

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Willie Young, #285487, )  
)  
Appellant, )  
)  
v. )  
)  
South Carolina Department of Corrections, )  
)  
Respondent. )  
\_\_\_\_\_ )

Docket No. 21-ALJ-04-0118-AP

ORDER

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SC Court of Appeals

This matter comes before the South Carolina Administrative Law Court (Court or ALC) pursuant to an appeal filed by Willie Young (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 June 28, 2002, Appellant was convicted and sentenced to thirty years' imprisonment for Armed Robbery under section 16-11-330 of the South Carolina Code (2015). On November 22, 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 (EWC). The Warden denied Appellant's Step 1 Grievance, finding that:

According to your classification casework, Ms. Sorrenti, you arrive at Kershaw CI on 2/19/20. Due to Covid-19 precautions, she was unable to conduct your initial review and assign you a job. On May 20, 2020, your initial review was conducted and job was assigned. She explained from February 19, 2020 to May 20, 2020 you were not earned work credits as you were not assigned a job. Ms. Sorrenti stated, you have been earning work credits since job assignment in May. Your earned work credits have been applied and I find no errors in the calculation of your (EWC) Earned Work Credits.

Appellant then filed a Step 2 Grievance on December 17, 2020, asserting that "covid precaution was not implemented by the Director until 3/20 giving Kershaw Classification two weeks before that effect to modify [his] e.w.c." Appellant also argued that the "Warden failed to acknowledge the new classification-2/18/20-which denied [him] the earning of e.w.c." In its response to the grievance, the Department stated that Appellant has:



A mandatory service requirement of 25 years and 6 months. Your projected release date as of 3/13/21 is 3/7/27. You have been credited with earned 2,507 days of work credit and a total service time earned of 7,021 days. SCDC may award inmates with credits for good behavior and participation in work/educational programs. Your projected release date is correct, and you been given credit for all the time that you deserve.

Appellant then filed a Notice of Appeal with this Court on April 1, 2021, asserting that his sentence was miscalculated. The case was assigned on April 22, 2021. The Department filed the Record on Appeal on June 22, 2021. Appellant filed his brief on July 12, 2021. The Department filed its brief on August 10, 2021. Appellant thereafter 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*, the South Carolina 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 his projected release date is incorrect. Specifically, he argues that he has not been given all the credits he is entitled to and further argues in his brief that he should not serve eighty-five percent of his sentence because he can participate in the work release program.

Initially, that Court finds Appellant failed to preserve his argument that he should not serve eighty-five percent of his sentence because he did not raise this issue in his Step One or Step Two Grievances or in his Notice of Appeal. *See Prince v. Beaufort Mem'l Hosp.*, 392 S.C. 599, 611, 709 S.E.2d 122, 128 (Ct. App. 2011) (“It is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the [factfinder] to be preserved for appellate review.”) (quoting *Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998)); *State v. Passmore*, 363 S.C. 568, 584, 611 S.E.2d 273, 282 (Ct. App. 2005) (“The issue preservation requirement applies to assertions of constitutional violations as well.”).

Furthermore, Appellant asserts that he has not been given all the work credits he is entitled to and, as a result, his projected release date was incorrect. Nonetheless, Appellant’s work credit history reflects that Appellant received earned work credits during the time he had a job. Appellant was sentenced for Armed Robbery under section 16-11-330, which is a felony and, “upon conviction, must be imprisoned for a mandatory minimum term of not less than ten years or more than thirty years, no part of which may be suspended or probation granted. A person convicted under this subsection is not eligible for parole until the person has served at least seven years of the sentence.” § 16-11-330. Furthermore, pursuant to section 24-13-100, “a class A, B, or C felony” is a “no parole offense.” S.C. Code Ann. § 24-13-100 (2007). Thus, Appellant’s offense is a “no parole offense.” *See id.* Regarding no parole offenses, section 24-13-150(A) provides:

(A) Notwithstanding any other provision of law, except in a case in which the death penalty or a term of life imprisonment is imposed, **an inmate convicted of a “no parole offense”** as defined in Section 24-13-100 and sentenced to the custody of the Department of Corrections . . . **is not eligible for early release, discharge, or community supervision as provided in Section 24-21-560, until the inmate has served at least eighty-five percent of the actual term of imprisonment imposed.** . . . Nothing in this section may be construed to allow an inmate convicted of murder or an inmate prohibited from participating in work release, early release, discharge, or community supervision by another provision of law to be eligible for work release, early release, discharge, or community supervision.

S.C. Code Ann. § 24-13-150(A) (2007 & Supp. 2020) (emphasis added). Because Appellant is serving time for a “no parole offense” that generally requires 85 percent of the sentence be served,

he must serve at least twenty-five years and six months of his thirty-year sentence, which is approximately 85 percent of thirty years.

In total, as of March 13, 2021, Appellant had earned 2,507 earned work credits and forty-eight earned education credits. However, because Appellant was convicted of a no parole offense, the credits cannot be used to reduce his sentence below 85 percent. The Record reflects that all earned work credits have been properly 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*, 333 S.C. at 20, 507 S.E.2d at 332.

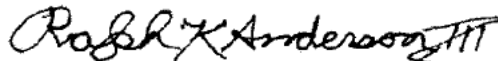
Accordingly, Appellant's projected max out date is March 7, 2027, and the Department correctly calculated his sentence.

**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.**



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Ralph King Anderson, III  
Chief Administrative Law Judge

August 30, 2021  
Columbia, South Carolina

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).



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Stephanie Perez  
Judicial Law Clerk

August 30, 2021  
Columbia, South Carolina