

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

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SC Court of Appeals

Kenneth Rivera, #318979,

Docket No. 22-ALJ-04-0314-AP
Grievance No. BRCI 0613-22

Appellant,

v.

ORDER OF DISMISSAL

South Carolina Department of Corrections,

Respondent.

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to a Notice of Appeal filed by Kenneth Rivera (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 regarding his security classification.

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).

“The federal constitution vests no liberty interest in inmates in retaining or receiving any particular security or custody status as long as the challenged conditions or degree of confinement are within the sentence imposed and are not otherwise violative of the Constitution.” Brown v. Evatt, 322 S.C. 189, 194, 470 S.E.2d 848, 851 (1996) (citations omitted). “Within these limits, so far as the federal constitution is concerned, the security and custody classification of state prison inmates is a matter for state prison official discretion whose exercise is not subject to federal



procedural due process constraints.” Id.; see also Al-Shabazz, 338 S.C. at 382, 527 S.E.2d at 757 (citing Pruitt v. State, 274 S.C. 565, 567–68, 266 S.E.2d 779, 780 (1980)) (noting that South Carolina courts typically maintain a “hands off” approach to internal prison matters). Because Appellant has failed to assert grounds for appeal that are reviewable by this Court, it is appropriate to dismiss this case.

ORDER

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

AND IT IS SO ORDERED.

A handwritten signature in cursive script that reads "Deborah Brooks Durden".

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

January 12, 2023
Columbia, South Carolina

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

January 12, 2023
Columbia, South Carolina



FINANCIAL CERTIFICATE FOR THE DISTRICT OF SOUTH CAROLINA

(for use in § 1983, *Bivens*, and non-habeas civil actions filed by prisoners)

I request that an authorized officer of the institution in which I am confined, or other person designated to review financial information in relation to inmate trust funds, complete this Certificate. If I am granted *in forma pauperis* status, I authorize and consent to collection of the \$ 350 filing fee in accordance with 28 U.S.C. § 1915(b) until the filing fee is paid in full as well as any amount of costs, sanctions, and/or fees that might be imposed by the court during this litigation. I understand that if I do not qualify for *in forma pauperis* status, I will have to pay \$400 to proceed with my case, which includes the full \$350 filing fee as well as an additional \$50 administrative fee established by the Judicial Conference of the United States. The \$50 administrative fee is not applicable to *in forma pauperis* cases.

Kenneth Rivera
INMATE NAME (PRINTED)

318979
INMATE (PRISONER) NUMBER

Kenneth Rivera
INMATE SIGNATURE

BRSF - SA # 240 Broad River
PLACE OF CONFINEMENT

- ◆ (1) Average monthly deposits to the inmate's account.....\$ 107.73
- ◆ (2) Average monthly balance in the inmate's account calculated for the prior six months period.\$ 28.61
- ◆ (3) Current Balance\$ 11.01
- ◆ (4) Initial Installment Payment - due upon granting of *in forma pauperis* status (Take 20 percent of the greater of lines 1 or 2).....\$ 0

I hereby certify that as of this date, the above financial information is accurate for the above named inmate.

Peggy Cawthon
Authorized Officer's Signature

1/19/2023
Date

P. Cawthon, Fiscal Analyst I
Authorized Officer's Name and Title