

TO: ADMINISTRATIVE LAW COURT

IN RE: ORDERING TRANSCRIPT; CASE # 23-ALJ-04-0133
-AP: Rule 207(b)(1) SCACB

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AUG 19 2024

SC Court of Appeals

I Willie Yang am the appellant in the above case. Request for delivery for the full transcript in this matter. I received a letter from S.C. court of appeals July 26, 2024 to correct deficiencies within 10 days. Appellant attaches a financial print out verifying he cannot pay any fee. Thank YOU

DATE: 8/5/24

15/ Willie Yang

cc: S.C. Court of Appeal
SCDC

The S.C. Court of Appeal observed; It is without doubt that the statutory definition for the term "no-parole" offense in section 24-13-100, i.e., "a class A, B, or C felony....." simply describes the types of offenses for which the offender is not eligible for parole but further noted; It is unreasonable to characterize an offense for which the offender is eligible for parole as a no-parole offense pursuant to section 24-13-100, even if the maximum sentence for the offense places it within a classification encompassed by section 24-13-100. Bolin V South Carolina Dept. of Corrections 415 S.C. 276, 781 SE2d 914, 916-17 (Ct.App. 2016)

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TO: S.C. Court of Appeal

In RE: CASE: 2024-00181

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AUG 19 2024

SC Court of Appeals

I Willie Young On August 9, 2024 received notification (Attached) I have 10 days to correct a deficiency wherein I failed to provide an Updated proof of service in regards to the above mentioned matter. This deficiency has been corrected.

Date 8/10/24

/s/ Willie Young

Dear Appellant:

4/21/2021

Page 2

Below is information regarding your case which has been filed with the ALC. Please refer to the Rules of Procedure (enclosed) for the time frames on filing briefs and other matters.

Case number	Inmate number	Inmate first name	Inmate last name	Grievance No	Respondent	Filing date	Date Assigned	Judge last name
21C0118	285487	WILLIE	YOUNG	RCI 808-20	DOC	4/1/2021	4/22/2021	ANDERSON

You must file all original documents and correspondence regarding this case directly with the above-named Judge and serve a copy on the Dept. of General Counsel, S.C. Dept. of Corrections, PO Box 91787, Columbia, SC 29221.

FILED

APR 22 2021

SC ADMIN. LAW COURT



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

August 6, 2024

Willie Young, III, 285487
1057 Revolutionary Trail
Fairfax SC 29827

Re: Willie Young, #285487 v. SCDC
Appellate Case No. 2024-001181

Dear Mr. Young:

Upon reviewing your deficiency correction and account statement, which the Court construes as motion to proceed in forma pauperis, the following deficiency has been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter or this matter will be dismissed:

- A proof of service has not been provided. You must serve and file a proof of service substantially in the format shown by Form 7 in Appendix C to part II of the SCACR.

Very truly yours,

A handwritten signature in cursive script that reads "Catherine Harrison, deputy".

CLERK

cc: Christina Catoe Bigelow, Esquire

TO: S.C. Court of Appeals

In RE: 2024-001181 WILLIE YOUNG 285487

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AUG 06 2024

SC Court of Appeals
v SC Court of Appeals

I Willie Young received July 25, 2024 notice from this court which is attached that I had 10 days to 1) Attach order being challenged in this appeal and 2) submit the required filing fee. The appellant has attached the order to the notice of appeal thereby correcting this deficiency.

The appellant submits under SCACR 203 (d)(2)(iii) that a filing fee is not required for appeal by the state or its agencies. Appellant submits a copy of his account information since February 2024 to July 2024 that he is indigent and does not have the fee. Appellant requests the forwarding of this appeal.

Date July 27, 2024

151 Willie Young

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's 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:

- (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 Winnebago, 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

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
E.H. COOPER

BWIAZI

ACCOUNT STATEMENT DATE: 02/01/24 TO 07/01/24
ACCOUNT NO. 00285487
YOUNG, III, WILLIE -

CURR BAL AS OF 07/02/24: 10.24

TRANS. DATE	TRANS. TYPE	DEPOSIT	WITHDRAWAL	BALANCE
06/30/24	MONEY ORDER	10.00	0.00	10.24
06/14/24	CANTEEN PURC	0.00	9.20	0.24
02/14/24	POSTAGE REST	0.00	0.96	9.44

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

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JUL 18 2024

SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Milton G. Kimpson, Administrative Law Judge

CASE NO. 23-ALJ-04-0133-AP

South Carolina Department of
Correction Respondent

v.
Willie Young 285487 Appellant

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SC Court of Appeals

NOTICE OF APPEAL

Willie Young appeals the decision of the Honorable Milton G. Kimpson dated June 28, 2024, Appellant received copy of decision July 1, 2024

Willie Young 285487
1057 Revolutionary Trail
Fairfax S.C. 29827



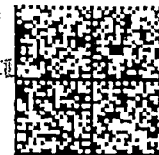
South Carolina Court of Appeals

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~~COLUMBIA SC 290~~

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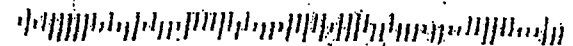
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BWAZI

WILLIE YOUNG, III, 285487
1057 REVOLUTIONARY TRAIL
FAIRFAX SC 29827

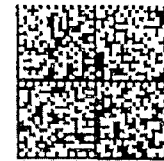
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Willie Young 285487
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S.C. Court of Appeals

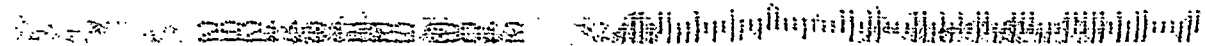
Box 11629

Columbia S.C. 29211

SCDC

AUG 26 2024

MAIL ROOM



Proof of Service

I Willie Young has served the above notice of appeal
On S.C. court of appeals P.ob. 11629, Columbia S.C. 29211;
SCDC P.ob. 21787 Columbia S.C. 29221; S.C. administrative
Law Court 1205 Pendleton st. Suite 224 Columbia S.C. 29201

Date: 7/10/24

/s/ Willie Young

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SC Court of Appeals

Proof of Service

I Williyoung have served the above on S.C. Court of
appeals Pob 11629 Columbia SC 29211: SCDC
Pob 21787 Columbia S.C. 29221: S.C. admin.
Law Court, 1205 Pendleton st. suite 224 Columbia
S.C. 29201

DATE 8/10/24

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SC Court of Appeals

En-Surge Legal Solutions, LLC

3986 Eastside Ct

Winston-Salem, NC 27127

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SC Court of Appeals

June 12, 2021

Attention Mr. Young,

Please find enclosed copies of the email content, according to the reference number forwarded to our office by your daughter, Ms. Sukaya Young.

The GTL correspondent, could not, within the timeline requested, allow a server-to-server process which would have allowed our normal format. Provided, if our services are needed in the future, they will be free of charge.

Thank you for your patience.

Best Regards,

Sharon Phillips

Director, Contract Services

Willie Young 285487
ACI 1057 Revolutionary Trail
Fairfax S.C. 29827

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