

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM ADMINISTRATIVE LAW COURT

SHIRLEY C. ROBINSON, ADMINISTRATIVE LAW JUDGE

Docket No. 17-ALJ-04-0300-AP

ISIAH JAMES, JR., Appellant,

vs.

SOUTH CAROLINA DEPARTMENT OF
CORRECTIONS, Respondent.

RECEIVED

JUN 29 2017

S.C. SUPREME COURT

INITIAL BRIEF OF APPELLANT

Isiah James, Jr., 096883
GCI, B2 39B
4556 Broad River Road
Columbia, SC 29210

STATEMENT OF ISSUE(S) ON APPEAL

I. Whether appellant is being denied the liberty interest on statutory goodtime earned (SGE) where SCDC ('Agency') failed to make adjustment(s) concerning his sentence expiration date for nearly a generation? Busby v. Moore, 498 S.E.2d 883 (1998)

II. Has the Agency wrongfully computed James's sentence expiration date with reference thereto custody determination, status, etc. contrary to South Carolina and United States due process clause(s) of the Constitution(s)? Al-Shabazz v. State, 527 S.E.2d 742 (Y2K)

III. Did the Agency wrongfully calculated James's sentence expiration date under earn work credits (EWC's) contrary to the due process and/or ex post facto clause(s) of the Constitution(s)? James v. SCDPPPS, 656 S.E.2d 399 (S.C. App. 2008)

IV. Whether the Administrative Law Court (ALC) erred issuing 6-15-17 order of remand?

STATEMENT OF THE CASE

James who is serving a longterm sentence within SCDC filed a step I grievance on or about 2-16-17 which was denied/disapproved on 4-5-17; he filed a timely step II (grievance appeal) that was denied on 5-15-17 so he filed a timely appeal to the ALC; the ALC issued a 6-15-17 order of remand; he comes to this Court for appellate review.

1. THE AGENCY DENIED SGE ADJUSTMENT(S)

Appellant is being denied the liberty interest on SGE where Agency failed to make adjustment(s) concerning his sentence expiration date for nearly a generation as it is set forth in the grievance step I; the Agency failed to acknowledge/notice that James is serving 365 and 366 days a year for nearly four (4) decades. Busby v. Moore at (2/5 time served for max-out); SCDC Offender Management System (OMS) Release Date Screen of 1-13-99 showed: Total GE Earned ...: 004740 (R. p.)

The document reflects GT Days Earned for nearly 20 years:
20 * 12 = 240 months times 20 days equals 4800 days. The other part of OMS showed, should show 3 infraction(s), less of 20 days for each infraction that he could not have restored, given back. The OMS does not show any adjustment(s) concerning sentence expiration date at 11-26-2023. The 2-21-97 history of EWC's from the OMS (R. p.) showed last assignment to 2F7 and he had the 9-16-2020 max-out date on that occasion;

The extra 5 and 6 days a year add-up where he has served 38 years; $38 : 5 = 190$ days. 366 days in a leap year, 1 day every 4 years from 1980 to 2016 = 10 days; total 200 days @ 20 days per month equals almost 140 days or $4 \frac{2}{3}$ months which has not been deducted as SGE from max-out date; 200 extra days served is almost 7 months, He asserts that he has served 40% of 85 year sentence and if Busby supra is correct application; he is eligible for statutory pardon application under section 24-21-930 of the Code of Laws.

2. THE AGENCY CALCULATED JAMES CUSTODY CHANGE WRONGFULLY

The Agency wrongfully calculated James's sentence expiration date with reference thereto custody status, advancement and etc. contrary to South Carolina and United States due process clause(s) of the Constitution(s). Al-Shabazz v. State, 527 S.E.2d 742 (Y2K) James's promotion to MQLB custody should have occurred at 7 and $4 \frac{2}{3}$ months earlier than it has occurred according to the adjustment(s) of SGE to sentence expiration date but if Busby supra decision is correct application of sentence expiration date; it should have occurred much sooner under Agency's policies. Accardi doctrine

3. THE AGENCY WRONGFULLY CALCULATED AND APPLIED EWC'S TO JAMES'S SENTENCE EXPIRATION DATED

The Agency wrongfully calculated and applied EWC's to James's sentence expiration date contrary to the due process and/or ex post facto clause(s) of the Constitution(s). The step II grievance of 2-15-12 showed from a minor point of view where the ex post facto policies of the Agency were wrongfully applied as it applied to James's expiration date of sentence:

Your projected release date has moved
from ~~12/12/23~~ to 5/18/23 (R. p.)

Initially, James's '2F7' EWC's should not have decreased from 1997 to 2006 to 2F5 which reflected an ex post facto change, increased sentence expiration date. James v. SCDPPPS, 656 S.E.2d 399, (S.C. App. 2008) The Agency mis-calculated the EWC's and failed to make the necessary adjustment(s) where he was assigned to less than 2F7 EWC's and where he engaged inmate employment at 21 and 22 days monthly for nearly 40 years.

It follows, the Agency has committed error(s) at law, refusing to correct sentence(s) calculation and audit(s) thereunder its policies. Williams v. State, 410 S.E.2d 563, 564 (1991) ('penal statute')

4. THE ALC ERRED ISSUING AN ORDER OF REMAND

Appellant requests the Court to correct error(s) at law of the Agency and contends the ALC erred holding, "it would be premature for the Court² to decide on the matter prior to the Department completing the process of recalculating Appellant's sentence." (R. p.) He has received the "final agency response denying Appellant's grievance". Ibid. James has max-out two (2) consecutive sentence(s) (R. p.)

SCDC OMS "10-14-2010" sentence expiration and respondent did not make any adjustment(s) of EWC's and SGE* associated therewith so how is the Agency entitled to additional time?

CONCLUSION

Appellant urges the Court to correct the law ruling(s) below and if appropriate order James's immediate release from confinement.

This 26 day of June 2017.

/s/ *Isiah James, Jr.*
Isiah James, Jr., 0968830

CERTIFICATE OF SERVICE

Appellant has served respondent's attorney by mail, postage pre-paid, with Initial Brief etc., Pauper Status Motion etc, and Designation of Matter at:

General Counsel, SCDC
POB 21787
Columbia, SC 29221-1787

This 28 day of June 2017

s/ *Isiah James, Jr.*

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*The OMS Release Date Screen of 1/13/99 showed: Total Service Time Earned ... 007229 and 360 days time two decades equals 7230--360 days year computation