

In the state of South Carolina }  
In the Appeals Court }

Docket no. 16-ALJ-01  
0100 - Ap

Justin Griffin # 315057  
Appellant;

**RECEIVED**

AUG 19 2016

SC Court of Appeals

Motion For Leave  
to Proceed in Forma  
pauperis

vs  
South Carolina Dep't of  
Corrections;  
Respondent;

Notice of Motion

Now comes the Appellant who gives notice, pursuant to the scerp, that he intends to move this court for leave to proceed in Forma pauperis and in pro se.

Motion for leave to  
proceed in Forma Pauperis

Now comes the Appellant who would move this court for leave to proceed in forma pauperis for the following reasons:

1. The Appellant is now and at all times here-in a

citizen of the United States and a resident of South Carolina who currently resides at Kershaw Correctional Institution.

2. The Appellant is an aggrieved party and is entitled to judicial review pursuant to S.C. Constitution Art. I § 22.
3. The issues contained inside this case are perilous in the facts that they pertain to the Appellant's release and the miscalculations, if not corrected by this Court, will inevitably cause the Appellant irreparable injury.

### Conclusion

Wherefore, upon the foregoing this Appellant prays this Court will allow him leave to proceed in forma pauperis as he is unable to pay the substantial filing fees and etc. (see the financial statement of the Appellant). yet is an aggrieved party at the hands of a government entity.

s/Justin Liff  
Justin Griffin 315057  
JRCI Palmetto A-28  
4848 Goldmine Hwy  
Kershaw SC 29067  
pro se

Kershaw  
C.I.  
PAZS

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**INMATE TRUST FUND ACCOUNT REPORT  
for SOUTH CAROLINA COURT FILING FEES**

JUL 29 2016

**INSTRUCTIONS TO INMATE:** Complete top portion then give to your mailroom. When ~~MAIL ROOM~~ received from Accounting, you must mail this form with any payment to the Court.

By signing my name below, I am asking the Financial Accounting Office of the South Carolina Department of Corrections to complete this report. In accordance with SC Code of Laws §24-27-100 and 150, I authorize payment of the full filing fee. If I have insufficient funds in my account at this time to pay the court's full filing fee, I authorize SCDC to deduct the initial and subsequent payments until payment is completed.

INMATE NAME (print): JUSTIN GRIFFIN

SCDC# 315057 INMATE SIGNATURE: Justin Griffin

I plan to file this action in the SC County of Richland

*The section below is for SCDC - Financial Accounting Branch's use ONLY.*

- (1) Total deposits to inmate's account for preceding six months' period\* ..... \$ 0
- (2) Twenty percent (20%) of line 1 ..... \$ 0
- (3) Account balance - current date ..... \$ 138
- (4) PAYMENT AMOUNT \*\*  
(lesser of line 2 or line 3)  
Enclosed check # \_\_\_\_\_ \$ 0

**\*\*NOTE to COURT:** If payment is for partial fee, Court must notify SCDC once case is accepted and filed. Send notice with case # and balance owed to address below. SCDC will NOT process any additional payments until notification is received from Court.

South Carolina Department of Corrections  
Financial Accounting - Room 234  
PO Box 21787  
Columbia, SC 29221-1787

SCDC FINANCIAL ACCTG  
2016 JUL 28 AM 7:49

\*Admission date is noted here if inmate incarcerated less than six months   /  /  

M. Boykin 7/27/16  
Prepared by Financial Accounting Branch - SCDC Date cell/abstract/prepared 7/27

STATE of South Carolina  
IN The Court of Appeals

Appeal no.: 2016-001563

**RECEIVED**

AUG 19 2016

SC Court of Appeals  
Plaintiff  
Appellant

Justin Griffin 315057

VS

South Carolina Department  
of Corrections

Defendant  
Respondent

Proof of Service

I certify under penalty of perjury pursuant to USC 28 § 1746 that I have served an original copy of the Appellant's notice of Appeal and motion for leave to proceed in forma pauperis plus a Certificate of Service on the lower court by placing the same in the Kershaw Correctional mailbox with postage affixed addressed to S.C.A.L.C. Edgar A. Brown BLDG. 1205 Pendleton St. Suite 224, Columbia SC 29201

Justin Griffin  
Justin Griffin 315057

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Justin H. Griffin, #315057, )  
)  
Appellant, )  
)  
vs. )  
)  
South Carolina Department of Corrections, )  
)  
Respondent. )  
)

Docket No. 16-ALJ-04-0100-AP

**RECEIVED**

AUG 19 2016

SC Court of Appeals  
ORDER AFFIRMING DECISION

**FILED**

JUN 20 2016

SC ADMIN. LAW COURT

This matter is before the South Carolina Administrative Law Court ("ALC") pursuant to the Notice of Appeal filed February 3, 2016, by Justin H. Griffin ("Inmate"), who is incarcerated with the South Carolina Department of Corrections ("SCDC").

Inmate filed his Step One and Step Two Grievances arguing that his good time credits and work credits were not correctly applied to his sentence.

Inmate filed his Notice of Appeal on February 3, 2016, claiming that SCDC is violating S.C. Code Ann. §§ 24-13-210(B) (Supp. 2015) and 24-13-230(B) (Supp. 2015) and thereby incorrectly calculating his sentence.

**STANDARD OF REVIEW**

The ALC'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 ALC'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/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 SCDC's decisions in inmate grievance matters, the ALC 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. 2015). The ALC will not disturb the findings of an administrative agency if its findings

are supported by substantial evidence on record as a whole. Pearson v. JPS Converter & Indus. Corp., 327 S.C. 393, 489 S.E.2d 219 (Ct. App. 1997). "Substantial evidence" is evidence which, considering the record as a whole, would allow a reasonable mind to reach the conclusion reached by the administrative agency. Trimmier v. S.C. Dep't of Labor, Licensing & Regulation, 405 S.C. 239, 246, 746 S.E.2d 491, 494 (Ct. App. 2013) (quoting Porter v. S.C. Pub. Serv. Comm'n, 333 S.C. 12, 20, 507 S.E.2d 328, 332 (1998)). 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. S.C. Coastal Council, 319 S.C. 348, 353, 461 S.E.2d 388, 391 (1995) (quoting Palmetto Alliance, Inc. v. S.C. Pub. Serv. Comm'n, 282 S.C. 430, 432, 319 S.E.2d 695, 696 (1984)).

### LAW/ANALYSIS

Inmate was sentenced on November 29, 2007, to a thirteen (13) year sentence for Armed Robbery. Armed Robbery has a "mandatory minimum term of not less than ten years or more than thirty years..." S.C. Code Ann. § 16-11-330(A) (2015). S.C. Code Ann. § 24-13-100 (2007) defines a "no parole offense" as a "class A, B, or C felony or an offense exempt from classification as enumerated in Section 16-1-10(d), which is punishable by a maximum term of imprisonment for twenty years or more." Pursuant to S.C. Code Ann. § 16-1-20 (2015), A Class A felony is defined as an offense that if convicted, an individual could serve "not more than thirty years." Armed Robbery is a Class A offense and is therefore a no parole offense. S.C. Code Ann. § 24-13-150(A) (Supp. 2015) provides that a person convicted of a no parole offense is not eligible for early release until that person has served at least eighty-five percent of the actual term of imprisonment imposed.

Because Armed Robbery is a no parole offense, the amount of good time credits given to Inmate is governed by S.C. Code Ann. § 24-13-210(B), not subsection A. S.C. Code Ann. § 24-13-210(B) reads:

An inmate convicted of a "no parole offense" against this State as defined in Section 24-13-100 and sentenced to the custody of the Department of Corrections, including an inmate serving time in a local facility pursuant to a designated facility agreement authorized by Section 24-3-20 or Section 24-3-30, whose record of conduct shows that he has faithfully observed all the rules of the institution where he is confined and has not been 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 three days for each month served. However, no inmate serving a sentence for life imprisonment

or a mandatory minimum term of imprisonment for thirty years pursuant to Section 16-3-20 is entitled to credits under this provision. **No inmate convicted of a "no parole offense" is entitled to a reduction below the minimum term of incarceration provided in Section 24-13-125 or 24-13-150.** When two or more consecutive sentences are to be served, the aggregate of the several sentences is the basis upon which the good conduct credit is computed. (emphasis added).

Also, again because Inmate was convicted of a no parole offense, the amount of work credits granted to Inmate is provided by S.C. Code Ann. § 24-13-230(B), and not subsection A. S.C. Code Ann. § 24-13-230(B) states:

The Director of the Department of Corrections may allow an inmate sentenced to the custody of the department serving a sentence for a "no parole offense" as defined in Section 24-13-100, who is assigned to a productive duty assignment, including an inmate who is serving time in a local facility pursuant to a designated facility agreement authorized by Section 24-3-20 or Section 24-3-30 or who is regularly enrolled and actively participating in an academic, technical, or vocational training program, a reduction from the term of his sentence of six days for every month he is employed or enrolled. However, no prisoner serving a sentence for life imprisonment or a mandatory minimum term of imprisonment for thirty years pursuant to Section 16-3-20 is entitled to credits under this provision. **No prisoner convicted of a "no parole offense" is entitled to a reduction below the minimum term of incarceration provided in Section 24-13-125 or 24-13-150.** A maximum annual credit for both work credit and education credit is limited to seventy-two days. (emphasis added).

Therefore, Inmate has the ability to earn three days of good time credit a month and six days of work credit a month.

After a review of the record in this case, from the period of his sentence start date of October 6, 2006, to the "next cycle date" of May 6, 2016, as outlined in the maxout date calculation worksheet, Inmate, had he earned the maximum amount of credit, would have a gross good time credit of 345 days. However, as a result of disciplinary convictions, Inmate lost 54 days because he lost the opportunity to earn good time credit for the months in which he had a disciplinary conviction.<sup>1</sup> Further, Inmate lost 231 good time credit days because of sanctions as a result of disciplinary convictions. As a result, Inmate has only earned 60 days of good time credit. Additionally, Inmate has only earned 226.343 of work credit days.

Inmate, in his brief, argues that he should only serve eighty five percent of his sentence.

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<sup>1</sup> SCDC records reveal that if Inmate was convicted of at least two disciplinary convictions during the same month, he only lost the opportunity to earn good time credit for the one month.

Inmate's argument is incorrect. Inmate must serve eighty-five percent of his sentence, however, Inmate's ability to serve the mandatory minimum is contingent on earning good time credit and work credit, which is itself contingent, in part, on good behavior. Inmate has lost several days of good time credit as a result of his disciplinary convictions. Inmate has also lost the opportunity to earn good time on account of his disciplinary convictions. Also, Inmate was unable to be constantly earn work credits because, in part, of his disciplinary convictions. Therefore, Inmate's sentence has been correctly calculated.

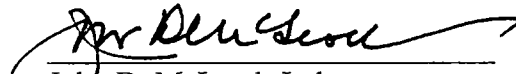
Inmate has failed to establish that SCDC is incorrectly applying his statutory right to good time credit and work credit. Because SCDC's decisions is supported by substantial evidence, I affirm.

Based upon the foregoing,

**IT IS HEREBY ORDERED** that the final decision of the SCDC is **AFFIRMED**.

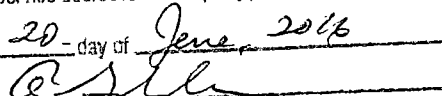
**AND IT IS SO ORDERED.**

Columbia, S.C.  
June 20, 2016

  
\_\_\_\_\_  
John D. McLeod, Judge  
S.C. Administrative 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 20 day of June, 2016  
By   
Judicial Law Clerk

August 6, 2016

TO: Jenny Abbott Kitchings, Clerk  
P.O. Box 11629  
Columbia SC 29211

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AUG 19 2016

SC Court of Appeals

RE: Justin Griffin 315057 v  
SCDC, Appellate Case no: 2016-001563

Dear Clerk,

Enclosed for filing please find an original copy of the Appellant's previous order of Dismissal from the Lower Court (ALC), Notice of motion and motion for leave to proceed in forma pauperis, financial statement, and proof of service on the Respondent and lower court of the Appellant's notice of appeal.

Also, please note that the Appellant's case was dismissed by the lower court (ALC) on July 20, 2016 and the Appellant received said order on July 26, 2016,

Finally, the Appellant requests the Court have understanding and leniency upon him as he is at the limited mercy and resources of his captors (SCDC) and therefore doesn't have the ability to make unlimited copies or meet "tight" deadlines if the institution is locked down


which occurs on a constant basis here at Kershaw. Thus, the Appellant asks once again that this Honorable court be mindful of his incarceration and to keep an open mind to his circumstances and be assured that he is doing all within his power to be compliant with the "SCRAC" and it's time frames in due diligence and devotion.

Thank you sincerely,  
S/ Justin Griffin  
Justin Griffin 315057  
Kershaw Corr. Inst.  
4848 Goldmine Hwy  
Palmetto unit - A/28  
Kershaw SC 29067  
PRO - SE

Justin Griffin #315057  
KRCI - Palmetto A-28  
4848 Goldmine Hwy  
Marshaw SC 29067

COLUMBIA  
SC 290  
17 AUG '16  
PM 11



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Ms. Jenny Kitchings  
Clerk,  
P.O. Box 11629  
Columbia SC 29211

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AUG 19 2016

SC Court of Appeals

Justin, 315057  
**LEGAL**

29211-162929

