

The South Carolina Court of Appeals

Adam Winingham, #268099, Appellant
Pro/se

v.

South Carolina Dept of Corrections, Respondent

RECEIVED

Appellant Case # 2019-001751

JAN 28 2020

SC Court of Appeals

INITIAL BRIEF

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S/ Adam Winingham 268099
Date/ 1-24-2020

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Statement of issue on appeal

Did the ALC err in concluding there was no conflict in Laws 24-13-150(A), 24-13-210(B), and 24-13-230(B); Nor was there conflict with the time 2nd offense Manufacturing Meth Carried (30 years) with Law 24-13-100? (Which ultimately will not allow the 72 days a year of EWCC, EECs, and G.T credits that those Laws declare "No-parole" offenders should get.)

Statement of Case

Appellant Adam Winnington, 268099 filed his step 1 grievance on 10-14-18, It was denied on 11-2-18; Appellant then filed his step 2 grievance on 11-3-18 and it was denied on 1-24-19. Appellant then filed his notice of appeal to ALC, and then filed his initial brief on 3-6-19 with the ALC. Appellant then filed a reply brief after receiving respondents return on 6-19-19. Appellant received his final order from the ALC on 10-9-19.

Standard of Review

Section 1-23-610(B) of the South Carolina Code (Supp. 2014) sets forth the standard of review when this court is sitting in review of a decision by the ALC on an appeal from an administrative agency. Specifically section 1-23-610(B) allows the court of appeals to reverse the ALC's decision if it violates a constitutional or statutory provision or is affected by any other error of law which is question of law is the sole reason here. "Subject to de novo review". Barton V. SC

Dept of Prob, Parole and Pardon Services, 404 S.C. 395, 414, 745, S.E2d 110, 120 (2013).

While the interpretation of a statute by the agency charged with its administration "will be accorded the most respectful consideration," an agency's interpretation "affords no basis for the perpetuation of a patently erroneous application of the statute." State v. Sweat, 386 S.C. 339, 351, 688 S.E2d 569, 575 (2010).

Argument of Case:

The ALC erred in not granting appellant the 72 days a year of EWC's, EEC's, and good time credits that Law/SCDC policy declares for "No Parole" offenders should get.

Law 24-13-150(A): States, all no parole offenses have to do 85% of their sentences before being released. It also states that the 85% is to be calculated from the actual term of imprisonment imposed without "the application of EWC's, EEC's, or Good time Credits."

Law 24-13-230(B): States; no prisoner convicted of a "no parole" offense is entitled to a reduction below the minimum term provided in law 24-13-150(A).

Law 24-13-230(B) also states, "a 'no parole' offender can get a maximum yearly credit for both EWC's and EEC is limited to 72 days."

It also says A monthly amount of 6 days, for Earned Work Credits (EWC's) And Earned Education credits (EEC's). Also Law 24-13-210(B)

declares "no parole" offenders can get three days a month for Good time credits (G.t.'s).

Those Laws are evidently in conflict with one another. When there is ambiguity in laws on same statute the Court must properly sort out the correct interpretation, See Smith v Tiffany, 419 S.C. 548, 556, 799 SE2d 479, 483, (2017).

Also (When interpreting a statute, a Court should not consider a particular clause in isolation but rather, it should be read in conjunction with the purpose of the whole statute and the policy of Law) See S.C. State Ethics Comm'n, 306 S.C. 41, 44, 410 SE2d 245, 247 (1991). ALC then erred in allowing Law 24-13-150(A) to be interpreted without seeing the whole statute of Title 24 dealing with Credits for "No parole" offenders and seeing the statute in whole. Also see (Evidence 1) SCDC Policy for "No Parole" inmates policy Op 21.07, (1.5), (1.6) (4.3) and (8.2) which all declare "no parole" inmates are entitled to (72 day) a year.

There is ambiguity and conflict in Laws 24-13-150(A), 24-13-210(B), and 24-13-230(B). Law 24-13-150(A) says a "no parole" offender has to do 85% of his sentence with out any credits getting him down to the 85%, While law 24-13-210(B) states "no parole" offenders can get 3 days a month G.t credits and Law 24-13-230(B) states "no parole offenders

can get 6 days a month EWC's and EEC's or a maximum annual (Yearly) credits of 72 days that "no parole" inmates can get.

Now we know those 72 days a year in law and SCDC policy cannot be talking about the 15% given to make the 85%. First; is because law 24-13-150(A) says "the 85% is to be calculated without the application of EWC's, EEC's, and G.I. credits." Second; "If the law meant "no parole" inmates cannot get under 85%, then 72 days a year would have to change to 54 days a year. (It would be impossible to give a "no parole" offender 72 days a year because that would automatically take him/her under 85%.)

(Those laws could only mean one thing; a "no parole" offender can get 72 days a year for EWC's, EEC's, and G.I. credits reduced from the 85% of the actual sentence imposed.)

ALC states appellant has been given credit for all the time he deserves. Appellant argues that on SCDC computer calculation of credits, appellant had accumulated 1709 EWC's, and 683 EEC's; and not even 1 of those credits have I received. Appellant's EWC's are still calculating but Doc has taking my EEC's out computer. I am on my step 2 grievance on getting those back in computer. (SEE EVIDENCE 2) Step 2 grievance on this same issue where Head Quarter testifies that I have

1661 EWC's and 664 FEC's as of 12-12-18 and now it is more. I Work a Full time Job and I do Independent Studies log to keep my FECs From School. I started School in 2012 and got my GED in 2013, So to keep my credits calculating, I have continued in Independent studies. (I say that just to show I have FECs and why they are not calculating now) Also see (Evidence 3) highlighted you will see where SCDC Computer shows I am eligible for FEC's.

(SEE-Evidence 4) highlighted area you will see where EWC's are being calculated and where it show I am get 2 for 5 EWC's; however not one of them are going against my max out date.) You will also see 0 FEC credits however look back at paragraph above and (Evidence 3) to show and prove I should be calculated FEC's as well.

SCDC policy O.P 21.07(2.2) (See Evidence 1) Declares; "Inmates are compensated for their work with EWC's and FEC's for educational studies. (Note) this policy was wrote to justify the taking of inmates state payson 1-1-¹⁹⁹⁶1986

"No parole" inmates are being calculated in the SCDC Computer for 2 for 5 EWC's and FEC's just like parolable inmates; See Evidence 4), however "no parole" inmates are getting

No credits at all.

Remember Law 24-13-150(A) states "no parole" inmates do 85% with no credits applied.

Appellant a "no parole" offender does the same work everyday as a parole offender does, however appellant gets no credits and all parole offenders get their credits. (See Evidence)

SCDC policy (2.2) We are compensated for our work with work credits and education

for education credits. ALSO SCDC policy

(8.2) says parolable inmate can get 180

days a year and "no parole" inmates can get 72 days a year. What a stark contrast

in how parolable inmates are credited

for their same work as "no parole" inmates

are credited. (Only no parole offenders

do not even get the credits (72 days) a

year that Law/SCDC policy declares that

they get). Note - SCDC policy (7.6) (Evi-

dence 1) IF we do not work we will be

charged with a level 3 charge.

Honorable Court of appeals; Where is the

line drawn from parolable offender who get

their credits and "no parole" offenders who

get no credits at all. Are the parolable

offenders prisoners; and the "no parole" off-

enders slaves ??? Is discrimination only legal

within the law who defined it ???

Laws 24-13-210(B) and 24-13-230(B) along

with SCDC policy (See Evidence 1) (1.5), (1.6) (4.3)

and (8.2) all tell us that "no parole" offenders

can get 72 days a year for FWC's, FEC's, and

G.I.T Credits.

415 S.C. 276

See Michael Heath Bolin, V. S CDC
Appellant Case No. 2014-000461.

Read the 5th and 4th paragraph right above the conclusion and remember Doc saying 24-13-210(B) on good time credits for "No parole" 85% offenders being 3 days a month and Doc states 24-13-230 (B) For "No parole" 85% offenders get 6 days a month for work and education credits.

You Honorable Court of appeals then state; "However, We note the stark contrast between the credits allowed for no-parole offenders. See S.C. Code Ann. §24-13-210 (A)(B) (Supp. 2014) (allowing twenty days for each month served for inmates convicted of paroleable offenses versus three days for each month served for no-parole offenders); S.C. Code Ann. §24-13-230 (A)(B) (Supp. 2014) (allowing zero to one day for every two days of employment or enrollment for inmates convicted of paroleable offenses versus six days for every month of employment or enrollment for no-parole offenders."

The Court goes on what Law and Doc states a no-parole offender gets in work, Education, and good time credits. The Court then points out the huge difference in credits for a paroleable offender and a no-parole offender. I argue that Law 24-13-150 (A) states, clear the 85% is to be calculated with no credits at all, applied. Now Doc and the Courts have

admitted no-parole offenders get credits for Good behavior, Work, and education. The 85% is calculated with No credits applied; SO why are those credits not going against are maxout date? The Court has been told the truth on what credits a no-parole offender suppose to get, however they have been lied to on us actually getting them.

Another point: if appellant had to do 85% mandatory He and all no-parole offenders would not be able to go home on the 1st of the month. IF a no-parole offenders maxout for 85% falls on 31st of the month He/she will go home on that 1st which will bring them under the 85%. The meaning of mandatory with us no parole offenders is the sentence the Judge gives us can not be suspended but has a minimum term of prison time.

Also the definition of No-Parole offender which upholds all the rest of the no-parole laws has been Repealed; held Unconstitutional 24-13-100. ALC says it was only repealed in part because Bolin v. SCDC was a drug offense, however that is not what brought the conflict. To sum that tAW up 24-13-100 we can say "Any charge that carries twenty or more years is a No-parole offender. The conflict with Bolin is His 2nd offense Manufacturing

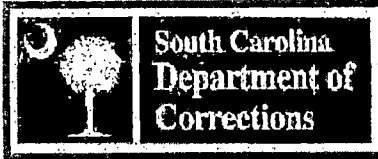
Meth Charge Carried and Still Carries 30 years. The time amount His Charge Carried and Still Carries is What brought the Conflict; Which that will ultimately Bring Conflict with all other No-parole offense According to that Statute Law 24-13-100. It should be a Void and repealed in whole Law UnConstitutional. Therefore there is no definition of a No-parole offense at this time, So There is no Law to uphold any No-parole offense.

Conclusion of Case

Appellant pleads with the Court to grant him the relief that he is entitled to and Law, and SCDC policy's declare he a "No-Parole" offender recieaver. Doc testified in Ballin v. SCDC that "No-Parole" offenders get 3 days a month for Good time Credits and 6 days a month for Work and Educational Credits. A yearly Credit For 72 days For "No-parole" inmates. Appellant begs of the Court to add those credits up retroactively; Just like those Laws were Wrote in 1996 to go back that far and deduct all the credits that appellant has accumulated For the past 14 plus years and deduct those days/Credits From his current Maxout date.

Thanks and God Bless. Sincerely Yours

John Birmingham



SCDC POLICY

NUMBER: OP-21.07

TITLE: EARNED WORK CREDITS

ISSUE DATE: August 8, 2017

RESPONSIBLE AUTHORITY: DIVISION OF CLASSIFICATION AND INMATE RECORDS

OPERATIONS MANUAL: OPERATIONS

SUPERSEDES: OP-21.07, (JULY 1, 2008); FEBRUARY 1, 2002

RELEVANT SCDC FORMS/SUPPLIES: 18-1, 19-54, 19-123

ACA/CAC STANDARDS: 4-4448, 4-4449, 4-4450, 4-4451, 4-4452, 4-4454

STATE/FEDERAL STATUTES: §24-13-230, §24-21-635, and §24-27-200, South Carolina Code of Laws, 1976, as amended; and Section 14, Act 462, Acts in Joint Resolution, 1986

PURPOSE: To prescribe standardized guidelines and procedures for the management and administration of Earned Work Credits (hereafter referred to as EWCs) as provided for by the above- referenced state statutes.

POLICY: In an effort to provide inmates with opportunities to become productive citizens, *the South Carolina Department of Corrections (SCDC)* will require all capable inmates under its jurisdiction to actively participate in a productive duty assignment and/or educational or vocational programming, consistent with security requirements. Inmates who are assigned to and actively participating in a productive duty assignment and/or educational or vocational programming and who are otherwise qualified will receive a reduction *in* the term of *his/her* sentence in compliance with applicable state statutes.

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11. DEFINITION

THE FOLLOWING PROCEDURES CONCERNING THE EARNING OF EARNED WORK CREDITS (EWCs) AND EARNED EDUCATIONAL CREDITS (EECs) ARE NOT APPLICABLE TO INMATES SENTENCED UNDER THE YOUTHFUL OFFENDER ACT. HOWEVER, IF A YOUTHFUL OFFENDER HAS A CONCURRENT, STRAIGHT-TIME SENTENCE, EWCs AND EECs MAY BE EARNED AND APPLIED AGAINST THE DETERMINATE PORTION OF HIS/HER SENTENCE.

SPECIFIC PROCEDURES:

1. RESPONSIBILITY/AUTHORITY:

1.1 The Division Director of Classification and Inmate Records/designee will be responsible for monitoring, coordinating, and administering the Earned Work Credit Program and approving all changes other than those which are authorized to be handled at the institutional level. In addition, the Division Director of Classification and Inmate Records/designee will:

- Ensure that these procedures are reviewed on at least an annual basis or more often if necessary; and
- Ensure that each institutional Earned Work Credit (EWC) Coordinator is promptly informed of any development regarding EWC issues.

1.2 The Division Director of Resource and Information Management will be responsible for coordinating with and providing technical assistance and appropriate EWC information affecting inmate release dates to institutions, divisions, and the South Carolina Department of Probation, Parole, and Pardon Services.

1.3 At each institution, the institutional EWC Coordinator will be the Classification Case Manager, Community Program Supervisor, or designated Caseworker where a Case Manager is not assigned. At a minimum, each EWC Coordinator will:

- ensure institutional compliance with the Agency's EWC policy, as well as coordinating EWC matters with the Division of Classification and Inmate Records;
- maintain an updated list of job supervisors authorized to sign SCDC Form 19-54, "Inmate Job/School Assignment," and ensure strict compliance with such signature requirements;
- maintain an updated roster of institutional authorized EWC job positions and the maximum numbers of inmates that can be assigned to each area;
- ensure that records are maintained properly and that all EWC data is accurately entered into the computer;
- perform quarterly audits of all EWC job and work assignments;
- ensure that inmates are entered in the appropriate job code in the automated system; and
- Meet with institutional job supervisors on a quarterly basis to resolve EWC questions and concerns.

1.4 The Assistant Division Director of *Central* Classification/designee will coordinate all EWC matters with the Designated Facilities to include, but not be limited to, the following:

- distribution of information pertaining to EWCs to all authorized Designated Facilities;
- collection and CRT entry of EWCs for those inmates assigned to Designated Facilities;

(NOTE: Any request for EWC backdating must be endorsed by the Designated Facilities Specialist and sent to the Assistant Division Director of *Central* Classification/designee who will make recommendations before forwarding it to the Division Director of Classification and Inmate Records/designee.)

- monitoring of the administration of the EWC program in Designated Facilities to ensure proper compliance with policy.

~~1.5 NOTE: The responsible officials for the supervision of Earned Educational Credits (EECs) and related eligibility guidelines are outlined in SCDC policies pertaining to educational credits. As provided in §24-13-230-(F)(2), South Carolina Code of Laws, 1976, as amended, inmates convicted of a violent offense excluded by law will not be eligible to receive Earned Educational Credits unless they were convicted of a crime committed on or after January 1, 1996, and were sentenced to one of the "No Parole" offenses.~~

~~1.6 The 1995 Crime Bill passed June 7, 1995, outlines "No Parole" offenses as follows: Any inmate whose crime was committed on or after January 1, 1996, and was sentenced to one of the "No Parole" offenses can earn EWC/EEC and Bonus Credits at a combined maximum total of six (6) days a month and maximum annual total of 72 days.~~

1.7 Any inmate who was convicted of a parolable violent offense, regardless of when the offense was committed, is not eligible to earn any Earned Educational Credits.

2. GENERAL PROVISIONS:

2.1 Each inmate who was allowed to keep his/her earned work credit rate upon implementation of the pilot Classification System on September 16, 1996, will continue to earn EWCs at that rate as long as the inmate is not convicted of a disciplinary rules violation.

~~2.2 Earned Work Credits will be used to compensate inmates for labor performed or for their enrollment and active participation in academic or vocational programs according to the inmate's custody designation.~~

2.3 Each institution will provide the opportunity for a minimum of five (5) hours per day and an optimum of eight (8) hours per day, five (5) days per week, of full-time, meaningful work and/or program assignments for all capable inmates in the general population. The Agency will make mandatory the requirement that inmates participate in a productive duty assignment and/or academic or vocational programming. All jobs, program assignments, housing, and services will be distributed in a rational, fair, and equitable manner. (4-4448, 4-4449, 4-4451, 4-4452, 4-4454)

2.4 The automated system will advance the EWC/EEC rate to Level 2 for inmates in Minimum In (MI) custody when they meet the behavioral and time requirements to advance to Minimum Out Restricted (MOR) custody.

2.5 Inmates who commit disciplinary rules violations that result in criminal charges, on or after September 16, 1996, are not eligible for an advance to EWC/EEC Level 2 rate.

3. TIME REQUIREMENTS FOR JOBS RECEIVING EWC:

3.1 Inmates working a minimum of five (5) hours per day, five (5) days per week, will be considered "full-time" and will be awarded EWCs in accordance with Procedure 8., below. (4-4454)

3.2 Inmates working less than five (5) hours per day will be considered "part-time" and will be awarded one-half the credits as indicated in Procedure 8., below.

3.3 Inmates may perform two (2) jobs to make up a full work day, but may only receive EWCs for one (1) full-time job.

4. STATUTORY LIMITATIONS ON AWARDING EWC: Earned Work Credits (EWCs) may be applied against an inmate's original parole eligibility dates except as specified in the following cases:

4.1 Armed Robbery: EWCs earned before June 30, 1981, may not be applied against an inmate's parole eligibility date. However, EWCs earned on or after June 30, 1981, may be applied against an inmate's parole eligibility date. EWCs accrued at any time may be applied to reduce the good time release (max-out) dates of inmates sentenced for Armed Robbery.

4.2 Life Sentence: EWCs may be accrued by inmates sentenced to life as follows:

Sentence	Dates	Eligibility
A Life Sentence for Other than Murder	If offense was committed before 5/5/78	Eligible for EWCs
	If offense was committed on or after 5/5/78	Eligible for EWCs beginning 6/30/81
A Life Sentence for Murder with a 10 Year Parole Eligibility	If offense was committed prior to 6/13/77	Eligible for EWCs
A Life Sentence for Murder with a 20 Year Parole Eligibility	If offense was committed before 5/5/78	Eligible for EWCs
	If offense committed on or after 5/5/78 and before 6/15/81	Not eligible for EWCs except between 6/30/81 and 5/21/85
	If offense committed on or after 6/15/81 and before 5/21/85	Eligible for EWCs beginning 6/30/81
	If offense committed on or after 5/21/85	Not eligible for EWCs
A Life Sentence for Murder with a 30 Year Parole Eligibility		Not eligible for EWCs

4.3 Crime Bill Passed June 7, 1995; "No Parole": Any inmate whose crime was committed on or after January 1, 1996, and who was sentenced to one of the "No Parole" offenses can earn EWCs/EECs and Bonus Credits at a combined maximum total of six (6) credits a month and maximum annual total of 72 credits. These offenses must be considered the principal of the crime carrying an offense characteristic of "Facilitation of," "Guilty but Mentally Ill," "Accessory Before and After the Fact," or "Attempt to Commit."

4.4 Youthful Offender Act: An inmate who was sentenced under the Youthful Offender Act is not eligible to receive EWCs/EECs towards the reduction of time to serve on his/her sentence. However, if s/he has a concurrent determinate (straight-time) sentence, EWCs/EECs may be earned and applied against the determinate sentence.

4.5 Interstate Corrections Compact: Inmates serving sentences from other states under provisions of the Interstate Corrections Compact are not eligible to receive EWCs/EECs. However, if a concurrent South Carolina sentence is also being served, EWCs/EECs may be credited to the South Carolina sentence. Inmates serving South Carolina sentences in other states will be awarded EWCs/EECs as determined by the Division Director of Classification and Inmate Records based on information furnished by the other state.

4.6 Inmates Serving South Carolina Sentences in Other Jurisdictions: Inmates who have South Carolina sentences that are concurrent with a federal or other state sentence and who have worked at a productive duty assignment while in the other jurisdiction are eligible for SCDC earned work credit provided that:

- SCDC has obtained documented and reliable information from the other jurisdiction that work was performed;
- Work that was performed is equivalent to the type of work that would have permitted the inmate to earn credit if s/he had been in an SCDC institution;

- The work was performed during the time that the inmate's concurrent South Carolina sentence was in effect;
- The inmate is eligible to receive EWC; and
- Loss/forfeiture of good time will also be applied to any inmate who has received a disciplinary conviction after the start date of the South Carolina sentence.

4.7 Probation/Parole: Inmates on parole or probation, even when related to a sentence which includes incarceration, are not eligible to earn EWCs/EECs for the time spent under community supervision.

4.8 Habitual Offender: Inmates serving sentences solely for Habitual Offender are not eligible to earn EWCs/EECs.

4.9 Mandatory Five Year Sentence for Firearms Possession: Inmates serving the mandatory five (5) years for the possession of a firearm during the commission of a violent crime are not eligible to receive EWCs/EECs for the period of incarceration which is served for the possession violation (enhancement).

4.10 Criminal Contempt: Inmates serving criminal contempt sentences are entitled to earn EWCs/EECs.

4.11 Criminal Charge Conviction: Inmates who are charged with a violation on or after September 16, 1996, for which they are criminally convicted in the state judicial system will receive a restriction which will not allow advancement to EWC Level 2.

5. OTHER LIMITATIONS:

5.1 Institutional Transfers: When an inmate is transferred from one institution to another, EWCs/EECs will be discontinued immediately after his/her last day of work at the losing institution or last day of participation in a school or vocational program. The only exception will be for those inmates who are scheduled for participation in the 30-Day Pre-Release Program or the Addictions Treatment Unit.

5.2 Restrictive Housing Unit (RHU): Inmates housed in *RHU* will not receive EWCs with the exception of the following:

5.2.1 When an inmate is placed in a *Restrictive Housing Unit (RHU)* for purposes of pre-hearing detention, his/her EWCs/EECs will be discontinued on the first day of absence from his/her employment or school/vocational assignment/program. EWCs/EECs lost will not be reinstated regardless of the disposition of the charges. If the charges are dropped, the inmate is found not guilty, or the inmate successfully appeals the guilty finding, the inmate may be reassigned to his/her previous job, school, or vocational assignment at the same rate and level. EWCs/EECs will be resumed only when the inmate returns to work, school, or vocational assignment. No EWCs/EECs will be reinstated for the period of time the inmate was in *RHU*.

5.2.2 Any time an inmate is placed in *RHU* housing on pre-hearing detention status (also referred to as short-term lock-up) and/or is found guilty of a disciplinary infraction pursuant to Agency inmate disciplinary procedures, the inmate will be reviewed by the Institutional Classification Committee (ICC) for job, school, or vocational reassignment immediately after release from *RHU* status. The ICC will determine if the inmate should be reinstated to his/her previous job, school, or vocational assignment or assigned to another job, school, or vocational assignment. EWCs/EECs will be resumed only when the inmate returns to (and participates in) his/her work, school, or vocational assignment.

5.2.3 Protective Custody: Every effort will be made for inmates on statewide Protective Custody status to be provided meaningful work. Those who work will receive earned work credits at a rate of Level Seven (7).

5.3 Substantiated Security Risk (SSR): Inmates housed in *SSR* will not receive EWCs.

5.4 Disciplinary Appeals: If an inmate's disciplinary conviction is overturned pursuant to GA-01.12, "Inmate Grievance System," s/he will be entitled to reinstatement of earned work credits at the previous rate of earning. However, EWCs/EECs lost while an inmate is in a *Restrictive Housing Unit (RHU)* will not be reinstated.

5.5 Return to Court: The losing institution must monitor the inmate's length of time away from the institution as a result of a court transfer. EWCs/EECs will be terminated on the first day of absence when an inmate is absent from his/her job, school, or vocational assignment for longer than three (3) working days due to a court appearance.

5.6 Psychiatric Unit Resident: EWCs/EECs will be discontinued immediately except when simultaneously assigned to a productive job, school, or vocational assignment.

5.7 Habilitation Unit for the Developmentally Disabled Offender: Inmates in the Habilitation Unit are not eligible for EWCs/EECs except when assigned to a productive job, school, or vocational assignment.

5.8 Disability Status: Inmates who are certified as disabled by authorized medical personnel may earn EWCs/EECs if they are cleared by the medical section as able to work or attend school or vocational programming. Inmates who are on disabled status because of a job related accident will continue to earn EWCs/EECs until certified as able to return to work, school, or vocational assignment, or up to six (6) months, whichever occurs first. Every effort should be made to provide productive employment and/or educational or vocational programming for disabled inmates commensurate with their medical capabilities. (4-4450)

5.9 Six (6) Months Pre-Release Program: Inmate participants in the Six (6) Months Pre-Release Program will continue to receive EWCs/EECs at the same level as their custody prior to being transferred to a Pre-Release Center.

5.10 Addictions Treatment Unit (ATU) Program and ATU Step-Down: Inmate participants in the Addictions Treatment Unit Programs and ATU Step-Down will continue to receive EWCs/EECs at the same level as their custody prior to being transferred.

5.11 Supervised Furlough II-A Program (SFII-A): Inmates participating in the SFII-A program will continue to receive earned work credits at the same level as their custody prior to release on SFII-A. Earned work credits will be discontinued if a warrant for SFIIA violation is issued. The effective date for termination of earned work credits will be the warrant issue date.

5.12 Safekeeper (Including Death Row): Inmates in Safekeeper status for counties through Executive Order or on Death Row are not eligible for EWCs/EECs.

5.13 Escape: If an inmate escapes, his/her EWCs/EECs will be stopped immediately.

5.14 Medical: EWCs/EECs will be terminated on the first day of absence when an inmate is sick and away from his/her job, school, or vocational assignment for longer than three (3) working days due to non-job related reason, i.e., sick pass due to flu, broken leg, etc. (See also Procedure 6, below.)

5.15 Other Circumstances: EWCs/EECs will be continued for a period of three (3) working days. If the inmate is absent for more than three (3) working days, EWCs/EECs will be terminated effective the first day of absence. This includes sick call, authorized absence, or any other official absence not mentioned above.

5.16 Early Release to Detainers: The EWC/EEC will be continued for a period of five (5) working days prior to maxout of SFII-A release when an inmate is picked up on an outstanding detainer (e.g., hold/wanted prior to maxout or SFII-A early release date).

5.17 Institutional Lockdowns: *The EWC/EEC of inmates assigned to a job or attending school at the time of the lockdown will be continued if the lockdown is due to no fault of the inmate (i.e., staff shortage, actions of another inmate).*

6. INJURY AND HOSPITALIZATION:

6.1 Job Related: In case of job related injury or hospitalization, EWCs/EECs will continue at the same level up to six (6) months, or after being medically certified as able to continue employment, whichever occurs first. If the inmate does not return to work after being medically certified and the job-related absence has been less than six (6) months, the EWCs/EECs termination date will be effective the day following the date of medical certification.

6.2 Non-Job Related: EWCs/EECs will be continued for a period of three (3) working days. If the inmate is absent for more than three (3) working days, EWCs/EECs will be terminated effective the first day of absence.

7. INMATE JOB/SCHOOL ASSIGNMENT: SCDC Form 19-54, "Inmate Job/School Assignment," is to be used to record all initial job/school assignments and subsequent changes (e.g., reassignments, promotions, demotions, and terminations, etc.). After the form has been completed, proper distribution will be made, to include filing in the institutional record.

7.1 Voluntary Job Change: An inmate who has successfully completed at least *twelve (12)* months in an assigned job may request a job change. The inmate must appear before the ICC for approval/disapproval.

7.2 Lateral Transfers: Job transfers within the same area may be implemented by the job supervisor without prior approval of the ICC/Caseworker. Classification must be notified within 48 hours using SCDC Form 19-54, "Inmate Job/School Assignment," with the job supervisor maintaining a copy for his/her files. The Classification Case Manager/Caseworker will sign the form and forward the original to the institutional record. (Refer to Procedure 7.5., below, for information pertaining to computer entry.)

7.3 Terminations:

7.3.1 An inmate may be recommended for termination from a job by his/her supervisor for unsatisfactory job performance, inability to perform work, or other appropriate reasons. Prior to termination, the inmate may be given SCDC Form 19-123, "EWC Performance Evaluation, Warning Notice," by his/her supervisor explaining how his/her performance could be improved. Depending on the circumstances surrounding the termination, the inmate may be charged with a rules violation. (A "Warning Notice" is not required prior to termination.) All terminations (except administrative request) must be approved by the Institutional Classification Committee.

7.3.2 In case of termination, the supervisor will submit the recommendation to the Classification Section on a completed SCDC Form 19-54, "Inmate Job/School Assignment," indicating the circumstances surrounding termination. Copies of any warning notices, counseling forms, or incident reports should be attached. If the inmate is terminated by the ICC, the effective date of termination is the date signed by the job supervisor on SCDC Form 19-54, "Inmate Job/School Assignment."

7.3.3 The ICC will review all documentation and interview the inmate for possible reassignment to another job.

7.3.4 The supervisor recommending termination will not participate as a voting member on the ICC reviewing the termination case.

7.3.5 Administrative Request: An inmate may be reassigned at the discretion of the Warden or designee when it is deemed necessary for the safety and security of the institution.

7.4 Recording of Job/School Assignment: SCDC Form 18-1, "Committee Docket," and SCDC Form 19-54, "Inmate Job/School Assignment," will be used for recording all initial job/school assignments and subsequent changes. Inmates assigned to jobs and/or to school will be directed to the appropriate supervisor following their

ICC hearing. Individual work supervisors will receive notice from the Case Manager/Caseworker of the inmate's assignment within 24 hours of the hearing.

7.5 Computer Entry: Job/school assignment information will be entered into the SCDC CRT indicating the inmate's SCDC number, job classification code, effective date of hire, job location, and number of days/hours to be worked. The designated institutional employee will make appropriate CRT entries on the EWC/EEC screens within three (3) working days after the ICC hearing.

7.6 Refusing to Work/Failure to Work/Refusing to Attend the Compulsory School Program: An inmate's refusal to work or participate in a mandatory educational program will result in disciplinary action pursuant to SCDC policies pertaining to inmate discipline. (See SCDC Policy OP-22.14, "*Inmate Disciplinary System.*")

8. AWARDING EARNED WORK CREDITS: (NOTE: The Agency adopted a five (5) days on and two (2) days off (5/2) work schedule effective January 1, 1998, with exceptions limited to job sites which are on seven (7) day credits.) All seven (7) day credit job assignments must receive the written approval of the Division Director of Classification and Inmate Records.

8.1 Each inmate job assignment will be placed in one of four job classification levels, and EWCs will be awarded on the basis of custody:

CUSTODY	LEVEL 2	FULL-TIME	PART-TIME
Minimum Out (MO)	5 days/week	2.50 credits/week	1.25 credits/week
	7 days/week	3.50 credits/week	1.75 credits/week
Minimum Out Restricted (MOR)	5 days/week	2.50 credits/week	1.25 credits/week
	7 days/week	3.50 credits/week	1.75 credits/week

CUSTODY	LEVEL 3	FULL-TIME	PART-TIME
Minimum In (MI)	5 days/week	1.19 credits/week	0.595credits/week
	7 days/week	2.33 credits/week	1.17 credits/week

(NOTE: Minimum In (MI) will be Level 3 until meeting behavior and time requirements to Minimum Out Restricted (MOR), then move to EWC Level 2.)

CUSTODY	LEVEL 5	FULL-TIME	PART-TIME
Medium (ME)	5 days/week	0.7142 credits/week	0.3571 credits/week
	7 days/week	1.40 credits/week	0.70 credits/week

8.2 No more than 180 days of Earned Work Credits and/or Educational Credits will be awarded to any one inmate during any 12-month period. For those inmates with "No-Parole" sentences, no more than 72 days will be awarded during any 12-month period.

8.3 Any EWCs awarded retroactively must be requested by the Warden with at least two (2) supporting statements and documentation from SCDC or supervising employees verifying the work and the dates performed. All Earned Work Credits awarded retroactively must be approved in writing by the Division Director of Classification and Inmate Records.

8.4 Inmates will be provided the opportunity to work and earn EWCs on an equitable and rational basis, consistent with security needs, and without discrimination on the basis of race, sex, or disability. (4-4450)

8.5 EWCs will be awarded on a day-for-day basis. Overtime hours may not be applied to five (5) or seven (7) day credit, except as approved by the Agency Director.

8.6 Notwithstanding the provisions of these procedures, inmates may be required to work beyond a 40 hour work week and/or an eight (8) hour work day to perform duties for the benefit of the Agency.

9. SECURITY PRECAUTIONS:

9.1 Inmates will not be permitted to complete, handle and/or peruse EWC forms.

9.2 Inmates will not be permitted to observe EWC/EEC data entry into CRTs.

10. LOSS OF EARNED WORK, EDUCATION, OR GOOD CONDUCT CREDITS PURSUANT TO SOUTH CAROLINA CODE OF LAWS, 1976, AS AMENDED, §24-27-200

Pursuant to §24-27-200, a prisoner shall forfeit all or part of his earned work, education, or good conduct credits in an amount to be determined by the Department of Corrections upon recommendation of the court or administrative judge. The taking of earned work, education, or good conduct credits shall be consistent with appropriate due process considerations. See SCDC Policy OP-21.11, "Loss of Statutory Good Time," for more information about the procedures that must be followed for forfeiture of earned work, education, or good conduct credits pursuant to §24-27-200.

11. DEFINITION:

Full-time Meaningful Programs refer to organized, supervised programs including, but not limited to: vocational training, education courses, work assignments, work release, agriculture, public works, and industries which allow inmates the opportunity for a minimum of five (5) hours per day and an optimum of eight (8) hours per day participation and engagement in intellectual, constructive, and physical activity. (4-4448, 4-4449, 4-4451, 4-4452, 4-4454)

SIGNATURE ON FILE

s/Bryan P. Stirling, Director

Date of Signature

ORIGINAL SIGNED COPY MAINTAINED IN THE OFFICE OF POLICY DEVELOPMENT

DEC 12 2018

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM

Due 11/9/18

DIVISION OF CLASSIFICATION
INMATE RECORDS

STEP 2

RECEIVED

INMATE NAME: Adam Winingham
SCDC NUMBER: 268099
INSTITUTION: Goodman C.I.
HOUSING UNIT: Building 4 cell 21T
WORK ASSIGNMENT: Criminal Justice Academy

NOV 08 2018

INMATE GRIEVANCE

Office Use Only
Grievance No. SCI 0084-18
Code: General _____
Policy: _____
Disc. Hear: _____
Class: ✓ EUC
Date Received 11/15/18
IGC Initials KH

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): Law 24-13-150(A)! All No Parole offenses have 85% before being released. It also states that the 85% is to be calculated from the actual term of imprisonment imposed without the application of EUCs, EECs, or G.C. credits. Law 24-13-230(B)! No prisoner convicted of a no parole offense is entitled to a reduction below the minimum term provided in 24-13-150(A). Law 24-13-230(B) also states a No Parole offender can get a maximum annual "yearly" credit for both EUCs and EECs limited to 72 days. Now we know those 72 days a year in Law can not be talking about the 15% giving us the 85%. One is because Law 24-13-150(A) says the 85% is to be calculated without EUCs, EECs, G.C. conduct credits. Two is because if the Law meant we can't get under 85% then 72 days a year would be impossible to give to a no parole offender no matter their custody or job because 72 days a year would be 16 year and 30 days to serve on a 20 year sentence and 85% of 20 years is 17 years. These Laws are intended to mean a No Parole offender can get 72 days a year deducted from the 85% sentence. Policy, O.P. 21.07(2.2) Inmates are compensated by their work with EUCs, and EECs for educational purposes. Policy's O.P. 21.07(4.3), (8.2), (1.6), (1.5) tells us No Parole offenders can get 72 days a year for EUCs, EECs, and G.C. conduct credits. Also note Policy O.P. 21.07(7.6) says we will be charged with a level 3 offense if we do not work. Kiosk reference # 18-00994701, Author (6004909) says I have worked and accumulated 1644 EUCs. Also Kiosk reference # 18-01055307, Author (6004909) says I earned 659 EECs. These EUCs, EECs and G.C. conduct credits are being calculated for a reason in Adam Winingham 11-3-18. Computer. We got what we deserved when sentenced now we get what we deserve by doing what is right. Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

See reverse side for final Agency response.

Justin D. Smith 12/2/18
Signature Date

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

[Signature] 1-24-19
Grievant Signature Date

[Signature] 1/24/19
IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

INSTRUCTIONS FOR COMPLETING STEP 2 GRIEVANCE FORM

1. Complete form in its entirety, writing only in the space provided for inmate use.
2. State your specific reason for further appeal. Do not submit any new issues for review.
3. Submit this completed form with your original Step 1 attached, to the Institutional Grievance Coordinator within five (5) days of your receipt of the Warden's decision. Do not write in the space provided for the responsible official.
4. The decision rendered by the responsible official exhausts the appeal process of the SCDC Inmate Grievance Procedure.

Winningham, Adam SCDC No. 268099 GCI-0084-18

I have reviewed your concern. In your grievance you stated that upon request on 8/14/18 classification stated that you have 17 years of 20 years original sentence which is 85% and you would like to get 1,644 days of credits that you are owed. The Warden responded to your concern on SCDC Step 1 Inmate Grievance Form 10-5 dated 10/31/18. You have been convicted of violating SC Code of Laws 16-11-311, Burglary 1st Degree and sentenced to 20 years which is classified as violent and no parole; 16-13-0030, Grand Larceny and sentenced to 7 years, and 16-11-0312, Burglary 2nd Degree and sentenced to 7 years. You have a mandatory service sentence of 17 years. Your projected release date is 12/21/2022. You have been credited with 1,661 Earned Work Credits, 664 Earned Education Credits and you have a Total Service Time Earned of 4,650 days. SCDC may award inmates with credits for good behavior and participation in work/educational programs. These credits can be applied towards an inmate's sentence (s) to establish an earlier release date, unless the inmate was sentenced under the Truth-in-Sentencing statute and must serve 85% of his/her sentence without EWCs/EECs/GT accruals. Good time credits can be applied towards establishing sentence expiration date. Good time credits cannot be applied towards establishing parole (conditional release) eligibility. On the other hand, work/educational credits can be applied towards conditional or unconditional release criteria. Once an offender is committed to SCDC, projected release dates could be negatively impacted in several ways, including if the inmate loses good time, fails to earn good time, or fails to earn work credits for any reason. Your projected release date is correct and you have been given credit for all the time that you deserve.

Therefore, your grievance is resolved.

You may appeal this decision under the South Carolina Administrative Procedures Act to the South Carolina Administrative Law Court. In order to appeal, you must complete the attached Notice of Appeal Form (Form) and submit it as instructed on the Form within thirty (30) days of receipt.

CMTI200D SCDC OFFENDER MANAGEMENT SYSTEM 01/30/19
 OMCOMITA COMMITMENT APPLICATION C060177
 SCDC #: 268099 INQUIRY CURR LOC: GOODMAN
 WINNINGHAM, ADAM - NONCONFORM SENT: N RTRN TO COURT: N
 OFFENDER TYPE: ADULT-STRAIGHT SENTENCE
 CONVICTION NUM: S00010 INDICT NUM: 05-GS-08-2096 WARRANT NUM: H938605
 DATE SENTENCED...: 03/20/2006 JUDGE LAST...: YOUNG FI: R
 STATUTE: 16-11-311 CDR CODE.: 0079 GPS IND: N
 OFFENSE: 2220 BURGLARY-1ST DEGREE OFFENSE DATE: 04/21/2005
 CHARACT: F FACILITATION OF COUNTS: 01 OFFENSE CNTY: 08 BERKELEY
 PLEA...: G GUILTY TYPE OF COURT...: 01 GENERAL SESSIO
 TYPE SENTENCE... : S ADULT-STRAIGHT SCDC JURIS DATE...: 03/20/2006
 TOTAL SENTENCE...: 020 00 000 MAND SERV REQMT...: 017 00 000
 INCARC SENTENCE...: 020 00 000 PAROLE FACTOR...: 2 1/3 SENT. REQ.
 PROBATION SENT...: 000 00 000 PAROLE SERV REQMT: 999 99 999
 HIP SENT.....: 000 00 000 HAYES CRED: 00000
 RESTITUTION REQMT: N AMT: .00 JAIL CRED: 00141 EXTRA CRED: 00000
 CONVICTION STATUS: AC ACTIVE SENT START DATE: 10/30/2005 DOM.IND:
 CONSECUTIVE IND...: N SPOUSE ABUSE: STATUTE CLASSIFICATION...: VIOLENT
 DNA OFFENSE IND...: Y ~~EEC~~ ELIG: Y SCDC CLASSIFICATION.....: VIOLENT
 SEX REG: N PRED OFF: N LAST UPDATE: M STOBBE DATE: 12/27/18
 NO PAROLE: NO PAROLE CREATED BY.: S MOSES DATE: 03/29/06

PF8-NEXT CONVICTION

PF9-DETAIN

PF4-RESTITUTION PAID(FA ONLY)

11.02.11 Tuesday, June 10, 2019

CMTI330D
OMCOMITA
SCDC# > 268099
WINNINGHAM, ADAM -

SCDC OFFENDER MANAGEMENT SYSTEM
RELEASE DATE SCREEN

06/18/19
C060177

OFFENDER TYPE...: ADULT-STRAIGHT SENTENCE

LOC: GOODMAN
SCDC CLASSIFICATION...: VIOLENT
SEXUAL REGISTRY...: N
SEXUAL PREDATOR...: NOT APP
DNA STATUS.....: COMPLETED
GPS REQUIREMENT...: N
PREA DECISION....:
PREA PERP...: [REDACTED]

PREA VICTIM.....: [REDACTED]
CURRENT SENTENCE: 020-00-000
020-00-000

CONSECUTIVE SENTENCE ...: N
CURRENT SENT START DATE: 10/30/2005

PROJECTED COMPLETION DATES
MAXOUT DATE: 10/26/2022
YOA SIX YEAR DATE: / /
INITIAL PAROLE DATE: 00/00/0000

CURRENT EWC ...: 2 F 5
CURRENT EEC ...: NOT CURRENTLY EARNING EEC
NEXT PAROLE HEARING DATE: 00/00/0000

TOTAL GT DAYS EARNED: 000000
TOTAL EARNED WORK CREDITS ...: 001753
TOTAL EDUCATION CREDITS: 000000
TOTAL EXTRA EARNED CREDITS ..: 000
TOTAL SERVICE TIME EARNED ...: 004908

LABOR CREW/WORK PROG DATE: 99/99/9999
LABOR CREW DISQ REASON:
CATEGORY 4 OR 5 OFFENSE
SUPERVISED REENTRY DATE...: 00/00/00
ISS.....:

PFKEYS: 5:HISTORY OF DATE CHANGES

Proof of Service

I Adam Birmingham #268099 hereby Certify that a placement of this initial brief has been served upon the following parties by placing a copy of the same via mail to his/her's last known address at the same time and on the same day.

SCDC Office of General Counsel P.O Box 21787 Columbia S.C. 29221	S.C. Court of appeals Jenny Abbott Kitchings, Clerk P.O. Box 11629 Columbia, S.C. 29211
--	--

Adam Birmingham
 S/ Adam Birmingham 268099
 Date/ 1-24-2020
 Goodman C.T. BY-7-B
 4556 Broad River Rd
 Columbia S.C. 29210

Notary:

S/ Finkelberg

RECEIVED

JAN 28 2020

Date/ 24 January 2020 SC Court of Appeals

Exp: 8/30/2026

Adan Winningham 268099
Goodman C.I B4-7B
4556 Broad River Rd
Columbia S.C. 29210



S.C. Court of Appeals
Jenny Abbott Kitchings; Clerk
P.O. Box 11629
Columbia S.C. 29211

SCDC
JAN 24 2020
MAIL ROOM

RECEIVED
JAN 28 2020
SC Court of Appeals

