

6
IN THE COURT OF APPEALS, STATE OF SOUTH CAROLINA

)

APPEAL FROM ADMINISTRATIVE LAW COURT HONORABLE H.W. FOSTER
FUNDERBURK JR

APPELLATE CASE NO. 2017-001964

MICHAEL BRAXTON^{*} 119081

APPELLANT

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

RESPONDENT

RECORD ON APPEAL

RECEIVED
JAN 02 2018
SC Court of Appeals

Annie Laurie Rumler
Christina Catoe Bigelow
Salley W. Elliott
Office of General Counsel
South Carolina Department of Corrections
Post Office Box 21787
Columbia, South Carolina 29221
(803) 896-1355
Attorneys for Respondent

MICHAEL BRAXTON^{*} 119081
4848 GOLDMINE HWY
KERSHAW, SC 29067

I N D E X O F R E C O R D

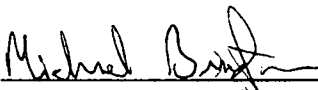
2-
O N A P P E A L

- PG.1) STEPⁿ 1 GRIEVANCE
- PG.2) STEPⁿ 2 GRIEVANCE
- PG.3) WARDEN'S RESPONSE TO STEPⁿ 1 GRIEVANCE
- PG.4) COVER LETTER TO APPELLANT, FROM DAVIDSON COUNTY SHERIFF'S OFFICE
- PG.5) SOUTH CAROLINA PAROLE VIOLATION WARRANT
- PG.6) APPEARANCE MITTIMUS OF APPELLANT
- PG.7) INITIAL CLASSIFICATION FORM OF APPELLANT, FROM DAVIDSON COUNTY
- PG.8) 1997 RE-CLASSIFICATION FORM OF THE APPELLANT, FROM DAVIDSON COUNTY
- PG.9) 1998 CLASSIFICATION FORM OF APPELLANT, FROM DAVIDSON COUNTY
- PG.10) CASE MANAGER CONTACT RECORD OF APPELLANT, FROM DAVIDSON COUNTY
- PG.11) KIOSK REQUEST 16)366340 MADE BY APPELLANT AT KERSHAW CORRECTIONAL
- PG.12) DISPLAY RECORD AUDIT OF APPELLANT
- PG.13) CONVICTION SUMMARY OF APPELLANT
- PG.14) SCDC REQUEST FOR JAIL TIME FORM OF APPELLANT
- PG.15) SCDC REQUEST FOR JAIL TIME FORM OF APPELLANT
- PG.16) SCDC REQUEST FOR JAIL TIME FORM OF APPELLANT
- PG.17) SOUTH CAROLINA PAROLE VIOLATION WARRANT ISSUED ON APPELLANT
- PG.18) INDICTMENT OF APPELLANT
- PG.19) INDICTMENT OF THE APPELLANT
- PG.20) INDICTMENT OF THE APPELLANT
- PG.21) INMATE OFFENSE HISTORY OF APPELLANT
- PG.22) INMATE OFFENSE HISTORY OF APPELLANT
- PG.23) INMATE OFFENSE HISTORY OF APPELLANT

REPLY BRIEF to ALC

THE UNDERSIGNED HEREBY CERTIFIES THAT THE RECORD ON APPEAL, AND THE ATTACHED DESIGNATION OF MATTER CONTAINS ALL MATERIAL PROPOSED TO BE INCLUDED BY ANY OF THE PARTIES AND NOT ANY OTHER MATERIAL .

ON THIS 28th DAY OF December 2017


MICHAEL BRAXTON 119081
4848 GOLDMINE HWY
KERSHAW, SC 29067

Due: 2-6-17 RECEIVED

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM

MAR 03 2017

STEP 2

FEB 02 2017

Office Use Only

INMATE NAME: Braxton, Mike

SCDC NUMBER: # 119081

INSTITUTION: KRCT ✓

HOUSING UNIT: MA-411

WORK ASSIGNMENT: Mess Hall

RECEIVED

FEB 07 2017

INMATE GRIEVANCE

GRIEVANCE NO. 1759-14
CLASSIFICATION General
Code: CLTCL
Policy _____
Disc. Hear. _____
Class. _____
Date Received 2/2/17
IGC Initials JAN

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

I am dissatisfied with my (step 1) decision since it remains in conflict with the South Carolina Board of Paroles + Pardons Operation manual directive listed under "The Effect of Revocation", as well as the law in this matter. Sanders v. Mc Dowgall (S.C. 1964) 244 S.C. 160, 135 S.E. 2d 836. Both specifically state time on Parole shall be applied towards the remainder of one's sentence! Therefore, my request remains that this time as well as the time I served in "Constructive Custody" inarcerated in Tennessee with the "Parole violation warrant" intact (which includes the time served during the extradition process) be applied towards the remainder of my South Carolina sentence, since they are the Sentencing State.

Mike Braxton
Grievant Signature

2/1/17
Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

I have reviewed your concern. In your grievance you stated that you have met with SCDC Classification Staff and discussed your concern that jail time, pretrial time in Tennessee and house supervision time have not been included in your sentence at SCDC. You have requested that all such time be calculated for the remaining time that you must serve at SCDC. Specifically you have requested the period from March 31, 1994 to June 1, 1998 be credited. The Warden responded to your concern on SCDC Inmate Grievance Form Step 1 dated January 30, 2017. Your classification at SCDC is correct. SCDC Staff have reviewed documentation received from Tennessee Board of Pardons Division of Filed Services. There is nothing that has been received and/or reviewed that would support your allegations that your classification at SCDC is wrong.

Therefore, your grievance is denied.

You may appeal this decision under the South Carolina Administrative Procedures Act to the South Carolina Administrative Law Court. In order to appeal, you must complete the attached Notice of Appeal Form (Form) and submit it as instructed on the Form within thirty (30) days of receipt.

[Signature]
Signature

3/3/17
Date

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

Grievant Signature

Date

IGC Signature

Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

~~MA41~~

WARDEN'S DECISION AND REASON:

Inmate Braxton (119081),

This is in reference to KRCI-1759-16. Your grievance has been received. All pertinent information and documentation have been reviewed. The alleged issue of your information not being entered into the system correctly has been reviewed by Classification Case Manager Mrs. York. Based on her review of your commitment order the information you claim is not on the order. This is an issue you must get corrected through the County/State who sentenced you. A new commitment order stating this information would have to be presented in order for this to change. Based on this information your grievance is denied. If you are not satisfied with my response see step 5 below.

Daniel Sombreaker 1/30/17
Warden Signature Date

- I accept the Warden's decision and consider the matter closed.
 I do not accept the Warden's decision and wish to appeal.

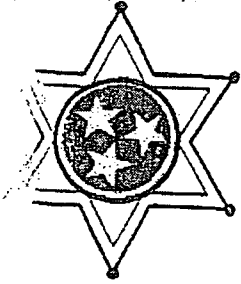
Mike Gt 2/1/17
Grievant Signature Date

A. Bauer 2-1-17
IGC Signature Date

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM

1. An informal resolution shall be attempted prior to the filing of Step 1 by sending an Inmate Request to Staff Member (RTSM) form or Kiosk reference number to the appropriate supervisor. A copy of the answered RTSM must be attached to the grievance when the grievance is filed.
2. Complete each section in its entirety writing only in the space provided for inmate use. No additional pages will be permitted.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form by placing it in the Grievance Box at your institution within eight (8) working days of the date on the RTSM response; policy grievances can be filed at any time. Disciplinary and Classification Review appeals must be submitted within five (5) working days of the hearing/review. Do not write in the space provided for the Warden's response.
5. If you are not satisfied with the Warden's decision, you may appeal to the appropriate responsible official within five (5) days of your receipt of the Warden's decision, by placing your Step 2 appeal form in the Grievance Box at your institution.

(3)



NASHVILLE SHERIFF

DAVIDSON COUNTY SHERIFF'S OFFICE

Daron Hall, Sheriff

November 8, 2016

Line 1
Michael Braxton #119081
MA-41
Kershaw Correctional Institution
4848 Goldmine Hwy.
Kershaw, SC 29067

Re: Records Request

I have enclosed a copy of your entire institutional file from the Davidson County Sheriff's Office. This is all of the documents I have pertaining to your time at the Davidson County jail in Nashville, Tennessee.

Sincerely,

Wayne Miller
Records Technician, Records Management Division

(4)

• Accountability • Diversity • Integrity • Professionalism •

PO. Box 196383 Nashville, TN 37219-6383 | P: 615.862.8170 | F: 615.880.3900

10130

State of Tennessee
BOARD OF PAROLES
DIVISION OF FIELD SERVICES



TENNESSEE COVERING WARRANT
ISSUED ON South Carolina STATE
WARRANT NUMBER W-04-96-0197

Parole Violation Warrant No. # 33084

State Warrant

PAROLEE'S NO. 233238

TO ANY PAROLE OFFICER, ANY OFFICER AUTHORIZED TO SERVE CRIMINAL PROCESS, AND ANY PEACE OFFICER, OR TO THE SUPERINTENDENT OR OTHER PERSON IN CHARGE OF ANY JAIL, PENITENTIARY, LOCKUP OR OTHER PLACE OF DETENTION:

WHEREAS, Mike Braxton was convicted of a felony, to wit, Criminal Sexual Conduct 1st Degree in the South Carolina Court of Anderson County, South Carolina and was thereafter admitted to the South Carolina Prison System to serve a sentence of 30 years:

AND WHEREAS, the said Mike Braxton was conditionally paroled from the South Carolina Department of Corrections on March 31, 1994, and remains within the legal custody of the Warden of the Penitentiary from which he was paroled:

AND WHEREAS, reliable information has reached the Board of Paroles that such parolee has violated the conditions of such parole and has lapsed or is about to lapse into criminal ways or company, and is hereby declared to be a fugitive from justice:

NOW, THEREFORE, by virtue of the authority vested in the Board of Paroles of the State of Tennessee by T.C.A. Section 40-28-120, WE HEREBY authorize and request that you apprehend, take into custody and detain the said Mike Braxton at any suitable institution or in other lawful place of confinement and notify the Board of Paroles.

IN TESTIMONY WHEREOF, WE hereunto set our hands, this 29th day of May, 19 96.

STATE OF TENNESSEE
BOARD OF PAROLES

By [Signature]

AS A PAROLE VIOLATOR, THIS PAROLEE IS NOT BONDABLE UNDER AUTHORITY OF T.C.A. SECTION 40-28-121.

3

ing Arrest # 9605-4831

ESC 29-8

APPEARANCE MITTIMUS

23979604

STATE OF TENNESSEE, METROPOLITAN NASHVILLE AND DAVIDSON COUNTY
COMPLAINT # 96182855

To the Jailor of Said County:

BRAXTON, Michael Todd

having been brought before me on a charge of

	WARRANT #	CHARGE	BOND
1.)	<u>PVW33084</u>	<u>Viol of Parole</u>	<u>Open Court</u>
2.)			
3.)			
4.)			
5.)			
6.)			

and the case having been continued until _____ day of _____, 19____, and that (she) having failed to give bail of _____ DOLLARS, as required, you are therefore commanded to receive _____ into your custody and detain _____ to be further dealt with as the law directs.

This, the 29th day of _____

My 29th 1996
[Signature]

Judge of Part _____ of the Court of general sessions.

D. C.

COMM.

ADDED CHARGE

(6)

DAVIDSON COUNTY SHERIFF'S OFFICE
CUSTODY ASSESSMENT FORM

I. IDENTIFICATION

Inmate name (Last, First, MI)

BRAXTON MICHAEL 2397-9694

4/16/96 2000

Date

Classification Counselor

REASON:

- INITIAL
- ROUTINE RECLASS
- DISC. RECLASS
- OTHER

II. CUSTODY EVALUATION

1. SEVERITY OF CURRENT CHARGES/ CONVICTIONS (Use Severity of Offense Scale; List and rate all current charges, including any detainers/ warrants. Highest rating is score for this section.)

Low-0 Moderate-2 High-5 Highest-7

CODE	CHARGE	WARRANT #	RATING
<u>1140</u>	<u>RAPE</u>	<u>N 82306</u>	<u>2</u>
<u>1140</u>	<u>RAPE</u>	<u>N 82307</u>	<u>2</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

2
SCORE

2. SERIOUS OFFENSE HISTORY (Use Severity of Offense Scale; List and rate four most serious prior felony convictions. Then, highest rating is score for this section.)

Moderate-1 High-4 Highest-7

CODE	CHARGE	WARRANT #	RATING
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

0
SCORE

3. ESCAPE HISTORY (Score according to the point values listed)

No escapes or attempts - 0

Walkaway or attempted escape from minimum security facility or failure to return from authorized absence - 3 Warrant # _____

Escape or attempted escape from medium or maximum security setting - 7

Warrant # _____

0
SCORE

PART I- CUSTODY SCORE (Add items 1, 2, and 3)

**Score of 7 or higher, do not assign to Minimum Security. Complete remaining items.

If point total for Comprehensive Custody Score is five or less, assign to Medium Security.

70
FCS
TOTAL

(7)

10020

RECLASSIFICATION

INMATE NAME BEAXTON, MICHAEL
JTN 2387-9604
DATE 11/6/97 CLASSIFICATION OFFICER D. Tickle

REASON FOR RECLASS

ROUTINE ADDED CHARGE _____ OTHER _____ SPECIFY _____
DISCIPLINARY _____ CONVICTION _____

CURRENT CLASSIFICATION..... 3
score

RULES INFRACTIONS DURING CURRENT CONFINMENT

found guilty of low offense..... (2) 2
score

found guilty of moderate offense.....

found guilty of high offense.....

DATE OF CURRENT DISCIPLINARY _____

CURRENT GOOD BEHAVIOR (maximum of 3 points)

first 30 days.....-1 0
score

completion of 60 days.....-1

completion of 90 days.....-1

comments/reason for change in status FUGITIVE HOLD FR SOUTH
CAROLINA FOR PAROLE VIOLATION

NEW CLASSIFICATION

minimum _____ medium maximum _____ special needs _____
trustee _____ o/s _____ trucks _____

TOTAL = 9
score

(8)

10020

CLASSIFICATION

Bradley M. K.
INMATES NAME

2397-9004
JTN NUMBER

W. H. [unclear]
CLASSIFICATION OFFICER

4-17-98
DATE

REASON FOR RECLASS

ROUTINE _____
CONVICTION _____

ADDED CHARGE _____
OTHER (specify) _____

DISCIPLINARY

CURRENT CLASSIFICATION

6
(SCORE)

ADDED CHARGE _____

REDUCED CHARGE _____

DROPPED CHARGE _____

(SCORE)

HOLD / DETAINER _____
(COUNTY / CHARGE)

(SCORE)

DISCIPLINARY INFRACTIONS
GUILTY OF LOW OFFENCE
GUILTY OF MODERATE OFFENCE
GUILTY OF HIGH OFFENCE

1ST 2ND 3RD
① 2 3
② ③ 4
④ ⑤ ⑥
⑦ ⑧ ⑨
⑩ ⑪ ⑫
⑬ ⑭ ⑮
⑯ ⑰ ⑱
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has never been in extra point under me since

+ 9
(SCORE)

DATE OF CURRENT DISCIPLINARY _____

CURRENT GOOD BEHAVIOR (MAXIMUM OF 3 POINTS)

FIRST 30 DAYS WITH OUT INCIDENT -1
COMPEATION OF 2ND 30 DAYS WITH OUT INCIDENT -1
COMPEATION OF 3RD 30 DAYS WITH OUT INCIDENT -1

(SCORE)

COMMENTS / REASON FOR CHANGE IN STATUS _____

NEW CLASSIFICATION :

MINIMUM TRUSTEE _____

MEDIUM TRUCKS _____

MAXIMUM SPEC. NEEDS

O/S _____
I.S.O. _____

TOTAL = 15
(SCORE)

(9)

10100

CASE MANAGER CONTACT RECORD

INMATE Michael Braxton

ATN# 2397-9604

DATE	NOTES
4-19-96	A received an emergency package. (P.N.)
4-24-96	A made a ^{Personal} call. (P.N.)
4-25-96	A made a call to his attorney. (P.N.)
5-2-96	A returned to see Case Manager. (P.N.)
5-8-96	A made a call to his place of employment. (P.N.)
5-15-96	A made a call to his attorney. (P.N.)
5-22-96	^{Special} Visiting form was filled out. (P.N.)
5-22-96	A made a call to his attorney. (P.N.)
5-30-96	A made a call to his attorney.
6-5-96	A had use to ^{the} law library. (P.N.)
6-10-96	A made a call to his attorney. (P.N.)
7-10-96	A made a call to his attorney. (P.N.)
7-18-96	Special visiting form was filled out. (P.N.) Cancelled
7-25-96	Special visiting form was filled out. (P.N.)
8-8-96	A needed information concerning contact visit with his kid. (P.N.)
9-6-96	A made a personal phone call home. (P.N.)
11-6-96	A called his attorney. J.D.
11-21-96	Maked copies of A letter fr attorney. (P.N.)
1/23/97	A used nail clippers. J.D.
2/19/97	A refused counseling. (P.N.)
3-6-97	A used nail clippers. J.D.
5/29/97	A refused counseling. J.D.
01/13/97	A completed special visit request. J.D.
1-27-98	A wants copies made (P.N.) Completed (P.N.)
5-15-98	A made an attorney call. (P.N.)

**PLACE CASE MANAGER SIGNATURE AFTER EACH ENTRY

<input type="checkbox"/> No Image <input type="checkbox"/> Available	Name: BRAXTON, MIKE	Release:	Location: KERSHAW	Perm #: SCP0036440	<input type="checkbox"/> Print Needed <input type="checkbox"/> Search Needed
	D.O.B.: 0000/0000	Adm: S		CID #:	
	Sex: Male	SS #: *****	Block: MA	Bkg Date: 01/20/2016	
	Race: B	SCDC #: 119081	Call Bed 00st: B	Classif:	

RTSMs

RTSMs

Request Type: **Classification** Reference: 16-366340 Number

Date Requested:

Requested By: **Kicks**

Request Details: I have made numerous request to have my parole time and my pretrial jail time applied to the remainder of my sentence. now I have documentation that confirms that I was on successful parole supervision from 3-31-04 to 5-28-06 and that I was incarcerated at the Davidson county jail in Nashville from 5-29-06 to 8-1-08 I again request that this time be applied to my sentence. I need to see you in order to present these documents, and to give you the contact information in case you need further confirmation.

Review Level:

Disposition: **Complete**

Officer:

Disposition Date:

Date	Author	Note
12/17/2016 11:00	Darrie Stonebraker	Sign up for open door



(11)

5:52:37 Friday, April 21, 2017

ROAI200D
ROAI200M
OMROAUDA

SCDC OFFENDER MANAGEMENT SYSTEM
RECORD AUDIT APPLICATION
DISPLAY RECORD AUDIT

04/21/17
C056427

SCDC#: 119081
NAME.: BRAXTON, MIKE -

CURR STATUS.: INCARCERATED
CURR LOC....: KERSHAW
CURR CUSTODY: MI2

AUDIT TYPE: 01 RECORDS AUDIT

AUDIT DATE: 02/05/16

UPDATED BY: MOSES, MARTHA

DATE: 02/08/16

RECORD AUDIT DISPLAYED...
CLEAR:SUMMARY

ENTER:DISPLAY NOTES

PF8:FORWARD

(12)

CMTI100D
OMCOMITA

SCDC OFFENDER MANAGEMENT SYSTEM
COMMITMENT APPLICATION
CONVICTION SUMMARY

04/21/17
C056427

SCDC# > 119081
BRAXTON, MIKE -

CURR LOC: KERSHAW
SCDC CLASSIFICATION...: VIOLENT

OFFENDER TYPE: ADULT-STRAIGHT SENTENCE

NUM	CONVICTION OFFENSE	INCARC	SENT	SENT	SENT	CONV	VIO
		YRS	MO	DYS	DATE	START	PROJ COMP STAT IND
* S00001	CRIMINAL SEX CNDCT 1S	030	00	000	11/17/83	10/24/83	01/11/2021 ACT V U

MAKE A SELECTION AND PRESS <ENTER>...

PAGE: 0001

PF3-ADD PF4-MODIFY/REVOKE PF6-DISPLAY CONSEC PF9-DETAIN PF12-SUMREPT

(13)

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Division of Classification

119081
1-15-2021
SN

Request for Jail Time

Inmate: Mike Braxton AKA _____ SCDC #: 119081
Soc. Sec. # _____ DOB: _____ Race _____ Sex _____

The inmate listed above indicates that he/she was held in your facility as a pre-trial detainee for:

CSC Indict # 08-GS-04801
(Offenses):

He/She was committed to the Department of Corrections on 11-18 1983
If he/she has served time in your facility, would you please fill in the information requested below.

Completed by: Salle (Caseworker) Hershaw CI (Institution) 8/2/16 (Date)

() Approved: J Norcutt Chief, Offender Records Date: 9-15-16
() Disapproved: _____ Reason for Disapproval: _____ Date: _____

Inmate: _____ was in the custody
(Inmate's Name):

of this agency at the following time(s) for the following offense(s):

OFFENSE	WARRANT NO.	DATE OF ARREST	DATE OF RELEASE	REASON FOR RELEASE
<u>Parole Viol</u>	<u>W0498-0191</u>	_____	_____	_____
<u>1</u>	<u>W0496-0197</u>	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Shelville Tenn. Davidson Co.
-28-1996 until 6-8-1998
underdalle CO
2-2015 until 11-8-2015
de son CO. S.C.
9-2015 until
-m-m-11

S/ _____
City or County _____ Date _____

4444 Broad River Road, Columbia, SC 29210

Revised September, 1993

(14)

Xopenex
(levobupivacaine HCl)
Injection Solution 0.31mg, 0.63mg and 1.25mg

2016 SEP -9 AM 11:52

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Division of Classification

07:18 p.m. 02-23-2016

3/4

119081
6/23/22
SM

Request for Jail Time

Inmate Braxton, Mike AKA _____ SCDC # 119081
 Sor. Sec. # _____ DOB [REDACTED] Race [REDACTED] Sex [REDACTED]

The inmate listed above indicates that he/she was held in your facility as a pre-trial detainee for:
Criminal sex act 1st Deg. (086504-801)
 (Offenses)

He/She was committed to the Department of Corrections on Jan 22 18 2016
 If he/she has served time in your facility, would you please fill in the information requested below.

Completed by: M. McNamee KLE RIE 1/22/16
 (Caseworker) (Institution) (Date)

Approved: S. Wincutt 2-23-16
 () Disapproved: _____
 (Offender Records) (Date)

Reason for Disapproval _____
 Date _____

Inmate: _____ was in the custody
 (Inmate's Name)

of this agency at the following time(s) for the following offense(s):

OFFENSE	WARRANT NO.	DATE OF ARREST	DATE OF RELEASE	REASON FOR RELEASE
<u>Parole viol</u>	<u>W0498-0191</u>	<u>11/7/15</u>	<u>1/20/16</u>	<u>SCDC</u>
<u>↓</u>	<u>W0496-0197</u>	<u>11/7/15</u>	<u>1/20/16</u>	<u>SCDC</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

INMATE RECORDS OFFICE
2016 FEB 23 AM 8:33

S: [Signature]
Anderson 2/23/16
 City or County Date

PLEASE RETURN TO: Offender Records, 4441 Broad River Road, Columbia, SC 29210

WHITE: Caseworker
 CANARY: Offender Records
 PINK: Suspense

SCDC 18-11 (Revised September, 1999)

Modified tracent Locked-up from 11/8/15 (dated warrant served to 11/7/15)
 (15) [Signature] Wincutt 3/2/16

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Division of Classification

11001
6/28/22
SN

Request for Jail Time

Inmate Brayton, Mike AKA _____ SCDC# 119081
Soc. Sec. # _____ DOB: _____ Race _____ Sex _____

The inmate listed above indicates that he/she was held in your facility as a pre-trial detainee for:
Criminal sex conv 1st Deg. (086504-801)
(Offenses)

He/She was committed to the Department of Corrections on Jan 22 ~~18~~ 2016
If he/she has served time in your facility, would you please fill in the information requested below.

Completed by: [Signature] KIT RIE 1/22/16
(Caseworker) (Institution) (Date)

Approved: [Signature] 2-23-16
Chief, Offender Records Date

Disapproved: _____
Reason for Disapproval Date

Inmate: _____ was in the custody
(Inmate's Name)

of this agency at the following time(s) for the following offense(s):

OFFENSE	WARRANT NO.	DATE OF ARREST	DATE OF RELEASE	REASON FOR RELEASE
<u>Parole viol</u>	<u>W0498-0191</u>	_____	_____	_____
<u>↓</u>	<u>W0496-0197</u>	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

S/ _____
City or County Date

PLEASE RETURN TO: Offender Records, 4444 Broad River Road, Columbia, SC 29210

WHITE: Caseworker
CANARY: Offender Records
PINK: Suspense

SCDC 18-11 (Revised September, 1993)

(16)

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF ANDERSON, AND ANY CONSTABLE OF THIS MAGISTERIAL DISTRICT:

It appearing from the attached affidavit that there are reasonable grounds to believe that [name of defendant]:
MIKE BRAXTON

did on the 28th day of MAY, 19 96,
violate the criminal laws of the State of South Carolina as set forth below:

DESCRIPTION OF OFFENSE
Violation of parole pursuant to Section 24-21-680.

Now, therefore, you are empowered and directed to arrest the said defendant and bring MIKE BRAXTON

before me forthwith to be dealt with according to law.

A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Done at ANDERSON
of May, 19 96.

S. C. this 28th day
Gerald B. Black (L.S.)
Signature of Probation and Parole Agent

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

AFFIDAVIT

Personally appeared before me, one GERALD B. BLACK
who, first being duly sworn, deposes and says that [name of defendant]

MIKE BRAXTON

did within this County and State on the 28th day of MAY, 19 96, violate
the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE
Parole violation concurrent to Section 24-21-480 in that the parolee herein named has
violated the conditions of his parole agreement as approved by the South Carolina Board
of Pardons and Pardon on the 31st day of March, 1994 and accepted by the above named
parolee on the 31st day of March, 1994.

The Affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that
such probable cause is based on the following facts:

Mike Braxton violated the conditions of parole by committing the crimes of Aggravated
Rape (2 counts) on a female victim on April 16, 1996 in Nashville, Tennessee. This
affidavit is based on the written statement of Detective D. J. Baxter of the
Metropolitan Police Department, Nashville, Tennessee; and, by failing to carry out the
instructions of the parole agent. These constitute violations of sections 9 and 12
of the conditions of the parole agreement.

Sworn to and Subscribed before me
this 28 day of MAY, 19 96.
Sal [Signature] (L.S.)
Signature of Notary Public

Gerald B. Black
Affiant
Address PO Box 8002, 313 South Towers Street
Anderson, South Carolina 29622
Phone (864) 260-2230

B3. GS-04-801

Witnesses

T. W. WILLIAMS, SR

The State of South Carolina

County of ANDERSON

COURT OF GENERAL SESSIONS

10 JUNE Term, 1983

THE STATE

MIKE BRAYTON

2161

A818458

INDICTMENT FOR

CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE 16-3-652

GEORGE M. DECUOTIN, SOLICITOR

TRUE BILL
DATE JUN 01 1983

16-CAN FV7728A COLONIAL, S. C. 2988

New comes the defendant Mike Brayton
is guilty to the charge to be
sentenced to sentence.
1-24-83
Sgt. Michael [unclear]

Address: MIKE BRAYTON
Date of Birth: [unclear]
Driver's License #: [unclear]
Sex: M Race: [unclear]
Social Security #: [unclear]
Attorney: [unclear]

REC-1101
NOV 18 1983
119631

As Michael Brayton
in the name of the State of South Carolina
indictable by grand jury to be charged with
completing the same, and that the grand jury
has returned a true bill of indictment
against the defendant
Nov. 17, 1983
11-17-83
A TRUE COPY
Deputy Clerk of Court

12/27/83

The State of South Carolina

County of ANDERSON

INDICTMENT FOR

CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE

16-3-452

At a Court of General Sessions, convened on the 1st day of JUNE
1983, the Grand Jurors of ANDERSON County present upon their oath:

That MIKE BRANTON

did in ANDERSON County on or about the 5th & 7th day of APRIL

1983 KNOWINGLY, WILFULLY AND UNLAWFULLY AT THE HAYS INN MOTEL ROOM 169, ON
HIGHWAY 187 REPEATEDLY FORCE THE VICTIM, ELIRA ELIZABETH DANIEL TO ENGAGE
IN SEXUAL BATTERY IN THREE DIFFERENT FORMS, ANALLY, ORALLY AND VAGINALLY,
TO THE EXTENT THE VICTIM REQUIRED SURGERY.

Against the peace and dignity of the State, and contrary to the statute in such case and made and
provided.

George M. Deworth

Deputy

(20)

9:58:33 Friday, May 12, 2017

DISI100D

SCDC OFFENDER MANAGEMENT SYSTEM
DISCIPLINARY SYSTEM

05/12/17
C052640

SCDC ID: 119081

DISPLAY INMATE OFFENSE HISTORY

BRAXTON, MIKE -

OFFENDER TYPE: ADULT-STRAIGHT

PURCHASED TV

CURR LOC: KERSHAW

CASE#	DESCRIPTION	TYPE	OFFENSE	HEARING	NET GT	DHO	OFF
		ACTION	DATE	DATE	LOST	DECISION	LVL
00002	OUT OF PLACE	MINOR DI	06/12/84	08/01/84	00030	CONVICTED	3
00001	FIGHTING WITHOUT A WE	MINOR DI	01/31/84	02/17/84	00040	CONVICTED	3

END OF LIST

PAGE 0003

PF4-MODIFY PF6-DISMISSED/NOT GUILTY

PF11-QUIT PF10-MAIN MENU

(21)

DISI00D

SCDC OFFENDER MANAGEMENT SYSTEM
DISCIPLINARY SYSTEM

05/12/17
C052640

SCDC ID: 119081

DISPLAY INMATE OFFENSE HISTORY

BRAXTON, MIKE -

OFFENDER TYPE: ADULT-STRAIGHT

PURCHASED TV

CURR LOC: KERSHAW

CASE#	DESCRIPTION	ACTION	TYPE	OFFENSE DATE	HEARING DATE	NET GT LOST	DHO DECISION	OFF LVL
- 00015	REFUSING OR FAILING O	MINOR DI	DI	08/05/86	08/08/86	00000	CONVICTED	3
- 00014	OUT OF PLACE	MINOR DI	DI	05/28/86	06/11/86	00000	CONVICTED	3
- 00013	OUT OF PLACE	MINOR DI	DI	03/07/86	04/01/86	00030	CONVICTED	3
- 00012	REFUSING OR FAILING O	MINOR DI	DI	03/07/86	04/01/86	00030	CONVICTED	3
- 00011	USE OBSCENE, VULGAR, PR	MINOR DI	DI	03/07/86	04/01/86	00030	CONVICTED	3
- 00010	OUT OF PLACE	MINOR DI	DI	12/25/85	01/21/86	00030	CONVICTED	3
- 00009	REFUSING OR FAILING O	MINOR DI	DI	12/19/85	01/21/86	00030	CONVICTED	3
- 00008	OUT OF PLACE	MINOR DI	DI	12/19/85	01/21/86	00030	CONVICTED	3
- 00007	OUT OF PLACE	MINOR DI	DI	07/28/85	08/29/85	00030	CONVICTED	3
- 00006	FAILING/REFUSING RESP	MAJOR DI	DI	01/10/85	02/14/85	00090	CONVICTED	4
- 00005	REFUSING OR FAILING O	MINOR DI	DI	01/10/85	02/14/85	00030	CONVICTED	3
- 00004	REFUSING OR FAILING O	MINOR DI	DI	06/12/84	08/01/84	00000	CONVICTED	3
- 00003	USE OBSCENE, VULGAR, PR	MINOR DI	DI	06/12/84	08/01/84	00000	CONVICTED	3

PAGE 0002

PF4-MODIFY PF6-DISMISSED/NOT GUILTY

PF11-QUIT PF10-MAIN MENU

(22)

DISI100D

SCDC OFFENDER MANAGEMENT SYSTEM
DISCIPLINARY SYSTEM

05/12/17
C052640

SCDC ID: 119081

DISPLAY INMATE OFFENSE HISTORY

BRAXTON, MIKE -

OFFENDER TYPE: ADULT-STRAIGHT

PURCHASED TV

CURR LOC: KERSHAW

CASE#	DESCRIPTION	ACTION	TYPE	OFFENSE DATE	HEARING DATE	NET GT LOST	DHO DECISION	OFF LVL
- 00028	I/M UNDER INFLUENCE/P	MAJOR DI	DI	03/03/94	03/03/94	00000	CONVICTED	3
- 00027	ABUSE OF PRIVILEGES	MINOR DI	DI	05/30/93	07/14/93	00000	CONVICTED	5
- 00026	REFUSING OR FAILING O	MINOR DI	DI	01/02/91	01/10/91	00000	CONVICTED	3
- 00025	POSSESSION OF CONTRAB	MAJOR DI	DI	04/30/90	04/30/90	00000	CONVICTED	3
- 00024	REFUSING OR FAILING O	MAJOR DI	DI	12/23/89	01/23/90	00030	CONVICTED	3
- 00023	THREATENING TO INFELIC	MAJOR DI	DI	12/23/89	01/23/90	00030	CONVICTED	3
- 00022	REFUSING OR FAILING O	MINOR DI	DI	12/23/89	01/23/90	00000	CONVICTED	3
- 00021	FIGHTING WITHOUT A WE	MAJOR DI	DI	07/20/87	07/30/87	00090	CONVICTED	3
- 00020	REFUSING OR FAILING O	MINOR DI	DI	06/15/87	06/22/87	00000	CONVICTED	3
- 00019	REFUSING OR FAILING O	MINOR DI	DI	05/21/87	05/23/87	00000	CONVICTED	3
- 00018	INCITING/CREATING A D	MINOR DI	DI	12/31/86	01/15/87	00020	CONVICTED	2
- 00017	REFUSING OR FAILING O	MINOR DI	DI	12/18/86	12/30/86	00000	CONVICTED	3
- 00016	OUT OF PLACE	MINOR DI	DI	10/06/86	10/14/86	00000	CONVICTED	3

PAGE 0001

SELECT A RECORD AND PRESS <ENTER> TO DISPLAY OR <PF04> TO MODIFY

PF4-MODIFY PF6-DISMISSED/NOT GUILTY

PF11-QUIT PF10-MAIN MENU

(23)

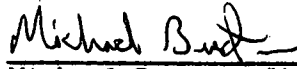
STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Michael Braxton, #119081,)
)
 Appellant,)
)
 V.)
)
 South Carolina Department of)
)
 Respondent.)

Certificate of Service
Docket# 17-ALJ-04-0154-AP

I hereby certify under penalty of perjury that a copy of the foregoing brief was this date served upon the following individuals by placing a copy of the same via in the Kershaw Mail Room via Inter Agency Mail to his/her last know address as follows:

Department of General Counsel
S.C. Dept. of Corrections
P.O. Box 21787
Columbia, SC 29221



Michael Braxton #119081
Kershaw Corr. Inst.
4848 Goldmine Hwy.
Kershaw, SC 29067

Dated: August 2, 2017.

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Michael Braxton, #119081,)	Docket No.: 17-ALJ-04-0154-AP
)	Grievance No. KRCI 1759-16
Appellant,)	
)	
V.)	
)	<u>APPELLANT'S REPLY BRIEF</u>
South Carolina Department of)	
Corrections,)	Honorable H.W. Funderburk, Jr.
)	
Respondent.)	
<hr/>		

STATEMENT OF THE CASE

This is the Appellant's response to the final agency decision made by the South Carolina Department of Corrections ("SCDC"). On or about March 3, 2017, SCDC made the determination; "There is nothing that has been received and/or reviewed that would support your allegations that your Classification at SCDC is wrong." On April 5, 2017, Braxton filed a Notice of Appeal with this Honorable Court challenging this decision.

STANDARD OF REVIEW

The Administrative Law Court may review, modify, or remand a decision of S.C.D.C. if the Petitioner's rights have been prejudiced because S.C.D.C. findings, inferences, conclusions, or decisions are; (a) 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. S.C. Code Ann. §1-23-380(5).

ARGUMENT

If an agency's decision is supported solely by opinions of agency staff and not by factual evidence, the agency decision is "wholly unsupported under the substantial evidence test." Roper Hosp. v. Bd. of S.C. Dep't of Healthe & Env'tl. Control, 306 S.C. 138, 143 410 S.E.2d 558,561 (1991).

On pg.4 under the Respondent's argument titled; II "RESPONDENT'S FINAL AGENCY DECISION IS SUPPORTED BY SUBSTANTIAL EVIDENCE" the Respondent states: The record conclusively establishes that the "substantial evidence on the whole record" supports the Department's final agency decision.

The Respondent began it's argument on pg.3 titled; I "APPELLANT'S SENTENCE HAS BEEN CORRECTLY CALCULATED BY RESPONDENT", by stating that "on March 15, 1985, Appellant was sentenced to thirty years imprisonment on one charge of Criminal Sexual Conduct." However, the conviction summary "within the record" clearly illustrates that the Appellant's sentence start date was October 24, 1983. Also within this portion of it's argument the Respondent concedes to the fact of the Appellant serving from March 31, 1994 until May 28, 1996 on successful parole supervision (26 months). This undisputed parole time, confirmed on the first issued "Parole Violation" warrant dated May 28, 1996 has yet to be calculated within Appellant's original sentence. This omission is a violation of the Inmate Records Plan OP-21.09 (Release Calculation) 14.9.3 Active Parole: Inmate is serving a conviction under parole supervision and is accruing day-for-day credit towards sentence. S.C.D.C. is also in violation of the South Carolina Board of Parole and Pardons Policy listed as "EFFECTIVE REVOCATION," attached as Exhibit-H within the Designation of Matter. Also See Sanders v. McDougal, (S.C. 1964) 299 S.C. 160, 134 S.E.2d 836 (A prisoner upon release on parole continues to serve his sentence outside of prison walls). "An order revoking parole simply ~~restores~~ ^{restores} a defendant to the status he would have occupied had this form of leniency never been extended to him." (The ~~effect~~ ^{EFFECT} of such revocation does not erase transcend the effect of the original sentence).

The Appellant was confined to the Criminal Justice Center in Davidson County, (Nashville, Tennessee) on unrelated charges on April 16, 1996. He was held there until June 1, 1998. A Parole Violation warrant was issued against the Appellant on May 28, 1996, this "hold" rendered the Appellant "Not Bondable" per T.C.A. Section 40-28-121.

By South Carolina imposing the action of the "Parole Violation Warrant," established its jurisdiction over the Appellant under South Carolina Code of Laws §24-21-660 (EFFECT OF PAROLE). Which states: "Every such parole prisoner must remain in the jurisdiction of the Board and may at anytime on the order of the

Board, be imprisoned as and where therein designated." The pre-trial confinement from May 28, 1996 until June 1, 1998 which was not within the state of South Carolina, was due to a lawful South Carolina detainer.

The general rule on this issue is stated in 243 C.J.S. Criminal Law §1995 (5) p. 645 as follows: The right to credit under statute is not limited to the time spent in prison or jail in a jurisdiction, but also includes apprehended, preliminary to being sent back for trial, and time during which he was arrested on detained in incarceration with the offense which he was subsequently tried. State av. Dozer, 263 S.C. 267, 210 S.E.2d 225 *1974).

(At the time arrest warrant is transmitted or issued to another county and that county incarcerates the defendant on unrelated charges. defendant is deemed to be in custody on the warrant from both counties and therefore entitled to jail credit on concurrent sentencing) Travis v. State 724 So.2d 119 (Fla. App. 1 Dist. 1998); See People v. State, 141 Mich. App. 610, 367 N.W. 2d 430 (1985).

The time Appellant was incarcerated pre-trial ultimately due to the parole violation "hold" issued against him by the State of South Carolina, as well as the time he served within the Tennessee Department of Corrections with a detainer that was established on June 8, 1998 and remained intact until November 2, 2015 (this binding him in "Constructive Custody") are Facts conclusively supported by the record. The "Open Court" status was created by the issuance of the "Parole Violation" warrant, and the Appellant being barred from certain programs, as well as being held in a higher custody level throughout the entirety of his incarceration in the Tennessee Department of Corrections is monumental evidence that the State of South Carolina NEVER relinquished it's jurisdiction. Therefore, how could the Appellant's South Carolina sentence be dormant as the Respondent has asserted?

The Respondent is adamant in it's position that the "Appellant's time has been calculated correctly," however, it offers NO support within the "whole record" or otherwise that solidify(s) it's calculations, or at the very least outlines the method it employed in order to reach it's conclusion. A guideline exhibiting to this Honorable Court as well as to the Appellant it's means of obtaining this infallible result it stands upon is a necessary in this case, especially if one considers the sentence expiration date it has manufactured for the Appellant.

(6-28-22) Serving his (30) year sentence at 51% having served (10) years (4) months, would not require an additional (6) years (7) months to satisfy the commitment.

The Appellant's sentence start date is October ²⁴ 1983, he was sentenced under S.C. Code Ann. §16-3-652. This occurrence mandates that he be allowed the opportunity to earn (20) Twenty Days Good Time Per Month (S.C. Code Ann. 24-13-210), and that his Earned Work Credits be applied according to the statute of this era as well. The Appellant was re-committed to S.C.D.C on November 2, 2015, the agency stated that he needs (6) years (7) months to expire his original sentence. Even with this erroneous calculation and even without one day of Parole, Pre or Post trial Credit, properly applied would diminish this span significantly.

↓
EARNED GOOD TIME
+
EWC'S

CONCLUSION

The Appellant is of the mind that he has satisfied his burden of proving that the decision of the Department of Corrections is clearly erroneous, or arbitrary or capricious, or an abuse of discretion. The Appellant respectfully request that he be immediately released from illegal and excessive incarceration. Through the "record," on Exhibit and within the law he has exposed the "gross negligence" of S.C.D.C.

THEREFORE, in the interest of justice the Appellant seeks consideration of his Constitutional issue from this Honorable Court.

Michael Braxton
Michael Braxton #119081
Unit Mag A-41
Kershaw Corr. Inst.
4848 Goldmine Hwy.
Kershaw, SC 29067

August 2, 2017.

Appellant Pro Se