

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Quentin Holt, 268198,)
)
 Appellant,)
)
 vs.)
)
 South Carolina Department of Corrections,)
)
 Respondent.)
 _____)

Docket No. 17-ALJ-04-0252-AP
Grievance No.: ECI 192-17

ORDER

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SC Court of Appeals

STATEMENT OF THE CASE

This matter is before the South Carolina Administrative Law Court (“the ALC” or “the Court”) pursuant to the Notice of Appeal filed May 17, 2017 by Quentin Holt (“Appellant”), an inmate incarcerated with the South Carolina Department of Corrections (“the Department”). After careful review of the Record and briefs, the Court affirms the Department’s decision.

BACKGROUND

Appellant was convicted on September 22, 2010 for Possession with Intent to Distribute Cocaine Base or Methamphetamine, 3rd offense, in violation of S.C. Code Ann. § 44-53-375(B)(3) (Supp. 2010), and is currently serving a twenty-five year sentence as a result of the conviction. Prior to the 2010 conviction, Appellant pled guilty on December 20, 2007 to Possession of Powder Cocaine, 2nd offense, in violation of S.C. Code Ann. § 44-53-370(d)(3) (Supp. 2007). Appellant also pled guilty on July 24, 2000 to Possession with Intent to Distribute Powder Cocaine, a violation of S.C. Code Ann. § 44-53-370(B)(1) (Supp. 2000). On February 6, 2017, the Department notified Appellant that his projected max-out date is December 10, 2033, pursuant to S.C. Code Ann. §§ 44-53-370 and 44-53-375 (Supp. 2016), and in conjunction with the court’s ruling in Bolin v. S.C. Dep’t of Corr., 415 S.C. 276, 781 S.E. 2d 914 (Ct. App. 2016). The Department further explained that because Appellant was convicted of a third drug offense and his prior convictions were not for simple possessions, he must be treated as an 85% offender.

ISSUE ON APPEAL

Did the Department err in classifying Appellant as an 85% offender?

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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). As explained in the Al-Shabazz decision "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). 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) ("[T]here 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 and recognizing that Al-Shabazz created review in the ALC for sentence calculation cases).

In sentence calculation cases, the Court sits in an appellate capacity and reviews cases pursuant to 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. 2017). 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. 2017). 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

In this appeal, Appellant contends the Department should not have classified him as an 85% offender pursuant to S.C. Code Ann. § 44-53-375 (Supp. 2010) was correct. Appellant argues

that because his prior convictions in 2000 and 2007 were not for violent or serious crimes, the Department erred in concluding that he must serve 85% of his sentence?¹

When calculating an inmate's sentence, the Department must presume that the sentencing court's sentence is correct, unless there are ambiguities in the sentencing sheet. See Tant v. S.C. Dep't of Corr., 408 S.C. 334, 337, 759 S.E.2d 398, 399 (2014); reh'g denied (July 10, 2014) ("[T]he Department is generally confined to the face of the sentencing sheet in determining the length of a sentence . . . [unless] there is an ambiguity in the sentencing sheets."). The sentencing sheet from Appellant's September 22, 2010 conviction clearly and unambiguously shows Appellant was sentenced to serve twenty-five years for Possession with Intent to Distribute Cocaine Base or Methamphetamine, 3rd offense. Because there are no ambiguities in the sentencing sheet, I find that the Department's calculation of Appellant's sentence in accordance with this sentencing sheet was proper.

The Court will, however, review Appellant's case to determine whether the Department calculated Appellant's sentence correctly. The sentencing sheet shows Appellant's September 22, 2010 conviction was for a crime that is classified as a class A felony, as defined by S.C. Code Ann. § 16-1-90(A), and was a 3rd offense. Pursuant to S.C. Code Ann. § 24-13-100 (2007), a class A felony is a no parole offense.² When the Department calculates sentences for no parole offenses, S.C. Code Ann. § 24-13-150(A) dictates the following:

Notwithstanding any other provision of law, except in a case in which the death penalty or a term of life imprisonment is imposed, an inmate convicted of a "no parole offense" as defined in Section 24-13-100 and sentenced to the custody of the Department of Corrections, . . . , is not eligible for early release, discharge, or community supervision until the inmate has served at least eighty-five percent of the actual term of imprisonment imposed. This percentage must be calculated without the application of earned work credits, education credits, or good conduct credits, and is to be applied to the actual term of imprisonment imposed,

However, in the Bolin ruling, which was issued after enactment of the Omnibus Crime Reduction and Sentencing Reform Act of 2010, the South Carolina Court of Appeals directed that the

¹ The court will not address Appellant's assertion that the Department erred in classifying his pleas and conviction as violent offenses because the sentencing sheets and the Department's record shows that all Appellant's offenses are nonviolent. Also, the release dates of other inmates have no bearing on the calculation of Appellant's sentence, therefore this Court will not address Appellant's argument that the Department violated his rights to fundamental fairness under the 14th Amendment of the Constitution.

² Additionally, a class B or C felony, or an offense exempt from classification as enumerated in Section 16-1-10(d) that is punishable by a maximum term of imprisonment of twenty years or more, are also no parole offenses. S.C. Code Ann. § 24-13-100 (2007).

reviewing court consider the amended versions of S.C. Code Ann. §§ 44-53-370 and 44-53-375 (Supp. 2017) as these sections repeal S.C. Code Ann. § 24-13-100 to the extent there is a conflict in the statutory provisions. Bolin, 415 S.C. at 282-83, 781 S.E.2d at 917.

S.C. Code Ann. § 44-53-375(B) (Supp. 2017) provides in pertinent part:

Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsection (A), may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted.

S.C. Code Ann. §44-53-370 has almost identical language; and both section 44-53-375 and section 44-53-370 provide that a person convicted and sentenced for a third or subsequent offense may only be eligible for parole if the previous offenses were for simple possession. The Record in this appeal reflects that Appellant pled guilty on July 24, 2000 to Possession with Intent to Distribute Powder Cocaine in violation of S.C. Code Ann. § 44-53-370(B)(1) (Supp. 2000). On December 20, 2007, Appellant pled guilty to Possession of Powder Cocaine, 2nd offense in violation of S.C. Code Ann. § 44-53-370(d)(3) (Supp. 2007). And, finally, in 2010 Appellant was convicted for Possession with Intent to Distribute Cocaine Base or Methamphetamine, 3rd offense, in violation of S.C. Code Ann. § 44-53-375(B)(3) (Supp. 2016). Because Appellant's prior offenses do not fall under subsection (A) of S.C. Code Ann. § 44-53-375, Appellant must be classified as an 85% offender.

Based upon the foregoing,

IT IS THEREFORE ORDERED that the Department's decision is **AFFIRMED**.

AND IT IS SO ORDERED.


SHIRLEY C. ROBINSON
Administrative Law Judge

November 6, 2017
Columbia, South Carolina

U.S. DEPARTMENT OF SERVICE
This is to certify that the undersigned has been duly
served in accordance with the subpoenaed process upon all
parties to this cause by depositing copies thereof,
in the United States mail postage paid, or in the emergency
Mail Service according to the parties or their attorneys.
This 6 day of November 2017

By 
Jurisid Law Firm

Quentin Holt #268198
Lieber C.I. WD-277
P.O. Box 205
Ridgeville, S.C. 29472

February 9, 2018

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SC Court of Appeals

RE: Quentin Holt-V- SCDC
Appellate Case NO. 2018-000132

Dear Ms V. Claire Allen

I am a indigent inmate without counsel filing this appeal pro se. I filed a Notice of Appeal and Certificate of Service with the Clerk's Office, 1205 Pendleton Street, Suite 224 Columbia, S.C. 29201 also General Counsel, 4444 Broad River Road, P.O. Box 21787, Columbia, S.C. 29221

Sincerely;

Quentin Holt

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