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FINAL BRIEF OF APPELLANT

OCT 22 2015

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

CAROLYN C. MATTHEWS, ADMINISTRATIVE LAW JUDGE

LOWER CASE NO. 2014-ALJ-04-0771-AP

APPELLATE CASE NO. 2015-000183

George Cleveland, III, #357770,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS,

RESPONDENT.

FINAL BRIEF OF APPELLANT

George Cleveland, III, #357770
TURBEVILLE CORRECTIONAL INST.
P.O. BOX 252
TURBEVILLE, S.C. 29162
PRO SE APPELLANT

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A.
STATEMENT OF ISSUES ON APPEAL

1. DID THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT DIVISION (A.L.C.D.) ERR IN RULING THAT THE A.L.C.D. LACKED JURISDICTION TO DECIDE IF THE S.C.D.C. IMPROPERLY CALCULATED MY SENTENCE RELATED GOOD-BEHAVIOR CREDITS DESPITE ME CLEARLY ARGUING THE S.C.D.C. IMPROPERLY CALCULATED MY GOOD BEHAVIOR CREDITS?

B.
STATEMENT OF THE CASE

ON FEBRUARY 21, 2014, I HAND-WROTE AN REQUEST-TO-STAFF-MEMBER (R.T.S.M.) FORM BECAUSE EVANS CORRECTIONAL INSTITUTION HAD NONE.

THE R.T.S.M. WAS ADDRESSED TO THE CASE MANAGER AT EVANS CORRECTIONAL INSTITUTION'S: MR. JAMES BETHEA.

THE QUESTION DEALT DIRECTLY WITH MY GOOD BEHAVIOR CREDIT CALCULATIONS. ON MARCH 03, 2014, HE RESPONDED:

"YOUR CALCULATIONS ARE WRONG," SEE RECORD AT P. 1

Dissatisfied with his answer, I filed an on-time STEP-1 GRIEVANCE on MARCH 07, 2014. ON MARCH 28, 2014, EVANS CORRECTIONAL'S WARDEN WILLIE EAGLETON denied my GRIEVANCE in full. He Reasoned: "All sentence Related credits have been Applied," see Appellant's Record (Hereinafter A.R.) At p. 2.

Dissatisfied with WARDEN EAGLETON'S decision And Reasoning, I filed An on-time STEP-2 GRIEVANCE ON APRIL 03, 2014,

ON August 22, 2014, my GRIEVANCE WAS denied with NO explanation on the LAW despite requesting supporting documents to support the decision by the S.C.-D.C. STAFF AT Columbia, S.C., see A.R. At p. 3.

I filed An on-time notice of Appeal with the A.L.C.D. My case was Assigned Docket number: 14-ALJ-0771-AP, And Assigned to the Honorable CAROLYN C. MATTHEWS. My notice of Appeal WAS filed ON September 25, 2014, see. A.R. At p. 4.

on October 20, 2014, I filed a motion for an enlargement because of two (2) pending legal matters in other cases that consumed my time.

on October 22, 2014, the A.L.J.D. GRANTED my motion for an enlargement until on or before December 05, 2014, and the court ordered the S.C.D.C. to file the record within twenty (20) days after the filing of my original brief, see A.R. At p. 6.

on November 25, 2014, my original brief of nineteen (19) pages which exceeded the ten (10) page maximum under Rule 60(A) of the special Administrative Law rules Sec. V, see A.R. At p. 9. on the same day, I also filed a motion to exceed the page limit because of the important question of law, see A.R. At p. 9.

on or around November 05, 2014, the respondent filed the record in this instant

CASE.

ON OR AROUND December 17, 2014, the S.C.D.C. filed A motion to Dismiss my A.L.C.D. Appeal under SLEZAK, see Appellant's Record at p. 10 (hereinafter A.R.).

IN their motion to dismiss, the S.C.D.C. argued my case should be dismissed because I did not allege a liberty interest, thus should be denied. IBID.

The S.C.D.C. further argued that:

"...the Department gave detailed Responses in both step-1 and step-2 responses and there is no documentation that Appellant provides that shows that the Department is incorrectly calculating his sentence, id..

ON December 31, 2014, I filed my Response to the Respondent's motion to dismiss, see A.R. At p. 13.

IN my eleven (11) page response, I argued that the A.L.J.D. had jurisdiction to hear my case under SLEZAK because the SLEZAK COURT REASONED:

“... the ALJD. HAS JURISDICTION TO HEAR S.C.D.C. FINAL DECISIONS IN NON-COLLATERAL OR ADMINISTRATIVE MATTERS...”

I FURTHER STATED CLEARLY THAT THE S.C.D.C. HAS MISCALCULATED MY SENTENCE RELATED CREDITS despite the A.L.J.D. reasoning that I WAS NOT “SPECIFICALLY ARGUING ... MY ... SENTENCE IS IMPROPERLY CALCULATED...” see A.R. AT P. 11.

ON JANUARY 15, 2015, THE A.L.J.D. FILED JUDGE MATTHEW'S ORDER DISMISSING MY A.L.J.D. APPEAL UNDER SLEZAK, *id.*.

ON JANUARY 21, 2015, I signed for and received the DISMISSAL ORDER FROM THE EMMS' CORRECTIONAL INSTITUTION'S MAIL-ROOM.

ON FEBRUARY 02, 2015, MY APPEAL WAS ASSIGNED CASE NUMBER 2015-000183, IN THIS COURT, AND THIS BRIEF FOLLOWS:

C.

ARGUMENT

THE ALJ.D. ERRED IN RULING IT LACKED JURISDICTION OVER MY MIS-CALCULATION GOOD BEHAVIOR CREDITS

THE SOUTH CAROLINA CODE § 24-13-210 (A) READS IN RELEVANT PART:

“AN INMATE CONVICTED OF AN OFFENSE AGAINST THIS STATE, EXCEPT A NO PAROLE OFFENSE AS DEFINED IN § 24-13-100 AND SENTENCED TO THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS, . . . WHOSE RECORD OF CONDUCT SHOWS THAT HE HAS NOT [BECOME] SUBJECTED TO PUNISHMENT FOR

misbehavior is entitled to A deduction from the term of his sentence beginning with the day on which the service of his sentence commences to run, computed at the rate of twenty (20) days for each month served...

I provide the A.L.J.D. with a copy of my sentence sheet which shows a non-violent sentence, thus, a pardonable offense of:

poss. of stolen vehicle s.c. code

Ann. § 16-21-0080, see A.R. At p. 8

The A.L.J.D. reasoned that I was arguing the method of the S.C.D.C. calculations, but separated my argument that the S.C.D.C. has been calculating my sentence related credits incorrectly see A.R. At p. 11

I submit, these issues ARE one of the SAME because if the method the S.C.D.C. is using is CONTRARY to the LAW, then my sentence calculations reflects A sentence method of JUNK-MATH.

As I stated Abuse, the §24-13-210 (A) id, requires the S.C.D.C. to credit me 30 days A month for good behavior that's not being done.

IN SLEZAK v. S.C.D.C., 361, S.C., 327, 605, S.E., 2d, 506, S.C. (2004) the Supreme Court of South Carolina clarified the jurisdiction of the A.L.J.D. to all FINAL decisions of the S.C.D.C. in A non-collateral or Administrative matter.

The SLEZAK court further reasoned

∅

the A.L.J.D. has Appellate Jurisdiction over any matter where the procedural prerequisites for perfecting such an appeal have been met.

The A.L.J.D. took what the SLEZAK COURT REASONED in the conclusion of the opinion of:

"We hold that the A.L.J.D. has jurisdiction over all properly perfected inmate appeals," but clarify that it may summarily decide those appeals that do not implicate an inmate's state-created liberty or property interest and dismissed my appeal based solely on this very confusing closing, but earlier in the opinion, the Supreme Court reasoned that the A.L.J.D. has subject matter jurisdiction

to hear ANY PROCEDURAL prerequisite
for perfecting such A Appeal HAS
been met.

since AL-SHABAZZ v. STATE, 338
S.Ct. 338, S.Ct., 354, 527, S.E., 2d, 742
(2000), the A.L.J.D. has had difficulty
with what the COURT CAN hear AND
rule on. IN SULLIVAN v. S.C.D.C.,
355, S.Ct., 437, 586, S.E., 2d, 124 (2003),
the supreme court again clarified the
jurisdiction of the A.L.J.D.

The A.L.J.D. is only focusing on the
word of P: "STATE Liberty Interest," AND if
AN inmate's ARGUMENT is missing these
three (3) words, the S.C.D.C. is filing
motions left AND right successfully
dismissing under STEZAK because of
the deprivation of the 3 words stated.

Above, the A.L.J.D. in my instant case overlooked the point of my Appeal which WAS AND still is:

the S.C.D.C. has mis-calculated my max-out date by not crediting me 20 days a month AS the LAW requires. IT is unclear how the A.L.J.D. determined NO JURISDICTION to hear the matter when A mis-calculation of my sentence related credits run directly in line with a state-Liberty Interest because my LIBERTY is what I have been ARGUING since the beginning of the R.T.S.M. to MR. Bethea.

on page one (1) of my ORIGINAL BRIEF filed with the A.L.J.D., I put my ARGUMENT in question form which WAS:

↳ Did S.C.D.C. correctly deduct

the correct Amount of Good Behavior credit of twenty (20) days for each month served under S.C. Code Ann. § 24-13-210 (A) (1976) ... see A.R. At p. 7.

Further on page 8 of A.R. At, 7 I clearly argued that my calculations based on § 24-13-210 (A), id., equates my prison term should be seven-hundred-fifty (750) days not three (3) years, nine (9) months as S.C.D.C. incorrectly has it calculates, see A.R. IBID.

Judge Matthews also erred in ruling, I'm "not appealing a decision that affected [my] credits; rather [I'm] addressing how S.C.D.C.

is calculating such credits".

see A.R., id.

Judge Matthews also erred in ruling, "there is not state-created liberty interest in the loss of opportunity to earn additional good-time credits, see A.R., id.

The court's reasoning in not earning additional good-time credits is mis-guided because my whole argument to the court was I was not awarded all my good behavior credits. My argument said nothing about additional good behavior credits see A.R., id.

The mis-calculation of my sentence related credits for good behavior are incorrect, the A.L.J.D. has subject matter jurisdiction to my appeal because

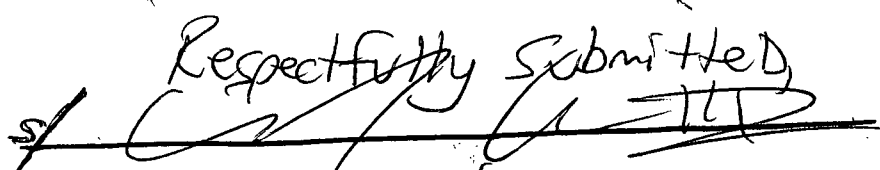
An error in my sentence related credits by the S.C.D.C. Results from An increased term of imprisonment; Accordingly it's a state liberty interest And the procedural prerequisite for the perfecting such an appeal have been met because of my timely appeal filings from step-1 and step-2 grievances to the timely filed notice of appeal with the A.L.J.D. And this court, the A.L.J.D. has jurisdiction to hear and Rule on my good behavior credits As the credits decrease my projected-max-out prison day.

CONCLUSION

Based on the foregoing arguments, I respectfully pray this court reverse in full, in part, modify, and/or remand back to the Administrative Law court

with instructions (if applicable) consistent
with my arguments herein, and.

Any other relief this court deems just
and/or proper.

Respectfully Submitted,

George Cleveland, #35770
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DATED: OCTOBER 18, 2015

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OCT 22 2015

SC Court of Appeals

APPELLANT'S PROOF OF SERVICE

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT

CAROLYN C. MATHEWS, ADMINISTRATIVE LAW JUDGE

LOWER CASE NO. 2014 ALJ-04-0771-AP

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v.

APPELLANT,

SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS, (S.C.D.C.),

RESPONDENT.

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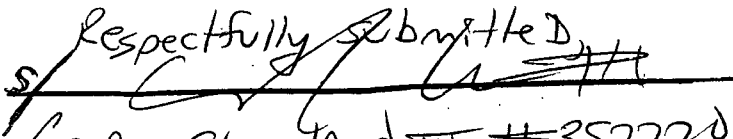
APPELLANT'S PROOF OF SERVICE

I, George Cleveland III, proceeding pro se certifies that on the date below, I handed to the Turbeville Correctional's mail-room staff properly addressed to be mailed first-class-mail by the United States Postal-service the following:

- APPELLANT'S FINAL BRIEF; APPELLANT'S MOTION TO TIMELY FILE FINAL BRIEF;
- APPELLANT'S MOTION FOR LEAVE TO SUPPLEMENT RECORD;
- APPELLANT'S SUPPLEMENTAL RECORD ON APPEAL (conditioned on action by the court);
- to the Respondent's undersigned attorney

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Respectfully submitted,

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Dated October 20, 2015