

The State of South Carolina
In the Court of Appeals.

Appeal From the Administrative
Law Court.

Carolyn C. Matthews, Administrative Law Judge.

Case No.: 2013-000831.

South Carolina Department of Corrections, Respondent.

v.

John Holloway #277261, Appellant.

Brief of Appellant.

John Holloway #277261
Lieber, C.I. (SML-122-A)
P.O. Box 205
Ridgeville, S.C. 29472
Appellant

1.

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SC COURT OF APPEALS

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Statement of the Issues on Appeal.

- ① Is the Appellant at Fault for the Grievance Coordinators
error in Policy Quotation?
- ② Is the Grievance Coordinator granted the right to
'Ad Lib' Policy as they see fit?
- ③ Did the Administrative Law Judge err by Dismissing
Appellants case when Appellant proved through his
Reply Brief the Grievance Coordinators Faults

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Statement of the Case.

ON 8-20-12 Appellant was found guilty of a (803) Riot and (820) Destruction of State Property. ON 9-2-12 Appellant filed a Step-1 Grievance. ON 9-17-12 the Step-1 Grievance was returned unprocessed, advising Appellant to refile within (5) days DUE BY 9-24-12. ON 9-20-12 Appellant refiled another Step-1 Grievance. ON 10-4-12 the refiled Step-1 Grievance was returned as unprocessed as well. ON 10-16-12 a Notice of Appeal was sent to the Administrative Law Court. ON 4-10-13 Judge Carolyn C. Matthews issued her Order of Dismissal. ON 4-12-13 Appellant received notice of the Order of Dismissal. ON OR AROUND 4-13-13 AND 4-21-13 Appellant submitted a Notice of Appeal to the South Carolina Court of Appeals.

Arguments.

(1.) Because Appellant was held at fault for the Grievance Coordinator's error in Policy Quotation, the Administrative Law Court erred in dismissing Appellant's case.
ON 9-17-12 Appellant's initial Step-1 Grievance was returned unprocessed stating, "It appears you are attempting to grieve multiple hearings. Only one hearing/case per grievance is allowed. Each hearing/case must be on separate grievance forms and filed within 15 days of the date of the hearings. Therefore, this grievance is returned unprocessed. You may refile on separate grievance forms within 5 days. You must include this grievance for date verification when refileing. DUE BY 9-24-12," see exhibit-A. Appellant then refiled another Step-1 Grievance on 9-20-12 and it was as well returned unprocessed on 10-4-12 stating, "Per GA-01.12 Inmate Grievance System, a grievance will be considered abandoned if the inmate refuses to follow

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(3.)

through with the I.G.C.'s recommendations within 5 days after the return of the inmates unprocessed grievance. You were instructed to refile each case on a separate grievance form by 9-24-12. You have again refiled both case #45 and #46 on the same grievance form. Therefore, this grievance is being returned unprocessed due to your failure to follow through with the instructions of the I.G.C. to refile with corrections prior to 9-24-12," see exhibit-B. The Grievance Coordinator is confusing Appellants "two" "charges" of (803) and (820) with that of a "hearing/-case". On 8-20-12 "one" "hearing" was held on the "charges" of (803) and (820) which occurred on the same date and time of 1-18-12, making "one" "case". A "hearing/case" is not the same as a "charge". I was assigned "case #45 for one charge" and then assigned "case #46 for the other charge", see the top right-hand side of exhibit-A and B. Both "charges" occurred on the same date and time and written on the same incident report, see exhibit-C. The (803) and (820) can "only" be considered as "two" "separate" "cases", if they occurred on "separate dates" and were "unrelated". A "hearing" is defined as, "Administrative Law. Any setting in which an affected person presents arguments to an agency decision-maker". A "case" is defined as, "A proceeding, action, suit or controversy at law or in equity", see Blacks Law Dictionary 7th Ed. At no time in my initial Step-1 Grievance did I "attempt" to "grieve" multiple "hearings" or "cases", I was grieving the decision that was made at the hearing held on 8-20-12 which heard the "charges" (803) and (820). Grieving "multiple" "charges" is not the same as grieving "multiple" "hearings/cases". It is not my fault that the administration made the mistake of assigning two separate cases to my

4.

"charges" and as well, it is not my fault that the grievance coordinator wrongfully unprocessed my Step-1 Grievances on "NON-existant" Policy quotation.

"No where" in "S.C.D.C. Policy GA-01.12" does it ever say a grievance may be returned unprocessed if the inmate grieves multiple "hearing/cases". IN "Policy GA-01.12" under section "Grievable Issues" it states, "Only one issue, or disciplinary conviction may be addressed on each grievance form". By the grievance coordinators decision to "quote" and unprocess my grievances on "NON-existant" policy, I was forced to move forward to the A.L.C. for the appropriate redress when it is evident I wasn't afforded the adequate exhaustion. I should not be held in fault for the grievance coordinators lack of knowledge in the Grievance Policy GA-01.12 which she is supposed to properly apply...

(2.) Because the grievance coordinator 'Ad libed' a Policy Quote that doesn't exist Appellant was held in fault for not properly exhausting his remedies... S.C.D.C. Policy GA-01.12 was implemented to afford inmates a adequate due process at redress. Once a inmate files a Step-1 Grievance and receives a response he/she may move forward with a Step-2 Grievance. If the Grievance Coordinator is allowed to disregard Policy and 'Ad lib' as they see fit, then there is no Due Process afforded and no need for a Policy that will be 'made up' as they go. Hence, no need for a Grievance System that won't be properly applied and my reason for requesting redress from the A.L.C. A Policy is only as good as a administrator who fairly applies its contents and meaning correctly.

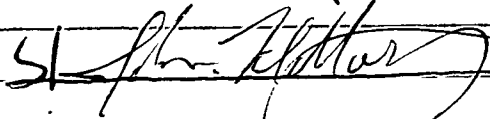
3. Because the Administrative Law Judge Erred by dismissing Appellants case when the appropriate information was adequately provided in Appellants Reply Brief, Appellant has suffered undue hardship and a violation of his Due Process Rights. . . .

~~Appellant~~ Appellant alleges and reincorporates the above arguments and the arguments stated in his Reply Brief to the A.L.C. to show the biased decision made by the Administrative Law Judge, see also Appellants Reply Brief exhibit-D. If the Grievance Coordinator Relys on Conjecture in the application of their "own" Policies instead of "facts", then why create a Policy? they shouldn't have to guess, present supposition, or surmise as to their "own" written Policy terminology. Prison officials may not "Pile Conjecture upon Conjecture" to justify their Policies, Reed V. Faulkner, 842 F.2d 960, 963-64 (7th Cir. 1988); see also, Armstrong V. Davis, 275 F.3d 849, 874 (9th Cir. 2001), "Prison officials cannot avoid scrutiny under 'Turner' by reflexive, rote assertions." If the Administrative Law Judge sees these wrongs, has these wrongs brought before them in a clear and unambiguous manner yet, still deny's the Appellant, then the Judge is just as liable for the wrongs, as the Respondents are as well. I again, claim my innocence in the offense's I am accused of, but cannot prove such until someone see's I was wronged at the begining stages, hampering my exhaustion. Again, my case should be held for review and is Ripe for review in light of the above stated "facts" and evidence. . . .

CONCLUSION.

For the above mentioned reasons, this Court should Reverse the judgement of the Administrative Law Court....

Respectfully Submitted,



John Holloway # 277261
Lieber, C.I. (SMU-122-A)

P.O. Box. 205
Ridgerville, S.C. 29472

Appellant.

May 20, 2013.

The State of South Carolina
In the Court of Appeals.

John Holloway # 277261
V.

Case No.: 2013-000831

South Carolina Department
of Corrections.

Affidavit/Declaration of
John Holloway # 277261.

The above named Appellant, John Holloway, does hereby swear under the penalty of perjury that the foregoing is true and correct...

• Declaration •

In Appellants Brief to the Court of Appeals, everything Appellant stated and presented is true and correct. Had the Appellant been afforded the proper processing of his Grievances he would have been able to properly proceed to the A.L.C. with the exhaustion requirements met. The unlawfull unprocessing of Appellants Grievances has burdened Appellant and will continue to do so if this Honorable Court doesn't intervene and bestow justice. The respondents are either inadvertently applying policy incorrectly due to ignorance or they are deliberately denying Appellant his due course. Appellant hereby declares the above statement is true and correct...

• Affidavit •

I, John Holloway, the above named Appellant, do hereby swear that the following is true and correct...

- ① I am the above named Appellant in the above referenced case. This Affidavit is in support of Appellants Brief.
- ② Exhibit-A; is the initial Step-1 Grievance.
- ③ Exhibit-B; is the second Step-1 Grievance.
- ④ Exhibit-C; is the "Incident Report 19-29A".
- ⑤ Exhibit-D; is the Reply Brief to the A.L.C.

Exhibit-A

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: John Holloway
SCDC NUMBER: 277261
INSTITUTION: Lieber Corr.
HOUSING UNIT: SMU-122A
WORK ASSIGNMENT: N/A

SEP 04 REC'D
SEP 24 REC'D
CC

Office Use Only
Grievance No. LCI 1786-12
Code: General
Policy 8/20/12
Disc. Hear. 803 #45
Class. 820 #46
Date Received 9-17-12
IGC Initials EB

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

I'm grieving the decisions made by Angela Brown D.H.O., where Ms. Brown violated SCDC's OP-22.14 Policy Statement, "Inmates and Offender Adequate Due Process Protection." As well, the administration's application of the inmate disciplinary system will be in complete compliance with all state and federal statutes, rules, and regulations. Ms. Brown refused to allow me to present a adequate verbal statement and my rights to be notified of this right was not exercised on the original 19-09, this violates OP-22.14: 7.3. She refused my rights to present documentary evidence →

ACTION REQUESTED: That all individually imposed sanctions be dismissed. And the charges of (803) and (810) be removed from my record per OP-22.14; 11.0; D.H.O. Modified.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

IE sent a request to Cpt. Clark about the situation but Cpt. Clark responded to the 19-11-11 said he spoke with the "B" individuals and that they were going to the charges with the charges.

Grievant Signature _____ Date _____

ACTION TAKEN BY IGC:

It appears you are attempting to grieve multiple hearings. Only one hearing/case per grievance is allowed. Each hearing/case must be on separate grievance forms and filed within 15 days of the date of hearings. Therefore, this grievance is returned unprocessed. You may re-file on separate grievance forms within 5 days. You must include this grievance for date verification when re-filing. DUE BY 9/24/12.

M. Anderson 9/17/12
IGC Signature _____ Date _____

IGA 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.

Exhibit-A

SEP 24 REC'D

3.

at the hearing. When I attempted to present documentary evidence and quote from these documents, S.C. Law and Due Process at disciplinary hearings and case law to support my claims she stated, "It would not be my way, but her way, the right way." This refusal violates: OP-22.14; 15.2. When I continued to stress the issue that she was denying my Due Process, she had me removed from the remainder of the hearing. This action denied my rights to Adequate Due Process Protection and denied me the ability to continue my defense. Her actions denied me my right to argue the following violations: OP-22.14; 15.6, Right to ask adversarial witnesses questions. OP-22.14; 3.3, I have the right as a Mental Health inmate to have my 19-29A forwarded to Mental Health Staff. This referral must be documented on the 19-29A. A Mental Health Professional must include a memorandum attesting to the inmate's mental status and accountability for his/her actions. Refer to S.C. Policy/Procedure HS-19.01. OP-22.14; 3.2, was violated due to the lack of, "A full statement of the facts underlying the offense, to include witnesses, evidence and the disposition of evidence," the facts underlying the offense were not presented on the 19-29A concerning the (803) Riot and the (800) Destruction of state property. The report stated by Merv Powell said, "He received information from two (2) confidential informants that the following inmates listed on the 19-29A were responsible for the (800) Destruction but nothing of who participated in the Riot, NOR did the report single out specific individuals by their actions as to what they specifically destroyed. The report only mentions the (800) and nothing of the (803) Riot. Inmates cannot be solely found guilty on confidential informant testimony see, Helm v. Hewitt, 655 F.2d 487. Merv Powell's sole report on the 19-29A was only what the informants had divulged to him. The report never indicated Merv Powell conducted an investigation or that he discovered his own evidence or investigation to coincide with the statements of his informants. Informant credibility can be found in Walker v. Hayes, 558 F.2d 1211-1219 and Hillis v. Cicca, 506 F.2d 1011-1013. OP-22.14; 24.1, was violated as well. A re-hearing may not be ordered, because I was not given a initial disciplinary hearing in a timely manner. My charges were dismissed after several months had elapsed. Re-hearings must be in writing from Division of Operations. As well, the re-hearing is to be held. The dismissed charges on evidence discovered after the dismissal. I was subsequently re-charged and given new paper work without the favor of the original, with the inmates as the reporting official instead of Merv Powell. This is a double violation of my rights as an inmate.

SEP 04 REC'D

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM

STEP 1

Exhibit-B

INMATE NAME: John Holloway
 SCDC NUMBER: 277261
 INSTITUTION: Lieber. Corr.
 HOUSING UNIT: SMU-122-A
 WORK ASSIGNMENT: N/A

P 24 130
 (C)
 SEP 24 REC

Office Use Only
 Grievance No. LCI 1916-12
 Code: General
 Policy 8/20/12
 Disc. Hear. 803 #45
 Class. 820 #46
 Date Received 10-4-12
 IGC Initials AVA
ZGA

STATE GRIEVANCE (Include documentation, and date of incident; if SCDC Policy, indicate which policy)

I'm grieving the decisions made by Angela Brown D.H.O., where Ms. Brown violated SCDC's OP-22.14 Policy Statement, "Inmates are afforded Adequate Due Process Protection". As well, the administration and application of the disciplinary system will be in complete compliance with all State and Federal Statute, Rules, and Regulations. Ms. Brown Refused to allow me to present a adequate verbal statement and my rights to be notified of this right was not confirmed on the original 19-69, this violates OP-22.14; 7.3. She Refused my rights to present documentary evidence at the hearing. When I attempted to present documentary

ACTION REQUESTED: That all individually imposed sanctions be dismissed. And the charges of (803) and (820) be removed from my record per OP-22.14; 11.0; D.H.O. Modifier.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

I sent a request to Cpt. Clark about the situation but Cpt. Brighthart responded to the 19-11. He said he spoke with the Investigators and that they were seeing if the charges will be dropped.

John Holloway 9-20-12
 Grievant Signature Date

ACTION TAKEN BY IGC:

Per GA-01.12 Inmate Grievance System, a grievance will be considered abandoned if the inmate refuses to follow through with the IGC's recommendations within five (5) days after the return of the inmate's unprocessed grievance. You were instructed to refile each case on a separate grievance form by 9/24/12. You have again refiled both case #45 and #46 on the same grievance form. Therefore, this grievance is being returned unprocessed due to your failure to follow through with the instructions of the IGC to refile with corrections prior to 9/24/12.

Morris 10-4-12
 IGC Signature Date
 IGA 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.

Exhibit-B

SEP 24 1980

(2)

evidence and quote from these documents S.C. Law on Due Process at disciplinary hearings and case law to support my claims, she stated, "It would not be my way, but her way, the right way." This refusal violates OP-22.14; 15.2. When I continued to stress the issue that she was denying my Due Process, she had me removed for the remainder of the hearing. This action denied my rights to Adequate Due Process Protection. Her actions denied me my right to argue the following violations: OP-22.14; 15.6, Right to ask adversarial witnesses questions. OP-22.14; 3.3, I have the right as a Mental Health Inmate to have my 19-29A forwarded to Mental Health Staff. This referral must be documented on the 19-29A. A Mental Health Professional must include a memorandum attesting to the inmates mental status and accountability for his/her actions. Refer to SCDC Policy/Procedure HS-19.01. OP-22.14; 3.2, was violated, "A full statement of the facts underlying the offense, to include witnesses, evidence and the disposition of evidence." The facts were not presented on the 19-29A, the evidence and disposition of evidence were not presented on the 19-29A. Angela Brown also violated policy where she imposed the sanctions on my 19-69 to take my 'Property Privileges' for five (5) years. This went beyond the scope of policy which says my property may only be taken up to 360 days. Wayne C. McCabe chose to re-charge me for (803) and (820) after my original (803) and (820) were dismissed. Angela Brown also stated at the hearing that my original charges were dismissed. This violates: OP-22.14; 24.1, "A charge(s) may be re-heard after a dismissal if compelling evidence is discovered. Division of Operations will indicate in writing the compelling reason(s) that require a rehearing. A rehearing may not be reheard for which a inmate did not receive timely notice of charges or an initial hearing in a timely manner unless authorized in writing by the Division of Operations. I cannot be re-charged for charges that were dismissed, only that I be re-heard at a new disciplinary hearing for the original charges. Re-charging me is Double Jeopardy. As well, this new compelling evidence was not presented in writing at my hearing, Mr. McCabe simply stated, "He received Mr. Powell's investigative report and as a result chose to (re)charge me." If Mr. Powell's report and evidence weren't reliable enough to convict me initially, which is why my original (803) and (820) were dismissed, then how is this same report by Mr. Powell submitted to McCabe now reliable? These are my facts on the convictions that caused my 8-20-12 Please Respond A.S.A.P.

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INCIDENT REPORT**

Exhibit-C

Institution/Center: Lieber Correctional Institution				Date of Report: August 3, 2012	
Reporting Official (Full Name): Warden Wayne C. McCabe				Time of Report: Approx. 2:00 pm	
Employee ID #: 007644				Date of Incident: January 18, 2012	
Location of Incident: Ashley Unit				Time of Incident: Approx. 9:40 pm	
Inmate(s)/Resident: SCDC# Age Sex Race				Employee(s)/Witnesses Involved:	
1. See Below List				1. Cpl. Barry Robinson EMPL.# 018620	
2.				2. C/O Gary Sanchez EMPL.# 041324	
3.				3.	
4.				4.	
5.				5.	
On the above date and approximate time: I, Warden Wayne C. McCabe received the completed investigative report from Investigator Merv Powell concerning the riot that occurred on January 18, 2012 at approx. 9:40 pm in the Ashley Unit of Lieber Correctional Institution. As a result of the investigative report the following inmates are being charged with (803) Riot./ (820) Inmates Damage, Loss, Destruction, or Defacing of Property Valued at 100.00 or more					
Raymond Stegall B/M #314083		Terry Jacobs B/M # 216156			
Tarcel Holmes B/M #318396		Markies Collins B/M #327692			
Jerman Barton B/M #338374		Ricardo Mobley B/M # 326592			
Timothy Stroman B/M #265993		Tamel Davis B/M # 326984			
Cody Pearson B/M #284231		Xavier McCoy B/M #234419			
Henry Robinson B/M #292635		John Holloway W/M # 277261			
Tio Rhodes B/M #293495		Ryan Grooms B/M # 335271			
James Gibson B/M #326448		Jethro Marsh B/M # 310895			
James Hankerson B/M #296743		Shanquan Burgess B/M # 314924			
Shondell Terry B/M #311523					
Clifton Liewald W/M #319786					
Signature: <i>Wayne C. McCabe</i>				Title: Warden	
Evidence:					
Disposition of Evidence:					

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ASSOCIATE WARDEN'S OFFICE
LIEBER COR.

INMATE COPY

Supervisor's Comments: *The above inmates are being charged as stated. Forward to DHO.*

Printed Name: *Capt. Fletcher McBride*

Signature: *F. McBride* Title: *Capt* Date/Time: *Approx 8/3/12 3pm.*

Major/Responsible Authority:

Refer to DHO

All the above listed inmates charged with with 803/120

Printed Name: *T. Nettles*

Signature: *T. Nettles* Title: *Major* Date: *8/3/12*

STG Related - Refer to STG Committee

() Yes (X) No () Unknown

This incident is DRUG related

() Yes (X) No () Unknown

Responsible Authority Action Taken

() Informal Resolution 803

() Administrative Resolution 820

(X) Refer to Disciplinary Hearing

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INCIDENT REPORT**

Institution/Center: Lieber Correctional Institution				Date of Report: August 3, 2012	
Reporting Official (Full Name): Joseph McFadden, Assoc. Warden			Time of Report: approx. 9:00 am		
Employee ID #:			Date of Incident: January 18, 2012		
Location of Incident: Ashley Unit			Time of Incident:		
Inmate(s)/Resident:	SCDC#	Age	Sex	Race	Employee(s)/Witnesses Involved:
1.					1. Cpl. Barry Robinson #018620
2.					2. C/O Gary Sanchez #041324
3.					3.
4.					4.
5.					5.

On the above date and approximate time: after the investigation regarding the incident that occurred on January 18, 2012 it was determined the following inmates participated in the disturbance causing major damage to state property, radios, air packs, walls, windows, doors, etc. This report is for information purposes.

- Jerman Barton #338374, Timothy Stroman #265993, Cody Pearson #284231, Henry Robinson #292635,
 Tio Rhodes #293495, James Gibson #326448, James Hankerson #296743, Shondell Terry #311523,
 Clifton Liewald #319786, Terry Jacobs #216156, Tarcel Holmes #318396, Raymond Stegall #314083
 Markies Collins #327692, Ricardo Mobley #326592, Tamel Davis #326984, Xavier McCoy #234419,
 John Holloway #277261, Ryan Grooms #335271, Jethro Marsh #310895, Shaquan Burgess #314924.

Signature: <i>Joseph McFadden</i>	Title: Associate Warden
Evidence:	
Disposition of Evidence:	

Supervisor's Comments: <i>Forward for information</i>		
Printed Name:		
Signature: <i>F. McBred</i>	Title: <i>Capt.</i>	Date/Time: <i>8/3/12 approx 3:00 pm</i>
Major/Responsible Authority:		
Printed Name:		
Signature:	Title:	Date:

INMATE COPY

STG Related – Refer to STG Committee

Yes No Unknown

This incident is DRUG related

Yes No Unknown

Responsible Authority Action Taken

Informal Resolution
 Administrative Resolution
 Refer to Disciplinary Hearing

MAR 29 2013

Administrative Law Court

John Holloway # 277261

Case No. 12-ALJ-04-803 ADM. LAW COURT

V.

South Carolina Department
of Corrections

Exhibit-D

Reply Brief

This matter comes before the Administrative Law Court pursuant to the above named Appellant, John Holloway. Appellant filed a Step-1 Grievance on 9-2-12 "see exhibit-A", that was received on 9-4-12. However, the action taken by the I.G.C. was to return the grievance unprocessed, on the grounds of grieving multiple hearings. The I.G.C. then gave Appellant five days to re-file and the deadline for the re-filing would of been on 9-24-12 "see exhibit-A". Appellant complied and re-filed on 9-20-12 "see exhibit-B", that was received on 9-24-12. However, the I.G.C. again returned the Step-1 Grievance unprocessed on 10-4-12 due to not following through with the I.G.C.'s recommendations "see exhibit-B". Respondent alleges Appellant improperly filed his Step-1 Grievance's and did not file a Step-2 Grievance. This is correct in part. With Appellants "two" Step-1's returned unprocessed Appellant was not afforded the right to file a Step-2 Grievance. By Policy, a Step-2 Grievance may not be filed unless the Step-1 Grievance is processed and a decision rendered. But, as Appellant will show, the "two" Step-1 Grievances were unlawfully unprocessed. This unprocessing of the "two" Step-1 Grievance's is lacking a Adequate Due Process. In "exhibit-A", the I.G.C. stated, "you are attempting to grieve multiple hearings. Only one hearing/case per grievance is allowed. Each hearing/case must be on separate grievance forms and filed within 15 days of the date of the hearings. Therefore, this grievance is returned unprocessed. You may re-file on separate grievance forms within 5 days." So, I re-filed changing the attachment to "exhibit-A" where I assumed, I was grieving multiple hearings "see exhibit-B". The I.G.C. again returned Step-1 Grievance unprocessed "see exhibit-B". The I.G.C. stated, "You have again re-filed both case #45 and #46 on the same grievance form. Therefore, this grievance is being returned unprocessed due to your failure to follow through with the instructions of the I.G.C. to re-file with corrections prior to 9-24-12." The I.G.C. is confusing Appellants two "charges" of 803 and 800 with that of a "hearing/case". A "hearing/case" is not the same as a "charge".

(1)

Blacks Law Dictionary 7th Ed.; "case"; A proceeding, action, suit or controversy at law or in equity. "Hearing"; Administrative law. Any setting in which an affected person presents arguments to an Agency decision-maker. I never argued/grieved two "cases" or two "hearings". Only "one" "hearing" was heard on the "charges" of 803 and 820. Both "charges" were on the same incident report "see exhibit-C", which, represents "one" incident, "one" case. Both the 803 and 820 occurred on 1-18-12 making them apart of the "same" case. The 803 and 820 can only be considered as two "separate" cases, if, they occurred on separate dates and were unrelated. Even in the incident report in the section labeled "Supervisors Comments", it stated, -
~~Refer to D.H.O. all the above listed inmates "charged" with 803/820~~
~~Exhibits~~ "The above inmates are being "charged" as stated. Forward to D.H.O.", and in the section labeled "Major/Responsible Authority", it stated, "Refer to D.H.O. all the above listed inmates "charged" with 803/820" "see exhibit-C". I was Found guilty of the "charges" 803 and 820 at "a", "hearing" that was held on 8-20-12, where the D.H.O. made her decision regarding the "proceeding", ie, the "case". Nowhere, in Policy GA-01.12 "Inmate Grievance System", does it "state" that only "one hearing/-case per grievance is allowed". In Policy GA-01.12 under the section "Grievable Issues" it states, "Only one issue, or disciplinary conviction may be addressed on each grievance Form". Your Honor, the I.G.C. is misinterpreting the grievance Policy (GA-01.12), "One hearing/case per grievance" is not the same as "one issue, or disciplinary conviction per grievance". The Appellant has already defined the definitions of "hearing" and "case" using the Blacks Law Dictionary above, your Honor, you know as well as I that a "hearing" is not the same as a "charge" or a "issue" and that a "case" is not the same as a "charge" or a "disciplinary conviction", so why is the I.G.C. under the impression that they are? Your Honor, I believe that S.C.D.C. officials are misinterpreting their Policy and I

will use the following to prove my point, (1) on the street as well as in S.C.D.C. if an incident is observed a report is done S.C.D.C. calls it a Incident Report, 19-29.A. (2) After the report, if an offense is found to be committed, an offense code is applied and the offender is "charged". (3) After the offender is "charged" with the offense code, if the events occurred because of or from one incident they are all placed under one "case". (4) A "hearing" is then held on that "case" and a decision of either Guilty or Not Guilty is rendered. (5) If Guilty, the offender has the right to Appeal the Decision on the "charges" in the "case". One Notice of Appeal is then sent to the A.L.C. In this Appeal process I appealed the decision of the "hearing" that was held on a "case" that consisted of "two charges". If I kidnap and kill Joe Schmo on a "said date", that's "one" "case", if I kidnap and kill John Doe on another separate "said date", that is another "case". Each "case" consist of different evidence. Evidence in one "case" is not used for a conviction in another "case" because the "cases" aren't related. Your Honor, in "this" "case" I was "charged" with 803 and 820 on 8-3-12, and the same alleged investigative report was used to allegedly prove each "charge". They occurred from the same events that transpired on 1-18-12. I appealed the D.H.O.'s decision to find me Guilty of two separate "charges" when she violated S.C.D.C.'s Policy Statement as shown in the Grievance Attachments. It's not my fault that S.C.D.C. inappropriately scheduled two "case's" on the "19-69, Disciplinary Report and Hearing Record", when it was only "one case". It, as well, isn't my fault that S.C.D.C. held a single "hearing" on "two case's" that were supposed to be scheduled as one. They need to be clear and clearly draw Prison Regulations, Policies and Procedures so that misunderstandings of this nature do not occur. Furthermore, to be specifically clear I appealed the D.H.O.'s Decision

~~and the Decision I appealed is her Decision to~~
and the Decision I appealed is her Decision to knowingly violate S.C.D.C.'s Policy Statement giving a biased verdict, which violated my rights. As well, your Honor, Respondents are knowingly ignoring these "facts" and the "fact" that I previously addressed this same issue when I submitted my "General Statement of Grievance Applications" with my Notice of Appeal "see exhibit-A-1". In conclusion your Honor, Appellant's case should be held for Appellate Review and is Ripe for Review in light of the above stated "facts". Had the Respondents "not" continuously returned Appellant's Grievances unprocessed on grounds that Appellant violated a written Policy that is evident doesn't exist, Appellant would've been able to apply a Step-2 Grievance and proceed properly to the A.L.C. It seems the Respondents are proceeding under "The Rule of Conjectural Choice", which is, "The principle that no basis for recovery is presented when all theories of causation rest only on conjecture". The Respondents are relying on "conjectures" in the application of their own policies instead of "facts". The Respondents should not have to guess, present supposition or surmise as to their own written policy terminologies. Prison officials may not "pile - conjecture upon conjecture" to justify their policies, Reed V. Faulkner, 842.7.2d. 960, 963-64 (7th Cir. 1988); see also, Armstrong V. Davis, 275.7.3d. 849, 874 (9th Cir. 2001), prison officials cannot avoid scrutiny

The State of South Carolina
In the Court of Appeals.

Appeal From the Administrative
Law Court.

Carolyn C. Matthews, Administrative Law Judge.

Case No.: 2013-000831

South Carolina Department of Corrections, Respondent.

V.

John Holloway #277261, Appellant.

Proof of Service.

I certify that I have served the Initial Brief on the South
Carolina Department of Corrections by depositing a copy of it
in the United States Mail, postage prepaid, on 5-27-13, addressed
to their attorney of record, Shanika Johnson, P.O. Box. 21787,
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May 27, 2013.

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