. Supreme Court held that to satisfy due process, a convicted sex offender must have had actual notice of the 2006 change to section 23-3-460 (requiring twice-per-year registration, as opposed to annual registration), which imposed an additional registration requirement, in order to be convicted of violating section 23-3-470 of the South Carolina Code.
 - * In *State v. Binnarr*, (Opinion No. 27122, May 9, 2012), the S.C. Supreme Court, citing *Latimore* (see above), held that actual notice of the imposition of the additional reporting requirement is required.
 - * In *State v. Hoyle*, (Opinion No. 4963, April 4, 2012), the S.C. Court of Appeals held that *Miranda* requires four warnings: “a suspect in custody must be warned prior to any questioning that ‘he has the right to remain silent, that anything he says can be used against him in a court of law, that he has the right to the presence of an attorney, and that if he cannot afford an attorney one will be appointed for him prior to any questioning if he so desires’.”
 - * In *State v. Miller*, (Opinion No. 4965, April 25, 2012), the S.C. Court of Appeals held that a *Belcher* analysis indicates that charging a jury that malice may be inferred by the use of a deadly weapon cannot be considered harmless if evidence of malice is limited or nonexistent and mitigating evidence is presented.
 - * In *State v. Ellis*, (Opinion No. 27127, May 16, 2012), the S.C. Supreme Court held that “a term of probation set to begin upon completion of a term of imprisonment, cannot begin simply due to a defendant's parole or supervised release from incarceration absent a specific and valid order from the sentencing court that the term of probation is to run *concurrently* with the defendant's parole.”
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Federal crack cocaine charges

We have received a number of questions recently regarding changes to crack cocaine charges. Please note that these changes are for **federal charges only**. If you are charged under South Carolina law, these changes do not apply to your case.

For those sentenced under federal law after Aug. 3, 2010 for offenses that occurred prior to that date, the U.S. Supreme Court's ruling in the Dorsey/Hill cases regarding the Fair Sentencing Act may impact the sentence.

The Fair Sentencing Act created more equitable mandatory minimums in crack cocaine cases.



New parole board members

Norris Ashford and Dr. Beverly Rice McAdams are now part of the seven-member parole board of the South Carolina Department of Probation, Parole and Pardon Services.

* An active member of the Columbia community and a former member and chair of the South Carolina Juvenile Justice Parole Board, Norris Ashford represents the Second Congressional District. Ashford is an automotive broker, realtor and personal fitness trainer.

* Dr. Beverly Rice McAdams, representing the Third Congressional District, is Associate Vice President for Student Development at Anderson University. She is also very active in a number of community organizations in Anderson, as well as at the state and national levels.

Ashford and McAdams join Chairman C. David Baxter, Vice Chair Orton Bellamy, Secretary Karen Walto, and board members Marvin Stevenson and Alan D. Gardner on the current board.

Pardon/expungement bill

We are keeping an eye on the legislative action associated with SC Bill R284, H3127. The bill would allow individuals convicted of certain crimes to apply with the SC Department of Probation, Parole and Pardon Services for a recommendation of records expungement when they apply for a pardon.

The bill was recently vetoed by the governor. The House was unable to overturn the veto.

Governor Haley stated that the veto was because the bill does not explic-

itly require a pardon as a pre-condition for expungement and because the list of eligible offenses was overly broad.

Because the governor has indicated a willingness to work with legislators to reach a compromise on the specifics of this bill, we will keep you up-to-date should such a compromise be reached or should this bill be reintroduced and passed again during the next legislative session.

Fall package orders — no holiday packages

The 2012 Fall Inmate Package Program begins in August.

Orders may be placed online at www.southcarolinapackages.com. Please note that this is your last opportunity this year for an inmate package. The fall package program now replaces the holiday package program.

Families may also order by mail and phone. Phone orders may be placed by calling 800-546-6283. As of this writing, order deadlines have not been posted, but if your family was planning to purchase Christmas or holiday packages for you, please keep them informed of the deadlines for this order when they are posted.

Keep in mind, if you are purchasing a package for yourself using Cooper Trust Fund money, your procedure is slightly different. You must first secure funds through Cooper by submitting a

withdrawal request for forwarding to Financial Accounting. Your deadline for doing so will be significantly earlier than the order deadline, if the dates for this package order are in line with those of past orders. If someone else will be ordering for you, you are still subject to quantity limits, even when placing your own order.

Your disciplinary record is an important factor in whether or not you may order or receive packages.

All inmates are eligible for packages except those on or in

- * Canteen restriction,
- * Disciplinary detention,
- * Intake,
- * Pre-hearing detention,
- * Safekeepers,
- * Security detention, and
- * Some Kirkland dorms.

Issues to ponder if you plan to seek parole

If you plan to seek parole – even if that possibility is years away – it is never too early to consider how your current activities and future goals will impact the parole board’s decision. When you are facing the board’s questions, it is often too late to address disciplinary problems and other issues that will cause your parole bid to be denied. Our goal is to represent you and reduce any hesitations which board members may have based on your record. If it lacks information that can clarify your position, we must address that far in advance.

For example, if you have any parole revocations, probation revocations or charges such as Criminal Domestic Violence that have been dismissed, not processed or reduced but have not been expunged, it is critical that we be made

aware of this as soon as possible. Without expungement, these charges, even though dismissed, will be available to the board.

In addition, throughout your incarceration it is important that you consider your future goals and begin to make concrete plans to achieve those goals. Some steps may include education, career and vocational training, programs to address chemical dependence or anger management, or any other self-

improvement measures needed to help you succeed should the parole board grant your request. Having well established goals and a means to achieve them points toward a successful future for you and your family. It also demonstrates to the board that you are committed not to return to the Department of Corrections.



Cell phones and more

Following a recent incident at an SCDC institution, the seemingly widespread problem of illegal cell phone use by inmates was brought to the forefront in the media. As with all other SCDC regulations, it is important that you adhere to the rules about cell phone posses-

sion and use, as well as the possession and use of credit and/or debit cards.

Violating these rules is not worth the potential price you could pay with respect to immediate disciplinary action, as well as in the future when the parole board considers your SCDC record.

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This document does not contain attorney/
client privileged material.

If you have been transferred to
a different facility, please notify
our office of your change of
address as soon as possible.

Case law (continued)

- * In *State v. Golston*, (Opinion No. 4984, June 6, 2012), the S.C. Court of Appeals held that the existence of evidence that the defendant committed simple Criminal Domestic Violence in addition to Criminal Domestic Violence of a High and Aggravated Nature does not warrant a jury charge for CDV as a lesser included offense of CDVHAN. There must be evidence from which the jury could conclude that the defendant committed only the lesser offense.

Collect calls

- * Please note that we may be unable to accept your collect call if Mr. Thomas is not available. This helps keep costs down and benefits our clients in the long run. You are always free to contact us via postal mail or have your family members call or contact our office via email.
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