

IN THE SUPREME COURT

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Appeal From The Administrative Law Court  
John D. McLeod, Administrative Law Judge  
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Case No.2012-212645  
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Julian Ford,Jr.....Petitioner,

V.

South Carolina Department Of Corrections.....Respondent.

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PETITION FOR WRIT OF CERTIORARI  
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Julian Ford,Jr.,#155800  
1304 Gary Street  
Columbia, S.C. 29203  
Petitioner Pro,Se

Other Counsel Of Record:  
SCDC Office Of General Counsel  
Christopher D. Florian, Esq.  
P. O. Box 21787  
Columbia, S.C. 29221-1784

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Court of Appeals

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THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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John D. McLeod Administrative Law Judge

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Case No. 2012-212645  
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Julian Ford, Jr. .... Petitioner,

V.

South Carolina Department Of Corrections ..... Respondent.

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CERTIFICATE OF COUNSEL  
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I Julian Ford, Jr., the Petitioner Certifies that the Petition for Rehearing was made and finally ruled on by  
The court of appeals on August 22, 2013.

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### Questions Presented

1. Did the court of appeals err in holding that the petitioner was not entitled to sentence related work or educational credits because the court ruled that school is not a job, and because the court thought that the petitioner was a violent offender?
2. Did the court of appeals err in holding that the petitioner was a violent offender, and therefore was not entitled to work or education credits, whereby petitioner was not a violent offender during the time period in question?
3. Did the court of appeals err in holding that the issue of good time was not preserved for review by the court of appeals, whereby court of appeals allowed petitioner to Amend Pleadings?
4. Did the court of appeals err in failing to rule on the issue of the respondent giving the petitioner 30 days of the 9 months that he was owed? .

### Statement Of The Case

This matter comes before this court pursuant to an appeal from the Administrative Law Court filed on April 10, 2012, and was denied on July 20, 2012, and appealed to the Court Of Appeals August 31, 2012, and Affirmed by the Court Of Appeals on May 22, 2013, Petition For Rehearing was filed on May 25, 2013, and was denied by the court of appeals on August 22, 2013.

The petitioner contends that the court of appeals is in error to dismiss the petitioner's claims without reviewing the issue that the respondent gave the petitioner 30 days of the 9 months that is owed to him ,and therefore owes the petitioner the remaining time for the time period in question, as well as the court failed to rule upon the issue that the petitioner was not a violent offender during the time period in question, and as a result have denied the petitioner a full and fair review of the issues presented in this appeal.

Wherefore the petitioner would now present these issues to this court for a full and fair review of all of the petitioner's claims.

## Arguments

1. The court of appeals erred by finding that he was not entitled to sentence related work or educational credits because the ALC found the petitioner was a violent offender and that school was not a job.

The petitioner contends that the ALC'S finding was not complete and correct, whereby the ALC was misinformed as to the petitioner being a violent offender at the time period in question, and made its decision prior to receiving information from the respondent that the petitioner was not a violent offender at the time period in question, but was instead serving a Non-Violent Consecutive Sentence for Strong Armed Robbery, and was therefore entitled to credits for his time in school.

The petitioner further contends that he could receive work credits for his enrollment in school, whereby SCDC Policy OP-21.07:2.2 clearly states that inmates will be compensated with work credits for their enrollment in academic programs, as well as the petitioner was not a violent offender at the time period in question, and as a result of such facts, the SCDC gave the petitioner 30 days of the 9 months that are owed to him, but the court of appeals did not consider and rule upon these facts, thereby denying the petitioner a full and fair review.

2. The court of appeals erred in finding that the petitioner was a violent offender and was therefore not entitled to sentence related work or education credits.

The petitioner contends that the respondent did not provide the ALC with the proper information concerning the petitioner's status of confinement, whereby the petitioner was serving consecutive terms of sentences, and from March 24,1995 to April 11,1996 was then serving a consecutive Non-Violent Sentence for Strong Armed Robbery, but the respondent failed to properly inform the ALC of that fact prior to that court's ruling, the petitioner tried to explain that fact to the court of appeals , as well as the fact that the respondent gave the petitioner 30 days of the 9 months owed to him, but the court still failed to review such issues and facts, and as a result have denied the petitioner a full and fair review of his claims.

3. The petitioner contends that the court of appeals erred in finding that the petitioner was not entitled Good Time Credits because the issue was not preserved for appellate review.

The petitioner contends that the court allowed him to amend his pleadings with this matter, and the respondent did not contest such amendment, but that regardless of that fact, good time credits are consistent with the credits and time served by an inmate, in other words, an inmate cannot serve a sentence and not receive his or her good time credits unless the inmate fails to earn that credit due to a disciplinary action , which is not the case in this matter, what the petitioner is arguing here, is that he is automatically entitled to Good Time in conjunction with

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Work or Education Credits, that the respondent cannot just give him 30 days of 9 months that is owed to him, but that he is entitled to the 9 months plus the good time accumulated during that time period, therefore the court of appeals was in error to deny this issue.

4. The court of appeals erred in failing to rule on the issue of the SCDC giving the petitioner 30 days of the 9 months that is owed to him.

The petitioner contends that the court of appeals improperly ruled on the same ruling of the ALC, finding that the petitioner was not entitled to sentence related work or educational credits because he was considered as a violent offender, which the respondent later corrected after properly reviewing the petitioner's sentence structure and finding that the petitioner was actually serving a consecutive non-violent sentence for strong armed robbery during the time period in question, and as a result the respondent gave the petitioner 30 days of the 9 months owed to him, therefore the only issue that was before the court of appeals was whether or not if the respondent had a duty to give the petitioner all of the the 9 months owed to him, or if they could just give him 30 days, and the petitioner had requested of the court of appeals to order the SCDC to give the petitioner all of the 9 months for the time period in question.

#### Conclusion

Wherefore, the petitioner contends that based upon all of the facts and issues presented in this petition, that the court of appeals was in error to deny the petitioner relief , whereby the respondent waited until after the ALC's Ruling to correct the matter of the petitioner being a non-violent offender at the time period in question and gave the petitioner 30 days of the 9 months owed to him, from March 24,1995 to April 11,1996, and the petitioner request of this court to Order the SCDC to give the petitioner all of the time owed to him.

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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John D. McLeod, Administrative Law Judge

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Case No.2012-212645

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Julian Ford,Jr.....Petitioner,

V.

South Carolina Department Of Corrections.....Respondent.

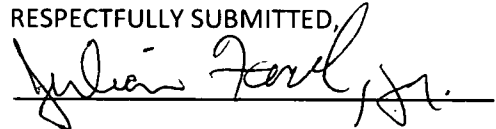
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PROOF OF SERVICE

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The above named Petitioner Swears under the Laws of Perjury that he Mailed the Original and Six Copies of the Petition For Writ Of Certiorari to the S.C. Supreme Court 1231 Gervais St, Columbia, SC 29201, a copy to the SC Court Of Appeals, P.O. Box 11629, Columbia, SC 29211, and one copy to the Respondent, SC Department Of Corrections, Office of General Counsel, P.O. Box 21787, Columbia, SC 29221-1787 on September 18, 2013 by Hand-Delivery.

RESPECTFULLY SUBMITTED,



Julian Ford,Jr.,155800

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SC Court of Appeals

# The South Carolina Court of Appeals

Julian Ford, Jr., Appellant,

v.

South Carolina Department of Corrections, Respondent.

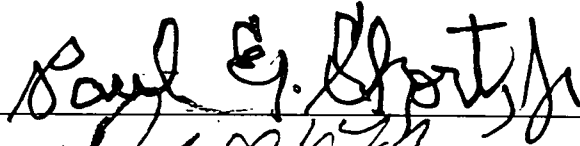
Appellate Case No. 2012-212645

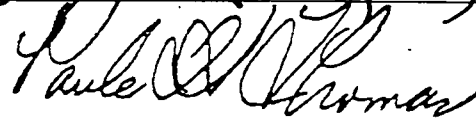
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## ORDER

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After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

 J.

 J.

 J.

Columbia, South Carolina

cc: Julian Ford, #155800  
Christopher D. Florian

**FILED**

22 August 2013

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE  
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING  
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

Julian Ford, Jr., Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2012-212645

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Appeal From the Administrative Law Court  
John D. McLeod, Administrative Law Judge

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Unpublished Opinion No. 2013-UP-218  
Submitted April 1, 2013 – Filed May 22, 2013

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**AFFIRMED**

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Julian Ford, Jr., pro se.

Christopher D. Florian, of the South Carolina Department  
of Corrections, of Columbia, for Respondent.

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**PER CURIAM:** Julian Ford, Jr. appeals the order of the Administrative Law Court (ALC), which affirmed the South Carolina Department of Corrections' (the Department's) decision finding Ford is not entitled to sentence-related credits. On appeal, Ford argues the ALC erred in finding substantial evidence supports the Department's denial of work, educational, and good-time credits. We affirm.

educational credits upon successful participation in an academic, technical, or vocational training program); §24-13-230(F)(2) ("The educational credit provided for in this section, is not available to any individual convicted of a violent crime . . . ."). Accordingly, we find the ALC did not err in finding Ford is not entitled to educational or work credits.

2. We find the issue of good-time credits is not preserved for appellate review because the ALC did not rule on this issue. *See Al-Shabazz*, 338 S.C. at 379, 527 S.E.2d at 755 (finding issues not raised to and ruled upon by the ALC are not preserved for review).

**AFFIRMED.**<sup>3</sup>

**SHORT, THOMAS, and PIEPER, JJ., concur.**

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<sup>3</sup> We decide this case without oral argument pursuant to Rule 215, SCACR.

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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Appeal From The Administrative Law Court

The Honorable John D. McLeod, Administrative Law Judge

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Case No.2012-212645

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S.C. Department Of Corrections.....Respondent,

V.

Julian Ford,Jr.,.....Appellant.

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APPELLANT'S REPLY TO THE

RESPONDENTS FINAL BRIEF

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Julian Ford,Jr.,#155800

Hickory Unit D - 140

Kershaw Corr. Inst.

4848 Goldmine Hwy.

Kershaw, S.C. 29067

Appellant Pro,Se

The Appellant now comes before this Court to reply to the Respondent's Final Brief dated September 27, 2012, and received by the Appellant on October 3, 2012 based upon the following facts:

1) The appellant filed a "Supplemental Brief," on September 7, 2012 contesting the respondent's claims that the Administrative Law Court correctly affirmed the department of corrections' calculations of the appellant's sentence, and the respondent has not objected, or denied the facts stated in the appellant's supplemental brief.

The Administrative Law Court's Order dated July 20, 2012 was made prior to the respondents agreement that the appellant was not a violent offender under S.C. Code §23-13-230(F)(2), but was instead a "Non-Violent Offender," from July 24, 1995 to April 11, 1996, and agreed that the appellant was entitled to credits for attending school at that time, and the respondent further stated that the appellant had now received the time and credits for that time period.

The Administrative Law Court did not make that finding in its Order of Dismissal because the respondent did not make that agreement until after the ALJ Court made its Ruling, nor does the Order include a ruling that the appellant has received relief with "Educational Credits," because the respondents have only recently presented that fact in their "Initial and Final Brief," filed in this Court of Appeals, therefore it is impossible for the ALJ Court to have correctly Affirmed the Department of Corrections Calculation of the appellant's sentence because the respondents have attempted to make that correction after the ALJ Court's Ruling.

The respondent also have not responded to the appellant's claim that he has not received the full amount of time and credits from July 24, 1995 to April 11, 1996, he has only received 30 Days off his Sentence, the SCDC still owes the appellant Nine (9) Months of Time and Credits for attending School "Full Time," which the respondent states in their Initial and Final briefs that the appellant has received the Time and Credits for that Time Period, but the appellant has not received the full amount of time owed to him, and now request of this Court to Order that he receive the full time owed.

2) The appellant argued in the Supplemental Brief the SCDC Final Agency Decision is Not Supported by any Substantial Evidence because the respondents have stated in their briefs that they have now granted the appellant relief, which is after the ALJ Court's Order dated July 20,2012.

The respondents have stated in their initial and final briefs that the appellant has now received the time and credits owed to him for the time period stated in these pleadings, but the ALJ Court's Order of July 20,2012 does not include any such relief, thus the ALJ Court could not have found that the SCDC's Final Decision was supported by substantial evidence.

3) The appellant raised in the Supplemental Brief that he is entitled to "Full Time Work Credits or Educational Credits," at a rate of "Level 2 For 5," to reduce his Sentence Max-Out Date, because full time school is the equivalent of a job in the SCDC.

The respondent has not replied to the fact that SCDC Policy OP-21.07,Sub.Sect.(2.2), states that inmates will be compensated with "Work Credits," for their enrollment and active participation in academic or vocational programs according to the inmate's custody, the appellant contends that he is entitled to Work Credits at a rate of "Custody Level 3 For 5," which is what he was earning at that time, but the appellant has only received 30 days time off his sentence, the SCDC still owes the appellant Nine (9) Months of Time and Work Credits or the Equivalent of Educational Credits from July 1995 to April 1996.

4) The appellant raised in the Supplemental Brief that he is owed Ten (10) Months actual Time and Credits that he Served Over his Ten (10) Year Consecutive Sentence.

The appellant contends that he is owed Ten (10) Months Time and Credits that he served over his Consecutive Non-Violent Sentence from December 17,1992 to September 8,1998, the SCDC has aggregated the appellant's consecutive terms of sentences at the same rate of credits, which incorrect because the appellant is serving a Non-Violent Sentence that is Consecutive to a Violent Sentence and must be Calculated at different percentages of time to be served on each

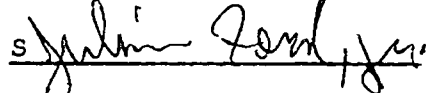
sentence, and because the appellant has not received all the time and credits owed to him, he has served 10 months over his time on the consecutive ten year sentence.

The respondent is erroneously applying the appellant to S.C. Code §24-13-230(B), which refers to inmates that are serving "No Parole Offenses," under the 85% Sentencing Guidelines, the appellant does not fall under those laws because he was sentenced on March 31, 1993 before that law was passed, the appellant is entitled to earn up to One Hundred and Eighty (180) Days of Work Credits or Educational Credits and Good Time to reduce his Max-Out Date because he is sentenced under the Laws and SCDC Policies that were in effect before the Pilot Classification System on September 16, 1996, and by SCDC Policy OP-21.07, Sub.Sect.(2.1) is allowed to continue earning Earned Work Credits.

Wherefore, the appellant contends that because the respondents have "Now Claimed that the appellant has now received the time owed to him," and because they have not replied to the appellant's "Supplemental Brief," arguing that the respondents have not given him the Full Time owed to him in accordance to S.C. Code §24-13-230(A) and SCDC Policies OP-21.07, Sub.Sect.(2.2), (2.1) ect., and that because the relief that the respondents state has been given to the appellant is not included in the ALJ Court's Order dated July 20, 2012, that this Court accept this "Supplemental Brief as Timely and Properly Filed," and Order the SCDC to award the appellant the full amount of Time and Credits owed to him from July 24, 1995 to April 11, 1996, according to the Laws and SCDC Policies that were in effect at the time the appellant was committed to the S.C. Department of Corrections, or in the alternative Remand this matter back to the Administrative Law Court to have the appellant's Sentence Properly and Fully Calculated for the Time and Credits he is Owed from July 1995 to April 1996.

Date: October 5, 2012

RESPECTFULLY SUBMITTED,



Julian Ford, Jr., #155800

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From The Administrative Law Court

The Honorable John D. McLeod, Administrative Law Judge

Case No.2012-212645

S.C. Department Of Corrections.....Respondent,

v.

Julian Ford,Jr.,.....Appellant.

PROOF OF SERVICE

The above named Appellant Swears under the laws of Perjury that he Mailed the Original Appellant's Reply To Respondent's Final Brief to the S.C. Court of Appeals, Ms. Jenny A. Kitchings, Chief Clerk, P.O. Box 11629, Columbia, S.C. 29211, and One Copy to the S.C. Department of Corrections, Mr. Christopher D. Florian, Deputy General Counsel, P.O. Box 29221-1787, by depositing the same in a stamp addressed envelope in the U.S. Mail Box at the Kershaw Correctional Institution.

Date: October 5,2012

RESPECTFULLY SUBMITTED,

*Julian Ford, Jr.*

Julian Ford,Jr.,#155800

Hickory Unit D - 140

Kershaw C.I.

4848 Goldmine Hwy.

Kershaw, S.C. 29067

Appellant Pro,Se

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CC:File

Christopher D. Florian,Esquire