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SC Court of Appeals

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.

INITIAL BRIEF OF RESPONDENT

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

Joseph R. Shakibanasab, SC Bar No. 102825

Staff Attorney

Office of General Counsel

S.C. Department of Corrections

Post Office Box 21787

Columbia, South Carolina 29221

Phone: (803) 896-1278

November 3, 2022

ATTORNEY FOR RESPONDENT

TABLE OF CONTENTS

TABLE OF AUTHORITIESii

STATEMENT OF THE ISSUES ON APPEAL1

STATEMENT OF THE CASE2

STANDARD OF REVIEW3

ARGUMENT4

CONCLUSION.....8

TABLE OF AUTHORITIES

CASES

DuRant v. S.C. Dep't of Health & Environmental Control, 361 S.C. 416, 604 S.E.2d 704 (Ct. App. 2004).4

Hendley v. Budget & Control, 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996).....3

Hill v. U.S. ex rel Wampler, 298 U.S. 460, 56 S.Ct. 760 (1936).....7

Tant v. S.C. Dep't of Corr., 408 S.C. 334, 759 S.E.2d 398 (2014), reh'g denied (July 10, 2014).....4, 5, 8

U.S. v. Wampler, 10 F.Supp. 609, 611 (D. Md. 1935).....7

STATUTES

S.C. Code Ann. § 1-23-380.....3

S.C. Code Ann. § 1-23-610.....3

S.C. Code Ann. § 16-3-10.....5

S.C. Code Ann. § 16-3-20 (1996) 5, 8

S.C. Code Ann. § 16-17-410.....4

S.C. Code Ann. § 16-23-490.....4

S.C. Code Ann. § 24-13-40.....6

S.C. Code Ann. § 24-13-150 (1996) 6

S.C. Code Ann. § 24-13-210 (1996)6

S.C. Code Ann. § 24-13-230 (1996)6

ADMINISTRATIVE MATERIALS

Chief Administrative Law Judge Anderson's Order..... 7, 8

STATEMENT OF ISSUES ON APPEAL

- I. WHETHER THE ADMINISTRATIVE LAW COURT PROPERLY AFFIRMED THE AGENCY'S DECISION THAT APPELLANT'S SENTENCE CALCULATION IS CORRECT BECAUSE MURDER CONVICTIONS CARRY A MANDATORY, DAY-FOR-DAY, THIRTY-YEAR SENTENCE.**

STATEMENT OF THE CASE

This case is before the Court pursuant to the appeal of William Cathcart, an inmate incarcerated with the Department of Corrections (SCDC). Appellant filed a Step One Grievance on January 13, 2022, alleging the SCDC calculated his sentence incorrectly. This grievance was investigated and denied when it was determined that SCDC had properly calculated Appellant's sentence. Appellant filed a Step Two Grievance on February 21, 2022. This grievance was also investigated and denied on March 18, 2022. Appellant subsequently filed his Notice of Appeal with the Administrative Law Court. Thereafter, the appeal in the ALC went forward, and on August 29, 2022, the Honorable Ralph King Anderson, III, issued an order affirming the decision of the Department of Corrections regarding Appellant's sentence calculation. This appeal follows.

STANDARD OF REVIEW

S.C. Code Ann. § 1-23-610(B) provides the applicable standard of review:

The review of the administrative law judge's order must be confined to the record. The reviewing tribunal may affirm the decision or remand the case for further proceedings; or it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is:

- (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.

S.C. Code Ann. § 1-23-380(5).

In an appeal of a final decision of an administrative agency, the standard of appellate review is whether the ALC's findings are supported by substantial evidence. S.C. Code Ann. § 1-23-610(B). "Substantial evidence" is evidence which, considering the record as a whole, would allow a reasonable mind to reach the same conclusion that the administrative agency reached. Hendley v. S.C. State Budget & Control Bd., 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996). A reviewing court shall not substitute its own judgment for that of the ALC as to findings of fact, but it may reverse or modify decisions that are controlled by errors of law or that are clearly erroneous in view of the substantial evidence on the record as a whole. Id. In determining whether the ALC's decision was supported by substantial evidence, the Court need only find, considering the record as a whole,

evidence from which reasonable minds could reach the same conclusion that the ALC reached. DuRant v. S.C. Dep't of Health & Environmental Control, 361 S.C. 416, 420, 604 S.E.2d 704, 706 (Ct. App. 2004). The mere possibility of drawing two inconsistent conclusions from the evidence does not prevent a finding from being supported by substantial evidence. Id.

ARGUMENT

I. WHETHER THE ADMINISTRATIVE LAW COURT PROPERLY AFFIRMED AGENCY'S DECISION THAT APPELLANT'S SENTENCE CALCULATION IS CORRECT BECAUSE MURDER CONVICTIONS CARRY A MANDATORY, DAY-FOR-DAY, THIRTY-YEAR SENTENCE.

In this case, the ALC properly affirmed the decision of the Department of Corrections, as Appellant has failed to show that the Department committed any error with respect to the calculation of his sentence.

On May 6, 1998, Appellant was convicted of murder and sentenced to a term of thirty years' incarceration. See Sentencing Sheet and Conviction Inquiry for Murder. Appellant was also convicted of conspiracy to commit murder in violation of S.C. Code. Ann §16-17-410, and possession of a weapon during a violent crime in violation of S.C. Code. Ann. §16-23-490 and sentenced to five years' incarceration on both convictions. See Sentencing Sheets and Conviction Inquiries for Criminal Conspiracy and Firearms. Appellant's projected maxout date is April 17, 2027. See Maxout Date Calculation Worksheet. Appellant's murder conviction is the controlling offense for his sentence calculation analysis.

Appellant argues that his thirty-year sentence for murder is not a mandatory minimum thirty-year day-for-day sentence, but rather an eighty-five percent sentence. Appellant is mistaken.

"[T]he Department is confined to an unambiguous sentencing sheet in determining an inmate's sentence, but may consider the sentencing transcript if the sheet is ambiguous." Tant v.

South Carolina Department of corrections, 408 S.C. 334, 347, 759 S.E.2d 398, 404 (2014). Here, Appellant's sentencing sheet for murder unambiguously states Appellant was sentenced to thirty-years imprisonment. See Sentencing Sheet for Murder. The offense statute for murder is codified in S.C. Code Ann. §16-3-10. The penalty statute for murder is found in S.C. Code Ann. §16-3-20, which is titled, "Punishment for murder; separate sentencing proceeding when death penalty sought." Id. The 1996 version of the sentencing statute, which was in effect during the time appellant committed the offense and Appellant was sentenced, stated that:

A person who is convicted of or pleads guilty to murder must be punished . . . by a ***mandatory minimum term of imprisonment for thirty years***. . . . No person sentenced to a mandatory minimum term of imprisonment for thirty years 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); see also Conviction Inquiry for Murder.

There is no ambiguity in Appellant's sentencing sheet, he plead guilty to murder in 1998. See Sentencing Sheet for Murder. The offense occurred on April 17, 1997. See Conviction Inquires for Murder, Firearms Provision, and Criminal Conspiracy. The 1996 sentencing statute for murder is the controlling authority for Appellant's sentence, and the statute mandates a minimum thirty-year, day-for-day, sentence. See S.C. Code Ann. §16-3-20(A) (1996). Further, per the statute, work, education, and good conduct credits cannot be used to reduce the mandatory minimum term of incarceration. Id. Therefore, Respondent correctly determined that Appellant must serve a hundred percent of the thirty-year sentence for Appellant's murder conviction.

To further show that murder is a mandatory, day-for-day sentence, the framework of the South Carolina Code does not allow convictions for murder to be reduced to eighty-five percent

sentences. Consistent with the sentencing statute, the statute outlining that “no parole” offenders must serve eighty-five percent of a sentence before being eligible for early release, discharge, and community supervision, also, specifically excludes convictions for murder. S.C. Code. Ann § 24-13-150 (A) (1996) (“... Nothing in this section may be construed to allow a prisoner convicted of murder . . . to be eligible for work release, early release, discharge, or community supervision.”). Likewise, the statutes dealing with work, education, and good conduct credits, also, specifically exclude credits to inmates sentenced pursuant to a minimum term of incarceration for murder. See S.C. Code Ann. § 24-13-210 (B) (1996) (discussing good conduct credits for “no parole” offenders the Code states “. . . [h]owever, 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) (discussing earned work and education credits for “no parole” offenders the Code states, “[h]owever, no prisoner serving a sentence for . . . a mandatory minimum term of imprisonment for thirty years pursuant to Section 16-3-20 is entitled to credits under this provision. . . .”). These earned credits, *i.e.*, the work, education, and good conduct credits, are the mechanisms that allow “no parole” offenders to reduce their sentence down to eighty-five percent. Respondent does not have the Authority to release Appellant at eighty-five percent or award him sentence related credits to reduce his murder sentence. Respondent must follow the law.

Respondent correctly calculated Appellant’s sentence and projected maxout date. See Maxout Date Calculation Worksheet. Appellant was arrested and in custody since on April 24, 1997. See Laurens County Detention Center Jail Time Report. Generally, an offender is entitled to credit for time served in a jail prior to sentencing. See S.C. Code Ann. § 24-13-40. Therefore, Appellant’s sentence start date is April 24, 1997. See Maxout Date Calculation Worksheet. Because murder

carries a day-for-day mandatory thirty-year minimum term of incarceration, Appellant must serve thirty-years day-for-day. Thirty-years from April 24, 1997, is April 17, 2027.¹ Therefore, Respondent correctly calculated Appellant's sentence and projected maxout date as April 17, 2027. See Maxout Date Calculation Worksheet.

Appellant cites to portions of his sentencing transcript. However, Appellant's sentencing transcript was not part of the record below and therefore the ALC properly did not consider the transcript. See Chief Administrative Law Court Judge Anderson's Order dated August 28, 2022, at Footnote 1. Further, Appellant only provided the cover page, and pages five, forty-five, and forty-six, and failed to provide the entire guilty plea transcript. See Attachments to Appellant's ALC Brief.

Appellant relies on Hill v. U.S. ex rel Wampler, 298 U.S. 460, 56 S.Ct. 760 (1936). That case is distinguishable for several reasons. First, in Hill, it was a customary practice for the clerk of court to add the term to sentences that a defendant shall stand committed until fines are paid. Hill, 298 U.S. 460, 462, 56 S.Ct. 760, 761; see also U.S. v. Wampler, 10 F.Supp. 609, 611 (D. Md. 1935). Whereas here, the Appellant was unambiguously sentenced, by the sentencing judge, to thirty-years incarceration. See Sentence Sheet for Murder. Even more, if Appellant's transcript is considered, the sentencing judge stated at the guilty plea, "I Do Sentence You to Thirty Years For the Murder..." See Attachment to Appellant's ALC Brief Transcript pg. 46 ln. 5. Secondly, in Hill, the term that was added to the Appellant's sentence was a term that was within the discretion of the Court to add. See generally Hill, 298 U.S. 460, 56 S.Ct. 760. Here, however, there is a legislative mandate, that murder convictions are day-for-day sentences, the Code does not allow murder convictions to be

¹ There are 7 leap years from April 1997 to April 2027, which is why Appellant's maxout date is April 17, 2027, instead of April 24, 2027.

eighty-five percent sentences, and there is no statutory mechanism that would allow deviation below the thirty-year statutory minimum. See S.C. Code Ann. §16-3-20(A) (1996).

To the extent Appellant argues that Respondent “changed” Appellant’s sentence, Appellant is mistaken. See Appellant’s Initial Brief p. 4. Appellant was unambiguously sentenced to thirty-years incarceration which his sentence reflects. See Sentencing Sheet for Murder and see also Attachment to Appellant’s ALC Brief Transcript pg. 46 ln. 5. Appellant has been at the Department of Corrections since May 11, 1998, Appellant should not have waited until 2022, to raise the current issue. See Laurens County Detention Center Jail Time Report.

The Administrative Law Court correctly determined that Appellant has not carried his burden to demonstrate SCDC improperly calculated his sentence. See Chief Administrative Law Court Judge Anderson’s Order dated August 28, 2022. “[T]he Department is confined to an unambiguous sentencing sheet...” Tant, 408 S.C. at 347, 759 S.E.2d at 404. Appellant’s sentence sheet for murder unambiguously states Appellant was sentenced to thirty-years imprisonment. See Sentencing Sheet for Murder. Appellant’s murder conviction is a mandatory, day-for-day, thirty-year sentence. Therefore, Respondent respectfully requests that the order of the Administrative Law Judge be upheld.

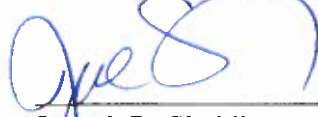
CONCLUSION

For the foregoing reasons, the Court should affirm the Administrative Law Court’s decision below.

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Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**



Joseph R. Shakibanasab, SC Bar No. 102825
Staff Attorney
Office of General Counsel
S.C. Department of Corrections
Post Office Box 21787
Columbia, South Carolina 29221
Phone: (803) 896-1278

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ATTORNEY FOR RESPONDENT

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

v.

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

CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that on today's date he mailed a copy of the **Initial Brief of Respondent and Designation of Matter to be Included in the Record on Appeal** to Appellant, addressed as follows: William Cathcart, #249565, Dorm-Room-Bunk: M1B-0019-A, MacDougall Correctional Institution, 1516 Old Gilliard Road, Ridgeville, SC 29472.



Joseph R. Shakibanasab, SC Bar No. 102825
Staff Attorney
Office of General Counsel
S.C. Department of Corrections
Post Office Box 21787
Columbia, South Carolina 29221
Phone: (803) 896-1278

November 3, 2022

Counsel for Respondent



SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS
Safety, Service, and Stewardship

HENRY McMASTER, Governor
BRYAN P. STIRLING, Director

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SC Court of Appeals

OFFICE OF GENERAL COUNSEL

November 3, 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 **Initial Brief of Respondent** and **Respondent's Designation of Matter to Be Included in the Record on Appeal** 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.