

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Stefen E. Harris, #208563,)
)
 Appellant,)
)
 v.)
)
 South Carolina Department of Corrections,)
)
 Respondent.)
 _____)

Docket No. 13-ALJ-04-0665-AP

ORDER

STATEMENT OF THE CASE

In the above-captioned matter, Appellant Julian Ford, Jr. appeals the decision of Respondent South Carolina Department of Corrections (Department) to deny his grievance concerning the Department's calculation of his sentence. Appellant contends that the Department has failed to properly apply the statute he was sentenced under which he asserts allowed him to serve only 51% of his 30 year sentence.¹ Based upon the record on appeal, the parties' briefs, and the applicable law, the Department's decision to deny Appellant's grievance must be affirmed.

STANDARD OF REVIEW

The Court'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). The Court's appellate jurisdiction in inmate appeals is limited to state created liberty interests typically involving: (1) cases in which an inmate contends that prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; and (2) cases in which an inmate has received punishment in a major disciplinary hearing as a result of a serious rule violation. Id.

When reviewing the Department's decisions in inmate grievance matters, the Court sits in an appellate capacity. Id. at 756. Consequently, the review in these inmate grievance cases is limited to the Record presented.

1 See Step 2 Grievance.

FILED

DEC 10 2013

SC ADMIN. LAW COURT

An Administrative Law Judge may not substitute his judgment for that of an agency "as to the weight of the evidence on questions of fact." S.C. Code Ann. § 1-23-380(5) (2013). Furthermore, an Administrative Law Judge may not reverse or modify an agency's decision unless substantial rights of the Appellant have been prejudiced because the decision is clearly erroneous in view of the substantial evidence on the whole Record, arbitrary or affected by an error of law. See Section 1-23-380(5); See also Marietta Garage, Inc. v. South Carolina Dep't of Public Safety, 337 S.C. 133, 522 S.E.2d 605 (Ct. App. 1999); South Carolina Dep't of Labor, Licensing and Regulation v. Girgis, 332 S.C. 162, 503 S.E.2d 490 (Ct. App. 1998). "'Substantial evidence' is not a mere scintilla of evidence nor the evidence viewed blindly 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). Accordingly, 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. South Carolina Coastal Council, 319 S.C. 348, 461 S.E.2d 388 (1995).

DISCUSSION

Appellant committed the offense of Trafficking in Crack Cocaine, 10-28 grams, 3rd offense, on November 1, 1995.²

Appellant believes that the version of the applicable statute under which he has been sentenced allows him to serve only 51% of his 30 year sentence rather than a mandatory 25 years, day for day. Appellant is mistaken.

The portion of the statute which applies is Section 44-53-375(C)(1)(c), as follows:

for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

S.C. Code Ann. § 44-53-375(C)(1)(c) (Supp. 2013).

The Court finds that this version of the statute has been continuously in effect since 1995 and was the version under which Appellant was sentenced.

Appellant fails to produce any record to the contrary.

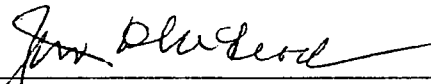
2. See Step 2 Grievance and sentencing sheet in record.

ORDER

IT IS HEREBY ORDERED that the Department's calculation of Appellant's sentence in this matter is **AFFIRMED**.

AND IT IS SO ORDERED.

December 10, 2013
Columbia, S.C.



John D. McLeod, Judge
S.C. Administrative Law Court

is to certify that the undersigned has this date
read this order in the above entitled action upon all
copies to this cause by depositing a copy hereof,
by the United States mail, postage paid, or in the Interagency
Mail Service addressed to the party(ies) or their attorney(s).

This 10 day of December, 2013
By: Christine K. Gullum
Judicial Law Clerk