

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Buddy Newsome, #220855,)	Docket No. 19-ALJ-04-0575-AP
)	
Appellant,)	
)	
v.)	
)	
South Carolina Department of)	
Corrections,)	
)	
Respondent.)	
_____)	

ORDER

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SC Court of Appeals

STATEMENT OF THE CASE

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to a Notice of Appeal filed by Buddy Newsome (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (Department or Respondent). Appellant appeals the Department's decision denying his Step 2 Grievance because the Appellant was not serving a life sentence to imprisonment as contemplated under S.C Code Ann. § 24-3-40 (2017). Upon careful consideration of the Record on Appeal (Record), arguments raised in the parties' briefs, and the applicable law, the Court upholds the Department decision in this case.

BACKGROUND

On September 17, 2019, Appellant filed a Step 1 Grievance contending that he should be allowed access to his "Long Term Savings." ¹ Appellant was convicted of Homicide by Child Abuse pursuant to S.C. Code Ann. § 16-3-85, an offense he committed in 1994. He was sentenced for this crime to serve one hundred (100) years in prison. Appellant argues that the South Carolina Court of Appeals' unpublished opinion in *Baum v. South Carolina Department of Corrections*, 2019 WL 1164316 (Ct. App. 2019) requires the Department to allow him to direct his escrowed wages to "persons or entities of his choice" under S.C. Code Ann. § 24-3-40(B)(2). While Appellant acknowledges that § 24-3-40(B)(2), on its face, applies only to inmates "serving life in

¹ As will be explained below, Appellant is referring to an escrow account for wages earned by prisoners employed in the Prison Industries Program created under S.C. Code Ann. § 24-3-40(A)(5) (2007 & Supp. 2019).

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prison or sentenced to death,” Appellant contends that his definite sentence of 100 years is a *de facto* life sentence because it extends beyond his life expectancy.² The Department’s internal grievance decision rejected Appellant’s *de facto* life argument and denied his attempt to direct distribution of his escrowed wages because he had not been sentenced to life in prison, and further, was eligible for parole.

Thereafter, on November 8, 2019, Appellant filed his Notice of Appeal with this Court. On November 27, 2019, Appellant filed what he characterized as his “Initial Brief.” On January 24, 2020, the Department filed the Record on Appeal (Record). The Department then filed a Motion to Enlarge Time to File Brief on March 10, 2020, which the Court granted by Order dated March 13, 2020. The Appellant then filed what he characterized as his “Final Brief” on March 17, 2020. On April 13, 2020, the Department filed its brief. On April 20, 2020, Appellant filed a second “Final Brief” which offers counter arguments to the Department’s brief and should, therefore, have been labelled, “Reply Brief.”³

JURISDICTION/STANDARD OF REVIEW

The Court’s jurisdiction to review the Department’s final decision in a non-collateral or administrative matter stems from *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). Typically, these administrative matters entitled to review “[a]rise in two ways: (1) when an inmate is disciplined and punishment is imposed and (2) when an inmate believes prison officials have erroneously calculated his sentence, sentence-related credits, or custody status.” *Id.* at 369, 527 S.E.2d at 750. In determining to adhere to the limited nature of judicial review in inmate matters, the court observed that, “[c]ourts traditionally have adopted a ‘hands off’ doctrine regarding judicial involvement in prison disciplinary procedures and other internal prison matters, although they must intercede when infringements complained of by an inmate reach constitutional

² Appellant’s acknowledgement that he is serving a 100 year sentence instead of having been sentenced to life imprisonment is significant and is binding on him for the purposes of this appeal. *See Germain v. Nichol*, 278 S.C. 508, 509, 299 S.E.2d at 336 (1983)(A party is bound by what he states in the Statement of Case of his brief) In a previous case involving Appellant, *Newsome v. South Carolina Department of Pardon, Parole and Pardon Services*, Docket No. 17-ALJ-15-0027-AP (S.C. Admin. Law Judge Div. February 13, 2018), based upon a representation contained in the Respondent agency’s brief, this Court observed that Appellant was “serving a life sentence for the offense of Homicide by Child Abuse...” “A court can take judicial notice of its own records, files[,] and proceedings for all proper purposes including facts established in its records.” *Wise v. Wise*, 394 S.C. 591, 716 S.E.2d 117 (Ct. App. 2011):

³ Appellant is reminded that South Carolina Administrative Law Court Rule of Procedure 60(D) states that “[o]nly one initial brief and reply brief will be considered by the court unless, the court, upon motion, has allowed the filing of an additional brief.”

dimensions.” *Id.* at 382, 527 S.E.2d at 757 (citation omitted).

Post *Al-Shabazz* decisions have determined that a matter is reviewable by the ALC where an inmate's appeal implicates a state-created liberty or property interest. *See e.g., Howard v. S.C. Dep't of Corr.*, 399 S.C. 618, 630, 733 S.E.2d 211, 218 (2012); *see also Wicker v. S.C. Dep't. of Corr.*, 360 S.C. 421, 424, 602 S.E.2d 56, 57-58 (2004) (holding that inmates have a right to procedural due process in matters involving a state-created right to property such as the state's mandate that inmates be paid the prevailing wage).⁴ In *Slezack v. South Carolina Department of Corrections*, 361 S.C. 327, 605 S.E.2d 506 (2004), our supreme court distinguished the ALC's subject matter jurisdiction from its appellate jurisdiction in clarifying the ALC's jurisdiction in inmate grievance matters. The court explained that the ALC has subject matter jurisdiction to hear appeals from the final decision of the Department in non-collateral or administrative matters. *Id.* at 331, 605 S.E.2d at 507 (citation omitted); *see also Howard*, 399 S.C. at 625, 733 S.E.2d at 215 (“The ALC has subject matter jurisdiction under the [APA] to hear properly perfected appeals from the SCDC's final orders in administrative or non-collateral matters.”) In addition, “[t]he AL[C] has appellate jurisdiction over any matter where the procedural prerequisites for perfecting such an appeal have been met.” *Slezack*, 361 S.C. at 331, 605 S.E.2d at 507 (citation omitted). However, while the ALC has jurisdiction over all properly perfected appeals from Department final orders, summary dismissal may be appropriate where the inmate's appeal does not implicate a state-created liberty or property interest. *Id.* at 333, 605 S.E.2d at 509. Because Appellant properly perfected his appeal, under the auspices of *Slezack* and *Howard*, the Court has jurisdiction over this matter.

In *Torrence v. South Carolina Department of Corrections.*, 373 S.C. 586, 646 S.E.2d 866, (2007), our state Supreme Court affirmed a circuit court's dismissal of a declaratory judgement action brought by three groups of litigants. Of significance here is the first group, a putative class of inmates who alleged that the Department disbursed wages earned under the Prison Industries Program in a manner that violated section 24-3-40(A) (2007 & Supp. 2019). In finding that the

⁴ Under certain circumstances, states may create liberty interests which are protected by the Due Process Clause; however, “[t]hese interests will be generally limited to freedom from restraint which . . . imposes atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life.” *Sandin v. Conner*, 515 U.S. 472, 483-84 (1995); *see also Sullivan v. S.C. Dep't of Corr.*, 355 S.C. 437, 445 n.5, 586 S.E.2d 124, 127 n.5 (recognizing that condition of confinement claims could implicate state-created liberty interests but adhering to *Sandin*'s pronouncement limiting these interests).

inmates could not bring their case in circuit court, the Supreme Court observed:

The Legislature specifically authorized inmate labor in private industry via S.C. Code Ann. section 24-3-430. This statute provides that “[n]o inmate participating in the program may earn less than the prevailing wage for work of similar nature in the private sector.” S.C. Code Ann. § 24-3-430(D) (2007); see also § 24-3-315 (for a prison industry project, the DOC must determine “that the rates of pay and other conditions of employment are not less than those paid and provided for work of similar nature in the locality in which the work is performed”). Moreover, section 24-3-430(H) expressly directs that “[t]he earnings of an inmate authorized to work at paid employment pursuant to this section must be paid directly to the [DOC] and applied as provided under Section 24-3-40.”

Appellants claim that despite the holdings of *Adkins* and *Wicker*, the Prisoner Subclass [prisoners who have participated in the Prison Industries Program] should be able to proceed in circuit court in the posture of a declaratory judgment action. We disagree. The clear rule emerging from the *Adkins* and *Wicker* cases is this: inmates working in the Prison Industries Program have a cognizable, state-created interest in having the DOC pay them according to the statutory scheme governing the Program, but they do not have a private right of action; instead, the DOC’s internal grievance procedure, with recourse to the Administrative Law Court, is the appropriate way to have a prisoner’s wage claim adjudicated. Therefore, the trial court correctly applied *Adkins* and *Wicker* to the Prisoner Subclass. To hold otherwise would contravene our precedent on these issues by allowing inmates access to the circuit court merely by styling their cases as declaratory judgment actions.

Id., 373 S.C. at 591-594, 649 S.E.2d at 868-869 (emphasis added).

Based upon *Torrence*, therefore, Appellant’s claim that the Department will not allow him to distribute his escrowed wages in accordance with § 24-3-40 is properly before this Court and is not subject to summary dismissal.

When reviewing the Department’s final decision in a non-collateral or administrative matter, the Court sits in an appellate capacity. *Al-Shabazz*, 338 S.C. at 376-77, 527 S.E.2d. at 754. Accordingly, the Court’s review is limited to the Record presented. S.C. Code Ann. § 1-23-380(4) (Supp. 2018). The Administrative Procedures Act establishes the standard of review the ALC must apply when reviewing the Division’s decisions:

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

inferences, conclusions, or decisions are:

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

S.C. Code Ann. § 1-23-380(5)(a)-(f) (Supp. 2018); *see also* S.C. Code Ann. § 1-23-600(E) (Supp. 2018) (directing administrative law judges to conduct appellate review in the same manner prescribed in section 1-23-380).

The Court's review is governed by the substantial evidence standard. *See generally Hamm v. S.C. Pub. Serv. Commission*, 309 S.C. 295, 422 S.E.2d 118 (1992) (explaining that under the APA, the Court must sustain an agency decision if there is substantial evidence to support it). The South Carolina Supreme Court has observed that "Substantial evidence is not a mere scintilla; rather, it is evidence which, considering the record as a whole, would allow reasonable minds to reach the same conclusion as the agency." *Friends of the Earth v. Pub. Serv. Comm'n of S.C.*, 387 S.C. 360, 366, 692 S.E.2d 910, 913 (2010) (citation omitted). The fact that the record, when considered as a whole, presents the possibility of drawing two inconsistent conclusions from the evidence does not prevent the agency's findings from being supported by substantial evidence. *Waters v. S.C. Land Res. Conservation Comm'n*, 321 S.C. 219, 226, 467 S.E.2d 913, 917 (1996). In applying the substantial evidence rule, "[a] reviewing court will not overturn a finding of fact by an administrative agency 'unless there is no reasonable probability that the facts could be as related by a witness upon whose testimony the finding was based.'" *Sea Pines Ass'n for Prot. of Wildlife, Inc. v. S.C. Dep't of Nat. Res.*, 345 S.C. 594, 603-04, 550 S.E.2d 287, 292 (2001) (quoting *Lark v. Bi-Lo, Inc.*, 276 S.C. 130, 136, 276 S.E.2d 304, 307 (1981)).

A reviewing court is not so constrained when deciding questions of law, however. *See Gibson v. Ameris Bank*, 420 S.C. 536, 542, 804 S.E.2d 276, 279 (Ct. App. 2017) ("[Q]uestions of law may be decided with no particular deference to the trial court...") (quoting *U.S. Bank Tr. Nat'l Ass'n v. Bell*, 385 S.C. 364, 373, 684 S.E.2d 199, 204 (Ct. App. 2009)); *see also Flexon v. PHC-Jasper, Inc.*, 413 S.C. 561, 569, 776 S.E.2d 397, 402 (Ct. App. 2015) ("This court [Court of Appeals] reviews questions of law *de novo*." (quoting *Proctor v. Steedley*, 398 S.C. 561, 573, 730 S.E.2d 357, 363 (Ct. App. 2012))).

Nevertheless, despite the latitude afforded to an appellate court when reviewing questions of law, “[t]he construction of a statute by the agency charged with its administration will be accorded the most respectful consideration and will not be overruled absent compelling reasons.” *CFRE, LLC v. Greenville Cty. Assessor*, 395 S.C. 67, 77, 716 S.E.2d 877, 882 (2011) (citation omitted); see also *S.C. Dep’t of Motor Vehicles v. Dover*, 423 S.C. 153, 161, 813 S.E.2d 532, 536 (Ct. App. 2018) (“[T]he deference doctrine ... provides that whe[n] an agency charged with administering a statute or regulation has interpreted the statute or regulation, courts, including the ALC, will defer to the agency’s interpretation absent compelling reasons.”) (citation omitted).

DISCUSSION

Appellant argues that he should be allowed to direct the money in his escrow account to persons he selects under §24-3-40(B)(2).⁵ In pertinent part, § 24-3-40(B) provides:

(B) The Department of Corrections, or the local detention or correctional facility, if applicable, shall return a prisoner’s wages held in escrow pursuant to subsection (A) as follows:

(1) A prisoner released without community supervision must be given his escrowed wages upon his release.

(2) A prisoner serving life in prison or sentenced to death shall be given the option of having his escrowed wages included in his estate or distributed to the persons or entities of his choice.

(3) A prisoner released to community supervision shall receive two hundred dollars or the escrow balance, whichever is less, upon his release. Any remaining balance must be disbursed to the Department of Probation, Parole and Pardon Services. The prisoner’s supervising agent shall apply this balance toward payment of the prisoner’s housing and basic needs and dispense any balance to the prisoner at the end of the supervision period

(emphasis added).⁶

⁵ Appellant cites the Court of Appeals’ unpublished decision in *Baum* for this proposition. There, in interpreting § 24-3-40 for inmates serving life sentences and those serving death sentences, the Court of Appeals construed the language of “subsections (A)(5) and (B)(2) to allow for either immediate distribution of an inmate’s escrowed wages to persons or entities of his choosing or inclusion of these assets in the distribution of his estate.” Although the Record here does not reveal the Department’s construction of these subsections prior to *Baum*, the Record indicates that the agency’s current policy has changed to conform to the decision.

⁶ Section 24-3-40(A)(5) provides for this escrow account and requires the Department to “deduct the following amounts from the gross wages of the prisoner:...(5) Ten percent must be held in an interest bearing escrow account for the benefit of the prisoner.” Inasmuch as Appellant is employed in a Prison Industries job or is engaged in other employment so that his wages must be distributed in accord with this code section, ten percent of his earned wages have been deposited into an escrow for “the benefit of the

As stated, although Appellant acknowledges that the trial judge did not sentence him to “life in prison,” he argues that his 100 year sentence – a term ostensibly exceeding his life expectancy – is a *de facto* life sentence which qualifies him for the requested relief under § 24-3-40(B)(2). Appellant cites *State v. Slocumb*, 426 S.C. 297, 827 S.E.2d 148 (2019) (also referred to herein as 2019 *Slocumb* decision) for the proposition that his 100 year sentence is a *de facto* life sentence. In the 2019 *Slocumb* decision, which concerned a sentencing issue for a defendant who was a juvenile at the time he committed his offense(s), the South Carolina Supreme Court recognized that the defendant’s “130 year sentence [was] a *de facto* life sentence.” *Id.*, 426 S.C. at 309, 827 S.E.2d at 154. In doing so, the court referred to *Bunch v. United States*, 685 F.3d 546 (6th Cir. 2012) in defining a *de facto* life sentence as “one that is expressed as a lengthy term of years, causing the defendant’s eligibility for parole or release to fall outside his projected life expectancy.” *Id.*, 426 S.C. at 301, n. 3, 827 S.E.2d at 301, n. 3.

The Department, citing to the South Carolina Court of Appeals’ decision in *State v. Slocumb*, 412 S.C. 88, 770 S.E.2d 436 (Ct. App. 2015) (2015 *Slocumb* decision), rejects Appellant’s *de facto* sentence rationale, however, and argues that the defendant in *Slocumb* “was serving several consecutive life sentences that exceeded his life expectancy and did not have the possibility of parole.” As such, according to the Department, the *Slocumb* defendant had no chance to be released from prison prior to the expiration of his 130-year sentence. In the Court of Appeals’ 2015 *Slocumb* decision, the issue was whether the state circuit court judge, on resentencing ordered after a United States District Court granted the defendant’s *habeas corpus* petition, should have resentedenced Slocumb for the one charge considered by the District Court or whether the judge should have resentedenced him on all of his charges “because his [total] term-of-years sentence was the functional equivalent of a life sentence.” *Id.*, 412 S.C. at 92, 770 S.E.2d at 438. The District Court granted *habeas corpus* because Slocumb, who committed multiple offenses while a juvenile, had been sentenced to life imprisonment for burglary. *Id.*, 412 at 91, 770 S.E.2d at 438. ⁷ The District Court vacated the life imprisonment sentence for burglary based upon the United States Supreme Court’s ruling in *Graham v. Florida*, 560 U.S. 48, 82 (2010) which held that life without

prisoner.”

⁷ Slocumb was also sentenced to thirty (30) years for kidnapping, thirty (30) years for first degree criminal sexual conduct, fifteen (15) years for robbery, and five (5) years for escape. All sentences were to run consecutively. *Id.*, 412 S.C. at 90, 770 S.E.2d at 437-338.

parole is unconstitutional under the Eighth Amendment to the United States Constitution when imposed on juvenile nonhomicide offenders. *Id.*, 412 S.C. at 91, 770 S.E.2d at 438. On resentencing in state court, the trial judge sentenced Slocumb to fifty (50) years in prison for the burglary conviction, but did not address his other convictions, leaving those consecutive sentences totaling an additional eighty (80) years imprisonment intact. *Id.* The Court of Appeals affirmed the lower court's reasoning that it had authority to address only the burglary conviction the District Court found to be in violation of applicable precedent. Thus, while Slocumb no longer faced a *de jure* life in prison sentence, and as such, presumably, *could* become parole eligible at some point, he still faced a total, definite prison sentence of 130 years. The 2015 Court of Appeals' *Slocumb* case did not address the *de facto* life sentence issue subsequently considered by the South Carolina Supreme Court in its 2019 *Slocumb* decision.

The issue our state Supreme Court adjudicated in the 2019 *Slocumb* decision was whether the Eighth Amendment to the United States Constitution prohibited the imposition of a *de facto* life sentence on an inmate who committed nonhomicide crimes while a juvenile. 426 S.C. at 303, 827 S.E.2d at 151. As stated earlier, the *Slocumb* Court recognized that Slocumb's 130-year prison sentence constituted a *de facto* life sentence. *Id.*, 426 S.C. at 309, 827 S.E.2d at 154 ("We do not deny the obvious—Slocumb's 130-year sentence is a *de facto* life sentence.") Nevertheless, our Supreme Court declined to rule that such violated the Eighth Amendment without further direction from the United States Supreme Court. *Id.*, 426 S.C. at 34-315, 827 S.E.2d at 314.

This Court must determine, then, whether Appellant's 100 year sentence constitutes a *de facto* life sentence as contemplated by the 2019 *Slocumb* decision, and if, so, whether such qualifies Appellant to direct his wages to "persons or entities" under § 24-3-40(B)(2).

Based on the 2019 *Slocumb* decision, this Court must conclude that Appellant is not serving a *de facto* life sentence. While clearly his 100 year sentence, if served without interruption, would almost certainly result in his not being released from prison during his natural life, Appellant is eligible for parole and has already appeared before the parole board.⁸ The only guide the 2019 *Slocumb* decision gave in assessing "*de facto*" life sentences is its citation to *Bunch*. Our Supreme Court thus gave the following definition of *de facto* life sentence: "a *de facto* life sentence is one

⁸ This Court's earlier decision in *Newsome v. South Carolina Department of Pardon, Parole and Pardon Services*, Docket No. 17-ALJ-15-0027-AP (S.C. Admin. Law Judge Div. February 13, 2018), arose out of Appellant's challenge to the time between his parole hearings.

that is expressed as a lengthy term of years, causing the defendant's *eligibility for parole or release to fall outside his projected life expectancy.*" *Id.*, 426 S.C. at 301, n. 3, 827 S.E.2d at 301, n. 3. (emphasis added) Here, it is clear that Appellant is currently eligible for parole. As such, Appellant's situation is excluded from the only definition of *de facto* life sentence that our state Supreme Court has provided.

Moreover, even if Appellant's sentence were to be considered to be a *de facto* life sentence, this Court does not believe that such would fall within the "serving a life sentence" language of § 24-3-40(B)(2). "The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature." *Alltel Comm. Inc. v. S.C. Dep't of Revenue*, 399 S.C. 313, 320, 731 S.E.2d 869, 873 (2012). "The plain language of the statute is the principal guidepost in discerning the General Assembly's intent." *Blue Ribbon Taxi Corp. v. South Carolina Department of Motor Vehicles*, 380 S.C. 600, 607, 670 S.E.2d 674, 678 (2008) "Where the statute's language is plain, unambiguous, and conveys a clear, definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning." *Alltel*, 399 S.C. at 320-21, 731 S.E.2d at 873. However, a "statute must be read as a whole and sections which are part of the same general statutory law must be construed together and each one given effect." *S.C. State Ports Auth. v. Jasper Cnty*, 368 S.C. 388, 398, 629 S.E.2d 624, 629 (2006).

The language of §24-3-40(B)(2) is straightforward. It allows an inmate "serving life in prison or sentenced to death" the option of sending his escrowed wages to persons or entities of his choice or to have such escrowed wages included in his estate. While the Court declines to rely upon the definition of "life imprisonment" under S.C. Code Ann. § 16-3-20 proffered by the Department,⁹ it is clear that the General Assembly contemplated making the relief under § 24-3-40(B)(2) available to a prisoner serving a life sentence who does not have the possibility of release earlier than the expiration of his or her natural life. Not only is this made clear by (B)(2)'s alternate clause, "or sentenced to death," it is supported by the remaining subsections of (B) inasmuch as (B)(1) and (B)(3) both provide for distribution of some or all of the escrow account to a prisoner upon his release, whether that release is because of the expiration of a term of years, community supervision or parole. The General Assembly's intent then is to ensure that the escrowed funds are available to an inmate as he reenters society upon release from prison. Given his eligibility for

⁹ Section 16-3-20, by its very terms, limits the definition of "life imprisonment" to that section, e.g., "For purposes of this section, "life" or "life imprisonment means..." (emphasis added).

parole, to allow the distribution of Appellant's escrowed funds under § 24-3-40(B)(2) now, instead of at the time of his parole, would create an inconsistency with the expressed intent of the code section. Because Appellant has the possibility of release from prison on parole prior to the end of his natural life, he is ineligible for relief under § 24-3-40(B)(2).¹⁰

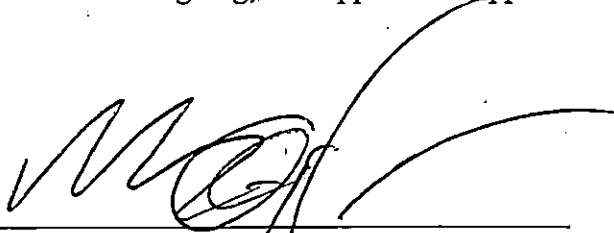
Finally, the Court recognizes Appellant's counter argument that parole is not a right of any prisoner but, instead, is a privilege, citing *Furtick v. South Carolina Department of Probation, Parole and Pardon Services*, 352 S.C. 494, 576 S.E.2d 146, 149-50 (2003). As such, as Appellant correctly contends, parole eligibility, in and of itself, does not guarantee that he will be released short of the expiration of his 100-year sentence. Nevertheless, in a situation such as this where the plain meaning of § 24-3-40(B)(2) does not result in an absurdity, this Court is bound to apply the law as written. While courts interpret the laws to determine legislative intent, "the responsibility for the justice or wisdom of legislation rests exclusively with the legislature..." *Adkins v. Comcar Industries*, 316 S.C. 149, 151, 447 S.E.2d 228, 230 (Ct. App. 1994).¹¹

ORDER

IT IS THEREFORE ORDERED that, based on the foregoing, the Appellant's appeal is **DENIED**.

AND IT IS SO ORDERED.

October 8, 2020
Columbia, SC


Milton G. Kimpson, Judge
South Carolina Administrative Law Court

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this 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 8 day of October
By: A. Berlin
Judicial Law Clerk

¹⁰ Even if § 24-3-40(B)(2) could be deemed ambiguous in this regard, the Court believes that the Department's interpretation is worthy of deference on this issue. *See Kiawah Dev. Partners, II v. S.C. Dep't of Health & Env'tl. Control*, 411 S.C. 16, 32, 766 S.E.2d 707, 717 (2014) (An agency's interpretation of a silent or ambiguous statute that it is charged with administering is worthy of deference unless it is "arbitrary, capricious, or manifestly contrary to the statute," or unless there is a compelling reason to differ.)

¹¹ In a similar fashion, although the Court commends the Appellant on his well-crafted and substantive arguments, this Court is bound by the definition of *de facto* life sentence recited in the 2019 *Slocum* decision.