

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT

Shirley C. Robinson, Administrative Law Court Judge

Lower Court Case No. 16-ALJ-04-0641-AP
Court of Appeals Case No. 2017-000596

William Allen, # 178666.....Appellant,

v.

South Carolina Department of Corrections.....Respondent.

INITIAL BRIEF OF RESPONDENT

August 7, 2017

South Carolina Department of Corrections

Melissa J. Arnold
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SC Court of Appeals

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STATEMENT OF THE ISSUE ON APPEAL

- I. IS RESPONDENT'S FINAL AGENCY DECISION SUPPORTED BY SUBSTANTIAL EVIDENCE?**

STATEMENT OF CASE

This matter comes before this Honorable Court pursuant to the appeal of William Dale Allen (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (SCDC or Respondent). Appellant is currently committed to SCDC with a life-sentence for Murder (R.p. ____)

Appellant filed a Step One Grievance on May 6, 2016, claiming he is being illegally imprisoned because SCDC does not have a valid commitment order for the life sentence ordered by the trial court in 1991. SCDC investigated and denied Appellant's Step One Grievance on June 23, 2016. (R.p. ____). Appellant filed a Step Two Grievance on June 30, 2016. (R.p. ____). SCDC investigated and denied Appellant's Step Two Grievance. (R.p. ____). Appellant then filed a notice of appeal with the Administrative Law Court on August 22, 2016. (R.p. ____).

After the parties filed briefs, the ALC affirmed SCDC's final decision, finding that the SCDC has, on file, a facially valid sentencing order from a general sessions judge. (R.p. ____).

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

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.

See also S.C. Code Ann. § 1-23-380(5); Lake v. Reeder Constr. Co., 330 S.C. 242, 498 S.E.2d 650, 653 (Ct. App. 1998).

In an appeal of the final decision of an administrative agency, the standard of appellate review is whether the ALC's findings are supported by substantial evidence. See S.C. Code Ann. § 1-23-610(B). A reviewing Court shall not substitute its judgment for that of the ALC as to findings of fact, but it may reverse or modify decisions which are controlled by error of law or are clearly erroneous in view of the substantial evidence on the record as a whole. Id. In determining whether the ALC's decision was supported by substantial evidence, the Court need only find, considering the record as a whole, evidence from which reasonable minds could reach the same conclusion that the ALC reached. DuRant v. S.C. Dep't of Health & Environmental Control, 361 S.C. 416, 420, 604 S.E.2d 704, 706 (Ct. App. 2004). The mere possibility of drawing two inconsistent conclusions from the evidence does not prevent a finding from being supported by substantial evidence. Id.

ARGUMENT AND CITATION OF AUTHORITY

I. RESPONDENT'S FINAL AGENCY DECISION IS SUPPORTED BY SUBSTANTIAL EVIDENCE.

A reviewing court will not disturb the findings of an administrative agency if those 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 conclusion that the administrative agency reached to justify its action. Lark v. Bi-Lo, Inc., 276 S.C. 130, 276 S.E.2d 304 (1981). 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, 461 S.E.2d 388 (1995). Administrative agencies are afforded wide latitude in making decisions, as shown in the deferential standard of appellate review. Heater of Seabrook, Inc. v. Public Serv. Comm'n, 332 S.C. 20, 503 S.E.2d 739 (1998).

All credible evidence presented during Appellant's appeal supports SCDC's decision. The record conclusively establishes that the "substantial evidence on the whole record" supports respondent's final agency decision. Appellant's sentencing order demonstrates that Appellant was sentenced to life in prison for Murder. (R.p. ____). Further, SCDC is not 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, 259-260 (2000). Therefore, the ALC correctly upheld the Agency's final decision.

Appellant has not carried his burden of proving that the decision of the Department is clearly erroneous, or arbitrary or capricious, or an abuse of discretion. See Porter v. S.C. Public Serv. Comm'n, 333 S.C. 12, 507 S.E.2d 328 (1998). Consequently, SCDC's decision should be upheld.

CONCLUSION

WHEREFORE, for all the reasons stated above, this Court should affirm the Department of Corrections' decision in this case.

Respectfully submitted,

SOUTH CAROLINA DEPARTMENT OF
CORRECTIONS
Attorney for Respondent

A handwritten signature in black ink, appearing to read 'Melissa J. Arnold', written over a horizontal line.

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CERTIFICATE OF SERVICE

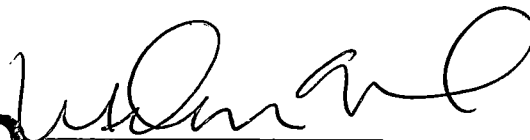
I hereby certify that I have served Appellant a copy of **Respondent's Initial Brief** and **Designation of the Matter** by depositing a copy of same in the United States Mail, postage prepaid, August 7, 2017, addressed to the Appellant as follows:

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SC Court of Appeals



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South Carolina
Department of
Corrections

HENRY McMASTER, Governor

BRYAN P. STIRLING, Director

OFFICE OF GENERAL COUNSEL

August 7, 2017

The Honorable Jenny A. Kitchings
Clerk of Court, S.C. Court of Appeals
Post Office Box 11629
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RE: William Dale Allen, #178666 v. South Carolina Department of Corrections
Appellate Case No. 2017-000596

Dear Ms. Kitchings:

Enclosed please find the original Respondent's **Initial Brief and Designation of Matter to be Included in the Record** in the above captioned appeal, along with **Proof of Service** for the same.

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

Sincerely,

Melissa J. Arnold
Staff Attorney
South Carolina Department of Corrections

cc: William Dale Allen, #178666
Broad River Correctional Institution
4460 Broad River Road
Columbia, SC 29221