

The State of South Carolina

In The Court of Appeals

Appeal From The Administrative Law Court

Deborah Brooks Dunden Administrative Law Judge

Case No - 13ALS-04-0772-AP

Appellate Case No - 2014-001060

Charles R Carter

APPELLANT

VS

South Carolina Department of Corrections - Respondent

Record on Appeal

RECEIVED

SEP 15 2014

SC Court of Appeals

1. Title Page - Index
2. APRIL 1997 Arrest Warrant E 455557-4453-375-B Code 102
3. May 22 1997 True Bill Return - VA Arrest Warrant - E 455557 - SC Code 44-53-375 - CPA code 112
4. December 10 1997 Verdict Form - State vs Carter - P.W.I.D
5. OCT 13 Letter From York County Clerk of Courts Office To Mrs Furberville
Offender Records Branch For South Carolina Department of Corrections
6. Sep 10 2009 Letter From Circuit Court Judge John C Hayes III To Carter
7. Step 1 Grievance Form Filed Oct 4th 2012 - answered Dec 7 2012 - not 2010
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8. Step 1 Grievance Filed 1-7-2013 - answered 8-23-2013 - Received By Appellant
on 9-23-13
9. May 1 order of Administrative Law Judge Deborah Brooks Dunden.
- 5 Dec 10 - Sentencing Sheet

Charles R Carter

ARREST WARRANT

E- 455557

STATE OF SOUTH CAROLINA

County/ Municipality of YORK

AFFIDAVIT

SEP 15 2014
0102

Form Approved by
S.C. Attorney Gen.
July 28, 1990
SCCA 518

SC Court of Appeals

STATE OF SOUTH CAROLINA

County/ Municipality of YORK

CERTIFIED TRUE COPY YORK

Donna G. ...
JAN 19 1997
PROPERTY CLERK
C.C. ...
YORK COUNTY, SC

Personally appeared before me the affiant G. P. WILLIAMS
being duly sworn deposes and says that defendant CHARLES RAY CARTER
within this county and state on 04-01-97 violate the criminal laws of
State of South Carolina (or ordinance of County/ Municipality of _____)

THE STATE
against

DESCRIPTION OF OFFENSE: POSSESSION OF CRACK COCAINE WITH INTENT TO DISTRIBUTE—4TH OFF
SECTION 44-53-375(B)

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

ON 04-01-97, OFFICERS WITH THE YORK COUNTY SHERIFF'S OFFICE WERE CONDUCTING AN
INVESTIGATION ON I-77 IN FORT MILL, S. C. DURING THIS INVESTIGATION, OFFICERS
STOPPED A 1982 CADILLAC FOR IMPROPER TAG. DURING THIS STOP, THE DEFENDANT
(CHARLES RAY CARTER) WAS FOUND TO BE IN POSSESSION OF NUMEROUS ROCKS OF CRACK
COCAINE, THIS BEING CONSISTENT WITH THE DISTRIBUTION OF CRACK COCAINE. A CHECK
OF CARTER'S CRIMINAL HISTORY SHOWED THAT HE HAS THREE PREVIOUS DRUG CONVICTIONS
MAKING THIS HIS FOURTH OFFENSE. THIS OFFENSE OCCURRED IN YORK COUNTY, S. C. ALL
AGAINST THE PEACE AND DIGNITY OF THIS STATE AND THE LAWS SO MADE AND PROVIDED.
THE QUANTITY OF CRACK WAS MORE THAN ONE GRAM.

Sworn to and subscribed before me)
on 04-01-97)
[Signature])
Signature of Issuing Judge (L.S.))

[Signature]
Signature of Affiant
Affiant's Address 1675-2A YORK HWY
YORK, S. C. 29745
Affiant's Telephone 628-3069

FILED-RECEIVED
BOOK PAGE
APR 10 28 AM '97
DAVID HAMILTON
O.C.P. & S.S.
YORK COUNTY SC
C.P.M.

STATE OF SOUTH CAROLINA

County/ Municipality of YORK

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on 04-01-97 defendant CHARLES RAY CARTER
did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of _____) as set forth below:

DESCRIPTION OF OFFENSE: POSSESSION OF CRACK COCAINE WITH INTENT TO DISTRIBUTE
SECTION 44-53-375 (B)

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before
me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the
defendant at the time of its execution or as soon thereafter as is practicable.

[Signature])
Judge's Address 1675 YORK HWY.
YORK, S. C. 29745
Signature of Issuing Judge (L.S.))
Judge's Telephone 628-3095
Judge Code: P14
Issuing Court: Magistrate Municipal Circuit

626

CHARLES RAY CARTER

Address: 4411 GIVENS ROAD

ROCK HILL, S. C. 29730

Phone: 327-5438 SSN: 248-98-2577

Sex: M Race: B Height: 71" Weight: 245

State: S.C. DL #: _____

D.O.B.: 12-03-55 Agency ORI #: 0460000

Prosecuting Agency: YCSO

Prosecuting Officer: WILLIAMS, G. P.

Offense: POSSESSION OF CRACK WITH INTENT

TO DISTRIBUTE—4TH Offense Code: _____

Code/Ordinance Sec. 44-53-375(B)

This warrant is CERTIFIED FOR SERVICE in the
 County/ Municipality of _____

The accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge (L.S.)

RETURN

A copy of this arrest warrant was delivered to
defendant CHARLES RAY CARTER
on 4-1-97

[Signature]
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

TICKET # 30773

Exhibit never filed with Clerk prior to Trial
Five See Back for signature

383

WITNESSES

YCSD / WILLIAMS

S/ Kirkland

mac

ARREST WARRANT NO E-455557

ACTION OF GRAND JURY

TRUE BILL

Foreman of Grand Jury

Date:

Shane Menard 052297

VERDICT

Guilty

Shane Menard
of Petit Jury

12/10/97
Date:

DOCKET NO. # 97-GS-46- 1609

The State of South Carolina

COUNTY OF YORK

COURT OF GENERAL SESSIONS

MAY 22ND, TERM 1997

THE STATE

vs.

CHARLES RAY CARTER

Indictment for
UNLAWFUL DRUGS

POSSESSION OF CRACK COCAINE
WITH INTENT TO DISTRIBUTE

SC CODE 44-53-375
CDR Code 0112

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

Charles Ray Carter

hereby appear in my own proper person and plead guilty to the within indictment or to

Possession of Crack, 3rd⁺

Defendant

Witness:

C.C.C. PLS. AND G.S.

1. No clerk Seal

2. Jury Foreman's Signature

3. No essential Elements - 1-6 GMS

4. False Plea Agreement

SCDR-112- [redacted]
Order of 102 [redacted]

Original Indictment Statute as opposed to
3585

Form 32 (12/87)

382

STATE OF SOUTH CAROLINA
COUNTY OF YORK

CERTIFIED TRUE COPY
David B. Hamilton
JAN 19 2 19 PM '97
Deputy Clerk
DAVID B. HAMILTON
C.C.P. & C.S.
YORK COUNTY, SC

INDICTMENT

At a Court of General Sessions, convened on May 22nd, 1997, the Grand Jury of York County present upon their oath:

POSSESSION OF CRACK COCAINE
WITH INTENT TO DISTRIBUTE

44-53-375

That Charles Ray Carter did in York County on or about April 1, 1997, possess with intent to distribute a quantity of Crack Cocaine, a controlled substance under provisions of Section 44-53-110, et seq., Code of Laws of South Carolina (1976), as amended, such Possession with Intent to Distribute not having been authorized by law, all in violation of Section 44-53-375, Code of Laws of South Carolina, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Julia D. Nemms
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

Exhibit #
one

COUNT: _____

378

COUNTY OF YORK

CERTIFIED TRUE COPY

CASE NO: 97 GS-46-1609

THE STATE
VS

Wanda Yarbrough
JAN 19 2 19 PM '98
Clerk

WARRANT NO: E 455557

CHARGE: #0102 Pass Check Cocaine, W.I.

Charles Ray Carter

DAVID HAMILTON
C.C.

The sentence of the Court is that *Charles Ray Carter*, the defendant named in this indictment be confined to the State Board of Corrections/York County Detention Center for a term of *Thirty (30) YEARS* (AND) (O

pay a fine of \$ _____ : provided that upon the service of _____ (and)(o
payment of \$ _____ plus (pay) (waive) cost and assessments as applicable *, the balance
suspended and the defendant is placed on probation for _____ (months) (years).

RESTITUTION: (YES) (NO)

PHYSICAL INJURY \$ _____

HEARING HELD OR WAIVED ON: _____

(and) (or)

PAYABLE TO CLERK FOR (VICTIM) _____

PROPERTY DAMAGE \$ _____

TOTAL \$ _____

SPECIAL CONDITIONS OF PROBATION AND/OR SENTENCE: _____

DATE: *12-10-97*

YORK, SOUTH CAROLINA

FINE \$ _____
ACADEMY *su* \$ *150.00*
C.C.A. \$ _____
L.C.F. \$ _____
C.A.T. \$ _____
OTHER \$ _____
GRAND TOTAL \$ *100.00*

*COST AND ASSESSMENTS:

John Hays
Presiding Judge

Presiding Judge

David Hamilton
Clerk of Court

Clerk of Court

Date of Birth *12-23-55*

Social Security *248-98-2577*

Driver's License: *N/A*

COPY RECEIVED BY: *Charles Ray Carter*
Defendant

ATTORNEY FOR DEF: *Pro Se*
ADDRESS: *4411 Givens Rd*
Rock Hill, SC 29730

M F
B / W

STATE OF SOUTH CAROLINA
COUNTY OF YORK

CERTIFIED TRUE COPY

Donna Yorkland
JAN 19 11 19 AM '98
County Clerk

IN THE COURT OF GENERAL SESSIONS
VERDICT FORM

STATE OF SOUTH CAROLINA
YORK COUNTY, SC

DAVIS HAMILTON
C.C.P. & C.S.

POSSESSION OF CRACK COCAINE WITH
INTENT TO DISTRIBUTE

V.

Charles Ray Carter

DEFENDANT.

97-GS-46-1609

X

We find the Defendant Guilty of Possession of Crack Cocaine With Intent to Distribute.

We find the Defendant Guilty of the Lesser Included Offense of Possession of Crack Cocaine.

We find the Defendant Not Guilty.

Gregory Hamilton
Foreperson

December 10, 1997

97-1607

Reference Commitment order
and Detainer.

Dear Clerk

S.C.D.C Records Branch is showing That I was sentence For Manufacturing a Control Substance which is incorrect. On December 10-1997, I was sentence By Judge Hayes For Poss of Crack with Intent to Distribute. Please send a copy of original Indictment and Commitment To S.C.D.C offenders Records office. Please provide me with a copy of your Correspondance in This Matter. I would also appreciate it very much if you would inform as to Why a Detainer is still pending against me after I have Filed a Timely notice For Speedy Trial or Dismissal. Please advise me of The proper and necessary procedanc to Resolve The issue That I have addressed in The Above.

Respect Fully Submitted

Charles Ray Curtis
RT 2 Box 100-F4-A-292
McCormick SC 29898

Copies York County Clerks office

Judge Darden S.C. Supreme Court B-2-14

There is nothing in this letter about 3rd offense as the Clerk stated in her response or requesting such

Page 6



INMATE RECORDS OFFICE

2004 SEP 15 AM 10:36

State of South Carolina
The Circuit Court of the Sixteenth Judicial Circuit

JOHN C. HAYES, III
JUDGE

MOSS JUSTICE CENTER, 2ND FLOOR
1875-1H YORK HIGHWAY
YORK, SOUTH CAROLINA 29745-7434
TELEPHONE: (803) 628-3047
FAX: (803) 628-3055
E-MAIL: jhayes3@sccourts.org

12
September 10, 2004

Mr. Charles Ray Carter, #246054
BRCI - 122 - Murray Unit
4460 Broad River Road
Columbia, SC 29210

Dear Mr. Carter:

I have checked the Criminal Docket Report (CDR) and it appears to me that the correct CDR code for the offense for which you were sentenced is 0114 rather than 0102. It would appear that your sentence sheet has been corrected rather than the sentence modified.

I have no jurisdiction as to your 1997 sentence at this time.

With kind regards, I am

Yours very truly,

John C. Hayes III
John C. Hayes, III

JCHIII/fjk

Cc: Court file (w/Carter letter of 8-5-04 letter and attachments)
S.C. Dept. of Corrections

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: Charles Carter
SCDC NUMBER: 246054
INSTITUTION: Ridge Land C.I.
HOUSING UNIT: SIA 28
WORK ASSIGNMENT: None

Office Use Only
Grievance No. RCI 0856-12
Code: General CL/CL
Policy _____
Disc. Hear. _____
Class. _____
Date Received 10/17/12
IGC Initials MB

OCT 08 2012
J.O.

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

I was sentenced in December 1997. My Sentencing Sheet Reflected code 102. My initial Release date screen stated that my Parole Eligible Date was 1-5-04 and my Max out Date was 10-7-2013. I still have this document. However in 1998 my Sentencing sheet was modified by Records Clerk Michael S.D. BBE by changing the code from 102 to 114 which then terminated my Parole eligibility and increased my sentence by 10 years. In a recent Ruling by the SC Court of Appeals in the case of TANT VS SCDC - The Court Ruled that SCDC could not modify a sentencing sheet that was without ambiguity. There fore with the Earn work credits and Good Time that I would have earned my sentence is suppose to be expired.

ACTION REQUESTED: That my original Sentencing Sheet Code of 102 be reinstated and that my EWCs and Good Time be given to me retroactively and applied to my sentence.
EWC and Good Time

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

I have Exhausted these procedures before this new Ruling was put into place. There fore I'm filing this grievance base on the Ruling in TANT VS SCDC that was not available when I file in the past.

Charles Carter 11/4-2012
Grievant Signature Date

ACTION TAKEN BY IGC:

Your grievance has been investigated and because of time restraints, forwarded to the Warden for his review/decision. See Warden's decision

- I accept the action taken by the IGC and consider the matter closed.
- I do not accept the action taken and wish to appeal.

M. E. Montford 11/16/12
IGC Signature Date

N/A
Grievant Signature Date

WARDEN'S DECISION AND REASON:

CARTER, CHARLES - 246054

This is in response to RCI-0856-12. All pertinent information has been reviewed and all procedures were followed appropriately. According to your Classification Case Worker, Ms. Chisholm, your CDR code was modified from 0102 to 0114 per a sentencing sheet received from Your County Clerk of Court Office. It is a mandatory 85% sentence requiring you to serve 25 years 6 months. If you feel this is incorrect, you need to contact York County Clerk of Court. With your work credits and good time, your max out date is 06/03/2023. You are currently serving 25 years 5 months 24 days. Your time can not drop below the 85% requirement.

Based on this information, I consider this matter resolved. If not satisfied with my response, see Step 5 below.

Beverly Cole 12/7/12
Warden Signature Date

- I accept the Warden's decision and consider the matter closed.
- I do not accept the Warden's decision and wish to appeal.

M. E. [Signature] 1/3/13
IGC Signature Date

Charles Carter 1-3-13
Grievant Signature Date

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM

1. An informal resolution shall be attempted prior to the filing of Step 1.
2. Complete each section in its entirety, writing only in the space provided for inmate use.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form to the Institutional Grievance Coordinator within fifteen (15) days of an alleged incident; policy grievances at any time. Do not write in the space provided for the Warden's response.
5. If you are not satisfied with the Warden's decision, you may appeal to the appropriate responsible official within five (5) days of your receipt of the Warden's decision, via the Institutional Grievance Coordinator.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM

XMC: 7/8/13

STEP 2

INMATE NAME: Charles A Carter
SCDC NUMBER: 246054
INSTITUTION: Ridgehand C.I.
HOUSING UNIT: S.A. 28
WORK ASSIGNMENT: Norm

Office Use Only
Grievance No. REL-0856-12
Code: General CL/C1
Policy _____
Disc. Hear. _____
Class. _____
Date Received 8/11/13
IGC Initials MJC

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

The agency overstepped its bounds I was denied due process by SCDC as well as denied counsel by the unlawful modification and erroneous calculation of my sentence without me knowing or without a hearing more than 10 months after I was sentenced which unlawfully terminated my initial parole eligibility of 1-5-04 and my original maxout date of October 2013 by changing the offense code on my initial sentencing sheet from 102 to 114 as well as the CDR code on my indictment from 112 to 114 and entering the code 114 into the computer which created a different indictment and statute that terminated my Earned Work Credits and bond time which increased my sentence by 10 years and my maxout date to 2023 that was done outside the original record in violation of Faint vs SCDC-718 scd-753 and Hawkins vs Freeman 166 Fed 2d 267 that has caused me to be held past my release date if I'm given my EWG's and bond time for a 15 year period.

Charles Carter 8-7-13
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

Your concerns have been reviewed. Your sentencing sheet was corrected to reflect CDR code 0114 rather than 0102. You received correspondence from the Honorable Judge John C. Hayes III dated 9/10/04 which explained to you that your sentencing sheet had been corrected, not modified, to reflect the correct CDR code of 0114. The South Carolina Department of Corrections does not have the authority to modify your sentencing sheet or CDR code.

Therefore, your requested action is denied.

You may appeal this decision under the Administrative Procedures Act to the Administrative Law Court. In order to appeal, you must fill out the attached Notice of Appeal Form and submit it as instructed on the form within 30 days of receipt.

J. Gaston 8-23-13
Signature Date

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

Charles Carter 9-16-13
Grievant Signature Date

M. E. Monteath 9-16-13
IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Charles Ray Carter, #246054,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

Docket No. 13-ALJ-04-0772-AP
Grievance No. RCI 0856-12

ORDER

STATEMENT OF THE CASE

This matter is before the Administrative Law Court (ALC or Court) pursuant to the appeal of Charles Ray Carter (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (SCDC or Department). Appellant filed a Step 1 grievance on October 4, 2012 alleging that his max out date was incorrectly calculated due to a clerical error on the original sentencing sheet. This grievance was investigated and denied. Appellant then filed a Step 2 grievance on January 7, 2013 alleging that he was "denied due process by SCDC as well as denied counsel by the unlawful modification and erroneous calculation of [his] sentence without [him] knowing or without a hearing more than 10 months after [he] was sentenced...." This grievance was investigated by Division Director Jannita C. Gaston and denied on August 23, 2013. The Appellant received the Department's final decision on or about September 16, 2013. On October 7, 2013, the Appellant filed this appeal with the Court.

In his Notice of Appeal, Appellant claims that SCDC has not properly calculated his sentence and that SCDC is holding him past his release date. Appellant requests that SCDC release him immediately "because his original release date has passed."

STANDARD OF REVIEW

The Court's jurisdiction to hear this matter is derived 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 Administrative Law Court's 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

FILED

MAY 01 2014

his/her 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 ALC sits in an appellate capacity. *Id.* at 756. Consequently, the review in these inmate grievance cases is limited to the record presented. 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(A)(6) (1986 & Supp. 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* S.C. Code Ann. § 1-23-380(A)(6); *See also* Marietta Garage, Inc. v. South Carolina Dept. of Public Safety, 337 S.C. 133, 522 S.E.2d 605 (1999); South Carolina Dept. of Labor, Licensing and Regulation v. Girgis, 332 S.C. 162, 503 S.E.2d 490 (1998). Here, Appellant appeals SCDC's final agency action regarding a request to recalculate Appellant's sentence; therefore, this Court has jurisdiction to hear the appeal.

DISCUSSION

On December 10, 1997, the Honorable John C. Hayes III sentenced Appellant to thirty years for violating S.C. Code Ann. § 44-53-0375(B), offense code 0114 ("Drugs/Manufacture, distribution, etc., ice, crank, crack cocaine – 3rd or sub. offense"). On the sentencing sheet, however, the York County Clerk of Court's office wrote in the incorrect CDR code of 0102¹, although next to the incorrect code is a description of the actual offense for which Appellant was convicted "Poss: crack cocaine WID").

Upon his entry into SCDC custody, Appellant's sentence was entered under the incorrect CDR code of 0102 instead of 0114. Sometime in the early 1998, Appellant took the initiative to contact the York County Clerk of Court to inquire about a then-existing detainer. In his letter, Appellant acknowledged that his conviction was for "poss of crack with intent to distribute." However, Appellant also stated that he was not sentenced "for manufacturing [sic] a control [sic] substance." Appellant is correct that he was not sentenced for *manufacturing* a drug. However, the

¹ The old CDR 0102 code was for S.C. Code Ann. 44-53-0375(A) ("Drugs/Possession of less than one gram of ice, crank, or crack cocaine – 3rd or sub. offense").

language in S.C. Code Ann. § 44-53-0375(B) includes any “person who manufactures, distributes, dispenses, delivers, purchases, or otherwise aids, abets, attempts, or conspires to manufacture, distribute, dispense, deliver, or purchase, or *possesses with intent to distribute, dispense, or deliver...cocaine base....*”

On October 13, 1998, SCDC’s Offender Records Office received a letter in reply to Appellant’s letter. The letter was from York County Deputy Clerk of Court, Peggy C. Carroll, who wrote:

I have been requested by an inmate, Charles Ray Carter, to provide you with copies of his sentence sheet for a conviction on 12/20/97 indicating his conviction was for Poss. Crack Cocaine with Intent to Dist. 3rd Offense and not Mfg. Control Substance as he indicated in his letter.

As a result of the clarification of the clerical error made on the sentencing sheet, SCDC updated its records to reflect the proper sentence. The true bill returned against Appellant by the York County grand jury on May 22, 1997 was for “Possession of Crack Cocaine with Intent to Distribute,” which falls under CDR code 0114 based on § 44-53-0375(B)—Not CDR code 0102, which is for possession of less than one gram of ice, crank, or crack cocaine and is based on § 44-53-0375(A). Therefore, the actual crime with which Appellant was charged, and of which he was ultimately convicted, was a third offense of possession of crack cocaine with intent to distribute.

Appellant cites Tant v. S.C. Dept. of Corrections, 395 S.C. 446, 718 S.E.2d 753 (Ct. App. 2011) addressing ambiguity in sentencing sheets. In Tant the Court of Appeals held that

Under ordinary circumstances, SCDC must determine the sentence imposed by the trial court from the sentencing sheets. If there is some ambiguity in the sentencing sheets, SCDC may examine the transcript of record to determine the intent of the sentencing judge.... In this case, there is no ambiguity. Therefore, SCDC was limited to interpreting the sentencing sheets.

Tant 395 S.C. at 449. (internal citations omitted). The only exception noted by the Tant court to this general rule is where the trial judge announced one sentence in the presence of the defendant and later increased that sentence in the written order. See Boan v. State, 388 S.C. 272, 277, 695 S.E.2d 850, 852 (2010). Because there is no ambiguity whatsoever as to the sentence imposed on the sentencing sheet in this case, the application of Tant requires that the thirty-year sentence unambiguously imposed on the sentencing sheet controls. Moreover, the nature of the crime for possession with intent to distribute, the grand jury’s true bill, and all other documentation in this case

4

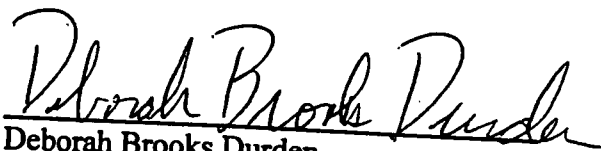
supports SCDC's 1998 correction of Appellant's CDR code for purposes of recalculating his sentence in accordance with the sentencing court's order.

The record conclusively establishes that the "substantial evidence on the whole record" supports SCDC's final agency decision. Appellant has the burden of proving that SCDC's decision is clearly erroneous, or arbitrary or capricious, or an abuse of discretion. See Porter v. Pub. Svc. Comm'n, 333 S.C. 12, 507 S.E.2d 328 (1998). Appellant has not met this burden.

ORDER

IT IS THEREFORE ORDERED that the Final Decision of the Department is **AFFIRMED** and the appeal of the Appellant is **DENIED**.

AND IT IS SO ORDERED.



Deborah Brooks Durden
Administrative Law Judge

May 1, 2014
Columbia, South Carolina

CERTIFICATE OF SERVICE

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

This 1st day of May 2014

By: R. E. Webb
Judicial Law Clerk

The State of South Carolina

In The Court of Appeals

Appeal From The Administrative Law Court

Deborah Brooks Dunder - Administrative Law Judge

Case No - 13-ALJ-04-0772 - AP

Appellate Case NO-2014-001860

Charles R Carter

Appellant

South Carolina Department of Corrections

Respondent

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PROOF OF SERVICE

SC Court of Appeals

I certify that I have served a record on appeal on the respondent by depositing a copy of it in the US Mail Postage Prepaid addressed to SC DC office of General Counsel Attorney Daniel Crooks III PO Box 21787 Colase 29221 and to the SC Court of Appeals Jenny Abbott Kitchings at PO Box 11629 Colase 29211 on this day of 9-10-2014.

Charles R Carter 246084

P.O. Box 2039

Ridgeland SC 29936

Certificate of Appellant

I certify that this record on appeal contains no matters which are irrelevant to this appeal.

Charles R Carter 246084

P.O. Box 2039

Ridgeland SC 29936

Court

State of South Carolina

In The Court of Appeals

Appeal From The Administrative Law Court

Deborah H. Brooks Durdett Administrative Law Judge

Case no 13-ALJ-04-0772 AP

Appellate Case No-2014-001060

Charles R Carter

Appellant

v

South Carolina Department of Corrections Respondent

To The SC Court of Appeals

The Honorable Jenny Abbott Kitching

P.O. Box 11629

Columbia SC 29211

RECEIVED

SEP 15 2014

SC Court of Appeals

Dear Clerks Office

Please find enclosed A Record on Appeal
For The Above listed Case. Also included are A Proof
of Service and certificate of Appellant. Please
Return a clocked in & stamped copy to me when filed.

Thank you very much for your assistance and
Cooperation.

Respectfully Submitted

9-10-2014

Charles R Carter 246034

P.O. Box 2039

Ridgeland SC 29936

Charles A Carter 246054
Ridgeland CI SA 28
P.O. Box 2039
Ridgeland SC 29936

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SEP 15 2014

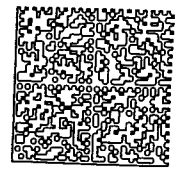
SC Court of Appeals

S.C. Court of Appeals

The Honorable Jenny ABBOTT KITCHENS

P.O. Box 11629

Col HASE 29211



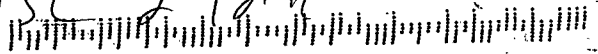
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