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**STATEMENT OF ISSUE ON APPEAL**

**THE ADMINISTRATIVE LAW COURT PROPERLY UPHELD THE DEPARTMENT OF CORRECTIONS' CALCULATION OF APPELLANT'S SENTENCE WHERE APPELLANT FAILED TO ESTABLISH THAT THE DEPARTMENT COMMITTED ANY ERRORS WITH RESPECT TO APPLICATION OF GOOD TIME OR EARNED WORK CREDITS.**

## STATEMENT OF THE CASE

This matter comes before this Court pursuant to the appeal of Justin Griffin, an inmate in the custody of the South Carolina Department of Corrections. On February 26, 2015, Appellant submitted a Step 1 Grievance complaining that the Department of Corrections was not properly calculating his sentence. After this grievance was investigated and denied, Appellant submitted a Step 2 Grievance on April 10, 2015. The Step 2 was also investigated and was denied on the ground that Appellant's credits had been properly awarded and the sentence properly calculated. Appellant filed a notice of appeal in the Administrative Law Court on February 3, 2016. On June 20, 2016, Administrative Law Judge John D. McLeod filed an order dismissing Appellant's appeal. The order concluded that Appellant failed to establish that the Department of Corrections was improperly calculating his 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' CALCULATION OF APPELLANT'S SENTENCE WHERE APPELLANT FAILED TO ESTABLISH THAT THE DEPARTMENT COMMITTED ANY ERRORS WITH RESPECT TO APPLICATION OF GOOD TIME OR EARNED WORK CREDITS.**

Appellant claims that the Department of Corrections is improperly calculating his sentence and that he should be released after serving exactly eighty-five percent of his thirteen-year sentence. Appellant's claims are wholly without merit. It is undisputed that Appellant's sentence for armed robbery is an eighty-five percent "no parole" sentence under S.C. Code § 24-13-100. This means that he is not eligible for release until he serves "*at least* eighty-five percent of the actual term of imprisonment imposed." S.C. Code § 24-13-150(A) (emphasis added). Contrary to Appellant's belief, this statute does not mandate that he be released after he serves exactly eighty-five percent of his sentence. Instead, eighty-five percent is the *minimum* portion he must serve before being released. Eighty-five percent inmates who receive all possible good time credits under S.C. Code 24-13-210(B) and all possible earned work credits under S.C. Code § 24-13-230(B) can be released after serving exactly eighty-five percent of their sentences. However, Appellant does not fall into this category of inmates.

As found by the Administrative Law Judge (based upon SCDC records that Appellant has failed to refute), as a result of disciplinary infractions, Appellant had a net of only sixty days of good time credit as of April 14, 2016. (See Order, page 3; see also Maxout Date Calculation Worksheet). Furthermore, as of April 14, 2016, he had earned only 226.343 days of work credit. (See Order, page 3, see also Maxout Date Calculation Worksheet). Clearly,

since Appellant has not earned the maximum amount of good time and work credit provided by statute, he cannot be released once he has served exactly eighty-five percent of his sentence. Appellant has failed to show that the calculations relied upon by the Administrative Law Judge (that is, the Maxout Date Calculation Worksheet prepared by Michael J. Stobbe on April 14, 2016) were erroneous in any way. Accordingly, because Appellant has failed to establish that the Department of Corrections has incorrectly applied his good time and/or work credits, the order of the Administrative Law Court should be affirmed.

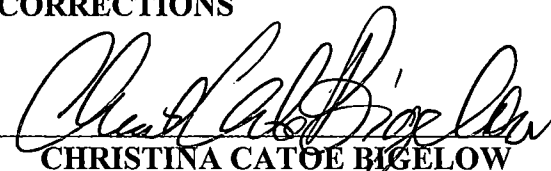
**CONCLUSION**

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

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT  
OF CORRECTIONS**

BY:



**CHRISTINA CATOE BIGELOW**  
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November 8, 2016

STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COUNCIL NOV 08 2016

Administrative Law Judge John D. McLeod

**SC Court of Appeals**

ALC Case No. 16-ALJ-04-0100-AP  
Appellate Case No. 2016-001563

JUSTIN GRIFFIN, # 315057,

APPELLANT,

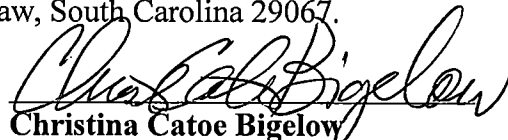
v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

**CERTIFICATE OF SERVICE**

Undersigned counsel hereby certifies that on today's date, I mailed a copy of the **Initial Brief of Respondent and Designation of Matter to be Included in the Record on Appeal** to Appellant, addressed as follows: Justin Griffin, # 315057, Kershaw Correctional Institution, 4848 Goldmine Highway, Kershaw, South Carolina 29067.



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November 8, 2016



South Carolina  
Department of  
Corrections

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

OFFICE OF GENERAL COUNSEL

November 8, 2016

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NOV 08 2016

**SC Court of Appeals**

The Honorable Jenny A. Kitchings  
Clerk of Court, S.C. Court of Appeals  
Post Office Box 11629  
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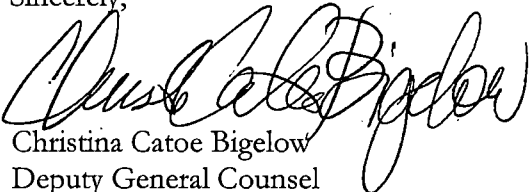
**RE: Justin Griffin, # 315057 v. South Carolina Department of Corrections**  
**Appellate Case No. 2016-001563**

Dear Ms. Kitchings:

Enclosed please find the **Initial Brief of Respondent and Designation of Matter to be Included in the Record on Appeal** in the above captioned appeal, along with **Proof of Service**.

Thank you for your attention to this matter, and please do not hesitate to contact me should you have any questions or concerns.

Sincerely,



Christina Catoe Bigelow  
Deputy General Counsel  
South Carolina Department of Corrections

cc: Justin Griffin, # 315057  
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4848 Goldmine Highway  
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