

STATE OF SOUTH CAROLINA
In The Court of Appeals

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JUN 21 2022

SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
RALPH K. ANDERSON III, ADMINISTRATIVE LAW JUDGE

Opinion No. 5909 (S.C. Ct. App. Filed 5/25/22)

Appellate Case No. 2020-000521

James Millholland 367569

Appellant

v.

South Carolina Dept. of Corretions

Respondent

MOTION TO DISMISS
PETITION FOR REHEARING

James Millholland 367569

A.C.I./F3A43

PO Box 1151

Fairfax, SC 29827

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On June 13, 2022, Appellant received a copy of respondents Petition For Rehearing. This is only another delay tactic to prolong Appellants right to due process. The Respondents didnt state any points supposed to have been overlooked or misapprehended (pursuant to Rule 221 SCACR(a)) Respondents attorney only made the same Frivilous statement "Subject matter jurisdiction [or...] establish a state-created liberty or property interest in only having DNA collected once." Not only are Respondents attempting to mislead the Court into focusing on something that isnt even an issue but to continue to make frivilous statements is an ethics violation. Fortunately, this Court hasnt followed

respondents down their rabbit hole.

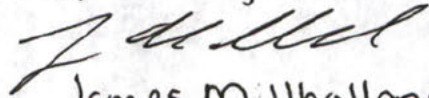
Although the DNA law is clear "unless a sample has already been provided pursuant to the provisions of subsection (D) (S.C. Code Ann. § 23-3-620 (d)) no other sample nor fee should be collected. The Appellant did in fact provide a sample for the database and paid S.L.E.D. the one time processing fee as a condition of probation in 2001-2003. But the issue at hand and throughout this entire process is the \$250 that was fraudulently deducted from Appellants E.H. Cooper Trust Account. This is the state created liberty or property interest. See Al-Shabazz v. State 338 S.C. 354, 369, 527 S.E. 2d 742, 750 (2000) "The requirements of procedural due process apply only to the deprivation of interest encompassed by the fourteenth Amendments protection of liberty and property. Board of Regents of State Colleges v. Roth 408 U.S. 564, 569, 92 S. Ct. 2701, 33 L.E.D. 2d. 548 (1972)" The deprivation of Appellants property interest in the funds deposited in his prison account has caused great hardship and mental anguish. Clearly Appellants Fifth and Fourteenth amendment rights have been violated. And "Once a protected interest is found the Court must then decide what process is due." Accordingly the ALC erred in failing to hold a hearing to determine whether Appellants due process rights were violated. See Kiawah Dev. Partners II v. S.C. Dept of Health & Env'tl. Control, 411 S.C. 16, 28, 766 S.E. 2d 707, 715 (2014)

To Close, Appellants Motion For Cost and Itemized Statement was properly filed and served within the 15 days allotted and is entitled to recover these cost in this Court pursuant to Rule 222 SCACR.

Conclusion

For the forgoing reasons Appellant respectfully request this Court dismiss Respondents Petition For Rehearing.

Respectfully Submitted,



James Millholland 367569

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PO Box 1151

Fairfax, SC 29827

June 14, 2022

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SC Court of Appeals

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

RALPH K. ANDERSON III, ADMINISTRATIVE LAW JUDGE

Opinion No. 5909 (S.C.Ct.App. Filed 5/25/22)

APPELLATE CASE NO. 2020-000521

James Millholland 367569

Appellant

v.

South Carolina Dept. of Corrections

Respondent

CERTIFICATE OF SERVICE

I, James Millholland, hereby certifies that on today's date mailed a copy of the Motion to Dismiss Petition for Rehearing to Kensey Evans, Office of General Counsel, S.C.D.C., PO Box 21787, Columbia, SC 29221.

James Millholland 367569

A.C.I. / F3A43

PO Box 1151

Fairfax, SC 29827

June 16, 2022

James Millholland 367569
Allendale C.I./F3A43
1057 Revolutionary Trail
PO Box 1151
Fairfax, SC 29827

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JUN 21 2022
SC Court of Appeals

June 15, 2023

The Honorable Jenny A Kitchings
Clerk of Court, S.C. Court of Appeals
PO Box 11629
Columbia, SC 29211

RE: James Millholland 367569 v. S.C.D.C.
Appellate Case No. 2020-000521

Dear Ms. Kitchings:

Please find enclosed Appellants Motion To Dismiss Petition For Rehearing, along with a Certificate of Service. Thank you for your attention in this matter. If you need any further information, please feel free to contact me at the address above.

Sincerely,

James Millholland 367569
A.C.I./F3A43
PO Box 1151
Fairfax, SC 29827

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Fairfax, SC 29827

Inter-Agency

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SC Court of Appeals

The Honorable Jenny Kitchings
Clerk of Court, S.C. Court of Appeals
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Columbia, SC 29211

legal mail