

STATE OF SOUTH CAROLINA  
In The Court of Appeals

**RECEIVED**

APPEAL FROM THE ADMINISTRATIVE LAW COURT **Jul 01 2019**

Administrative Law Judge Shirley C. Robinson **SC Court of Appeals**

ALC Case No. 17-ALJ-04-0591-IJ  
Appellate Case No. 2018-000035

ISIAH JAMES, JR.,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

**MOTION FOR REMAND TO THE ADMINISTRATIVE LAW COURT**

Respondent, through its undersigned counsel, would respectfully show unto the Court as follows:

**PROCEDURAL HISTORY**

This appeal has a long and convoluted history. Appellant initially filed a Notice of Appeal in the South Carolina Court of Appeals dated January 7, 2018.<sup>1</sup> He filed a Motion to Proceed in Forma Pauperis also dated January 7, 2018. The Motion to Proceed in Forma Pauperis was denied on February 2, 2018. After Appellant failed to pay the filing fee, the appeal was dismissed by Order dated March 27, 2018. Appellant then filed a Motion to Reinstate, which was denied by

<sup>1</sup> Appellant was released on parole on or about December 21, 2017. His parole was transferred to Georgia, where it appears he is currently residing. However, issues regarding his sentence calculation are arguably not moot because they could affect the "end date" of his parole and because these concerns would be reactivated if he were to violate the terms of his parole and return to the Department of Corrections.

Order dated May 9, 2018. Thereafter, Appellant submitted a Petition for Writ of Certiorari, along with a Motion to Proceed in Forma Pauperis, in the South Carolina Supreme Court dated June 8, 2018. Nearly a year later, on May 13, 2019, the Supreme Court granted the Motion to Proceed in Forma Pauperis and remanded the appeal to this Court “for a determination on the merits of the appeal.” On May 31, 2019, this Court issued a letter confirming the due date of the Respondent’s Initial Brief and Designation of Matter. This Motion for Remand follows.

### **ARGUMENT**

As Appellant points out in his Initial Brief of Appellant filed in January of 2018, the Administrative Law Court issued two Orders of Dismissal in this case. The first was dated December 29, 2017, and dismissed the appeal on the ground that Appellant failed to exhaust his administrative remedies by failing to file a Step 1 or Step 2 grievance. (See Exhibit 1.) The second was dated January 12, 2018, and stated that the court had been informed by the Department that the Appellant had, in fact, filed Step 1 and Step 2 grievances prior to appealing to the ALC. (See Exhibit 2.) However, the order went on to conclude that the appeal was nevertheless properly dismissed because Appellant was “appealing a matter that has already been decided.” The basis for this conclusion was that Appellant’s notice of appeal indicated that his grounds for appeal were set forth “in 6-1-17 notice of appeal,” and that the same grievance number from that prior appeal was listed on the current appeal. The order went on to state that “[t]he earlier appeal was decided by this Court and an Order was entered on June 15, 2017.”

The order that was entered on June 15, 2017 is attached. (See Exhibit 3.) It was entitled “Order of Remand,” and it remanded the matter back to the Department for a possible recalculation of Appellant’s maxout date. It therefore dismissed the appeal as “premature” since the Department had not yet issued a “final decision on the matter.”

As indicated in the ALC's December 29, 2017 "Order of Dismissal," the Department issued its final agency decision on October 23, 2017, when it notified Appellant of "an update to his sentence calculation which resulted in an adjustment to his projected release date." (See Exhibit 4.) Thereafter (according to the ALC's January 12, 2018 Order) Appellant filed a Step 1 grievance, a Step 2 grievance, and ultimately a Notice of Appeal to the ALC. (See Exhibit 2.) It appears that this "second" appeal was proper since the matter had been remanded to the Department for further review. By dismissing the matter on the basis that Appellant was appealing a matter that had already been decided (See Exhibit 2, Order dated January 12, 2018), the ALC did not allow for a review of Appellant's issue(s) on the merits.

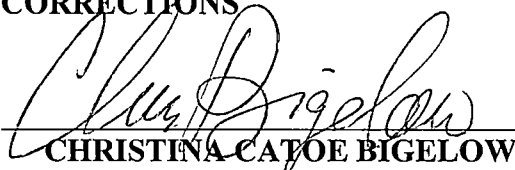
### CONCLUSION

Based upon the foregoing, it appears that the proper resolution of this matter would be a remand to the Administrative Law Court for a further review of Appellant's case. Accordingly, Respondent respectfully requests that this Court issue an Order remanding the case to the Administrative Law Court, and for such other relief as may be deemed just and proper. Respondent also requests that this Court hold all filing deadlines in abeyance pending resolution of this motion.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT  
OF CORRECTIONS**

BY:

  
**CHRISTINA CATOE BIGELOW**

Deputy General Counsel  
Office of General Counsel  
S. C. Department of Corrections  
Post Office Box 21787  
Columbia, South Carolina 29221  
(803) 896-8508

July 1, 2019

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Isiah James, Jr., 096883, )  
 )  
 Appellant, )  
 vs. )  
 )  
 South Carolina Department of Corrections, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

Docket No.: 17-ALJ-04-0591-IJ  
Grievance No.: GCI 20-17

ORDER OF DISMISSAL

RECEIVED  
JAN 11 2018  
SC Court of Appeals

This matter is before the South Carolina Administrative Law Court (ALC) pursuant to the Notice of Appeal filed November 21, 2017 by Isiah James, Jr. (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (Department). On October 23, 2017, the Department notified Appellant of an update to his sentence calculation which resulted in an adjustment to his projected release date. Appellant did not appeal the matter by filing a step 1 or step 2 grievance, but instead, he filed an appeal with the ALC.

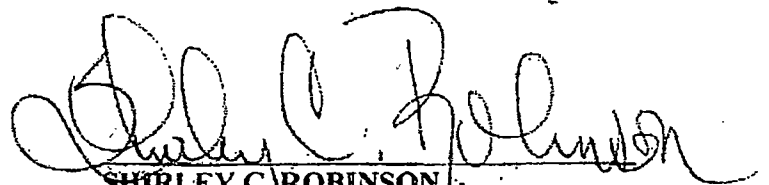
Section 1-23-380 of the South Carolina Code (Supp. 2017) provides “[a] party who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision in a contested case is entitled to judicial review.” See Al-Shabazz v. State, 338 S.C. 354, 376, 527 S.E.2d 742, 754 (2000) (“An inmate may, however, seek review of the Department’s final decision by an ALJ in a non-collateral or administrative matter.”); Bennett v. S.C. Dep’t of Corr., 305 S.C. 310, 313, 408 S.E.2d 230, 231-32 (1991) (explaining that an administrative agency has the exclusive right to decide issues before it, subject only to appeal for judicial review of its decision following the exhaustion of administrative remedies).

Because the Appellant failed to exhaust his administrative remedies prior to filing his appeal, the ALC lacks jurisdiction to review this matter, and the appeal must be dismissed.

**THEREFORE, IT IS HEREBY ORDERED** that this appeal is **DISMISSED**.

**AND IT IS SO ORDERED.**

December 29, 2017  
Columbia, South Carolina

  
SHIRLEY C. ROBINSON  
Administrative Law Judge

FILED

DEC 29 2017

RECEIVED

JAN 8 7 2018

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

GENERAL COUNSEL

Isiah James, Jr., 096883, )  
 )  
 Appellant, )  
 vs. )  
 )  
 South Carolina Department of Corrections, )  
 )  
 Respondent. )

Docket No.: 17-ALI-04-0591-II  
Grievance No.: GCI 20-17


ORDER

This matter was before the South Carolina Administrative Law Court (ALC) pursuant to the Notice of Appeal filed November 21, 2017 by Isiah James, Jr. (Appellant), an inmate previously incarcerated with the South Carolina Department of Corrections (Department). On December 29, 2017, the Court issued an order dismissing this matter for Appellant's failure to exhaust his administrative remedies. Following entry of the dismissal order, the Department informed the Court that Appellant had gone through the Department's internal grievance process prior to filing his appeal with this court. Although, the dismissal of Appellant's appeal was based on an incorrect assumption that because no step-2 grievance decision was included with the appeal, Appellant failed to exhaust his administrative remedies, this Court's order will not be rescinded.

In the notice of appeal, Appellant wrote the following as his general statement of the grounds for appeal: "He set forth claims, grounds, issues in 6-1-17 notice of appeal." Also, the grievance number shown on Appellant's appeal notice is the same grievance number associated with an earlier appeal filed by Appellant. The earlier appeal was decided by this Court and an Order was entered on June 15, 2017.

Because it is apparent that Appellant is appealing a matter that has already been decided, I find that the appeal was properly dismissed.

AND IT IS SO ORDERED.

  
SHIRLEY C. ROBINSON  
Administrative Law Judge

January 12, 2018  
Columbia, South Carolina

FILED

JAN 12 2018

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Isiah James, Jr., 096883,

Appellant.

Docket No. 17-ALJ-04-0300-AP

Grievance No.: GCI 20-17

vs.

South Carolina Department of Corrections,

Respondent.

**ORDER OF REMAND**


This matter is before the South Carolina Administrative Law Court ("the Court" or "the ALC") pursuant to the appeal filed by Isiah James, Jr. ("Appellant"), an inmate incarcerated with the South Carolina Department of Corrections ("the Department" or "SCDC"). Appellant filed a step 2 grievance with the Department on April 8, 2017 contending that his max-out date has been calculated incorrectly. On May 23, 2017, the Department issued a final agency response denying Appellant's grievance on the basis that the Department is in the process of reviewing affected inmates' sentencing sheets and NCIC reports. On June 6, 2017, Appellant filed an appeal with this Court to the Department's decision asserting that his sentence was calculated incorrectly.

Because the Department denied Appellant's Step 2 grievance, it was procedurally proper for Appellant to appeal the matter before this Court. However, the Department has not truly made a final decision on the matter as the Department is in the process of reviewing inmates' sentencing sheets and NCIC reports. Therefore, it would be premature for the Court to decide on this matter prior to the Department completing the process of recalculating the Appellant's sentence. See Bennett v. S.C. Dep't of Corr., 305 S.C. 310, 313, 408 S.E.2d 230, 231-32 (1991) (explaining that an administrative agency has the exclusive right to decide issues before it, subject only to appeal for judicial review of its decision following the exhaustion of administrative remedies).

Based on the foregoing,

**IT IS HEREBY ORDERED** that this matter is **REMANDED**.

**AND IT IS SO ORDERED.**

  
SHIRLEY C. ROBINSON  
Administrative Law Judge

**FILED**

June 15, 2017  
Columbia, South Carolina

JUN 15 2017

SC ADMIN. LAW COURT

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
OFFICE OF GENERAL COUNSEL—INMATE GRIEVANCE BRANCH  
INMATE CORRESPONDENCE

INMATE: Isiah James, Jr. | 096883  
INSTITUTION: Goodman Correctional Institution | B-2-0039-B  
FROM: Atty. Sherman L. Anderson, Chief  
Inmate Grievance Branch | Office of General Counsel  
SUBJECT: Update Sentence Calculation – Court Order of Remand  
DATE: October 23, 2017 \_\_\_\_\_

This is an update on your sentence calculation that was the subject matter of Judge Robinson's Order dated June 15, 2017. It appears that your SCDC incarcerated sentence has been adjusted. Your Projected Release Date is 12/06/2022 and your Projected Parole Date is 10/18/2019.

If you have any questions, please feel free to contact me.

Thank you.

STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Shirley C. Robinson

ALC Case No. 17-ALJ-04-0591-IJ  
Appellate Case No. 2018-000035

**RECEIVED**  
JUL 01 2019  
SC Court of Appeals

ISIAH JAMES, JR.,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

**CERTIFICATE OF SERVICE**

Undersigned counsel hereby certifies that on this date, she mailed a copy of the **Motion to Remand to the Administrative Law Court** to Appellant, addressed as follows: Isiah James, Jr., 1810 O Street, Brunswick, Georgia 31520-5445.



**Christina Catoe Bigelow**  
Deputy General Counsel  
Office of General Counsel  
S. C. Department of Corrections  
Post Office Box 21787  
Columbia, S. C. 29221  
(803) 896-8508

July 1, 2019



**SOUTH CAROLINA**  
DEPARTMENT OF CORRECTIONS  
*Safety, Service, and Stewardship*

HENRY McMASTER, Governor  
BRYAN P. STIRLING, Director

July 1, 2019

**RECEIVED**  
JUL 01 2019  
SC Court of Appeals

The Honorable Jenny A. Kitchings  
Clerk of Court, S.C. Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

**RE: Isiah James, Jr. v. South Carolina Department of Corrections**  
**Appellate Case No. 2018-000035**

Dear Ms. Kitchings:

Enclosed please find the original and six copies of Respondent's **Motion to Remand to the Administrative Law Court** in the above-referenced matter, along with a **Certificate of Service**.

Thank you for your attention to this matter, and please do not hesitate to contact me should there be any questions or concerns.

Sincerely,

Christina Catoe Bigelow  
Deputy General Counsel  
South Carolina Department of Corrections  
S.C. Bar No. 73562

cc: Mr. Isiah James, Jr.  
1810 O Street  
Brunswick, Georgia 31520-5445