

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Kevin Harbin, #303214
Appellant,

Appellate Case No. 2022-001746

Motion To Proceed
IN FORMA PAUPERIS

V.
South Carolina Department
OF Corrections
Respondent,

RULE 3. (b) (1)

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JAN 17 2023

SC Court of Appeals

This matter is before the South Carolina Court of Appeals pursuant to the ORDER Granting Respondent's Motion to Dismiss, from the Administrative Law Judge. (ALJ or court) ON December 6, 2022, The 'ALJ' filed Order and stated at bottom of page captioned number one that as of the date of this Order Appellant has not filed A response to the Department Motion to Dismiss. (Please view attached inmate grievance)

DISCUSSION

Comes Now the Appellant, requesting the court grant this motion for leave to proceed 'in forma pauperis'. Appellant's grievance involve's fundamental rights, and thus, indigent litigant is entitled to proceed in forma pauperis on his appeal from an 'ALJ' decision dismissing his grievance the South Carolina Department of Corrections. (SEE, 'Martin, 321 S.C. at 535, 471 S.E. 2d at 135').

The Constitution requires that an indigent be allowed access to the courts. In the South Carolina Constitution Article XII § 2, it states that General Assembly "SHALL" provide for the health, welfare, of the inmates.

Federal Law Title 21, is clear and concise in regard to the regulations of application when a individual decide's to be injected with the vaccine and when a individual refuse injection.

Appellant's health and welfare has been disregarded by Respondent and person's in there individual capacity's, after being informed about a safe medical alternative treatment in conjunction with religious right's to treatment.

As such, this is a case which involve's issue's of significant public interest, imposes atypical or significant hardship on the entire inmate population, especially those who were injected with vaccine unknowingly becoming a vulnerable adult, and in need of federal protective services to enforce the South Carolina Omnibus Adult Protection Act.

THEREFORE, based on the foregoing, appellant's motion for leave to proceed in forma pauperis should be **GRANTED** and this appeal proceed forward.

(2.1)

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

DEC 13 2022

INMATE GRIEVANCE FORM

INMATE COPY

STEP 1

TYGER RIVER C.I.

WARDEN'S NAME: <u>KEVIN L. HARBIN</u>	TYGER OFFICE USE ONLY
SCDC NUMBER: <u>303214 12-13-22 BR</u>	Grievance No. <u>0272-22</u>
INSTITUTION: <u>Tyger River Corr.</u>	Code: General <u>MA/ML</u>
HOUSING UNIT: <u>10 Rm 125</u>	Policy _____
WORK ASSIGNMENT: <u>P.I.</u>	Disc. Hear. _____
	Class. _____
	PREA _____
	Date Received <u>12/13/22</u>
	IGC Initials <u>JC</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.) ON 12-2-2022, at the Tyger River Mailroom my 'Tangible Personal Property', A REPLY To General Counsel Motion To Dismiss in the Administrative Law Court Docket No. 22-ALJ-04-0218-AP, was received by Ms. Brown and Mrs. Everett. I paid for Certified Mail Delivery, it was not process in the mailing system until 12-7-2022, so I have determine my legal work WAS intentionally delayed, A state-created liberty and property interest HAS been manifested due to A Condition of Confinement Complaint. (See: S.C.D.C. Policy ON: REPRISA?) And Kiosk reference numbers 22-02920730; 22-02920538; 22-02919589; WAS Ms. Brown acting on her own instincts or was she instructed by A Superior?

Turn Over

Kevin L. Harbin 12-12-2022
 Grievant Signature Date

ACTION REQUESTED: Refund of money for certified mail and A Hearing to see why these actions or happening, Pursuant to the Administrative Procedures Act, S.C. Code Ann. § 1-23-380 (A)(6)(2005)

ACTION TAKEN BY IGC: PROCESSED UNPROCESSED OTHER

See Warden's response on back.

J. Curly 11/3/23
 IGC Signature Date

(CONTINUE ON REVERSE SIDE)

WARDEN'S DECISION AND REASON:

INMATE COPY


Harbin, Kevin 303214

TYRCI-0272-22

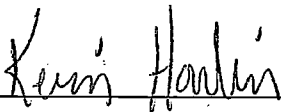
I have reviewed your concerns expressed in your grievance. You allege that 12/2/22 you submitted mail to the mailroom staff to be sent certified delivery. You state that the mail was not processed until 12/7/22 and question if the supervisor was action on their own instincts or instructed to delay your mail. You have requested a refund for the cost of the certified mail and a hearing to see why these actions happened. According to SCDC staff, you submitted your letter to be mailed on Friday, 12/2/22 and when the staff prepared to process the letter on Monday, 12/5/22 the postage meter was broken. The staff did stamp the letter as received in the mailroom on 12/2/22 for clarification and when the postage meter was repaired on 12/7/22 the letter was processed and forward immediately. Staff can not be held responsible for mechanical issues with the postage meter and acted accordingly and without delay in this matter. You have not shown that SCDC Staff have performed their job duties inappropriately.

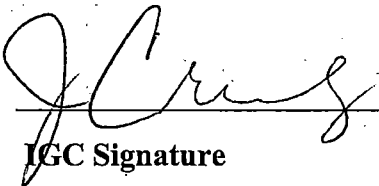
Therefore, your grievance is denied.

If you disagree with this Warden's Decision (Decision), you may file an appeal by completing 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.


Warden Signature. 1/09/2023
Date

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


Grievant Signature 1/10/2023
Date


IGC Signature 1/10/23
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.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM ADMINISTRATIVE LAW COURT

THE HONORABLE S. Phillip LENSKI

APPELLATE CASE No. 2022-001746

RECEIVED

Kevin Harbin, #303214, Appellant,

JAN 17 2023

SC Court of Appeals

V.
South Carolina Department of Corrections, Respondent.

PROOF OF SERVICE

I certify that I have serve the Motion for leave to proceed inform a pauperis on the South Carolina Department of Corrections, by depositing a handwritten copy of it in the United States Mail, postage prepaid, on January 13, 2023, addressed to 4444 Broad River Road, Columbia South Carolina 29221.

January 13, 2023

Sworn before me this 13th day of January

Kevin Harbin

Signature

Notary Public for South Carolina

Kevin Harbin #303214

My Commission expires 2/3/2024

Tyger River Corr./unit/Rm 125

Enoree S.C. 29335

200 Prison Road



JANUARY 13, 2023

Clerk, South Carolina Court of Appeals

Post Office Box 11629

Columbia, South Carolina 29211

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JAN 17 2023

SC Court of Appeals

RE: Kevin Harbin #303214, Appellant, Vs South Carolina
Department of Corrections, Respondent. Appellate Case No. 2022-001746

Dear Clerk,

Enclosed for filing is A Motion for leave to proceed
in forma pauperis.

Inquiry, I have requested stamped copy's of Judicial Notice,
Reply To Motion To Dismiss and amended Proof of Service
that was file with the clerk's of the Administrative
Law Court more than once and never receive filings or
a reply, can you assist so my record will be complete
in case I have to file in Federal Court?

PLEASE Return Stamped
COPY

Sincerely,

s/ Kevin Harbin

KEVIN HARBIN #303214

Tyger River Corr./un. 16/125

200 Prison Road

Evoree S.C. 29335



KEVIN Harbin #308214

Tyger River Corr. Jun 10/Rm. 125

200 Prison Road

Enoree

S.C. 29335

Clerk, South Carolina Court

Appeals

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Columbia, S.C. 29211

~~Legal~~

TYRCI MAILROOM

~~1/13/2023~~

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