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ORIGINAL

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

RECEIVED

MAY 08 2017

SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Hon: Deborah Brooks Durden, Judge

Appellate Case No. 2016-002412

Ernest Battle, #165247.....Appellant.

v.

South Carolina Department of Corrections.....Respondent.

RECORD ON APPEAL

Ernest Battle, #165247  
MacDougall Corr. Inst.  
1516 Old Gilliard Rd.  
Ridgeville, S.C. 29472  
(Pro-Se)

Kensy Collins  
4444 Broad River Road

PO Box 21787  
Columbia SC 29221-1787

Attorney for Respondent

EXHIBITS

- A. Cover of Trans. of Record, Case No. 99-GS-10-7109, 7110.
- A1. page 11 from Trans. of Record in Case No. 99-GS-10-7109, 7110.
- B. Letter to Appellant from sentencing Judge, Thomas L. Hugston, Jr.
- C. Letter to Appellant from Chris Florian, Off. of General Counsel.
- C1. Letter to Appellant from Michael Mathews/Division of Classification.
- D. SCDC computer printout indicating a projected maxout date of 10/26/2022
- E. SCDC computer printout as of May 22, 2015, indicating a maxout date of 1/20/26.
- F. Wardens response to step-one grievance indicating that trafficking in cocaine is in fact 85% due to June 7, 9995 Legislation.
- G. Appellant's step one grievance.
- H. Appellant's sentencing sheets which is not signed by Appellant or his Attorney,, nor does it indicate that Appellant is to serve his sentence as a day for day sentence.
- I. True copy of pg. 2 of Order from ALC dated August 8, 2016.

Certificate of Counsel

The under signed hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties any not any other material.

April 5 2017.

S/ Ernest Battle  
Ernest Battle, #165247  
MacDougall Correctional Inst.  
1516 Old Gilliard Rd.  
Ridgeville, S.C. 29472.  
(Pro-Se)

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STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

COURT OF GENERAL SESSIONS

STATE )  
 )  
 V. )  
 )  
 ERNEST BATTLE )  
 )  
 \_\_\_\_\_ )  
 DEFENDANT. )

TRANSCRIPT OF RECORD  
99-GS-10-7109, 7110

JUNE 15, 2001  
CHARLESTON, SOUTH CAROLINA

B E F O R E:

THE HONORABLE THOMAS L. HUGHSTON, JR., JUDGE.

A P P E A R A N C E S:

MIKE BOSNAK, ASSIST. SOLICITOR  
ATTORNEY FOR THE STATE

BILL MCGUIRE, ASSIST. PUBLIC DEFENDER  
ATTORNEY FOR THE DEFENDANT

STACY L. SHEPPARD  
CIRCUIT COURT REPORTER

ORIGINAL

1 THE COURT: WELL, I DON'T KNOW, ANYWAY. BUT  
2 ANYWAY, I'LL LEAVE THAT UP TO YOU TO SEE ABOUT GETTING  
3 SOMEBODY ELSE APPOINTED TO REPRESENT HIM IF THERE WAS  
4 ANY MOTION FOR A NEW TRIAL OR ANYTHING OF THAT SORT.

5 ALL RIGHT. IF THERE'S NOTHING FURTHER, THEN THE  
6 SENTENCE ON THE DISTRIBUTION WITHIN PROXIMITY -- IS  
7 THERE A MANDATORY FINE ON THAT OR NOT?

8 MR. MCGUIRE: THE PROXIMITY CHARGE?

9 THE COURT: YES.

10 MR. MCGUIRE: I DON'T BELIEVE A FINE IS  
11 MANDATORY. I CAN TELL YOU WHAT IT IS.

12 MR. BOSNAK: TEN THOUSAND DOLLARS. MUST BE FINED  
13 NOT LESS THAN \$10,000 AND IN PRISON NOT LESS THAN TEN  
14 OR MORE THAN 15 YEARS.

15 MR. MCGUIRE: IT'S ACTUALLY ZERO TO TEN YEARS.

16 MR. BOSNAK: YEAH, ZERO TO TEN YEARS.

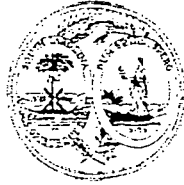
17 THE COURT: ALL RIGHT. SENTENCE ON THE PROXIMITY  
18 CHARGE, THIS IS INDICTMENT 99, ETCETERA, 171 -- EXCUSE  
19 ME -- 7110 IS THAT YOU BE CONFINED TO THE SOUTH  
20 CAROLINA DEPARTMENT OF CORRECTIONS FOR A PERIOD OF TEN  
21 YEARS AND PAY A FINE OF \$10,000.

22 SENTENCE ON THE TRAFFICKING AND COCAINE, 28 TO  
23 100 GRAMS, SENTENCE IS THAT YOU BE CONFINED TO THE  
24 SOUTH CAROLINA DEPARTMENT OF CORRECTIONS FOR A PERIOD  
25 OF 25 YEARS AND PAY A FINE OF \$50,000.

State of South Carolina

Exhibit-B

THOMAS L. HUGHSTON, JR.  
CIRCUIT JUDGE RETIRED



100 BROAD STREET, SUITE 268  
CHARLESTON, SC 29401-2122  
TELEPHONE (843) 566-5100  
FAX (843) 566-5102  
E-MAIL: thughston@scjudges.org

May 13, 2011

Mr. Ernest Battle, #165247  
Lieber Correctional Inst.  
Cooper Unit B-47  
P.O. Box 205  
Ridgeville, SC 29472

Re: State vs. Ernest Battle, 99-GS-10-7109 and 7110

Dear Mr. Battle:

I received your letter of May 3, 2011 concerning the fact that someone at SCDC State Classification told you that your sentences were changed from 85% to 100% by an Amended Order from me. I have checked the records in the Clerk of Court's office and I have not signed any such order. Further, I have nothing to do with any percentage of time required to be served on a sentence. SCDC is responsible for calculating the time required to be served on any sentence—not me. I am returning everything that you sent to me.

Very truly yours,

A handwritten signature in cursive script that reads "T. L. Hughston, Jr." with a stylized flourish at the end.

Thomas L. Hughston, Jr.


Enclosure

Exhibit-C

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
OFFICE OF GENERAL COUNSEL  
RESPONSE TO INMATE CORRESPONDENCE

TO: Inmate Ernest Battle  
SCDC #: 165247  
INSTITUTION: Lieber Correctional Institution  
FROM: Chris Florian  
DATE: June 17, 2011  
RE: Request to Staff Member

Because your conviction carries a mandatory minimum penalty of 25 years, you must serve that period day-for-day.

S/   
Chris Florian

CF/ndh

cc: Warden McCabe  
Inmate Records

Exhibit KC-1

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
DIVISION OF CLASSIFICATION AND INMATE RECORDS

INMATE CORRESPONDENCE

INMATE: Ernest Battle

INST: Lieber

SCDC #: 165247

CB-47

FROM: Michael R. Mathews, Branch Chief - Institutional Classification

SUBJECT: CORRESPONDENCE

DATE: June 23, 2011

- Custody
- Time/Sent.
- Parole
- Max-Out
- SFII - A
- 85%
- EWC/ECC
- Goodtime

- Jailtime
- I/M Pay/Job
- Staff Complaints
- Detainers
- Transfer
- MSU Admission/Release
- Other -

Ms. Gilmore is correct - based on the state statute you were sentenced under, you have a mandatory service requirement of 25 years. Therefore, your sentence is being served day for day. Sorry, but I do not remember a conversation with your brother. If I did talk to him, he must have misunderstood what I said. Your letter and attached paperwork will be forwarded to the Inmate Records Office for review.

For future reference, Classification issues should be addressed to your assigned Caseworker.

S/   
Michael R. Mathews

cc: Case Manager  
Inmate Records  
Document Processing

196 Jail credit

(12/7/2009) Lonnie Brawley - PUBLIC - Appendix - APPENDIX -Case Number;200636183 - Order-Opinion;26633 -

CMT1130D SDCS OFFENDER MANAGEMENT SYSTEM 03/24/05  
 OMCOMITA RELEASE DATE SCREEN C033991  
 SDCS# > 165247 LOC: LIEBER  
 BATTLE, ERNEST - SDCS CLASSIFICATION... VIOLENT

SEXUAL REGISTRY... N  
 OFFENDER TYPE... ADULT-STRAIGHT SENTENCE SEXUAL PREDATOR... NOT APP  
 DNA STATUS... COMPLETED  
 TOTAL SENTENCE... 025-03-000 CONSECUTIVE SENTENCE... Y  
 CURRENT SENTENCE: 025-03-000 CURRENT SENT START DATE: 06/07/2001  
 PROJECTED COMPLETION DATES  
 MAXOUT DATE ..... 10/25/2022 CURRENT EWC .. 3 F 5  
 YOA SIX YEAR DATE: / / CURRENT EEC .. NOT CURRENTLY EARNING EEC  
 INITIAL PAROLE DATE: 05/07/2022 NEXT PAROLE HEARING DATE: 03/07/2022

TOTAL GT DAYS EARNED ..... 00000 LABOR CREW/WORK PROG DATE: 99/29/2005  
 TOTAL EARNED WORK CREDITS ... 000325 LABOR CREW DISQ REASON:  
 TOTAL EDUCATION CREDITS ..... 000000 OFFENSE > CAT 1  
 TOTAL EXTRA EARNED CREDITS .. 000  
 TOTAL SERVICE TIME EARNED ... 001357

FFKEYS: 5: HISTORY OF DATE CHANGES

4-5	1	Sess-1	167.7.50.33	TWBT1244	3/11
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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
 DIVISION OF CLASSIFICATION & INMATE RECORDS  
 CUSTODY AND PRIVILEGES

~~Admission~~ Exhibit-F

Inmate Name Bailey, Ernest Inmate Number 165247

Assigned/Recommended Custody M12

	MINIMUM OUT (MO)	MINIMUM OUT RESTRICTED (MOR)	MINIMUM IN (MI)	MEDIUM (ME)	SMU (SD, DD, PC, PHD)
ACCESS TO PROGRAMS & ACTIVITIES	Outside the perimeter <i>off</i> institutional property	Inside the perimeter or Outside the perimeter <i>on</i> institutional property	Inside the perimeter	Inside the perimeter	Selected cell activity only
ACCESS TO JOBS	Outside the perimeter <i>off</i> SCDC property	Inside the perimeter or Outside the perimeter <i>on</i> institutional property	All inside the perimeter Under armed supervision outside the perimeter	All inside the perimeter Under armed supervision outside the perimeter	None except job assignments <i>within unit for Statewide PC which is closely supervised (none the 1<sup>st</sup> 90 days)</i>
WORK/EDUCATION CREDITS	2	2	3 until meets behavior & time requirements to MOR, then automatically to 2	5	None, except 7 for Statewide PC (none the 1 <sup>st</sup> 90 days)
ACCESS TO CANTEEN	\$125 week limit	\$125 week limit	\$125 week limit	\$40 week limit	Refer to OP-22.16 for Death Row, OP-22.12 for SMU, OP-22.32 for Statewide PC. Pre-Trial SK inmates are eligible for canteen privileges.
ACCESS TO VISITS	See SCDC Policy/Procedure OP-22.09, Inmate Visitation, OP-22.12, Special Management Unit, OP-22.11, Maximum Security Unit, or OP-22.32, Statewide Protective Custody for information on visitation privileges.				
*ACCESS TO TELEPHONE	Normal	Normal	Normal	4 calls per month	Up to 1 call per month (depending upon Security Detention level designation) Statewide PC - 1 per day

\*This does not affect access to legal telephone calls.

Projected Release Date as of: May 22, 2015  
 Max-out 1/20/26 Parole Eligibility 12/1/2005 SFII-A N/A  
 Labor Crew Eligibility none  
 Sentence Start Date 12/1/00 Sentence Length 25 yrs 3 mo.  
 Detainers none  
 Annual Hardship Review Month 2/16

M2 B1, B2 Bailey-Lumpkins

**WARDEN'S DECISION AND REASON:**  
Inmate Battle:

This is in response to MacD-0124-15. Your concern has been reviewed. You state that you want your sentence to be changed to reflect 85% in which you were sentenced by the Judge, and you want your goodtime, and earned work credits to be restored. I have contacted Mrs. Boyd Classification Case Manager. She stated that your offense of trafficking, 25 years is an exempt sentence which is required to serve day for day. In addition you have a 90 day sentence that is consecutive to your 25 year sentence. You have lost good time and your earned work credit level went from 2 to 3 because of your disciplinary. The trafficking sentence is 85% (due to June 7, 1995 legislation)

Based on this information, I consider this matter denied. If not satisfied with my response, see Step 5 below.

E. W. Taylor 10-27-15  
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.

Ernest B. Smith 10-26-15  
Grievant Signature Date

James W. Jones 10/26/15  
IGC Signature Date

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM

1. An informal resolution shall be attempted prior to the filing of Step 1.
2. Complete each section in its entirety, writing only in the space provided for inmate use.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form to the Institutional Grievance Coordinator within fifteen (15) days of an alleged incident; policy grievances at any time. Do not write in the space provided for the Warden's response.
5. If you do not accept the Warden's decision, you may appeal to the next appropriate responsible authority within the institution. Do not write in the space provided for the Warden's response.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
INMATE GRIEVANCE FORM  
STEP 1

EXHIBIT G  
WILLIAMS C  
# 01-34-15

INMATE NAME: Ernest Battle  
SCDC NUMBER: 155217  
INSTITUTION: McDuffall  
HOUSING UNIT: Birch I, A-108  
WORK ASSIGNMENT: Comm

Office Use Only  
Grievance No. MACD-01-24-1  
Code: General \_\_\_\_\_  
Policy \_\_\_\_\_  
Disc. Hear. \_\_\_\_\_  
Class. CLICL  
Date Received 9/24/15  
IGC Initials JS

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy indicate which policy)  
Back in 2011, when I was housed at Lieber Corr. Inst., I was informed by my Unit caseworker, that Division of Inmate Records changed my original sentence by the court from 85% to 100%. I then had my family contact Inmate records to inquire and was informed by them that my sentence was changed through an amended order by the sentencing judge. I then wrote the sentencing judge and he responded via, letter, advising me that he did not amend my sentence to reflect 100% through an amended order by him. See attached letter. I also contacted Chris Florian/SCDC General Counsel, and he advised that if I felt that my sentence was being calculated incorrectly to file a grievance. See attached. The sentence of the court do not reflect that I was to serve my time under 100% or Mandatory Minimum (25) years, only (25) years. I feel that SCDC Division of Inmate Records is without authority to alter, amend, or to change a circuit judge court order to reflect a sentence different than that which a defendant was sentenced.

ACTION REQUESTED: I request that my sentence be changed back to reflect the 85% in which I was sentenced by the sentencing judge and that my goodtime and earned work credits be restored.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:  
I attempted informal resolution by submitting an Inmate request through the kiosk to my Unit caseworker, Ms. Lumpkin Bailey on August 18, 2015, and she responded on August 26, 2015, advising me that my sentence was changed by Inmate records section and that there is nothing that she can do about the changes. Classification # 15-770276. Author (013231).

Ernest Battle 9/24/15  
Grievant Signature Date

ACTION TAKEN BY IGC:

Exhibit-# H

COUNTY OF Charleston  
STATE VS.  
Earnest Rutter  
AKA:  
Race: Black Sex: Male Age: 40  
DOB: 11/27/60 SS#: 247-21-8681  
Address: 3955 Old Pine Cir.  
N. Charleston, S.C.  
DL# \_\_\_\_\_ SID#: \_\_\_\_\_

1999 -GS- 10 - 7109  
A/W#: E 980726  
Date of Offense: 7/16/1999  
S.C. Code §: 44-53-370  
CDR Code #: 0111418

CASE RESTORED  
SENTENCE  
 PLEA  TRIAL

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO: Traffic in Cocaine 28 to 100 grams 3d offense in violation of § 44-53-370 of the S.C. Code of Laws, bearing CDR Code # 011141

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  17-25-  
The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jur  
The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the Sta  
ATTEST: [Signature]

Solicitor \_\_\_\_\_ Defendant \_\_\_\_\_ Attorney for Defendant \_\_\_\_\_

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Cen for a determinate term of 25 ~~months~~ years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ y and to pay a fine of \$50,000.; provided that upon the service of \_\_\_\_\_ days/months/years and/or payn of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard condition probation, which are incorporated by reference.

ATTEST: A TRUE COPY  
**JULIE J. ARMSTRONG** (SEAL)  
CLERK, P.P.S.  
[Signature]  
DEPUTY CLERK

The Defendant is to be given credit for \_\_\_\_\_ days/months jail time.  
 CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_

SPECIAL CONDITIONS:

RESTITUTION:  Heard,  Waived,  Ordered  
Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
Payment Terms: \_\_\_\_\_  
 set by SCDPPTS  
Recipient: \_\_\_\_\_  
\*Fine: \_\_\_\_\_ \$  
§14-1-206 (Assessments 100%)... \$  
§14-1-211(A)(1) (Surcharge) ... \$ 100.00  
§14-1-211(A)(2) (Surcharge) ... \$  
§56-5-2995 (DUI Assessment)... \$  
3% to County (if paid in installments)... \$ 3.00  
TOTAL ... \$ 103.00

PTUP \_\_\_\_\_  
\_\_\_\_\_ days/hours Public Service Employment  
Obtain GED \_\_\_\_\_  
Attend Voc Rehab. or Job Corps \_\_\_\_\_  
May serve W/E beginning \_\_\_\_\_  
Substance Abuse Counseling \_\_\_\_\_  
Random Drug/Alcohol Testing \_\_\_\_\_  
Fine may be pd. in equal, consecutive weekly/mo pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
\$ \_\_\_\_\_ paid to Public Defender Fund.  
Other: \_\_\_\_\_

[Signature]  
Clerk of Court/ Deputy Clerk

PRESIDING JUDGE [Signature]  
Judge Code: 01010180  
Sentence Date: 6/15/01

H-1

COUNTY OF: Charleston  
STATE: SC VS. Earnest Battle  
AKA: D  
Race: Black Sex: Male Age: 40  
DOB: 11/27/60 SS#: 247-21-8641  
Address: 39 55 Old Ave Cir.  
N. Charleston, S.C.  
DL# \_\_\_\_\_ SID#: \_\_\_\_\_

1997 -GS- 10 - 7110  
A/W#: F980727  
Date of Offense: 7/16/1999  
S.C. Code §: 44-53-445  
CDR Code #: 01107  
 CASE RESTORED  
SENTENCE  
 PLEA  TRIAL

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO: Distr. battery with intent to Distr. battery Prim. of School in violation of § 44-53-445 of the S.C. Code of Laws, bearing CDR Code # 01107

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  17-25-45  
The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury.  
The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.  
ATTEST:

[Signature] Solicitor T.L.H. Defendant [Signature] Attorney for Defendant

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center, for a determinate term of 10 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ 500; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference. FINE - \$10,000

The Defendant is to be given credit for \_\_\_\_\_ days/months jail time. ATTEST: A TRUE COPY  
 CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_  
Julie J. Armstrong (Seal)  
CLERK, S.C. J.S.  
Michael Callahan  
DEPUTY CLERK

SPECIAL CONDITIONS:

RESTITUTION:  Heard,  Waived,  Ordered  
Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
Payment Terms: \_\_\_\_\_  
 set by SCDPPPS \_\_\_\_\_  
Recipient: \_\_\_\_\_  
\*Fine: ..... \$ \_\_\_\_\_  
§14-1-206 (Assessments 100%) ..... \$ \_\_\_\_\_  
§14-1-211(A)(1) (Surcharge) ..... \$ 100.00  
§14-1-211(A)(2) (Surcharge) ..... \$ \_\_\_\_\_  
§56-5-2995 (DUI Assessment) ..... \$ \_\_\_\_\_  
3% to County (if paid in installments) ..... \$ 3.00  
TOTAL ..... \$ 103.00

PTUP \_\_\_\_\_  
\_\_\_\_\_ days/hours Public Service Employment  
Obtain GED \_\_\_\_\_  
Attend Voc Rehab. or Job Corps \_\_\_\_\_  
May serve W/E beginning \_\_\_\_\_  
Substance Abuse Counseling \_\_\_\_\_  
Random Drug/Alcohol Testing \_\_\_\_\_  
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
\$ \_\_\_\_\_ paid to Public Defender Fund.  
Other: \_\_\_\_\_

Michael Callahan  
Clerk of Court/ Deputy Clerk  
STANLEY SHAW

PRESIDING JUDGE T.L.H. [Signature]  
Judge Code: 010018  
Sentence Date: 01/17/01

During intake, the Department apparently calculated Appellant's sentence as one where only eighty-five percent of the time sentenced must be served.<sup>1</sup> In approximately 2011,<sup>2</sup> the Department recalculated his twenty-five-year sentence, with the new projected release, or "max-out," date reflecting the requirement that Appellant serve one hundred percent of his sentence, instead of eighty-five percent. In this appeal, Appellant challenges the Department's decision that he must serve his sentence day for day.

**ISSUE ON APPEAL**

Whether the Department erred in recalculating Appellant's sentence on the basis that he must serve one-hundred percent of his twenty-five-year sentence.

**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. Dept. 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. Dept. 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. Dept. 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. 2015). 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. 2015). Substantial rights of the appellant are

<sup>1</sup> See S.C. Code Ann. § 24-13-150(A) (Supp. 2015).

<sup>2</sup> There is no evidence in the record of the exact time which the recalculation was made, or at which time Appellant became aware of the change. It is apparent that Appellant was investigating the matter in 2011. The Court notes that, consistent with the standard of review in an appeal to the ALC, it does not consider "exhibits" attached to party briefs. See S.C. Code Ann. § 1-23-380(4) (Supp. 2015).