

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

William Patrick Deaton, #340130,)
)
Appellant,)
)
vs.)
)
South Carolina Department of Corrections,)
)
Respondent.)
_____)

Docket No. 19-ALJ-04-0093-AP
(Grievance No.: GCI 0098-18)

ORDER
RECEIVED

AUG 29 2019

SC Court of Appeals

This matter is before the South Carolina Administrative Law Court (Court or ALC) on an appeal filed by William Patrick Deaton (Appellant), an inmate incarcerated by the South Carolina Department of Corrections (Department or SCDC).

FACTS/PROCEDURAL HISTORY

Appellant filed a Step 1 Grievance on October 21, 2018, contending that the Department did not properly apply his Earned Work Credits, Education Credits, and Good Time credits to calculate his release date. On November 29, 2018, the Department denied the grievance on the ground that Appellant was sentenced to serve fifteen (15) years for Burglary in the first degree, which is a “no-parole” offense. Appellant was required to serve 85% of the fifteen-year sentence or twelve (12) years and nine (9) months. Appellant received all credits to which he was entitled, and SCDC projected a “max-out” date of May 1, 2022.¹

On December 13, 2018, Appellant filed a Step 2 Grievance again contending that his work, education, and good time credits should apply against his projected “max-out” date of May 1, 2022. On February 6, 2019, the Responsible Official denied Appellant’s grievance on the ground that Appellant was required to serve twelve (12) years and nine (9) months without work, education, or good time credits. Since those credits could not be used, Appellant’s projected release date was correctly calculated to be May 1, 2022.

¹ The Department explained in its brief that as provided in S.C. Code Ann. § 24-13-175, sentence calculations are based on a year of three hundred sixty-five (365) days. SCDC treats all months as 30.416 days and releases inmates on the first of the month in which the inmate’s completion date falls, or on the previous business day if the first falls on a holiday or a weekend. (Proviso 65.13, 2018-2019 Appropriations Act.)

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On March 7, 2019, Appellant filed an appeal to the ALC.

On May 21, 2019, the Department filed the Record on Appeal. On June 3, 2019, Appellant filed his brief. The Department filed a Motion to Supplement the Record on June 20, 2019, to which it appended a report of Appellant's Earned Work Credits. The Motion was granted on June 23, 2019. Appellant objected to the supplement on the ground that it did not completely account for all work and education credits he earned. Respondent filed its brief on June 26, 2019. Appellant filed a reply brief on July 2, 2019.

ISSUE

Did the Department err by not applying work and education credits to Appellant's sentence when calculating his "max-out" date to be May 1, 2022?

STANDARD OF REVIEW

The Court's jurisdiction to hear this matter is derived from the decisions of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000) and *Furtick v. S.C. Dep't of Prob., Parole and Pardon Servs.*, 352 S.C. 594, 576 S.E.2d 146 (2003). When reviewing the Department's decisions in inmate grievance matters, the ALC sits in an appellate capacity. *Al-Shabazz*, 338 S.C. at 377; 527 S.E.2d at 754; *see also* S.C. Code Ann. § 1-23-600(E) (Supp. 2018) (directing administrative law judges to conduct appellate review in the same manner prescribed in § 1-23-380). Section 1-23-380(A)(5) states:

The court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code Ann. § 1-23-380(5) (Supp. 2018). *See also Marietta Garage, Inc. v. S.C. Dep't of Pub. Safety*, 337 S.C. 133, 137, 522 S.E.2d 605, 607 (Ct. App. 1999); *S.C. Dep't of Labor, Licensing and Regulation v. Girgis*, 332 S.C. 162, 166, 503 S.E.2d 490, 492 (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) (quoting *Law v. Richland Cty. Sch. Dist. No. 1*, 270 S.C. 492, 495-96, 243 S.E.2d 192, 193 (1978)). 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. S.C. Coastal Council*, 319 S.C. 348, 353, 461 S.E.2d 388, 391 (1995).

DISCUSSION

Appellant argues that his work, education, and good time credits should be applied to reduce his sentence below the 85% he is required to serve. The Court disagrees.

Appellant was sentenced to serve fifteen (15) years for burglary in the first degree pursuant to S.C. Code Ann. § 16-11-311(B). This section provides that burglary in the first degree is punishable by life imprisonment. According to S.C. Code Ann. § 24-13-100 (2007), “a class A, B, or C felony or an offense exempt from classification as enumerated in Section 16-1-10(D), which is punishable by a maximum term of imprisonment for twenty years or more” is a “no parole offense.” Burglary in the first degree is an offense listed under S.C. Code Ann. § 16-1-10(D) (2015) as exempt from classification; therefore, it is a no parole offense.² Regarding no parole offenses, S.C. Code Ann. § 24-13-150(A) (Supp. 2018) sets forth the following:

(A) **Notwithstanding any other provision of law**, except in a case in which the death penalty or a term of life imprisonment is imposed, an inmate convicted of a “no parole offense” . . . is not eligible for early release, discharge, or community supervision . . . until the inmate has served **at least eighty-five percent of the actual term of imprisonment imposed. This percentage must be calculated without the application of earned work credits, education credits, or good conduct credits**, and is to be applied to the actual term of imprisonment imposed, not including any portion of the sentence which has been suspended

² Appellant’s sentence for fifteen (15) years is the statutory minimum sentence for burglary in the first degree.

(Emphasis added).

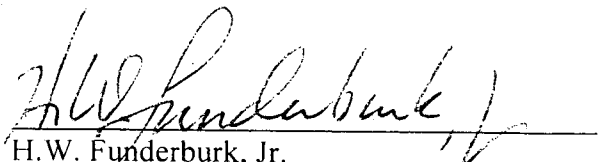
In this case, because Appellant's offense of burglary in the first degree is a "no parole offense," which requires him to serve 85% of the sentence; no work, education, or good time credits may be applied to reduce the sentence below the 85% requirement as specified in Section 24-13-150(A). S.C. Code Ann. § 24-13-230(B) also provides that "[n]o prisoner convicted of a 'no parole offense' is entitled to a reduction below the minimum term of incarceration provided in Section 24-13-125 or 24-13-150."

Appellant's contention that *Bolin v. S.C. Dept. of Corrections*, 415 S.C. 276, 781 S.E.2d 914 (2016) effectively repealed Section 24-13-100 is incorrect. *Bolin* repeals Section 24-13-100 only "to the extent it conflicts with amended sections 43-53-375 and -370." *Id.* at 282, 781 S.E.2d 914, 197." Consequently, Appellant has been properly determined not to be eligible for work, education, and good time credits that would reduce the time he is required to serve below the statutory minimum. Therefore, his projected completion date has been correctly calculated to be May 1, 2022.

ORDER

IT IS THEREFORE ORDERED that the Department's decision is **AFFIRMED**.
AND IT IS SO ORDERED.

August 20, 2019
Columbia, South Carolina



H.W. Funderburk, Jr.
Administrative Law Judge

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CERTIFIED BY THE CLERK
This is a true and correct copy of the original as filed. I have
searched this order in the file and certified that no other
copies in this case exist. (Attaching a copy hereto,
at the United States Post Office, postage paid, at the United States
Mail Service address at 11111 1st St., Columbia, SC 29201.)

This 20th day of August, 2019
by Elizabeth
Clerk