

The State Of South Carolina  
IN The Court Of Appeals

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OCT 18 2016

SC Court of Appeals

Case No: 2016-001563

JUSTIN GRIFIN #315057 - - - - - Appellant,

VS

The South Carolina Department of Corrections - - - - - Respondent,

Initial Brief of Appellant

s/ Justin Griffin  
Justin Griffin #315057  
KR1 - Palmetto A #28  
4848 Goldmine Hwy  
Hershaw SC 29067  
pro SE

## HISTORY OF THE CASE

In 2015 the Appellant found that no matter what he did that his original max-out/release date was altered and remained so; thus he Filed for relief from the Respondent and was denied "for Disciplinary Convictions." The Appellant then was denied from the classification division of the Respondent and then filed his appeal with the Administrative Law Court ("ALC") in 2016, approximately April the ~~CASE~~ was assigned, shortly thereafter the Appeal was dismissed in ~~the~~ June 2016, approximately the 20th day; even after granting the Respondent an additional [10] ten days to file their Response; The Appellant then filed his Notice with this court within the (30) thirty days allotted by the Rules of Appeal...

This Appeal follows:

## Issues ON Appeal

- I. Is the Appellant's statutorily-provided-credits being miscalculated, causing future irreparable harm?
- II. Is the Respondent taking the Appellant's earned-work-credits ("EWC's") arbitrarily for disciplinary convictions or just Good-time credits?
- III. Was the Lower tribunal biased in dismissing the Appellant's case prior to the end of the allotted time frame provided in the SCRAC-special Appeals?

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# ARGUMENT

- I. The Appellant's Statutorily-provided-credits are being miscalculated causing the Appellant future irreparable harm as the miscalculation has prolonged his duration of Release from his sentence of incarceration in the Respondent's custody. (see Exhibit # 1 Line (42))
2. The Appellant was sentenced to thirteen (13) years eighty-five percent (85%) for a violent conviction of Armed Robbery and criminal conspiracy with the sentence start date of October 6, 2006. Thirteen years being deducted by eighty-five percent (85%) is equivalent to four-thousand and fifteen days (4,015) or Eleven (11) years and eighteen (18) days, approximately, which would designate a release from imprisonment on October 1, 2017. (see Exhibit no: 2) + (Exhibit no: 3)
3. The Appellant's current release date is May 1, 2018, which changed after the Appellant's release from Administrative Segregation in 2013 after doing over (32) months in isolation for a security-related issue. Yet when the Appellant questioned the change he was assured by the classification workers assigned to the Institution he was incarcerated at, (Kershaw Correctional) that the Release date would change back soon to October 1, 2017.
4. It never happened.

5. The Appellant thus filed and completed the procedures provided to exhaust his administrative Remedies and give his "Captors" an opportunity to fix the miscalculation to which the Respondent provided that the Current Release date of May 1, 2018 was proper and just due to disciplinary Convictions on the Appellant's behalf through-out his incarceration.

6. However, upon further investigation the Appellant found that to be incorrect as he still possesses a surplus of Good Conduct Credits and yet is missing an application of over (240) two hundred and forty earned work credits. (SEE Exhibit no. 1 at lines (9) + (10))

7. The duration of time between the Appellant's original Release date October 1, 2017 and the miscalculated currently established Release date of May 1, 2018 is approximately the same amount of days as that of what he is missing in 'EWC's':

II

8. The Respondent is taking the Appellant's EWC's arbitrarily, Not just Good-time-credits for disciplinary Convictions.

9. S.C. Code Ann. § 24-13-210 (b) provides in part ...  
... a prisoner convicted of a no parole offense against the state as defined in § 24-13-100 ... is entitled to a deduction from the term of his sentence beginning on the day his sentence commences to Term Computed at the Rate of (3) three days per month served ...

10. Thus shown the Appellant asserts that he has earned approximately (360) three hundred and sixty days worth of Good-conduct credits in the ten (10) years he has already served. The Respondent calculates that over that period of time the Appellant has lost and/or forfeited approximately (285) two hundred and eighty five days due to disciplinary convictions and their imposing consecutive sanctions, thus leaving the Appellant with a surplus of seventy five (75) days of goodtime remaining. to be applied to his sentence, or deducted.
11. The Appellant does not dispute the deduction of loss in Good time accruals.
12. However, the arbitrarily deducted earned-work-credits must be justified.
13. S.C. Code ann. § 24-13-230 (b) Provides in part:  
... the Director of the Department of Corrections may allow a prisoner in the custody of the Department serving a sentence of a Non-parolable offense as defined in § 24-13-100 who is assigned to a productive duty assignment... a reduction from the term of his sentence of six (6) days for every month he is employed or enrolled...
- S.C. Code ann. § 24-13-230(b)
14. Thus shown the Appellant asserts claim to approximately (720) seven hundred and twenty days EWC's as he has served

approximately ten (10) years of incarceration.

15. The statute provides (6) six days per month or (72) seventy two days annually multiplied by ten (10) is equivalent to (720) seven hundred and twenty.

16. Thus stated the Appellant would direct the Courts attention to Exhibit no.: in the Designation of matter at line: where it shows the Respondent's application of Appellant's EWC's at only a mere (226) two hundred and twenty-six days as applied to his sentence. . . where then is the other five hundred (500) days provided him by South Carolina Law SC Code Ann. §24-13-230 (b)?

17. The Appellant asserts that he has earned these credited days as mandated by statute and he has asked for, several times and been ignored several times, a printed out copy of the days where-in he was assigned to, or enrolled in a productive duty assignment to show this court he has, in fact as in deed earned these credits that are not being attributed to his calculations for release on October 1, 2017.

18. The Appellant would ask this court to be mindful in the fact that all his paperwork, evidence, and Requests for documentation comes through those whom he is challenging.

Thus, with good Reason asks this Court's permission to judicially challenge before this court, the Respondent to produce the history of the Appellant's productive duty assignments and their credits in days...

19. Finally, the Appellant asserts that as Mandated by S.C. Code ann. §§ 24-13-210(b) and 24-13-230(b) and as shown through Exhibit no. 1 there are definitely some errors in calculation where it concerns his credits or at the very least some discrepancies that need to be addressed and then corrected. and that the Respondent's lack of action in doing so after asked repeatedly is negligence and biasedness at the least.

20. "The cardinal rule of statutory construction is that the Courts will ascertain and effectuate the intent of the law-making body." Burns V State Farm Mut. Auto Ins. 297 SC 520, 522, 377 SE2d (on statutory constructional Interpretation).

21. The statute is clear and unambiguous in it's intent that the prisoner who is convicted of a Non-paroleable offense against the state is to do (85%) eighty five percent of his sentence with a three (3) day accrual Rate for every 30 days served in good conduct and an additional six (6) days for every (30) thirty days served assigned to a productive duty assignment, and for the Respondent to alter, add too, or change

the legislated intent is illegal and must fail.

22. "An administrative action which materially alters or adds to the law is void" . . . Miliken and Co. v S.C. Dep't of Labor — S.C. — 269 SE2d 763, 764

23. Thus shown, the Appellant has shown and proven that there are statutorily provided credits ~~that~~ that are missing and that cannot be attributed to disciplinary convictions that needs explaining and justification

### III

24. The Lower tribunal/court was biased in dismissing the Appellant's case before the end of the allotted time provided by the Special Appeals Rules to file his final brief, especially since the burden of proof was upon the Appellant.

25. As shown in Exhibit no: [4] the Appellant received the Respondent's Reply brief on June 9<sup>th</sup> 2016 (one day after arrival at institution); and as shown in Exhibit no: [5] filed his final Reply on June 17, 2016, yet the institution did not file or mail said Brief until June 20, 2016.

26. The South Carolina Rules of Appeal: "Special Rules" provides ten (10) working days to the Appellant to file a final brief

at Rule 60. (see Special Rules/special Appeals v.).

27. Thus shown, the Appellant was denied his Rights by Constitution, both Federal and state, to Due process and equal protection of the laws as he was ~~not~~ prejudiced by the court's (Lower) final decision prior to the filing of the Appellant's final brief, exceptionally, as the burden of proof was upon the Appellant. (see Porter v. Public Service Comm'n, 333 SC 12, 507 SE.2d 328 (1998)).

28 The lower court dismissed said Appeal on Jun 20, 2016.  
(see Exhibit No: 6) Conclusion

Wherefore, upon the foregoing the Appellant prays this Court order the Respondent to Restore his Statutorily provided Earned work credits and Reduce his sentence BACK to its original Court imposed thirteen (13) years at eighty five (85%) percent as he has effectively proven that he is missing close to five hundred (500) days pursuant to S.C. Code. Ann § 24-13-230(b).

Respectively submitted  
S/Justin Griffin  
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SC Court of Appeals

Appellate Case no:  
2016-001563

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Justin Griffin #315057  
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South Carolina Dep't of  
Corrections  
Respondent


Proof of service

I certify pursuant to the 28 U.S.C. § 1746 that I have served an original copy of the Appellant's Initial Brief, Designation of Matter to be Included on the Record of Appeal and pertaining Documents as well as proof of service upon the Respondent, and lower court by placing the same in the Kershaw Correctional Mailbox with postage affixed addressed to:

Office of General Counsel  
P.O. Box 21787  
Columbia SC 29201

Administrative Law Court  
Edgar A. Brown Bldg. 224  
1205 Pendleton St.  
Columbia SC 29201

on this 14<sup>th</sup> day of October 2016.

  
Justin Griffin #315057

Justin Griffin #315057  
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7  
LSA

S.C. Court of Appeals  
Jenny Abbott Kitchings - clerk  
P.O. Box 11629  
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