

The State OF South Carolina
In The Court OF Appeals

Appeal From The Administrative Law Court
S. Phillip Lenski, Administrative Law Judge

Case No.: 2017-000-914

Andra Byron Jamison, #337461, Appellant,

vs.

South Carolina Department of Corrections Respondent.

Appellant's Reply Brief
To Respondent's Initial Brief

Melissa J. Arnold
Staff Attorney
S.C. Dept OF Corrections
4444 Broad River Road
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Honorable S. Phillip Lenski
S.C. Administrative Law Court
Edgar A. Brown Building, suite 224
1205 Pendleton street
Columbia, SC 29201

Statement OF The Case

This matter comes before this Honorable Court, pursuant to the appeal of Andra B. Jamison (Appellant), an inmate incarcerated with the South Carolina Department of corrections (SCDC or Respondent). Appellant is currently committed to SCDC with an eighteen-year sentence for Felony Driving Under the Influence Resulting in Death (R.p. #7).

Appellant filed a step-one Grievance on October 14, 2016, challenging his "violent" misclassification of SCDC's calculation of his sentence. This grievance was allegedly investigated and denied. (R.p. #1). The Institutional Grievance Coordinator misinformed Appellant that the offense he was charged with carried a "violent" classification by statute, therefore the issue was non-grievable. (R.p. #1). Appellant then filed a notice of appeal with the Administrative Law Court on August 30, 2013. (R.p. #3).

After the parties filed briefs, the ALC affirmed...

... SCDC's final decision, finding that SCDC correctly interpreted Appellant's sentence and under the statute that governs his conviction, Appellant is required to serve at least 85% of his sentence. (R.p. #5).

Appellant now seeks review of the ALC's decision. For the reasons that follow, Appellant respectfully requests that the ALC's decision be reversed.

"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.

“ Argument ”

Appellant hereby objects to page 4 at footnote one (1) of Respondent's Initial Brief to the...

... extent that Appellant's conviction was not classified as non-violent as the Respondent claims in footnote 1 at pages 4-5 of Respondent's Initial Brief. (Emphasis supplied), SEE, (R.p. #7). (SCDC offender Management System commitment Application Conviction Summary).

The SCDC commitment Application Conviction Summary clearly states Appellant's conviction for Felony DUI-Death pursuant to SCDC's own classification is listed in the computer as: "Violent." And because Appellant has been misclassified as violent- versus the proper classification of non-violent. Appellant is being denied the amenities of the non-violent classification status (i.e. Parole, work credits, work release, education credits, Furlough, and SCDC custody reductions).

Wherefore, to prove Appellant's conviction was initially classified as violent. Review (R.p. #1), (R.p. #3), (R.p. #5), and (R.p. #7) in the record on appeal. (Emphasis supplied).

Further, Appellant would point out to this Honorable Court that his (Appellant's) Sentencing Sheet is ambiguous in reference of violent or non-violent status. The Respondent could not have "lawfully" reached the conclusion that Appellant's October 15, 2009, conviction was supposed to be classified as violent from a reading of the Sentencing-Sheet. Because the October 15, 2009, Sentencing-Sheet for Felony DUI-Death is void of any violent or non-violent status; the Respondent's unlawful issuance of a violent classification in violation of §§ 16-1-60, 16-1-70, and § 56-5-2945, is unconstitutional.

Wherefore, an equal protection violation would result if Appellant does not receive the amenities of non-violent status even though his Felony DUI-Death is a class (B) felony. Because in Bolin v. South Carolina Dept. Corrections, 413 S.C. 276, 781 S.E. 2d 914 (February 24, 2016), the court ruled in part; that although Bolin had been sentenced to a class (A) felony and was convicted and...

... Sentenced to (30) years that it was unreasonable to characterize an offense for which the offender is eligible for parole as a no parole offense pursuant to Section 24-13-100 even if the sentence for the offense places it within a classification encompassed by Section 24-13-100.

Thus, the Respondent rely upon Section 24-13-100 of the South Carolina Code of laws. However, that Section has been recognized as repealed by implication of Bolin v. South Carolina Dept. of corrections, 415 S.C. 276, 781 S.E. 2d 914.

Wherefore, Appellant in this case, Should receive all the amenities that come with a non-violent class (B) felony regardless of the time the offense carries. Because Section 24-13-100 has been repealed. (Emphasis supplied).

If Appellant does not receive a non-violent status with all the amenities of same (i.e., parole, work credits, Good Time credits, Furlough, work release),...

... etc., that would constitute a violation of Appellant's Fourteenth Amendment to the United States constitution (Due Process and Equal Protection Rights).

“ Conclusion ”

Fore the foregoing reason(s), Appellant respectfully submits that the court should reverse the Lower Tribunal decision and reclassify his offense for felony DUI-Death to the non-violent status pursuant to S.C. Code Ann. §§ 16-1-60, 16-1-70, and § 56-3-2945 during the years of 2008-2009, with the proper ratings of service not exceeding 65.1% with work credits, parole eligibility and good time credits, etc.

_____, 2017.

S/

Andra B. Jamison, # 337461
Evans C.I. / F-5-C / cell # 208/
1010 Hwy 9 West
Bennettsville, SC 29512

21st Day of JUNE, 2017, addressed as listed below:

S.C. Administrative Law Court
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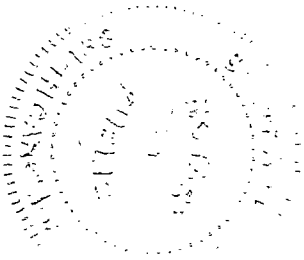
S.C. Court of Appeals
Clerk, Jenny A. Kitchings
P.O. Box 11629
Columbia, SC 29211


Pro Se Appellant.

Sworn To Before Me This
26 Day of June, 2017.

J. Wilson
Notary Public For South Carolina
2/17/24

My Commission Expires



21 June 2017
Date

Re: Andra B. Jamison v. SCDC
Case No.: 2017-000-914

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SC Court of Appeals

Dear: HONORABLE CLERK:

Enclosed for filing is Appellant's Reply Brief to the Respondent's Initial Brief. Thank you!

S/

Andra B. Jamison
Evans C.I./F-5-C/Cell#208
610 Highway 9 West
Bennettsville, SC 29513

cc: Honorable S. Phillip Lenski
Melissa J. Arnold
Andra B. Jamison

21 June 2017

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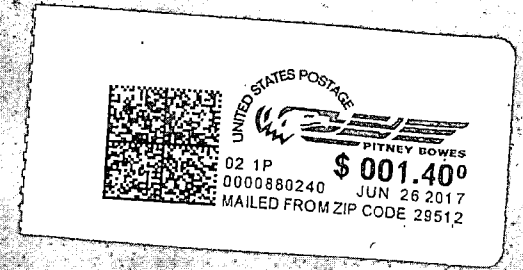
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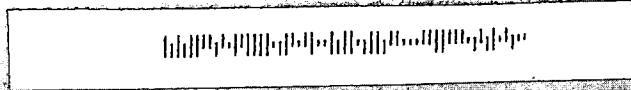
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