

**RECEIVED**

**Oct 24 2024**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Milton G. Kimpson

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ALC Case No. 23-ALJ-04-0133-AP  
Appellate Case No. 2024-001181

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WILLIE YOUNG, # 285487,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

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**MOTION TO DISMISS APPEAL AS MOOT**


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Appellant has filed an appeal from a decision of the Administrative Law Court (ALC) which affirmed the Department's calculation of Appellant's jail time credit. Below, Appellant asserted he was entitled to credit for time he spent in custody in Illinois – a total of 85 days. (See Exhibit A - ALC Order dated 6/28/24, page 2, footnote 4). After the decision of the ALC was issued, and after Appellant submitted his Initial Brief to this Court, additional paperwork was sent to the Department's Inmate Records Office from Illinois showing an arrest date of 6/18/2001, and based upon this paperwork, an additional 85 days of jail time credit was applied on September 16, 2024. (See Exhibit B – Documents from Illinois; see Exhibit C – Date Screen

reflecting a recalculation date of September 16, 2024; see also Exhibit D – Conviction Inquiry Screen reflecting a new sentence start date of 6/18/2001). Appellant’s maxout date changed accordingly and went from March 7, 2027 to December 12, 2026.<sup>1</sup> (See Exhibit C, reflecting the change from 3/7/27 to 12/12/26). Therefore, since Appellant has now received what he asked for in his appeal below, this appeal is moot. Respondent therefore respectfully requests that the appeal be dismissed.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT  
OF CORRECTIONS**

BY:   
**CHRISTINA BIGELOW**  
Deputy General Counsel  
Office of General Counsel  
S.C. Department of Corrections  
Post Office Box 21787  
Columbia, South Carolina 29221  
(803) 896-8508

**ATTORNEY FOR RESPONDENT**

October 24, 2024

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<sup>1</sup> Pursuant to the recurring Budget Proviso 65.13, SCDC releases inmates on the first of the month, so with a maxout date of December 12, 2026, Appellant would be released on December 1, 2026.

AUG 06 2024

SC Court of Appeals

**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.<sup>1</sup>

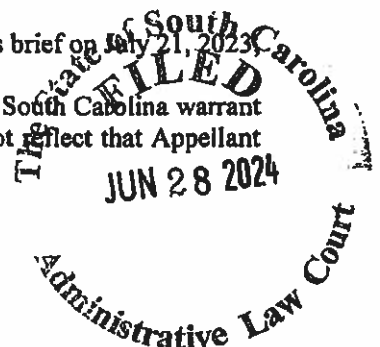
**BACKGROUND AND PROCEDURAL HISTORY**

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.<sup>2</sup>

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

<sup>1</sup> 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.

<sup>2</sup> 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's maxout date as March 7, 2027.<sup>3</sup>

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.<sup>4</sup> 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

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<sup>3</sup> 85% of thirty years is twenty-five years and six months.

<sup>4</sup> 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

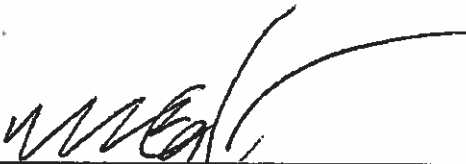
has not provided any evidence indicating that the Department has incorrectly calculated his sentence. *See Porter v. S.C. Pub. Serv. Comm'n*, 333 S.C. 12, 20, 507 S.E.2d 328, 332 (1998) (“the party challenging [an administrative agency’s] order bears the burden of convincingly proving that the decision 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

285487

STATE OF ILLINOIS  
IN THE CIRCUIT COURT OF THE 17<sup>TH</sup> JUDICIAL CIRCUIT  
COUNTY OF WINNEBAGO

CC-17

PEOPLE OF THE STATE OF ILLINOIS

vs.

Willie Young

Case No.(s) 01 CMY5

**FILED**  
Date: 7/25/01  
Grace A. Gasparini  
Clerk of the Circuit Court  
Winnebago County, Ill. Deputy

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:

- 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: \$ \_\_\_\_\_

- 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 held 15:0
  - Warrant # 93158
- Other: Arrested 6-18-01

\$115 per  
daily  
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)

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

DATED: 7-30-01

ENTERED: A. P. [Signature]

(White - Original)

(Green - Sheriff)

(Pink - Defendant)

(Gold - Pretrial Services)

Person Summary

Name - Primary **YOUNG, WILLIE NMN**      DOB **01/21/1979**      SSN **247-47-3273**      Inmate ID **85638**      Sex **MALE**      Race **Black**

Housing Location      VNR Security Class **N NONE**      Hearing Date      Court/Judge

Status **Picked Up From Hold**      Juvenile **N**      Custody Status **Picked up From Hold**      Booking Misc Notes

Booking Date      Booking #      Gang Name      Sentence Start      Expected Release      Alerts

Management for Booking # 2001-207132

23

- Weekender
  - Appeals
  - Release Dates
  - Release
  - Classification
  - Holds
  - Court
- Arrest
  - Charges
  - Cases
  - Case Groups
  - Bail Conditions
  - Bail Groups
  - Sentences

Livescan Arrest Disposition      Arrest Police Case # **01079512**      Arrest Date **06/18/2001**      Arrest Location **00 12**

Occurrence Date **06/18/2001**      Occurrence Location **00.10**      Notes

Vehicles Involved      Other Attributes      Documents

Officers Involved

ID Number	Officer	Role	Division	Agency
▶ 203	TROUT, ROB	Arresting Officer		
19	OSWALD, SCOTT	Transporting Officer		
2659	JACOBSON, ROBERT	Booking Officer		WCSC
2513	DOYLE, DON	Completing Officer		WCSC
2634	ESTERBROOK, RYAN	Receiving Officer		WCSC

Add      Remove      Edit

Arrests 1 of 1

Bookings 10 of 10

Arrest	Charges	Cases	Case Groups	Bail Conditions	Bail Groups	Sentences
Weekender	Appeals	Release Dates	<b>Release</b>	Classification	Holds	Court
Schedule Release Date 09/11/2001 08:55		Actual Release Date 09/11/2001 08:55		Release Type Release to Other DOC	Release Notes	Release Inmate
Release By CONVERSION, CONV CONV			CheckList Performed By			
Positive Identification (Fingerprint)						
Verify	Results Print Not Available	Verify Date	Verified By		Clear	
Release To						
Name			Release Phone			
Inmate Addresses Reside 208 CAMERON AV APT 1, ROCKFORD, IL USA			Third Party Addresses (if different from previous)			

Bookings 10 of 10

**Lieutenant Chad Bounds**  
**PREA Coordinator**  
**Winnebago County Sheriff's Department**  
**Corrections Bureau**  
**650 West State Street**  
**Rockford, Il.**  
**Office- 815-319-6709**  
**Fax- 815-961-3687**  
**Email- [boundsc@wco-il.us](mailto:boundsc@wco-il.us)**  
**FBI-LEEDA Trilogy Receptient, 2023**

CMTI310D

SCDC OFFENDER MANAGEMENT SYSTEM  
COMMITMENT APPLICATION

10/24/24

**EXHIBIT C**

SCDC #: 285487

PROJ RELEASE/ELIG AUDIT TRAIL

C057846

YOUNG, III, WILLIE -

OFFENDER TYPE: ADULT-STRAIGHT SENTENCE

OFFENDER CATEGORY:

CURR SENT SERVING CAT: VIOLENT

MAXOUT DATE	PAROLE DATE	RECALC DATE
12/12/2026	/ /	09/16/24
03/07/2027	/ /	04/19/23
03/07/2027	/ /	03/31/23
03/07/2027	/ /	03/17/23
03/07/2027	/ /	03/16/23
03/07/2027	/ /	01/23/23
03/07/2027	/ /	06/10/22
03/07/2027	/ /	03/28/22
03/07/2027	/ /	03/23/22
03/07/2027	/ /	03/16/22
03/07/2027	/ /	02/28/22
03/07/2027	/ /	02/24/22

RECALC CODE	CHANGE REASON
	MOD CONV
	MOD STAT
	MOD CONV
	NEW EWC
	MOD STAT
	ADD/TERM EWC
	NEW EWC
	MOD STAT
	MOD HIST DISC
	MOD HIST DISC
	MOD HIST DISC
	MOD HIST DISC

PAGE.> 0001

PF11-QUIT PF10-MAIN MENU CLEAR-PREVIOUS SCREEN PF8-FORWARD  
PF7-BACKWARD

CMTI200D SCDC OFFENDER MANAGEMENT SYSTEM 10/24/24  
 OMCOMITA CONVICTION INQUIRY C057846  
 SCDC #: 285487 YOA NONCONFORM SENT: CURR LOC: ALLENDAL  
 YOUNG, III, WILLIE - NONCONFORM SENT: N RTRN TO COURT: N  
 OFFENDER TYPE: ADULT-STRAIGHT SENTENCE  
 CONVICTION NUM: S00001 INDICT NUM: 01-GS-382492 WARRANT NUM: G731578  
 DATE SENTENCED.: 06/28/2002 JUDGE LAST.: WILLIAMS FI: J  
 STATUTE: 16-11-330 CDR CODE.: 0139 GPS IND: N  
 OFFENSE: 1299 ARMED ROBBERY OFFENSE DATE: 05/09/2001  
 CHARACT: F FACILITATION OF COUNTS: 01 OFFENSE CNTY: 38 ORANGEBURG  
 PLEA...: N NOT GUILTY TYPE OF COURT...: 01 GENERAL SESSIO  
 TYPE SENTENCE... : S ADULT-STRAIGHT SCDC JURIS DATE...: 06/28/2002  
 TOTAL SENTENCE...: 030 00 000 MAND SERV REQMT...: 025 06 000  
 INCARC SENTENCE...: 030 00 000 PAROLE FACTOR...: 2 1/3 SENT. REQ.  
 PROBATION SENT...: 000 00 000 PAROLE SERV REQMT: 999 99 999  
 HIP SENT.....: 000 00 000 HAYES CRED: 00000  
 RESTITUTION REQMT: N AMT: .00 JAIL CRED: 00375 EXTRA CRED: 00000  
 CONVICTION STATUS: AC ACTIVE SENT START DATE: 06/18/2001 DOM.IND: N  
 CONSECUTIVE IND...: N SPOUSE ABUSE: STATUTE CLASS: VIOLENT  
 DNA OFFENSE IND...: Y EEC ELIG: Y DEATH UTERO: SCDC CLASS...: VIOLENT  
 SEX REG: N PRED OFF: N LAST UPDATE: A CARSON DATE: 10/24/24  
 NO PAROLE: NO PAROLE CREATED BY.: F CHAMBERS DATE: 07/09/02

PF8-NEXT CONVICTION

PF9-DETAIN

PF4-RESTITUTION PAID(FA ONLY)

**RECEIVED**

**Oct 24 2024**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Milton G. Kimpson

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ALC Case No. 23-ALJ-04-0133-AP  
Appellate Case No. 2024-001181

---

WILLIE YOUNG, # 285487,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.


---

**CERTIFICATE OF SERVICE**

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Undersigned counsel hereby certifies that on this date, she mailed a copy of the **Motion to Dismiss Appeal as Moot** to Appellant, addressed as follows:

**Willie Young, # 285487**  
**Allendale Correctional Institution**  
**BWA-0021**  
**1057 Revolutionary Trail**  
**Fairfax, South Carolina 29827**

  
**Christina Catoe Bigelow**  
Office of General Counsel  
S. C. Department of Corrections  
Post Office Box 21787  
Columbia, S. C. 29221  
(803) 896-8508

October 24, 2024



**SOUTH CAROLINA**  
DEPARTMENT OF CORRECTIONS  
*Division of Legal Counsel & Compliance*

HENRY McMASTER, Governor  
BRYAN P. STIRLING, Director

**RECEIVED**

**Oct 24 2024**

**SC Court of Appeals**

**OFFICE OF GENERAL COUNSEL**

October 24, 2024

The Honorable Jenny A. Kitchings  
Clerk of Court, S.C. Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

**RE: Willie Young, # 285487 v. South Carolina Department of Corrections**  
**Appellate Case No. 2024-001181**

Dear Ms. Kitchings:

Enclosed please find the Respondent's **Motion to Dismiss Appeal as Moot** in the above captioned appeal, along with **Proof of Service**.

Thank you for your attention to this matter, and please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

Christina C. Bigelow  
Deputy General Counsel  
South Carolina Department of Corrections

cc: Willie Young, # 285487  
Allendale Correctional Institution  
BWA-0021  
1057 Revolutionary Trail  
Fairfax, South Carolina 29827