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THE STATE OF SOUTH CAROLINA

DEC 10 2024

In The Court of Appeals

SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph K. Anderson, III, Administrative Law Judge

Appellate case No. 2024-000487

Curtis Johnson, # 337543,

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

REPLY BRIEF

Curtis T. Johnson

Curtis T. Johnson, 337543  
Allendale C.I. - F3/Hampton A46  
1057 Revolutionary Trail  
Fairfax, S.C. 29827  
Pro-se Appellant  
, 2024

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## STATEMENT OF ISSUE ON APPEAL

The Administrative Law Court erred in affirming the South Carolina Department of Corrections' decision when it determined: the South Carolina Department of Corrections correctly applied Appellant's jail time credit to his sentence and the Appellant failed to carry his burden of proving the South Carolina Department of Corrections improperly calculated his sentence. Thus, the Administrative Law Court violated Appellant's Due Process Rights (of liberty interest) and violated Appellant's rights to Equal Protection of the laws rights of the U.S. Const. Amend. 14.1 and S.C. Const. Art. 1, 3.

## STATEMENT OF THE CASE

Appellant filed his "Initial Brief of Appellant" and "Designation of Matter To Be Included In The Record On Appeal" on August 22, 2024. The Respondent filed its "Initial Brief of Respondent" and "Designation of Matter" on November 21, 2024. Appellant received Respondent's "Initial Brief of Respondent" and "Designation of Matter" on November 26, 2024. (see: Appellant's "South Carolina Department of Corrections - Receipt of Legal Correspondence Verification" form.) Pursuant to Rule 208, SCACR, Rules of Initial Briefs, (a)(3) Reply Brief, Appellant has 10 days to file his Reply Brief. This makes December 6, 2024, his court deadline date to file his Reply Brief.

Now, Appellant submits his Reply Brief.

## STANDARD OF REVIEW

S.C. Code Ann. § 1-23-610(B) sets forth the standard of review for this Appellate Court when sitting in review of a decision by the ALC. see S.C. Dept of Corr. v. Mitchell, 659 S.E.2d 233, 234 (Ct. App. 2008) The Court of Appeals may affirm the decision or remand the case for further proceedings; or it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is:

- (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. § 1-23-610(B). "The review of the administrative law court's order must be confined to the record." Id. "In an appeal of the final decision of an administrative agency, the standard of appellate review is whether the ALC's findings are supported by substantial evidence." Sanders v. S.C. Dept of Corr., 665 S.E.2d 231, 234 (Ct. App. 2008) "However, when the issue on review raises a question of law, this court may reverse the decision of the ALC where it is violation of a statutory provision or it is affected by an error of law." Torrence v. S.C. Dept of Corr., 861 S.E.2d 36, 41 (Ct. App. 2021)

## ARGUMENT

The Administrative Law Court erred in affirming the South Carolina Department of Corrections' decision when it determined: the South Carolina Department of Corrections correctly applied Appellant's jail time credit to his sentence and the Appellant failed to carry his burden of proving the South Carolina Department of Corrections improperly calculated his sentence. Thus, the Administrative Law Court violated Appellant's Due Process Rights (of liberty interest) and violated Appellant's rights to Equal Protection of the laws rights of the U.S. Const. Amend. 14 and S.C. Const. Art. 1, 3.

Respondent in its "Initial Brief of Respondent" continues to fail to acknowledge or refute why in the case Massey v. South Carolina Department of Corrections, 2021 WL 1997295 it applied Massey's jail time credit to both of Massey's consecutive sentences and not both of Appellant's consecutive sentences also. (see: "Respondent's Initial Brief of Respondent") The Administrative Law Court also failed to acknowledge that Respondent gave Massey his jail time served credit applied to both of his consecutive sentences and not Appellant's consecutive sentences. Respondent and the Administrative law court state that Appellant is not entitled to receive his jail time credit more than once; but they both continued to fail to acknowledge or refute that Respondent had given inmate Massey his jail time credit more than once. By the laws of Appellate's Due Process Rights (of liberty interest) and rights to Equal Protection of laws rights of the U.S. Const. Amend. 14 and S.C. Const. Art. 1, 3, Appellant's jail time credit should have been applied to his consecutive sentence more than once, just like Massey received his jail time credit more than once applied to both of Massey consecutive sentences.

S.C. Code Ann. 24-13-40. Computation of time served by prisoners, mandates prisoners receive credit for time served prior to trial unless one of its exceptions exist. Neither of the four exceptions apply to Appellant's sentences. Having a consecutive sentence is not one of the four exceptions to the mandatory language in statute 24-13-40, and a consecutive sentence does not bar Appellant from receiving jail time served credit deducted from each of his sentences. The Respondent failed to acknowledge or refute that the four exceptions don't apply to Appellant in its "Initial Brief of Respondent." The Administrative law court acknowledged in its order that: "In this case, neither exception to section 24-13-40 applies to Appellant." (see: Administrative Law Court order - page 6) This statute's four exceptions don't apply to Appellant and mandates he receive time served credits applied to his consecutive sentences.

All Appellant's sentencing sheets state he was to receive time served credit deducted from each of his four sentences pursuant to statute 24-13-40. (see Appellant's sentencing sheets.) The statute made it mandatory that Respondent apply Appellate's jail time served credit to all both of his consecutive sentences and give Appellant a correct max out date. Respondent continues to fail to acknowledge or refute that all Appellate's sentencing sheets state that Appellant was to receive his jail time served credit

applied to each of his sentences. The Administrative Law court had acknowledged in its order that: "The sentencing sheets also indicate Appellant was to be given credit for time served (jail time credit) pursuant to Section 24-13-40 of the South Carolina Code (supp. 2023) to be calculated and applied by the Department." (see: Administrative Law Court order - page 1); "According to the sentencing sheets, Appellant is entitled to time served." (see: Administrative Law Court order - page 4); and "Absent any ambiguity in the sentencing sheet, the court must presume that the sentencing court's sentence is correct." (see: Administrative Law Court order - Page 6)

Appellant's sentencing sheets are unambiguous and the sentencing court's sentence is correct. The Respondent should have applied Appellant's time served credit to all both his consecutive sentences. As stated above, Respondent doesn't acknowledge or refute the factual evidence that: (1) Respondent applied Massey's jail time credit to both of Massey's consecutive sentences and corrected Massey's max out date, but won't do the same for Appellant; (2) S.C. Code Ann. 24-13-40. Computation of time served by Prisoners, four exceptions don't apply to Appellant's sentences; and (3) all Appellant's sentencing sheets are marked that he was to receive his jail time served credit applied to each sentence. Respondent ignored these important aspects of Appellant's case without any explanation continuously, to why it done so. "An agency action qualifies as 'arbitrary' or 'capricious' if it is not 'reasonable and reasonably explained.'" Ohio v. EPA, 144 S.Ct. 2040, 2053 (2024) under this standard, an agency "cannot simply ignore 'an important aspect of the problem'"; it must offer a "a satisfactory explanation for its action, including a rational connection between the facts found and the choice made." Id. Appellant has shown and prove from the above factual evidence that Respondent's decision to not apply Appellant's jail time served credit to both his consecutive sentences and correct his max out date is arbitrary and capricious; especially when not addressing the above listed three important aspects of Appellant's case. Therefore, the Administrative Law court's order should not be affirmed because it violated Appellant's Due Process Rights and Equal Protection of the laws rights of the U.S. Const. Amend. 14 and S.C. Const. Art. 1, 3.

## CONCLUSION

For all the reasons stated, Appellant request this court to reverse and remand the Administrative Law Court's decision, and the South Carolina Department of corrections should be ordered to apply Appellant's jail time served credit to both of Appellant's consecutive sentences and Appellant's maxout date should be corrected.

December 6, 2024

Respectfully submitted,

S/Curtis T. Johnson

Curtis T. Johnson/337543  
Allendale C.I. - F3/Hampton A46  
1057 Revolutionary Trail  
Fairfax, S.C. 29827

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS**

**Receipt of Legal Correspondence Verification**

This is to verify that legal correspondence from (Name and Address):

S.C. General Counsel  
Po Box 21787  
Columbia SC 29221

**RECEIVED**  
DEC 10 2024  
SC Court of Appeals

Addressed to (Inmate Name, SCDC#, and Address):

Curtis T. Johnson #337543  
Allendale Correctional HAA 46  
1057 Revolutionary Trail  
Fairfax SC 29827

was received and logged in on SCDC Form 10-12, "Legal/Privileged/Certified Mail Delivery Log," at the  
Allendale Correctional Mailroom on (Date) 25 November 2024.

On (Date) 26 November 2024, the above referenced correspondence was delivered to  
Inmate Curtis T. Johnson, SCDC # 337543, and his signature  
was obtained on SCDC Form 10-12, "Legal/Privileged/Certified Mail Delivery Log".

Additional Notes:

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Angela H. Rowe Allendale  
Postal Director/Institution

11-26-24  
Date

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Curtis Johnson, # 337543,

Appellant,

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South Carolina Department of Corrections,

Respondent.

}  
} PROOF OF SERVICE  
}

I, Curtis T. Johnson, do hereby certify that on this date, I served the "Reply Brief" and "Proof of Service" in the foregoing action on the clerk of the Court of Appeals and Respondent by depositing one copy of the same in the United States mail, first class postage prepaid, and addressed as follows:

South Carolina Court of Appeals  
Jenny Abbott Kitchings, clerk  
P.O. Box 11629  
Columbia, S.C. 29211

Dept. of General Counsel  
S.C. Dept. of Corrections  
P.O. Box 21787  
Columbia, S.C. 29221

SWORN or AFFIRMED to and subscribed before me this

6<sup>th</sup>

day of December, 2024

Ashley Danvers

Notary Public  
My Commission Expires:

9/9/32



Curtis T. Johnson

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South Carolina Court of Appeals  
Jenny Abbott Kitchings, clerk  
P.O. Box 11629  
Columbia, S.C. 29211

December 6, 2024

RE: Filing Documents

Dear clerk,

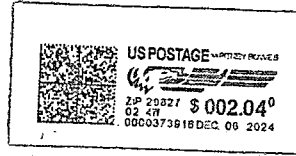
Hello, please find enclosed for filing in your office my:

- (1) "Reply Brief"
- (2) "Certificate of Service"
- (3) "South Carolina Department of Corrections - Receipt of Legal Correspondence Verification" Form.

Thank you for all your help and concern.

Sincerely,  
Curtis T. Johnson

Curtis T. Johnson, 337543  
Allendale C.I. - F3/Hampton A46  
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