

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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

Docket No.: 2014-001768

Marcus Green, #241958..... Appellant,

v.

South Carolina Department of Corrections... Respondent.

INITIAL BRIEF OF APPELLANT

August 26, 2014

Marcus Green
3785 Ladson Rd. Apt. 925
Ladson, SC 29456

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AUG 27 2014

SC Court of Appeals

STATEMENT OF THE ISSUES ON APPEAL

- I. DID THE ADMINISTRATIVE LAW COURT CORRECTLY AFFIRM THE DEPARTMENT OF CORRECTIONS' CALCULATION OF APPELLANT'S SENTENCE?

- II. WAS THE DEPARTMENT OF CORRECTIONS' FINAL AGENCY DECISION SUPPORTED BY SUBSTANTIAL EVIDENCE?

STATEMENT OF THE CASE

This matter is before the Court of Appeals pursuant to the case of Marcus Green, ("appellant"), who was incarcerated with the South Carolina Department of Corrections.

On September 9, 2013, appellant was convicted of an inmate disciplinary offense for possession of escape tools and/or paraphernalia, offense 904 pursuant to SCDC Policy OP 22.14. As a result of the disciplinary conviction he lost 90 days of accrued good time credit and failed to earn 20 days of good time for the month of the infraction. He also lost privileges and was placed in disciplinary detention.

Appellant filed a Step One Grievance challenging the disciplinary conviction on September 11, 2013. In a decision dated October 1, 2013, the warden found that appellants disciplinary conviction should be reduced to possession of contraband. As a result of the reduction, appellant was restored ninety days of good time credit he lost due to the infraction.

However, he still failed to earn good time for the month of the infraction and was still subject to the loss of certain privileges.

Appellant filed a Step Two Grievance on October 3, 2013. That grievance was answered on August 15, 2014.

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RESPONSIBLE OFFICIAL'S DECISION AND REASON:

Upon further review, it was determined that the Conviction for 817, Possession of Contraband, Level 3 Offense, Case #90, will be not be overturned. However, in accordance with OP-22.14 Inmate Disciplinary System, modifications to the sanctions for this offense will be made to reflect a reduction from 90 days of good time to 30 days of good time.

Therefore, your grievance is upheld in part and denied in part.

On March 26, 2013, appellant filed the present case in Administrative Law Court. He contends that the 90 days of good time was not restored to him. In an Order dated May 16, 2014, the Court requested an explanation in response to appellant's allegations. Subsequently, on July 7, 2014, the Court extended the period to respond to the Court's May 16 Order. As ~~described~~ described below, appellant's credit has been restored as indicated in the warden's decision in response to the Step One Grievance.

ARGUMENT

I. NINETY DAYS OF ACCRUED GOOD TIME CREDIT WAS NOT RESTORED TO APPELLANT. ■

Appellant Step Two Grievance explain's that 30 days of good time credit was taken. See Step Two Grievance Form dated August 15, 2014.

In response to the Court's May 16, 2014, the Department conducted a thorough review of modifications to appellant's sentence related credits. This findings of this review are set forth in detail in the affidavit of Michael J. Stobbe. The affidavit explains that 90 days of good time credit was restored to appellant as directed by the warden's response to the Step One Grievance. Response from the Step Two Grievance states 30 days was taken.

As the Court's will see that Michael J. Stobbe stated under oath [REDACTED] to the Court that, based on the above, the 90 days of accrued good time credit that appellant initially lost due to disciplinary offense number 90 has been fully restored to him and his sentence has been implemented correctly.

Michael J. Stobbe made a false statement and that made the appellant sentence move to September 04, 2014 when the appellant should have maxed out in August of 2014.

CONCLUSION

The Court should grant the appellants appeal and award the appellant his 30 days of good time credit.

Respectfully Submitted,

By: Marcus Green

Marcus Green

3785 Ladson Rd. Apt. 925

Ladson, South Carolina 29456

Pro SE

Ladson, South Carolina
August 26, 2014

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CERTIFICATE OF SERVICE

I hereby certify that I have served Respondent a copy of the foregoing Initial Brief by depositing a copy of same in the United States Mail, postage prepaid, on August 26, 2014, addressed as follows:

Cheron N. Hess, Administrative Ass.
Office of General Counsel

Marcus Green
3785 Lackson Rd, Apt 925
Lackson, S.C 29456

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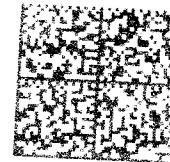
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