

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT
APPEAL FROM THE ADMINISTRATIVE
LAW COURT

THE HONORABLE S. Phillip Lenski
Docket NO. 22-ALJ-04-0218-AP

South Carolina Department
of Corrections,

V.

Respondent

Kevin Harbin #303214

Appellant

NOTICE OF APPEAL

Kevin Harbin appeals the decision of the Honorable S.P. Lenski dated
December 6th 2022, Appellant received a copy of this decision on December 8th 2022.
December 12th, 2022

General Counsel/S.C.D.C.
P.O. Box 21787
4444 Broad River Road
Columbia, S.C. 29221

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S.C. SUPREME COURT

Kevin Harbin
Kevin Harbin #303214
Tyger River Corr./unit/Rm 125
200 Prison Road
Enoree S.C. 29335

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Kevin Harbin, #303214,)
)
 Appellant,)
)
 v.)
)
 South Carolina Department of Corrections,)
)
 Respondent.)
)
)
)

Docket No. 22-ALJ-04-0218-AP

**ORDER GRANTING
RESPONDENT'S MOTION TO
DISMISS**

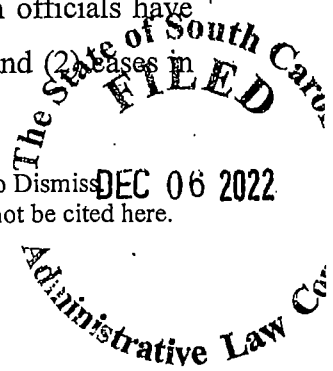
This matter is before the South Carolina Administrative Law Court (ALC or court) pursuant to the Notice of Appeal filed by Kevin Harbin (Appellant), an inmate in the custody of the South Carolina Department of Corrections (Department or Respondent). After the Appellant's Step 1 and Step 2 grievances were filed and denied, he filed a Notice of Appeal with this court on July 29, 2022 appealing the Department's denial of his grievance in which he requests to be prescribed Ivermectin and Doxycycline as an alternative to the Covid vaccine and for his personal autonomy to be respected. The Appellant is not appealing a disciplinary hearing conviction, nor did the Appellant lose any good time credit as part of any punishment.

On November 22, 2022, the Department filed a Motion to Dismiss pursuant to *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 605 S.E. 2d 506 (2004) and *Skipper v. S.C. Dep't of Corr.*, 370 S.C. 267, 633 S.E.2d 910 (Ct. App. 2006) requesting the court dismiss the Appellant's appeal because it does not involve a state-created liberty or property interest.¹

DISCUSSION

The court's jurisdiction to hear this matter is derived entirely from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). The court's appellate jurisdiction in inmate appeals is limited to cases involving denial of state created liberty interests² typically involving: (1) cases in which an inmate contends that prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; and (2) cases in

¹ As of the date of this Order, the Appellant has not filed a response to the Department's Motion to Dismiss.
² The court does have limited jurisdiction in some property matters, the authority for which need not be cited here.

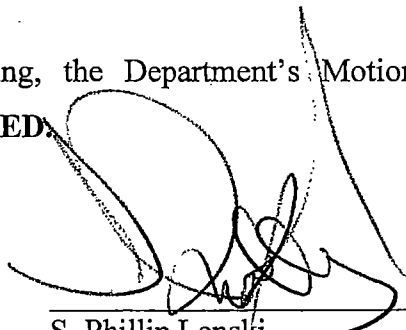


which an inmate has received punishment in a major disciplinary hearing as a result of a serious rule violation. *Id.*

When reviewing the Department's decisions in inmate grievance matters, the court sits in an appellate capacity. *Al-Shabazz*, at 756. Consequently, the review in these inmate grievance cases is limited to the Record presented. Pursuant to *Slezak*, the court is to have jurisdiction of all properly perfected inmate appeals but “[s]ummary dismissal may be appropriate where the inmate’s grievance does not implicate a state created liberty or property interest.” Further, the South Carolina Court of Appeals has opined that where a state-created liberty interest is not implicated in a prisoner appeal, this court should dismiss the appeal. *Skipper v. S.C. Dep’t of Corr.*, 370 S.C. 267, 633 S.E. 2d 910 (Ct. App. 2006).

In this case, the Appellant is not appealing the loss of a state created liberty or property interest, consequently, the court is without jurisdiction to hear this matter. As such, this is a case in which this court must adhere to the traditional “hands off” doctrine regarding judicial involvement in prison disciplinary procedure and other internal prison matters. *See Pruitt v. State*, 274 S.C. 565, 266 S.E.2d 779 (1980) and *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000) (emphasis supplied).

THEREFORE, based on the foregoing, the Department’s Motion to Dismiss is **GRANTED** and this appeal is hereby **DISMISSED**.



S. Phillip Lenski
Administrative Law Judge

December 6, 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 interagency mail Service addressed to the party(ies) or their attorney(s).
This 1st day of December 2022

Judicial Law Clerk

Kevin Harbin #303214
Tyger River Corr / Un. 10 / Rm 125
200 Prison Road

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The Department of Corrections HAS NOT
INSPECTED OR CENSORED this item.
Therefore, The Department does not
assume responsibility for it's content.
Tyger River Correctional Institution.
S.C. Department of Corrections



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