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SC Court of Appeals

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Derrick Bernard Woods, #197161,)
)
Appellant,)
)
vs.)
)
South Carolina Department of Corrections,)
)
Respondent.)
_____)

Docket No. 20-ALJ-04-0414-AP

ORDER

This matter comes before the South Carolina Administrative Law Court (Court or ALC) pursuant to an appeal filed by Derrick Bernard Woods (Appellant), an inmate incarcerated with South Carolina Department of Corrections (SCDC or Department). Appellant challenges the calculation of his sentence.

BACKGROUND AND PROCEDURAL HISTORY

On September 10, 2003, Appellant was convicted and sentenced to fifteen years' imprisonment for Possession with Intent to Distribute (PWID) Crack Cocaine within Proximity of a Public Park and twenty-five years' imprisonment for PWID Crack Cocaine 2nd offense. Appellant was also convicted and sentenced to ten years' imprisonment for Resisting Arrest. The sentencing sheets from September 10, 2003, indicate his sentences for PWID are to run concurrently to one another while his sentence for Resisting Arrest was to run consecutive to PWID Crack Cocaine 2nd offense. Also, Appellant was given 372 days of credit for time served, making the start date of his sentences September 3, 2002.

On April 14, 2020, Appellant filed a Step 1 Grievance, arguing that his sentence was incorrectly calculated, and he did not receive all of his earned work credits. After the grievance was denied, Appellant filed a Step 2 Grievance on July 5, 2020. In this Step 2 Grievance, Appellant asserted his sentence has been completed and he should be released. Appellant asserts that "the average SC prisoner serving a sentence for non-violent offenses is released after serving fifty percent of the sentence. To date I have served more than half of the total sentence time." In its response to the grievance, the Department stated that Appellant

earned 3,600 days of good time credit, 1,203 days of work credit and 48 days of education credit. You are currently earning work credits at 2F5 rate and you are



not earning education credits. As of 7/17/20, your projected release date is 3/14/22. You have been given all the credits you are entitled and your time is correct.

On September 25, 2020, Appellant filed an appeal with this Court. On January 19, 2021, Appellant filed his brief. On March 4, 2021, the Department filed a Motion to Supplement the Record¹ and its Brief.² On March 19, 2021, Appellant filed his reply brief.

STANDARD OF REVIEW

The Court's jurisdiction to hear this matter is derived 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 *Al-Shabazz* Supreme Court set forth that the ALC has jurisdiction to review inmate appeals involving state-created liberty interests in which an inmate contends that prison officials have erroneously calculated his/her sentence. *Id.* The Court reviews these matters in "an appellate capacity." *Id.* at 388, 527 S.E.2d at 754.

"A reviewing court will not disturb findings of [an administrative agency] if its findings are supported by substantial evidence on the record as a whole." *Pearson v. JPS Converter & Indus. Corp.*, 327 S.C. 393, 397, 489 S.E.2d 219, 220 (Ct. App. 1997). A decision is supported by "substantial evidence" when the record as a whole allows 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). The fact that the record 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). Furthermore "the party challenging a[n administrative agency's] order bears the burden of convincingly proving that the decision is clearly erroneous, or arbitrary or capricious, or an abuse of discretion, in view of the substantial evidence on the whole record." *Porter v. S.C. Pub. Serv. Comm'n*, 333 S.C. 12, 20, 507 S.E.2d 328, 332 (1998).

DISCUSSION

Appellant alleges he has not been given all the credits he is entitled to and, as a result, he has been incarcerated past his release date. He argues that his projected max out date was changed

¹ The Court grants this Motion.

² On February 9, 2021, the Department filed a Motion to Enlarge Time to File Brief. This Motion was granted by the Court on February 17, 2021, and the deadline was extended until March 4, 2021.

from December 2021 to March 2022 even though his circumstances never changed. Appellant's assertions are incorrect.

Initially, Appellant's brief contains no arguments and is unsupported by citations to legal authority other than a general citation to *Bolin v. South Carolina Department of Corrections*, 415 S.C. 276, 781 S.E.2d 914 (Ct. app. 2016) and references to SCDC Policy 21.04 and SC Code Title 24. Instead, Appellant's brief consists of his version of events with no explanation how these apply. Although the Court recognizes Appellant is a pro se litigant, he nevertheless must comply with substantive and procedural requirements of the law. See SCALC Rule 8(A) ("A party proceeding without legal representation shall remain fully responsible for compliance with these Rules and the Administrative Procedures Act."); *State v. Burton*, 356 S.C. 259, 265 n.5, 589 S.E.2d 6, 9 n.5 (2003) ("A pro se litigant who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law."). Because Appellant's arguments are unsupported and conclusory, he has abandoned his claims. See *Potter v. Spartanburg School Dist.* 7, 395 S.C. 17, 24, 716 S.E.2d 123, 127 (Ct. App. 2011) ("An issue is deemed abandoned if the argument in the brief is not supported by authority or is only conclusory."); see also *State v. Porter*, 389 S.C. 27, 35, 698 S.E.2d 237, 241 (Ct. App. 2010) ("An issue is deemed abandoned and will not be considered on appeal if the argument is raised in a brief but not supported by authority."); *Medical Univ. of South Carolina v. Arnaud*, 360 S.C. 615, 620, 602 S.E.2d 747, 750 (2004) (finding that issues raised by the appellant were deemed abandoned because the arguments on those issues were conclusory).

Furthermore, even if the Court were to address the merits of this case, Appellant's complaint is unmeritorious because all his credits have been properly accounted for. Section 24-13-210 of the South Carolina Code (2011) provides, in pertinent part:

(A) An inmate convicted of an offense against this State, except a "no parole offense" as defined in Section 24-13-100, and sentenced to the custody of the Department of Corrections, including an inmate serving time in a local facility pursuant to a designated facility agreement authorized by Section 24-3-20 or Section 24-3-30, whose record of conduct shows that he has faithfully observed all the rules of the institution where he is confined and has not been subjected to punishment for misbehavior, is entitled to a deduction from the term of his sentence beginning with the day on which the service of his sentence commences to run, computed at the rate of twenty days for each month served. When two or more consecutive sentences are to be served, the aggregate of the several sentences is the basis upon which the good conduct credit is computed.

* * *

(D) If an inmate sentenced to the custody of the Department of Corrections and confined in a facility of the department, confined in a local facility pursuant to a designated facility agreement authorized by Section 24-3-20 or Section 24-3-30, or temporarily confined, held, detained, or placed in any facility which is not under the direct control of the department, to include an inmate on a labor crew or any other assigned detail or placement, or an inmate in transport status, commits an offense or violates one of the rules of the facility during his term of imprisonment, all or part of the good conduct credit he has earned may be forfeited in the discretion of the Director of the Department of Corrections. If an inmate sentenced to a local detention facility or upon the public works of any county in this State, even when temporarily confined, held, detained, or placed in any facility that is not under the direct control of the local detention facility, to include a prisoner on a labor crew or any other assigned detail or placement, or a prisoner in transport status, commits an offense or violates one of the rules of the institution during his term of imprisonment, all or part of the good conduct credit he has earned may be forfeited in the discretion of the local official having charge of the inmate. The decision to withhold forfeited good conduct time is solely the responsibility of officials named in this subsection.

Further, OP-21-09, "Inmate Records Plan," section 12.20 sets forth that: "The monthly good time cycle begins on the inmate's sentence start date. The good time cycle date is the day of the month that the 20 days earned for the month is awarded or forfeited. (Three [3] days for "no parole" offenders.)"

Here, Appellant asserts that he has not been given all the credits he is entitled to and, as a result, he has been incarcerated past his release date. Specifically, Appellant argues that his projected max out date was changed from December 2021 to March 2022 even though his circumstances never changed. Appellant also argues that "the average SC prisoner serving a sentence for non-violent offenses is released after serving fifty percent of the sentence. To date I have served more than half of the total sentence time." However, Appellant's sentence for resisting arrest runs consecutively to his PWID Crack 2nd offense sentence which resulted in a 35-year sentence. Therefore, although Appellant was given 372 days of credit for time served making his release date December 21, 2020, Appellant has sixteen disciplinary convictions in his record which resulted in him forfeiting 260 days of good time and losing 270 days of good time. *See* S.C. Code Ann. § 24-13-210. The failure to earn good time combined with the good time taken away increased Appellant's projected max out date to March 14, 2022.

Appellant also claims that the Department has not credited him with earned work credits from 2014 to 2017. Nonetheless, Appellant's work credit history reflects that Appellant received earned work credits during the time he had a job. Appellant earned 7.234 credits a month when

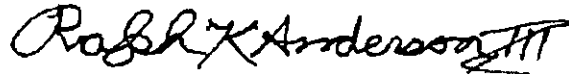
he was in a 3/5 position and 10.865 credits when he was in a 2/5 position.³ See SCDC Policy 21.09. In total, he has earned 1,307 earned work credits and 48 earned education credits. The Record reflects that those credits have been subtracted from Appellant's sentence and, thus, Appellant has been given all earned work credits to which he is entitled. In sum, Appellant failed to carry his burden of proving that SCDC improperly calculated his sentence. See *Porter, supra*.

Accordingly, because of Appellant's extensive disciplinary record and job gap history, Appellant's projected max out date is March 14, 2022, and the Department correctly calculated his sentence.

ORDER

For the reasons set forth in this Order,

IT IS HEREBY ORDERED that the Department's final agency decision is **AFFIRMED**.
AND IT IS SO ORDERED.



Ralph King Anderson, III
Chief Administrative Law Judge

March 25, 2021
Columbia, South Carolina

³ Appellant is only allowed to earn a maximum of 180 days of combined earned work and education credits. See S.C. Code Ann. § 24-13-230.

CERTIFICATE OF SERVICE

I, Stephanie Perez, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).



Stephanie Perez
Judicial Law Clerk

March 25, 2021
Columbia, South Carolina