

State of South Carolina

In the Court of Appeals

Appeal from the Administrative Law Court

Administrative Law Judge S. Phillip Lewski

ALC Case No. 17-ALS-04-0163-A7

Appellate Case No. 2018-002243

John K. Massey, Jr. #305341,

Appellant,

v.

South Carolina Department
of Corrections,

Respondent,

Record on Appeal

John K. Massey, Jr. #305341
MacDougall Correctional Inst.
1516 Old Billard Rd.
Ridgeville, South Carolina 29472
Pro-Se Appellant
Attorney for Appellant

S.C.D.C.
Office of General Counsel
Kelsey E. Barrett
P.O. Box 21787
Columbia, South Carolina 29221
Attorney for Respondent

Index

Index	i
Sentence Sheets	1,2
Inmate Record Plan pg. 1	3
Respondent's Brief	4,5,6,7
Notice of Updated Jail Time Credit	8
Order of Dismissal	9,10
Appellate Case Number Assigned	11,12
Motion to Proceed in Forma Pauperis	13,14
Motion to File out of Time	15,16
Motion For Extension of Time	17,18
Order to allow late Filing	19

R. 1

COUNTY OF YORK
STATE VS.

JOHN KENNETH MASSEY, JR.

AKA: [REDACTED]
Race: [REDACTED] Sex: [REDACTED] Age: [REDACTED]
DOB: [REDACTED] SS#: [REDACTED]
Address: [REDACTED]
City, State, Zip: [REDACTED]
DL# [REDACTED] SID# [REDACTED]

INDICTMENT/CASE#: 2013GS4603508
A/W: 2013A4610100814
Date of Offense: 07/17/2013
S.C. Code §: 16-13-0030(B)
CDR Code #: 3587

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: Grand Larceny, Third or Subsequent Property Crime
In violation of § 16-13-0030(B) of the S.C. Code of Laws, bearing CDR Code # 3587

CONVICTED OF or PLEADS

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
(CSC w/minor 1st or Lewd Act)
The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury, Negotiated Sentence, Recommendation by the State.
The plea is: Without Negotiations or Recommendation, (def.'s initials)
ATTEST: _____

T. Matthew Hogg, Assistant Solicitor General, SC Bar # 100126
Defendant

Attorney for Defendant SC Bar # 66593

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,
for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections. 140 days
 The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____
Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment
Payment Terms: _____ Obtain GED

Set by SCDPPPS _____

Recipient: _____

*Fine:		\$	
§14-1-206 (Assessments 107.5%)		\$	
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$	100
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$	
§56-5-2995 (DUI Assessment)	\$12	\$	
§56-1-286 (DUI Breath Test)	\$25	\$	
Proviso 47.9 (Public Def/Prob)	\$500	\$	
§14-1-212 (Law Enforce. Funding)	\$25	\$	25
§14-1-213 (Drug Court Surcharge)	\$150	\$	
§50-21-114 (BUI Breath Test Fee)	\$50	\$	
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
Proviso 90.5 (SCCJA Surcharge)	\$5	\$	5
3% to County (if paid in installments)	\$	\$	
TOTAL		\$	130

Attend Voc. Rehab. Or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling
Random Drug/Alcohol Testing
Fine may be pd. in equal consecutive weekly/monthly
pmts. of \$ _____ Beginning _____
\$ _____ Paid to Public Defender Fund
Other: _____

Appointed PD or appointed other counsel,
\$47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/Deputy Clerk: David Hamilton
Court Reporter: Christina Broom

Presiding Judge: [Signature]
Judge Bar ID: 1014 Judge Code: 2048
Sentence Date: 12-2-15

R.2

COUNTY OF YORK
STATE VS.

JOHN KENNETH MASSEY, JR

AKA: John K Massey, John Kenneth Jr Massey
Race: [redacted] Sex: [redacted] Age: [redacted]
DOB: [redacted] SS#: [redacted]
Address: [redacted]
City, State, Zip: [redacted]
DL# [redacted] SID# [redacted]

INDICTMENT/CASE#: 2013GS4603509
A/W: 2013A4610100815
Date of Offense: 07/17/2013
S.C. Code §: 16-11-0510(A) and 16-1-57
CDR Code #: 3594

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was
TO: Malicious Injury to Property, Third or Subsequent Property Crime
In violation of § of the S.C. Code of Laws, bearing CDR Code # 3594

CONVICTED OF or PLEADS

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
(CSC w/minor 1st or Lewd Act)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury, (def.'s initials)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Matthew Hogge 100126 Defendant _____ 66593 Attorney for Defendant
T. Matthew Hogge, Assistant Solicitor SC Bar # _____

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,
for a determinate term of 2 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 2013-GS-4603508
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections. 140 days
 The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment
Payment Terms: _____ Obtain GED

Set by SCDPPPS _____
Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____
*Fine: _____
Substance Abuse Counseling
Random Drug/Alcohol Testing

§14-1-206 (Assessments 107.5%)		\$	
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$	100
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$	
§56-5-2995 (DUI Assessment)	\$12	\$	
§56-1-286 (DUI Breath Test)	\$25	\$	
Proviso 47.9 (Public Def/Prob)	\$500	\$	
§14-1-212 (Law Enforce. Funding)	\$25	\$	25
§14-1-213 (Drug Court Surcharge)	\$150	\$	
§50-21-114 (BUI Breath Test Fee)	\$50	\$	
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
Proviso 90.5 (SCCJA Surcharge)	\$5	\$	5
3% to County (if paid in installments)	\$	\$	
TOTAL		\$	130

Fine may be pd. in equal consecutive weekly/monthly
pmts. of \$ _____ Beginning _____
\$ _____ Paid to Public Defender Fund

Other: _____

Appointed PD or appointed other counsel,
§47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/Deputy Clerk: David Hamilton
Court Reporter: _____

Presiding Judge: _____
Judge Bar ID: 1014 Judge Code: 2048
Sentence Date: 12.2.15

R.3

12. JAIL TIME CREDIT/SENTENCE START DATE :

Jail Time Credit: Time served, usually at a county facility, prior to trial and sentencing. The sentence start date may be the same as the jail time credit date.

Sentence Start Date: Date of sentencing less jail time credit. Effective date on commitment papers (or sentencing date if not specified) for each successive concurrent sentence. In cases of two (2) or more sentences and the sentences are consecutive, the sentence start date for the total sentence is the start date of the first sentence in the consecutive string.

12.1 Inmates Eligible for Jail Time Credit:

12.1.1 An inmate will be eligible to receive credit for time served prior to trial and sentencing if the offense for which s/he is convicted is the same as the offense for which s/he was jailed.

12.1.2 An inmate who is not an escapee will be eligible to receive credit for out-of-state jail time if s/he is apprehended and held solely for a crime committed in South Carolina.

12.1.3 Inmates sentenced under the Youthful Offender Act (YOA) will be eligible to receive jail time credit. The Inmate Records Office will enter jail time for an initial incarceration; however, credit awarded on the YOA parole revocations will be calculated by the Young Offender Services Division.

12.2 Inmates Not Eligible for Jail Time Credit:

12.2.1 An inmate will not be eligible to receive jail time credit if s/he is on escape from the South Carolina Department of Corrections and is apprehended and confined out-of-state.

12.2.2 An inmate will not be eligible to receive in-state or out-of-state jail time credit if the offense for which s/he is convicted is different from the offense for which s/he was jailed.

12.2.3 An inmate (not an escapee) will not be eligible to receive out-of-state jail time credit if s/he is apprehended and held in another state for a crime committed in South Carolina and for a crime committed in the other state. Once the charges for the crime that occurred in the other state have been satisfied, s/he may be eligible to begin receiving out-of-state jail time credit toward his/her South Carolina charges.

12.3 Request for Jail Time Credit:

12.3.1 If authorized jail time credit has not been awarded to an inmate, the Institutional Classification Caseworker will complete the top portion of SCDC Form 18-11, "Request for Jail Time," make a copy of the form for the institutional record, and forward the white, pink, and goldenrod copy to the Inmate Records Office, Document Processing Section, ATTN.: Jail Credits. If the inmate claims s/he was incarcerated in more than one (1) facility prior to sentencing, a separate "Request for Jail Time Form" must be submitted for each facility.

12.3.2 Upon receipt of the SCDC Form 18-11, "Request for Jail Time," the Records Analyst responsible for jail time credits will review the form to determine if the request should be forwarded to the appropriate county/city facility.

12.3.3 If it is determined that the inmate will not be given jail time credit, the white copy of the original request will be returned to the designated Caseworker, indicating that the inmate is not eligible for jail time credit requested, and an explanation will be provided to explain why jail time credit is not applicable.

12.3.4 If it is determined that the inmate could be eligible for jail time credit, the request will be forwarded to the appropriate county/city facility.

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

John Kenneth Massey, Jr., #305341,

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

) Docket No.: 17-ALJ-04-0163-AP

) Grievance No.: MACCI 158-16

) RESPONDENT'S BRIEF

) Honorable S. Phillip Lenski

STATEMENT OF THE CASE

This case is before the Administrative Law Court ("ALC") pursuant to the appeal of John Kenneth Massey, Jr. ("Appellant"), an inmate incarcerated with the Department of Corrections ("SCDC"). Appellant filed a Step One Grievance on August 2, 2016, claiming his jail time credit was not being properly applied. This grievance was investigated and denied when it was determined that SCDC has properly applied Appellant's jail time credit for each charge. Appellant filed a Step Two Grievance on January 5, 2017. This grievance was also investigated and denied. Appellant subsequently filed his Notice of Appeal. Because Appellant's jail time credit has been properly applied, the final determination of the Department should be affirmed.

JURISDICTION

The ALC's jurisdiction to hear this matter is derived entirely from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). In *McNeil v. South Carolina Department of Corrections*, 00-ALJ-04-00336-AP (September 5, 2001), the ALC interpreted the breadth of its jurisdiction pursuant to *Al-Shabazz*. That decision holds that the ALC's appellate jurisdiction in inmate appeals is

limited to two types of cases: (1) cases in which an inmate contends that prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; and (2) cases in which the SCDC has taken an inmate's created liberty interest as punishment in a major disciplinary hearing. Jurisdiction of the ALC was most recently addressed in *Sullivan v. SCDC*, 355 S.C. 437, 586 SE.2d 124 (2003).

In this case, appellant contends that SCDC has incorrectly calculated his sentence. Consequently, the ALC has jurisdiction to hear his appeal.

STANDARD OF REVIEW

A reviewing court will not disturb findings of an administrative agency if its findings are supported by substantial evidence on [record as a whole]. *Pearson v. JPS Converter & Industry Corp.*, 327 S.C. 393, 489 S.E.2d 219 (Ct. App. 1997). "Substantial evidence" is evidence which [considering record as a whole] would allow a reasonable mind to reach the conclusion reached by the administrative agency. *Hendley v. S.C. State Budget & Control Bd.*, 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996). 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, 461 S.E.2d 388 (1995). Administrative agencies are afforded wide latitude in making decisions, as shown in the deferential standard of appellate review. *Heater of Seabrook, Inc. v. Public Svc. Comm'n of S.C.*, 332 S.C. 20, 503 S.E.2d 739 (1998).

ARGUMENT

I. RESPONDENT'S FINAL DECISION SHOULD BE AFFIRMED BECAUSE APPELLANT'S JAIL TIME CREDIT HAS BEEN PROPERLY APPLIED BY RESPONDENT.

On July 13, 2013, Appellant was arrested for Grand Larceny and Malicious Injury to Property – Third or Subsequent. R. p. 17. These are the only two convictions for which Appellant is still incarcerated. R. p. 1. Appellant was released on bond for both charges on August 27, 2013. R. p. 17. Appellant was arrested again on both charges on August 26, 2015. *Id.* He was then sentenced on December 2, 2015. R. p. 6, 11. Pursuant to S.C. Code Ann. § 24-13-40, Appellant is entitled to any pre-detention jail time he served. (“In every case in computing the time served by a prisoner, full credit against the sentence must be given for time served prior to trial and sentencing[.]”)

On both of the previously referenced sentencing sheets, the sentencing judge indicated Appellant served 140 days of jail time. R. p. 6, 11. However, the judge ran one of the sentences consecutively. R. p. 6. SCDC must adhere to an unambiguous sentencing sheet. *Tant v. S. Carolina Dep't of Corr.*, 408 S.C. 334, 759 S.E.2d 398 (2014), *reh'g denied* (July 10, 2014). Accordingly, the jail time credit applied at the beginning of the string of sentences. *State v. Richardson*, 295 N.C. 309, 245 S.E.2d 754, (1978).

Again, as Appellant's sentencing sheet for Malicious Injury to Property – Third or Subsequent indicates, this is a consecutive sentence. R. p. 6. By its very nature, a consecutive sentence cannot begin until all prior sentences are completed. *State v. Richardson*, 295 N.C. 309, 319, 245 S.E.2d 754, 761 (1978). When a defendant receives a consecutive sentence, the prior sentence(s) and the consecutive sentence(s) are considered one sentence for the purpose of providing jail time credit. *Id.* Jail time credit

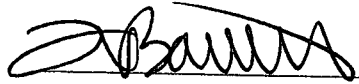
is counted once toward the string of sentences. *Id.* As shown on Appellant's Commitment Application Inquiry Screen, his jail time has been applied to his Grand Larceny conviction. R. p. 7. The same jail time cannot be applied a second time to his second conviction.¹

Appellant has not carried his burden to demonstrate SCDC is incorrectly calculating his sentence. Therefore, SCDC respectfully requests its decision denying appellant's Step Two grievance be upheld.

II. RESPONDENT'S FINAL DECISION SHOULD BE AFFIRMED BECAUSE IT IS SUPPORTED BY SUBSTANTIAL EVIDENCE.

The record conclusively establishes that the "substantial evidence on the whole record" supports the Department's final agency decision. Appellant has the burden of proving that the decision of the Department is clearly erroneous, or arbitrary or capricious, or an abuse of discretion. *See Porter v. Public Service Comm'n*, 333 S.C. 12, 507 S.E.2d 328 (1998). Appellant has not met this burden and his claim should be dismissed with prejudice.

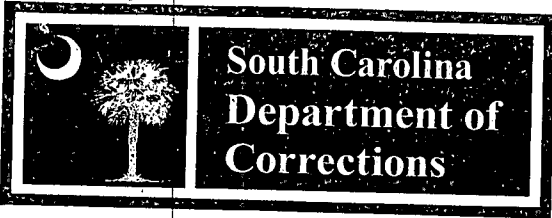
Respectfully submitted,



Kensey Barrett
Staff Attorney
South Carolina Department of Corrections
4444 Broad River Road
Columbia, South Carolina 29221
(803)896-1943

December 7, 2017
Columbia, South Carolina

¹ If Appellant's jail time credit were also applied to his Malicious Injury to Property – Third or Subsequent sentence, it would result in a windfall as Appellant only served the jail time once, but would receive credit for it twice.



HENRY McMASTER, Governor
BRYAN P. STIRLING, Director

December 29, 2017

The Honorable S. Phillip Lenski
South Carolina Administrative Law Court
Edgar A. Brown Building, Suite 224
1205 Pendleton Street
Columbia, South Carolina 29201

Reference: Inmate John K. Massey, Jr., #305341, vs. SCDC
Docket No. 17-ALJ-04-0163-AP

Dear Judge Lenski:

Please allow this letter to serve as an update to the Court on the above referenced case. After meeting with the Division of Inmate Records, Appellant's jail time has been updated for his Grand Larceny conviction. This jail time stems from the time Appellant spent in jail prior to his March 31, 2015 Shoplifting conviction. R. p. 18. Page 7 of the Record, filed on November 17, 2017, shows 140 days of jail time for the Grand Larceny conviction; the Commitment Application enclosed herein has the updated jail time credit of 582 days. Also enclosed is an updated Conviction Summary, the prior version of which was page 1 of the above mentioned Record. Appellant's projected completion dates are now August 22, 2019 and August 17, 2020 for his Grand Larceny and Malicious Injury to Property convictions, respectively.

The additional jail time was not added to the Malicious Injury to Property conviction as it runs consecutive to Appellant's Grand Larceny conviction. The argument on this issue included in Respondent's December 7, 2017 Brief remains in place.

If you have any questions or concerns, please do not hesitate to contact me at (803) 896-1943.

Sincerely,

Kensey Barrett
Staff Attorney
Office of General Counsel

RECEIVED

JAN 29 2018

APPELLATE DEFENSE

Enclosures

cc: Inmate John K. Massey, Jr., #305341
File

P.O. Box 21787 - 4444 Broad River Road - Columbia, SC 29221-1787 - Telephone (803) 896-8555

<http://www.doc.sc.gov> E-mail: corrections.info@doc.sc.gov

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

John K. Massey, Jr., #305341,
Appellant,
vs.
South Carolina Department of Corrections,
Respondent.

Docket No.: 17-ALJ-04-0163-AP

ORDER OF DISMISSAL

This matter is before the South Carolina Administrative Law Court (ALC or court) pursuant to the Notice of Appeal filed March 31, 2017 by John Kenneth Massey, Jr. (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (Department or SCDC). The Appellant appealed the decision of the Department to deny his grievances, which claimed his jail time credits had not been properly calculated and applied.

The precise issue relating to the Appellant's jail time credits in the instant case was pending before the Court of Appeals in *State v. John Kenneth Massey, Jr.*, Case No. 2015-002563 and therefore the court issued an Order on October 24, 2017 holding this case in abeyance. On December 29, 2017, the Department filed an update with the court, informing the court that the Appellant's jail time had been updated with a jail time credit of 582 days. On April 12, 2018, the Court of Appeals heard oral arguments on the Appellant's case. The Department argued that the issue was moot because the Department had given the Appellant 582 days of credit for time served. On April 20, 2018 the Appellant filed a Response to Court Order arguing that his consecutive sentences should be construed in his favor and run concurrent, or both sentence sheets be given equal jail time credit. The Department filed a Reply on December 3, 2018, stating that it has correctly applied the Appellant's jail time credit and properly calculated the Appellant's sentence.

DISCUSSION

Because this court exists to review the actions of administrative agencies and not the actions of circuit court judges, this court cannot rule on the validity of the Appellant's sentence. See *Engaging & Guarding Laurens County's Environment ("EAGLE") v. S.C. Dep't of Health & Envtl. Control*, 407 S.C. 334, 344, 755 S.E.2d 444, 449 (2014) (quoting S.C. Const. art. I, § 22) (recognizing ALC's function of reviewing administrative action under the South Carolina Constitution); *Jernigan v. State*, 340 S.C. 256, 259-60, 531 S.E.2d 507, 508-09 (2000) (citations

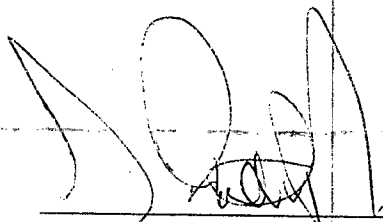
FILED
DEC 06 2018

omitted) (distinguishing between collaterally challenging the validity of a sentence under post-conviction relief laws and non-collaterally seeking review of the Department's actions under the procedure established in *Al-Shabazz*). Instead, 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 *State v. Bennett*, 375 S.C. 165, 170, 650 S.E.2d 490, 493 (Ct. App. 2007).

The Appellant was given 140 days jail time credit for both his Grand Larceny and Malicious Injury to Property convictions, however, the Appellant's jail time has been updated for his Grand Larceny conviction with a jail time credit of 582 days. The additional time was not added to the Malicious Injury to Property conviction as it runs consecutive to the Appellant's Grand Larceny conviction. Since the Appellant's projected sentence completion dates have been recalculated, and his jail time credit appears to be properly amended, his appeal regarding his jail time credits is now moot. "An appellate court will not pass on moot and academic questions or make an adjudication where there remains no actual controversy." *Curtis v. State*, 3435 S.C. 557, 567, 549 S.E.2d 591, 596 (2001). A "case becomes moot when judgment, if rendered, will have no practical legal effect upon [the] existing controversy. This is true when some event occurs making it impossible for [the] reviewing Court to grant effectual relief." *Id.* at 567-68, 549 S.E.2d at 596 (quoting *Mathis v. S.C. State Highway Dep't.* 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973)).

THEREFORE, IT IS HEREBY ORDERED that the Appellant's appeal is **DISMISSED.**

AND IT IS SO ORDERED.



S. Phillip Lenski
Administrative Law Judge

December 6, 2018
Columbia, South Carolina

CERTIFICATE OF SERVICE

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

This _____ day of December 2018

By: _____
Administrative Law Judge



R. 11

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

January 02, 2019

John K. Massey, Jr., 305341
MacDougall Correctional Institution
1516 Old Gilliard Road
Ridgeville SC 29472

Re: John K. Massey, Jr. #305341 v. SCDC
Appellate Case No. 2018-002243

Dear Mr. Massey:

This Court has received your notice of appeal, and the case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter.

All parties to this matter are advised that all filings must comply with the requirements of Rule 267 of the South Carolina Appellate Court Rules (SCACR). The SCACR are available online at www.sccourts.org/courtreg. Additionally, any filings submitted by counsel admitted in South Carolina must include counsel's bar number.

The attention of the parties is directed to the order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. The order can be found at www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-04-15-02. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will *not* review filings for redaction or to determine if materials should be sealed.

This is to advise that the title in the above matter has been changed to read as follows:

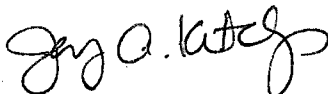
John K. Massey, Jr., #305341, Appellant,

v.

South Carolina Department of Corrections, Respondent.

All future records in this matter should be changed to reflect this title. If you have any questions, please do not hesitate to contact this office.

Very truly yours,



CLERK

cc: Christina Catoe Bigelow, Esquire
Jana E. Shealy



R. B

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

January 25, 2019

John K. Massey, Jr., 305341
MacDougall Correctional Institution
1516 Old Gilliard Road
Ridgeville SC 29472

Ms. Christina Catoe Bigelow, Esquire
4444 Broad River Road
Columbia SC 29210

Re: John K. Massey, Jr. #305341 v. SCDC
Appellate Case No. 2018-002243

Dear Counsel and Mr. Massey:

Enclosed is the Court's decision on the motion to proceed in forma pauperis. Within thirty (30) days from the date of this letter, the appellant must serve and file the appellant's initial brief and designation of matter. Failure to comply with the Court's request will result in the dismissal of this appeal.

Very truly yours,

V. Claire Allen, Deputy

CLERK

The South Carolina Court of Appeals

John K. Massey, Jr., #305341, Appellant,

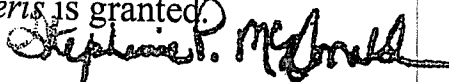
v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2018-002243

ORDER

The motion to proceed *in forma pauperis* is granted.



FOR THE COURT

Columbia, South Carolina

cc:

John K. Massey, Jr., 305341

Christina Catoe Bigelow, Esquire

FILED

January 25, 2019

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge S. Phillip Lenski

ALC Case No. 17-ALJ-04-0163-AP
Appellate Case No. 2018-001293

JOHN K. MASSEY, JR., # 305341,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

MOTION TO FILE OUT OF TIME

The Initial Brief of Respondent and Designation of Matter were due to be served and filed on March 16, 2019. Due to an oversight on the part of the undersigned, Respondent has not filed its brief. Respondent is hereby requesting to file a Motion for Extension for Time out of time. No previous motions, other than the Motion for Extension for Time filed with this motion, have been filed on behalf of Respondent. This motion is not being made for the purpose of delay; instead, it is being made to ensure that the issues raised in this appeal are properly researched and briefed.

WHEREFORE, Respondent respectfully requests that this Court allow the Motion for Extension for Time be filed out of time.

R.16

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**



Kensey E. Barrett
Deputy General Counsel
Office of General Counsel
S.C. Department of Corrections
Post Office Box 21787
Columbia, South Carolina 29221
(803) 896-1805

ATTORNEY FOR RESPONDENT

March 27, 2019

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge S. Phillip Lenski

ALC Case No. 17-ALJ-04-0163-AP
Appellate Case No. 2018-001293

JOHN K. MASSEY, JR., # 305341,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

MOTION FOR EXTENSION OF TIME

The Initial Brief of Respondent and Designation of Matter were due to be served and filed on March 16, 2019. Due to an oversight on the part of the undersigned, Respondent has not filed its brief. Respondent is hereby requesting a thirty-day extension in which to file its Brief and Designation of Matter. No previous extensions have been requested on behalf of Respondent. This extension request is not being made for the purpose of delay; instead, it is being made to ensure that the issues raised in this appeal are properly researched and briefed.

WHEREFORE, Respondent respectfully requests that this Court extend the deadline for the service and filing of the Initial Brief of Respondent and Designation of

Matter in this case by thirty days from the date such relief is granted and hold the matter in abeyance pending a ruling this motion.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**



Kensey E. Barrett
Deputy General Counsel
Office of General Counsel
S.C. Department of Corrections
Post Office Box 21787
Columbia, South Carolina 29221
(803) 896-1805

ATTORNEY FOR RESPONDENT

March 27, 2019

The South Carolina Court of Appeals

John K. Massey, Jr., #305341, Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2018-002243

The Honorable S. Phillip Lenski
Trial Court Case No. 2017ALJ040163AP

ORDER

Respondent has filed a motion to allow the late filing of the respondent's initial brief and designation of matter along with a motion for extension of time to serve and file the respondent's initial brief and designation of matter. These motions are Granted. The time for serving and filing the respondent's initial brief and designation of matter is hereby extended until April 26, 2019.

FOR THE COURT

BY Jay A. Kite
CLERK

Columbia, South Carolina

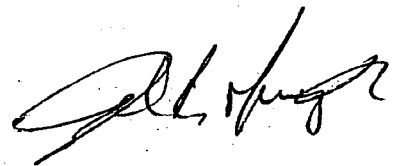
cc:
John K. Massey, Jr., 305341
Christina Catoe Bigelow, Esquire

FILED

April 16, 2019 s.s.

Certificate of Counsel

Counsel for Appellant certifies this Record on Appeal contains all material proposed to be included by the parties and not any other material and this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings".



John V. Massey, Jr. # 305341
Macedugall Correctional Inst
1516 Old Gillard Rd.
Ridgeville, South Carolina
29472

RECEIVED

NOV 07 2019

SC Court of Appeals

October 31, 2019