STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Willie Young, #285487, Appellant, v. South Carolina Department of Corrections, Respondent.	)	Docket No. 23-ALJ-04-0133-AP [Grievance No.: ECI 29-33] **ORDER**

STATEMENT OF THE CASE

This matter is before the South Carolina Administrative Law Court ("ALC" or "Court") pursuant to a Notice of Appeal filed on April 7, 2023, by Willie Young ("Appellant"), an inmate incarcerated with the South Carolina Department of Corrections ("SCDC" or "Department"). Appellant appeals the denial of his Step 2 Grievance wherein he alleged that the Department had failed to apply the proper amount of jailtime credit towards his sentence. The case was assigned on April 20, 2023.[1]

BACKGROUND AND PROCEDURAL HISTORY

On September 12, 2001, Appellant was arrested and imprisoned in Orangeburg County, South Carolina on charges of armed robbery. Appellant was tried in the court of General Sessions and subsequently convicted on June 28, 2002. Appellant was sentenced to thirty (30) years of imprisonment. Prior to his imprisonment in Orangeburg County, Appellant was jailed in Winnebago County, Illinois, where he was arrested for criminal trespass to a vehicle. The Record indicates that Appellant was arrested in Illinois on June 18, 2001.[2]

The Department calculated Appellant's sentence start date as September 12, 2001, the date of his imprisonment in Orangeburg County, to credit Appellant for jailtime served while awaiting sentencing. Armed robbery is a "no parole" offense pursuant to subsection 24-13-100 of

[1] The Department filed the Record on Appeal on June 26, 2023. Appellant filed his brief on July 21, 2023, and the Department thereafter filed its brief on August 8, 2023.

[2] In his Brief, Appellant asserts that he was also arrested on June 18, 2001 on the South Carolina warrant and that he executed an extradition waiver on June 19, 2001.The Record does not reflect that Appellant was arrested on the South Carolina charge on June 18, 2001.

the South Carolina Code (2007). Under this classification, offenders are required to serve eighty-five (85) percent of the actual term of the sentence imposed before becoming eligible for early release, discharge, or community supervision. Because of this classification, the Department calculated Appellant' maxout date as March 7, 2027.[3]

On January 5, 2023, Appellant filed a grievance in which he sought to obtain credit in South Carolina for time served while imprisoned in Illinois.[4] The Department denied Appellant's grievance request on the grounds that he was ineligible for jailtime credit for time served in Illinois for a different offense. This appeal followed.

ISSUE

Did the Department err in its sentence calculation by failing to give Appellant proper credit for time served while he was imprisoned in Illinois

STANDARD OF REVIEW

The ALC's jurisdiction to hear this matter is derived entirely 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 the Department's decisions in inmate matters, the ALC sits in appellate capacity. *Id.* at 377, 527 S.E.2d at 754; see also S.C. Code Ann. § 1-23-600(E) (2005 & Supp. 2023) (directing administrative law judges to conduct appellate review in the same manner prescribed in § 1-23-380). Pursuant to this standard of review:

> The court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:
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> (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) (2005 & Supp. 2023).

"Substantial evidence' is not a mere scintilla of evidence nor the evidence viewed blindly

[3] 85% of thirty years is twenty-five years and six months.
[4] In his grievance, Appellant alleges that he is due 85 days of credit for time served while in Illinois.

from one side of the case, but is evidence which, considering the Record as a whole, would allow reasonable minds to reach the conclusion that the administrative agency reached or must have reached in order to justify its action." *Lark v. Bi-Lo*, 276 S.C. 130, 135, 276 S.E.2d 304, 306 (1981). The possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's finding from being supported by substantial evidence. *Grant v. S.C. Coastal Council*, 319 S.C. 348, 353, 461 S.E.2d 388, 391 (1995).

Nevertheless, a reviewing court is not so constrained when deciding questions of law. *See Gibson v. Ameris Bank*, 420 S.C. 536, 542, 804 S.E.2d 276, 279 (Ct. App. 2017) ("[Q]uestions of law may be decided with no particular deference to the trial court ....") (quoting *U.S. Bank Tr. Nat'l Ass'n v. Bell*, 385 S.C. 364, 373, 684 S.E.2d 199, 204 (Ct. App. 2009)). This Court will not hesitate to correct a properly raised error of law committed by the lower tribunal.

DISCUSSION

Here, Appellant alleges that the Department erred by not crediting him eighty-five (85) days of time served while incarcerated in Illinois on a separate offense.

Pursuant to section 24-13-40 of the South Carolina Code (2007 & Supp. 2023), inmates generally may receive credit for time served while incarcerated prior to trial or sentencing:

> The computation of the time served by prisoners under sentences imposed by the courts of this State must be calculated from the date of the imposition of the sentence. However, when (a) a prisoner shall have given notice of intention to appeal, (b) the commencement of the service of the sentence follows the revocation of probation, or (c) the court shall have designated a specific time for the commencement of the service of the sentence, the computation of the time served must be calculated from the date of the commencement of the service of the sentence. In every case in computing the time served by a prisoner, full credit against the sentence must be given for time served prior to trial and sentencing, and may be given for any time spent under monitored house arrest. Provided, however, that credit for time served prior to trial and sentencing shall not be given: (1) when the prisoner at the time he was imprisoned prior to trial was an escapee from another penal institution; (2) when the prisoner is serving a sentence for one offense and is awaiting trial and sentence for a second offense in which case he shall not receive credit for time served prior to trial in a reduction of his sentence for the second offense; (3) when the prisoner commits a subsequent crime while out on bond; or (4) has bond revoked on any charge prior to trial or plea.

Id. (emphasis added).

As emphasized above, this provision entitles an inmate credit for time served prior to trial and sentencing, unless at the time the inmate was imprisoned prior to trial, the inmate was

"serving a sentence for one offense and is awaiting trial and sentence for a second offense in which case he shall not receive credit for time served prior to trial." Thus, the prisoner will receive credit for time served unless the prisoner was already serving a sentence on a different offense. The term "second offense" as used in this provision is interpreted as meaning a "different offense". *State v. Boggs*, 388 S.C. 314, 316, 696 S.E.2d 597, 598 (Ct. App. 2010); *see also Hayes v. State*, 413 S.C. 553, 560, 777 S.E.2d 6, 10 (Ct. App. 2015) (interpreting section 24-13-40 to entitle a prisoner to credit for time served "unless ... the prisoner was already serving a sentence on a different offense" (emphasis added)); *State v. Brown*, 426 S.C. 63, 67, 824 S.E.2d 476, 479 (Ct. App. 2019) (stating that "[Section 24-13-40] demands prisoners receive credit for all time served unless ... 'the prisoner was already serving a sentence on a different offense.'" (emphasis added) (*quoting Hayes*, 413 S.C. at 560, 777 S.E.2d at 10)).

Here, substantial evidence supports the Department's determination that Appellant was not entitled to additional credit for time served because the jailtime credit to which Appellant seeks entitlement resulted from an incarceration for a different offense. The Record indicates that Appellant was incarcerated in Winnepago, Illinois, on charges unrelated to his offenses in South Carolina. Accordingly, Appellant is not entitled to a credit for time served during this period as this time served was based on other charges. *See* S.C. Code Ann. § 24-13-40; *see also State v. Boggs*, 388 S.C. 314, 316, 696 S.E.2d 597, 598 (Ct. App. 2010) (interpreting the term "second offense" under § 24-13-40 as meaning a "different offense").

Because Appellant is serving a thirty-year sentence for armed robbery, he must serve eighty-five (85) percent of his sentence. *See* S.C. Code Ann. § 24-13-100 (2007 & Supp. 2023) (requiring the Department to calculate the maxout date of the offender's sentence without application of any sentence-reduction credits earned during incarceration). Eighty-five percent of Appellant's sentence equates to twenty-five years and six months. The Record indicates that the Department calculated Appellant's projected maxout date as on or before March 7, 2027, which constitutes twenty-five years and six months from September 12, 2001. The Department additionally calculated Appellant's sentence start date as September 12, 2001, to reflect credit for jailtime Appellant served while in the Orangeburg County Department of Corrections prior to his sentencing in that County.

Appellant has not shown, and the Record does not indicate, that Appellant is entitled to a change in sentence computation based on time served while incarcerated in Illinois. Appellant

has not provided any evidence indicating that the Department has incorrectly calculated his sentence. *See Porter v. S.C. Pub. Serv. Comm'n,* 333 S.C. 12, 20, 507 S.E.2d 328, 332 (1998) ("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"). Appellant has been afforded all process he is due, and no other state-created liberty or property interest is implicated in this case. *Howard,* 399 S.C. 618, 630, 733 S.E.2d 211, 218 (2012).

ORDER

Accordingly, the final decision of the Department denying Appellant's Step 2 grievance is **AFFIRMED** and this matter is **DISMISSED WITH PREJUDICE.**

AND IT IS SO ORDERED.

June 28, 2024
Columbia, S.C.

Milton G. Kimpson, Judge
South Carolina Administrative Law Court