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SC Court of Appeals

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Gary Lamont Petty, #264235,)
)
 Appellant,)
)
 v.)
)
 South Carolina Department of Corrections,)
)
 Respondent.)
 _____)

Docket No.: 22-ALJ-04-0232-IJ
Grievance No.: PCI 208-22

ORDER OF DISMISSAL


This matter is before the South Carolina Administrative Law Court (“ALC” or “Court”) pursuant to the Notice of Appeal filed on August 12, 2022, by Gary Lamont Petty (“Appellant”), an inmate incarcerated with the South Carolina Department of Corrections (“Department”). On May 11, 2022, the Appellant filed a Step One Grievance with the Department asserting that the Department has incorrectly charged Appellant with a Major Charge of 854 Masturbation, and because corrective action was successful Appellant asserts that the charge should be dismissed. On April 28, 2022, a response to the Appellant’s Step One Grievance was issued by the Warden explaining to the Appellant that this grievance is a duplicate of grievance number PCI 207-22 and denied. Thereafter, the Appellant filed a Notice of Appeal with this Court challenging the Department’s response to his Step One Grievance. There is nothing in the Record reflecting that the Appellant ever filed and received a response to a Step Two Grievance for PCI 208-22.

S.C. Code Ann. § 1-23-380(A) states that “A party who has **exhausted all administrative remedies available within the agency** and who is aggrieved by a final decision in a contested case is entitled to judicial review...” See, Al-Shabazz v. State, 338 S.C. 354, 376, 527 S.E.2d 742, 754 (2000) (“An inmate may, however, seek review of the Department’s final decision by an ALJ in a non-collateral or administrative matter”; citing, Bennett v. South Carolina Dep’t of Corrections, 305 S.C. 310, 408 S.E.2d 230 (1991) (statutory requirements proffering administrative remedy and requiring exhaustion before seeking judicial review mean administrative agency has exclusive right to decide issues before it, subject only to appeal for judicial review of its decision.)).

If the Appellant’s intent is to appeal a decision of the Department which jeopardizes his state-created liberty or property interests, he must first exhaust all administrative remedies. By

failing to obtain a final decision from the Department, the Appellant has failed to exhaust his administrative remedies and has thus failed to meet the requirements of the Administrative Procedures Act for review by this Court.

Based upon the foregoing, **IT IS HEREBY ORDERED** that this appeal is **DISMISSED**.
AND IT IS SO ORDERED.


SHIRLEY C. ROBINSON
Administrative Law Judge

November 3, 2022
Columbia, South Carolina

CERTIFICATE OF SERVICE
This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or in the Emergency Mail Service addressed to the party(ies) or their attorney(s).
Date: 3 November 2022
By: [Signature]
Judicial Law Clerk

The State of South Carolina
FILED
NOV - 3 2022
Administrative Law Court