

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM

STEP 1

INMATE NAME: Michael J. Ferola
SCDC NUMBER: 291941
INSTITUTION: Maccy
HOUSING UNIT: B-1 B-6
WORK ASSIGNMENT: G.M.

NOV 09 2010

Office Use Only
Grievance No: MCCY 0140-10
Code: General Impro Conduct
Policy _____
Disc. Hear. _____
Class. _____
Date Received 11/9/10
IGC Initials GR

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy) On 10-28-10 I filed a grievance on TTR both for violation of SCDC policy. (see Attached grievance maccy 0134-10). On 11-4-10 the grievance was returned to me by Mrs Ramey IGC stating "Inmate Johnson was charged and convicted AND TTR both did report the incident." TTR both admitted to Lt Hartzog on 10-28-10 he was aware on 10-19-10 I was assaulted by inmate Johnson however, he never submitted a written report until 11-4-10 AND then lied in his report to cover his actions. I am not happy with Mrs Ramey response and per policy I have a right to the Warden's decision AND STEP # 2 if NECESSARY

ACTION REQUESTED: Disciplinary Action Against TTR both for violation of Institutional Policy and Submitting a False Report. Reopen grievance maccy 0134-10 AND process it per policy. Grievance maccy 0134-10 was filed on MR both not inmate JOHNSON

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Violation of SCDC policy spoke to Lt Hartzog on 11-4-10 he informed me he told Warden Taylor on 10-28-10 that TTR both admitted to him he had knowledge I was assaulted on 10-19-10 by inmate Johnson but took no action on inmate JOHNSON until 10-28-10 (10) days later.
Michael J. Ferola 11-4-10
Grievant Signature Date

ACTION TAKEN BY IGC:

Inmate Ferola: I have reviewed your grievance and pertinent information. See Warden's response.

Gloria Ramey 11/9/10
IGC Signature Date

N/A
Grievant Signature Date

- I accept the action taken by the IGC and consider the matter closed.
- I do not accept the action taken and wish to appeal.

WARDEN'S DECISION AND REASON:

Inmate Michael Ferola

SCDC #291941

Grievance #: MacD 140-10

I have reviewed your grievance and pertinent information.

You state you filed grievance (MacD 134-10) on Mr. Lott for violation of SCDC policy. On 11/4/10, Mr. Ramey, IGC, returned the grievance to you stating Inmate Johnson was charged and convicted in the incident and that Mr. Lott did report the incident. She further stated that employee disciplinary action which may or may not be taken will not be disclosed through the grievance policy. This is SCDC policy. However, you state Mr. Lott admitted to Lieutenant Hartzog on 10/28/10, that he was aware on 10/19/10, that you had been assaulted by Inmate Johnson, but he never submitted a written report until 11/4/10, and lied in his report to cover his actions. The action you are requesting in this grievance is disciplinary action against Mr. Lott for violation of Institutional Policy and Submitting a false Report. You want MacD134 reopened and processed per policy as it was filed on Mr. Lott not Inmate Johnson.

I have reviewed MacD 134-10 and the action you request in it is **“Corrective Action per policy.”** Ms. Ramey returned the grievance to you as the action you requested had already taken place. Inmate Johnson was charged and convicted in this incident. Mr. Lott did not witness the altercation with you and Inmate Johnson. When another inmate informed him that you and Inmate Johnson had an altercation **he questioned you both and you both stated “it was nothing and that it was over.”** Mr. Lott informs me that you did not state to him that at any time that Inmate Johnson assaulted you or he would have charged Inmate Johnson at that time.

Based on the above your grievance is denied. If you wish to appeal this decision, please see Ms. Ramey, Grievance Coordinator, to obtain a Step 2 grievance form.

Robert T. Tyler
Warden Signature Date 11-23-10

- I accept the Warden's decision and consider the matter closed.
- I do not accept the Warden's decision and wish to appeal.

Michael J. Ferola 11-24-10
Grievant Signature Date

Virginia Ramey 11/24/10
IGC Signature Date

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM

1. An informal resolution shall be attempted prior to the filing of Step 1.
2. Complete each section in its entirety, writing only in the space provided for inmate use.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form to the Institutional Grievance Coordinator within fifteen (15) days of an alleged incident; policy grievances at any time. Do not write in the space provided for the Warden's response.
5. If you are not satisfied with the Warden's decision, you may appeal to the appropriate responsible official within five (5) days of your receipt of the Warden's decision, via the Institutional Grievance Coordinator.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

Exhibit - B - B

INMATE NAME: Michael J. Ferola
SCDC NUMBER: 291941
INSTITUTION: ~~TRACY~~ ACD
HOUSING UNIT: B-1 B-6
WORK ASSIGNMENT: NONE
FI-A-09

NOV 29 2010

Office Use Only
Grievance No. TRACY 0140-10
Code: General Impro Conduct
Policy _____
Disc. Hear. _____
Class. _____
Date Received 11/29/10
IGC Initials GR

2-4-11

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): This is an appeal of Warden Taylor decision on TRACY 0140-10. On 11-4-10 I filed a grievance on Mr. Lott for violation of SCDC policy. On 11-24-10 my grievance was denied by Mr. Taylor. Based upon the fact Mr. Lott is Warden Taylor son in law my grievance should have been answered by someone other than Warden Taylor. As he ordered Lt Hartzog to investigate the assault on me of 10-19-10. Mr. Lott was made aware of the assault on me on 10-19-10 however, filed no report over the incident until 11-4-10 in violation of SCDC policy. Further Mr. Lott admitted to Lt Hartzog on 10-28-10 he was aware of the assault but took no action until he was forced to on 11-4-10. Based upon the fact Mr. Taylor and Mr. Lott are related my grievance should have been investigated by someone other than Warden Michael J. Ferola 11-26-10
Taylor. Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

Your concerns have been reviewed. In your complaint, you stated that on October 19, 2010 you were assaulted by Inmate Johnson and you believed that Mr. Lott, Maintenance, had knowledge and did not report the incident. Mr. Simmons, IGA, Inmate Grievance Branch, discussed your concerns with Ms. Ramey, IGC and was informed that Mr. Lott did not witness the alleged assault. Mr. Lott was informed by an inmate that you were assaulted and he briefed Warden Taylor and wrote an incident report. You were seen by medical on October 22, 2010 and informed the medical staff that you were experiencing headaches from being kicked in the head by another inmate. You have not provided any evidence to substantiate your allegations of staff misconduct by Mr. Lott. Without verifiable evidence, further action is unwarranted.

Therefore, your grievance is denied.

You may appeal this decision under the Administrative Procedures Act to the Administrative Law Court. In order to appeal, you must fill out the attached Notice of Appeal Form and submit it as instructed on the form within 30 days of receipt.

[Signature] 03/15/2011
Signature Date

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

Michael J. Ferola 3-23-11
Grievant Signature Date

[Signature] 3/23/11
IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.: 2011-CP-42-1329

Michael J. Ferola, #291941,)
)
Plaintiff,)

vs.)

Jon Ozmint, Director, South Carolina)
Attorney General, Lt. James Lott,)
Shawn Johnson, #297078,)
Charles Hartzog, Contraband,)
)
Defendants.)

DEFENDANTS' NOTICE OF
OBJECTIONS AND RESPONSE
TO PLAINTIFF'S
INTERROGATORIES TO
DEFENDANT HARTZOG

TO: PLAINTIFF:

The Defendants, in response to Plaintiff's Interrogatories to Defendant Hartzog, respectfully respond as follows:

Objections

1. Defendants object to responding to any Interrogatory and/or Request for Production that seeks information not reasonably calculated to lead to the discovery of admissible evidence or to the production of relevant information as required by South Carolina of Civil Procedure.
2. Defendants object to responding to any Interrogatory and/or Request for Production which is overly broad, unduly burdensome, cumulative or duplicative under South Carolina Rules of Civil Procedure.
3. Defendants object to responding to any Interrogatory and/or Request for

Production that exceeds the scope and limit of discovery set forth in South Carolina Rules of Civil Procedure.

4. Defendants object to any Interrogatory and/or Requests for Production to the extent same seeks documents or other tangible things prepared in anticipation of litigation or trial by or for defendants or defendants' representatives.

5. Defendants object to responding to any request for discovery as to any matters that are not relevant to the claim or defense of the claim.

6. Defendants object to Interrogatories and/or Requests for Production of Documents to the extent they seek information covered by an attorney/client privilege or other privilege as provided by law.

7. Defendants object to Interrogatories and/or Requests for Production to the extent they seek disclosure of mental impressions, conclusions, opinions, and legal theories of Defendants' attorneys or other representatives concerning this litigation.

8. Defendants object to any Interrogatory and/or Request for Production of Documents which is non-specific, unclear, ambiguous and/or incomprehensible.

9. Defendants object to any Interrogatory and/or Request for Production of Documents to the extent same does not include and/or identify a document, i.e. the term "document" is defined in the plaintiffs' Request for Production of Documents and if the specific request is not for a document as defined, defendants object to same.

10. Defendants object to any Interrogatory and/or Request for Production to

the extent said Interrogatory or Production Request seeks disclosure and/or discovery of information that is protected from disclosure by any applicable state or federal statute.

Answers and/or Responses

1. Please state how long you been assigned as a Contraband employee at McDuggle Correctional Institution.

Upon information and belief, Defendant, Charles Hartzog, has been employed with the South Carolina Department of Corrections for approximately 20 years, in Contraband on and off since approximately 1996, and a Contraband Lieutenant since approximately August, 2008.

2. Please describe your job responsibility as a contraband Lt?

A. Defendants object to Interrogatory No. 2 on the grounds set forth in Objections 1 - 10 above.

B. Subject to objections, upon information and belief, the general job responsibilities of Lt. Hartzog and/or a South Carolina Department of Corrections Contraband Lieutenant are to prevent and/or curtail the flow of contraband into the institution, aid in institutional investigations involving contraband and/or narcotics, conduct inmate searches, logs confiscated contraband, conducts field tests of narcotics and/or contraband, and identify gang members within the institution.

3. Did you investigate an assault on plaintiff which took place in grounds maintenance office on 10/19/11?

Upon information and belief, Lt. Hartzog conducted an investigation into an incident involving inmate Shawn Johnson and inmate Michael Ferola, and which incident is alleged to have occurred at the Admin Building & Grounds Maintenance at MacDougall Correctional Institution, on or about October 19, 2010. A copy of Incident Report, with attachments, and SCDC Offender Management Systems Inmate Disciplinary System Display Offense Code Text, are attached hereto.

4. Has plaintiff provided you with information of illegal activities at McDuggle and ground maintenance.

Upon information and belief, the plaintiff provided defendant, Hartzog, with information as to alleged illegal activities of inmates but not, upon information and belief, of employee misconduct.

5. Has Defendant Lott ever been present in your office while plaintiff was there.

The plaintiff, upon information and belief, has upon occasion been in the office of Lt. Hartzog when Mr. Lott, grounds maintenance supervisor, would come in; however, upon information and belief, no confidential information concerning the plaintiff was discussed by Lt. Hartzog in front of Mr. Lott.

6. Did you speak with Ms. Ramsey in reference to grievance numbers Macey 0134-10 and macey 0140-10 filed by plaintiff on Lt. Lott.

No, upon information and belief. Upon information and belief, inmate

Ferola advised Lt. Hartzog that he was going to file a grievance. Further, upon information and belief, Ms. Ramsey receives grievances filed by inmates. Upon information and belief, Ms. Ramsey did not question Lt. Hartzog concerning inmate Ferola, any grievance filed by inmate Ferola and/or the subject incident.

7. If you answer to previous is yes, please state:

- a) what you told Ms. Ramsey during her investigation;
- b) Whether you submitted a written report to Ms. Ramsey.

Not applicable.

8. During the course of your assault investigation on plaintiff did you speak with Lt. Lott on 10/28/11 over the phone.

Yes, upon information and belief, Lt. Hartzog spoke with Christopher Lott by phone, while the plaintiff was present.

9. If answer to previous is yes please state what Mr. Lott told you, and whether you filed a written or verbal report on Warden Taylor.

A. Defendants objects to Interrogatory No. 9 on the grounds set forth in Objections 1 through 10 above.

B. Subject to objections, see the following documents attached hereto:

- 1. Incident Report dated 10/28/10;
- 2. Inmate Statement of Shawn Johnson dated 10/28/10;
- 3. Inmate Statement of Michael Ferola dated 10/28/10;

4. SCDC Offender Management Systems Inmate Disciplinary System report created 10/29/10; and

5. See inmate medical file FEROLA MED. 000001 through 000108.

C. Upon information and belief, during his investigation into the incident in question, Lt. Hartzog inquired of Mr. Lott as to Lott's knowledge concerning injuries sustained by the plaintiff. Upon information and belief, Mr. Lott denied knowledge as to how the injury and/or injuries occurred.

D. Upon information and belief, Defendant Hartzog made a verbal report to Warden Taylor as to his conversation with Defendant Lott. Further, upon information and belief, no written report and/or document was produced relative to Lt. Hartzog's subject conversation with Warden Taylor.

10. Did plaintiff suffer any injuries as a result of this assault? And was any inmate criminal charged for assault?

A. See response to Interrogatory no. 9.

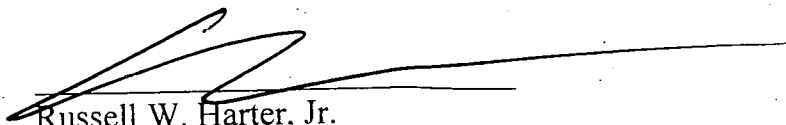
B. See plaintiff's medical chart attached hereto, Bates stamped documents FEROLA MED. 000001 through FEROLA MED. 000108

11. Has plaintiff ever brought to your attention that Lt. Lott was telling inmates plaintiff worked for you?

Upon information and belief, the plaintiff made an allegation to Lt. Hartzog

that Mr. Lott was telling inmates that the plaintiff worked for Lt. Hartzog; however, when questioned by Lt. Hartzog as to having made any such statement(s), Mr. Lott denied same.

Respectfully Submitted,



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ATTORNEY FOR DEFENDANTS

March , 2012

Greenville, South Carolina