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STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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S.C. SUPREME COURT

Appeal from the Administrative Law Court  
Ralph K. Anderson, III, Administrative Law Judge

Opinion No. 2026-UP-118 (S.C. Ct. App. filed 3/11/26)  
Appellate Case No. 2026-001280

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CURTIS JOHNSON, # 337543,

PETITIONER,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

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**RETURN TO PETITION FOR WRIT OF CERTIORARI**

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**SOUTH CAROLINA DEPARTMENT  
OF CORRECTIONS**

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**ISSUE PRESENTED**

**THE COURT OF APPEALS PROPERLY AFFIRMED THE DEPARTMENT'S  
CALCULATION OF PETITIONER'S SENTENCES.**

## **STATEMENT OF THE CASE**

This matter comes before the Court pursuant to the appeal of Curtis Johnson, an inmate incarcerated with the Department of Corrections. On June 27, 2023, Petitioner filed a Step One grievance claiming the Department was incorrectly calculating his sentences. On July 6, 2023, Petitioner's Step One grievance was investigated and denied. Thereafter, Petitioner filed a Step Two grievance, which was also investigated and denied. Petitioner appealed to the Administrative Law Court on October 3, 2023. On February 27, 2024, Administrative Law Judge Ralph King Anderson, III, issued an Order finding that the Department had correctly calculated Petitioner's sentences. Petitioner filed a Notice of Appeal in the South Carolina Court of Appeals dated March 18, 2024. On March 11, 2026, the Court of Appeals affirmed the decision of the lower court in Unpublished Opinion 2026-UP-118. Petitioner filed a Petition for Rehearing which was denied on May 21, 2026. This appeal follows.

## **STANDARD OF REVIEW**

S.C. Code Ann. § 1-23-610(B) provides the applicable standard of review:

The review of the administrative law judge's order must be confined to the record. The reviewing tribunal 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. § 1-23-380(5).

In an appeal of a final decision of an administrative agency, the standard of appellate review is whether the ALC's findings are supported by substantial evidence. S.C. Code Ann. § 1-23-610(B). "Substantial evidence" is evidence which, considering the record as a whole, would allow a reasonable mind to reach the same conclusion that administrative agency reached. Hendley v. S.C. State Budget & Control Bd., 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996). A reviewing court shall not substitute its own judgment for that of the ALC as to findings of fact, but it may reverse or modify decisions that are controlled by errors of law or that are clearly erroneous in view of the substantial evidence on the record as a whole. *Id.*

## ARGUMENT

### **THE COURT OF APPEALS PROPERLY AFFIRMED THE DEPARTMENT'S CALCULATION OF PETITIONER'S SENTENCES.**

Petitioner asserts that he should receive his jail time credit – a total of 1,066 days – four separate times because he has four convictions, one of which is consecutive. (See Brief of Petitioner, page 7). For the reasons discussed below, Petitioner's argument is without merit, and the Department correctly calculated Petitioner's release date.

As he acknowledges in his Petition for Writ of Certiorari, Petitioner was arrested on November 20, 2006, and stayed in the county jail until his conviction date of October 21, 2009. The total amount of jail time credit between November 20, 2006, and October 21, 2009, is 1,066 days. Petitioner served this time only once, not four times. On October 21, 2009, Petitioner was convicted of voluntary manslaughter, two counts of assault and battery of a high and aggravated nature (ABHAN), and possession of a weapon during the commission of a violent crime. (See R. p. 1-4). He was sentenced to thirty years for voluntary manslaughter, ten years for each count of ABHAN, and five years for the possession of a weapon offense. (See R. p. 1-4). All sentences were concurrent except for the weapon offense, which was ordered to run consecutively. (See R. p. 1-4).

SCDC's practice, per Major v. S.C. Dept. of Prob. Parole & Pardon Servs., 384 S.C. 457, 682 S.E.2d 795 (2009), is to run the weapon offense sentence first since it is a day-for-day offense. See S.C. Code Ann. §16-23-490 (c) ("... [t]he five years may not be suspended and the person may not complete his term of imprisonment in less than five years pursuant to good-time credits or work credits. . ."). The Major case stated that "a notation that a sentence is 'consecutive,' for sentencing purposes, does not necessarily delineate that the particular

sentence has to run last. It merely indicates that all the sentences are to run successively, and not to run at the same time.... Therefore, despite the fact that the weapons sentence was the last one imposed and it was denoted as “consecutive” there was no indication that the weapons sentence was to be the last sentence to be served.” Major v. S.C. Dept. of Prob. Parole & Pardon Servs., 384 S.C. 457, 469, 682 S.E.2d 795, 801 (2009). Structuring the weapon offense sentence first ensures that community supervision follows the 85% voluntary manslaughter sentence, as is required by law.<sup>1</sup>

Respondent is required by S.C. Code 24-13-40 to apply jail time credit to Petitioner's sentence. When consecutive sentences are involved, any jail time credit is applied at the beginning of the “string” of sentences. “Consecutive” means that sentences run successively and that the consecutive sentence cannot run at the same time as the other sentence. See Major, supra. Thus, the consecutive sentence cannot begin any earlier than the date that the first sentence is completed.

Here, it is undisputed that Petitioner had a total of 1,066 days of jail time credit. His sentence date was October 21, 2009, so applying the jail time credit of 1,066 days backs up his sentence start date to November 20, 2006. Pursuant to the Major case, the Department is running Petitioner's five-year sentence for possession of a weapon first. This sentence began on November 20, 2006, and ended on November 19, 2011. Petitioner's thirty-year sentence for voluntary manslaughter then began on November 19, 2011.<sup>2</sup> Voluntary manslaughter is an

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<sup>1</sup> Community supervision is required for all 85% offenders. See S.C. Code 24-21-560 (“(A) Notwithstanding any other provision of law, except in a case in which the death penalty or a term of life imprisonment is imposed, any sentence for a “no parole offense” as defined in Section 24-13-100 must include any term of incarceration and completion of a community supervision program operated by the Department of Probation, Parole, and Pardon Services.”).

<sup>2</sup> The two concurrent ten-year sentences for ABHAN have already expired and therefore have no impact on Petitioner's maxout date.

85%, no parole offense under S.C. Code 24-13-100 and -150. Therefore, the minimum amount of time Petitioner would have to serve on his voluntary manslaughter offense is 85% of thirty years, which is twenty-five years and six months. Twenty-five years and six months from the start date of November 19, 2011, is May 19, 2037. Petitioner's current maxout date is May 13, 2037, which is earlier than May 19, 2037 because it takes into account leap years.

Contrary to his argument, Petitioner is not entitled to receive his jail time credit more than once.<sup>3</sup> This would lead to the absurd result of Petitioner sitting in jail for a total of 1,066 days on all offenses but receiving credit of 4,264 days (if given once for each conviction) or 2,132 days (if given once for his concurrent offenses and once for his consecutive sentence). This would clearly be a huge windfall to Petitioner when he only sat in jail for a total of 1,066 days. Therefore, Petitioner has not shown that Respondent's calculation of Petitioner's sentence is incorrect, and the Court of Appeals' opinion should be affirmed.

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<sup>3</sup> In his Petition, Mr. Johnson cites to an unpublished opinion from the Court of Appeals for the proposition that SCDC has applied "double" jail time credit in the past for consecutive sentences. See Massey v. South Carolina Dep't of Corr., 2021 WL 1997295. However, in the Massey case, the additional jail time credit that SCDC applied was not "double" jail time credit; instead, it was additional regular jail time credit that was discovered during an audit. See Appellate Case No. 2018-002243 – Respondent's Supplemental Record on Appeal p. 115 & p. 147-48, available online at <https://ctrack.sccourts.org/public/caseView.do?csIID=68968>. Respondent maintained its position that "double" jail time credit for a consecutive sentence was improper in that appeal. (See Appellate Case No. 2018-002243 – Respondent's Final Brief, available online at <https://ctrack.sccourts.org/public/caseView.do?csIID=68968>. Additionally, the Massey appeal was dismissed as moot because Massey had already been released. (See Massey Opinion, 2021-UP-174). Accordingly, the Massey case has no bearing here and does not in any way support Petitioner's argument.

CONCLUSION

For the reasons discussed above, the Petition for a Writ of Certiorari should be denied.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT  
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