

THE STATE OF SOUTH CAROLINA
In The Court Of APPEALS

APPEAL FROM ADMINISTRATIVE LAW COURT
Administrative Law Judge John D. McLeod

Docket No.: 13-ALJ-04-0264-AP

MARCUS GREEN, # 241958.....Appellant,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS.....Respondent.

RESPONSE BRIEF OF THE APPELLANT

MARCUS GREEN, # 241958
KERSHAW CI/ PB 52T
4848 GOLDMINE HWY
KERSHAW, SOUTH CAROLINA 29067

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SC Court of Appeals

STATEMENT OF CASE

This matter comes before the court pursuant to the appeal of Marcus Green (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (SCDC). Appellant is currently serving a ten-year sentence for second-degree burglary, non-violent. In this appeal, appellant argues he is not being awarded the appropriate amount of earned work and good time credits toward completion of his sentence. On November 8, 2012, appellant filed a Step-One grievance claiming his projected release date was being calculated incorrectly. The Step Two grievance was also denied following a review of appellant's projected release date.

(Step ONE Grievance). ON JANUARY 7, 2013, appellant filed a Step Two grievance. The Step Two grievance was also denied after appellant's projected release date was again confirmed. (Step Two Grievance). Appellant then appealed to the Administrative Law Court (ALC). On August 26, 2013, Administrative Law Judge John D. McLeod issued an Order dismissing the appeal. Judge McLeod found that although neatly typed, appellant's brief failed to present an orderly and cohesive argument upon which the court could base a finding. Consequently, the court ruled appellant had failed to carry his burden to show an error had been made in the calculation of his sentence. (Order of Dismissal). Appellant has now appealed the ALC's decision. For the reasons contained herein, Appellant respectfully requests this court Overturn the ALC's decision in this matter.

ARGUMENT

SCDC POLICY/PROCEDURE OP-21.04, "INMATE CLASSIFICATION PLAN," JANUARY 1, 2010] 55.7 JOB TERMINATIONS: An inmate assigned to the work Program may be recommended for termination from a job

by his/her supervisor for un satisfactory job performance, inability to perform work or other appropriate reasons. Prior to termination, the inmate should be given a SCDC Form 19-123, "EWC Performance Evaluation, Warning Notice," by his/her supervisor explaining how his/her performance may be improved. Depending on the circumstance surrounding the termination, the inmate may be charged with a rules violation.

(A "Warning Notice" will not be required prior to termination). Copies of any warning notices, counseling forms, or incident reports should be attached. The CPS will distribute copies as indicated on the form. The ICC will review all documentation, interview the inmate and determine whether the termination was legitimate. The inmate will be transferred if s/he is charged with a major disciplinary. If not legitimate, the inmate will be reassigned to another job by the ICC.

zn March, 2013 Mrs. S. Riley classifed Marcus Green ("Appellant") unemployee for 30 days with no disciplinary charge. Appellant had filed a grievance (WRCI-225-10) in this matter and won the grievance about not having a job and my MO1B custody was gaving back to the Appellant Marcus Green but Mrs. S.Riley never reassigned "Appellant" Marcus Green with a job.

As you can see in OP-21.04, "Inmate Classification Plan, "January 1, 2010 [55.7 Job Terminations it states; Depending on the cirumstance surrounding the termination, the inmate may be charged with a rules violation. Copies of any warning notices, counseling forms, or incident reports should be attached.

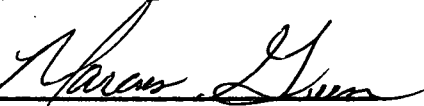
On October, 2011 the samething happen again at Tyger River CI when Appellant Marcus Green was transfer to Walden CI. The Appelant Marcus Green loss 60 days on a transfer. Appellant Marcus Green max-out w/bonus EEC credits was 4-17-2014. Appellant Marcus Green was on a 2 for 5 EWC Job Level and on a B7 EEC Bonus Credits when he was at Tyger River CI. After you have review these issue at hand you will see that the administrative law judge is in violation of constitutional or statutory

provisions; made upon unlawful procedure; clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

CONCLUSION

For the reasons stated above, Appellant requests that the ALC's decision be overturn.

Respectfully Submitted,

s/ 

Marcus Green, #241959
Kershaw CI/ PB 52T
4848Goldmine HWY
Kershaw, South Carolina 29067

KERSHAW, SOUTH CAROLINA
DECEMBER 5, 2013

THE STATE OF SOUTH CAROLINA
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Marcus Green, #241958.....Appellant,

v.

South Carolina Department of Corrections.....Respondent,

CERTIFICATE OF SERVICE

I here certify that I have served Respondent a copy of the foregoing Response Brief by depositing a copy of same in the United States Mail, postage prepaid, on December 5, 2013 addressed as follows:

Christopher D. Florian
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