

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From The Administrative Law Court

The Honorable John D. McLeod, Administrative Law Judge

Case No. 2012-212645

S.C. Department Of Corrections.....Respondent,

v.

Julian Ford, Jr.,.....Appellant.

FINAL BRIEF OF APPELLANT

Julian Ford, Jr., #155800

Hickory Unit D - 140

Kershaw Corr. Inst.

4848 Goldmine Hwy.

Kershaw, S.C. 29067

Appellant Pro, Se

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SC Court of Appeals

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History Of Case

The Appellant filed a Step 1 Grievance on September 13,2011 and was denied on November 2,2011, On November 7,2011 Appellant filed a Step 2 Grievance and was denied on March 21,2012, On April 10,2012 Appellant filed an Appeal to the Administrative Law Court, the Appeal was denied on July 20,2012, On July 25,2012 Appellant filed a Rule 59(E) Motion to Alter or Amend the Court's Order, the Rle 59(E) Motion was denied on July 27,2012, and was received by Appellant on August 1,2012, and the Appellant now Appeals to this Court for Relief.

Statement Of Issues On Appeal

1. Did the SCDC fail to give Appellant Work Credits and Good Time Credits from July 24,1995 to April 11,1996.
2. Did the Appellant Serve Ten (10) Months or more Over the Time he was Sentenced to Serve on a Consecutive Ten (10) Year Non-Violent Term of his Sentence for Strong Armed Robbery from December 17,1992 to September 8,1998.
3. Did the SCDC and the Administrative Law Court Erroneously Apply S.C. Code Ann.§24-13-230(F)(2) to deny Appellant Work Credits and Good Time Credits, Etc.,from July 24,1995 to April 11,1996.

Arguments

1. The SCDC did fail to give the Appellant work credits and good time credits from July 24,1995 to April 11,1996, whereby the Appellant had been assigned to the Adult Basic Education Class Full Time, though the Appellant has had a G.E.D. since 1992, which is on file in the SCDC Records, the Appellant was assigned to school because there were no other jobs available at that time, the Appellant had previously been assigned to two other jobs that did not work out, which were horticulture and auto body repair, the Appellant was then assigned to school full time.

The Appellant has always been of the understanding that he was getting work credits for attending school, all inmates who attend school full time got credits, either Earned Educational Credits (EEC'S), or Work Credits (EWC'S), and the Appellant was always told by classification case workers that he would get work credits for attending school, it is a known fact that inmates do get work credits for attending school, somehow the Records of the Appellant Attending School had been lost due to a "Glitch," in the Computer System during the 1990's, see Record of ALJ Court, Letter from Attorney Tommy A. Thomas dated March 12,2012, R.pg.6-7 Appellant's Brief, and R.pg.10 Appellant's Reply Brief.

The Respondent claims that the Appellant cannot receive any credits for attending school because he is a Violent Offender, and that S.C. Code §24-13-230(F)(2) prohibits violent offenders from receiving credits for attending school, the Statue does not apply to the Appellant because the Appellant was not serving a violent offense at the time in question, whereby the Appellant is serving 10 Years Consecutive to 20 and 30 Years Concurrent, and that he did not began to serve the Consecutive 30 Years until September 9,1998, therefore the SCDC Erred by denying the Appellant Work Credits and Good Time Credits from July 24,1995 to April 11,1996.

2. The Appellant has been forced to serve 10 Months or more over the time he was sentenced to serve on the Consecutive 10 Year Sentence for Strong Armed Robbery because he has not received Work Credits and Good Time Credits for attending school full time from July 24,1995 to April 11,1996. The Appellant was sentenced by Judge Costa M. Pleconis on March 31,1993 after a Jury Trial, to terms of 10 Years for Strong Armed Robbery, to run Consecutively to 20 Years for Assault and Battery with Intent to Kill, Concurrent to 30 Years for 1st Degree Criminal Sexual Conduct, therefore Appellant started serving the 10 years first, and the SCDC said that the Appellant had to serve the 10 years first because that is the order he was sentenced, and by SCDC Records the Appellant Completed the 10 years on September 8, 1998, therefore, based upon Statutory Sentencing Laws, Appellant was not serving a Violent Sentence in 1995 to 1996, and as a result the Appellant has been forced to serve 10 Months or more over the time it would have taken him to serve that portion of the sentences based on the rate of Work Credits and Good Time the Appellant should have earned.

3. The SCDC and the Administrative Law Court have erred by wrongfully applying S.C. Code §24-13-230(F)(2) to the Appellant to deny him credits for attending school from July 24,1995 to April 11,1996, because the Appellant was not serving a violent sentence at that time, SCDC Records will clearly show that the Appellant's Sentence Start Date is December 17, 1992 on the Consecutive 10 Year Sentence for strong armed robbery, which under statute is not a violent offense.

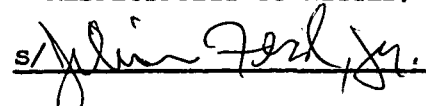
The Appellant contends that the SCDC has always given inmates work credits or educational credits for attending school, but because the "Gist" of the Respondent's argument is that the Appellant cannot get credits for attending school is because he is a violent offender, is not applicable to the Appellant, the Appellant was not serving a violent offense at the time he did not receive the credits in question, and contends that S.C. Code §24-13-230(F)(2) is not applicable in this case.

The Appellant continually presented these facts to the SCDC and the Administrative Law Court in his Appellant's Brief page 3, and his Reply Brief pages 2-3, but the SCDC nor the Administrative Law Court have responded to the fact that the Appellant was not a violent offender at that time, the SCDC State Classification Department never made the "Violent Status Claim," in their responses to the Step 1 and Step 2 Grievances, or in any other documents except what has now been filed by SCDC Attorneys, which is not correct. (see R.pg.7 Appellant's Brief, R.pg.11 Appellant's Reply Brief, and R.pg.13-14 Rule 59(E) Motion)

Wherefore, based upon all of the facts stated in this Final Brief, the Appellant contends that he has been wrongfully denied credits for attending school from July 24,1995 to April 11,1996 because he could not be Classified as a Violent Offender when he was not Serving a Sentence for a Violent Crime as is defined by Statue, whereby Strong Armed Robbery is a Statutory Non-Violent Offense under the Laws of this State, and the Appellant would request of this Court to Review the SCDC Records and the Sentence and Commitment Order of Appellant so that the Court will see what sentence the Appellant was serving in 1995 to 1996, and Review all of the Pleadings filed by the Appellant in the Administrative Law Court, and the Appellant Prays that this Court will Grant the Appellant the Relief that he seeks in this Appeal.

Date:

RESPECTFULLY SUBMITTED,



Julian Ford, Jr., #155800

Hickory Unit D - 140

Kershaw C.I.

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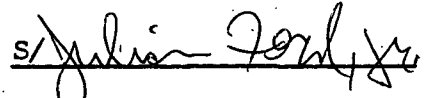
Julian Ford,Jr.,.....Appellant.

CERTIFICATE OF APPELLANT

The undersigned certifies that this Final Brief Complies Rule 210(b), SCACR.

Date:

RESPECTFULLY SUBMITTED,



Julian Ford,Jr.,#155800

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CC:Christopher D. Florian, Esquire

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PROOF OF SERVICE

The above named Appellant Swears under the Laws of Perjury that he Mailed the Original Final Brief Of Appellant to the S.C. Court Of Appeals, Ms. Jenny A. Kitchings, Chief Clerk, P.O. Box 11629, Columbia, S.C. 29211, and One Copy to the S.C. Department Of Corrections, Christopher D. Florian, Deputy General Counsel, P.O. Box 21787, Columbia, S.C. 29221-1787, by depositing the same in a stamp addressed envelope in the U.S. Mail Box at the Kershaw Correctional Institution.

Date:

RESPECTFULLY SUBMITTED,

Julian Ford Jr.

Julian Ford,Jr.,#155800

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Date: September 7,2012

RESPECTFULLY SUBMITTED,

Julian Ford, Jr.

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