

RECORDED

DWB 2/13/23

375-27-2023

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

INMATE GRIEVANCE

STEP 2

Office Use Only

INMATE NAME: Willie Young

SCDC NUMBER: 285487 FEB 17 2023

INSTITUTION: EVANS Attitude (16)

HOUSING UNIT: Cherokee C 220

WORK ASSIGNMENT: Unit

Grievance No. FC7 0229-2

Code: General CUCC

Policy _____

Disc. Hear. _____

Class _____

PREA _____

Date Received: 2/7/23

IGC Initials: _____

Date Received: 3/6/23

IGA Initials: AC

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): SCDC classification submitted grievant was arrested 6/18/2001 waiting for extradition to orangeburg S.C., extradition on hold was placed on grievant 6/19/01. Grievant was also arrested for a misdemeanor offense (6/18/01) however grievant was not sentenced for that offense until July, 2012. 24-13-40 states i am due the 85 days because i didnot escape from a penal institution nor was i sentenced at the time of my arrest to or for any offense. SCDC is required as 24-13-40 became effective 6/7/13 to apply the days i was on extradition hold to reduce my sentence. The documentation is that which SCDC personnel can access my email.

Grievant Signature Willie Young Date 2/8/23

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

I have reviewed your concern. In your grievance you state you sent a staff request regarding 85 days credit you are due on an extradition waiver in Illinois (Winnebago County Jail) waiting for South Carolina to transfer you. You further state that your release date should be 3/7/25 which is the mandatory 85% service requirement for your 30-year sentence. You request that Classification contact Winnebago County Jail regarding those additional credits. Records indicate that you are currently receiving 289 days of jail credit from Orangeburg County. The Inmate Records Office contacted Winnebago County Jail and they advised that you were there serving time for other charges; therefore, you are not entitled to additional jail time credit.

Therefore, your grievance is denied.

You may appeal this decision under the Administrative Procedures Act to the Administrative Law Court. In order to appeal, you must fill out the attached Notice of Appeal Form and submit it as instructed on the form within 30 days of receipt.

Responsible Official Signature Greg Ireland Date 3/16/23

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

Grievant Signature _____

Date _____

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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

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

RECEIVED

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

✓
Willie Young 285487 Appellant

RECEIVED

AUG 06 2024

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

COUNTY OF Orangeburg
 STATE VS.
Willie Young III
 AKA:
 Race: B Sex: M Age:
 DOB: SS#:
 Address:
 DL# SID#:

IN THE COURT OF GENERAL SESSIONS
 INDICTMENT/CASE#:
2001-GS-38-2492
 A/W#: G731578
 Date of Offense: 5-9-01
 S.C. Code §: 16-11-330
 CDR Code #: 01139
 CASE RESTORED

SENTENCE
 PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Armed Robbery

in violation of § 16-11-330 of the S.C. Code of Laws, bearing CDR Code # 01139
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:
[Signature] Solicitor
 Defendant
 Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The Defendant is to be given credit for _____ days/months jail time.
 CONCURRENT or CONSECUTIVE to sentence on: _____

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered
 Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____
 set by SCDPPPS Exhibit 3

Recipient: _____
 *Fine:\$ _____
 §14-1-206 (Assessments 100%).....\$ _____
 §14-1-211(A)(1) (Surcharge).....\$ 100.00
 §14-1-211(A)(2) (Surcharge).....\$ _____
 §56-5-2995 (DUI Assessment).....\$ _____
 3% to County (if paid in installments)...\$ 300
 TOTAL.....\$ 1030

PTUP _____
 _____ days/hours Public Service Employment
 Obtain GED _____
 Attend Voc Rehab. or Job Corps _____
 May serve W/E beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol Testing _____
 Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund.
 Other: _____

[Signature]
 Clerk of Court/Deputy Clerk
 Court Reporter: [Signature]
 White - Clerk Green - Corrections

PRESIDING JUDGE [Signature]
 Judge Code: 011114
 Sentence Date: 6/28/02
 Pink - Defendant

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT
COUNTY OF WINNEBAGO

CC-17

PEOPLE OF THE STATE OF ILLINOIS

VS.

Willie Young

Case No.(s) 01 CRYSTAL

Date: 7/25/01

Grace A. Gasparini
Clerk of the Circuit Court
By [Signature] Deputy
Winnebago County, Ill.

ORDER

This case having been heard before this Court on this date, it is HEREBY ORDERED THAT:

- The defendant is remanded to the custody of the Sheriff.
- The defendant's bond is set at the amount of \$ _____
- The defendant's bond is reduced to the amount of \$ _____
 - Personal Recognizance
- The defendant's bond is increased to the amount of \$ _____
- The defendant's bond is revoked
- The defendant's bond motion is heard and denied
- The defendant having plead guilty or having been found guilty, the bond is revoked and defendant is remanded to the custody of the sheriff while awaiting sentencing.
- The defendant is released from custody on the charges listed in this Order due to:
 - time served
 - case dismissed
 - not guilty
 - plead to fines/costs
 - warrant satisfied

The defendant shall comply with the following conditions of bond, and shall sign releases of information disclosing results and compliance with testing and evaluation requirements below.

- That he/she shall
- Report to Pretrial Services / Probation Officer
 - Have a substance abuse evaluation
 - Submit to random urinalysis and/or blood test and/or breathalyser test at the discretion of the probation department.
 - Have a mental health evaluation
 - Obey a curfew as set by the Court
 - Have no contact with the following people / addresses:
 - Have no unlawful contact with the following people/addresses:
 - Participate in domestic violence/anger management counseling.
 - Undergo medical testing for sexually transmissible diseases pursuant to 730 ILCS 5/5-5-3(g) prior to release from jail. Results are to be forwarded to the Court. Expense of said testing to be taxed as costs.

The defendant, having plead guilty or been found guilty, is hereby sentenced to:

- The defendant is to be released to Probation.
- The defendant is being held on other charges.
- The following cases have been dismissed:
 - out of State hold / v.c.
 - WARRANT # 01-31578
 - Arrested 6-18-01
- Other: _____

- Probation (See Order)
- Court Supervision (See Order)
- Conditional Discharge (See Order)
- Perform _____ Public Service Hours at times and places designated by Probation
- Pay fines/costs and penalties in the amount of \$ 250
- Pay restitution of _____
- Other fees: \$ _____

\$115 per
chemi
Credit

The defendant is to serve the following periods of incarceration:

- Department of Corrections: Years _____ Months _____ Days _____ with credit for time served _____ and the sheriff shall hold defendant until transfer to Department of Corrections.
- Winnebago County Jail: Months _____ Days 150 with credit for time served 43 and the sheriff shall hold defendant in the County Jail until said sentence is served.
- Periodic Imprisonment: (See Order)
- Millimus stayed until: _____
- No day-for-day credit for time served shall be given defendant. (See 730 ILCS 130/3)

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The defendant's next court date(s) and time(s) are: _____ Courtroom: _____

DATED: 7-30-01

ENTERED: [Signature]

Judge of the 17th Judicial Circuit

(White - Original)

(Candy - Sheriff)

(Pink - Defendant)

(Gold - Pretrial Services)

24-13-10; Allen v State
339 S.C. 393

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Division of Classification ^{INMATE} RECORDS OFFICE

TO ALICE EPPS.

Request for Jail Time

APR 17 10 41 AM '03

Orangeburg

ARRESTED APR: June 18, 2001 ROCKFORD, IL. AKA: IPH 1:05 instruction to SC

Inmate Young, Willie AKA _____ SCDC # 285487
Soc. Sec. # _____ DOB _____ Race _____ Sex _____

The inmate listed above indicates that he/she was held in your facility as a pre-trial detainee for:

ARMED ROBBERY

(Offenses)

He/She was committed to the Department of Corrections on July 09 19 2002.
If he/she has served time in your facility, would you please fill in the information requested below.

Completed by: D. Randa Libert 4-15-03
(Caseworker) (Institution) (Date)

() Approved:

(X) Disapproved: I'm was serving time for other charges 5-14-03
Reason for Disapproval Date

Inmate: will not receive jail credit was in the custody
(Inmate's Name) A EPPS
6-1989

of this agency at the following time(s) for the following offense(s):

OFFENSE	WARRANT NO.	DATE OF ARREST	DATE OF RELEASE	REASON FOR RELEASE
<u>Criminal Trespass Vehicle</u>	<u>to serving time for</u>	<u>17</u>	<u>0'burg</u>	
<u>Serving</u>	<u>to</u>	<u>17</u>	<u>County</u>	
<u>Jacobson, CO @ the R Winnebago</u>	<u>filed</u>	<u>17</u>	<u>to</u>	
<u>County Jail Rockford, Ill</u>	<u>extrajurisdictional</u>	<u>17</u>	<u>to</u>	

PLEASE RETURN TO: Offender Records, 4444 Broad River Road, Columbia, SC 29210

WHITE: Caseworker
CANARY: Offender Records
PINK: Suspense

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ARREST WARRANT

G-731577

STATE OF SOUTH CAROLINA

[X] County/ [] Municipality of ORANGEBURG COUNTY

THE STATE 2001011645 against

WILLIE YOUNG

Address: 894 CRESTLINE DRIVE CORDOVA SC 29039

Phone: SS Sex: M Race: W Height: 6 2 Weight: 220 DL State: DL #: DOB: Agency ORI #: Prosecuting Agency: SHERIFF'S DEPARTMENT Prosecuting Officer: DET. K. KINSEY Offense: POINTING/PRESENTING A FIREARM Offense Code: 122 Code/Ordinance Sec. 16-23-0410

This warrant is to be dealt with according to law. CERTIFIED FOR SERVICE in - the County/ Municipality of . The accused is to be and brought before me to be dealt with according to law. (L.S.) Signature of Judge Date:

RETURN

A copy of this arrest warrant was delivered to defendant WILLIE YOUNG on 9-12-01

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO: ORANGEBURG MAGISTRATES 1 DAVIS P.O. BOX 9000 ORANGEBURG SC 29116

STATE OF SOUTH CAROLINA [X] County/ [] Municipality of ORANGEBURG COUNTY

AFFIDAVIT

Form Approved by S.C. Attorney General July 26, 1990 SCCA 518

Personally appeared before me the affiant DET. KENNY KINSEY who being duly sworn deposes and says that defendant WILLIE YOUNG did, within this county and state on 5/09/01 violate the criminal laws of the State of South Carolina (or ordinance of [] County/ [] Municipality of) in the following particulars:

DESCRIPTION OF OFFENSE: POINTING/PRESENTING A FIREARM

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts: BASED ON AN INVESTIGATION BY THE ORANGEBURG COUNTY SHERIFF'S OFFICE THAT ON MAY 9, 2001, AT APPROXIMATELY 1:00 P.M., THE DEFENDANT, WILLIE YOUNG, DID VIOLATE SECTION 16-23-410 OF THE SOUTH CAROLINA CODE OF LAWS "POINTING AND PRESENTING A FIREARM" IN THAT THE DEFENDANT DID POINT A SILVER HANDGUN AT THE HEAD OF DURING THE COMMISSION OF AN ARMED ROBBERY. THIS INCIDENT TOOK PLACE AT 2424 OLD EDISTO DRIVE, IN THE COUNTY OF ORANGEBURG, STATE OF SOUTH CAROLINA.

Sworn to and subscribed before me on 5/11/01 Signature of Issuing Judge (L.S.)

Signature of Affiant: [Signature] Affiant's Address: ORANGEBURG SC 29116 Affiant's Telephone: []

01 SEP 28 2:55 FILED FOR RECORD ORANGEBURG COUNTY SHERIFF'S OFFICE

STATE OF SOUTH CAROLINA [X] County/ [] Municipality of ORANGEBURG COUNTY

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on 5/09/01 defendant WILLIE YOUNG did violate the criminal laws of the State of South Carolina (or ordinance of [] County/ [] Municipality of) as set forth below:

DESCRIPTION OF OFFENSE: POINTING/PRESENTING A FIREARM

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Signature of Issuing Judge (L.S.) Judge's Address: P.O. BOX 9000 ORANGEBURG SC 29116 Judge's Telephone: Issuing Court: [X] Magistrate [] Municipal [] Circuit

CERTIFICATE OF SERVICE

I Willie Young certify the above designation contains no matter which is irrelevant to this appeal.

DATE 8/22/24

/s/ Willie Young

Willie Young 285487
ACI 1057 Revolutionary
Trail
Fairfax S.C. 29027



S.C. Court of Appeal
Pob 11629
Columbia S.C. 29211

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SEP 03 2024
SC Court of Appeals

