

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT

Administrative Law Judge, John D. McLeod

CASE NO. 13-ALJ-04-0665-AP

S.C. Dept. of Corrections Respondent,

v.

Stefen E. Harris #208563 Appellant.

SUPPLEMENTAL RECORD ON APPEAL

July 8, 2014

Appellant
Pro se

Stefen E. Harris #208563
Ker. C.I. / PB-33
4848 Goldmine Hwy,
Kershaw, S. C. 29067

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SC Court of Appeals

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SENTENCE

STATE OF SOUTH CAROLINA
RICHLAND COUNTY

CASE NO 96 GS-40 9012

WARRANT NO 4529665

CHARGE Trafficking in Crack
Cocaine 10-28 grams 3rd Offense
OFFENSE CODE _____

SC STATUTE OFFENSE PENALTY CODE
44-53-375(C)(1)(c)

The defendant Stefen E. Harris is committed to the State Department of Corrections/County for a term of 30 ~~months~~ years and/or to pay a fine of \$ _____; provided upon the service of _____ months/years and/or a payment of \$ _____, plus pay costs and assessments as applicable, the balance is suspended with probation for _____ months/years.

RESTITUTION: YES/NO

FOR PHYSICAL INJURY \$ _____

PAYABLE TO CLERK FOR:

PROPERTY DAMAGE \$ _____

(VICTIM) _____

TOTAL \$ _____

Other Conditions Credit for time served since 11-1-95.

DATE 4-26-96

[Signature]
PRESIDING JUDGE

D.O.B. 11-15-73

S.S.N. 251-21-45-85

Def. Atty Jimmy Rojas

[Signature]
CLERK OF CLERK

Sol. Atty Bret Salley

B/W/O [initials]

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

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SEP - 4 2013

Stefen Harris # 208563

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Appellant,

JUL 11 2014

GENERAL COUNSEL

vs.

SC Court of Appeals

NOTICE OF APPEAL

South Carolina Department of Corrections,

Respondent.

DOCKET NO. ALJ-04-
GRIEVANCE NO.: HRCI-0078-13

Notice is hereby given that Stefen Harris # 208563 does hereby appeal the final decision of the South Carolina Department of Corrections dated July 31, 2013 and received on August 13, 2013, 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)):

It should be simply recognized that the Appellant was not sentenced to the punishment, that's being imposed. Since the Department of Corrections Services has no power to alter a sentence imposed by the Court.

Stefen Harris # 208563
Appellant's Name
4848 Goldmine Hwy
Mailing Address
Kershaw, S.C. 29067
City, State, Zip Code

Stefen Harris # 208563
Signed
August 28, 2013
Dated

CERTIFICATE OF SERVICE

I hereby certify that I, Stefen Harris (your name), on the 28 day of August, 2013, in Kershaw (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
Address: 4444 Broad River Rd
City, State, Zip Code: Columbia, S.C. 29221

Stefen Harris # 208563
Print your name:

Stefen Harris # 208563
Sign your name:

(See reverse side for instructions)

An Administrative Law Judge may not substitute his judgment for that of an agency "as to the weight of the evidence on questions of fact." S.C. Code Ann. § 1-23-380(5) (2013). Furthermore, an Administrative Law Judge may not reverse or modify an agency's decision unless substantial rights of the Appellant have been prejudiced because the decision is clearly erroneous in view of the substantial evidence on the whole Record, arbitrary or affected by an error of law. See Section 1-23-380(5); See also Marietta Garage, Inc. v. South Carolina Dep't of Public Safety, 337 S.C. 133, 522 S.E.2d 605 (Ct. App. 1999); South Carolina Dep't of Labor, Licensing and Regulation v. Girgis, 332 S.C. 162, 503 S.E.2d 490 (Ct. App. 1998). "'Substantial evidence' is not a mere scintilla of evidence nor the evidence viewed blindly from one side of the case, but is evidence which, considering the Record as a whole, would allow reasonable minds to reach the conclusion that the administrative agency reached or must have reached in order to justify its action." Lark v. Bi-Lo, 276 S.C. 130, 135, 276 S.E.2d 304, 306 (1981). Accordingly, 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. South Carolina Coastal Council, 319 S.C. 348, 461 S.E.2d 388 (1995).

DISCUSSION

Appellant committed the offense of Trafficking in Crack Cocaine, 10-28 grams, 3rd offense, on November 1, 1995.²

Appellant believes that the version of the applicable statute under which he has been sentenced allows him to serve only 51% of his 30 year sentence rather than a mandatory 25 years, day for day. Appellant is mistaken.

The portion of the statute which applies is Section 44-53-375(C)(1)(c), as follows:

for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

S.C. Code Ann. § 44-53-375(C)(1)(c) (Supp. 2013).

The Court finds that this version of the statute has been continuously in effect since 1995 and was the version under which Appellant was sentenced.

Appellant fails to produce any record to the contrary.

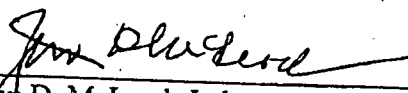
2. See Step 2 Grievance and sentencing sheet in record.

ORDER

IT IS HEREBY ORDERED that the Department's calculation of Appellant's sentence in this matter is AFFIRMED.

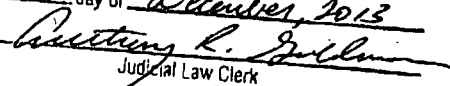
AND IT IS SO ORDERED.

December 10, 2013
Columbia, S.C.



John D. McLeod, Judge
S.C. Administrative Law Court

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

This 10 day of December, 2013
By: 
Judicial Law Clerk

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

COURT OF COMMON PLEAS

Administrative Law Judge, John D. McLeod

CASE NO. 13-ALS-04-0665-AP

S. C. Dept. of Corrections Respondent

v.

Steven E. Harris # 208563 Appellant.

PROOF OF SERVICE

I certify that I have served the Supplemental Record on Appeal on the Clerk of Court in the South Carolina Court of Appeals by depositing a copy in the United States Mail, Postage prepaid on July 8, 2014 addressed to the Clerk of Court as follows:

THE HONORABLE CLERK,
Jenny Abbott Kitchings
South Carolina Court of Appeals
1015 Sumter Street
Columbia, S.C. 29211

Stef Harris
Steven E. Harris # 208563
Ker. C. I. 1PB-33
4848 Goldmine Hwy
Kershaw, S.C. 29067