



The South Carolina Court of Appeals

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June 07, 2016

Billy Lee Lisenby, #200273
Ridgeland Correctional Institution
P.O. Box 2039
Ridgeland SC 29936

Re: Billy Lisenby, Jr. v. SCDC (26)
Appellate Case No. 2015-002343

Dear Mr. Lisenby:

Please be advised that the timelines regarding the above matter, 15-ALJ-04-178-AP, are held in abeyance pending resolution of the motion filed by the South Carolina Department of Corrections.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Christina Catoe Bigelow, Esquire

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NOV 16 2015

SC Court of Appeals

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Billy Lee Lisenby, Jr., #200273,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

Docket No. 15-ALJ-04-0178-AP

Grievance No. LCI 0664-14

ORDER **FILED**

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SC ADMIN. LAW COURT

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 or Department). Appellant began to serve a 13-year sentence at the Department on March 19, 2008. On June 16, 2014, Inmate filed a Step 1 Grievance. On March 31, 2009, Inmate was convicted of a disciplinary offense and was sanctioned with the loss 30 days of good time credit. The charge and sanctions were eventually overturned. Inmate alleges that as of June 13, 2014, the Department had failed to reinstate his good time credit. On March 30, 2014, the Department denied Inmate's Step 1 Grievance and stated that as of April 22, 2010, the Department had restored his 30 days of good time credit. On June 16, 2014, Inmate filed a Step 2 Grievance and made the same argument. On August 7, 2014, the Department denied Inmate's Step 2 Grievance and noted that Inmate's projected max-out date kept increasing due to his disciplinary history. On April 13, 2015, Inmate filed his Notice of Appeal with this Court.

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 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 380, 527 S.E.2d at 756. Consequently, the review in these 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) (Supp. 2014). 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 § 1-23-380(5) (Supp. 2014); See also Marietta Garage, Inc. v. South Carolina Dept. of Public Safety, 337 S.C. 133, 522 S.E.2d 605 (Ct. App. 1999).

DISCUSSION

Inmate alleges that the good-time credit he lost in a disciplinary hearing (Case #104), which was later overturned, was not credited back to him, resulting in an incorrect max-out date for his sentence. In his brief, Inmate argued that the Department failed to reinstate the 30 days of good time credit he lost after a conviction on March 31, 2009, which was later reversed on appeal to the ALC.

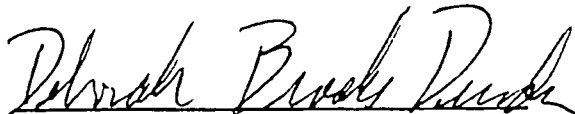
In response to Inmate's challenge, Michael Stobbe, SCDC Branch Chief for Records Management and Release, performed a manual sentence calculation. Stobbe confirmed that Inmate's sentence had been calculated correctly and the max-out date reflected in SCDC's records is accurate.

Inmate does not provide any evidence to show that the Department miscalculated the loss of his good time credit or his projected max-out date. Therefore, Inmate's argument is without merit or factual basis. Consequently, I find that the Department correctly calculated Inmate's sentence.

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

November 6, 2015
Columbia, South Carolina

FILED

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SC ADMIN. LAW COURT

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 6th day of NOV. 2015

By: GJL
Judicial Law Clerk

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