

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Deborah Brooks Durden

ALC Case No. 15-ALJ-04-0179-AP
Appellate Case No. 2015-002344

BILLY LEE LISENBY, JR., # 200273,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

FINAL BRIEF OF RESPONDENT

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

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ATTORNEY FOR RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

THE ADMINISTRATIVE LAW COURT PROPERLY UPHELD THE DEPARTMENT OF CORRECTIONS' FINAL AGENCY DECISION WHERE THE ADMINISTRATIVE LAW COURT'S RULING WAS NOT ERRONEOUS AND WAS SUPPORTED BY SUBSTANTIAL EVIDENCE IN THE RECORD.

STATEMENT OF THE CASE

This matter comes before this Court pursuant to the appeal of Billy Lee Lisenby, Jr., an inmate in the custody of the South Carolina Department of Corrections. On June 15, 2014, Appellant submitted a Step 1 Grievance complaining that the Department of Corrections was not properly calculating his sentence in that the Department failed to return to him two-hundred days of good-time credit to which he was entitled. The Warden denied the grievance on August 7, 2014. Appellant then submitted a Step 2 Grievance on August 17, 2014. The Step 2 was denied on March 30, 2015, on the ground that Appellant's current max-out date was correct. Appellant submitted a notice of appeal to the Administrative Law Court on April 12, 2015. On November 5, 2015, Administrative Law Judge Deborah Brooks Durden filed an order dismissing Appellant's appeal. The order concluded that Appellant failed to provide evidence that the Department miscalculated his sentence and that the Department had, in fact, correctly calculated Appellant's sentence. This appeal follows.

STANDARD OF REVIEW

S.C. Code Ann. § 1-23-610(B) provides the applicable standard of review:

The review of the administrative law judge's order must be confined to the record. The reviewing tribunal may affirm the decision or remand the case for further proceedings; or it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code Ann. § 1-23-380(5).

In an appeal of a final decision of an administrative agency, the standard of appellate review is whether the ALC's findings are supported by substantial evidence. S.C. Code Ann. § 1-23-610(B). "Substantial evidence" is evidence which, considering the record as a whole, would allow a reasonable mind to reach the same conclusion that administrative agency reached. Hendley v. S.C. State Budget & Control Bd., 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996). A reviewing court shall not substitute its own judgment for that of the ALC as to findings of fact, but it may reverse or modify decisions that are controlled by errors of law or that are clearly erroneous in view of the substantial evidence on the record as a whole. Id.

ARGUMENT

THE ADMINISTRATIVE LAW COURT PROPERLY UPHELD THE DEPARTMENT OF CORRECTIONS' FINAL AGENCY DECISION WHERE THE ADMINISTRATIVE LAW COURT'S RULING WAS NOT ERRONEOUS AND WAS SUPPORTED BY SUBSTANTIAL EVIDENCE IN THE RECORD.

In Appellant's case, the Administrative Law Court's order should be affirmed because its findings are not erroneous and are supported by substantial evidence in the record. The Administrative Law Court relied on the sentence calculations of Michael Stobbe, SCDC Branch Chief for Records Management and Release. Mr. Stobbe confirmed that Appellant's sentence was being calculated correctly and that Appellant's projected max-out date was accurate. Appellant has failed to show that Mr. Stobbe's calculations were erroneous in any way. Accordingly, the order of the Administrative Law Court should be affirmed.

CONCLUSION

For the foregoing reasons, the Court should affirm the Administrative Law Court's decision below.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

BY: 

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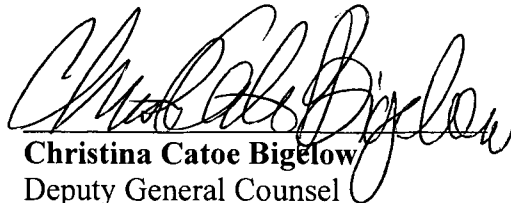
v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the **Final Brief of Respondent** complies with Rule 211(b), SCACR, and also complies with the South Carolina Supreme Court's April 15, 2014, order entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."



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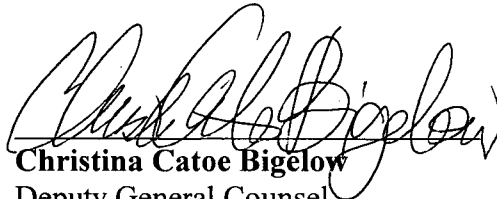
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CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that on today's date, I mailed a copy of the **Final Brief of Respondent** to Appellant, addressed as follows: Billy Lee Lisenby, Jr., # 200273, Ridgeland Correctional Institution, Post Office Box 2039, Ridgeland, South Carolina 29936.



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