

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT

Administrative Law Judge S. Phillip Lenski

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Case No. 16-ALJ-04-0667-AP
Appellate Case No. 2017-001255

SEP 18 2017

SC Court of Appeals

CLIFTON LYLES, #294075.....Appellant,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS.....Respondent.

INITIAL BRIEF OF RESPONDENT

September 18, 2017

SOUTH CAROLINA DEPARTMENT OF
CORRECTIONS

MELISSA J. ARNOLD
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STATEMENT OF THE ISSUE ON APPEAL

THE ADMINISTRATIVE LAW COURT CORRECTLY DISMISSED THE APPEAL BECAUSE IT DID NOT HAVE SUBJECT MATTER JURISDICTION.

STATEMENT OF CASE

This matter comes before this Honorable Court pursuant to the appeal of Clifton Lyles (Appellant) an inmate incarcerated with the South Carolina Department of Corrections (SCDC or Respondent).

Appellant filed a Step One Grievance on July 7, 2016 claiming Respondent should modify his sentence in light of recent statutory changes. (R.p.____). Respondent investigated and denied Appellant's grievance. (R.p.____). Appellant filed a Step Two Grievance on July 21, 2016. (R.p.____). SCDC made the final agency determination denying the Appellant's grievance on August 19, 2016. (R.p.____).

Thereafter, Appellant filed a Notice of Appeal with the ALC on September 6, 2016, contending that his sentence should be modified pursuant to the 2010 Omnibus Crime Reduction and Sentencing Reform Act. (R.p.____). The ALC dismissed Appellant's case, holding that because Appellant seeks modification of his sentence, the ALC did not have subject matter jurisdiction to hear the case. (R.p.____).

Appellant now seeks review of the ALC's decision. For the reasons that follow, SCDC respectfully requests that this Court affirm the ALC's decision.

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 of 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

THE ADMINISTRATIVE LAW COURT CORRECTLY DISMISSED THE APPEAL IT DID NOT HAVE SUBJECT MATTER JURISDICTION.

The ALC's jurisdiction to hear inmate appeals is derived entirely from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). When reviewing SCDC's decisions in inmate grievance matters, the ALC sits in an appellate capacity. *Id.* at 377, 527 S.E.2d at 754. Subsequently, the Supreme Court clarified the ALC's appellate jurisdiction over inmate appeals in *Sullivan v. S.C. Dep't of Corr.*, 355 S.C. 437, 586 S.E.2d 124 (2003). In *Sullivan*, the Court held that the ALC's jurisdiction was limited to (1) cases in which an inmate contends prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; (2) cases in which SCDC has taken an inmate's state-created liberty interest in major disciplinary hearings; and (3) cases in which an inmate's confinement implicates a state-created liberty interest. *See Sullivan*, 355 S.C. at 443, 586 S.E.2d at 127.

The ALC correctly dismissed this appeal because Appellant does not contend that Respondent has erroneously calculated his sentence, sentence-related credits, or custody status. Rather, Appellant challenges the offense level of his conviction. Appellant claims that the 2010 Omnibus Crime Reduction and Sentencing Reform Act and other statutory changes

mean that his 2004 sentence for Trafficking in Crack Cocaine, third offense, should be modified. In its decision, the ALC properly noted that “while it has jurisdiction to review the calculation of a sentence, it does not have authority to modify the sentence itself.” (R.p. ___). The ALC may only review Appellant’s case to determine if Respondent properly enforced Appellant’s sentence, pursuant to the trial court’s order and the relevant laws. *See State v. Bennett*, 375 S.C. 165, 170 (Ct. App. 2007). Accordingly, the ALC does not have subject matter jurisdiction and properly dismissed the appeal.

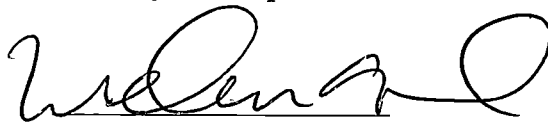
CONCLUSION

WHEREFORE, for all the reasons stated above, this Court should affirm the ALC’s decision in this case.

Respectfully submitted,

SOUTH CAROLINA DEPARTMENT OF
CORRECTIONS

Attorney for Respondent



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Columbia, SC
September 18, 2017

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge S. Phillip Lenski

ALC Case No. 16-ALJ-04-0667-AP
Appellate Case No. 2017-001588

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SC Court of Appeals
APPELLANT,

CLIFTON LYLES, # 294075,

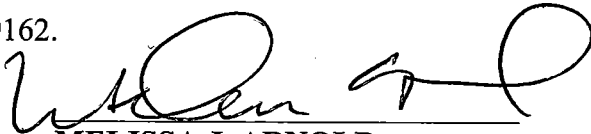
v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that on today's date, September 18, 2017, she mailed a copy of the **Initial Brief of Respondent** to Appellant via U.S. Mail addressed as follows: **Clifton Lyles, # 294075**, Turbeville Correctional Institution, 1578 Clarence Coker Highway, Turbeville, South Carolina, 29162.



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South Carolina
Department of
Corrections

HENRY McMASTER, Governor

BRYAN P. STIRLING, Director

OFFICE OF GENERAL COUNSEL

September 18, 2017

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SC Court of Appeals

The Honorable Jenny A. Kitchings
Clerk of Court, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: Clifton Lyles, # 294075, v. South Carolina Department of Corrections
Appellate Case No. 2017-001588

Dear Ms. Kitchings:

Enclosed is the original and six copies of Respondent's **Initial Brief**, along with **Proof of Service**, in the above captioned appeal.

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: Clifton Lyles, # 294075
Turbeville Correctional Institution
1578 Clarence Coker Highway
Turbeville, South Carolina 29162