

STATE OF SOUTH CAROLINA
IN COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
S. PHILLIP LEVSKI, ADMINISTRATIVE LAW JUDGE

UNPUBLISHED OPINION NO. 2018-417-426
SUBMITTED OCT 1, 2018 - FILED NOV. 14, 2018

ANDRA B JAMISON
PRO-SE

APPELLANT

V

SOUTH CAROLINA DEPARTMENT OF CORRECTION RESPONDENT

RECEIVED

DEC 03 2018

SC Court of Appeals

PETITION FOR REHEARING

ANDRA B JAMISON # 337461
PRO-SE

DATE 28TH NOV 2018

COODMAN C/I B1-33B
4856 BROAD RIVER RD
CORA SC 29210

- NOW COMES THE APPELLANT IN THE ABOVE CAPTIONED ACTION, ACTING AS A PRO-SE LITIGANT, RESPECTFULLY PETITIONING THIS COURT TO REHEAR HIS APPEAL AND RECONSIDER IT'S DECISION IN JAMISON V SCDC OP. NO 2018-UP-426 FILED COURT OF APPEALS NOV. 14, 2018. THE APPELLANT WOULD ASSERT THAT THE FOLLOWING CRITICAL MATTERS OF FACT AND LAW WERE OVERLOOKED OR MISAPPREHENDED BY THE COURT IN IT'S DECISION:
1. APPELLANT APPEALED TO THIS COURT CONTENDING THAT THE ALC ERRED IN FINDING HIS SENTENCE WAS PROPERLY CLASSIFIED AS VIOLENT AS THE S.C. STATUTORY LAWS MANDATED AT THE TIME OF APPELLANT'S INCIDENT DATE OF THE OFFENSE.
 2. IN THAT THE APPELLANT IS REQUIRED TO SERVE 85% OF SENTENCE WITHOUT THE APPLICATION OF EARN WORK CREDITS, EDUCATION CREDITS, GOOD TIME CREDITS.

ON APPEAL THE APPELLANT ANDRA B JAMISON #337461 PRO-SE LITIGANT, HAS CONSISTANTLY REQUESTED THAT THE SCDC CLASSIFICATION DEPT. PROPERLY CLASSIFY THE APPELLANT'S CONVICTION § 56-5-2945 (A)(2) PROPERLY AS NON-VIOLENT OFFENDER, CLEARLY SCDC HAS CONCEDED TO THE APPELLANT BEING A NON-VIOLENT OFFENDER AND YET FAILS TO CORRECT THE ERROR OF MISCLASSIFICATION. SEE ATTACHED WARDEN'S DECISION AND REASON FROM INMATE'S GRIEVANCE

FORM (STEP 1) SURELY, 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 S.C. CODE ANN. SECTION § 16-1-60, § 16-1-70 2008, 2009 FOR SECTION § 56-5-2945 (A) 2, AND STATE V BENNETT, 375 SC 165, 170, 650 SE 2d 490, 493

AS A NON-VIOLENT OFFENDER THE APPELLANT SHOULD RECEIVE EARN WORK CREDITS.

POLICY (OP-21.07:2.2) SAYS EARN WORK CREDITS USED TO COMPENSATE INMATES FOR LABOR PERFORMED IN ACADEMIC OR VOCATIONAL PROGRAM ACCORDING TO INMATE CUSTODY DESIGNATION. SEE SEC. § 24-13-230(A) AND § 24-13-230(F)(2)

THIS COURT FOUND THAT SUBSTANTIAL EVIDENCE SUPPORTS THE ALC'S FINDING THAT THE APPELLANT WAS REQUIRED TO SERVE 85% OF HIS SENTENCE (CLASSIFYING SEC. § 56-5-2945 (A) 2) OF THE S.C. CODE 2018 AS A CLASS B FELONY); S.C. CODE ANN. § 24-13-100 (2007).

"FOR PURPOSES OF DEFINITION UNDER SOUTH CAROLINA LAW, A 'NO PAROLE OFFENSE MEANS A CLASS A, B, OR C FELONY OR AN OFFENSE EXEMPT FROM CLASSIFICATION AS ENUMERATED IN SECTION § 16-1-10 (D) [OF THE S.C. CODE (SUPP-2017)], WHICH IS PUNISHABLE BY MAXIMUM TERM OF IMPRISONMENT FOR TWENTY YRS. OR MORE."

THE APPELLANT ASSERTS THE COURT IN BOLIN V SDK AT 415 SL 276, 282-86, 781 SE 2d 914, 917-19 (CT. APP. 2016) HELD "THE LEGISLATURE'S USE OF THE PHRASE NOTWITHSTANDING ANY OTHER PROVISION OF LAW IN THE AMENDMENTS TO SECTION §44-53-375-370 EXPRESSED ITS INTENT TO REPEAL SECTION §24-13-100 TO THE EXTENT IT CONFLICTED WITH AMENDED SECTIONS §44-53-375 AND -370 Id AT 282, 781 SE 2d AT 917 STATUTE OF A SPECIFIC NATURE ARE NOT TO BE CONSIDERED AS REPEALED IN WHOLE OR IN PART BY A LATER GENERAL STATUTE UNLESS THERE IS A DIRECT REFERENCE TO THE FORMER STATUTE OR INTENT OF LEGISLATURE TO DO SO IS EXPLICITLY IMPLIED THERE IN (EMPHASES ADDED)

BOLIN WAS CONVICTED OF A CRIME (§44-53-375(B)) THAT CARRIED 30YRS OF IMPRISONMENT A CLASS A FELONY PRIOR TO AMENDMENT OF §44-53-375(B) WHICH WAS A NO PAROLE OFFENSE.

AFTER THE JUNE 2ND, 2010 ENACTMENT OF THE OMNIBUS CRIME REDUCTION AND SENTENCING REFORM ACT LEGISLATURE AMENDED §44-53-375(B) TO A PAROLABLE OFFENSE COMING IN INSTANT CONFLICT WITH §24-13-100 THE DEFINITION OF A NO PAROLE OFFENSE. (§44-53-375(B) REMAINS CLASS A FELONY REQUIRING 30YRS IN PRISON) THUS MAKING IT UNCONSTITUTIONAL. THIS DISMANTLES 24-13-150(A) (2007) WHEREFORE §56-5-2945(A)(2) CAN NOT BE CONSIDERED A NO PAROLABLE OFFENSE

REQUIRED TO SERVE 85% OF THE 18YRS SENTENCE.
TO DO SO WOULD CONSTITUTE A VIOLATION OF THE
APPELLANT'S 14TH AMENDMENT TO THE U.S. CONSTITUTION
DUE PROCESS AND EQUAL PROTECTION RIGHTS.

CONCLUSION

FOR THE FORGOING REASON, HAVING SET FORTH
HIS GROUNDS, THE APPELLANT RESPECTFULLY REQUEST
THIS COURT TO REHEAR IT'S OPINION ISSUED IN
THIS MATTER SEE JAMISON V SCDC UNPUBLISHED
OPINION NO. 2018-4P-426 FILED NOV, 14 2018,
AND ORDER THE RESPONDENT (SCDC) TO RE-CLASSIFY
THE APPELLANT'S OFFENSE TO THE CORRECT
LAWFUL STATUS PURSUANT TO S.C. CODE ANN §16-1-60,
§16-1-70, AND §56-5-2945 (A)(2) DURING YEARS OF
2008-2009.

RESPECTFULLY SUBMITTED,

 PRO-SE
ANDRA B JAMISON # 337461

GOODMAN L/E B1-33B

4556 BROAD RIVER RD

COLA SC. 29210

THIS 28TH DAY OF
NOV 2018

WARDEN'S DECISION AND REASON:

Inmate Andra Jamison, 337461

GCI-0082-18

I have reviewed your concern. In your grievance you state that you were informed you have accumulated 1157 Earned Work Credits (EWC). Your sentence is 18 years non-violent sentence wherein you are required to serve 15 years 3 months 18 days without any EWC applied to your sentence. You are requesting the EWC be subtracted from the time you are required to serve and for your max-out date to reflect the same. Agency records indicate you are serving an 18 year sentence for Felony DUI - Death Results without parole as a violent-offender. You are required to serve 15 years 3 months 18 days (without EWC/EEC/GT accrual). Upon completion of your mandatory sentence 15 years 3 months 18 days your projected max-out date is January 22, 2025. You have been credited with all EWCs that you are entitled. Also, you should be aware that EWCs will vary based upon your job assignment.

Therefore, your grievance is resolved.

If you disagree with this Warden's Decision (Decision), you may file a Step 2 Grievance Appeal by completing SCDC Inmate Grievance Form 10-5A, with is provided to you while serving you this Decision, and placing it in the Grievance Box at your local correctional institution within five (5) days of your receipt of this Decision.

J. Gator 10-31-18

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.

Andra Jamison 2/10/2018

Grievant Signature Date

K. Heel 11/2/18

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.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

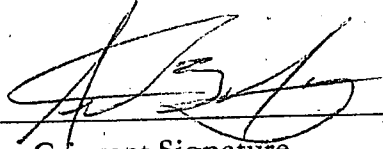
STEP 1

INMATE NAME: <u>ANDRA B. JAMISON</u> SCDC NUMBER: <u>337461</u> INSTITUTION: <u>GOODMAN C/I</u> HOUSING UNIT: <u>B1-33B</u> WORK ASSIGNMENT: <u>FACILITY MAINTANCE / ELECTRICIAN</u>	<div style="border: 1px solid black; border-radius: 50%; padding: 5px; width: fit-content; margin: 0 auto;"> OCT 10-16-18 BJ </div> <p align="center">OFFICE USE ONLY</p> Grievance No. <u>ECT 0082-17</u> Code: General _____ Policy _____ Disc. Hear. _____ Class. <input checked="" type="checkbox"/> <u>EWCC</u> PREA _____ Date Received <u>10/19/18</u> IGC Initials <u>CH</u>
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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.)

AFTER REVIEWING THE CLASSIFICATION DECISION DATED 9TH OF OCT 2018 BY REFERENCE # 18-00930294 FROM KIOSK; IT STATED THAT I HAVE ACCUMULATED THE AMOUNT OF 1157 DAYS EARN WORK CREDITS (EWC'S). MY SENTENCE IS A 18 YEAR NON-VIOLENT SENTENCE THAT I AM REQUIRED TO SERVE 15 YRS. 3 MOS. AND 18 DAYS WITHOUT ANY EWC'S APPLIED TO MY SENTENCE. IN WHICH I'M ASKING FOR THOSE EWC'S TO BE SUBTRACTED FROM THE TIME I HAVE TO SERVE, AND FOR MY MAX. OUT DATE TO REFLECT AS SUCH.

THANK YOU

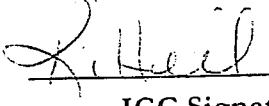

 Grievant Signature Date 12 OCT 2018

cc Filed

ACTION REQUESTED: I'm REQUESTING TO BE AWARDED IN THE AMOUNT OF 1157 DAYS EARN WORK CREDITS TO BE SUBTRACTED FROM MY MAX OUT CALCULATION OF 15 YRS. 3 MOS. 18 DAYS. STRUCTURE WITH IN CLASSIFICATION SYSTEM.

ACTION TAKEN BY IGC: PROCESSED UNPROCESSED OTHER

See Warden's decision.


 IGC Signature Date 10/29/18

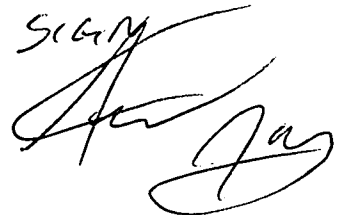
(CONTINUE ON REVERSE SIDE)

I ANDRA B. JAMISON # 337461 DO HEREBY FILE THIS PETITION FOR REHEARING BY DEPOSITING SUCH IN THE HANDS OF GOODMAN'S MAIL ROOM CLERK DONE IN ACCORDANCE WITH AND PURSUANT TO THE "MAIL BOX" RULE AND HOUSTON V LACK THE ENVELOPE IS PROPERLY ADDRESSED PREPAID AND STAMPED 1ST CLASS MAIL ALL ON THIS DAY 28TH NOV. 2019 AND MAILED TO ADDRESSES BELOW.

ADDRESSEES:

JENNY A. KITCHINGS CLERK
SC COURT OF APPEALS
PO Box 11629
COLUMBIA SC. 29211

MS. CHRISTINA CATOE ^{DISELOW} ESQUIRE
4444 BROAD RIVER RD
COLUMBIA SC 29210

SIGM


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SC Court of Appeals



SWORN BEFORE ME
THIS DAY 29th OF NOV 2018
COUNTY OF Richland
STATE OF SC.

8/30/2026
COMMISSION EXPIRES

28 NOV 2018

DEAR CLERK

PLEASE SEND ME
A CLOCKED STAMPED COPY
OF THE ENCLOSED PETITION
FOR REHEARING. I HAVE INCLUDED
A PREPAID SELF-ADDRESSED
ENVELOPE FOR YOUR CONVIENCE.

RECEIVED

DEC 03 2018

SC Court of Appeals

Thank
YOU



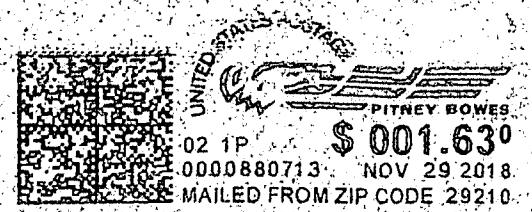
ANDREA JAMISON
757461

A B Jamison # 337461

MAN CORRECTIONAL INSTITUTION B1-33B

BROAD RUCK RD

SIA SC 29210



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MAIL ROOM

NOV 29 2018

SCDC

JERRY ABBOT KITCHING SR. CLERK

S.C. COURT OF APPEALS

P.O. Box 11629

COLUMBIA S.C. 29211

29211

LEGAL MAIL