

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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Appeal from the Administrative Law Court  
Shirley C. Robinson, Administrative Law Judge

Opinion No. 2022-UP-276 (S.C. Ct. App. filed 6/29/22)  
Appellate Case No. 2022-001517

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ISIAH JAMES,

PETITIONER,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

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**RETURN TO PETITION FOR WRIT OF CERTIORARI**

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**SOUTH CAROLINA DEPARTMENT  
OF CORRECTIONS**

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**Feb 02 2023**

S.C. SUPREME COURT

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**ISSUE PRESENTED**

**THIS COURT SHOULD DENY THE PETITION FOR A WRIT OF CERTIORARI WHERE PETITIONER'S SENTENCES WERE PROPERLY CALCULATED USING A 360-DAY YEAR, SINCE THIS WAS THE CALCULATION THAT APPLIED TO PETITIONER'S CONVICTIONS FROM 1979.**

## STATEMENT OF THE CASE

This matter comes before the Court pursuant to the appeal of Isiah James, Jr., a former inmate of the South Carolina Department of Corrections (“SCDC”).<sup>1</sup> Petitioner submitted a Step One Grievance on February 21, 2017, arguing that his release date had been improperly calculated. Following the denial of his Step One, Petitioner submitted a Step Two Grievance on April 10, 2017, which was denied on May 15, 2017. Petitioner submitted an appeal to the Administrative Law Court (“ALC”) on November 21, 2017. On December 29, 2017, Administrative Law Judge Shirley C. Robinson issued an Order of Dismissal dismissing the appeal on procedural grounds. Subsequently, on January 12, 2018, Judge Robinson issued a second Order dismissing the appeal on different procedural grounds; specifically, that Petitioner was raising issues that were already decided in a previous appeal which resulted in an Order of Remand issued June 15, 2017.

Petitioner filed a Notice of Appeal in the Court of Appeals dated January 7, 2018, along with a Motion to Proceed in Forma Pauperis. The Motion to Proceed in Forma Pauperis was denied on February 2, 2018. The appeal was dismissed on March 27, 2018, after Petitioner failed to pay the appropriate filing fee. After his Motion to Reinstate was denied, Petitioner filed a Petition for a Writ of Certiorari and Motion to Proceed in Forma Pauperis in the South Carolina Supreme Court. On May 13, 2019, the Supreme Court granted Petitioner’s Motion to Proceed in Forma Pauperis and remanded the case to the Court of Appeals. Respondent filed a Motion to Remand to the ALC on July 1, 2019. This motion was denied

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<sup>1</sup> Petitioner was released on parole in December of 2017, and his parole was transferred to the state of Georgia, where Petitioner is currently residing. However, issues regarding his sentence calculation are arguably not moot because they could affect the end date of his parole and because these concerns would be reactivated if he were to violate the terms of his parole and return to the Department of Corrections.

by Order dated August 30, 2019. Following briefing, on March 24, 2021, the Court of Appeals issued an order remanding the matter back to the ALC to address the merits of the appeal. On August 23, 2021, ALC Judge Shirley C. Robinson issued an order affirming the Department's determination on the merits. On September 12, 2021, Petitioner filed a Notice of Appeal in the Court of Appeals. On June 29, 2022, the Court of Appeals issued an opinion affirming the ALC's order. After Petitioner's Petition for Rehearing was denied on September 28, 2022, he filed a Petition for a Writ of Certiorari in this Court.

### **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 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.

### **ARGUMENT**

**THIS COURT SHOULD DENY THE PETITION FOR A WRIT OF CERTIORARI WHERE PETITIONER'S SENTENCES WERE PROPERLY CALCULATED USING A 360-DAY YEAR, SINCE THIS WAS THE CALCULATION THAT APPLIED TO PETITIONER'S CONVICTIONS FROM 1979.**

Petitioner asserts that his sentences should have been calculated using a 365-day year rather than a 360-day year. Because the Department has properly calculated Petitioner's sentence using a 360-day year, the Petition for a Writ of Certiorari should be denied.

On June 18, 1979, Petitioner was sentenced to thirty years on two convictions for voluntary manslaughter, consecutive to one another. (ROA. p. 2). Petitioner was also sentenced to twenty-five years for armed robbery, consecutive to the voluntary manslaughter sentences. (ROA. p. 4). At the time of Petitioner's sentencing, the Department calculated all sentences using a 360-day year. See SCDC Policy OP-21.09, "Inmate Records Plan," Section 12.20 through 12.35, *available at* <https://www.doc.sc.gov/policy/policy.html>. Years later, in 1995, the South Carolina Legislature amended the South Carolina Code of Laws to add section 24-13-175, which provided that "[n]otwithstanding any other provision of law, sentences imposed and time served must be computed based upon a three hundred and sixty-five day year." S.C. Code Ann. § 24-13-175. This new law took effect on January 1, 1996 and applied prospectively to crimes committed on or after the date the law took effect, with some

exceptions not relevant here. See 1995 South Carolina Laws Act 83 (H.B. 3096) (“SECTION 62. This act takes effect January 1, 1996, and applies prospectively to all crimes committed on or after that date except as follows: (1) Section 9 takes effect upon approval of the Governor and applies to crimes committed on or after the effective date of that section. (2) Section 25 takes effect upon approval of the Governor and applies to all executions administered on and after the effective date of this section, regardless of the date the sentence was imposed. (3) Sections 56, 59, 60, and 61 take effect upon approval of the Governor.”). Section 4 was the part of the bill that added S.C. Code 24-13-175. Id.

Since none of the exceptions to prospective application are implicated here, the Department properly calculated Petitioner’s sentences using a 360-day year, and Petitioner’s argument to the contrary is without merit.<sup>2</sup>

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<sup>2</sup> Petitioner’s belief that he would have served less time in custody had his sentences been calculated using a 365-day year is mistaken, because under the 360-day year, he only “owed” 360 days per year to SCDC. Therefore, contrary to his assertions, he did not “lose” five days for every year he was in custody. Additionally, the good time and work credit statutes were the same (in relevant part) for pre and post 1996 inmates, so he also did not “lose” any good time or work credits by virtue of being calculated using a 360-day year. See S.C. Code 24-13-210 & 230.

**CONCLUSION**

Petitioner has failed to demonstrate that the Department incorrectly calculated his sentence. Therefore, Respondent respectfully requests this Court deny the Petition for a Writ of Certiorari.

Respectfully submitted,

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