

The State of South Carolina
In the Court of Appeals

Justin Griffin # 315057 Appellant

VS

South Carolina Dep't
of Corrections Respondent,

Designation of Matter
to be included on the
Record of Appeal

s/Justin Griffin
Justin Griffin # 315057
Kershaw Corr. Inst.
4848 Goldmine Hwy
Palmetto #28 -A
Kershaw SC 29067

Exhibit 1

12
72
72
4
216
36
25
212
150
370

MAXOUT DATE CALCULATION WORKSHEET			
NAME: Griffin, Justin		SCDC #: 315057	
<input type="checkbox"/>	360 DATE CALCULATION - (Year = 360	Month = 30	Day = Day)
<input checked="" type="checkbox"/>	365 DATE CALCULATION - (Year = 365	Month = 30.42	Day = Day)
Sentence Length:	<u>13 Years</u> (1)	Sentence Length in Days:	<u>4745</u> (2)
Total credits earned as of next cycle date:			
Sentence Start Date:	<u>10/06/06</u> (3)	Next Cycle Date:	<u>05/06/16</u> (4)
Calendar Service Credit:		(+)	<u>3500</u> (5)
Good Time Credit (Gross):	<u>345</u> (6)		
Good Time Forfeited:	(-) <u>54</u> (7)		
Good Time Days Lost:	(-) <u>231</u> (8)		
TOTAL GOOD TIME CREDIT EARNED:		(+)	<u>60</u> (9)
Earned Work Credit:		(+)	<u>226.343</u> (10)
Earned Education Credit:		(+)	<u>0</u> (11)
Earned Extra Credit:		(+)	<u>NA</u> (12)
TOTAL CREDIT: (Lines 5 + 9 + 10 + 11 + 12) =			(-) <u>3786.343</u> (13)
Remaining to satisfy as of next cycle date (enter line 4):	<u>05/06/16</u> (14)		(=) <u>958.657</u> (15)
Average Monthly Accrual Rate:			
Service Days + Good Time + EWC + EEC			
<u>30.42</u> (16) + <u>3</u> (17) + <u>6</u> (18) + <u>0</u> (19) =			<u>39.42</u> (20)
Divide Line 15 by Line 20 =	<u>24</u> (21)		<u>319</u> (22)
	(whole number)		(remainder)
Enter next cycle date from line 14:			<u>05/06/16</u> (23)
Complete cycles from line 21:	(+)		<u>2</u> (24)
Estimated final cycle:	(=)		<u>05/06/18</u> (25)
Projection of Remaining Time to Serve:			
Next cycle date from line (23):	<u>05/06/16</u> (26)	Est. final cycle (from line 25):	<u>05/06/18</u> (27)
Calendar Service Credit:	(+)	<u>730</u>	(28)
Good Time Credit:	(+)	<u>72</u>	(29)
Earned Worked Credit:	(+)	<u>143.81</u>	(30)
Earned Education Credit:	(+)	<u>0</u>	(31)
TOTAL PROJECTED CREDITS: (lines 28 + 29 + 30 + 31)			(-) <u>945.81</u> (32)
Remaining to satisfy as of estimated final cycle:			(=) <u>12.847</u> (33)
Daily accrual rate:			
Service 1 (34)+EWC Daily Rate <u>.197</u> (35)+EEC Daily Rate <u>0</u> (36) =			<u>1.197</u> (37)
Divide days remaining to earn (line 33) by daily accrual (line 37) =			<u>10.732</u> (38)
Enter estimated final cycle (line 27):			<u>05/06/16</u> (39)
Add days from line 38:	(+)	<u>10</u>	(40)
Calculate to month, day and year:			<u>05/16/18</u> (41)
(Line 42 is lesser of Line 41 or next cycle date from line 39)			
PROJECTED RELEASE DATE:			(=) <u>05/13/18</u> (42)
MICHAEL J. STOBBE			<u>04/14/16</u>
Employee Name	Employee Signature		Date

5/10/10
 10/20
 - 78
 532
 226
 306
 126
 180
 37
 113
 10/10
 183
 78
 35
 1 1/2 years
 Worth
 3786
 384
 4170

minus 3 leap year days

$$4015 = 11 \text{ years } / 85\% \text{ of } 13 \text{ years} \quad / \quad 4745 = 13 \text{ years in days} / \underline{210} = \text{over time} \rightarrow$$

$$4015 + 210 = 4225$$

$$\text{EWC in total earned} = 27120$$

$$\text{EWC Lost} = 252$$

$$\text{Total} = 708$$

$$\begin{array}{r} \text{Credited by state} \\ \hline \text{Still owed} = \end{array} \quad \begin{array}{r} 226 \\ \hline 242 \end{array} \quad \text{Total}$$

$$\text{Over} = 032$$

STATE OF SOUTH CAROLINA

Exhibit 2

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Anderson
STATE VS. Justin Griffin
AKA:
Race: W Sex: M Age: 19 20
DOB: 10-29-1987 SS#: 242-69-8578
Address: 420 SIMPSON ROAD APT A
ANDERSON, SC 29621
DL#: SID#:

INDICTMENT/CASE# 2007-35-04-502
A/W#: J422285
Date of Offense: 1/25/2006
S.C. Code §: 16-11-0330(A)
CDR Code #: 0139

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Robbery / Armed Robbery, robbery while armed or allegedly ar in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC) §17-25-45 w/minor 1st or Lewd Act

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Scott McElhanon Solicitor; Justin Griffin Defendant; M.J. [Signature] Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 13 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 503
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
set by SCDPPPS
Recipient:
*Fine:
§ 14-1-206 (Assessments 107.5 %)
§ 14-1-211(A)(1) (Conv Surcharge) \$100 \$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$
§ 56-5-2995 (DUI Assessment) \$12 \$
§ 35.13 (Public Def/Prob) \$500 \$
§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00
§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$
§ 50-21-114(BUI Breath Test Fee) \$50 \$
§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$
3% to County (if paid in installments) \$
TOTAL \$ 125.00
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling NOV 30 2007
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:
Appointed PD or appointed other counsel, §35.13 TP Requires \$500 be paid to Clerk during probation.

Cathy M. Phillips
Clerk of Court/ Deputy Clerk

Court Reporter: D. Brady
SCCA /217 (10/2007)

PRESIDING JUDGE
Judge Code
Sentence Date: 11/22/07

Exhibit No. 3

Equations for Sentencing

1. 13 years in days = 4,745 days
2. 85% of 13 = 11.18
3. 85% of 13 years in days = 4,015.
4. Sentence start date = October 5, 2006.
5. October 6, 2006 + 4,015 days = October 2017.
6. Respondent's projected max out for Appellant = May, 2018.
7. Respondent's duration of time served in days = 4,225.
8. Difference between court imposed Release date and Respondent's projected Release in days = 210 days.



Exhibit no.: 4

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

June 2, 2016

The Honorable John D. McLeod
South Carolina Administrative Law Court
Edgar A. Brown Building, Suite 224
1205 Pendleton Street
Columbia, South Carolina 29201

Reference: Inmate Justin H. Griffin, #315057, vs. SCDC
Docket No. 16-ALJ-04-0100-AP

Dear Judge McLeod:

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,

Cheron Hess
Administrative Assistant
Office of General Counsel

Enclosures

cc: Inmate Justin H. Griffin, #315057
File



Office of General Counsel
P.O. Box 21787/4444 Broad River Road
Columbia, South Carolina 29221-1787

EXHIBIT NO. 4

RECEIVED

JUN 07 2016

MAILROOM

Inmate Justin H. Griffin
Inmate Number: 315057
Kershaw Correctional Institution
Dorm-Room-Bunk: HB-0268-F

PA19

LEGAL MAIL

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

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.¹ 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.

¹ 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.

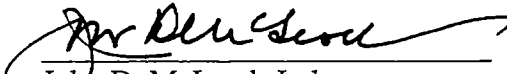
Inmate has failed to establish that SCDC is incorrectly applying his statutory right to good time credit and work credit. Because SCDC's decisions is supported by substantial evidence, I affirm.

Based upon the foregoing,

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

AND IT IS SO ORDERED.

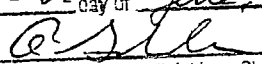
Columbia, S.C.
June 20, 2016



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