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SC Court of Appeals

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

William Leon Burnett, #352645,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

Docket No. 17-ALJ-04-0128-AP

ORDER OF DISMISSAL

FILED

OCT 10 2017

SC ADMIN. LAW COURT

STATEMENT OF THE CASE

This matter is before the South Carolina Administrative Law Court (ALC or court) pursuant to the Notice of Appeal filed by William Burnett (Appellant), who is incarcerated with the South Carolina Department of Corrections (SCDC or Department).

On January 13, 2017, the Appellant filed a Step 1 Grievance claiming SCDC incorrectly classified and applied his sentence. After investigation, SCDC denied the Appellant's grievance. On January 29, 2017, the Appellant filed a Step 2 grievance, which was also denied. Thereafter, on March 12, 2017, the Appellant filed a Notice of Appeal with this court.

The Appellant argues that a charge, for which he is currently serving time, was dismissed and, therefore, his sentence is improperly classified and applied. The Appellant further argues that being "held unlawfully without a valid conviction" is a violation of his due process rights. Additionally, the Appellant states that his due process was also violated when the Department did not adequately review his allegations with respect to the validity of the conviction.

STANDARD OF REVIEW

The Court's jurisdiction to hear this matter is derived from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). The *Al-Shabazz* decision explained that "procedural due process is guaranteed when an inmate is deprived of an interest encompassed by the Fourteenth Amendment's protection of liberty and property." *Wicker v. S.C. Dep't of Corrs.*, 360 S.C. 421, 424, 602 S.E.2d 56, 58 (2004) (citation omitted). Such as a liberty interest is at stake in the calculation of an inmate's sentence. *Tant v. S.C. Dep't of Corrs.*, 408 S.C. 334, 341, 759 S.E.2d 398, 401 (2014) (citation omitted) ("There can be no doubt the length of an inmate's incarceration implicates a constitutional liberty

interest.”); *see also Sullivan v. S.C. Dep't of Corrs.*, 355 S.C. 437, 441–42, 586 S.E.2d 124, 126 (2003) (quoting *Al-Shabazz*, 338 S.C. at 369, 527 S.E.2d at 750) (recognizing that *Al-Shabazz* created review in the ALC for sentence calculation cases).

In sentence calculation cases, the court sits in an appellate capacity, applying the appellate standard of the Administrative Procedures Act (APA). *Al-Shabazz*, 338 S.C. at 377–80, 527 S.E.2d at 754–56. Consequently, the court’s review is limited to the record. 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

Because this court exists to review the actions of administrative agencies and not the actions of circuit court judges, this court cannot rule on the validity of the Appellant’s sentence. *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 action under the South Carolina Constitution); *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*). Instead, this court reviews the Appellant’s case to determine if the Department is properly enforcing the Appellant’s sentence, pursuant to the order of the circuit court judge and under the relevant laws. *See State v. Bennett*, 375 S.C. 165, 170, 650 S.E.2d 490, 493 (Ct. App. 2007).

In this case, on October 4, 2012, the Appellant entered an *Alford* plea (from *Alford v. North Carolina*, 400 U.S. 25, 91 S.Ct. 160 (1970)) to a charge of Criminal Sexual Conduct, for which he received a fifteen (15) year sentence, and to a charge of Unlawful Neglect charge, for which he

received a ten (10) year sentence, with the sentences to run concurrently. Subsequently, the Appellant, through counsel, filed a motion to reconsider based upon the assertion that an insufficient presentation of mitigation evidence had been offered to the court at the time of the plea. Judge Mark Hayes, II, held a hearing on the motion and found that during his plea proceeding the court did not adequately consider the defendant's mental status and history of brain trauma. Thus, on March 7, 2013, the circuit court ordered the sentence to be altered as follows: "the original 15-year sentence on the CSC 1st charge and the 10-year sentence on child neglect shall remain but both shall be suspended to the service of seven and one-half (7½) years followed by 5 years of supervision by the department of probation." On April 18, 2013, the Department amended the Appellant's sentence in accordance with the circuit court's order.

Sometime thereafter, the Appellant made a motion for a new trial for the charge of Criminal Sexual Conduct (Indictment No. 2012GS4201465). On August 5, 2016, the Appellant was sent a letter from Tanya Camp, Court Supervisor at the Spartanburg County Court House, acknowledging receipt of the Appellant's motion and stating "[p]lease be advised that case 2012GS4201465 was dismissed on October 4, 2012." In support of this statement, Ms. Camp included the Appellant's original Sentence Sheet showing the Appellant's *Alford* plea and original fifteen (15) year sentence.

The Appellant does not argue that his current sentence, as it includes the allegedly dismissed charge, was improperly calculated. Rather, the Appellant contends that because he was informed that the charge at issue was dismissed, the entire sentence for that crime should not be included in his sentence calculation. Therefore, despite being framed as a sentence calculation dispute, the Appellant is actually challenging the validity of his conviction for this crime and the resulting sentence. As previously stated, this court has no jurisdiction to determine the validity of an underlying conviction or resulting sentence imposed by a circuit court judge. As such, this court is without jurisdiction or authority to rule on this issue.¹

Turning to the Appellant's allegation of a due process violation with respect to the Department's investigation into his claims, the court finds that the record is void of any evidence that would substantiate this claim. Though the Appellant claims prison officials did not look into

¹ Even if this court had jurisdiction, it appears from the record that what occurred was a misstatement by Ms. Camp when she indicated that the charge at issue was dismissed. There is no evidence to suggest that the Criminal Sexual Conduct charge was dismissed. To the contrary, the Appellant entered a plea to this charge, which was later amended in accordance with the circuit court's findings.

his allegations, the record reflects, and the Appellant concedes, that he met with several prison officials to discuss his allegations and that each of these officials conducted enough investigation to reach the conclusion that the Appellant is mistaken as to the validity of his conviction. These matters involving day-to-day decisions are clearly “matters of prison administration, within the discretion of the prison administrators, and do not require fact-findings hearings as a prerequisite for the exercise of such discretion.” Altizer v Paderick, 569 F. 2d 812, 812-813 (4th Cir. 1978). “To hold that [these discretionary decisions] are within the reach of procedural protections of the Due Process Clause would place the Clause astride the day-to-day functioning of state prisons and involve the judiciary in issues and discretionary decisions that are not the business of [the judiciary].” Id.

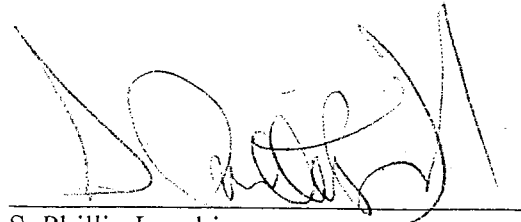
Under the facts of this case, this court will not interfere with the Department’s decisions regarding its investigation of the Appellant’s claims. There is no state-created liberty or property interests at stake when a prison official does not precisely comply with an inmate’s request when that official has no obligation to do so. As such, this court must adhere to the traditional “hands off” doctrine regarding judicial involvement in internal prison matters. See Pruitt v. State, 274 S.C. 565, 266 S.E.2d 779 (1980) and Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000).

ORDER

THEREFORE, IT IS HEREBY ORDERED that the Appellant’s appeal is **DISMISSED.**²

AND IT IS SO ORDERED.

October 10, 2017
Columbia, South Carolina



S. Phillip Lenski
Administrative Law Judge

CERTIFICATE OF SERVICE
This is to certify that the undersigned on this date served the order in the above entitled action upon all parties to the case by depositing a copy hereto, in the United States mail postage paid, or in the Interagency Mail Service as provided to the clerk, or their attorney(s).
This 10th day of October, 2017.
By: [Signature]
S. Phillip Lenski

² Any motions not addressed in this order are deemed denied.