

EXHIBIT C

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

RECEIVED
FEB 04 2019
GENERAL COUNSEL

Dean Alton Holcomb, #369696,)
)
Appellant,)
)
vs.)
)
South Carolina Department of Corrections,)
)
Respondent.)

Docket No. 18-ALJ-04-0437-AP
Grievance No. TYRCI 229-18

FINAL ORDER

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to the Notice of Appeal filed August 30, 2018, by Dean Holcomb (Appellant), an inmate in the custody of the South Carolina Department of Corrections (SCDC or Department). Appellant challenges the decision of SCDC in his Step Two Grievance denying his contention that he should receive credit for the same time served on each of his consecutive sentences.

STANDARD OF REVIEW

The ALC'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). The ALC's appellate jurisdiction in inmate appeals is limited to state-created liberty interests typically involving (1) cases in which an inmate contends that prison officials have erroneously calculated his/her sentence, sentence-related credits, or custody status; and (2) cases in which an inmate has received punishment in a major disciplinary hearing because of a serious rule violation. *Id.*

When reviewing SCDC's decisions in inmate grievance matters, the ALC sits in an appellate capacity. *Id.* at 380, 527 S.E.2d at 756. Consequently, the review in these cases is limited to the record presented. An Administrative Law Judge may not reverse or modify an agency's decision unless substantial rights of the Appellant have been prejudiced because the decision is clearly erroneous in view of the substantial evidence on the whole record, arbitrary, or affected by an error of law. See S.C. Code Ann. § 1-23-380(5) (Supp. 2017).

FILED

JAN 30 2019

SC ADMIN. LAW COURT

DISCUSSION

On June 16, 2017, Appellant was convicted of one count of Obstruction of Justice and one count of Intimidation of Court Officials, Jurors, or Witnesses in indictments 2014-GS-23-08179 and 2014-GS-23-08177. Appellant was sentenced to 90 months on each charge and those sentences were ordered to run consecutively. The sentencing judge ordered that Appellant be given credit for time served from August 16, 2014 through September 11, 2016, to be calculated and applied by SCDC pursuant to S.C. Code Ann. §24-13-40 (2007). The dates of the time Appellant served are written on both sentencing sheets and add up to a total of 758 days.

S.C. Code Ann. §24-13-40 allows credit against a sentence for time served prior to sentencing through either trial or entering a plea of guilt. In this case, Appellant has been given credit for the time he was incarcerated prior to his sentencing.

However, Appellant contends that the credit for time served should be applied separately to both of his sentences although they were ordered to be served consecutively. Thus, he would be credited twice for time served once. When consecutive sentences are given, they are to "be treated as one general sentence by aggregating the periods imposed in each sentence." *Major v. S.C. Dep't of Prob., Parole & Pardon Servs.*, 384 S.C. 457 at 467, 682 S.E.2d 795 at 800 (2009) (citations omitted). The credit for time served is then applied to the aggregate sentence.

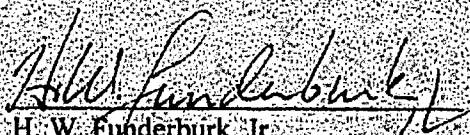
Under these circumstances, SCDC has acted within the limits of its statutory authority in correctly calculating and applying the credit Appellant is to receive for time served. The Department's decision is based on substantial evidence, made upon lawful procedure, and is not in violation of constitutional or statutory provisions or controlled by an error of law.

It is therefore,

ORDERED that the decision of SCDC is **AFFIRMED**.

AND IT IS SO ORDERED.

January 30, 2019
Columbia, South Carolina


H. W. Funderburk, Jr.
Administrative Law Judge

FILED

JAN 30 2019

SC ADMIN. LAW COURT

30th January 2019
