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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Kevin J. Daniels, #247291,)	Docket No. 14-ALJ-04-0365-AP
)	
Appellant,)	
)	
vs.)	
)	ORDER OF DISMISSAL
South Carolina Department of Corrections,)	
)	
Respondent.)	
)	

STATEMENT OF THE CASE

This matter is before the South Carolina Administrative Law Court ("ALC" or "Court") pursuant to the Notice of Appeal filed, by Appellant ("Inmate") above named, who is incarcerated with the South Carolina Department of Corrections ("SCDC"). Inmate contends that 388 days of credit is not being properly applied to his concurrent sentences and appeals the denial of his Step 2 grievance in which SCDC found that Inmate's sentence has been properly calculated.

FACTUAL BACKGROUND

Inmate is incarcerated for three separate offenses, listed in chronological order from the date of the offense, as follows:

1. **Indictment 11-GS-32-00794:** On October 7, 2010, Inmate committed a 3rd or subsequent property offense and on June 8, 2011 was sentenced to a 10 year suspended sentence and 3 years probation. However, Inmate was arrested on February 2, 2013, *infra*, and his probation was revoked. As a result, on March 15, 2013, Inmate received a 5 year sentence and credited time from the date of the arrest on February 2, 2013.
2. **Indictment 12-GS-40-00680:** On August 23, 2011, Inmate committed a 3rd or subsequent property offense and on September 3, 2012 was sentenced to serve 6 years. It was noted on Inmate's sentencing sheet that 388 days would be credited to this term of incarceration.
3. **Indictment 13-GS-32-01526:** On February 2, 2013, Inmate committed an offense of shoplifting and, on May 8, 2013, was sentenced to serve 8 years. This offense was deemed a violation of the terms of Inmate's probation related to his property offense from October 7, 2010, *supra*. It was noted on Inmate's sentencing sheet that credit would apply to this term of incarceration starting from the date of this offense, February 2, 2013.

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The sentencing sheets contained in the record indicate that Inmate's 8 year and 6 year sentences are to be served concurrently.

ISSUE ON APPEAL

Did the Department calculate the Inmate's sentence correctly?

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.

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).

Additionally, in Superintendent, Massachusetts Corr. Inst., Walpole v. Hill, 472 U.S. 445,

105 S. Ct. 2768 (1985), the U.S. Supreme Court held that "the relevant question is whether there is any evidence in the record that could support the conclusion reached by the disciplinary board." Moreover, in Al-Shabazz, the Court underscored that since prison officials are in the best position to decide inmate disciplinary matters, the Courts and therefore this tribunal adhere to a "hands off" approach to internal prison disciplinary policies and procedures when reviewing inmate appeals under the APA. Al-Shabazz at 757; See also Pruitt v. State, 274 S.C. 565, 266 S.E.2d 779 (1980) (stating the traditional "hands off" approach of South Carolina courts regarding internal prison discipline and policy).

DISCUSSION

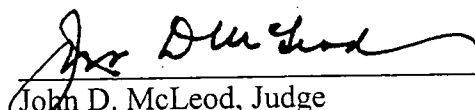
Inmate contends on appeal that the 388 days of credit for time served being applied to Indictment 12-GS-40-00680 should also apply to Indictment 13-GS-32-01526, in order to reduce the total amount of time of incarceration that must be served. However, the Department argues that the sentencing sheets indicate that the credit only applies to Indictment 13-GS-32-01526. Furthermore, the Department notes that the credit pertains to time that transpired before the offense date of Indictment 13-GS-32-01526.

S.C. Code Ann. § 24-13-40 states in part that "The computation of the time served by prisoners under sentences imposed by the courts of this State must be calculated from the date of the imposition of the sentence." Furthermore, an inmate is not entitled to credit for detention that was served prior to the time he was charged with another offense. Crooks v. State, 326 S.C. 171, 175, 485 S.E.2d 374, 376 (1997).

Based upon the substantial evidence in the record, the Court finds that Inmate is being properly credited for time served. The sentencing order for indictment 12-GS-40-00680 clearly states that Inmate is to receive 388 days applied toward that particular sentence. Indictment 13-GS-32-01526 also clearly states that Inmate is to receive credit for time served commencing on February 2, 2013, which is the date of the offense and the date of the arrest.

Therefore, for the foregoing reasons the Decision appealed from is Affirmed and this appeal is hereby **DISMISSED, WITH PREJUDICE**.

November 21, 2014
Columbia, S.C.



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