

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph King Anderson, III, *Chief Administrative Law Judge*

ALC Case No. 22-ALJ-04-0113-AP
Appellate Case No. 2022-001331

William Cathcart, # 249565,..... Appellant,

v.

South Carolina Department of Corrections..... Respondent.

RESPONDENT’S MOTION TO STRIKE APPELLANT’S DESIGNATION OF MATTER

Respondent, South Carolina Department of Corrections (SCDC or Department), pursuant to Rule 240, SCACR, moves this Honorable Court for an order striking Appellant’s *Designation of Matter*.

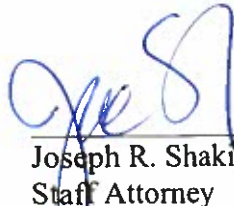
The only document Appellant listed in Appellant’s *Designation of Matter* is the transcript of the sentencing judge. However, Appellant’s sentencing transcript was not included in the record below and was not considered by the Administrative Law Court. *See* Footnote 1, *Cathcart v. S.C. Dep’t of Corr.*, 22-ALJ-04-0113-AP (August 29, 2022), (attached and hereinafter referred to as Exhibit “A”). Appellant attempted to attach four pages of his sentencing transcript to his brief, but the pages were not considered by the Administrative Law Court because they were not part of the record, and it was also noted that Appellant did not produce the entire transcript. *See* Exhibit A,

Footnote 1.

“[T]he Designation may only propose to include portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal [See Rule 210 (c)]. Rule 209 (b), SCACR. “The Record shall not, however, include matter which was not presented to the lower court or tribunal.” Rule 210(c), SCACR. Because Appellant’s sentencing transcript was not a part of the lower court record and Appellant failed to produce the entire sentencing transcript, Appellant’s Designation of Matter should be stricken.

WHEREFORE, Respondent moves this Honorable Court for an order striking the aforementioned designations from Appellant’s *Designation of Matter*.

Respectfully submitted,



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Staff Attorney
Office of General Counsel
S.C. Department of Corrections
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Columbia, South Carolina 29221
Phone: (803) 896-1278

Counsel for Respondent

Columbia, South Carolina
October 17, 2022

EXHIBIT A

Cathcart v. S.C. Dep't of Corr., 22-ALJ-04-0113-AP (August 29, 2022)

ALC Case No. 22-ALJ-04-0113-AP
Appellate Case No. 2022-001331

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GENERAL COUNSEL

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

William Cathcart, #249565,)
)
 Appellant,)
)
 v.)
)
 South Carolina Department of Corrections,)
)
 Respondent.)

Docket No. 22-ALJ-04-0113-AP

ORDER

This matter comes before the South Carolina Administrative Law Court (Court or ALC) pursuant to an appeal filed by William Cathcart (Appellant), an inmate incarcerated with South Carolina Department of Corrections (SCDC or Department), challenging the calculation of his sentence-related credits.

BACKGROUND AND PROCEDURAL HISTORY

On April 24, 1997, Appellant was arrested for murder and conspiracy to commit murder. He was later convicted of these crimes as well as possession of a weapon during the commission of a violent crime. On May 6, 1998, Appellant was sentenced to thirty years' incarceration for murder, five years' incarceration for possession of a weapon during the commission of a violent crime, and five years' incarceration for conspiracy to commit murder.

On January 13, 2022, Appellant filed a Step 1 Grievance, arguing that his sentence was miscalculated. Appellant asserted he was sentenced to an eighty-five percent sentence and requested his sentence reflect that. After the grievance was denied, Appellant filed a Step 2 Grievance on February 21, 2022, on the same grounds. In the Department's denial of the Step 2 Grievance, it noted that he was "convicted of Murder and given a sentence of 30 years to Life without the possibility of parole which is considered a mandatory sentence."

Appellant filed a Notice of Appeal with this Court on April 12, 2022, asserting the sentencing judge sentenced him to an eighty-five percent sentence and SCDC does not have the authority to modify the sentence. Appellant cites to the Due Process Clause of the U.S. Constitution in support of his argument. The case was assigned on April 28, 2022. The



Department filed the Record on Appeal on June 30, 2022. Appellant filed a brief¹ on June 9, 2022. The Department filed its brief on August 12, 2022.

STANDARD OF REVIEW

The Court's jurisdiction to hear this matter is derived from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). In *Al-Shabazz*, the Supreme Court set forth that the ALC has jurisdiction to review inmate appeals involving state-created liberty interests in which an inmate contends that prison officials have erroneously calculated his or her sentence. *Id.* The Court reviews these matters in "an appellate capacity." *Id.* at 388, 527 S.E.2d at 754.

"A reviewing court will not disturb findings of [an administrative agency] if its findings are supported by substantial evidence on the record as a whole." *Pearson v. JPS Converter & Indus. Corp.*, 327 S.C. 393, 397, 489 S.E.2d 219, 220 (Ct. App. 1997). A decision is supported by "substantial evidence" when the record as a whole allows reasonable minds to reach the same conclusion as the agency. *Friends of the Earth v. Pub. Serv. Comm'n of S.C.*, 387 S.C. 360, 366, 692 S.E.2d 910, 913 (2010). The fact that the record presents the possibility of drawing two inconsistent conclusions from the evidence does not prevent the agency's findings from being supported by substantial evidence. *Waters v. S.C. Land Res. Conservation Comm'n.*, 321 S.C. 219, 226, 467 S.E.2d 913, 917 (1996). Furthermore "the party challenging a[n administrative agency's] order bears the burden of convincingly proving that the decision is clearly erroneous, or arbitrary or capricious, or an abuse of discretion, in view of the substantial evidence on the whole record." *Porter v. S.C. Pub. Serv. Comm'n.*, 333 S.C. 12, 20, 507 S.E.2d 328, 332 (1998).

DISCUSSION

Appellant contends that the sentencing judge sentenced the Appellant to "thirty years at 85%." He thus argues he should only serve eighty-five percent of his thirty-year sentence rather than the mandatory minimum thirty-year sentence calculated by the Department. He further argues

¹ Appellant attached documents to his brief to support his appeal. However, these documents are not part of the Record on Appeal. SCALC Rule 65 sets forth that "[t]he Administrative Law Judge may affirm any ruling, order or judgment upon any ground(s) appearing in the Record and need not address a point which is manifestly without merit." Since the documents attached to Appellants brief do not appear in the Record, they will not be addressed by the Court. Furthermore, even if the Court could consider the transcript of the oral sentencing that Appellant attached, Appellant did not produce the entire transcript; thus, making it improper to consider.

he is only required to serve eighty-five percent of his sentence as recorded by the sentencing judge because, in *Hill v. United States ex rel. Wampler*, the United States Supreme Court held that the “only sentence known to the law is the sentence or judgement entered upon the records of the court.” 298 U.S. 460, 464 (1936). The Department, on the other hand, asserts Appellant was sentenced to a mandatory minimum of thirty years’ imprisonment pursuant to the 1996 version of section 16-3-20(A) of the South Carolina Code, and, accordingly, Appellant’s sentence was calculated correctly.

The 1996 version of the section 16-3-20(A), which was the controlling authority for Appellant’s sentence, provides, in pertinent part:

(A) A person who is convicted of or pleads guilty to murder must be punished by death, or by a mandatory minimum term of imprisonment for thirty years. . . No person sentenced to a mandatory minimum term of imprisonment for thirty years to life pursuant to this section is eligible for parole or any early release program, nor is the person eligible to receive any work credits, education credits, good conduct credits, or any other credits that would reduce the mandatory minimum term of imprisonment for thirty years required by this section.

S.C. Code Ann. § 16-3-20(A) (1996) (emphasis added). Appellant’s offense is a violation of 16-3-20(A). Appellant does not dispute that this statute requires a person convicted of murder be sentenced to thirty years, and there is no reference to someone convicted under this statute serving only eighty-five percent of their sentence. Thus, pursuant to section 16-3-20(A), Appellant must serve a mandatory minimum of thirty years’ imprisonment, and the Department’s sentence calculation of thirty years correctly reflect this.

This conclusion is further supported by the statutes dealing with work, education, and good conduct credits, which specifically provide that sentences for murder convictions are excluded from being reduced below the mandatory minimum of thirty years. See S.C. Code Ann. § 24-13-210(B) (1996) (“However, no prisoner serving . . . a mandatory minimum term of imprisonment for thirty years pursuant to Section 16-3-20 is entitled to credits under this provision”); see also S.C. Code Ann. § 24-13-230(B) (1996) (“However, no prisoner serving . . . a mandatory minimum term of imprisonment for thirty years pursuant to Section 16-3-20 is entitled to credits under this provision”).

Additionally, absent any ambiguity in the sentencing sheet, the Court must presume that the sentencing court’s sentence is correct. See *Tant v. S.C. Dep’t of Corr.*, 408 S.C. 334, 337, 759

S.E.2d 398, 399 (2014), *reh'g denied* (July 10, 2014) (“[T]he Department is generally confined to the face of the sentencing sheets in determining the length of a sentence . . . [unless] there is an ambiguity in the sentencing sheets.”). Here, the sentencing sheet for Appellant’s May 1998 conviction unambiguously states Appellant was sentenced to thirty years’ imprisonment; therefore, the Department was required to calculate Appellant’s sentence according to that sheet.

In sum, Appellant failed to carry his burden of proving that SCDC improperly calculated his sentence and the Department’s decision must be affirmed. *See Porter*, 333 S.C. at 20, 507 S.E.2d at 332 (holding “the party challenging [an administrative agency’s] order bears the burden of convincingly proving that the decision is clearly erroneous, or arbitrary or capricious, or an abuse of discretion, in view of the substantial evidence on the whole record.”).

ORDER

For the reasons set forth in this Order,

IT IS HEREBY ORDERED that the Department’s final agency decision is **AFFIRMED**.
AND IT IS SO ORDERED.

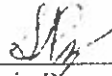


Ralph King Anderson, III
Chief Administrative Law Judge

August 29, 2022
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Stephanie Perez, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, or by electronic mail, to the address provided by the party(ies) and or their attorney(s).



Stephanie Perez
Judicial Law Clerk

August 29, 2022
Columbia, South Carolina

Oct 17 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

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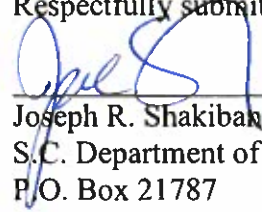
CERTIFICATE OF SERVICE

I hereby certify that on this day I have served a copy of the foregoing *Motion to Strike Appellant's Designation of Matter* upon Appellant by depositing a copy of same in the United States Mail, addressed to:

William Cathcart, SCDC #249565
MacDougal Correctional Institution M1B-0019-A
1516 Old Gilliard Rd
Ridgeville, SC 29472.

Columbia, SC
October 17, 2022

Respectfully submitted,



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Phone: (803) 896-1278
Counsel for Respondent



SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS
Safety, Service, and Stewardship

HENRY McMASTER, Governor
BRYAN P. STIRLING, Director

RECEIVED

Oct 17 2022

SC Court of Appeals

OFFICE OF GENERAL COUNSEL

October 17, 2022

Via Email to ctappfilings@sccourts.org
The Honorable Jenny A. Kitchings
Clerk of Court, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: William Cathcart, #249565, v. South Carolina Department of Corrections
Appellate Case No. 2022-001331

Dear Ms. Kitchings:

Enclosed, please find the **Respondent's Motion to Strike Appellant's Designation of Matter** in the above captioned appeal, along with the **Proof of Service**.

Thank you for your attention to this matter, and please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

Joseph R. Shakibanasab
Staff Attorney
South Carolina Department of Corrections

Enclosures

cc: William Cathcart, SCDC #249565
MacDougal Correctional Institution M1B-0019-A
1516 Old Gilliard Rd
Ridgeville, SC 29472.