

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
APPEAL FROM THE ADMINISTRATIVE LAW JUDGE  
RALPH KING ANDERSON III

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CASE NO: 2021-001044

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WILLIE YOUNG 285487  
Appellant

v

SOUTH CAROLINA DEPARTMENT OF  
CORRECTIONS  
Respondent

**RECEIVED**  
MAR 04 2022  
SC Court of Appeals

FINAL BRIEF

WILLIE YOUNG  
4848 GOLOMINE HWY  
Kershaw S.C. 29067  
PRO-SE

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## STATEMENT OF ISSUE ON APPEAL

This court should reverse and modify the decision of the administrative law court as it undermines and contradicts state protected liberty interests of state legislation, mandating Section 16-11-330 parole eligible and work credit earning offense, negating 85% requirements and circumstances!

## STATEMENT OF THE CASE

This matter comes before this court pursuant to the appeal of Willie Young, a inmate in SCDC custody. Appellant submitted a step one Grievance November 22, 2020 noting that his earned work credits had not been applied in the reduction of his release date. This Grievance was denied though appellant raised sections 24-13-210(a)(B) and 24-13-125 as binding. (R. pg. 9-14)

Appellant submitted a step two Grievance asserting the same December 17, 2020. (R. pg. 8) The grievance was denied and appellant filed an appeal to the Administrative Law Court, noting in briefed detail that section 16-11-330(a) entitled him to both work credits and parole eligibility for release, according to state provisions! (R. pg. 25-29) (R. pg. 36-39)

On August 30, 2021 the ALC issued a order affirming SCDC's decision. The appellant filed Notice of appeal. (R. pg. 40)

## STANDARD OF REVIEW

S.C. code 1-23-610(B) sets forth the standard of review when this court is sitting in review of a decision by the "ALC" on a appeal from a Administration agency. This above noted sections allow this court to reverse the ALC decision if it violates a constitutional or statutory provision or is affected by any other error of law. The sole issue here on review involves a question of statutory interpretation, which is a question of law "subject to de novo review". *Barton v S.C. Dept. of Prob, Parole & Pardon Servs*, 404 S.C. 395, 414 745 S.E.2d 110, 120 (2013)

## ARGUMENT

Appellant asserts in the framing of his Armed Robbery conviction he is entitled to both the application of his earned work credits and parole eligibility for release! Requesting humbly that this court reverse the Administrative Law Court decision as it directly denies a statutory provision of law.

As noted by order of A.L.C., appellant was sentenced to thirty (30) years incarceration for the crime of Armed Robbery which is defined as a class 'A' felony and upon conviction a person must serve a mandatory minimum term of not less than ten years or more than thirty years, no part which may be suspended or probation granted, and that a person convicted under this subsection is not eligible for parole until serving at least seven (7) years of the sentence. R. pg. 5 However,

respondent, throughout the record, contradictively and conveniently chose to 'explain' away language of 16-11-330(A), which states clearly the eligibility of parole after the completion of seven years. Appellant asserts from the record before this court that 'IT SHOULD BE FIRST AND FOREMOST'; "the fundamental canon"... Legislative intent is controlling. SCANA Corp. v SOUTH CAROLINA Dept. of Revenue 384 S.C. 388, 392 (2009)

Appellant asserts 'all rules of statutory construction are subservient to the one that the legislature intent must prevail if it can be reasonably discovered in the language used, as that language must be construed in light of the intended purpose of the statute'. Broadhurst v. City of Myrtle Beach Electric 342 S.C. 373, 380 (2000), Hodges v Rainey 341 S.C. 79, 85 (2008) Bryant v state 384 S.C. 525

When appellant was convicted of Armed Robbery June/2002 S.C. legislative statutory construction exacted the eligibility of parole after serving at least seven years. 16-11-330 Appellant now humbly directs this court's attention to both the ALC order and respondents record response, where both concede to the appellants earned work credits, but makes clear however statute where both abruptly deny the appellants state provisional right, which amounts to confusion when both abruptly deny the appellants state provisional right, which amounts to a question of statute interpretation, which is a question of law "subject to de novo review." R. pg. 4, 6, 8 Barton v. S.C. Dept. of Prob, Parole, & Pardon Servs, 404 S.C. 395, 414 745 S.E.2d 110, 120 (2013)

While it has been noted that the interpretation of a statute by the agency with its administration will be accorded the most respectful consideration, "an agency's interpretation affords no basis for the perpetuation of a patently erroneous application of the statute." State v Sweat 386 S.C. 339, 351 698 SE2d 569, 575-76

It has been held "in computing the date of parole eligibility

it is also necessary to account for any deductions for earned work credits, and education or training credits as these may apply. The question whether such credits can be used at all as a deduction in the computation of the date of parole eligibility, and, if so, how, depends entirely on the statute.

However, it should be further noted because of the *ex post facto* problem, the application of such credits depends on the statute in effect at the time the offense was committed. 26 S.C. Jur. Probation, Parole, & Pardon 15

When a statute is penal in nature, it must be strictly construed against the state and in favor of the defendant. State v Blackman 307 S.C. 270 (1991) As noted by both S.C. legislation and appellant, and raised to the respondent, the crime of Armed Robbery according to state provisions allows this appellant the earning of good time credits, which entitle him to a sentence reduction, however, he is being denied a state protected 'liberty' interest, created by legislation based on its own misinterpretations! S.C. 24-13-210(a)(B) S.C. 24-13-125 (R. pg. 9-13)

A.L.C. order is based on misinterpretation of sections 24-13-100 and 24-13-150(A)

Appellant asserts the respondents order is a denial of a statutory provision mandated by S.C. legislation, as its order initially acknowledges the statutory provisions of both parole eligibility and earned work credits, then consequentially denies him, a consequence denying appellant due process! The A.L.C. based its ruling on its interpretation that because 16-11-330 is an offense listed under 24-13-100 as a no parole offense, the appellant is not entitled to the statutory provisions of Armed Robbery, which is Error! R. pg. 5-6 Armed Robbery is a crime listed under S.C. 24-13-100, however, its language statutorily 'mandates' parole eligibility under this subsection which then creates a contradiction of established law. "(S)tatutes of a specific nature (16-11-330) are not to be considered as repealed in whole or in part by a later general statute (24-13-100, 24-13-150A) unless there is a direct reference to the former statute or the intent of the legislature to do so is explicitly implied therein. Strickland v State 276 S.C. 17, 19 274 SE2d 430, 432 (1981)

In effect the respondent has done just that, first by acknowledging in its order that appellant was 'parole eligible' after completion of seven years, but then denying the appellant a state created liberty by applying a later 'general statute', as though the Armed robbery statutory provision had been repealed! R. pg. 5

A similar interpretation was made by respondent in *Bolin v Dept. of Corrections*! There the respondent contended the petitioner (*Bolin*) was not eligible for parole or the earning of work credits for release for the offense 44-53-375(B), as the offense was labeled a 'no parole' offense under section 24-13-100, and because of the enactment of 24-13-150, required him to serve 85% of his sentence!

Respondent failed to acknowledge by amendment of the omnibus crime bill act (2010), which made it clear S.C. legislature intent to 'implicitly repeal' the no parole offense designation in 24-13-100 and therefore, in effect, relieved Bolin of the 85% rule and its consequences. *Bolin v Dept. of Corrections* 415 S.C. 276-781 SE 2d 914, 916-17. Appellant noted on record that prior to the passing of the omnibus crime bill, 16-11-330 was both parole eligible and entitled to earn work credits, however prior to the amendment work release was not permitted! R. pg. 25-29, 36-39

While the omnibus act amended "non-eligibility" to "eligibility" for work release for the crime of armed robbery and made clear the earning of work credits are to be applied, though the act 'did not' amend 24-13-100, which controlled no parole offense designation. This then created an arguable contradiction in South Carolina law, while also simultaneously undermining legislation intent, because: 1) The omnibus act suggested that the appellant is eligible for work release which is a criteria attached to earned work credits, early release, and discharge, and 2) S.C. legislature made no amendment to 16-11-330, however, the respondents interpretation that appellant is sentenced for and to, a "no parole" offense, that requires him to serve a 85% requirement, denies him state due process of a statutory provision!

The S.C. Court of Appeals observed: It is without doubt that the statutory definition for the term "no-parole" offense in section 24-13-100, ie, "a class A, B, or C felony..." simply describes the types of offenses for which the offender is not eligible for parole, but further noted: "It is unreasonable to characterize an offense for which the offender is eligible for parole as a no parole offense pursuant to section 24-13-100, even if the maximum sentence for the offense places it within a classification encompassed by section 24-13-100."  
*Bolin v Dept. of Corrections* 415 S.C. 276, 781 SE 2d 918, 916-17 (2016)

The respondent noted in its order that appellant has earned a total of 2,507 earned work credit days and forty-eight earned educational credits, but that because he is convicted of a no parole offense they cannot be used to reduce his time, it is here the respondent draws 'two' inconsistent conclusions from this evidence which makes clear an error in interpretation, which also minimizes legislative intent. R. pg. 41

While the interpretation of a statute by the agency charged with its administration will be accorded the most respectful consideration, an agency's interpretation affords "no basis for the perpetuation of a patently erroneous application of the statute." State v. Sweat 386 S.C. 339. The courts will reject a statutory interpretation that would lead to an absurd result not intended by the legislature. State v. Johnson 396 S.C. 182, 189 (2011)

The ALC responded that appellant was convicted of a "no parole" offense and that section 24-13-150 applies! The appellant strongly objects and asserts the ALC ruling that section 24-13-150 is applicable to 16-11-330 is error, as it fails to carry and effectuate the intent of the legislature. R. pg. 5-6

In response to the applicability and enactment of 24-13-150 from respondent (Bryan Stirling, SC03), the S.C. attorney general asserted: The General Assembly enacted 24-13-150 following passage of the trafficking statutes carrying a sentence of twenty five years which took effect in 2010 by virtue of the omnibus crime bill. Specifically noting, 24-13-150(A), was clearly a statute passed subsequently to the various trafficking statutes requiring a mandatory minimum sentence of twenty five years with no parole. S.C. A.G. 2019 WL 3049589

The respondent has basically asserted its defiance to a statutory provision in its interpretation that section 24-13-100 and 24-13-150 are controlling to section 16-11-330 no matter legislative intent!

The statutory right to sentence-related credits is a protected liberty interest under the fourteenth amendment which entitles a inmate to minimal due process to ensure the state-created right is not arbitrarily abrogated! *Al-Shabazz v state* 338 S.C. 354, 369-70 527 S.E.2d 742, 750 (2000)

The appellant objects strongly to the denial of his state Constitutional right to a state created liberty, and further asserts as this court ruled in Bolin, a no parole label cannot be applied to a parole eligible offense!

## Conclusion

This appellant asserts the error of the respondent is obvious, and that he is not only by law entitled to his earned work credits for his immediate release, he is also entitled to his parole eligibility. The respondent has refused to carry into effect the intent of the legislation, and has favored its own interpretation's over that of the courts and statutory provisions. Appellant therefore requests his release as his state liberty interest has been denied.

Date: 2/1/22

/s/ Willie Young

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CERTIFICATE OF COUNSEL

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I Certify that the Final Brief complies to SCACR.

MARCH, 1 2022

/s/ Willie Young

WILLIE YOUNG  
4848 GOLDMINE HWY  
Kershaw, S.C. 29067