

Court

21797

The State of South Carolina

In The Court of Appeals

Appeal From The Administrative Law Court

Deborah Bracks Darden-Administrative Law Judge

Case No-13-ALT-04-0772-AR Appellate Case No-2014-001060

Charles R Carter

U

Appellant

South Carolina Department
of Corrections

Respondent

Record on Appeal

Daniel John Crooks, III
4444 Broad River Road
PO Box 21787
Columbia SC 29210

Charles Ray Carter
Ridgeland Correctional Institution
PO Box 2039
Ridgeland SC 29936

RECEIVED

SEP 29 2014

SC Court of Appeals

The State of South Carolina
In The Court of Appeals

Appeal From The Administrative Law Court

Deborah Brooks Darden - Administrative Law Judge

Case No-13-AG-04-0772-AP- Appellate Case No-2014-001060

Charles R Carter

Appellant



South Carolina Department of Corrections - Respondent

Record on Appeal

Page 1

Index

2	4-19-97-ARREST Warrant E4-55557-SC-Code-ANN-44-53-375-B- <small>off-one Code 102</small>	2
3	5-22-1997-True Bill Returned on ARREST Warrant E4-55557- <small>44-53-375 CDR 112</small>	3
4	12-16-97-Sentencing sheet From S.T. vs Carter - code 102	4
5	12-16-97-Venue Form - PWID Crack - S.T. vs Carter	5
6	6 OCT 13 1998 Letter From York County Clerk of Court TO MS YARBVILLE of SCOC Offender Records Branch	6
7	9-10-2004 Letter From Judge John C Hayes TO Carter	7
8	Step 1 Grievance Filed 10-4-2012 answered 12-7-2012 - not 2010	8
9	Step 2 Grievance Filed E7-2013 answered 8-23-2013 Received 9-16-2013	9
10-11-12-13	May 1 2014 order of Administrative Law Judge Deborah Brooks - 10-11-12-13 Darden	

14 Certificate of Appellant

Charles R Carter 246054

14

15 Certificate of Service

R. B. BY 2039

15

Ridge Land SC

Daniel J. Erskine

P.O. Box 21787

CBLASC 29221

Attorney For Respondent

RECEIVED

SEP 29 2014

SC Court of Appeals

0037009820

ARREST WARRANT

E- 455557

STATE OF SOUTH CAROLINA

County/ Municipality of

AFFIDAVIT

0102

Form Approved by S.C. Attorney Gen. July 26, 1990 SCCA 518

6

CERTIFIED TRUE COPY YORK

STATE OF SOUTH CAROLINA

County/ Municipality of YORK

Personally appeared before me the affiant G. P. WILLIAMS who

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 the

State of South Carolina (or ordinance of County/ Municipality of _____)

for the following particulars:

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 PAGE 1
Apr 4 10 28 AM '97
DAVID HAMILTON
O.C.P. & S.S.
YORK COUNTY SC

STATE OF SOUTH CAROLINA

County/ Municipality of

ARREST WARRANT

YORK

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])

Signature of Issuing Judge (L.S.)

Judge's Address 1675 YORK HWY.

YORK, S. C. 29745

Judge's Telephone 628-3095

Judge Code: PL4

Judge's Address 1675 YORK HWY.

YORK, S. C. 29745

Judge's Telephone 628-3095

Issuing Court: Magistrate Municipal Circuit

THE STATE against

CHARLES RAY CARTER

Address: [Redacted]

ROCK HILL, S. C. 29730

Phone: 327-5438 SSN: [Redacted]

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

State: S.C. DL #: _____

DOB: 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.

_____ (L.S.)

Signature of Judge

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

Page 3 of index #9 See Back for statute

383

WITNESSES

YCSD / WILLIAMS

S/ Kirkland

mac

ARREST WARRANT NO. E-455557

ACTION OF GRAND JURY

TRUE BILL

Foreman of Grand Jury

Date:

Walter Nichols 052297

VERDICT

Guilty

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 Element - 1-6 GMS

4. Fake Plea agreement

SCDR-112- [redacted]
order of 102

Original Indictment Statute as opposed to

3585

382

Form 32 (12/87)

CERTIFIED TRUE COPY

David S. Hamilton
JAN 19 2 19 PM '97
Deputy Clerk
DAVID S. HAMILTON
C.C.P. & C.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

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. Nunn
ASSISTANT SOLICITOR

COUNTY OF YORK

CERTIFIED TRUE COPY

COUNTY: _____

CASE NO: 97 GS-46-1609

THE STATE
VS

Conna Harbrough
July 19 2 19 71 '98
County Clerk

WARRANT NO: E 455557

CHARGE: *Road Block Crime, etc*

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) (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>see</i>	\$ <i>100.00</i>
C.C.A.	\$ _____
L.C.F.	\$ _____
C.A.T.	\$ _____
OTHER	\$ _____
GRAND TOTAL	\$ <i>100.00</i>

John Hagan
Presiding Judge

David Hamilton
Clerk of Court

Date of Birth *12-23-55*
Social Security *248-98-2577*
Driver's License: *410*

COPY RECEIVED BY: *X Charles Ray Carter*
Defendant

ATTORNEY FOR DEF: *Pat Lee*
ADDRESS: *4111 Givens Rd*
Rich Hill, SC 29730

M F
B / W

Page 5
of Index

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

Donna York
JAN 19 2 19 PM '98
David Hamilton
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

- 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.

David Hamilton
Foreperson

December 10, 1997



2462540 b

file

CLERK OF COURT'S OFFICE

P.O. Box 649, York, South Carolina 29745

Page 6 of index

OCTOBER 13, 1998

98 OCT 16 AM 4:47

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

[Signature]

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 PRA Stalke in concert w/ Lesli Bonwin, Counsel General inmate is being documented correctly at EDR code 0114 Manu Dist: Crack - 3rd sub.

Page 7
of Index



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
1675-1M YORK HIGHWAY
YORK, SOUTH CAROLINA 29745-7434
TELEPHONE: (803) 828-3047
FAX: (803) 828-3055
E-MAIL: jhayes@sccourts.org

12
September 10, 2004

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

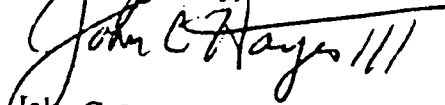
Dear Mr. Carter:

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

JCHIII/fjk

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

Page 8 of Index
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

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

OCT 08 2012
 J.O.

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

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 Stobbe 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 Conter 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. Montoye 11/16/12
 IGC Signature Date
N/A
 Grievant Signature Date

Page 9
of Index

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM

KMC: 7/8/13

STEP 2

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

RECEIVED

Office Use Only
Grievance No. REL-0856-12
Code: General CL/C1
Policy _____
Disc. Hear. _____
Class. _____
Date Received 1/11/13
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 15-04 and my original maxout date of October 2013 by changing the offense code on my initial sentencing sheet from 102 to 104 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 good time which increased my sentence by 10 years and my maxout date to 2023 that was done outside the original record in violation of Tamm vs SCDC-718 Scott 753 and Hawkins vs Freeman 166 Fed 2d 267 that has caused me to be held past my release date
Charles Carter 1-7-13
Grievant Signature Date
If I'm given my EWCs and good time for a 15 year period.

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. Minter 9-16-13
IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

Page 10

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").

Page 12

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

Page 13

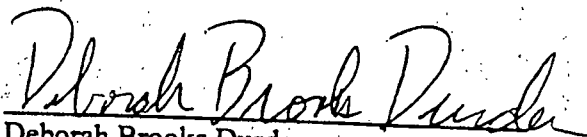
supports SCDC's 1998 correction of Appellant's CDR code for purposes of recalculating his sentence in accordance with the sentencing court's order.

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

Count

14

The State of South Carolina
In The Court of Appeals

Appeal From The Administrative Law Court

Deborah Brooks Darden - Administrative Law Judge

Case no-13-ALS-04-0772-AP-Appellate Case no-2014-00-1060

Charles R. Carter

Appellant

V

South Carolina Department
of Corrections

Respondent

Certificate of Appellant Abuse

The undersigned here by certifies that the record on appeal
contains all material proposed to be included by any of the parties
and not any other material.

Charles R Carter 246054

Charles R Carter

P.O. Box 2039

Ridge Land SC 29936

Prose

Daniel J. Crooks III

P.O. Box ~~2118~~ 21787

COLA SC 29221

9-25-2014

Attorney For Respondent.

Count
15

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 APellate Case no-2014-00-1060

Charles R Carter

Appellant

✓

South Carolina Department

of Corrections

Respondent

Record on Appeal
Certificate of Service

I certify that I have served a copy of the Record on Appeal on all parties by depositing a copy of it in the U.S. Mail with postage prepaid, addressed to Daniel J. Crooks at The South Carolina Department of Corrections P.O. Box 21787 Columbia SC 29221 and The South Carolina Court of Appeals- Jenny ABBOTT Ketching, P.O. Box 11629 Columbia SC 29211 on this day of September 25th 2014.

South Carolina Department of
Corrections

Daniel J Crooks

P.O. Box 21787

Columbia SC 29221

Charles R Carter 246054

P.O. Box 2039

Ridgeland SC 29936

RECEIVED

SEP 29 2014

SC Court of Appeals