

5

The State of South Carolina
In The Court of Appeals

ORIGINAL

Appeal From South Carolina Administrative Law Court
The Honorable Deborah Brooks Dunder, ALJ

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

Billy Lee Lisenby JR; #200273 Appellant

v.
State of South Carolina Dept. of Corrections

RECEIVED
Resubmitted

AUG 15 2016

SC Court of Appeals

Amended
Record ON Appeal

Dated: Aug 11th 2016

Billy Lee Lisenby JR; #200273

P.O. Box 2039

Ridgeland C. I

Ridgeland S.C. 29936

Christina C. Bigelow
4444 Broad River Road
Columbia, SC 29210

LEGAL MAIL

Index

Step 1 Grievance Form	1
Step 2 Grievance Form	2
ALC Filings and attachments;	3
Administrative Law Judge Dunder's Order dated Nov. 6, 2015	4

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE COM:

EB-26

INMATE NAME: Billy Lee Lisenby Jr.
 SCDC NUMBER: #200277
 INSTITUTION: Lieber C-F
 HOUSING UNIT: Asheley B J1
 WORK ASSIGNMENT: N/A

JUN 06 2014

Office Use Only
 Grievance No. LCI-0620-14
 Code: General _____
 Policy _____
 Disc. Hear. _____
 Class. ✓
 Date Received 06.09.14
 IGC Initials BSI

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy) On 2-11-13 I was convicted of 903. The Trafficking and Use of Possession of Narcotics, case # 134. In this case I loss 230 days good time. But on my step 2 on 4-11-14 the amount of good time taken was reduced to 30 days and all other sanctions imposed were reduced to 180 days see TYRCI-0193-13. Note on 4-11-14 my max-out was Feb. 25, 2014. On May 27, 2014 they allegedly re-instated my 200 days good time but my max-out only moved to Nov. 2017. When it should've moved to Aug. 2017. MR. Tucker told me he was going to look into this but never did

ACTION REQUESTED: I asked that my entire 200 days good time be given to me as stated in my step 2 in Grievance No. TYRCI-0193-13.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:
See Reference # 14-103691

ACTION TAKEN BY IGC:

Billy Lee Lisenby Jr. June 5th 14
 Grievant Signature Date

- I accept the action taken by the IGC and consider the matter closed.
- I do not accept the action taken and wish to appeal.

B J Thomas 7.28.14
 IGC Signature Date
N/A
 Grievant Signature Date

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

DUE BY:
8.17.14

INMATE NAME: BILLY LIENBY
SCDC NUMBER: 200
INSTITUTION: Lieber C.I.
HOUSING UNIT: E-126
WORK ASSIGNMENT: NIA

Office Use Only
Grievance No. LCI-0620-14
Code: General _____
Policy _____
Disc. Hear. _____
Class. _____
Date Received 8/18/14
IGC Initials BT

RECEIVED

AUG 20 2014

AUG 18 2014
(Signature)

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): On 2-11-13 I was convicted of 903: The Trafficking and/or Use of Possession of Narcotics, case #134. In this case I loss 230 days goodtime. But on my Step 2 on 4-11-14 the amount of goodtime taken was reduced to 30 days and all other sanctions imposed were reduced to 180 days. See TYRCI 0193-17. Note on 4-11-14 my max-out was Feb. 25th 2017. On May 27, 2014 they allegedly re-instated my 200 days goodtime but my max-out only moved to Nov. 2017. When it should've moved to Aug. 2017. MR. Tucker told me he was going to look into this but never did. The only reason my max-out moved to June 2017 is because I got a job. Due to the 200 days my max-out should've moved to Aug. 2017, and once I received my job and M.I. it should've moved to March 2017.

Billy Lienby 8-17-14
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

have reviewed your complaint and found that Warden McFadden addressed your concerns appropriately. As of September 17, 2014, our current max-out date is April 19, 2017.
herefore, I consider this matter resolved.

you may appeal this decision under the Administrative Procedures Act. 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. Hester 3-30-15
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.

Billy Lienby April 9th 15
Grievant Signature Date

B. Thomas 4.9.15
IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Billy Lisenby, # 200273,)	Docket No.: 15-ALJ-04-0179-AP
)	[Grievance No: LCI 0620-14]
Appellant,)	
)	<i>Hon. Deborah Brooks Durden</i>
v.)	
)	
South Carolina Department of Corrections,)	RESPONDENT'S BRIEF
)	
Respondent.)	
_____)	

STATEMENT OF THE CASE

This case is before the Administrative Law Court ("ALC") pursuant to the appeal of Billy Lisenby ("Appellant"), an inmate incarcerated with the Department of Corrections ("SCDC") serving a thirteen (13) year sentence. Appellant filed a Step One Grievance, LCI 0620-14, on June 6, 2014, claiming his sentence was not being calculated properly. This grievance was investigated and denied when it was determined SCDC was properly calculating the sentence. Appellant then filed a Step Two Grievance on August 18, 2014. This grievance was also investigated and denied on March 30, 2015. Appellant filed his Notice of Appeal April 12, 2015. Because appellant's sentence has been properly calculated, the final determination of the Department should be affirmed.

JURISDICTION

The ALC's jurisdiction to hear this matter is derived entirely from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). When reviewing SCDC's decisions in inmate grievance matters, the ALC sits in an appellate capacity. *Id.* at 377, 527 S.E.2d at 754. Subsequently, the supreme court

clarified the ALC's appellate jurisdiction over inmate appeals in *Sullivan v. S.C. Dep't of Corr.*, 355 S.C. 437, 586 S.E.2d 124 (2003). In affirming, as modified, the ALC's *en banc* decision of *McNeil v. S.C. Dep't of Corr.*, 02-ALJ-04-00336-AP (September 5, 2001), the supreme court held the ALC's jurisdiction was limited to (1) cases in which an inmate contends prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; (2) cases in which SCDC has taken an inmate's *state-created* liberty interest in major disciplinary hearings; and (3) cases in which an inmate's confinement implicates a *state-created* liberty interest. *See Sullivan*, 355 S.C. at 443, 586 S.E.2d at 127 (emphasis added).

Moreover, regarding categories (2) and (3), *supra*, the supreme court has consistently emphasized that the liberty or property interest implicated must be one that is *state created*. *See Wicker v. S.C. Dep't of Corr.*, 360 S.C. 421, 602 S.E.2d 56 (2004) (emphasizing that the ALC's jurisdiction extends only to those cases involving the denial of "state created liberty interests" and that the Court's holding [*i.e.*, in *Wicker*] "is not to be viewed as expanding the jurisdiction of the [ALC] in any other circumstance."); *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 605 S.E.2d 506 (2004) (holding that the ALC "may summarily dismiss those appeals that do not implicate an inmate's *state created* liberty or property interest") (emphasis added).

In this case, appellant contends that SCDC has incorrectly calculated his sentence. Consequently, the ALC has jurisdiction to hear his appeal.

STANDARD OF REVIEW

The ALC should not disturb findings of an administrative agency if those findings are supported by substantial evidence on the record as a whole. *Pearson v. JPS*

Converter & Ind. Corp., 327 S.C. 393, 489 S.E.2d 219 (Ct. App. 1997). Stated differently, an Administrative Law Judge may not substitute their 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) (amended by 2008 Act No. 334, § 5, eff. June 16, 2008). Additionally, "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." *Matthews v. S.C. Dep't of Corr.*, Case No.: 04-ALJ-04-00248-AP, available at <http://www.scalc.net/decisions.aspx?id=1203&q=4> (filed Dec. 21, 2004) (Anderson, A.L.J.); see S.C. Code Ann. § 1-23-380(5)(e); see also *Marietta Garage, Inc. v. S.C. Dep't. of Pub. Safety*, 337 S.C. 133, 522 S.E.2d 605 (1999); *S.C. Dep't. of Labor, Licensing & Regulation v. Girgis*, 332 S.C. 162, 503 S.E.2d 490 (1998).

"Substantial evidence" is evidence which, considering the record as a whole, would allow a reasonable mind to reach the same conclusion that the administrative agency reached. *Hendley v. S.C. State Budget & Control Bd.*, 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996). 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, 461 S.E.2d 388 (1995). Administrative agencies are afforded wide latitude in making decisions, as shown in the deferential standard of appellate review. *Heater of Seabrook, Inc. v. Pub. Svc. Comm'n of S.C.*, 332 S.C. 20, 503 S.E.2d 739 (1998).

Finally, in deciding appeals from inmate grievances, the ALC must consider that prisons officials are in the best position to decide inmate disciplinary matters. In *Al-*

Shabazz, the supreme court “underscored that since prison officials are in the best position to decide inmate disciplinary matters, the Courts and therefore this tribunal adhere to a ‘hands off’ approach to internal prison disciplinary policies and procedures when reviewing inmate appeals under the APA.” *Matthews v. S.C. Dep’t of Corr.*, *supra*, page 3 (citing *Al-Shabazz*, 338 S.C. at 382, 527 S.E.2d at 757 (stating that “[c]ourts traditionally have adopted a ‘hands off’ doctrine regarding judicial involvement in prison disciplinary procedures and other internal prison matters”)); *see also Pruitt v. State*, 274 S.C. 565, 266 S.E.2d 779 (1980) (referring to the traditional “hands off” approach of South Carolina courts regarding internal prison discipline and policy).

ARGUMENTS

APPELLANT’S SENTENCE HAS BEEN CORRECTLY CALCULATED BY RESPONDENT

Appellant is currently in SCDC custody serving a thirteen year sentence for assault with the intent to kill, failure to stop for police and assault on a correctional officer. In this appeal, Appellant claims his sentence has been incorrectly calculated. Specifically, Appellant contends the good time he lost in select disciplinary hearings, which was later returned to him, has been incorrectly calculated resulting in an incorrect max out date.

In response to Appellant’s challenge to SCDC’s calculation of his good time credits and other sentence-related credits, SCDC Branch Chief for Records Management and Release, Michael Stobbe, performed a manual calculation confirming Appellant’s sentence has been calculated correctly. The final explanation by Mr. Stobbe addresses several disciplinary cases which Appellant has also raised in other grievances, as they all

factor into the calculation of the maxout date. The summary provided by Mr. Stobee is presented below verbatim with emphasis added:

All SCDC release dates are projected.

Assumptions are made, that on any particular day the release date will remain the same as long as nothing changes in the inmate's record that will affect their release date. (These factors are statutory service time, inmate confined; statutory good time, 20 or 3 days a month; earned work credits and/or earned educational credits.

Inmate Lisenby earns 20 days a month good time.

As I demonstrated in yesterdays' e-mail **this inmate's projected release date is correct**, whether you verify it separating the consecutive sentences (ten and three) or verify them as a total sentence of 13 years.

Questions have been raised in regards to the taking away good time and restoring good time of disciplinary offenses #104, #106, #116, and #134.

Case #104 offense date was 03/03/09. Hearing date was 03/31/09 and inmate forfeited 20 days and lost 30, for a total of 50. The hearing results were entered 04/01/09. Inmate's monthly earning rate was 50.42 (not on EWC/EEC). Release date moved from 03/05/16 to 04/03/16 = 29 days. Case #104 was dismissed and entered on 06/04/10. Inmate's release date remained the same at 07/13/16. It is noted that during the period from 03/31/09 and 06/04/10 this inmate was convicted of offenses #106, #108, #109 for total of combined good time of 210 days.

Case #106 was reheard on 10/26/09. The decision increased the loss of good time from 120 to 150. There is nothing to give back.

Case #116 offense date was 09/18/10. Hearing date was 10/06/10. Originally entered on 10/08/10, on which inmate's earning rate was 50.42. Inmate lost 20 good time days (had already forfeited 20 days for the cycle for the convictions of offenses #114- #115 08/25,27/10. Inmate's release date adjusted from 09/20/16 to 10/11/16 some 21 days. On 12/08/11 offense #116 was overturned/dismissed, 20 days of good time was restored. Inmate's projected release date remained the same at 04/19/16. Inmate's monthly earning rate at this time of was 57.42 days. Inmate had been convicted and forfeited/lost a total of 130 days between 09/08/10-12/08/11.

Offense #134 offense date was 01/31/13. Original hearing date was 02/11/13. Inmate's earning rate was 50.42. For this offense the inmate lost a total of 260 days good time. Note: he also lost an additional 60 days of good time for offense #135 that was heard and entered on the same date 02/12/13, that has been restored on another action 01/09/15, but was included in the adjustment of the release date from 05/12/17 to 11/18/17 some 190 days. On 04/29/14 offense #134 was reduced to 30 days lost good time, however it should be noted that the adjusted release date perfected on 04/29/14, resulting in the release date moving from 02/25/2018 to 11/18/17 some 99 days. Note this outcome still contains the 60 days of lost good time not yet overturned from offense #135 (overturned 01/09/15).

Michael J. Stobbe
Branch Chief Records Management and Release
South Carolina Department of Corrections (SCDC)
P.O. Box 21787 / 4444 Broad River Road
Columbia, South Carolina 29221-1787
Phone # : 803-896-2074
Fax # : 803-896-2749
Email : Stobbe.Michael@doc.sc.gov

The manual calculation conducted by Mr. Stobbe is attached and it conclusively demonstrates SCDC has correctly calculated appellant's sentence.

Appellant has not carried his burden to demonstrate SCDC is incorrectly calculating his sentence. Therefore, SCDC respectfully requests its decision denying appellant's Step Two grievance be upheld.

**RESPONDENT'S FINAL AGENCY DECISION IS SUPPORTED
BY SUBSTANTIAL EVIDENCE**

The record conclusively establishes that the "substantial evidence on the whole record" supports the Department's final agency decision. Appellant has the burden of proving that the decision of the Department is clearly erroneous, or arbitrary or capricious, or an abuse of discretion. See Porter v. Public Service Comm'n, 333 S.C. 12,

SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS
Staff Memoranda

Page 4 of 5

Inmate Name: _____

SCDC # 200273

Date	Staff (Please Print)	Comments
		Remaining 300
02/19/12 - 03/19/12	Earned	+ 20
		= 320
		- 20 Forfeit
		= 300
		- 60 Lost
		= 240 Remaining
03/19/12 - 06/19/12	Earned	+ 60
		300
		- 20 Forfeit
		280 Remaining
06/19/12 - 11/19/12	Earned	+ 100
		380
		- 20 Forfeit
		360
		- 60 Lost
		300 Remaining
11/19/12 - 12/19/12	Earned	+ 20
		= 320
		- 20 Forfeit
		300
		- 30 Lost
		270 Remaining

SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS
Staff Memoranda

Page 4 of 5

Inmate Name: _____

SCDC # 200273

Date	Staff (Please Print)	Comments
		Remaining 300
02/19/12 - 03/19/12	Earned	+ 20
		= 320
		- 20 Forfeit
		= 300
		- 60 Lost
		= 240 Remaining
03/19/12 - 06/19/12	Earned	+ 60
		300
		- 20 Forfeit
		280 Remaining
06/19/12 - 11/19/12	Earned	+ 100
		380
		- 20 Forfeit
		360
		- 60 Lost
		300 Remaining
11/19/12 - 12/19/12	Earned	+ 20
		= 320
		- 20 Forfeit
		300
		- 30 Lost
		270 Remaining

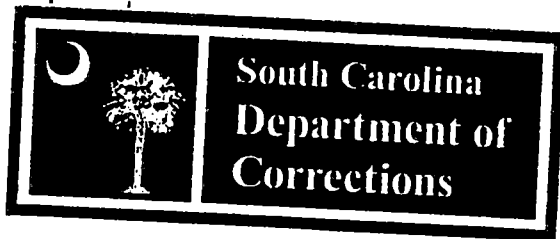
SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS
Staff Memoranda

Page 4 of 5

Inmate Name: _____

SCDC # 200273

Date	Staff (Please Print)	Comments
		Remaining 300
02/19/12 - 03/19/12		EARNED + 20
		= 320
		- 20 Forfeit
		= 300
		- 60 Lost
		= 240 Remaining
03/19/12 - 06/19/12		EARNED + 60
		300
		- 20 Forfeit
		280 Remaining
06/19/12 - 11/19/12		EARNED + 100
		380
		- 20 Forfeit
		360
		- 60 Lost
		300 Remaining
11/19/12 - 12/19/12		EARNED + 20
		= 320
		- 20 Forfeit
		300
		- 30 Lost
		270 Remaining



NIKKI R. HALEY, Governor
BRYAN P. STIRLING, Director

August 10, 2015

The Honorable Deborah Brooks Durden
South Carolina Administrative Law Court
Edgar A. Brown Building, Suite 224
1205 Pendleton Street
Columbia, South Carolina 29201

Reference: Inmate Billy Lisenby, #200273 vs. SCDC
Docket No. 15-ALJ-04-0178-AP

Dear Judge Durden:

Find enclosed an original and one copy of the *Respondent's Brief* on the above referenced case. Please file the original in your office and return a clocked-in copy to me in the enclosed self-addressed envelope.

If you have any questions or concerns, please do not hesitate to contact me at (803) 896-3922.

Sincerely,

E. Dee Dee Bowers
Administrative Assistant
Office of General Counsel

Enclosures

cc: Inmate Billy Lisenby, #200273
File

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Billy Lisenby, #200273,

Appellant,

vs.


South Carolina Department of Corrections,

Respondent.

)
)
)
) **Certificate of Service**
)
) Docket# 15-ALJ-04-0178-AP
)
)
)
)

I hereby certify that a copy of the foregoing brief was this date served upon the following individuals by placing a copy of the same via mail to his/her last known address as follows:

Billy Lisenby, #200273
Ridgeland Correctional Institution
DRB: CA-0003-B


E. Dee Dee Bowers
Administrative Assistant
Office of General Counsel
South Carolina Department of Corrections
4444 Broad River Road
P.O. Box 21787
Columbia, South Carolina 29221-1787
(803) 896-3922

August 10, 2015

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Billy Lisenby, # 200273,)	Docket No.: 15-ALJ-04-0178-AP
)	[Grievance No: LCI 0664-14]
Appellant,)	
)	<i>Hon. Deborah Brooks Durden</i>
v.)	
)	
South Carolina Department of Corrections,)	RESPONDENT'S BRIEF
)	
Respondent.)	
_____)	

STATEMENT OF THE CASE

This case is before the Administrative Law Court ("ALC") pursuant to the appeal of Billy Lisenby ("Appellant"), an inmate incarcerated with the Department of Corrections ("SCDC") serving a thirteen (13) year sentence. Appellant filed a Step One Grievance, LCI 0664-14, on June 17, 2014, claiming his sentence was not being calculated properly. This grievance was investigated and denied when it was determined SCDC was properly calculating the sentence. Appellant then filed a Step Two Grievance on August 18, 2014. This grievance was also investigated and denied on March 30, 2015. Appellant filed his Notice of Appeal April 12, 2015. Because appellant's sentence has been properly calculated, the final determination of the Department should be affirmed.

JURISDICTION

The ALC's jurisdiction to hear this matter is derived entirely from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). When reviewing SCDC's decisions in inmate grievance matters, the ALC sits in

an appellate capacity. *Id.* at 377, 527 S.E.2d at 754. Subsequently, the supreme court clarified the ALC's appellate jurisdiction over inmate appeals in *Sullivan v. S.C. Dep't of Corr.*, 355 S.C. 437, 586 S.E.2d 124 (2003). In affirming, as modified, the ALC's *en banc* decision of *McNeil v. S.C. Dep't of Corr.*, 02-ALJ-04-00336-AP (September 5, 2001), the supreme court held the ALC's jurisdiction was limited to (1) cases in which an inmate contends prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; (2) cases in which SCDC has taken an inmate's *state-created* liberty interest in major disciplinary hearings; and (3) cases in which an inmate's confinement implicates a *state-created* liberty interest. *See Sullivan*, 355 S.C. at 443, 586 S.E.2d at 127 (emphasis added).

Moreover, regarding categories (2) and (3), *supra*, the supreme court has consistently emphasized that the liberty or property interest implicated must be one that is *state created*. *See Wicker v. S.C. Dep't of Corr.*, 360 S.C. 421, 602 S.E.2d 56 (2004) (emphasizing that the ALC's jurisdiction extends only to those cases involving the denial of "state created liberty interests" and that the Court's holding [*i.e.*, in *Wicker*] "is not to be viewed as expanding the jurisdiction of the [ALC] in any other circumstance."); *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 605 S.E.2d 506 (2004) (holding that the ALC "may summarily dismiss those appeals that do not implicate an inmate's *state created* liberty or property interest") (emphasis added).

In this case, appellant contends that SCDC has incorrectly calculated his sentence. Consequently, the ALC has jurisdiction to hear his appeal.

STANDARD OF REVIEW

The ALC should not disturb findings of an administrative agency if those findings

are supported by substantial evidence on the record as a whole. *Pearson v. JPS Converter & Ind. Corp.*, 327 S.C. 393, 489 S.E.2d 219 (Ct. App. 1997). Stated differently, an Administrative Law Judge may not substitute their 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) (amended by 2008 Act No. 334, § 5, eff. June 16, 2008). Additionally, "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." *Matthews v. S.C. Dep't of Corr.*, Case No.: 04-ALJ-04-00248-AP, available at <http://www.scalc.net/decisions.aspx?id=1203&q=4> (filed Dec. 21, 2004) (Anderson, A.L.J.); see S.C. Code Ann. § 1-23-380(5)(e); see also *Marietta Garage, Inc. v. S.C. Dep't. of Pub. Safety*, 337 S.C. 133, 522 S.E.2d 605 (1999); *S.C. Dep't. of Labor, Licensing & Regulation v. Girgis*, 332 S.C. 162, 503 S.E.2d 490 (1998).

"Substantial evidence" is evidence which, considering the record as a whole, would allow a reasonable mind to reach the same conclusion that the administrative agency reached. *Hendley v. S.C. State Budget & Control Bd.*, 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996). 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, 461 S.E.2d 388 (1995). Administrative agencies are afforded wide latitude in making decisions, as shown in the deferential standard of appellate review. *Heater of Seabrook, Inc. v. Pub. Svc. Comm'n of S.C.*, 332 S.C. 20, 503 S.E.2d 739 (1998).

Finally, in deciding appeals from inmate grievances, the ALC must consider that

prisons officials are in the best position to decide inmate disciplinary matters. In *Al-Shabazz*, the supreme court “underscored that since prison officials are in the best position to decide inmate disciplinary matters, the Courts and therefore this tribunal adhere to a ‘hands off’ approach to internal prison disciplinary policies and procedures when reviewing inmate appeals under the APA.” *Matthews v. S.C. Dep’t of Corr.*, *supra*, page 3 (citing *Al-Shabazz*, 338 S.C. at 382, 527 S.E.2d at 757 (stating that “[c]ourts traditionally have adopted a ‘hands off’ doctrine regarding judicial involvement in prison disciplinary procedures and other internal prison matters”)); *see also Pruitt v. State*, 274 S.C. 565, 266 S.E.2d 779 (1980) (referring to the traditional “hands off” approach of South Carolina courts regarding internal prison discipline and policy).’

ARGUMENTS

APPELLANT’S SENTENCE HAS BEEN CORRECTLY CALCULATED BY RESPONDENT

Appellant is currently in SCDC custody serving a thirteen year sentence for assault with the intent to kill, failure to stop for police and assault on a correctional officer. In this appeal, Appellant claims his sentence has been incorrectly calculated. Specifically, Appellant contends the good time he lost in select disciplinary hearings, which was later returned to him, has been incorrectly calculated resulting in an incorrect max out date.

In response to Appellant’s challenge to SCDC’s calculation of his good time credits and other sentence-related credits, SCDC Branch Chief for Records Management and Release, Michael Stobbe, performed a manual calculation confirming Appellant’s sentence has been calculated correctly. The final explanation by Mr. Stobbe addresses several disciplinary cases which Appellant has also raised in other grievances, as they all

factor into the calculation of the maxout date. The summary provided by Mr. Stobee is presented below verbatim with emphasis added:

All SCDC release dates are projected.

Assumptions are made, that on any particular day the release date will remain the same as long as nothing changes in the inmate's record that will affect their release date. (These factors are statutory service time, inmate confined; statutory good time, 20 or 3 days a month; earned work credits and/or earned educational credits.

Inmate Lisenby earns 20 days a month good time.

As I demonstrated in yesterdays' e-mail **this inmate's projected release date is correct**, whether you verify it separating the consecutive sentences (ten and three) or verify them as a total sentence of 13 years.

Questions have been raised in regards to the taking away good time and restoring good time of disciplinary offenses #104, #106, #116, and #134.

Case #104 offense date was 03/03/09. Hearing date was 03/31/09 and inmate forfeited 20 days and lost 30, for a total of 50. The hearing results were entered 04/01/09. Inmate's monthly earning rate was 50.42 (not on EWC/EEC). Release date moved from 03/05/16 to 04/03/16 = 29 days. Case #104 was dismissed and entered on 06/04/10. Inmate's release date remained the same at 07/13/16. It is noted that during the period from 03/31/09 and 06/04/10 this inmate was convicted of offenses #106, #108, #109 for total of combined good time of 210 days.

Case #106 was reheard on 10/26/09. The decision increased the loss of good time from 120 to 150. There is nothing to give back.

Case #116 offense date was 09/18/10. Hearing date was 10/06/10. Originally entered on 10/08/10, on which inmate's earning rate was 50.42. Inmate lost 20 good time days (had already forfeited 20 days for the cycle for the convictions of offenses #114- #115 08/25,27/10. Inmate's release date adjusted from 09/20/16 to 10/11/16 some 21 days. On 12/08/11 offense #116 was overturned/dismissed, 20 days of good time was restored. Inmate's projected release date remained the same at 04/19/16. Inmate's monthly earning rate at this time of was 57.42 days. Inmate had been convicted and forfeited/lost a total of 130 days between 09/08/10-12/08/11.

Offense #134 offense date was 01/31/13. Original hearing date was 02/11/13. Inmate's earning rate was 50.42. For this offense the inmate lost a total of 260 days good time. Note: he also lost an additional 60 days of good time for offense #135 that was heard and entered on the same date 02/12/13, that has been restored on another action 01/09/15, but was included in the adjustment of the release date from 05/12/17 to 11/18/17 some 190 days. On 04/29/14 offense #134 was reduced to 30 days lost good time, however it should be noted that the adjusted release date perfected on 04/29/14, resulting in the release date moving from 02/25/2018 to 11/18/17 some 99 days. Note this outcome still contains the 60 days of lost good time not yet overturned from offense #135 (overturned 01/09/15).

Michael J. Stobbe
Branch Chief Records Management and Release
South Carolina Department of Corrections (SCDC)
P.O. Box 21787 / 4444 Broad River Road
Columbia, South Carolina 29221-1787
Phone # : 803-896-2074
Fax # : 803-896-2749
Email : Stobbe.Michael@doc.sc.gov

The manual calculation conducted by Mr. Stobbe is attached and it conclusively demonstrates SCDC has correctly calculated appellant's sentence.

Appellant has not carried his burden to demonstrate SCDC is incorrectly calculating his sentence. Therefore, SCDC respectfully requests its decision denying appellant's Step Two grievance be upheld.

**RESPONDENT'S FINAL AGENCY DECISION IS SUPPORTED
BY SUBSTANTIAL EVIDENCE**

The record conclusively establishes that the "substantial evidence on the whole record" supports the Department's final agency decision. Appellant has the burden of proving that the decision of the Department is clearly erroneous, or arbitrary or capricious, or an abuse of discretion. See Porter v. Public Service Comm'n, 333 S.C. 12,

507 S.E.2d 328 (1998). Appellant has not met this burden and his claim should be dismissed with prejudice.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

BY: Stephen H. Lunsford

Stephen H. Lunsford
Staff Attorney
S.C. Department of Corrections
4444 Broad River Road
Columbia, South Carolina 29221
(803) 896-1940

August 10, 2015
Columbia, South Carolina

MAXOUT DATE CALCULATION WORKSHEET

NAME: **Lisenby, Billy**

SCDC #: **200273**

- 360 DATE CALCULATION - (Year = 360 Month = 30 Day = Day)
- 365 DATE CALCULATION - (Year = 365 Month = 30.42 Day = Day)

Sentence Length: 15 Years (1) Sentence Length in Days: 4745 (2)

Total credits earned as of next cycle date:

Sentence Start Date: 03/19/08 (3) Next Cycle Date: 08/19/15 (4)

Calendar Service Credit:

Good Time Credit (Gross): 1780 (6) (+) 2709 (5)

Good Time Forfeited: (-) 400 (7)

Good Time Days Lost: (-) 560 (8)

TOTAL GOOD TIME CREDIT EARNED:

Earned Work Credit: (+) 820 (9)

Earned Education Credit: (+) 191.852 (10)

Earned Extra Credit: (+) 0 (11)

TOTAL CREDIT: (Lines 5 + 9 + 10 + 11 + 12 =) (+) NA (12)

Remaining to satisfy as of next cycle date enter line 4 (-) 3720.852 (13)

08/19/15 (14) (-) 1024.148 (15)

Average Monthly Accrual Rate:

Service Days + Good Time + EWC + EEC

30.42(16) + 20 (17) + 7.242 (18) + 0(19) = 57.662 (20)

Divide Line 15 by Line 20 = 17 (21) 847 (22)

whole number (remainder)

Enter next cycle date from line 14: 08/19/15 (23)

Complete cycles from line 21: 5 (24)

Estimated final cycle: 01/19/17 (25)

Projection of Remaining Time to Serve:

Next cycle date from line (23): 08/19/15 (26) Est. final cycle from line 25: 01/19/17 (27)

Calendar Service Credit: (+) 519 (28)

Good Time Credit: (+) 340 (29)

Earned Worked Credit: (+) 123.571 (30)

Earned Education Credit: (+) 0 (31)

TOTAL PROJECTED CREDITS: (lines 28 + 29 + 30 + 31) (-) 982.571 (32)

Remaining to satisfy as of estimated final cycle: (=) 41.577 (33)

Daily accrual rate:

Service 1 (34) + EWC Daily Rate 238 (35) + EEC Daily Rate 0(36) = 1238 (37)

Divide days remaining to earn (line 33) by daily accrual (line 37): 33.584 (38)

Enter estimated final cycle (line 27): 01/19/17 (39)

Add days from line 38: + 33 (40)

Calculate to month, day and year: 02/21/17 (41)

(Line 42 is lesser of Line 41 or next cycle date from line 39)

PROJECTED RELEASE DATE: (=) 02/19/17 (42)

MICHAEL L. STOBBE

Employee Name

Michael L. Stobbe
Employee Signature

08/08/17

Date

MAXOUT DATE CALCULATION WORKSHEET

NAME: Lisenby, Billy

SCDC #: 200273

- 360 DATE CALCULATION - (Year = 360 Month = 30 Day = Day)
- 365 DATE CALCULATION - (Year = 365 Month = 30.42 Day = Day)

Sentence Length: 10 Years (1) Sentence Length in Days: 3650 (2)

Total credits earned as of next cycle date:

Sentence Start Date: 03/19/08 (3) Next Cycle Date: 07/19/15 (4)

Calendar Service Credit: (+) 2678 (5)

Good Time Credit (Gross): 1760 (6)

Good Time Forfeited: (-) 400 (7)

Good Time Days Lost: (-) 560 (8)

TOTAL GOOD TIME CREDIT EARNED: (+) 800 (9)

Earned Work Credit: (+) 184,472 (10)

Earned Education Credit: (+) 0 (11)

Earned Extra Credit: (+) NA (12)

TOTAL CREDIT (Lines 9 + 10 + 11 + 12) = 3662,472 (13)

Remaining to satisfy as of next cycle date (enter line 4): 07/19/15 (14) (=) -12,172 (15)

Average Monthly Accrual Rate:

Service Days + Good Time + EWC + EEC
 _____ (16) + _____ (17) + _____ (18) + _____ (19) = _____ (20)

Divide Line 15 by Line 20 = _____ (21) _____ (22)
 (whole number) (remainder)

Enter next cycle date from line 14 _____ (23)

Complete cycles from line 21 (+) _____ (24)

Estimated final cycle. (=) _____ (25)

Projection of Remaining Time to Serve:

Next cycle date from line 23 _____ (26) Est. final cycle (from line 25) _____ (27)

Calendar Service Credit: (+) _____ (28)

Good Time Credit: (+) _____ (29)

Earned Worked Credit: (+) _____ (30)

Earned Education Credit: (+) _____ (31)

TOTAL PROJECTED CREDITS: (lines 28 + 29 + 30 + 31) (-) _____ (32)

Remaining to satisfy as of estimated final cycle: (=) _____ (33)

Daily accrual rate:

Service (34) + EWC Daily Rate _____ (35) + EEC Daily Rate _____ (36) = _____ (37)

Divide days remaining to earn line 33 by daily accrual (line 37) = _____ (38)

Enter estimated final cycle (line 27) _____ (39)

Add days from line 38 (+) _____ (40)

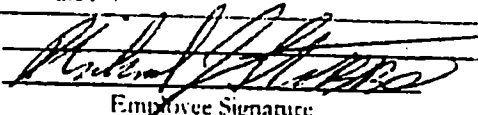
Calculate to month, day and year _____ (41)

(Line 42 is lesser of Line 41 or next cycle date from line 39)

PROJECTED RELEASE DATE:

MICHAEL J. STOBBE

Employee Name



Employee Signature

(=) 07/19/15 (42)

08/08/15

Date

MAXOUT DATE CALCULATION WORKSHEET

NAME: Lisenby, Billy

SCDC #: 200273

- 360 DATE CALCULATION - (Year = 360 Month = 30 Day = Day)
- 365 DATE CALCULATION - (Year = 365 Month = 30.42 Day = Day)

Sentence Length 3 Years (1) Sentence Length in Days: 1095 (2)

Total credits earned as of next cycle date:

Sentence Start Date: 07/19/15 (3) Next Cycle Date: 08/19/15 (4)

Calendar Service Credit:

Good Time Credit (Gross): 12 + 20 (6) (+) 31 (5)

Good Time Forfeited: (-) 0 (7)

Good Time Days Lost: (-) 0 (8)

TOTAL GOOD TIME CREDIT EARNED:

Earned Work Credit: (+) 32 (9)

Earned Education Credit: (+) 7,380 (10)

Earned Extra Credit: (-) 0 (11)

Earned Extra Credit: (+) NA (12)

TOTAL CREDIT: (Lines 5 + 9 + 10 + 11 + 12) = (+) 70,380 (13)

Remaining to satisfy as of next cycle date (enter line 4): 08/19/15 (14) (=) 1024.62 (15)

Average Monthly Accrual Rate:

Service Days + Good Time + EWC + EEC
 $30.42 \cdot 16 + 20 \cdot 17 + 7.242 \cdot 18 - 0(19) =$ 57.662 (20)

Divide Line 15 b. Line 20 = 17 (21) .769 (22)
 (whole number remainder)

Enter next cycle date from line 4: 08/19/15 (23)

Complete cycles from line 21 (+) 5 (24)

Estimated final cycle: 01/19/17 (25)

Projection of Remaining Time to Serve.

Next cycle date from line (23) 08/19/15 (26) Est. final cycle from line 25 01/19/17 (27)

Calendar Service Credit: (+) 519 (28)

Good Time Credit: (+) 340 (29)

Earned Worked Credit: (+) 123,571 (30)

Earned Education Credit: (+) 0 (31)

TOTAL PROJECTED CREDITS: (lines 28 + 29 + 30 + 31) = (+) 982,571 (32)

Remaining to satisfy as of estimated final cycle: (-) 42,049 (33)

Daily accrual rate:

Service 1.34 - EWC Daily Rate 238.35 + EEC Daily Rate 0(36) = 1,238.37

Divide days remaining to earn line 33 by daily accrual (line 37) = 33.965 (38)

Enter estimated final cycle (line 27): 01/19/17 (39)

Add days from line 38 (+) 33 (40)

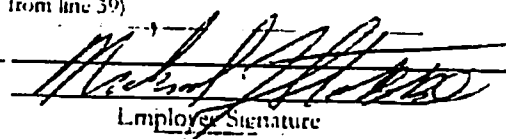
Calculate to month, day and year: 02/21/17 (41)

Line 42 is lesser of Line 41 or next cycle date from line 39)

PROJECTED RELEASE DATE: 02/19/17 (42)

MICHAEL J. STOBBE

Employee Name



Employer Signature

08/08/15

Date

LEVEL	DAYS WORKED	DAILY CREDIT	CREDIT PER MONTH		CREDIT PER YEAR	
			30 DAYS	30.42 DAYS	360 DAYS	365 DAYS
2	7	.50	15.0000	15.0000	180.0000	180.0000
2	6	.4285714	12.8571	13.037142	154.2852	156.4459
2	5	.3571482	10.7142	10.864285	128.5704	130.37142
3	7	.333	10.0000	10.14	120.0000	121.68
3	5	.2380952	7.1428	7.2428571	85.7142	86.914285
5	7	.2000	6.0000	6.084	72.0000	73.008
5	5	.1428571	4.2857	4.3457142	51.4285	52.148568
7	7	.1428571	4.2857	4.3457141	51.4285	52.148568
7	5	.102040	3.0612	3.1040815	36.7346	37.248918

Work Credits are applicable toward the initial parole eligibility and max-out dates on straight time convictions.

Bonus Education Credits

TRAINING HOURS PER WEEK		BONUS CREDITS PER DAY	BONUS CREDITS/MONTH		CREDITS PER YEAR	
			30 DAYS	30.42 DAYS	360 DAYS	365 DAYS
B4	4-7	.0571	1.713	1.7369	20.556	20.8428
B5	8-11	.0857	2.571	2.6069	30.852	31.2828
B6	12-14	.1142	3.426	3.4739	41.112	41.6868
B7	15+	.1428	4.284	4.343	51.408	52.116

EWV/EEC COEFFICIENT FOR 85% NON-PAROLABLE SENTENCE:

For offenses committed on or after January 1, 1996, classified by the statute as non-parolable, the following earning rates are stipulated by statute to the following levels of credit to be capped at six (6) a month and no more than 72 a year.

LEVEL	DAYS WORKED	CREDIT PER DAY	CREDIT PER MONTH	CREDIT PER YEAR
2	7	0.1972386	6.000	72.000
2	6	0.1972386	6.000	72.000
2	5	0.1972386	6.000	72.000
3	7	0.1972386	6.000	72.000
3	5	0.1972386	6.000	72.000
5	7	0.1972386	6.000	72.000
5	5	0.1428571	4.3457142	52.148568
7	7	0.1428571	4.3457141	52.148568
7	5	0.1020408	3.1040815	37.248979

DIS11000

SCDC OFFENDER MANAGEMENT SYSTEM
DISCIPLINARY SYSTEM

08/08/15
C001714

SCDC ID: 200273

DISPLAY INMATE OFFENSE HISTORY

LISENBY, BILLY -

OFFENDER TYPE: ADULT-STRAIGHT

PURCHASED TV

CURR LOC: RIDGELAND

CASE#	OFFENSE DESCRIPTION	ACTION	OFFENSE DATE	HEARING DATE	NET WT LOST	GT DHO	DECISION	OFF LVL
00106	A & B OF AN EMP, ETC	MAJOR DI	03/30/09	10/26/09	00150	CONVICTED	1	0 BA
00103	REFUSING OR FAILING O	ADMINIST	10/03/08	/ /	00000	CONVICTED	3	
00102	THREATENING TO INFELIC	MAJOR DI	08/04/08	08/13/08	00030	CONVICTED	2	
00100	DISRESPECT	MAJOR DI	07/05/08	07/09/08	00000	CONVICTED	3	
00099	FIGHTING WITHOUT A WE	ADMINIST	06/30/08	/ /	00000	CONVICTED	3	
00098	USE OBSCENE, VULGAR, PR	MAJOR DI	10/16/02	10/25/02	00015	CONVICTED	3	
00097	FALSE STATEMENT TO HA	MINOR DI	10/13/02	10/21/02	00000	CONVICTED	3	
00096	STRIKE I/M W/WO WEAPO	OTHER AC	07/26/02	/ /	00000	CLOSED	2	
00095	DISRESPECT	OTHER AC	07/19/02	/ /	00000	CLOSED	3	
00094	REFUSING OR FAILING O	MINOR DI	07/14/02	07/19/02	00000	CONVICTED	3	
00093	USE OBSCENE, VULGAR, PR	OTHER AC	06/24/02	/ /	00000	CLOSED	3	
00092	POSSESSION OF A WEAPO	MAJOR DI	05/14/02	05/23/02	00090	CONVICTED	2	
00090	ABUSE OF PRIVILEGES	OTHER AC	05/01/02	/ /	00000	CLOSED	5	

PAGE 0003

PF4-MODIFY PF6-DISMISS/NDI SUIITY

PF11-QUIT PF10-MAIN MENU

0768

DIS1100D

SCDC OFFENDER MANAGEMENT SYSTEM
DISCIPLINARY SYSTEM
DISPLAY INMATE OFFENSE HISTORY

08/08/15
C001714

SCDC ID: 200273
LISENBY, BILLY -

OFFENDER TYPE: ADULT-STRAIGHT

PURCHASED TV

CURR LOC: RIDGELAND

CASE#	OFFENSE DESCRIPTION	TYPE ACTION	OFFENSE DATE	HEARING DATE	NET GT LOST	DHO DECISION	OFF LVL
00124	THREATENING TO INFLIC	14 MAJOR DI	02/24/12	03/06/12	00060	CONVICTED	2
00123	USE, POSS NARC, MARIJ, U	13 MAJOR DI	02/04/12	02/14/12	00000	CONVICTED	1
00122	POSS. OR/ATTEMPT TO F	13 MAJOR DI	02/04/12	02/14/12	00060	CONVICTED	1
00118	THREATENING TO INFLIC	MAJOR DI	12/20/10	01/05/11	00030	CONVICTED	2
00119	REFUSING OR FAILING	12 MAJOR DI	12/19/10	01/05/11	00030	CONVICTED	3
00117	DAMAGE, DESTROY PROP.	11 MAJOR DI	12/18/10	01/05/11	00030	CONVICTED	3
00115	DAMAGE, DESTROY PROP.	10 ADMINIST	08/23/10	08/27/10	00000	CONVICTED	3
00114	UNAUTHORIZED SERVICES	11 MAJOR DI	08/10/10	08/25/10	00000	CONVICTED	5
00113	USE OBSCENE, VULGAR, PR	10 MAJOR DI	06/25/10	07/19/10	00030	CONVICTED	3
00112	FORGERY OR POSS. ANY F	10 MAJOR DI	06/22/10	07/28/10	00000	CONVICTED	3
00110	DAMAGE, DESTROY PROP.	10 MAJOR DI	05/31/10	06/23/10	00020	CONVICTED	3
00109	ABUSE OF PRIVILEGES	6 ADMINIST	12/02/09	12/07/09	00000	CONVICTED	5
00108	ABUSE OF PRIVILEGES	5 ADMINIST	10/06/09	10/08/09	00000	CONVICTED	5

PAGE 0002

PF4-MODIFY PF6-DESMISSED/NOT GUILTY

PF11-QUIT PF10-MAIN MENU

DIS1100D

SCDC OFFENDER MANAGEMENT SYSTEM
DISCIPLINARY SYSTEM

03/06/15
C001714

SCDC ID: 200273

DISPLAY INMATE OFFENSE HISTORY

LISENBY, BILLY -

OFFENDER TYPE: ADULT-STRAIGHT

PURCHASED TV

CURR LOC: RIDGELAND

CASE#	OFFENSE DESCRIPTION	TYPE ACTION	OFFENSE DATE	HEARING DATE	NET GT LOST	DHO DECISION	OFF LVL
00147	USE, POSS NARC, MARIJ, U	MAJOR DI	01/20/15	02/17/15	00000	CONVICTED	1
00146	POSSESSION OF CONTRAB	MAJOR DI	03/11/14	04/08/14	00000	CONVICTED	3
00142	DISRESPECT	OTHER AC	07/01/13	07/24/13	00000	CLOSED	3
00140	DISRESPECT	OTHER AC	02/14/13	03/06/13	00000	CLOSED	3
00138	POSSESSION OF CONTRAB	MAJOR DI	01/31/13	02/25/13	00000	CONVICTED	3
00137	UNAUTH I/M ORGAN/PART	MAJOR DI	01/31/13	02/25/13	00000	CONVICTED	2
00136	POSSESSION OF A WEAPO	MAJOR DI	01/31/13	02/25/13	00000	CONVICTED	2
00134	USE, POSS NARC, MARIJ, U	MAJOR DI	01/31/13	02/11/13	00030	CONVICTED	1
00133	DISRESPECT	MAJOR DI	12/10/12	12/17/12	00030	CONVICTED	3
00132	POSSESSION OF CONTRAB	MAJOR DI	11/05/12	11/19/12	00000	CONVICTED	3
00131	POSSESSION OF A WEAPO	MAJOR DI	10/19/12	11/05/12	00060	CONVICTED	2
00127	POSS. OR/ATTEMPT TO P	MAJOR DI	06/08/12	06/20/12	00000	CONVICTED	1
00126	STRIKING AN EMPLOYEE	MAJOR DI	06/08/12	06/20/12	00000	CONVICTED	2

PAGE 0001

SELECT A RECORD AND PRESS <ENTER> TO DISPLAY OR <PF04> TO MODIFY
PF4-MODIFY PF1-DISMISSED/NOT GUILTY PF11-QUIT PF10-MAIN MENU

SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS
Staff Memoranda

Page 1 of 5

Inmate Name: Lisambly, Billy

SCDC # 200273

Date	Staff (Please Print)	Comments
8/8/15	StoB30	
		Admitted 5/2/2008
		SSD 3/19/2008
		Good time EARNED & Lost
03/19/08 - 07/19/08		EARNED 80
		- 20 Forfeit
		60 Remaining
07/19/08 - 08/19/08		EARNED + 20
		80
		- 20 Forfeit
		- 30 Lost
		30 Remaining
08/19/08 - 10/19/08		EARNED + 40
		70
		- 20 Forfeit
		50 Remaining
10/19/08 - 04/19/09		EARNED 120
		= 170
		- 20 Forfeit
		= 150
		- 150 Lost
		0 Remaining

SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS
Staff Memoranda

Page 2 of 5

Inmate Name: _____

SCDC # 200273

Date	Staff (Please Print)	Comments
		4/19/09 0 Balance
04/19/09 -	10/19/09	EARNED + 120
		= 120
		- 20 Forfeit
		= 100 Remaining
10/19/09 -	12/19/09	EARNED + 40
		= 140
		- 20 Forfeit
		= 120 Remaining
12/19/09 -	06/19/2010	EARNED + 120
		= 240
		- 20 Forfeit
		= 220
		- 20 Lost
		= 200 Remaining
06/19/10 -	07/19/10	EARNED + 20
		= 220
		- 20 Forfeit
		= 200
		- 30 Lost
		= 170 Remaining
07/19/10 -	08/19/10	EARNED + 20
		= 190
		- 20 Forfeit
		= 170 Remaining

SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS
Staff Memoranda

Page 3 of 5

Inmate Name: _____

SCDC# 200273

Date	Staff (Please Print)	Comments
		170 Remaining
08/19/10 - 09/19/10		EARNED +20 = 190
		- 20 Forfeit = 170 Remaining
9/19/10 - 12/19/10		EARNED + 60 = 230
		- 20 Forfeit = 210
		150 Remaining
		150 Remaining
		- 30 Lost = 180 Remaining
12/19/10 - 01/19/11		EARNED + 20 = 200
		- 20 Forfeit 180
		- 60 Lost = 120 Remaining
01/19/11 - 02/19/12		EARNED +260 = 380
		- 20 Forfeit = 360
		- 60 Lost = 300

SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS
Staff Memoranda

Page 4 of 5

Inmate Name: _____

SCDC # 200273

Date	Staff (Please Print)	Comments
		Remaining 300
02/19/12 - 03/19/12	Earned	+ 20
		= 320
		- 20 Forfeit
		= 300
		- 60 Lost
		= 240 Remaining
03/19/12 - 06/19/12	Earned	+ 60
		300
		- 20 Forfeit
		280 Remaining
06/19/12 - 11/19/12	Earned	+ 100
		380
		- 20 Forfeit
		360
		- 60 Lost
		300 Remaining
11/19/12 - 12/19/12	Earned	+ 20
		= 320
		- 20 Forfeit
		300

SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS
Staff Memoranda

Page 1 of 5

Inmate Name: Lisensby, Billy

SCDC# 200273

Date	Staff (Please Print)	Comments
8/8/15	StoB/Bo	
		Admitted 5/2/2008
		SSD 3/19/2008
		Good time earned & lost
03/19/08 - 07/19/08		Earned 80
		- 20 Forfeit
		60 Remaining
07/19/08 - 08/19/08		Earned + 20
		80
		- 20 Forfeit
		- 30 Lost
		30 Remaining
08/19/08 - 10/19/08		Earned + 40
		70
		- 20 Forfeit
		50 Remaining
10/19/08 - 04/19/09		Earned 120
		= 170
		- 20 Forfeit
		= 150
		- 150 Lost
		0 Remaining

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS Staff Memoranda

Page 2 of 5

Inmate Name: _____

SCDC # 200273

Date	Staff (Please Print)	Comments
		4/19/09 0 Balance
04/19/09 -	10/19/09	EARNED + 120
		= 120
		- 20 Forfeit
		= 100 Remaining
10/19/09 -	12/19/09	EARNED + 40
		= 140
		- 20 Forfeit
		= 120 Remaining
12/19/09 -	06/19/2010	EARNED + 120
		= 240
		- 20 Forfeit
		= 220
		- 20 Lost
		= 200 Remaining
06/19/10 -	07/19/10	EARNED + 20
		= 220
		- 20 Forfeit
		= 200
		- 30 Lost
		= 170 Remaining
07/19/10 -	08/19/10	EARNED + 20
		= 190
		- 20 Forfeit
		= 170 Remaining

**SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS
Staff Memoranda**

Page 3/5

Inmate Name: _____

SCDC # 200273

Date	Staff (Please Print)	Comments
		170 Remaining
08/19/10 -	09/19/10	EARNED +20
		= 190
		- 20 Forfeit
		= 170 Remaining
9/19/10 -	12/19/10	EARNED + 60
		= 230
		- 20 Forfeit
		= 210
		150 Remaining
		150 Remaining
		- 30 Lost
		= 180 Remaining
12/19/10 -	01/19/11	EARNED + 20
		= 200
		- 20 Forfeit
		180
		- 60 Lost
		= 120 Remaining
01/19/11 -	02/19/12	EARNED +260
		= 380
		- 20 Forfeit
		= 360
		- 60 Lost
		= 300

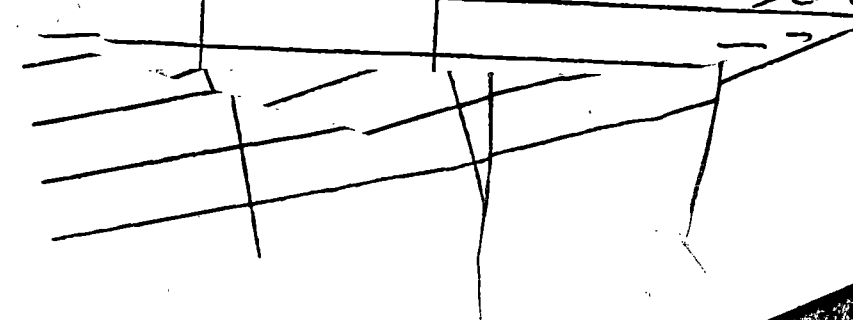
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS Staff Memoranda

Page 4 of 5

Inmate Name: _____

SCDC # 200273

Date	Staff (Please Print)	Comments
		Remaining 300
02/19/12 - 03/19/12		EARNED + 20
		= 320
		- 20 Forfeit
		= 300
		- 60 Lost
		= 240 Remaining
03/19/12 - 04/19/12		EARNED + 60
		300
		- 20 Forfeit
		280 Remaining
06/19/12 - 11/19/12		EARNED + 100
		380
		- 20 Forfeit
		360
		- 60 Lost
		300 Remaining
11/19/12 - 12/19/12		EARNED + 20
		= 320
		- 20 Forfeit
		300



WARDEN'S DECISION AND REASON:

Inmate Billy Lisenby #200273

LCI-0620-14

All pertinent information and documentation has been reviewed. After speaking with Classification it was discovered that the (200) of good time you speak of was reinstated on April 29, 2014. Since that time you have received (7) additional disciplinaries resulting in the loss of an additional (200) days of good time. You stated on your grievance that your maxout date was April 2014 in February 2014, when in fact it was February 2018. Your current max-out date is June 2017 and it will increase every time you receive a disciplinary.

Based on this information, your requested action is resolved. If not satisfied with my response, see Step 5 below.

Quinn M. J. [Signature] 8/7/14
Warden Signature Date

- I accept the Warden's decision and consider the matter closed.
- I do not accept the Warden's decision and wish to appeal.

Billy La [Signature] 8-12-14
Grievant Signature Date

B. J. [Signature] 8/12/14
IGC Signature Date

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM

1. An informal resolution shall be attempted prior to the filing of Step 1.
2. Complete each section in its entirety, writing only in the space provided for inmate use.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form to the Institutional Grievance Coordinator within fifteen (15) days of an alleged incident; policy grievances at any time. Do not write in the space provided for the Warden's response.
5. If you are not satisfied with the Warden's decision, you may appeal to the appropriate responsible official within five (5) days of your receipt of the Warden's decision, via the Institutional Grievance Coordinator.

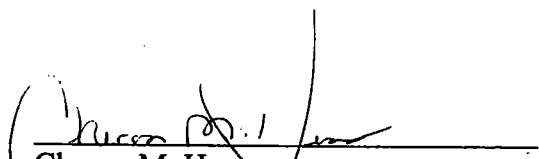
Exhibit #3

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was this date served upon the following individual(s) by placing a copy of the same via mail to his/her last known address as follows:

Inmate Billy Lisenby
Inmate Number: 200273
Dorm-Room-Bunk: EA-0020-B
Lieber Correctional Institution

Columbia, South Carolina
May 29, 2015


Cheron M. Hess
Administrative Assistant
South Carolina Department of Corrections
4444 Broad River Road
P. O. Box 21787
Columbia, SC 29221-1787
(803) 896-3922

Failure to report as instructed will result in grievance.
 LCI-0828-14 being closed due to failure to participate in the grievance process.
 LCI-0664-14
 LCI-6755-14
 LCI-0620-14
 LCI-0691-14

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Operations

ORDER TO REPORT

SCDC # 200273	Name BILLY LISENBY	Area EB-26
REPORT TO <u>GRIEVANCE</u> AT <u>10AM 8/12/14</u> (TUESDAY)		
Bring All Belongings <input type="checkbox"/> Bring State Clothing <input type="checkbox"/> Bring Nothing <input checked="" type="checkbox"/>		
Date 8/8/14	Signed W. Scarborough	
Date 8/8/14	Inmate's Signature Billy Lisenby	
Date 8/8/14	Staff Member's Signature C. N. J. [Signature]	

Inmate Request Audit Trail

Today's Date: 6/18/14 9:51

Name: LISEBY, BILLY
 Booking #: 200273
 Permanent #: 200273

Reference #: 14-114255
 Date Requested: 06/13/14 08:16
 Request Type: Disciplinary
 Requested By: Kiosk

Request Details: I CAUGHT A POSS. OF CONTRABAND CHARGE IN MARCH 2009 AND IT WAS OVERTURNED BY THE ALJ. SCDC HAS FAIL TO REINSTATE MY GOODTIME. I AM WRITING YOU BECAUSE MR. TUCKER TOLD ME TO. WILL YOU LOOK INTO THIS.

Review Level:
 Disposition: Complete
 Officer:
 Disposition Date: 06/13/14 11:17

Request Responses

Date	Author	Note
06/13/14 11:18	c042398	I/M Lisenby, All your charges that were overturned the good time has been re-instated. Your good time is correct as is your max out date. If you have any further problems with this you need to address Columbia.

Request Notes

Date	Author	Note
------	--------	------

Audit Trail Updates

Date	User ID	Original Value	New Value	Column Name
06/13/14 10:18	c042398		2014-06-13 11:17:00.0	DISPOSITION_DATE
06/13/14 10:18	c042398	PEND	COMP	DISPOSITION
06/13/14 10:18	c042398	2014-06-13 08:16:48.0	2014-06-13 08:16:00.0	DATE_REQUESTED

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Billy Lee Lisenby, Jr., #200273,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

Docket No. 15-ALJ-04-0179-AP

Grievance No. LCI 0620-14

ORDER

FILED

NOV 05 2015

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. During his incarceration on this sentence, Appellant has had at least 20 disciplinary infractions. In this matter he is appealing the sentence related to disciplinary offense number 18. On February 11, 2013, Inmate was convicted of offense 903, Use or Possession of Narcotics, Marijuana, or Unauthorized Drugs, Including Prescription Drugs, Or Inhalants. SCDC Policy OP-22.14, Inmate Disciplinary System. He was sanctioned with the loss of 230 days of good time. Inmate filed a Step 1 and Step 2 Grievance. On April 11, 2014, in response to Inmate's Step 2 Grievance, the Department reduced his loss of good time to 30 days. Inmate appealed to this Court. On December 23, 2014, this Court affirmed the Department's decision and upheld the sanction of loss of 30 days good time.

On June 5, 2014, Inmate filed a Step 1 Grievance. He alleged that the Department failed to reinstate his 200 days of good time credit, which should have changed his max-out date. On August 7, 2014, the Department denied Appellant's Step 1 Grievance. The Department explained that Inmate's 200 days of good time credit were reinstated on April 29, 2014. However, since that time, the Inmate had received 7 additional disciplinary convictions that resulted in the loss of an additional 200 days of good time credit. Therefore, the Department had changed his max-out date to reflect the loss of 200 days of good time credit. On August 17, 2014, Inmate filed a Step 2

Grievance and made the same arguments. This grievance was denied by the Department on March 30, 2015. Inmate filed a Notice of Appeal with this Court on April 13, 2015.

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 230 days of good time credit he lost in a disciplinary hearing (Case #134), which was later reduced to 30 days, has been incorrectly calculated by the Department and resulted in an incorrect max-out date for his sentence. In his brief, Inmate argues that the Department failed to reinstate the 200 days of good time credit that was reinstated after his appeal of a February 11, 2013 conviction. Inmate argues that the Department has incorrectly calculated his max-out date.

In response to Inmate's challenge, Michael Stobbe, SCDC Branch Chief for Records Management and Release, performed a manual calculation, which confirmed Appellant's sentence had been calculated properly and that his max-out date was November 18, 2017, as of April 29, 2014. According to Stobbe's calculation, on April 29, 2014, the Department reduced Inmate's loss of good time from 200 days to 30 days related to the conviction in Case #134.

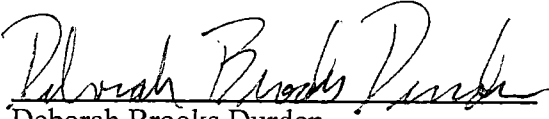
On August 13, 2015, Inmate filed a reply brief in response to the Department's brief. Inmate reiterated his initial argument and stated that the Department once again had miscalculated his projected release date.¹ Inmate does not provide any evidence to show that the Department miscalculated the loss of his good time credit or his projected max-out date. Therefore, Inmate's argument is without merit or factual basis.

The documentation of Stobbe's manual calculation and his summary of the process show that the 200 days of good time credit were indeed returned to Inmate and were not included in the current calculations of his projected release date. 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 IT IS SO ORDERED.

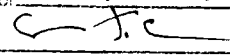

Deborah Brooks Durden
Administrative Law Judge

November 5, 2015
Columbia, South Carolina

FILED

NOV 05 2015

SC ADMIN. LAW COURT

CERTIFICATE OF SERVICE
I hereby 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 5th day of Nov. 2015
By: 
Judicial Law Clerk

¹ In its brief, the Department included Stobbe's summary of his manual sentence calculation. In his summary, Stobbe stated that on February 11, 2013, Inmate lost 260 days of good time credit. Based on this Court's review of the record in this case, this appears to be merely a scrivener's error. Stobbe correctly used a loss of 230 days of good time in his manual calculation, which was later adjusted to 30 days. In his reply brief, Inmate alleges that Stobbe's summary shows that the Department mistakenly took 260 days of good time credit and further miscalculated his max-out date. However, Inmate does not provide any evidence to show that Stobbe's statement was anything other than a scrivener's error.

Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Dated: Aug 11th, 2016

Billy Lee Jr.
Billy Lee Lisenby Jr. #200213
P.O. Box 2039
Ridgeland C.T.
Ridgeland S.C. 29926