

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM ADMINISTRATIVE LAW COURT

SHIRLEY C. ROBINSON, ADMINISTRATIVE LAW JUDGE

Appellate Case No. 2018-000035

Docket No. 17-ALJ-04-0591-1J

RECEIVED
JAN 31 2018
SC Court of Appeals

ISIAH JAMES, JR.,

APPELLANT,

V.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

INITIAL BRIEF OF APPELLANT

Isiah JAMES, Jr.
1810 'O' Street
Brunswick, Georgia 31520-5445

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 COMPAUTED 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 (2000)
- III. DID THE AGENCY WRONGFULLY CALCULATE JAMES'S SENTENCE EXPIRATION DATE UNDER EARN WORK CREDIT(S) (EWC'S) CONTARY TO THE DUE PROCESS AND/OR EX POST FACTO CLAUSE(S) OF THE CONSTITUTION(S)? James v. SCDPPS, 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 is serving a long-term sentence in/concerning South Carolina Department of Corrections (SCDC); he filed a step 11 grievance on or about 4.6.17; 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 filed an appeal in South Carolina Supreme Court which was transferred to this Court; the Court issued order of 8-9-17 denying petition for rehearing, 0.19.17 remittitur. the Agency issued 'Update Sentence Calculation-Court Order of Remand' on 10.23.17.

He filed anew timely appeal to ALC who issued 12.29.17 'Order of Dismissal' which was appealed and ended up in this Court; the ALC issued 1-12-18 anew 'Order' (R. p.)

ARGUMENT(S)

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 (R. p.); the Agency failed to acknowledge/notice that James is serving 365 and 366 days a year for nearly four (4) decades(s). Busby v. Moore at 884 (2/5 time served for max-out); the SCDC Offender Management System (OMS) Release Date Screen of 1-13-99 showed: Totale GT Days Earned 004740 (R. p.)

The document reflects GT Days Earned for nearly 20 years: $20 \cdot 12 = 240$ months times 20 days equals 4800 days. The other part of OMS showed, should show 3 infraction(s), loss of 20 days for each infraction that he could not have restored, given back. The OMS does not show any adjustment(s) pertaining sentence expiration date at 11-26-2023 (R. p.). 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 39 years: $39 \cdot 5 = 195$ 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 Buddy supra is correct application; he is eligible for statutory pardon application under section 24-21-950 of the Code of Laws.

2. THE WRONGFUL CALCULATION OF JAMES'S CUSTODY CHANGE

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 MO15 custody should have occurred at $\frac{7}{8}$ and $4 \frac{2}{3}$ months earlier than it had occurred according to the adjustment(s) of SGE to sentence expiration date but if Buddy supra decision is correct application of sentence expiration date; it should have occurred much sooner under Agency's policy(ies). Accardi doctrine

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

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 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(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

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) of law, refusing to correct sentence(s) calculation and audit(s) thereunder the policies. Williams v. State, 410 S.E.2d 563, 564 (1991)('penal statutes')

4. THE ALC ERRED ISSUING AN ORDER OF REMAND

Appellant requests that this Court corrects error(s) of law of the Agency and contends the ALC erred holding, "it would be premature for the Court 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 maxed-out two (2) consecutive sentence(s) (R. p.) SCDC's OMS showed "10-14-2010" sentence expiration and respondent did not make any adjustment(s) of EWC and SGE associated therewith as how is the Agency entitled to additional time? Thereafter order of remand DCDC issued 'Update Sentence Calculation' of 10-23-17, not even following, adhering to the order of remand, "reviewing inmates' sentencing sheets and NCIC reports" (R. p.). When appellant appealed initially, the ALC stressed, "Appellant failed to exhaust his administrative remedies" (R. p.). The subsequent 1-12-18 Order mentioned:

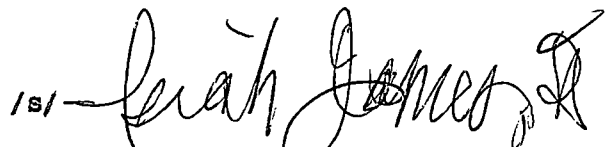
it is apparent that Appellant is appealing
a matter that has already been decided! (R. p.)

This occurred without granting appellant's right(s) to present, argue, brief appeal(s)--denied the right(s) to appeal-twice.

CONCLUSION

Appellant urges the Court to correct the law ruling below and if appropriate order that his sentences has ended, terminated.

This 29 day of January 2018.

1s/ 

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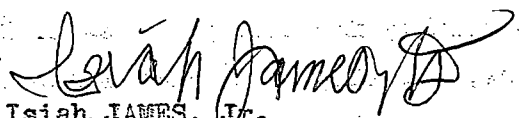
v

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, Respondent.

PROOF OF SERVICE

Appellant hereby certifies that he has served SCDC by forwarding copies of the Initial Brief, designation and etc. to their counsel, Christina Catoe Bigelow at POB 21787, Columbia, SC 29221-1787 by mail, postage prepaid, this 30 day of January 2018.

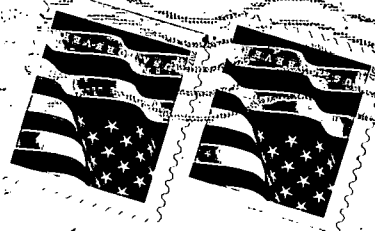
/s/


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