

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Darius Gould, #189007,)
)
Appellant,)
)
vs.)
)
South Carolina Department of Corrections,)
)
Respondent.)
)
)
_____)

Docket No. 18-ALJ-04-0192-AP

FINAL ORDER

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SC Court of Appeals

This matter is before the South Carolina Administrative Law Court (ALC or court) pursuant to the Notice of Appeal filed on April 27, 2018 by Darius Gould (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (Department). The Appellant alleges that the Department is misinterpreting S.C. Code Ann. § 44-53-370(e) and incorrectly classifying his numerous drug convictions as no parole offenses, which requires him to serve eighty-five (85) percent of his actual term of imprisonment.

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

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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 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 & Envtl. 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).

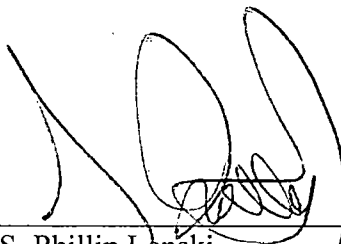
The Appellant pleaded guilty to Trafficking in cocaine, 28 g or more, but less than 100g-First Offense pursuant to S.C. Code Ann. § 44-53-370(e)(2)(b)1 and was sentenced to seven (7) years in prison; Drugs, Manufacturing, Distribution-First Offense pursuant to Section 44-53-370(b)(1) and was sentenced to seven (7) years; a weapons charge pursuant to Section 16-23-0030 and 16-23-0050(A) and sentenced to five (5) years; and the Manufacture, Distribution of cocaine base-First Offense, and sentenced to seven (7) years in prison, all sentences to run concurrent. S.C. Code Ann. § 24-13-100 provides that a “no parole offense” means a class A, B, or C felony and Section 24-13-150(A) further clarifies that inmates who are serving time for a conviction of a “no

parole offense” are not eligible for early release, discharge, or community supervision until the inmate has served as least eighty-five (85) percent of the actual term of imprisonment imposed. Additionally, in accordance with S.C. Code Ann. § 16-1-20(A)(2), the Appellant’s conviction for the offense of Trafficking in cocaine in violation of Section 44-53-370(e)(2)(b)1, is a Class B felony and therefore, a “no parole offense.”

The Appellant was sentenced on June 22, 2017 to seven (7) and five (5) years confinement, which amounted to two thousand five hundred and fifty-five (2,555) days. Eighty-five (85) percent of 2,555 days is two thousand one hundred and seventy-two (2,172) days. Running the sentence from June 22, 2017, with credit for time served, the earliest possible date the Appellant could be released from confinement is May 29, 2023. The Record on Appeal (Conviction Summary) reflects that the Department reached the same conclusion and the Appellant has established no reason to differ from that conclusion, therefore, this court affirms the Department’s decision.

Based upon the foregoing, the decision of the Department is **AFFIRMED**.

AND IT IS SO ORDERED.




S. Phillip Lenski
Administrative Law Judge

September 17, 2018
Columbia, South Carolina

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States Mail, postage paid, or in the Interagency Mail Service addressed to the party(ies) or their attorney(s).

This 17th day of September 2018

by 
Judicial Law Clerk

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Darius GOULD #189007

Appellant

South Carolina Department of Corrections

Respondent

Certificate of Service

Docket No.: 18-ALJ-04-0192-AP

I hereby certify that a copy of the foregoing brief was
this date served upon the following individuals by placing a
copy of the same via mail to his/her last known address as

follows: Office of General Counsel
4444 Broad River Rd.
Columbia SC, 29221-1787

 #189007

Darius Gould #189007
Macdougall Corr. Inst.
1516 Old Gilliard Rd.
Ridgeville, SC 29472

September 4, 2018

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SC Court of Appeals

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SC ADMIN. LAW COURT

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Darius Gould # 189007

Appellant

South Carolina Department of Corrections
Respondent

Docket No.: 18-ALJ-04-0192-AP
Grievance No.: MACD

APPELLANT'S REPLY BRIEF

Hon. S. Phillip Lenski

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SC Court of Appeals

STATEMENT OF THE CASE

This Response Brief is to the case before the Administrative Law Court (ALC) in response to South Carolina Department of Corrections (SCDC) Response to Appellant Darius Gould appeal filed August 21, 2018. Respondent argues that Appellant was properly classified. Appellant argues that disregard of specific law leads to an error in law and a miscalculation of his sentence.

ARGUMENT

The findings by SCDC is inconsistent with the Court's previous rulings in similar situations. In the case of *State v. Taub*, 519 S.E2d 197 (S.C. App 1999), the Courts was provided with the opportunity to construe the provisions of S.C. Code Ann. 44-53-370(e). In *Taub*, the Court construed the statutory provisions to determine rather S.C. Code Ann. 24-21-410, a later enacted statutory provision allowed for the Court to suspend *Taub's* sentence and grant probation even though the provisions of S.C. Code Ann. 44-53-370(e) prevented the sentence from being suspended and having probation granted. In determination the Court established that the provisions of S.C. Code Ann. 44-53-370(e) preventing the sentence from being suspended and having probation granted represented the more specific statute when it come to *Taub's* sentence and determined that the later general statute giving the Courts the authority to suspend

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SC ADMIN. LAW COURT

the sentence in a criminal offense could not prevail over the more specific trafficking statute.

Eventhough the issue in *Taub*, was concerning whether the sentence could be suspended or not the Court also addressed subsection (e) of S.C. Code Ann. 44-53-370, when it came to parole eligibility. The Courts established that subsection (e) represented the more specific provision when it came to trafficking offenses and also established that eventhough the provision excluded a mandatory minimum, mandatory or not less than a term of imprisonment of twenty-five years nor more than thirty years from being eligible for parole that it does not exclude a first or second offense from being eligible. When the provisions of 24-13-100 is considered in connection to subsection (e) of 44-53-370 dealing with parole eligibility they both represent statutory law. S.C. Code Ann. 24-13-100, does not speak specifically to trafficking cases, but speaks about various sentences that carry twenty years or more making it general law. (*Black's Law Dictionary 8th Ed.*) Law that is neither local nor confined to particular persons; A statute that relates to a subject of a broad nature.

Quoting Justice Howard, *State v. Taub*, 519 S.E. 2d 797. (App. 1999) subsection (e) of S.C. Code Ann. 44-53-370, provides a statutory scheme of sentencing for trafficking offenses. See *State v. De La Cruz*, 302 S.C. 13, 15. 393 S.E. 2d 184 (1990)

Sentences become progressively greater based upon the type and quantity of controlled substance involved and the number of offenses. In addition to outlining the sentencing parameters for specific trafficking offenses. (emphasis added.)

Subsection (e) contains the following pertinent language:

A person convicted and sentenced under this subsection to a mandatory term of imprisonment of twenty-five yrs, a mandatory minimum term of imprisonment of twenty-five years, or a mandatory minimum term of imprisonment of not less than twenty-five years nor more than thirty years is not eligible for parole, extended work release, as provided in section 24-13-610, or supervised furlough, as provided in section 24-13-710. S.C. Code Ann. § 44-53-370 (e) (Supp. 1998)

Justice Howard goes on to say. It thus becomes clear the legislature assigned an additional meaning within subsection (e) to any sentence described as mandatory or as a mandatory minimum. In addition to requiring a mandatory term of imprisonment to a person sentenced as a third or subsequent offender under the mandatory provision is not eligible for parole, extended work release or supervised furlough. See *State v. Johnson*, 276 S.C. 444, 279 S.E.2d 606 (1981) (legislature's decision to mandate minimum sentencing term and deny the offender parole eligibility for a portion thereof is an appropriate exercise of its' power.) In contrast, a

person sentenced as a first or second offender, though subjected to a required minimum term of imprisonment, is not precluded under the statute from receiving parole, extended work release or supervised furlough. (emphasis added.)

The Court made it clear that a later enacted general law could not replace earlier specific law *Id.* Furthermore, to read subsection (e) of § 44-53-370, as meaningless as SCDC has stated violates the rule that forbids a statute to read in a way that render a portion meaningless and requires that it be read in a way that gives all of its parts meaning. In describing the applicable punishment the statute proclaims that upon conviction defendant "must be punished" as follows if the quantity involved is and no part of the term of imprisonment may be suspended nor probation granted and if that sentence is for twenty-five years or more parole is not eligible. A review of the overall sentencing scheme reveals that this is not inconsistent. See *State v. Alls*, 330 S.C. 528, 531, 500 S.E.2d 781, 782 (1998) (In construing statutory language, the statute must be read as a whole, and sections which are part of the same statutory law must be construed together and each one give effect, if it can be done by any reasonable construction.) The general rule of statutory construction

is that a specific statute prevails over a more general one. *Wooten v. South Carolina Dept. of Transp.*, 333 S.C. 464, 511 S.E.2d 355 (1999); *Atlas Food Sys. & Serv., Inc. v. Crane*, 319 S.C. 556, 462 S.E.2d 858 (1995). Furthermore, the enactment of a later general statute does not repeal an earlier more specific statute. *State v. Taub*, 519 S.E.2d 797 (App. 1999) *Atlas*, 319 S.C. 558, 462 S.E.2d 859 (citing *Mims v. Alston*, 312 S.C. 311, 440 S.E.2d 357 (1994)) Our Supreme Court has likewise rejected the proposition that the amendment of a general statute impliedly affect an earlier specific statute, recognizing that repeal by implication is disfavored and is found only when two statutes are incapable of any reasonable reconciliation. *Id*

Also citing *Harris v. State*, 349 S.C. 46, 562 S.E.2d 311 (2002) Quoting Justice Moore under S.C. Code Ann. 16-1-60 (Supp. 2000) Certain offenses are defined as violent crimes. This specifically includes drug trafficking as defined in S.C. Code Ann. 44-53-370(e) as a violent crime. This classification affects a defendant's parole status. See, e.g., S.C. Code §§ 24-21-610 (2000) (must serve at least one-third of sentence for violent crime) and -645 (parole review every two years) (emphasis added.)

CONCLUSION

Based on the overwhelming evidence on record by Appellant the trafficking statute is the more specific

law and the fact that S.C. Code Ann. 44-53-370(e)(7) is more specific law when it comes to the Appellant's sentence and makes it the controlling statute. Appellant should be re-classified and should be given all privileges based on specific Trafficking statute.

Respectfully submitted,

 #189007

Darius Gould #189007
Macdougall Corr. Inst.
1516 Old Gilliard Rd.
Ridgeville, SC 29472

September 4, 2018
Ridgeville, South Carolina



HENRY McMASTER, Governor
BRYAN P. STIRLING, Director

August 21, 2018

The Honorable S. Phillip Lenski
South Carolina Administrative Law Court
Edgar A. Brown Building, Suite 224
1205 Pendleton Street
Columbia, South Carolina 29201

Reference: Inmate Darius Michael Gould, #189007, vs. SCDC
Docket No. 18-ALJ-04-0192-AP

Dear Judge Lenski:

Find enclosed an original and one copy of the *Respondent's Brief* on the above referenced case. Please file the original in your office and return a clocked-in copy to me in the enclosed self-addressed envelope.

If you have any questions or concerns, please do not hesitate to contact me at (803) 896-3922.

Sincerely,

Cheron Hess
Administrative Assistant
Office of General Counsel

Enclosures

cc: Inmate Darius Michael Gould, #189007
File

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AUG 23 2018

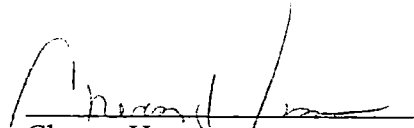
SC ADMIN. LAW COURT

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Darius Michael Gould, #189007,)
)
 Appellant,)
) **Certificate of Service**
 vs.)
) Docket# 18-ALJ-04-0192-AP
 South Carolina Department of Corrections,)
)
 Respondent.)

I hereby certify that a copy of the foregoing brief was this date served upon the following individuals by placing a copy of the same via mail to his/her last known address as follows:

Inmate Darius Michael Gould
Inmate Number: 189007
MacDougall Correctional Institution
Dorm-Room-Bunk: C2C-0007-A


Cheron Hess
Administrative Assistant
Office of General Counsel
South Carolina Department of Corrections
4444 Broad River Road
P.O. Box 21787
Columbia, South Carolina 29221-1787
(803) 896-3922

August 21, 2018

FILED
AUG 23 2018

SC ADMIN. LAW COURT

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Darius Gould, #189007,)	Docket No.: 18-ALJ-04-0192-AP
)	Grievance No.: MACD 3-18
Appellant,)	
)	RESPONDENT'S BRIEF
v.)	
)	<i>Honorable S. Phillip Lenski</i>
South Carolina Department of Corrections,)	
)	
Respondent)	
<hr/>		

STATEMENT OF THE CASE

This case is before the Administrative Law Court (“ALC”) pursuant to the appeal of Darius Gould (“Appellant”), an inmate incarcerated with the Department of Corrections (“SCDC”). Appellant filed a Step One Grievance on December 22, 2017, seeking a change to his sentence calculation. This grievance was investigated and denied when it was determined that SCDC has properly calculated Appellant’s sentence. Appellant filed a Step Two Grievance on March 7, 2018. This grievance was also investigated and denied. Appellant subsequently filed his Notice of Appeal. Because Appellant’s sentence has been properly calculated, the final determination of the Department should be affirmed.

JURISDICTION

The ALC’s jurisdiction to hear this matter is derived entirely from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). In *McNeil v. South Carolina Department of Corrections*, 00-ALJ-04-00336-AP (September 5, 2001), the ALC interpreted the breadth of its jurisdiction pursuant to *Al-Shabazz*. That decision holds that the ALC's appellate jurisdiction in inmate appeals is

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limited to two types of cases: (1) cases in which an inmate contends that prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; and (2) cases in which the SCDC has taken an inmate's created liberty interest as punishment in a major disciplinary hearing. Jurisdiction of the ALC was most recently addressed in *Sullivan v. SCDC*, 355 S.C. 437, 586 SE.2d 124 (2003).

In this case, appellant contends that SCDC has incorrectly calculated his sentence. Consequently, the ALC has jurisdiction to hear his appeal.

STANDARD OF REVIEW

A reviewing court will not disturb findings of an administrative agency if its findings are supported by substantial evidence on record as a whole. *Pearson v. JPS Converter & Industry Corp.*, 327 S.C. 393, 489 S.E.2d 219 (Ct. App. 1997). "Substantial evidence" is evidence which, considering record as a whole, would allow a reasonable mind to reach the conclusion reached by the administrative agency. *Hendley v. S.C. State Budget & Control Bd.*, 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996). The possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's finding from being supported by substantial evidence. *Grant v. S.C. Coastal Council*, 319 S.C. 348, 461 S.E.2d 388 (1995). Administrative agencies are afforded wide latitude in making decisions, as shown in the deferential standard of appellate review. *Heater of Seabrook, Inc. v. Public Svc. Comm'n of S.C.*, 332 S.C. 20, 503 S.E.2d 739 (1998).

ARGUMENT

**APPELLANT'S SENTENCE HAS BEEN CORRECTLY
CALCULATED BY RESPONDENT**

On June 22, 2017, Appellant was sentenced to seven years for Trafficking in Cocaine, 28 – 100 grams, in violation of SC Code Ann § 44-53-370(e)(2)(b)(1). *See* Sentencing Sheet Indictment 2016GS2101437. Appellant has additional current convictions for Illegal Drugs- Possession, Possession of a Weapon, and Crack Distribution. *See* Sentencing Sheets for Indictments 2016GS2101437, 2016GS2101434, and 2016GS2101433. Appellant argues that his trafficking sentence does not qualify as a “no-parole” offense. However, Appellant’s trafficking conviction clearly falls under the 85% “no parole” statute because the offense is a Class B felony which carries a maximum sentence of twenty-five years. *See* S.C. Code Ann. § 44-53-370(e)(b)(1) (stating that first-offense trafficking in cocaine, 28-100 grams, carries a sentence of seven to twenty-five years); S.C. Code Ann. § 24-13-100 and -150 (generally, stating offenses carrying more than twenty years are 85% no parole offenses) and S.C. Code Ann § 16-1-20(A)(2) (“A person convicted of classified offenses, must be imprisoned as follows: (2) for a Class B felony, not more than twenty-five years.”).

Appellant argues that the following language contained after subsection E of S.C. Code Ann. § 44-53-370 requires that he be eligible for parole:

A person convicted and sentenced under this subsection to a mandatory term of imprisonment of twenty-five years, a mandatory minimum term of imprisonment of twenty-five years, or a mandatory minimum term of imprisonment of not less than twenty-five years nor more than thirty years is not eligible for parole, extended work release, as provided in Section 24-13-610, or supervised furlough, as provided in Section 24-13-710.

Initially, this language does not apply to Appellant’s conviction because he did not receive a “mandatory” or “mandatory minimum” term of imprisonment of twenty-

five to thirty years. More importantly, this language does not repeal, implicitly or otherwise, the 85% provisions as applied to Appellant's drug trafficking offense. The above language became effective on January 12, 1995. See S.C. Code Ann. § 44-53-370(e)(7) (Supp. 1995). At that time, there was no law requiring an inmate to serve an 85%, no-parole term, so the provision prohibiting parole for certain serious drug trafficking offenses had meaning. However, subsequently, on January 1, 1996, the 85% "no-parole" statutes were enacted. See S.C. Code Ann. § 24-13-100 and -150 (Supp. 1996). These broader statutes require 85%, no-parole terms for all sentences for class A, B, or C felonies or those exempt from classification but carrying a possible penalty of twenty years or more. See S.C. Code Ann. § 24-13-100 and -150 (Supp. 1996).

Additionally, as a part of the January 1, 1996 enactments, S.C. Code § 24-21-560 was added, which requires that all inmates sentenced for 85%, "no parole" offenses must be released directly to a community supervision program under the supervision of the Department of Probation, Parole, and Pardon Services for a period not to exceed two years. See S.C. Code Ann. § 24-21-560(A) & (B). All of this subsequent legislation - including S.C. Code § 24-13-100, § 24-13-150, and § 24-21-560 - to the extent it conflicts with the language in S.C. Code § 44-53-370(e)(7), supersedes -370(e)(7). See, e.g., *Williams v. Town of Hilton Head Island*, S.C., 311 S.C. 417, 421, 429 S.E.2d 802, 804 (1993) (in instances where it is not possible to harmonize two sections of a statute, a later legislation supersedes an earlier enactment); *State v. Brown*, 317 S.C. 55, 58, 451 S.E.2d 888, 891 (1994) ("More recent and specific legislation supersedes prior general law.").

Therefore, Appellant is not eligible for parole and must be incarcerated for at least 85% of his sentence. *See* S.C. Code Ann. § 24-13-150(A). Appellant's sentence start date is June 22, 2017. *See* Conviction Summary printout from SCDC's Offender Management System. Eighty-five percent of Appellant's seven year sentence is approximately five years eleven months and twelve days. Appellant's current projected maxout date is May 29, 2023, which is approximately five years eleven months and twelve days from his sentence start date.

Appellant has not carried his burden to demonstrate SCDC is incorrectly calculating his sentence. Therefore, SCDC respectfully requests its decision denying appellant's Step Two grievance be upheld.

**RESPONDENT'S FINAL AGENCY DECISION IS SUPPORTED
BY SUBSTANTIAL EVIDENCE**

The record conclusively establishes that the "substantial evidence on the whole record" supports the Department's final agency decision. Appellant has the burden of proving that the decision of the Department is clearly erroneous, or arbitrary or capricious, or an abuse of discretion. *See Porter v. Public Service Comm'n*, 333 S.C. 12, 507 S.E.2d 328 (1998). Appellant has not met this burden, therefore the Department's decision should be upheld.

CONCLUSION

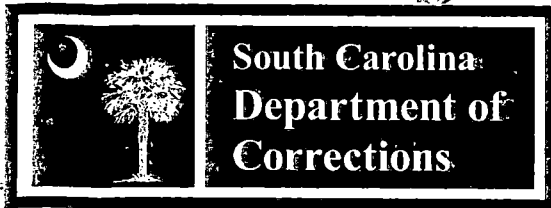
Appellant has not met his burden to demonstrate SCDC is incorrectly calculating his sentence, and the Department's calculation is supported by substantial evidence. Therefore, Respondent respectfully requests this Court uphold its decision.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kensey E. Barrett", written over a horizontal line.

Kensey E. Barrett
Staff Attorney
S.C. Department of Corrections
4444 Broad River Road
Columbia, South Carolina 29221
(803) 896-8508

August 21, 2018
Columbia, South Carolina



HENRY McMASTER, Governor
BRYAN P. STIRLING, Director

July 6, 2018

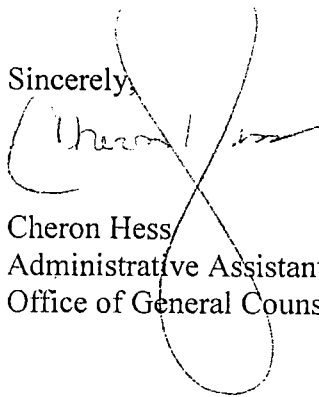
The Honorable S. Phillip Lenski
South Carolina Administrative Law Court
Edgar A. Brown Building, Suite 224
1205 Pendleton Street
Columbia, SC 29201

Reference: Inmate Darius Michael Gould, #189007, vs. SCDC
Docket No. 18-ALJ-04-0192-AP

Dear Judge S. Phillip Lenski:

Find enclosed a copy of the Respondent's Record, consisting of Inmate Grievance MACD 3-18, in the above referenced case. Please file the original and return a clocked-in copy of the cover letter in the enclosed envelope.

Sincerely,



Cheron Hess
Administrative Assistant
Office of General Counsel

Enclosures

cc: Inmate Darius Michael Gould, #189007
File

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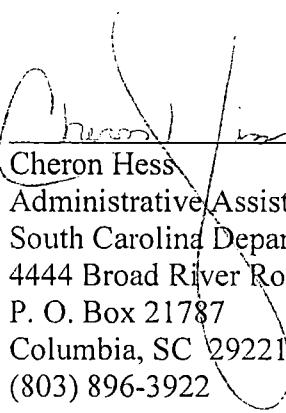
SC ADMIN. LAW COURT

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was this date served upon the following individual(s) by placing a copy of the same via mail to his/her last known address as follows:

Inmate Darius Michael Gould
Inmate Number: 189007
MacDougall Correctional Institution
Dorm-Room-Bunk: C2C-0007-A

Columbia, South Carolina
July 6, 2018


Cheron Hess
Administrative Assistant
South Carolina Department of Corrections
4444 Broad River Road
P. O. Box 21787
Columbia, SC 29221-1787
(803) 896-3922

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SC ADMIN. LAW COURT

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DUE 6/5/18

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

MAR 14 2018

APR 04 2018

Office Use Only 0003-18
Grievance No. MACD-00000777

INMATE NAME: Darius M. Gould

SCDC NUMBER: 189007

INSTITUTION: McDougall C.I.

HOUSING UNIT: C2-C7A

WORK ASSIGNMENT: Word/Dom - Viper

RECEIVED
DIVISION OF CLASSIFICATION
MAR 21 2018

Code: General
Policy
Disc. Hear.
Class.
Date Received 3/12/18
IGC Initials J-8

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): The S.C Dept of Corrections reliance on section 16-1-60 when dealing with my parole eligibility is misplaced. The provision of 16-1-60 only defines what is considered a violent crime and does not speak in reference to parole eligibility. When it comes to the sentencing requirement for the offense of Trafficking in accord to section 44-53-370 (e)(2)(b)(i) the matter is addressed under the statutes provision. Further more when it comes to my parole eligibility unenumerated paragraph under section 44-53-370 (e) on excluded sentences with mandatory 25 yrs, mandatory minimum 25 yrs, ~~or not less than 25 yrs or more from having~~ parole and other privileges applied.

Darius M. Gould 3-7-2018
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

I have reviewed your concern. In your grievance you stated that SCDC is misplaced in its interpretation of Section 16-1-60. You further stated that SCDC is denying your eligibility for parole as your sentence under Section 44-53-370 (e) (2) (b) (1) does not deny you the same. The Warden responded to your concern on SCDC 10-5, Step 1 Inmate Grievance Form dated 2/27/18. You were convicted for violating SC Code of Laws 44-53-0370 (E) (2) (B) (1), offense Trafficking In Cocaine, SC Classified as No Parole and Violent, 7 years; 44-53-0370 (B) (1), offense Illegal Drugs-Possession, 7 years; and 16-23-0030-0050-(A), offense Possession of Weapon, 5 years. SCDC is in compliance with SC Code of Laws in your inmate classification. If you still do not understand your classification, you are advised to speak to your classification caseworker. You have not shown that SCDC Staff have performed their job duties inappropriately.

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.

Keith D. ... 4/5/18
Signature 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)

1-2-18
(12)

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM

MacDougall CI
0003-18

STEP 1

INMATE NAME: <u>Darius M. Gould</u>	OFFICE USE ONLY
SCDC NUMBER: <u>189007</u>	Grievance No. <u>MacD-003-18</u>
INSTITUTION: <u>MacDougall CI</u>	Code: General _____
HOUSING UNIT: <u>C2C7A</u>	Policy _____
WORK ASSIGNMENT: <u>Dorm keeper</u>	Disc. Hear. _____
	Class. <input checked="" type="checkbox"/>
	PREA _____
	Date Received <u>2/24/18</u>
	IGC Initials <u>DAG</u>

STATEMENT OF GRIEVANCE (Indicate the date of incident, and if the grievance is a challenge to SCDC Policy, specify which policy. Include supporting documentation and attach answered RTSM or Kiosk reference number.)

This Appeal stems from the liberty Interest created by the Denial of my parole Eligibility and other privileges by being classified as 85%, 24-13-100 "no parole offender." I am a first offense Trafficking offender, serving 7 years, sentenced 6-26-2017. which is violent but not a "no parole offense. The omnibus Crime Reduction and sentencing Reform Act Amendments to 44-53-370 and 44-53-375 where it comes to possession, manufacturing and Trafficking. Trafficking is a specific law that is based upon possession and is governed by it's legislative Intent and Amendments unless specifically written. All rules of statutory construction are subservient to the one that the legislative intent must prevail if it can be reasonably discovered in the language used, and that language must be construed in the light of the intended purpose of the statute. state v Leopard 349 SC 467 SC 2d 563 statutes 181 (1), 184. 2013 Cumulative Supplement Code of Laws of South Carolina 1776 pg 245 44-53-370(c)(7)(b) sub paragraph states "The offense of possession with the intent to distribute described in Section 44-53-370(a) is a lesser included offense to the offenses of trafficking based upon possession described in this subsection." when a statute is penal in nature it must be construed strictly against the state and in favor of the defendant. state v Leopard statutes 241 (1). The law, legislature and statutes are clear on this Denial 12 22 2017 matter. Notwithstanding clearly amends possession. Grievant Signature _____ Date _____ manufacturing and trafficking.

Classification # 17-757246

ACTION REQUESTED: Help with being re-classified and being granted all privileges that I am suppose to have.

ACTION TAKEN BY IGC: PROCESSED UNPROCESSED OTHER

IGC Signature _____ Date _____

(CONTINUE ON REVERSE SIDE)

C-2

WARDEN'S DECISION AND REASON:

Inmate Darius Gould 189007:

This is in response to MacD-0003-18 your concern has been reviewed. You state that you need help being re-classified and being granted all privileges that you are supposed to have. I have contacted Mrs. Bailey Classification Case Worker. She stated you are sentenced to Trafficking Cocaine which under the State Statue 44-53-0370 (e) (2) (b) (1), is Violent. Based upon the State Statue 16-1-60 your charge is classified as a Non-parole offense, you are required to serve a Mandatory Sentence of no less than 5 years, 11 months and 12 days of your 7 year sentence in which no part can be suspended nor probation granted. This is your 5th drug offense. Based on this information your grievance **denied**.

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

Paul T Taylor 2-27-18
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.

[Signature] 3-5-2018
Grievant Signature Date

[Signature] 3/2/18
ISC 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 unanswered 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.

Inmate Request

Today's Date: 1/29/18 9:37

Name: GOULD, DARIUS MICHAEL

Booking #: SCB0045817

Permanent #: SCP0045817

Reference #: 17-757246

Date Requested: 11/28/17 15:06

Request Type: Classification

Requested By: Kiosk

Request Details: IF 24-13-100 IS UNCONSTITUTIONAL, WHY AM I CLASSIFIED NO PAROLE. AND CAN I BE RE CLASSIFIED BECAUSE OF THIS FACT. BECAUSE 24-13-100 CONFLICTS WITH THE OMNIBUS CRIME BILL WHEN IT COMES TO TRAFFICKING.

Disposition: Complete

Officer:

Disposition Date: 11/30/17 10:51

Request Responses

Date	Author	Note
11/30/17 10:52	c021446	Read the State Statue you were sentenced under 44-53-0370 E 2 B 1.

ROAI200D
ROAI200M
OMROAUDA

SC OFFENDER MANAGEMENT SYSTEM
RECORD AUDIT APPLICATION
DISPLAY RECORD AUDIT

05/18/18
C056427

CURR STATUS.: INCARCERATED
CURR LOC...: MACDOUGALL
CURR CUSTODY: MR1B

SCDC#: 189007
NAME.: GOULD, DARIUS MICHAEL

AUDIT TYPE: 01 RECORDS AUDIT

AUDIT DATE: 07/11/17

UPDATED BY: CRUM, AUDREY

DATE: 07/11/17

RECORD AUDIT DISPLAYED...

CLEAR:SUMMARY

ENTER:DISPLAY NOTES

PF8:FORWARD

CMTI700M
CMTI700D
SCDC# > 189007

SC OFFENDER MANAGEMENT SYSTEM
COMMITMENT APPLICATION
COMPLETED SCDC PRIORS

05/22/18
C052640

GOULD, DARIUS MICHAEL

CURR LOC: MACDOUGA

OFFENDER TYPE: ADULT-STRAIGHT SENTENCE

SCDC CLASSIFICATION...: VIOLENT

NUM	T X	CONV OFFENSE	YRS MO DYS	INCARC SENT	SENT DATE	SENT START	PROJ COMP	STAT	IND	CONV VIO
Y S00001	2 N	CRACK DISTRIB	006 00 000		11/03/95	11/03/95	12/01/1998	COM	N N	
Y00189007										
C00002	3 N	RESISTING OFF	004 00 000		07/29/93	07/29/93	07/29/1997	ACT	N N	
C00001	2 N	COCAINE DISTR	004 00 000		06/16/92	06/16/92	06/16/1996	ACT	N N	

PAGE: 0001

MAKE A SELECTION AND PRESS <ENTER>...
PF4-MODCONV PF6-NON-SCDC PRIORS

DISI100D

SC OFFENDER MANAGEMENT SYSTEM
DISCIPLINARY SYSTEM

05/22/18
C052640

SCDC ID: 189007

DISPLAY INMATE OFFENSE HISTORY

GOULD, DARIUS MICHAEL

CURR LOC: MACDOUGALL

OFFENDER TYPE: ADULT-STRAIGHT

PURCHASED TV Y
SERIOUS MENTAL ILLNESS: N

CASE#	OFFENSE DESCRIPTION	TYPE ACTION	OFFENSE DATE	HEARING DATE	NET GT LOST	DHO DECISION	OFF LVL
00002	REFUSING OR FAILING O	MINOR DI	12/10/95	01/09/96	00000	CONVICTED	3
00001	USE OBSCENE, VULGAR, PR	MINOR DI	12/10/95	01/09/96	00000	CONVICTED	3

END OF LIST

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

CMTI100D
OMCOMITA

SCDC OFFENDER MANAGEMENT SYSTEM
COMMITMENT APPLICATION
CONVICTION SUMMARY

05/18/18
C056427

SCDC# > 189007

CURR LOC: MACDOUGA

GOULD, DARIUS MICHAEL

SCDC CLASSIFICATION...: VIOLENT

OFFENDER TYPE: ADULT-STRAIGHT SENTENCE

NUM	CONVICTION OFFENSE	INCARC	SENT	SENT	SENT	PROJ	COMP	STAT	IND
		YRS	MO	DYS	DATE	START			
* S00005	TRAFFICKING IN COCAI	007	00	000	06/22/17	06/18/17	05/29/2023	ACT	V V
- S00004	ILLEGAL DRUGS-POSSES	007	00	000	06/22/17	06/18/17	12/18/2020	ACT	N N
- S00003	POSSESSION OF WEAPON	005	00	000	06/22/17	06/18/17	12/18/2019	ACT	N N
- S00002	CRACK DISTRIBUTION	007	00	000	06/22/17	06/18/17	12/18/2020	ACT	N N

PAGE: 0001

MAKE A SELECTION AND PRESS <ENTER>...

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

CMTI200D
OMCOMITA
SCDC #: 189007

SCDC OFFENDER MANAGEMENT SYSTEM
COMMITMENT APPLICATION
INQUIRY

7/06/18
052640
CUP L... SCDOUGA
COURT: N

GOULD, DARIUS MICHAEL

NONCONFORM SENT: N

OFFENDER TYPE: ADULT-STRAIGHT SENTENCE

CONVICTION NUM: S00005 INDICT NUM: 16-GS-2101437 WAF... NUM: 201... L 0400301

DATE SENTENCED...: 06/22/2017 JUDGE LAST...: BROWN

STATUTE: 44-53-0370 (E) (2) (B) (1) CDR CODE.: 2359

OFFENSE: 3545 TRAFFICKING IN COCAINE

OFFENSE DATE: 05/25/2017

CHARACT: F FACILITATION OF COUNTS: 01

OFFENSE...: 71

PLEA...: G GUILTY

TYPE OF COURT...: 01... SESSION

TYPE SENTENCE... : S ADULT-STRAIGHT

SCDC JURIS DATE...: 06/22/17

TOTAL SENTENCE...: 007 00 000

MAND SERV RE...: 005 11 0

INCARC SENTENCE...: 007 00 000

PAROLE FACTO...: 2... REQ.

PROBATION SENT...: 000 00 000

PAROLE SERV...: 098...

HIP SENT...: 000 00 000

RESTITUTION REQMT: N AMT: .00 JAIL CRED: ... 00000

CONVICTION STATUS: AC ACTIVE SENT START: ... 2017

CONSECUTIVE IND...: N SPOUSE ABUSE: STATUTE CHA...

DNA OFFENSE IND...: Y EEC ELIG: Y SCDC CLASS...

SEX REG: N PRED OFF: N LAST UPDATE: A CRUM ... 1/17

NO PAROLE: NO PAROLE CREATED BY.: L SNOW ... /26/17

PF8-NEXT CONVICTION

PF9-DETAIN

PF4-REF

12:22:23 Friday, July 06, 2018

CMTI200D
OMCOMITA
SCDC #: 189007
GOULD, DARIUS MICHAEL

SCDC OFFENDER MANAGEMENT SYSTEM
COMMITMENT APPLICATION
INQUIRY

NONCONFORMI

7/06/18
252640
CDOUGA
COURT: N

OFFENDER TYPE: ADULT-STRAIGHT SENTENCE

CONVICTION NUM: S00004 INDICT NUM: 16-GS-2101434 W 0400231

DATE SENTENCED...: 06/22/2017 JUDGE LAST...: BROWN

STATUTE: 44-53-0370(B)(1) CDR CODE.: 0183 GR

OFFENSE: 3590 ILLEGAL DRUGS-POSSESS

CHARACT: F FACILITATION OF COUNTS: 01

PLEA...: G GUILTY

TYPE SENTENCE... : S ADULT-STRAIGHT

TOTAL SENTENCE...: 007 00 000

INCARC SENTENCE...: 007 00 000

PROBATION SENT...: 000 00 000

HIP SENT.....: 000 00 000

RESTITUTION REQMT: N AMT: .00 JAIL CRED: 0000

CONVICTION STATUS: AC ACTIVE SENT START

CONSECUTIVE IND...: N SPOUSE ABUSE: STATUTE C

DNA OFFENSE IND...: Y EEC ELIG: Y SCDC CLASS

SEX REG: N PRED OFF: N LAST UPDATE: A CRUM 11/17

NO PAROLE: NOT APPLIC CREATED BY.: L SNOW 06/17

PF8-NEXT CONVICTION

PF9-DETAIN

PF4-REF

CMTI200D
OMCOMITA
SCDC #: 189007

SCDC OFFENDER MANAGEMENT SYSTEM
COMMITMENT APPLICATION
INQUIRY



07/06/18
152640
DOUGA
COURT: N

GOULD, DARIUS MICHAEL

NONCONFORM

OFFENDER TYPE: ADULT-STRAIGHT SENTENCE

CONVICTION NUM: S00003 INDICT NUM: 16-GS-2101433

0000091

DATE SENTENCED..: 06/22/2017 JUDGE LAST..: BROWN

STATUTE: 16-23-0030;16-23-0050(A CDR CODE.: 2364

OFFENSE: 5212 POSSESSION OF WEAPON OFFENSE

CHARACT: F FACILITATION OF COUNTS: 01 OFFENSE

PLEA...: G GUILTY TYPE OF COU

TYPE SENTENCE... : S ADULT-STRAIGHT SCDC JURIS

TOTAL SENTENCE...: 005 00 000 MAND SERV

INCARC SENTENCE...: 005 00 000 PAROLE FACT

PROBATION SENT...: 000 00 000 PAROLE SERV

HIP SENT.....: 000 00 000

RESTITUTION REQMT: N AMT: .00 JAIL CRED: 0

CONVICTION STATUS: AC ACTIVE SENT START

CONSECUTIVE IND...: N SPOUSE ABUSE: STATUTE C

DNA OFFENSE IND...: Y EEC ELIG: Y SCDC CLAS

SEX REG: N PRED OFF: N LAST UPDATE: A CRUM

NO PAROLE: NOT APPLIC CREATED BY.: L SNOW

POSSIO

REQ.

0000

ND:

IOLENT

IOLENT

1/17

26/17

PF8-NEXT CONVICTION

PF9-DETAIN

PF4-REL

12:22:36 Friday, July 06, 2018

CMTI200D
OMCOMITA
SCDC #: 189007

SCDC OFFENDER MANAGEMENT SYSTEM
COMMITMENT APPLICATION
INQUIRY

7/06/18
052640
MACDOUGA
COURT: N

GOULD, DARIUS MICHAEL

NONCONFORM SENTENCE

OFFENDER TYPE: ADULT-STRAIGHT SENTENCE

CONVICTION NUM: S00002 INDICT NUM: 16-GS-2101432

DATE SENTENCED...: 06/22/2017 JUDGE LAST...: BROWN

STATUTE: 44-53-0375(B) (1)

CDR CODE.: 3014

OFFENSE: 3558 CRACK DISTRIBUTION

CHARACT: F FACILITATION OF COUNTS: 01

PLEA...: G GUILTY

TYPE SENTENCE... : S ADULT-STRAIGHT

TOTAL SENTENCE...: 007 00 000

INCARC SENTENCE...: 007 00 000

PROBATION SENT...: 000 00 000

HIP SENT.....: 000 00 000

RESTITUTION REQMT: N AMT:

.00 JAIL CRED: 000

CONVICTION STATUS: AC ACTIVE

CONSECUTIVE IND...: N SPOUSE ABUSE:

DNA OFFENSE IND...: Y EEC ELIG: Y

SEX REG: N PRED OFF: N

LAST UPDATE: A CRUM

NO PAROLE: NOT APPLIC

CREATED BY.: L SNOW

PF8-NEXT CONVICTION

PF9-DETAIN

PF4-

COUNTY OF
STATE

Florence

VS.

Darius Michael Gould

AKA:

Race: [redacted] Sex: [redacted] Age: [redacted]

DOB: [redacted] SS#: [redacted]

Address: [redacted]

City, State, Zip: [redacted]

DL#: [redacted] SID#: [redacted]

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was

TO: Drugs / Trafficking in cocaine, 28 g or more, but less than 100 g - 1st offense

INDICTMENT/CASE#: 2016-GS-21-01437

A/W#: 2016A2120400301

Date of Offense: 5/25/2016

S.C. Code § : 44-53-0370(e)(2)(b)1

CDR Code #: 2359

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 44-53-0370(e)(2)(b)1 of the S.C. Code of Laws, bearing CDR Code # 2359

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §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] SC Bar# 9824 Defendant [Signature] Attorney for Defendant [Signature] SC Bar# 72011

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 7 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; 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.

CONCURRENT or CONSECUTIVE to sentence on: All Pmts 5/8-22-17
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 4 days

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135. Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

Set by SCDPPPS _____

Recipient: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$ <u>100.00</u>
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$ <u>150.00</u>
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ <u>2.83</u>
TOTAL		\$ <u>283.25</u>

PTUP _____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp. _____

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/Pun.

Other: _____

Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk [Signature]

Court Reporter: [Signature]

CCA/217 (07/2016)

Presiding Judge [Signature]

Judge Code: 2150

Sentence Date: 6-22-17

CERTIFIED: A TRUE COPY
CLERK OF COURT
JUDICIAL BRANCH
S.C.

COUNTY OF STATE

Florence VS.

Darius Michael Gould

AKA:

Race: Sex: Age:

DOB: SS#

Address:

City, State, Zip:

DL#: SID#

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was

TO: Drugs / MDP, Narcotic drugs in Sch. I(b) & (c), LSD, and Sched. II (Cocaine)- 1st offense

in violation of § 44-53-0370(b)(1) of the S.C. Code of Laws, bearing CDR Code # 0183

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC) §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: J. C. Jentz, John C. Jentz, SC Bar# 9826, Defendant, Attorney for Defendant, SC Bar# 92811

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 7 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; 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.

CONCURRENT or CONSECUTIVE to sentence on: The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 4 days

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135. Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS: RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP Total: \$ plus 20% fee: \$

Payment Terms: Set by SCDPPPS Recipient:

Table with 2 columns: Description and Amount. Rows include: 14-1-206 (Assessments 107.5%), 14-1-211(A)(1) (Conv. Surcharge) \$100, 14-1-211(A)(2) (DUI Surcharge) \$100, 56-5-2995 (DUI Assessment) \$12, 56-1-286 (DUI Breath Test) \$25, Proviso 61.6 (Public Def/Probation) \$500, 14-1-212 (Law Enforce. Funding) \$25, 14-1-213 (Drug Court Surcharge) \$150, 50-21-114(BUI Breath Test Fee) \$50, 56-5-2942(J) (Vehicle Assessment) \$40/ea, % to County (if paid in installments) \$ 2.83, TOTAL \$ 283.25

INDICTMENT/CASE#: 2016-GS-21-01434 A/W#: 2016A2120400231 Date of Offense: 3/9/2016 S.C. Code § : 44-53-0370(b)(1) CDR Code #: 0183

SENTENCE SHEET

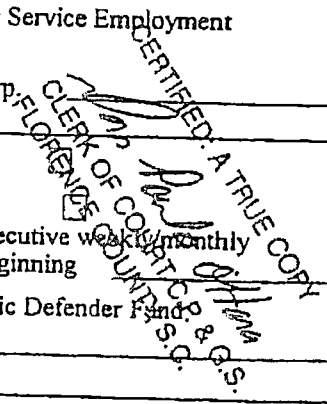
CONVICTED OF or PLEADS 0-13 / 25,000

days/hours Public Service Employment Obtain GED Attend Voc. Rehab. or Job Corp. 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:

Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge Judge Code: 2780 Sentence Date: 6-22-17

Clerk of Court/ Deputy Clerk Court Reporter: CA/217 (07/2016)



COUNTY OF
STATE

Florence

VS.

Darius Michael Gould

AKA:

Race: [redacted] Sex: [redacted] Age: [redacted]

DOB: [redacted]

Address: [redacted]

City, State, Zip: [redacted]

DL#: [redacted] SID#: [redacted]

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was

TO: Weapons / Sale or delivery of pistol to, and possession by, certain persons unlawful, stolen pistol CONVICTED OF or PLEADS

in violation of § 16-23-0030; 16-23-0050(A) of the S.C. Code of Laws, bearing CDR Code # 2364

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC, § 17-25-45 w/minor 1st or Lewd Act)

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. (defendant's initials)

ATTEST: John C. Jerpertinger 9824 SC Bar# [Signature] Defendant [Signature] Attorney for Defendant [Signature] SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; 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.

CONCURRENT or CONSECUTIVE to sentence on: All pleas of 6-22-17
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 4 days

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135. Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____
 Set by SCDPPPS _____

Recipient:	Fine:	
	14-1-206 (Assessments 107.5%)	\$
	14-1-211(A)(1) (Conv. Surcharge)	\$100
	14-1-211(A)(2) (DUI Surcharge)	\$100
	56-5-2995 (DUI Assessment)	\$12
	56-1-286 (DUI Breath Test)	\$25
	Proviso 61.6 (Public Def/Probation)	\$500
	14-1-212 (Law Enforce. Funding)	\$25
	14-1-213 (Drug Court Surcharge)	\$150
	50-21-114 (BUI Breath Test Fee)	\$50
	56-5-2942(J) (Vehicle Assessment)	\$40/ea
	% to County (if paid in installments)	\$
TOTAL		\$ 128.75

PTUP _____ days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp. _____
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: _____

CERTIFIED: A TRUE COPY
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk [Signature]
Court Reporter: [Signature]

Presiding Judge [Signature]
Judge Code: 2180
Sentence Date: 6-22-17

COUNTY OF
STATE

Florence

VS.

Darius Michael Gould

AKA:

Race: Sex: Age:

DOB: SS#: DL#: SID#:

Address:

City, State, Zip:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was

TO: Drugs / manufacture, distribution, etc. of cocaine base, 1st (0-15/25,000)

in violation of § 44-53-0375(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3014
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §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. (defendant's initials)

ATTEST: [Signature] Reporting Officer [Signature] SC Bar# [Signature] Defendant [Signature] Attorney for Defendant [Signature] SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 7 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; 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.

CONCURRENT or CONSECUTIVE to sentence on: All pleas of 6-22-17
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 4 days

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____
 Set by SCDPPPS

PTUP _____ days/hours Public Service Employment

Obtain GED
Attend Voc. Rehab. or Job Corp. _____
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: _____

Recipient:	
Fine:	\$
14-1-206 (Assessments 107.5 %)	\$
14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ 100.00
14-1-211(A)(2) (DUI Surcharge)	\$100 \$
56-5-2995 (DUI Assessment)	\$12 \$
56-1-286 (DUI Breath Test)	\$25 \$
Proviso 61.6 (Public Def/Probation)	\$500 \$
14-1-212 (Law Enforce. Funding)	\$25 \$ 25.00
14-1-213 (Drug Court Surcharge)	\$150 \$ 150.00
50-21-114 (BUI Breath Test Fee)	\$50 \$
56-5-2942(J) (Vehicle Assessment)	\$40/ea \$
3% to County (if paid in installments)	\$ 8.25

TOTAL \$ 283.25

Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk [Signature]
Court Reporter: [Signature]
SCA/217 (07/2016)

Presiding Judge [Signature]
Judge Code: 2780
Sentence Date: 6-22-17

CERTIFIED: A TRUE COPY
CLERK OF COURT, P. & G. S.
FLORENCE COUNTY, S.C.

**JAIL TIME REPORT FOR SCDC TRANSFER
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE RECORDS OFFICE, PO BOX 21787, COLUMBIA, SC 29221-1787
OFFICE PHONE NUMBER: [803] 896-8531 FAX #: [803] 896-1217**

COUNTY SUBMITTING FORM: FLORENCE COUNTY DENTENTION CENTER

PURSUANT TO SC STATUTE 24-13-40. . . In every case computing the time served by a prisoner, full credit against the sentence shall be given for time served prior to trial and sentencing. . .

NAME: DARIUS MICHAEL GOULD		DATE OF BIRTH: [REDACTED]		
SOCIAL SECURITY# [REDACTED]		RACE/SEX [REDACTED]		
SID#		FBI#		
ARREST DATE	CHARGE	WARRANT# OR INDICTMENT#	RELEASE DATE	RELEASE REASON
06-22-17	DRUGS	W# 2016A2120400301	06-26-17	SCDC
		I# 2016-GS-21-01437 ✓		
06-22-17	WEAPONS	W# 2015A2110400091	06-26-17	SCDC
		I# 2016-GS-21-01433 ✓		
06-22-17	DRUGS	W# 2015A2110400092	06-26-17	SCDC
		I# 2016-GS-21-01432 ✓		
06-22-17	DRUGS	W# 2016A2120400231 ✓	06-26-17	SCDC
		I# 2016-GS-21-01434 ✓		
05-25-16	PRIOR JAIL TIME	W# 2016A2120400301	05-27-16	BOND
		I#		
05-25-16	PRIOR JAIL TIME	W# 2015A2110400091	05-27-16	BOND
		I#		
05-25-16	PRIOR JAIL TIME	W# 2015A2110400092	05-27-16	BOND
		I#		
05-25-16	PRIOR JAIL TIME	W# 2016A2120400231	05-27-16	BOND
		I#		
APPROVED BY: SGT. L PATTON			DATE: 06-26-17	

*** REASON FOR RELEASE (I.E' EXPLAIN IF TRANSFERRED TO ANOTHER COUNTY/CITY JAIL, OR IF INMATE BONDED). PLEASE SUBMIT THIS FORM AT THE TIME OF THE INMATE'S TRANSFER AND ADMISSION TO SCDC, HOWEVER, IF UNABLE TO DO SO, PLEASE MAIL OR FAX TO THE ADDRESS OR NUMBER LISTED ABOVE.**

FORM 1100

RECEIVED	
NAME: _____	
SIGNATURE: _____	
DATE: _____	
INSTITUTION/AGENCY: _____	
FLORENCE COUNTY DENTENTION CENTER	

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Darius Gould #189007,

Appellant,

v.

South Carolina Department of
Corrections.

Respondent.

Case No. # 18C0192

CERTIFICATE OF SERVICE

I hereby certify that I have this 17th day of May, 2018 served a copy of the Appellant's Initial Brief, in the above-captioned action, with the Office of General Counsel by depositing in the United States Mail via regular mail, with proper first-class postage affixed thereto.

Department of Corrections, SC
Office of General Counsel
4444 Broad River Rd., Box 21787
Columbia, SC 29221-1787

Darius Gould #189007

Darius Gould #189007
Appellant

Ridgeville, South Carolina

FILED

MAY 17 2018

SC ADMIN. LAW COURT

Dear Appellant:

5/3/2018

Page 17

Below is information regarding your case which has been filed with the ALC. Please refer to the Rules of Procedure (enclosed) for the time frames on filing briefs and other matters.

Case number	Inmate number	Inmate first name	Inmate last name	Grievance No	Respondent	Filing date	Date Assigned	Judge last name
18C0192	189007	DARIUS	GOULD	MACD 003-18	DOC	4/27/2018	5/4/2018	LENSKI

You must file all original documents and correspondence regarding this case directly with the above-named Judge and serve a copy on the Dept. of General Counsel, S.C. Dept. of Corrections, PO Box 21787, Columbia, SC 29221.

FILED
MAY 04 2018
SC ADMIN. LAW COURT

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Darius M. Gould 189007,)
)
Appellant,)
)
vs.)
)
South Carolina Department of Corrections,)
)
Respondent.)

NOTICE OF APPEAL

DOCKET NO -ALJ-04-
GRIEVANCE NO.: MacDCJ - 0003-18

Notice is hereby given that Darius M. Gould 189007 does hereby appeal the final decision of the South Carolina Department of Corrections dated 4-5-18 and received on 4-26-18, a copy of which is attached. A general statement of the grounds for appeal is (See S.C. Code Ann. § 1-23-380(A)(6)):

The South Carolina Department of Corrections (SCDC) fails to consider the unenumerated paragraph of S.C. Code Ann. 44-53-370(e) dealing with parole eligibility. If SCDC consider the unenumerated paragraph it will come to their discovery that the paragraph only excludes certain mandatory 25 year sentences for trafficking thereby allowing all other sentences to be treated as if it were parole eligible.

Darius M. Gould 189007
Appellant's Name
Macdougall Corr. Inst.
1516 Old Gilliard Rd.
Mailing Address
Ridgeville, SC 29472
City, State, Zip Code

Darius Gould
Signed
4-27-18
Dated

CERTIFICATE OF SERVICE

I hereby certify that I, Darius Gould (your name), on the 27 day of April, 2018, in Ridgeville (city), South Carolina, served a copy of the foregoing Notice of Appeal on all parties to this matter by depositing the same in the United States Mail, postage paid, or in the mail room of the undersigned's institution and addressed as follows:

Name of person/Agency served: Office of General Counsel
Department of Corrections
Address: 4444 Broad River Rd.
City, State, Zip Code: Columbia SC 29221-1787

Darius Gould Darius Gould
Print your name Sign your name
(See reverse side for instructions)

FILED
APR 27 2018 4-26

RECEIVED

SOUTH CAROLINA DEPARTMENT OF COLLECTIONS
INMATE GRIEVANCE FORM

STEP 2

MAR 14 2018

APR 04 2018

Office Use Only 0003-18
Grievance No. MACD-2018-0117

INMATE NAME: Darius M. Gould

SCDC NUMBER: 189007

INSTITUTION: McDougal C.I.

HOUSING UNIT: C2-C7A

WORK ASSIGNMENT: Ward/Dorm Worker

DIVISION OF CLASSIFICATION
RECEIVED
MAR 12 2018

Code: General _____
Policy _____
Disc. Hear. _____
Class. _____
Date Received 3/12/18
IGC Initials JG

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): The S.C Dept of Corrections reliance on section 16-1-60 when dealing with my parole eligibility is misplaced. The provision of 16-1-60 only defines what is considered a violent crime and does not speak in reference to parole eligibility when it comes to the sentencing requirement for the offense of Trafficking in accord to section 44-53-370 (e)(2)(b)(1) the matter is addressed under the statutes provision. further more when it comes to my parole eligibility unenumerated paragraph under section 44-53-370 (e) on excluded sentences with mandatory 25 yrs, mandatory minimum 25 yrs, ~~or not less than 25 yrs or more from having~~ parole and other privileges applied.

Darius M. Gould 3-7-2018
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

I have reviewed your concern. In your grievance you stated that SCDC is misplaced in its interpretation of Section 16-1-60. You further stated that SCDC is denying your eligibility for parole as your sentence under Section 44-53-370 (e) (2) (b) (1) does not deny you the same. The Warden responded to your concern on SCDC 10-5, Step 1 Inmate Grievance Form dated 2/27/18. You were convicted for violating SC Code of Laws 44-53-0370 (E) (2) (B) (1), offense Trafficking In Cocaine, SC Classified as No Parole and Violent, 7 years; 44-53-0370 (B) (1), offense Illegal Drugs-Possession, 7 years; and 16-23-0030-0050-(A), offense Possession of Weapon, 5 years. SCDC is in compliance with SC Code of Laws in your inmate classification. If you still do not understand your classification, you are advised to speak to your classification caseworker. You have not shown that SCDC Staff have performed their job duties inappropriately.

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.

Keith D. [Signature] 4/5/18
Signature Date

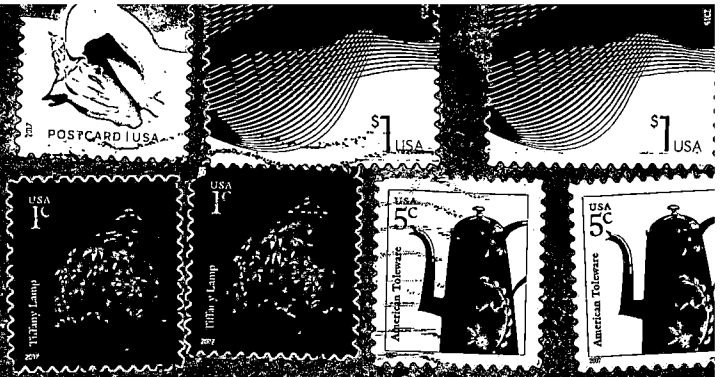
The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

Darius M. Gould 4-26-2018
Grievant Signature Date

[Signature] 4/26/18
IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

POSTAGE WILL BE PAID BY ADDRESSEE
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IF MAILED
IN THE
UNITED STATES



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