

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT
APPEAL TO THE COURT OF APPEALS
The Honorable Shirley C. Robinson, Administrative Judge

RECEIVED

JUN 14 2022

S.C. SUPREME COURT

APPELLATE CASE No: 2022-000444

Mr. Nathaniel Johnson, Jr., 211574,

Petitioner,

v.

South Carolina Department of Corrections,

Respondent,

PETITION FOR A WRIT OF CERTIORARI

Dated: 6/10/22

/s/ Mr. Nathaniel Johnson, Jr. 211574
Mr. Nathaniel Johnson, Jr. 211574
ACI. Bamberg Unit F-4 B-35
P.O. Box 1151
Fairfax, S.C. 29827
Pro-Se Petitioner

Other Counsel of Record:

Imani Diane Byas, Esquire
Staff Attorney for Office of General Counsel
South Carolina Department of Corrections
P.O. Box 21787
Columbia, S.C. 29221-1787
(803)896-8508

CERTIFICATE OF COUNSEL

Counsel for the Petitioner hereby certifies that the Petition for a Rehearing was made and finally ruled on by the S.C. Court of Appeals on March 31st, 2022. Notice of Appeal received by the S.C. Supreme Court on April 12th, 2022.

Dated: 6/10/22

/s/ Mr. Nathaniel Johnson, Jr. #211574
Mr. Nathaniel Johnson, Jr., 211574
ACI. Bamberg Unit F-4 B-35
P.O. Box 1151
Fairfax, S.C. 29827
Pro-Se Petitioner

QUESTIONS PRESENTED

1. Did Court of Appeals err in concluding that the ALC lacked authority to determine whether SCDC's policy OP-21.09 violates the South Carolina Constitution Art XIII Section 2 ?

2. Did Court of Appeals have proper jurisdiction and authority to determine whether SCDC's policy OP-21.09 violated the State's Constitution of Article XII Section 2, and finding that Section 23-3-670 of the South Carolina Code (Supp 2007) authorizing SCDC to deduct the \$250.00 DNA Processing Fee from an inmate's E.H. Cooper Trust Account was done lawfully ?

STATEMENT OF THE CASE

On March 13th, 2019, Petitioner moved with an (RTSM) Request to Staff Member, directed to the inmate grievance branch Chief, Mr. Sherman L. Anderson. Petitioner received his response dated March 27th, 2019, and actually received on Friday March 28th, 2019. The very same day, Petitioner moved forward with his Step 1 grievance. On April 16th, 2019, the Petitioner received the Warden's decision denying his grievance Step 1. The very same day, Petitioner proceeded forward with his Step 2 grievance. On May 8th, 2019, a response from the Responsible Official Wayne C. McCabe, was sent out and received by the Petitioner on May 17th, 2019.

Petitioner filed his Notice of Appeal with the S.C. Administrative Law Court. On September 16th, 2019, Petitioner received an Order denying or Dismissing his appeal, by the Honorable Shirley C. Robinson, ALJ. On November of 2019, Petitioner filed his Notice of Appeal with the S.C. Court of Appeals. On February 16th, 2022, Court of Appeals Affirmed the decision of the Administrative Law Court with an Unpublished Opinion 2022-UP-072. Petitioner requested a Rehearing En Banc, which was rejected on March 31st, 2022 denied.

On April 11th, 2022, Petitioner filed his Notice of Appeal along with an Application to Proceed In Forma Pauperis that was granted on May 17th, 2022. Appeal as follows;

ARGUMENT

DISCUSSION:

1. The S.C. Court of Appeals did err concluding that ALC lacked authority to determine whether SCDC's policy OP-21.09 violated State Law, when issue derived from a properly filed appeal concerning a property interest of the taking of \$250.00 for DNA sample processing fee out of the Petitioner's E.H. Cooper Trust Fund Account.

Petitioner argues that the Court of Appeals has clarified this issue in the case of * James Millholland v. South Carolina Department Of Corrections 2022 WL 1654408, May 25th, 2022. where the court reversed emphasized that the liberty or property ~~interest~~ implicated must be one that is state created. * Wicker v. S.C. Dept. of Corr., 360 S.C. 421, 602 S.E.2d 56 (2004) emphasizing that ALC's jurisdiction extends only to those cases involving the denial of a "state created liberty interest".

Petitioner argues that he was forced to give up a second DNA sample once at the County Jail and the second after incarceration or be punished by the threat of being locked-up. While in the custody of SCDC Petitioner was charged \$250.00 deducted from his personal property.

2. Court of Appeals did have proper jurisdiction and authority to determine whether SCDC violated the State's Constitution and the Petitioner's property liberty interest.

Petitioner argues that the ALC has subject matter jurisdiction when the Department disciplines an inmate and imposes a punishment that deprives the inmate of a constitutionally protected liberty or property interest. See * Al-Shabazz v. State, 338, S.C. 354 369, 527 S.E.2d 742, 750 (2000), * Slezak v. South Carolina Department of Corrections, provided further clarification that the ALC has jurisdiction of all inmate grievances appeals that have been properly filed. 361, S.C. 327, 605 S.E.2d 506 (2004). Petitioner contends that the S.C. Court of Appeals has failed to exercise its authority or Opinion related to the facts of this case.

CONCLUSION

WHEREFORE, THE Petitioner pray that this Honorable Court, finds infavor and reverse and remand the decision of the S.C. Court of Appeals to consider a hearing on the merits by granting Petition for a Writ of Certiorari, as justice is so required as a matter of law.

Dated: 6/10/22

Respectfully submitted,
/s/ Ms. Nathaniel Johnson, Jr. #211574
Mr. Nathaniel Johnson, Jr. 211574
ACI. Bamberg Unit F-4 B-35
P.O. Box 1151
Fairfax, S.C. 29827
Pro-Se Petitioner