

**IN THE CIRCUIT COURT OF GEORGE COUNTY, MISSISSIPPI**

**GLEN CONLEY**

**PETITIONER**

**VS.**

**CAUSE NO. 22-CV-00050-RK**

**MISSISSIPPI DEPARTMENT  
OF CORRECTIONS &  
ALICIA BOX, TE'ANA MCCOLLUM,  
K. JACKSON**

**RESPONDENT**

**RESPONSE TO PETITION**

COMES NOW, the Mississippi Department of Corrections (“MDOC”), by and through its undersigned counsel, and files this, its Response to the Petition for Judicial Review of Glen Conley filed in the above-styled and numbered cause. In defense against the claims asserted by Petitioner, MDOC would show unto the Court as follows:

1. A true and correct copy of MDOC file in SMCI-21-1295 is attached hereto in its entirety as Exhibit A. Such file serves as the administrative record in this matter.
2. The decision rendered by MDOC in the Administrative Remedy proceeding, the subject of this appeal, was supported by substantial evidence, was not arbitrary or capricious, was within the authority of MDOC and did not violate the statutory or constitutional rights of the Petitioner, all as explained further below.
3. Petitioner filed his request for administrative remedy through the MDOC Administrative Remedy Program (“ARP”) on or about November 16, 2021, requesting parole eligibility based on Miss. Code Ann. § 47-7-3, as revised and effective as of July 1, 2021. (Ex. A at p. 3).
4. By First Step Response dated December 30, 2021, MDOC denied the requested relief as the Petitioner’s sentencing orders indicate he is to serve life without the benefit of parole. (Ex. A at 5).

5. By second request for administrative remedy pursuant to MDOC ARP, Petitioner requested parole eligibility as “regardless of [his] sentencing order, a new law has been passed that gives parole eligibility as long as the offense was committed prior to July 1, 1994...”, and his offense was committed on May 21, 1994. (Ex. A at p. 8).

6. In response to this second request, MDOC indicated by its Second Step Response Form dated February 7, 2022, that the Petitioner does not qualify for a parole date, and that his time is correct. (Ex. A at p. 14).

7. Petitioner seeks this Court’s review of this Second Step Response, as he takes issue with MDOC’s denial of parole eligibility. (Pet. at pp. 5-6).

8. MDOC provided Petitioner with an appropriate response to his second request for administrative remedy, as he is ineligible for parole as determined by applicable Mississippi law, specifically Miss. Code Ann. § 47-7-3, and the decision by the Mississippi Supreme Court in Cause No. 1999-KA-000521-SCT (Trial Court Case No. 15559).

9. Petitioner committed capital murder on May 21, 1994 and was subsequently convicted and sentenced of such crime on July 3, 1998. (*See*, Ex. A at pp.6-7). The sentencing order for Petitioner’s capital murder conviction states the following regarding his parole eligibility:

It is therefore considered by the Court and so Ordered and Adjudged that the said defendant, Glen L. Conley, Jr. aka Glen Conley II for such his crime of Capital Murder be sentenced in the custody of the Mississippi Department of Corrections for the remainder of his natural life without the benefit of parole, probation or early work release.

(Ex. A at p.7).

10. The Petitioner's conviction of capital murder and sentence to life imprisonment without the benefit of parole was also affirmed by the Mississippi Supreme Court. *See, Conley v. State*, 790 So.2d 773, 808 (2001)<sup>1</sup>.

11. Petitioner's only claim raised in the ARP process is that he should be considered eligible for parole based on the amendments made to the parole statute, Miss. Code Ann. § 47-7-3, which became effective July 1, 2021. (Ex. A at pp. 3 & 10). Any other claims not raised during the administrative process are barred from consideration in this appeal (i.e., Equal Protection Claim, Ex Post Facto claim, etc.)<sup>2</sup>. *See, Smith v. State*, 293 So. 3d 238, 241 (Miss. 2020) ("Appellate review of an agency decision is limited to the record and the agency's findings.").

12. Petitioner is ineligible for parole under the current version of the parole eligibility statute, Miss. Code Ann. § 47-7-3, effective as of 2021, as this statute did not make persons that committed capital murder that were convicted and sentenced to life without parole *prior to* July 1, 1994 eligible for parole. The parole statute does not clearly and unequivocally express that it intends to allow parole eligibility for offenders with previous capital offense convictions and sentences of life without the benefit of parole that were committed prior to July 1, 1994 as it is silent on such, nor does the Petitioner provide any authority to suggest otherwise. *See*, Miss. Code Ann. § 47-7-3(1)(c)(iii); *See*, also, *Johnston v. State*, 214 So. 3d 317, 318 (Miss. Ct. App. 2017) (Court of Appeals affirmed Cir. Ct.'s decision dismissing inmate's petition as the inmate did not provide any authority to suggest that the relief requested based on statutes Miss. Code Ann. §§ 47-7-3 and

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<sup>1</sup> The Mississippi Supreme Court has also denied four subsequent applications for post-conviction relief by Petitioner related to his capital murder conviction and sentence to life imprisonment without eligibility for parole. *See Conley v. State*, 2020 WL 949240, at \*1 (Miss. Feb. 26, 2020).

<sup>2</sup> The Mississippi Supreme Court has previously affirmed the decisions of the Court of Appeals, and the Sunflower Circuit Court in affirming MDOC's decision in not providing a parole eligibility date for Petitioner on Petitioner's capital murder conviction, and sentence to life imprisonment without the eligibility of parole in *Conley v. Epps*, 150 So.3d 702, 705 (2014).

97-3-2 that were amended in 2014, *after* he was convicted in 2008, applied retroactively); *Mississippi Dep't of Corr. v. Roberts*, 212 So. 3d 65, 66 (Miss. 2017)(Where Miss. Code Ann. § 47-7-3.1 "...did not clearly and unequivocally express an intention for retroactive applicability...", the Court could not say that Miss. Code Ann. § 47-7-3.1 retroactively applied to the inmate); *See, also, Mississippi Dep't of Corr. v. Bland*, 212 So. 3d 56, 57 (Miss. 2017). Further, the parole statute, as amended, specifically indicates that the 2021 amendments are only intended to retroactively apply from and after July 1, 1995. *See*, Miss. Code Ann. § 47-7-3 (1)(c) & (8). Petitioner is ineligible for parole because Petitioner's conviction of capital murder and sentence to life imprisonment without the eligibility of parole have not been determined to be illegal, and in fact have been upheld by the Mississippi Supreme Court, and, therefore, are still applicable, especially absent the clear intent of the Legislature to provide otherwise in the 2021 amendments to Section Miss. Code Ann. § 47-7-3. *See, Conley v. Epps*, 150 So. 3d 702, 704 (Miss. 2014).

13. MDOC's denial of a parole eligibility date in the ARP process is also in accordance with the law and does not violate the statutory or constitutional rights of the Petitioner "as prisoners have no constitutional recognized liberty interest in parole" as parole is a matter of legislative grace. *See Blankenship v. State*, 308 So. 3d 883, 884–85 (Miss. Ct. App. 2020)(citing *Ducksworth v. State*, 174 So. 3d 323, 324 (Miss. Ct. App 2015) (citation omitted). The parole statute, as amended by the Legislature in 2021, is silent on allowing parole eligibility for offenders with previous capital offense convictions and sentences of life without the benefit of parole that were committed prior to July 1, 1994.

WHEREFORE, PREMISES CONSIDERED, the Mississippi Department of Corrections respectfully requests the Court deny Petitioner's requested relief. MDOC prays for such further relief as may be proper in the circumstances.

Respectfully Submitted,

**LYNN FITCH,  
ATTORNEY GENERAL,  
STATE OF MISSISSIPPI**

BY: *s/Tabatha Baum*

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**CERTIFICATE OF SERVICE**

I, Tabatha Baum, Special Assistant Attorney General for the State of Mississippi, do hereby certify that I have this date electronically filed a true and correct copy of the above *Response to Petition* with the Clerk of the Court using the MEC system which will send notification to all counsel of record in this case registered with the MEC system.

**THIS**, the 29th day of April, 2022.

**LYNN FITCH,  
ATTORNEY GENERAL,  
STATE OF MISSISSIPPI**

s/Tabatha Baum  
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Special Assistant Attorney General  
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