

The S Th Carolina Court of Appeals
App case no 2014-00166 - Carter vs SCOC

Dear Ms Claire Allen

This Letter is in Reply To your Dec 15th 2014 Letter in which you state That as The Appellant it is my Responsibility To Prepare and Serve The Record on Appeal which I Understand. However I Received a Letter From Ms Kitchings Date Sept 18th 2014 Advising me of The deficiency in my Record on Appeal. I corrected it To The Best of my Ability and Re filed it and served it on The Respondent and The Court with All Matters To Be Designated. I'm enclosing a Copy of The Letter From Ms Kitchings. By This Letter I am Filing and Serving These Documents again on The Respondent and Also Proposing my designation of Matter To Be included in The Record on Appeal again.

Respectfully Submitted
Charles R Carter 24654
P.O. Box 2039
Ridgeland SC 29936

Daniel J Crooks III
P.O. Box 21787
Columbia SC 29221

12-18-2014

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SC Court of Appeals

In The State of South Carolina
In The Court of Appeals

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Cover

Appeal From The Administrative Law Court **SC Court of Appeals**

Deborah Brooks Darden - Administrative Law Judge

Case no 13-ALJ-054-0772 AP - Appellate Case no 2014-001060

Charles R Carter 246054

Appellant

V

South Carolina Department of Corrections

Respondent

Designation of Matter To Be Included in
The Record on Appeal

Charles R Carter 246054

P.O. Box 2039

Ridgeland SC 29936

Daniel J Brooks III

P.O. Box 21787

Columbia SC 29221

12-18-2014

In the State of South Carolina
In the Court of Appeals

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Grant

Appeal From The Administrative Law Court **SC Court of Appeals**

Deborah Brooks Darden - Administrative Law Judge

Case No - 13-ALT-04-0772-AP - Appellate Case No 2014-001660

Charles R Carter #46054

Appellant

U

South Carolina Department of Corrections

Respondent

Appellant's Designation of Matter To Be included in Record on Appeal

Now Comes Appellant Charles R Carter and Proposes The Following
Be included in The Record on Appeal

1. Arrest Warrant - 4-1-97 - E-435557 - Code 0102 - AT TOP
2. 5-22-1997 Indictment 97-BS46-1609 - Returned on Arrest Warrant - E-435557 - CDR Code 112
3. 12-10-1997 Sentencing sheet - Code 102 and 12-10-97 Sentencing sheet Code 114 - 3rd offense
4. Dec 10¹⁹⁹⁷ Verdict Form - SD vs Carter - Guilty of Crack cocaine with Int to Dist
5. 10-13-98 - Letter From York Co Clerk of Court
6. Letter To York County Clerk of Court From Carter Titled Commitment order and Detainer, which is the letter the Oct-13-1998 letter is responding to. Nowhere is 3rd offense stated in letter.
7. Step 1 Grievance Form - Forwarded to Warden ^{states that sentence was modified}
8. Step 2 Grievance Form - states that CDR Code was corrected
9. Affidavit of Michael D Stobbe Dated 7-6-09 ^{sentence was modified}
10. 261 Page of Trial Record at Sentencing
11. Offender Management Release Date Screen Dated 1-27-98
12. Offender Summary Commitment Form - 10-16-98 - M-Stobbe

2

13 Incoming Sheet AT Allendale

14 Modified Release Date Screen

15 General Session Packet Report From York County
Showing offense Code 102 - 30 year Sentence - 12-11-97

Charles R Carter

P.O. Box 2039

Ridgeland SC

29936

Daniel J Croft III

P.O. Box 21787

ColASC 29221

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SC Court of Appeals

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SC Court of Appeals

3

Certificate of Counsel

I certify that this designation contains no matter that is irrelevant to this Appeal

Charles R Carter 24605p
P.O. Box 2039
Ridgeland SC 29936

PROSC APPELLANT

Daniel J Crooks
P.O. Box 21787
Col ASC 29921

12-18-2014

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30 Court of Appeals

In the State of South Carolina

In The Court of Appeals

Appeal From The Administrative Law Court

Deborah Brooks Dunden - Administrative Law Judge

Case no 13-ALT-040-077-AP - Appellate Case no 2014-001660

Charles R Carter 246054

Appellant

v

South Carolina Department of Corrections - Respondent

Affidavit of Service

I certify that I have served Respondent a copy of the foregoing designation of matter by depositing a copy of the same in the U.S. Mail postage prepaid on 12-18-14 as follows

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SC Court of Appeals

Daniel J Crooks
P.O. Box 21787
Columbia SC 29221

Charles R Carter 246054
P.O. Box 2039
Ridgeland SC 29936

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SC Court of Appeals

Ms Kitchings ~ Ms Clame Allen

Please be informed that my family is mailing a Postal Money Order TO THE COURT OF APPEALS in the amount of \$5.75~~00~~ For a copy of my Initial Brief. Thank you for your assistance and cooperation.

Charles D Carter

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The STATE OF South Carolina
In The Court OF APPEALS

Cover

APPEAL From The Administrative Law Court
Administrative Law Judge - Deborah Brooks Darden
Case no. 13 ALJ 04-0772 AP APPELLATE Case no. 2014-001060

Charles R. Carter 246054

Appellant



South Carolina Department of Corrections

Respondent

From The Appellant

Designation of Matter To Be included in The
Record on Appeal Proposed By Respondent

Charles R. Carter 246054
P.O. Box 2039
Ridgeland SC 29936

Daniel J. Crooks II
P.O. Box 21787
Columbia SC 29221

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The State of South Carolina
In The Court of Appeals

Page 1

Appeal From The Administrative Law Court
Deborah Brooks Dunder - Administrative Law Judge
Case no-13-AW-64-0277-AD - Appellate Case no-2014-901060

Charles R Carter 246054

Appellant

South Carolina Department of Corrections Respondent's

From The Appellant

Designation of Matter To Be included in The
Record on Appeal Proposed By Respondent

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| 2 | 4-1-1997-AARREST WARRANT-E455557-SC code ANN-44-53-375-B | Page 2 |
| 3 | 5-27-1997-True Bill Return on AARREST WARRANT-E455557 | Page 3 |
| 4 | 12-10-1997-Sentencing sheet From ST vs Carter | Page 4 |
| 5 | 12-10-1997 Verdict Form From State vs Carter | Page 5 |
| 6 | 10-1998 Letter From York County Clerk of Courts office To Ms TurBeulle
offender Records office-SCDC | Page 6 |
| 7 | 9-16-2004 letter From Judge John C Hayes III To Carter | Page 7 |
| 8 | Step 1 Grievance Form Filed 10-4-12 answered 12-7-2012 | Page 8 |
| 9 | Step 2 Grievance Filed 1-7-20-13 answered 8-23-2013 | Page 9 |
| 10 | May 1st order of AWT-Deborah Brooks Dunder | Page 10-11-12-13 |
| 11 | Certificate of Counsel | Page 14 |
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SC Court of Appeals

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SG Court of Appeals

14

Certificate of Counsel

I Here By Certify That This Designation of
matter contains no matter that is irrelevant to
This Appeal.

Charles R Curtis 246084
P.O. Box 2039
Ridgeland SC 29936

Daniel J Crooks III
P.O. Box 2087
Columbia SC 29221

12-18-2014

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SC Court of Appeals

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In The State of South Carolina
In The Court of Appeals

Appeal From The Administrative Law Court
Re. Bonita Brooks Dunden Administrative Law Judge
Case no. 13-AG-04-0772-AP- Appellate Case no. 2014-1001060

Charles R. Carter

VS

Appellant

South Carolina Department of Corrections

Respondent

Affidavit of Service

RECEIVED

DEC 22 2014

SC Court of Appeals

I Here By certify That I Have Served a copy of
The Designation of Matter on Respondent by Depositing
a copy of The Same in The U.S. Mail Postage Prepaid
addressed as Follows

Daniel J Crooks III
P.O. Box 20797
COLASC 29221

Charles R. Carter 246054
P.O. Box 2039
Ridgeland SC 29936

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DEC 8 1970

20 Count to 4000

E- 455557

CERTIFIED TRUE COPY

STATE OF SOUTH CAROLINA Page 1 of 1
AFFIDAVIT

Form Approved by
S.C. Attorney General
May 28, 1980
SCGA 51B

0102

STATE OF SOUTH CAROLINA
YORK County/ Municipality of YORK

THE STATE
against

CHARLES RAY CARTER
G. P. WILLIAMS

violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of)

CHARLES RAY CARTER
4411 GIVENS ROAD
ROCK HILL, S. C. 29730

Phone: 327-5438 SSN: 248-98-2577
Sex: M Race: B Height: 71" Weight: 245
Date: 12-03-55 Agency ORI #: 0460000

Prosecuting Agency: YCSO
Prosecuting Officer: WILLIAMS, G. P.

Offense: POSSESSION OF CRACK WITH INTENT TO DISTRIBUTE-4TH
Code/Ordinance Sec: 44-53-375(B)

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

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

Signature of Judge (L.S.)

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

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

TICKET # 30773

STATE OF SOUTH CAROLINA Page 1 of 1
AFFIDAVIT

AFFIDAVIT

0102

Personally appeared before me the affiant G. P. WILLIAMS
being duly sworn deposes and says that defendant CHARLES RAY CARTER
did violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of)

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

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 COCAINE, THIS BEING CONSISTENT WITH THE DISTRIBUTION OF NUMEROUS ROCKS OF CRACK OF CARTER'S CRIMINAL HISTORY SHOWED THAT HE HAS THREE PREVIOUS DRUG CONVICTIONS 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 of Issuing Judge (L.S.)

Signature of Affiant
Affiant's Address 1675--2A YORK HWY YORK, S. C. 29725
Affiant's Telephone 628-3069

STATE OF SOUTH CAROLINA
YORK County/ Municipality of YORK

ARREST WARRANT

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

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

CORONAL

Page 3 of Description
H See Back for STEALS

CC
00
00

WITNESSES
YCSO / WILLIAMS

S. H. Williams

mac

ARREST WARRANT NO E 455557

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

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

~~Defendant~~

1 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.T.C. PLS. AND G.S.

Indictment for
UNLAWFUL DRUGS

POSSESSION OF CRACK COCAINE
WITH INTENT TO DISTRIBUTE

SC CODE 44-53-375
CDR Code 0112

FORFEITURE

Forfeiture of Grand Jury

Date:

Mark E. Maxwell 05-22-97

VERDICT

Guilty

Shank
of Petit Jury

12/10/97
Date:

*SCDR-112-
Order of 102.*

~~_____~~
~~_____~~
~~_____~~
~~_____~~

Original Indictment Statute as opposed to

Form 32 (12/87)

3585

382

CERTIFIED TRUE COPY

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

STATE OF SOUTH CAROLINA
COUNTY OF YORK

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 ~~7~~

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 S. Munnis
ASSISTANT SOLICITOR

ONE

COUNT

378

COUNTY OF YORK

CERTIFIED TRUE COPY

CASE NO: 97 GS-46-1609

THE STATE

VS

Wanda Harbrough,
JAN 19 2 19 PM '98
Clerk
DAVIS HAMILTON

WARRANT NO: E455557

CHARGE: #0102 Poss Crack Cocaine WL

Charles Ray Carter

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) (0

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

COST AND ASSESSMENTS:

FINE \$
ACADEMY \$150.00
C.C.A. \$
L.C.F. \$
C.A.T. \$
OTHER \$
GRAND TOTAL \$150.00

John Hagan

Presiding Judge

David Hamilton

Clerk of Court

Date of Birth 12-23-55

Social Security 248-98-2577

Driver's License: N/A

COPY RECEIVED BY: X Charles Ray Carter
Defendant

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

M F
B/W

COUNTY OF YORK

Modified Version

CASE NO: 97 GS-46-1609

THE STATE VS

WARRANT NO: E 455557

Charles Ray Carter

CHARGE: ~~POS~~ Poss Crack Cocaine, W/P (0114) 3RD off

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) (OR) pay a fine of \$ _____ : provided that upon the service of _____ (and)(or) payment of \$ _____ plus (pay) (waive) cost and assessments as applicable *, the balance is 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

*COST AND ASSESSMENTS:

FINE	\$ _____
ACADEMY <i>su</i>	\$ 150.00
C.C.A.	\$ _____
L.C.F.	\$ _____
C.A.T.	\$ _____
OTHER	\$ _____
GRAND TOTAL	\$ 150.00

John C. Hagan
 Presiding Judge
David Hamilton
 Clerk of Court
 Date of Birth 12-03-55
 Social Security 248-98-2577
 Driver's License: N/A

COPY RECEIVED BY: *X Charles Ray Carter*
Defendant

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

M F
B/W

Pages of F Designation 204

Exhibit # 3

5

381

CERTIFIED TRUE COPY
STATE OF SOUTH CAROLINA
COUNTY OF YORK
IN THE COURT OF GENERAL SESSIONS
VERDICT FORM

Roma York
JAN 19 1998
Clerk
DAVID HAMILTON
C.C.P. & C.S.
YORK COUNTY, SC

STATE OF SOUTH CAROLINA
v.
Charles Ray Carter
DEFENDANT.
POSSESSION OF CRACK COCAINE WITH
INTENT TO DISTRIBUTE
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 Harbor
Foreperson

December 10, 1997

6 Page 6 of Designation

246954

30



CLERK OF COURT'S OFFICE

P.O. Box 649, York, South Carolina 297

EXHIBIT #

OCTOBER 13, 1998

98 OCT 16 AM 10:47

OFFENDER RECORDS BRANCH

S.S. DEPARTMENT OF CORRECTIONS
OFFENDER RECORDS OFFICE
4444 BROAD RIVER ROAD
COLUMBIA, SOUTH CAROLINA 29221

DEAR MS. TURBEVILLE:

Reluctant

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.

I TRUST THAT THIS WILL MEET YOUR REQUIREMENTS.

YOURS TRULY

PEGGY C. CARROLL
DEPUTY CLERK

CC: MR. CHARLES RAY CARTER
RT # 2 BOX 100
F-4-A-272
McCORMICK, S.C. 29899

10/24/98 per Stalke in concert w/ Lesli Bonwin, Counsel General inmate is being documented correctly at COR code 011 MANU Dist: crack - 3rd Si

Page 7 of Designation

Exhibit #

7



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
1675-1H YORK HIGHWAY
YORK, SOUTH CAROLINA 29745-7434
TELEPHONE: (803) 628-3047
FAX: (803) 628-3055
E-MAIL: jhayesj@accourts.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

Page 8 of Postmortem

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: Charles Carter
 SCDC NUMBER: 246054
 INSTITUTION: Ridge Land C.I.
 HOUSING UNIT: 5A 28
 WORK ASSIGNMENT: None

Office Use Only
 Grievance No. RCI 0856-12
 Code: General CL/CL
 Policy _____
 Disc. Hear. _____
 Class. _____
 Date Received 10/11/12
 IGC Initials MC

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 Screened 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 SDO 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.

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 10-4-2012
 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

JA-28

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.

Levent 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.

Charles Carter 1-3-13
Grievant Signature Date

M. E. [Signature] 1/3/13
IGC 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
STEP 2

REC: 7/8/13

Page 9 of 9 Designation 9
Office Use Only
Grievance No. REC-0856-12
Code: General C/C
Policy _____
Disc. Hear. _____
Class. _____
Date Received 7/11/13
IGC Initials MJC

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

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 Earn 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 Taint vs SCDC-719 sent 753 and Hawkins vs Freeman 166 Fed 2d 267 that has caused me to be held past my release date
Charles Carter 7-7-13
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. Montfort 9-16-13
IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

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Page 10 of E. Designation

**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

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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

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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

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 hereto, 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. [Signature]
Judicial Law Clerk



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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December 15, 2014

Charles Ray Carter, #246054
Ridgeland Correctional Institution
P O Box 2039
Ridgeland SC 29936

Re: Charles Carter v. SCDC (3)
Appellate Case No. 2014-001060

Dear Mr. Carter:

Upon reviewing your correspondence, received on October 27, 2014, I believe there is a misunderstanding concerning the record on appeal. As the appellant, it is your responsibility to prepare and serve the record on appeal. Please review Rule 210, SCACR, concerning the record on appeal. You prepare the record on appeal to include all matter designated to be included by any party under Rule 209, SCACR. Your record on appeal must be served on the respondent within twenty days and a proof of service filed immediately until this office. Failure to serve the record on appeal and immediately provide a proof of service may result in dismissal of the appeal.

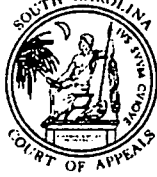
Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Daniel John Crooks, III, Esquire

I Filed a, in after I Received this Letter



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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September 18, 2014

Charles Ray Carter, #246054
Ridgeland Correctional Institution
P O Box 2039
Ridgeland SC 29936

Re: Charles Carter v. SCDC (3)
Appellate Case No. 2014-001060

Dear Mr. Carter:

Upon reviewing your record on appeal, the following deficiency or deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter:

- The document is improperly paginated. Specifically, the pages are not numbered.
- The document is not accompanied by the required certificate of counsel.
- The Cover does not meet the requirements of Rule 267, SCACR. The index should not be on the cover of the of the document.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jenny A. Kitchings".

CLERK

cc: Christopher D. Florian, Esquire
Daniel John Crooks, III, Esquire