

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

SC ADMIN. LAW COURT

William Allen, 178666,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

) Docket No.: 16-ALJ-04-0641-AP

) Grievance No.: BRCL427-16

ORDER

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SC Court of Appeals

STATEMENT OF THE CASE

This matter is before the South Carolina Administrative Law Court (“the ALC” or “the Court”) pursuant to the Notice of Appeal filed August 24, 2016, by William Allen (“Appellant”), an inmate incarcerated with the South Carolina Department of Corrections (“Department”). In this appeal, Appellant requests review of the Department’s decision concluding that Appellant is legally incarcerated, pursuant to his life sentence for murder.

STANDARD OF REVIEW

The ALC has subject matter jurisdiction to hear appeals where the inmate believes his or her sentence has been erroneously calculated by prison officials. *Al-Shabazz v. State*, 338 S.C. 354, 369, 527 S.E.2d 742, 750 (2000). When reviewing the Department’s decisions in inmate grievance matters, the ALC sits in its appellate capacity, applying the appellate standard of the Administrative Procedures Act. *See id.*, 338 S.C. at 377, 527 S.E.2d at 754. Consequently, review in inmate grievance cases is limited to the record presented. S.C. Code Ann. § 1-23-380(4) (Supp. 2016). Additionally, the Court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact, but may modify or reverse the decision of the agency when substantial rights of the appellant have been prejudiced. S.C. Code Ann. § 1-23-380(5) (Supp. 2016). Substantial rights of the appellant are prejudiced when the agency’s decision, including the agency’s findings, inferences, and conclusions, are in violation of constitutional or statutory provisions; in excess of the statutory authority of the agency; made upon unlawful procedure; affected by other error of law; clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. *Id.*

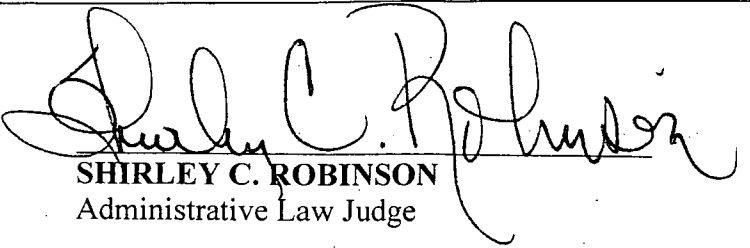
DISCUSSION

In this case, Appellant argues that the Department failed to follow policy and procedure. Specifically, Appellant argues that he is incarcerated without a valid commitment order, in violation of SCDC Policy OP-21.09, ¶ 11.4–11.7 (Nov. 1, 2007). However, a prison official's failure to follow the prison's own policies, procedures or regulations does not in itself constitute a constitutional violation. See Weatherholt v. Bradley, 316 Fed. Appx. 300, 303 (4th Cir. 2009) (not selected for publication) (quoting Myers v. Klevenhagen, 97 F.3d 91, 94 (5th Cir. 1996)).

The record contains a facially valid sentencing order from a general sessions judge. The purpose of the ALC is to review agency decisions. See Engaging & Guarding Laurens County's Environment ("EAGLE") v. S.C. Dep't of Health & Env'tl. Control, 407 S.C. 334, 344, 755 S.E.2d 444, 449 (2014) (quoting S.C. Const. art. I, § 22) (recognizing ALC's function of reviewing administrative actions under the South Carolina Constitution). Agencies perform administrative functions within the scope of their statutory authority, such as sentence calculations. "An administrative agency has only such powers as have been conferred by law and must act within the authority granted for that purpose." Bazzle v. Huff, 319 S.C. 443, 445, 462 S.E.2d 273, 274 (1995) (citation omitted). Neither the Department, nor this Court, are empowered to make a determination regarding the validity of a sentence issued by a circuit court judge. See Jernigan v. State, 340 S.C. 256, 259–60, 531 S.E.2d 507, 508–09 (2000) (citations omitted) (distinguishing between collaterally challenging the validity of a sentence under post-conviction relief laws and non-collaterally seeking review of the Department's actions under the procedure established in Al-Shabazz); State v. Bennett, 375 S.C. 165, 170, 650 S.E.2d 490, 493 (Ct. App. 2007) (noting that a grievance under Al-Shabazz is essentially an attempt to enforce a sentence correctly, not challenge it). A collateral challenge to a sentence must be brought under the Uniform Post-Conviction Procedure Act. See S.C. Code Ann. § 17-27-10 et seq. Because it appears that the Department is merely enforcing a valid sentence, and because a challenge to the validity of that sentence falls outside this Court's scope of review, the Court must affirm the Department's decision.

THEREFORE, IT IS HEREBY ORDERED that the decision of the Department is **AFFIRMED**.

AND IT IS SO ORDERED.

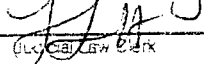

SHIRLEY C. ROBINSON
Administrative Law Judge

February 24, 2017
Columbia, South Carolina

CERTIFICATE OF SERVICE

This is to certify that the undersigned has in a 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 Intergovernmental Mail Service addressed to the party(ies) or their attorney(s).

This 24 day of February 2017

By: 
(Attorney at Law)