

STATE OF SOUTH CAROLINA
In THE COURT of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT, MAR 28 2022
Administrative Law Judge Ralph King Anderson III
SC Court of Appeals

CASE NO: 2021-001044

WILLIE YOUNG ²⁸⁵⁴⁸⁷
APPELLANT

V
South Carolina Department of
Corrections RESPONDENT

APPELLANT'S REPLY BRIEF

WILLIE YOUNG
4848 GOODMINE HWY
Kershaw S.C.
29067

PRO-SE

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STATEMENT OF APPELLANT'S REPLY

Contrary to the respondents order this court should not affirm the administrative law court decision, as it would be a denial of the appellants state-created liberty rights!

STATEMENT OF THE CASE

This case is before the court pursuant to the appeal of Willie Young, an inmate confined to the South Carolina Department of Corrections. Appellant raised in his step one grievance on November 22, 2020 he is being denied the state created liberty provisions of 16-11-330 (a) and 24-13-210 (a)(b), which makes him eligible for both earned work credits and parole eligibility. R.O.9 pg.9 The respondent noted the appellant was credited with 2,507 days of earned work credits, also noting in its order appellant was eligible for parole after the completion of seven years but that he is denied the application of these provisions because he is a no parole eligible offender and required to serve a sentence of 25 years and 6 months. This appeal followed.

STANDARD OF REVIEW

S.C. Code Ann 1-23-610(B) provides the review of the administrative law judges 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 findings, 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.

The Courts appellate Jurisdiction in inmate appeals is limited to cases involving the denial of a state created liberty interest.

Al-Shabazz v State 338 S.C. 354 (2000)

ARGUMENT

Contrary to the respondents argument, Armed Robbery is both an offense with state created liberties such as earned work credits and parole eligibility, and denial is a prejudicial and error of constitutional and statutory provisions.

This issue arises from the respondents erroneous and confusing application of a "no parole" offense label and denial of earned work credits both, in which, would relieve the appellant of the 85% requirement, and both noted in its order dated August 30, 2021. R.O.A pg. 3-6

After clearly acknowledging the statutory provisions of (S.C) State law, respondent, then contradictingly, attempted to present and mislead this court, by first "explaining away" legislatures full statutory language of armed robbery, by prejudiciously limiting appellants State Constitutional right to a guaranteed state created liberty, by omitting the language of his eligibility for parole, and secondly attempting to mischaracterize section 16-11-330, a class 'A' felony classification, to equate, "essentially" a thirty year term of ~~in~~ imprisonment. Resp. initial Br, pg 4

Contrary to the contention of the respondent in its initial brief, its 'intentional' omission of the statutes (16-11-330) full reading of 'parole eligibility' after the completion of seven (7) years, a state created liberty, would not necessarily mean the appellant would serve on the 85% requirement as his earned work credits should/would factor in when he is eligible for parole and/or release. 26 S.C. Jur. Probation, Parole, & Pardon 15

Respondent, is erroneously applying sections 24-13-100 and 24-13-150(A) to a statute, both penal, and clear in its nature. 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 admitted by respondents order the appellant "is" eligible by state provisions to parole eligibility and earned work credits, however, by its initial brief, it expresses/notes confusion, but proceeds and concludes contradiction as its course, which is error of law! R.D. App. 36, Resp. initial pg. 4

South Carolina law requires the department of corrections to adopt a legal interpretation that harmonizes potentially contradictory provisions of a statute if possible. See, e.g., Justice v Pantry 330 S.C. 37 (1998 Ct. App)

Respondent fails to acknowledge legislatures amendment of the 2010 omnibus crime bill and this courts ruling, that the amendment would be "meaningless" if they did not 'implicitly repeal' the no parole designation of offenses in section 24-13-100. See id. at 917; cf Varsity Corp v Howe 516 U.S. 489, 511, 116 S.Ct 1065 (1996)

As observed by this court in *Bolin v South Carolina Dept. of Corrections* 415 S.C. 276 (Ct. App 2016), the challenge of this department's interpretation is that of the Omnibus act. That defendant, convicted under a statute that fell under 24-13-100, was then, due to the amendments of the omnibus crime act, he was no longer subject to the 85% rule and its consequences.

Appellant asserts before this court, (16-11-330a), prior to the Omnibus crime bill was a parole eligible offense listed under section 24-13-100.

This court ruled: It is without doubt that the statutory definition for 'no parole' offenses in section 24-13-100... simply describes the types of offenses for which an offender is not eligible for parole and that this interpretation is consistent with provisions in related statutes stating that a no parole offender is not eligible for parole, but that 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 classification encompassed by section 24-13-100. *Bolin v South Carolina Dept. of Corrections* 415 S.C. 276, 781 S.E.2d 914, 916-17

Further appellant asserts, respondent's contention that section 24-13-150(A) is applicable to the crime of Armed Robbery is erroneous, as agency (Dir. Bryan Stirling) inquired to the application of this section (24-13-150A), and it was noted with "specificity" this enactment was passed subsequently to the various trafficking statutes, requiring a mandatory minimum sentence of twenty five years with no parole. S.C. App. 2019 WL 3049 589

CONCLUSION

Appellant humbly asserts before this court, as he is being denied a state provision that the respondents order be reversed and he be granted his work credits and/or parole eligibility for release.

Date February 8, 2022

S. Wilber

STATE OF SOUTH CAROLINA

In The Court of Appeals

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Administrative Law Judge Ralph King Anderson III

CASE NO: 2021-001044

WILLIE YOUNG 285487
APPELLANT

v

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RESPONDENT

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CERTIFICATE OF SERVICE

The undersigned certifies that this reply brief complies with
rule 211 SCACR

February 8, 2022

Willie Young

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SOUTH Carolina DEPARTMENT OF
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RESPONDENT

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PROOF OF SERVICE

I certify i have served appellants reply brief on Christina Cator
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February 8, 2022

/s/ Willie Young

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I Willie Young attest that on February 9, 2022, my Kershaw correctional mailroom mailed a reply brief after being served initial brief of Respondent February 7, 2022. In Good faith I present facility mailroom record.

Dated March 22, 2022

Willie Young

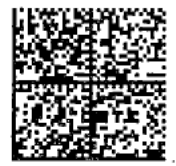
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