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SC Court of Appeals

The South Carolina Court of Appeals

Adam Winningham, #268099, Appellant
Pro/se

v.

South Carolina Dept of Corrections, Respondent

Appellant Case # 2019-001751

Final Brief

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S.C Code Ann. } 24-13-150(A) - Pg. 1, 2, 3, 4, 6, 7

S.C Code Ann. } 24-13-210(B) - Pg. 1, 2, 3, 6, 7

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III. Policy of SCDC.

OP- 21.07; Earned Credits.

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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 EWCS, EECs, and G.I credits that those Laws declare "No-parole" offenders should get.)

Statement of Case

Appellant Adam Winingham, 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. This Appeal Follows

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. Sweet, 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's 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.t 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.t 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 EEC's as of 12-12-18 and now it is more. I work a Full time Job and I do Independent Studseg log to keep my EECs 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 EECs and Why they are not calculating now) Also see (Evidence 3) high lighted you will see Where SCDC Computer Shows I am eligible for EEC's.

(SEE EVIDENCE 4) high lighted 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 EEC credits however look back at paragraph above and (Evidence 3) to show and prove I should be calculated EEC'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 EEC's for educational studies. (Note) this policy was wrote to justify the taking of inmates state pay on 1-1-¹⁹⁹⁶1986

"no parole" inmates are being calculated in the SCDC computer for 2 for 5 EWC's and EEC's just like paroleable 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" offenders 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 EWCs, EECs, and

Got Credits.

See Michael Heath Bolin, V. S C DC
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 states;
"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 our max out 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 max out 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 receives. 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 Blinnings