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SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Shirley C. Robinson

ALC Case No. 17-ALJ-04-0591
Appellate Case No. 2021-001025

ISIAH JAMES, JR.,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

INITIAL BRIEF OF RESPONDENT

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

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ATTORNEY FOR RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

THIS COURT SHOULD AFFIRM WHERE APPELLANT'S SENTENCES HAVE BEEN PROPERLY CALCULATED BY THE DEPARTMENT USING A 360-DAY YEAR, AND NONE OF APPELLANT'S RIGHTS WERE VIOLATED.

STATEMENT OF THE CASE

This matter comes before the Court pursuant to the appeal of Isiah James, Jr., a former inmate of the South Carolina Department of Corrections (“SCDC”).¹ Appellant submitted a Step One Grievance on February 21, 2017, arguing that his release date had been improperly calculated. Following the denial of his Step One, Appellant submitted a Step Two Grievance on April 10, 2017, which was denied on May 15, 2017. Appellant submitted an appeal to the Administrative Law Court (“ALC”) on November 21, 2017. On December 29, 2017, Administrative Law Judge Shirley C. Robinson issued an Order of Dismissal dismissing the appeal on procedural grounds. Subsequently, on January 12, 2018, Judge Robinson issued a second Order dismissing the appeal on different procedural grounds; specifically, that Appellant was raising issues that were already decided in a previous appeal which resulted in an Order of Remand issued June 15, 2017.

Appellant filed a Notice of Appeal in this Court dated January 7, 2018, along with a Motion to Proceed in Forma Pauperis. The Motion to Proceed in Forma Pauperis was denied on February 2, 2018. The appeal was dismissed on March 27, 2018, after Appellant failed to pay the appropriate filing fee. After his Motion to Reinstate was denied, Appellant filed a Petition for a Writ of Certiorari and Motion to Proceed in Forma Pauperis in the South Carolina Supreme Court. On May 13, 2019, the Supreme Court granted Appellant’s Motion to Proceed in Forma Pauperis and remanded the case to the Court of Appeals. Respondent filed a Motion to Remand to the ALC on July 1, 2019. This motion was denied by Order dated August 30, 2019. Following briefing, on March 24, 2021, the Court of Appeals issued an order remanding the matter back to the ALC to address the merits of the appeal. On August 23, 2021,

¹ Appellant was released on parole in December of 2017, and his parole was transferred to the state of Georgia, where Appellant is currently residing. However, issues regarding his sentence calculation are arguably not moot because they could affect the end date of his parole and because these concerns would be reactivated if he were to violate the terms of his parole and return to the Department of Corrections.

ALC Judge Shirley C. Robinson issued an order affirming the Department's determination on the merits.

This appeal follows.

STANDARD OF REVIEW

S.C. Code Ann. § 1-23-610(B) provides the applicable standard of review:

The review of the administrative law judge's order must be confined to the record. The reviewing tribunal may affirm the decision or remand the case for further proceedings; or it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is:

- (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).

In an appeal of a final decision of an administrative agency, the standard of appellate review is whether the ALC's findings are supported by substantial evidence. S.C. Code Ann. § 1-23-610(B). "Substantial evidence" is evidence which, considering the record as a whole, would allow a reasonable mind to reach the same conclusion that administrative agency reached. Hendley v. S.C. State Budget & Control Bd., 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996). A reviewing court shall not substitute its own judgment for that of the ALC as to findings of fact, but it may reverse or modify decisions that are controlled by errors of law or that are clearly erroneous in view of the substantial evidence on the record as a whole. Id.

ARGUMENT

THIS COURT SHOULD AFFIRM WHERE APPELLANT'S SENTENCES HAVE BEEN PROPERLY CALCULATED BY THE DEPARTMENT USING A 360-DAY YEAR, AND NONE OF APPELLANT'S RIGHTS WERE VIOLATED.

Appellant asserts that his sentences should have been calculated using a 365-day year. Appellant also argues, without any explanation, that he was not given the proper amount of good time or earned work credits, and that the Department violated his Due Process rights by delaying a change in his custody status. Because the Department has properly calculated Appellant's sentence and did not violate any of Appellant's rights, the order of the ALC should be affirmed.

On June 18, 1979, Appellant was sentenced to thirty (30) years' incarceration on two convictions for voluntary manslaughter, consecutive to one another. Appellant was also sentenced to twenty-five (25) years' incarceration for armed robbery, consecutive to Appellant's voluntary manslaughter sentences. At the time of Appellant's sentencing, the Department calculated all sentences using a 360-day year. Years later, in 1995, the South Carolina Legislature amended the South Carolina Code of Laws to add section 24-13-175, which provided that "[n]otwithstanding any other provision of law, sentences imposed and time served must be computed based upon a three hundred and sixty-five day year." S.C. Code Ann. § 24-13-175. This new law took effect on January 1, 1996 and applied prospectively to crimes committed on or after the date the law took effect, with some exceptions not relevant here. See 1995 South Carolina Laws Act 83 (H.B. 3096) ("SECTION 62. This act takes effect January 1, 1996, and applies prospectively to all crimes committed on or after that date except as follows: (1) Section 9 takes effect upon approval of the Governor and applies to crimes committed on or after the effective date of that section. (2) Section 25 takes effect upon approval of the Governor and

applies to all executions administered on and after the effective date of this section, regardless of the date the sentence was imposed. (3) Sections 56, 59, 60, and 61 take effect upon approval of the Governor.”). Section 4 was the part of the bill that added S.C. Code 24-13-175. Id.

Since none of the exceptions to prospective application are implicated here, the Department properly calculated Appellant’s sentences using a 360-day year, and Appellant’s argument to the contrary is without merit.

Appellant also asserts that he was not provided with the appropriate amount of good time and earned work credits. However, Appellant fails to explain this argument in any detail and fails to specify the amount of credit he believes he did not receive. Therefore, this argument is merely conclusory and should be deemed abandoned on appeal.² See First Sav. Bank v. McLean, 314 S.C. 361, 363, 444 S.E.2d 513, 514 (1994) (when a party fails to cite authority or when the argument is simply a conclusory statement, the party is deemed to have abandoned the issue on appeal).

Appellant also contends that the Department violated his rights by delaying a change in his custody status. However, Appellant is no longer incarcerated, and any ruling regarding his custody status would have no effect on Appellant. See McDill v. Nationwide Mutual Insurance Co., 368 S.C. 29, 31, 629 S.E.2d 749, 750 (Ct. App. 2006) (a case becomes moot when judgment, if rendered, will have no practical legal effect upon the existing controversy). Therefore, Appellant’s claim regarding his custody status is moot, and the ALC properly dismissed this argument.

² Regardless, the record reflects that Appellant was given good time and work credits while he was in SCDC

CONCLUSION

Appellant has not met his burden to demonstrate that the Department incorrectly calculated his sentence or violated any of his rights. Therefore, Respondent respectfully requests this Court affirm the order of the Administrative Law Court.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

BY: 
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until the time he was released to parole in 2017. See Maxout Date Calculation Worksheet.

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v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that on this date, she mailed a copy of the **Initial Brief of Respondent and Designation of Matter to be Included in the Record on Appeal** to Appellant, addressed as follows: Isiah James, Jr., 1810 O Street, Brunswick, Georgia 31520-5445.


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SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS
Safety, Service, and Stewardship

HENRY McMASTER, Governor
BRYAN P. STIRLING, Director

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SC Court of Appeals

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The Honorable Jenny A. Kitchings
Clerk of Court, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: Isiah James, Jr. v. South Carolina Department of Corrections
Appellate Case No. 2021-001025

Dear Ms. Kitchings:

Enclosed please find the **Initial Brief of Respondent** and **Designation of Matter** in the above captioned appeal, along with **Proof of Service**.

Thank you for your attention to this matter, and please do not hesitate to contact me should there be any questions or concerns.

Sincerely,

Christina Catoe Bigelow
Deputy General Counsel
South Carolina Department of Corrections
S.C. Bar No. 73562

cc: Isiah James, Jr.
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