

RECEIVED

AUG 30 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Ronald Ceo, #258464,

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

Docket No. 23-ALJ-04-0003-AP
Grievance No. MACD 156-22

ORDER

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to the Notice of Appeal filed by Ronald Ceo (Appellant), who is incarcerated with the South Carolina Department of Corrections (SCDC or Department).

Appellant appeals the decision of SCDC denying his Step 2 Grievance requesting to submit his sentencing transcript and sentencing sheet to prove he was not sentenced to complete the community service program (CSP). Appellant appeals on the grounds he was denied due process. Appellant also moves to supplement the record with his sentencing transcript and sentencing sheet.

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). When reviewing SCDC's decisions in inmate grievance matters, the Court sits in an appellate capacity. Id. at 377, 527 S.E.2d at 754. Consequently, the review in these cases is limited to the record presented.

[T]he ALC has subject matter jurisdiction over inmate grievance appeals that have been properly filed. . . . However, the ALC is not required to hold a hearing in every matter and may summarily dismiss an inmate's grievance if it does not implicate a state-created liberty or property interest sufficient to trigger procedural due process guarantees. The ALC may not grant an inmate relief from an erroneous administrative decision by SCDC, however, unless the inmate demonstrates the error deprived him of due process.

Allen v. S.C. Dep't of Corr., 439 S.C. 164, 170-71, 886 S.E.2d 671, 674 (2023) (internal citations omitted). "The requirements of procedural due process apply only to the deprivation of interests encompassed by the Fourteenth Amendment's protection of liberty and property." Al-Shabazz, 338 S.C. at 369, 527 S.E.2d at 750.



An Administrative Law Judge may not substitute their judgment for that of an agency "as to the weight of the evidence on questions of fact." S.C. Code Ann. § 1-23-380(5) (Supp. 2022). Furthermore, an Administrative Law Judge may not reverse or modify an agency's decision unless substantial rights of the Appellant have been prejudiced because the decision is clearly erroneous in view of the substantial evidence on the whole record, arbitrary, or affected by an error of law. See Id.; See also Marietta Garage, Inc. v. S.C. Dep't. of Pub. Safety, 337 S.C. 133, 136-37, 522 S.E.2d 605, 607 (Ct. App. 1999).

DISCUSSION

On September 9, 2022, Appellant filed a Step One Grievance requesting to have completion of the CSP removed from his sentence. Appellant alleged neither his sentencing sheet nor transcript mentioned CSP. Appellant argued requiring him to complete CSP violated his right to due process. The Department denied Appellant's Step One Grievance on October 3, 2022. On October 4, 2022, Appellant filed a Step Two Grievance alleging his right to due process was violated by requiring him to complete CSP. The Department denied Appellant's Step Two Grievance on November 30, 2022. Appellant filed his Notice of Appeal with the ALC on January 4, 2023. On March 7, 2023, Appellant filed a Motion to Supplement the Record with his sentencing sheet and sentencing transcript. On March 28, 2023, an Order Granting Appellant's Motion to Include Documents into the Record was issued. On April 5, 2023, the Department filed its Record on Appeal including the supplemented documents. On May 19, 2023, the Department filed its Respondent's Brief. A state-created liberty interest is involved because Appellant alleges his sentence was erroneously calculated. Therefore, it is necessary to determine if Appellant received the process he was due.

Appellant plead guilty to Homicide by Child Abuse in violation of S.C. Code Ann. § 16-3-85(A)(1) (2015) and was sentenced to thirty-five years imprisonment. "[A]ny sentence for a 'no parole offense' as defined in Section 24-13-100 must include any term of incarceration and completion of a community supervision program operated by the Department of Probation, Parole, and Pardon Services." S.C. Code Ann. § 24-21-560(A) (2007). Homicide by Child Abuse is a no parole offense. See S.C. Code Ann. § 24-13-100 (2007) (identifying "no parole offense[s]" as those offenses that are exempt from classification as enumerated in S.C. Code Ann. § 16-1-10(D) (Supp. 2022) and is punishable by incarceration for twenty or more years); see also § 16-1-10(D) (listing causing the death of a child pursuant to section 16-3-85(C)(1) as

exempt from classification). Section 16-3-85(C)(1) states “[h]omicide by child abuse is a felony and a person who is convicted of or pleads guilty to homicide by child abuse: . . . under subsection (A)(1) may be imprisoned for life but not less than a term of twenty years” Therefore, Appellant’s conviction was for a no parole offense and Appellant is required to complete CSP upon completion of his prison sentence.

As a matter of law, Appellant must complete CSP. Therefore, Appellant’s sentence was not erroneously calculated. Appellant has failed to demonstrate error depriving him of due process and the Court may not grant Appellant relief from the Department’s decision. Where an inmate has received the minimal due process due in an inmate grievance matter, no further inquiry is required and the decision of the Department should be affirmed unless the decision is arbitrary, capricious, or based on personal bias or prejudice, none of which is evident in the record before the Court. In the case at hand, the Court will not substitute its judgment for that of the agency because there is adequate evidence to support the decision, which is clearly not arbitrary, capricious, or affected by any personal bias or prejudice.

Therefore, for the foregoing reasons, the Department’s decision is **AFFIRMED**.

AND IT IS SO ORDERED.



Deborah Brooks Durden, Judge
S.C. Administrative Law Court

August 15, 2023
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Robin E. Coleman, 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).

Robin Coleman

Robin E. Coleman
Judicial Aide to Judge Deborah Brooks Durden

August 15, 2023
Columbia, South Carolina

