

**RECEIVED**

SEP 21 2022

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT  
Hon. Deborah B. Durden, ALJ

Appellate Case No. 2022-000871

GREGORY PENCILLE #312332 Appellant

V.

South Carolina Dept. of Corrections Respondent

---

**RECORD ON APPEAL**

---

Gregory Pencille, 312332  
Evans CI F4A275  
610 Hwy 9 West  
Bennettsville, SC 29512  
Appellant, Pro se

Christina Catoe Bigelow  
General Counsel, SCDC  
P.O. Box 21787  
Columbia, SC 29221  
Attorney for Respondent

## INDEX

Step 1 Grievance	1,2
Step 2 Grievance	3
ALC Order of Dismissal	4,5
Exhibits	
A. The Hit Pointe Invoice	6
B. Tracking Status Form	7
C. SCDC Form 19-53 Unauthorized Items	8
D. SCDC Form 10-14 Agreement to debt account	9
E. Evans Memorandum "Hardcover Books-Prohibited"	10
F. Post-It Note (Inmate Grievance Coordinator)	11
Certificate of Appellant	12

RECEIVED

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

MAR 04 2022

INMATE GRIEVANCE FORM

BY: JB

STEP 1

INMATE NAME: <u>Gregory Pincille</u>	OFFICE USE ONLY
SCDC NUMBER: <u>312332</u>	Grievance No. <u>SCJ-0014-22</u>
INSTITUTION: <u>Evans</u>	Code: General <u>PTS</u>
HOUSING UNIT: <u>F4A 275</u>	Policy _____
WORK ASSIGNMENT: <u>Maintenance</u>	Disc. Hear. _____
	Class. _____
	PREA _____
	Date Received <u>3/4/22</u>
	IGC Initials <u>TU</u>

STATEMENT OF GRIEVANCE (Indicate the date of incident, and if the grievance is a challenge to SCDC Policy, specify which policy. Include supporting documentation and attach answered RTSM or Kiosk reference number.)

A question was presented to Security concerning "Inmate Correspondence", Specifically The receipt of "Hardcover" books from Publishers, suppliers, Bookstores. Here at Evans. See Kiosk message/response Ref # 22-02503099, 2/17/22 at 11:21am; Response by Author 034075 - received 2/23/22 at 5:17pm; also a further response 2/25/22 at 8:32 pm. Reference Policies, PS-10.08 "Inmate Correspondence Privileges" and OP 22.35 "Contraband Control".

Administration has recently instructed Property Control to deny receipt of hardcover books. After reviewing Policy, the following concerns have arisen. PS 10.08.23 Defines Publications as any printed communications such as... Books, Paperbacks..., which clearly separates and allows receipt of both hard cover and Paperback books. Policy 10.08, 5.1 and 19.2 state that packages will be distributed within seven (7) days of receipt (4-4495), provided no rejection or investigation/review is needed, in which case (section 19.2), Notice within seventy-two (72) hours will be posted with the reason for withholding Publications (ACA/CAC Standards 4-ACRS-6A-02, 4-4491) and SCDC Form 10-4 "Notice of rejected Incoming/outgoing correspondence". will be completed, 5.2.4 which notifies the inmate of delay.

Furthermore, OP 22.35 Contraband Control, "Items considered to be contraband" section 1.29 - Items so specified by the Warden, Written notification of any items so specified will be provided to each inmate.

No notifications are posted or have been posted previously, further concerns are that Publications such as religious and legal books only available in hardcover versions that will be denied by this institution rule would violate 1st Amend rights to worship and legal review of grievances. Also, SCDC Provides for the sale on the canteen a "hardcover" book (Photo Album) making this Rule excessive and a cruel state-created liberty interest.

The best response did not fully address all the questions and until a policy (Rule) is drafted and properly posted, Evans is violating policy and costing inmates and their families a lot of money.

[Signature] 03/04/22

Grievant Signature Date

ACTION REQUESTED: Void this improper Institutional Rule and allow Hardcover Books further due to invalid SCDC procedures, Reimburse for the cost of the Books and shipping of the denied books

ACTION TAKEN BY IGC:  PROCESSED  UNPROCESSED  OTHER

See warden Decision on Back

J. Slack 3/22/22

IGC Signature Date

(CONTINUE ON REVERSE SIDE)

[17]

**WARDEN'S DECISION AND REASON:**

Gregory Pencille 312332

ECI 0074-22

I have reviewed your grievance. In your statement you alleged Evans Correctional Administration denied your receipt of hardcover books which is in violation of SCDC policy(s) PS-10.08 "Inmate Correspondence Privileges" and OP-22.35 "Contraband Control." You are requesting reimbursement for monies spent on hardcover books. However Pursuant to SCDC Policy OP-22.03 Authorized Inmate Property and Disposition of Unauthorized Property, in order to ensure the safety and security of employees, inmates, and each institution, and to comply with related standards and regulations pertaining to fire-life safety and sanitation and hygiene, inmates will be allowed to possess only those items of property authorized to be retained. The SCDC will identify the types of property that may be retained, issued, possessed, and/or purchased and be informed of the control and the allowable limits of inmate property and of what is considered unauthorized property. On March 7, 2022 a memo was enforced stating, "Hard cover books are now prohibited. Inmates who currently have hardcover book must mail them out using provided amnesty boxes or turn the books into contraband control for disposable.

Therefore, your grievance is denied.

If you disagree with this Warden's Decision (Decision), you may file an appeal by completing a SCDC Step 2 Inmate Grievance Form 10-5A, provided to you while serving you this Decision, and placing it in the Grievance Box at your local correctional institution within five (5) days of your receipt of this decision.

Andrew Whigdon 3-22-22  
Warden Signature Date

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

[Signature] 3/23/22  
Grievant Signature Date

J Leal 3/23/22  
IGC Signature Date

**INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM**

1. An informal resolution shall be attempted prior to the filing of Step 1 by sending an Inmate Request to Staff Member (RTSM) form or Kiosk reference number to the appropriate supervisor. A copy of the answered RTSM must be attached to the grievance when the grievance is filed.
2. Complete each section in its entirety writing only in the space provided for inmate use. No additional pages will be permitted.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form by placing it in the Grievance Box at your institution within eight (8) working days of the date on the RTSM response; policy grievances can be filed at any time. Disciplinary and Classification Review appeals must be submitted within five (5) working days of the hearing/review. 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, by placing your Step 2 appeal form in the Grievance Box at your institution.

[2]

RECEIVED

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

MAR 24 2022

INMATE GRIEVANCE FORM

STEP 2

Office Use Only

BY: [Signature]

INMATE NAME: Gregory Pencille  
SCDC NUMBER: 312332  
INSTITUTION: Evans ✓  
HOUSING UNIT: F4A 275  
WORK ASSIGNMENT: Maintenance

Grievance No. ECI 0074-2  
Code: General PRIS  
Policy \_\_\_\_\_  
Disc. Hear. \_\_\_\_\_  
Class \_\_\_\_\_  
PREA \_\_\_\_\_  
Date Received: 3/24/22  
IGC Initials: TC  
Date Received: \_\_\_\_\_  
IGA Initials: \_\_\_\_\_

RECEIVED

MAR 26 2022

INMATE GRIEVANCE

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): The Warden's response and reasoning does not explain why Hardcover books are unauthorized. The response states "The SCDC will identify the type of property that may be returned, issued, possessed, and/or purchased ... and of what is considered unauthorized property". - The use of "SCDC" intends that only General Counsel and/or Director of operations has the authority to deem what is unauthorized property, Not Institutional Wardens or Lower staff. This is further proved by O.P. 22-35-1.29, Further, P.S. 10.08 Publications, includes hard cover books as authorized property.  
Pencille's grievance was filed March 4, 2022, Before the March 7, 2022 memo. At the time the Books arrived [December 11, 2021] and Pencille was forced to mail them out [Feb. 16, 2022] having never received them. [Proof provided]. No memo or Rule existed, Therefore, Pencille should have been able to receive the books. And Evans Admin. is responsible for reimbursements. Process violates due process, and 1st Amendment rights.

Grievant Signature [Signature] Date 3/24/22

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

I have reviewed your concern. In your grievance you stated that you asked security staff specific questions regarding the receipt of hardcover books at Evans Correctional Institution (ECI). You state that ECI administration recently instructed property control staff to deny incoming hardcover books. You also state that you reviewed SCDC Policy PS-10.08 and discovered several issues and you claim that no notification was posted by staff regarding the possession of hardcover books. You further state that you are being denied the right to worship by not being able to receive the book you recently ordered. You have requested that the "improper institutional rule" be voided so that you may receive hardcover books, and that you be reimbursed for the cost of the book/shipping. You were informed in ARTSM #22-02503099, that hardcover books are prohibited at ECI and your possession of the same is considered unauthorized. The Warden maintains the latitude to make institutional changes as he/she may deem necessary to meet safety and security needs. The Warden has provided amnesty boxes for all hardcover books to be sent home accordingly. Pursuant to SCDC Policy OP-22.03 Authorized Inmate Property and Disposition of Unauthorized Property, "Any and all items considered unauthorized, as defined by these procedures, will be confiscated, documented, secured, and disposed of according to applicable state and federal statutes, this policy/procedure, and other applicable standards, regulations, and codes related to (but not limited to) sanitation, hygiene, medical, and fire/life safety." You have not shown that SCDC staff has conducted their job duties improperly. Reimbursement is not warranted at this time.

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.

Responsible Official Signature Randall A. Williams Date 4/20/22

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.

Grievant Signature [Signature] Date 4/26/22  
IGC Signature [Signature] Date 4/26/22

[3]

(SEE REVERSE SIDE FOR INSTRUCTIONS)

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Gregory Pencille, #312332,

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

Docket No. 22-ALJ-04-0130-AP  
Grievance No. ECI 0074-22

ORDER OF DISMISSAL

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to a Notice of Appeal filed by Gregory Pencille (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (Department or SCDC). Appellant seeks review of the Department's Step 2 Grievance decision in a matter concerning allowance of hardcover books. The SCDC decision indicates that Appellant was not sanctioned any accrued good time. Additionally, Appellant has not alleged the infringement of any other state-created liberty or property interest.

This Court reviews Department grievance decisions pursuant to the South Carolina Supreme Court decision in Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). Under the Al-Shabazz line of cases, this Court may only review matters related to a state-created liberty or property interest. See id., 338 S.C. at 368-69, 527 S.E.2d at 749-50 (vesting the ALC with jurisdiction over the loss of state-created liberty interests such as accrued good time credit); Wicker v. S.C. Dept. of Corrs., 360 S.C. 421, 602 S.E.2d 56 (2004) (holding that inmate had a right to procedural due process in matters involving a state-created right to property such as wages). Specifically, the South Carolina Supreme Court has stated that summary dismissal of an otherwise properly perfected inmate appeal "may be appropriate where the inmate's grievance does not implicate a state-created liberty or property interest." Slezak v. S.C. Dept. of Corrs., 361 S.C. 327, 331, 605 S.E.2d 506, 508 (2004) (citation omitted) (emphasis added).

**THEREFORE, IT IS HEREBY ORDERED** that this appeal is **DISMISSED, WITH PREJUDICE.**

**AND IT IS SO ORDERED.**

May 25, 2022  
Columbia, South Carolina

*Deborah Brooks Durden*

Deborah Brooks Durden, Judge  
S.C. Administrative Law Court



[4]

**CERTIFICATE OF SERVICE**

I, Robin E. Coleman, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or by electronic mail to the address provided by the party(ies) and/or their attorney(s).

*Robin Coleman*

Robin E. Coleman  
Judicial Aide to Judge Deborah Brooks Durden

May 25, 2022  
Columbia, South Carolina



Exhibit A



The Hit Pointe  
540 North Lapeer Road 255  
Orion Township, MI 48362-1582  
http://www.hitpointe.com

# Invoice

Date	Invoice#
10/5/2021	61558

**PAID**  
10/05/2021

Bill To	Information
<p>Gregory Pencille #312332 ECI F4A275 610 Highway 9 W Bennettsville SC 29512-2130</p>	

Payment Method	Rep
Check	CMW

Item Code	Qty	Stock #	Description	Price	Amount
RGS09387	1	PREORDER	The Book of Nod [Vampire the Masquerade 5th Edition]	50.00	50.00
RGS09388	1	PREORDER	Sabbat - The Black Hand [Vampire the Masquerade 5th Edition]	45.00	45.00
PZO9310	1		The Grand Bazaar [P2; Lost Omens] [10/13/2021]	28.00	28.00
PZO7117	1	PZO7117	Tech Revolution [Starfinder] [9/22/2021]	32.00	32.00
PZO90163	1	PZO90163	Ruins of Gauntlight [P2; Abomination Vaults 1; level 1]	20.00	20.00
PZO90164	1	PZO90164	Hands of the Devil [P2; Abomination Vaults 2; level 5]	24.99	24.99
PZO90165	1	PZO90165	Eyes of Empty Death [P2; Abomination Vaults 3; level-8]	24.99	24.99
Shipping				12.00	12.00

Thank you for ordering from The Hit Pointe again!	<b>Total</b>
E-mail	<b>Payments/Credits</b>
services@hitpointe.com	<b>Balance Due</b>

# PACKAGE STATUS

**PACKAGE ID: 9405511202530415042483**

Delivered, PO Box December 11, 2021, 08:50 AM, BENNETTSVILLE, SC 29512

Departed USPS Facility December 11, 2021, 06:33 AM, FLORENCE, SC 29501

Arrived at USPS Facility December 11, 2021, 05:48 AM, FLORENCE, SC 29501

Departed USPS Regional Facility December 11, 2021, 04:03 AM, COLUMBIA SC PROCESSING CENTER

Arrived at USPS Regional Facility December 10, 2021, 06:17 AM, COLUMBIA SC PROCESSING CENTER

Departed USPS Facility December 10, 2021, 12:20 AM, ATLANTA, GA 30354

Arrived at USPS Facility December 09, 2021, 06:39 AM, ATLANTA, GA 30354

Arrived at USPS Regional Facility December 09, 2021, 06:27 AM, ATLANTA GA NETWORK DISTRIBUTION CENTER

Departed USPS Regional Facility December 08, 2021, 09:00 AM, DETROIT MI NETWORK DISTRIBUTION CENTER

Arrived at USPS Regional Facility December 07, 2021, 09:43 PM, DETROIT MI NETWORK DISTRIBUTION CENTER

Acceptance December 07, 2021, 05:32 PM11111

**Important Note:**

This package tracking Web page was generated by Endicia Internet Postage at the sender's request. If you have questions about the package delivery, please contact the sender or the U.S. Postal Service directly. *The U.S. Postal Service can be reached at 1-800-ASK-USPS.* Endicia will not be able to answer any delivery questions, as we do not have any information other than what is shown on this page.

**For questions on your package, call 1-800-ASK-USPS**

**TRACK ANOTHER PACKAGE**

[7]

~~PROPERTY CONTROL ROOM~~  
UNAUTHORIZED ITEMS

312332  
SCDC Number

Pencille  
Name (Last)

Gregory  
(First) Middle

The item(s) listed below were received in the Property Control Room and cannot be issued to you under current SCDC Policy and Procedures OP-22.03, Authorized Inmate Property and Unauthorized Property Disposition.

\* can't have hard back books

QUANTITY

ITEM

1

The Book of NOD

1

Sabrat

1

Starfinder

1

Pathfinder

You must decide which of the following actions should be taken:

Pay postage to mail room for return shipment.

Donate item(s) to charity.

IF NO ARRANGEMENTS ARE MADE BY YOU, THE DEPARTMENT OF CORRECTIONS WILL TAKE THE NECESSARY STEPS TO DISPOSE OF THE ITEM(S)

Sgt. Jones  
Officer's Signature

[Signature]  
Inmate's Signature

2-15-22  
Date

2/10/22  
Date

ACTION TAKEN: Address Annick Pencille  
306 Palm Ln  
Myrtle Beach SC 29577

[Signature]  
Officer's Signature

Date Property Disposed

Taken to [8]  
cust office 2/17/22



**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS**

**EVANS CORRECTIONAL INSTITUTION**

**MEMORANDUM**

**TO:** ALL EVANS INMATES

**FROM:** Donnie E. Stonebreaker, Warden

**SUBJECT:** HARD COVER BOOKS – PROHIBITED

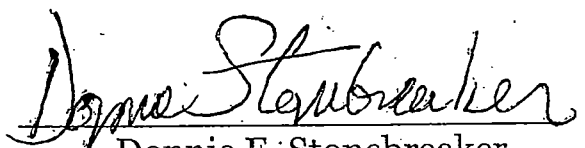
**DATE:** March 7, 2022

Effective immediately; all Evans inmates are **prohibited** from possessing any **hard cover** books. Inmates will only be allowed to order publishing of soft cover books (paper back coverings) from a distributor or publisher to be delivered via U.S. Postal Delivery

Inmates that currently have hard cover books must mail them out or turn books over Contraband Control for disposable.

Evans will provide the inmate population with amnesty boxes to allow you the opportunity to voluntarily turn in your hard cover books.

If you have any questions, please do not hesitate to contact me at extension 4908.

  
Donnie E. Stonebreaker

- cc: Warden Stonebreaker
- Associate Warden Hubbard
- Major Graves
- Admin. Captain H. Sims
- Sergeant Jones, Property Control
- Unit Lieutenants
- IRC
- Shift Captains/Shift Lieutenants **(PLEASE READ MEMO IN SHIFT BRIEFINGS)**
- File

no Attachments  
Allowed

Ms. Leak  
Grievance

Certificate of Appellant

The undersigned hereby certifies that the Record of Appeal contains all material proposed to be included by any parties and not any other material.

September 16, 2022



Gregory Pencille, 312332  
Evans CI F4A275  
610 Hwy 9 West  
Bennettsville, SC 29512  
Appellant, Pro se

16 day of September  
Sascha Oulton  
Attorney Public of South Carolina  
2/17/24

**RECEIVED**

SEP 21 2022

SC Court of Appeals