

STATE OF SOUTH CAROLINA  
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT.  
Administrative Law Judge Ralph K. Anderson III

ALC Case No. 19-ALT-04-0492-AP-A  
Appellate Case No. 2022-001765

James Millholland 367569

Appellant

V

South Carolina Department of Corrections

Respondent

RECORD  
ON  
APPEAL

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SC Court of Appeals

James Millholland 367569  
Appellant

Allendale C.I./F1408  
1057 Revolutionary Trail  
PO Box 1151  
Fairfax, SC 29827

STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT  
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James Millholland 367569

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RECORD ON  
APPEAL

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STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

James Millholland, #367569,

Docket No. 19-ALJ-04-0492-AP

Appellant,

vs.

## ORDER OF DISMISSAL

South Carolina Department of Corrections,

Respondent.

This matter is before the South Carolina Administrative Law Court (Court or ALC) on an appeal filed by James Millholland (Appellant), an inmate housed with the South Carolina Department of Corrections (Department or SCDC).

On June 25, 2019, Appellant filed a Step 1 Grievance objecting to the deduction of funds from his personal account to pay a DNA processing fee. He argued that he had already paid the fee while on probation in the early 2000s, and he believed it should have been a one-time fee. After the Warden denied the grievance, Appellant filed a Step 2 Grievance asserting that his Fifth Amendment rights were violated when they charged him the fee twice. The Responsible Official denied his grievance citing to SCDC Policy 21.09 and advising Appellant, *inter alia*, that "records indicate [Appellant was] admitted into SCDC as a New Admission on 03/26/16. New admissions will be assessed the fee as required by SLED."

Appellant filed a Notice of Appeal on September 26, 2019. On January 14, 2020, Appellant filed his brief. On February 12, 2020, the Department filed a Motion to Dismiss (Motion) asserting the Court lacks jurisdiction to hear the case because Appellant's complaint does not implicate a state-created liberty or property interest. Appellant filed a Response<sup>1</sup> to the Motion on February 25, 2020.

**DISCUSSION**

This Court must first determine whether it has subject matter jurisdiction to decide this case. "Subject matter jurisdiction is the power to hear and determine cases of the general class to

<sup>1</sup> Appellant labeled this document "Reply Brief," however, upon reviewing it, the Court interprets this to be his Response to the Motion.

**FILED**

March 4, 2020

SC ADMIN. LAW COURT

which the proceedings in question belong.” *Dove v. Gold Kist, Inc.*, 314 S.C. 235, 237–38, 442 S.E.2d 598, 600 (1994) (internal quotation marks and citation omitted). “The ALC has subject matter jurisdiction under the Administrative Procedures Act (“APA”) to hear properly perfected appeals from the SCDC’s final orders in administrative or non-collateral matters.” *Howard v. S.C. Dep’t of Corr.*, 399 S.C. 618, 625, 733 S.E.2d 211, 215 (2012). Nevertheless, the Court’s jurisdiction in inmate matters is limited to agency decisions implicating a state-created liberty or property interest. *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). When an inmate’s appeal does not implicate a state-created liberty or property interest, the ALC may summarily dismiss the appeal at its discretion. *Slezak v. S.C. Dep’t of Corr.*, 361 S.C. 327, 331, 605 S.E.2d 506, 508 (2004).

In his Response to the Department’s Motion, Appellant asserts the Court has jurisdiction pursuant to section 23-3-620(D) of the South Carolina Code (Supp. 2019). He also clarifies he “is not challenging the constitutionality of the manner in which funds were deducted to pay the \$250.00 DNA processing fee,” nor is he challenging the “constitutionality of the DNA law.” Rather, Appellant is challenging being charged again when he already paid for his DNA to be taken for a previous crime. In other words, Appellant does not think he should be charged again when his DNA is already in the State DNA database.

Section 23-3-620(D) provides that:

Unless a sample has already been provided pursuant to the provisions of subsection (A), before a person is released from confinement or released from the agency’s jurisdiction, a suitable sample from which DNA may be obtained for inclusion in the State DNA Database must be provided as a condition of probation or parole.

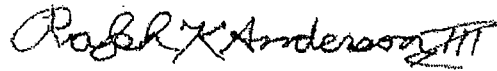
However, this statute does not grant this Court subject matter jurisdiction; nor does it establish a state-created liberty or property interest in having DNA only collected once.<sup>2</sup> Because Appellant’s complaint does not implicate a state-created liberty or property interest, the Court does not have jurisdiction and summary dismissal is appropriate. *See Slezak*, 361 S.C. at 331, 605 S.E.2d at 508. Accordingly,

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<sup>2</sup> Even if the Court had jurisdiction, Appellant’s argument is without merit. S.C. Code Ann. § 23-3-670(A) (Supp. 2019) provides that: “A person who is required to provide a sample pursuant to this article . . . **must** pay a two hundred fifty-dollar processing fee which **may not be waived** by the court. *See Collins v. Doe*, 352 S.C. 462, 470, 574 S.E.2d 739, 743 (2002) (emphasis added) (“Under the rules of statutory interpretation, use of words such as “shall” or “must” indicates the legislature’s intent to enact a mandatory requirement.”). Furthermore, the DNA samples are not even taken by the Department but rather by other law enforcement agencies prior to conviction. *See S.C. Code Ann. § 23-3-620(A)*. The Department is thus simply charged with collecting the fee for actions taken by another agency. Moreover, Appellant has not presented any evidence that his previous sample was determined to be suitable by SLED.

**IT IS HEREBY ORDERED** that the Department's Motion to Dismiss is GRANTED and Appellant's appeal is **DISMISSED WITH PREJUDICE**.

**AND IT IS SO ORDERED.**



---

Ralph King Anderson, III  
Chief Administrative Law Judge

March 4, 2020  
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Stephanie Michelle Perez, 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).



---

Stephanie Michelle Perez  
Judicial Law Clerk

March 4, 2020  
Columbia, South Carolina



Attachment  
C

24

## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629  
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August 04, 2022

The Honorable Jana E. Shealy  
Edgar A. Brown Building  
1205 Pendleton Street  
Suite 224  
Columbia SC 29201

### REMITTITUR

Re: James Millholland, #367569 v. SCDC  
Lower Court Case No. 2019ALJ040492AP  
Appellate Case No. 2020-000521

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

*V. Claire Allen*

CLERK

Enclosure

cc: James Millholland, 00367569  
Kensey Evans, Esquire

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

James Millholland, Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2020-000521

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Appeal From The Administrative Law Court  
Ralph King Anderson, III, Administrative Law Judge

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Opinion No. 5909  
Submitted May 12, 2022 – Filed May 25, 2022

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**REVERSED AND REMANDED**

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James Millholland, pro se.

Kensley Evans, of South Carolina Department of  
Corrections, of Columbia, for Respondent.

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**PER CURIAM:** James Millholland appeals an order from the Administrative Law Court (ALC) arguing the ALC erred in dismissing his appeal from the South Carolina Department of Corrections (SCDC). Millholland argues SCDC violated his right to due process when it automatically charged him a \$250 processing fee for the collection of his DNA pursuant to the South Carolina DNA Identification Record Database Act<sup>1</sup> (the DNA Act) when he had already submitted a DNA

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<sup>1</sup> S.C. Code Ann. §§ 23-3-600 to -700 (2007 & Supp. 2021).

sample following a previous conviction. We reverse the ALC's dismissal of Millholland's appeal and remand for a hearing on the merits.

In 2016, Millholland was sentenced to nine years' imprisonment for manufacturing methamphetamine. Pursuant to the DNA Act, SCDC charged Millholland a \$250 DNA-sample processing fee, which it deducted from Millholland's inmate trust account. Millholland asserts that he previously gave a DNA sample pursuant to the DNA Act as a condition of his probation served for a previous offense, and therefore, he contends SCDC should not have automatically applied a second \$250 fee. He filed a Step 1 grievance asserting these claims, and when SCDC denied it, he filed a Step 2 grievance arguing SCDC had violated his Fifth Amendment rights. SCDC also denied the Step 2 grievance, and Millholland appealed to the ALC. The ALC summarily dismissed the appeal, finding it lacked subject matter jurisdiction because Millholland's claim did not implicate a state-created liberty or property interest.

Although we believe the specific issue Millholland raises on appeal was not well articulated, in broadly construing his arguments, we find the ALC erred in summarily dismissing Millholland's appeal because his grievance implicated a protected property interest—his inmate trust account. *See Al-Shabazz v. State*, 338 S.C. 354, 369, 527 S.E.2d 742, 750 (2000) ("The requirements of procedural due process apply only to the deprivation of interests encompassed by the Fourteenth Amendment's protection of liberty and property." (quoting *Board of Regents of State Colleges v. Roth*, 408 U.S. 564, 569 (1972))). Although no South Carolina case has addressed this issue, federal courts have consistently found that inmates have a property interest in their inmate accounts. *See, e.g., Campbell v. Miller*, 787 F.2d 217, 222 (7th Cir. 1986) ("It is beyond dispute that Campbell has a property interest in the funds on deposit in his prison account."); *Quick v. Jones*, 754 F.2d 1521, 1523 (9th Cir. 1985) ("There is no question that Quick's interest in the funds in his prison account is a protected property interest."); *Jensen v. Klecker*, 648 F.2d 1179, 1183 (8th Cir. 1981) (stating inmates "obviously have a property interest in the funds on deposit in their inmate accounts"). Thus, we find Millholland's appeal implicated a protected property interest, and the ALC erred in finding it did not have subject matter jurisdiction to hear the appeal. *See Furtick v. S.C. Dep't of Corr.*, 374 S.C. 334, 340, 649 S.E.2d 35, 38 (2007) ("[T]he ALC has jurisdiction over **all** inmate grievance appeals that have been properly filed; the ALC, however, is not required to hold a hearing in every matter."), *abrogated on other grounds by Howard v. S.C. Dep't of Corr.*, 399 S.C. 618, 733 S.E.2d 211 (2012); *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 331, 605 S.E.2d 506, 508 (2004) (holding summary dismissal is appropriate "where the inmate's grievance does not implicate

a state-created liberty or property interest"); *Quick*, 754 F.2d at 1523 ("Once a protected interest is found, the court must then decide what process is due. This is a question of law."). Accordingly, we find the ALC erred in failing to hold a hearing to determine whether Millholland's due process rights were violated. *See Kiawah Dev. Partners, II v. S.C. Dep't of Health & Envtl. Control*, 411 S.C. 16, 28, 766 S.E.2d 707, 715 (2014) ("[T]he Court may reverse the decision of the ALC where it is in violation of a statutory provision or it is affected by an error of law."). Thus, we reverse and remand to the ALC for a hearing on the merits.

**REVERSED AND REMANDED.<sup>2</sup>**

**THOMAS, MCDONALD, and HEWITT, JJ., concur.**

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<sup>2</sup> We decide this case without oral argument pursuant to Rule 215, SCACR.

# The South Carolina Court of Appeals

James Millholland, Appellant,

v.

South Carolina Department of Corrections, Respondent.

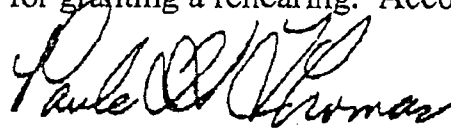
Appellate Case No. 2020-000521

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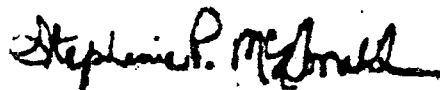
## ORDER

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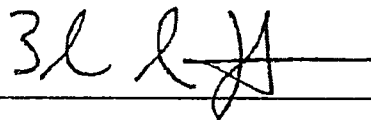
After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.



J.



J.



J.

Columbia, South Carolina

cc:

James Millholland

Kensy Evans, Esquire

The Honorable Ralph King Anderson, III

**FILED**

**Jun 22 2022**

July 27

Attachment  
F

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

James Michael Millholland, #367569,  
Appellant,  
v.  
South Carolina Department of Corrections,  
Respondent.

Docket No. 19-ALJ-04-0492-AP

ORDER

The above-captioned matter was originally filed by James Michael Millholland (Appellant), an inmate housed with the South Carolina Department of Corrections (Department or SCDC), on September 26, 2019, in the South Carolina Administrative Law Court (Court). Thereafter, on March 4, 2020, the Court issued an Order of Dismissal (Order of Dismissal) for lack of jurisdiction. Appellant then appealed to the South Carolina Court of Appeals (Court of Appeals), which found this Court had jurisdiction. *See Millholland v. S.C. Dep't of Corr.*, 436 S.C. 547, 549, 873 S.E.2d 784, 785 (Ct. App. 2022), *reh'g denied* (June 22, 2022). Therefore, in an order issued August 4, 2022, the Court of Appeals reversed and remanded the decision to this Court. Upon reviewing the case on the merits, the Department's decision is affirmed.

**BACKGROUND**

On June 25, 2019, Appellant filed a Step 1 Grievance objecting to the deduction of funds from his personal account to pay a DNA processing fee. He argued that he had already paid the fee while on probation in the early 2000s, and he believed it should have been a one-time fee. The Warden denied the grievance, and Appellant filed a Step 2 Grievance asserting that his Fifth Amendment rights were violated when they charged him the fee twice. The Responsible Official denied his grievance citing to SCDC Policy 21.09 and advising Appellant, *inter alia*, that "records indicate [Appellant was] admitted into SCDC as a New Admission on 03/26/16. New admissions will be assessed the fee as required by SLED."

Appellant filed a Notice of Appeal on September 26, 2019. On March 4, 2020, this Court summarily dismissed the case because Appellant's complaint did not implicate a state-created liberty or property interest. However, on appeal, the Court of Appeals determined Appellant had a property interest in his trust account from which the DNA fee was taken; therefore, summary



dismissal was inappropriate, and this Court had jurisdiction.<sup>1</sup> The Court of Appeals remanded the case for a hearing on the merits. Yet, the Court does not conduct hearings on the merits in inmate matters. *See Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). Rather, the Court reviews these matters in “an appellate capacity.” *Id.* at 388, 527 S.E.2d at 754. Nonetheless, as a result of the decision being remanded, the Court sent a letter to the parties on September 27, 2022, allowing them to submit additional arguments. The Department filed a Motion to Supplement the Record on October 19, 2022. Appellant did not object to the Department’s request, and thus the motion is granted.<sup>2</sup> On November 2, 2022, Appellant filed his additional arguments, and the Department filed a Response on November 9, 2022.

### ISSUE ON APPEAL

Did the Department err in charging Appellant for his DNA collection pursuant to section 23-3-670(A) of the South Carolina Code (Supp. 2021)?<sup>3</sup>

### STANDARD OF REVIEW

The Court’s jurisdiction to hear this matter is derived from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000) and *Furtick v. South Carolina Department of Probation, Parole and Pardon Services*, 352 S.C. 594, 576 S.E.2d 146 (2003). In *Al-Shabazz*, the court held the ALC’s jurisdiction in inmate appeals is

<sup>1</sup> It is notable that this Court had addressed the substantive issue in a footnote in its Order, stating:

Even if the Court had jurisdiction, Appellant’s argument is without merit. S.C. Code Ann. § 23-3-670(A) (Supp. 2019) provides that: “A person who is required to provide a sample pursuant to this article . . . **must** pay a two hundred fifty-dollar processing fee which **may not be waived** by the court. *See Collins v. Doe*, 352 S.C. 462, 470, 574 S.E.2d 739, 743 (2002) (emphasis added) (“Under the rules of statutory interpretation, use of words such as “shall” or “must” indicates the legislature’s intent to enact a mandatory requirement.”). Furthermore, the DNA samples are not even taken by the Department but rather by other law enforcement agencies prior to conviction. *See* S.C. Code Ann. § 23-3-620(A). The Department is thus simply charged with collecting the fee for actions taken by another agency. Moreover, Appellant has not presented any evidence that his previous sample was determined to be suitable by SLED.

<sup>2</sup> The Department requested to supplement the Record to include an Affidavit of Debra Long as well as the Inmate Restitution display screens referenced in the affidavit to show that Appellant has only been charged once by the Department for his DNA testing.

<sup>3</sup> Appellant raises other issues on appeal in his additional arguments filing, including: “[d]oes the funds that are gifted to Appellant and deposited on his inmate EH Cooper Trust account hold enough merit to be considered a state created liberty or property interest?”; “[d]id the ALC err in summarily dismissing Appellants appeal because his grievance did, in fact, implicate a protected property interest—his inmate trust account?”; “[d]id the ALC err in finding it did not have subject matter jurisdiction to hear the Appellant’s appeal?”; and “[d]oes the ALC have jurisdiction over all inmate grievances that have been properly filed?” These issues all relate to whether the Court has jurisdiction, and that issue has already been resolved by the Court of Appeal’s order. Therefore, the Court will not consider these issues.

~~Attachment~~  
Attachment  
F

limited to state-created liberty interests 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 which an inmate has received punishment in a major disciplinary hearing as a result of a serious rule violation. *Id.* at 382; 527 S.E.2d at 757.<sup>4</sup> Furthermore, when reviewing the Department's decisions in inmate grievance matters, the Court sits in an appellate capacity. *Id.* at 377, 527 S.E.2d at 754; *see also* S.C. Code Ann. § 1-23-600(E) (Supp. 2021) (directing administrative law judges to conduct appellate review in the same manner prescribed in section 1-23-380). Section 1-23-380(A)(5) states:

The court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code Ann. § 1-23-380(5) (Supp. 2021).

Consequently, an Administrative Law Judge may not substitute his judgment for that of an agency "as to the weight of the evidence on questions of fact." *Id.* Furthermore, an Administrative Law Judge may not reverse or modify an agency's decision unless the Record reflects that substantial rights of the appellant have been prejudiced because the decision is clearly erroneous in view of the substantial evidence, arbitrary, or affected by an error of law. *Id.*; *see also Marietta Garage, Inc. v. S.C. Dep't of Pub. Safety*, 337 S.C. 133, 137, 522 S.E.2d 605, 607 (Ct. App. 1999); *S.C. Dep't of Labor, Licensing and Regulation v. Girgis*, 332 S.C. 162, 166, 503 S.E.2d 490, 492

<sup>4</sup> In *Sullivan v. South Carolina Department of Corrections*, the Supreme Court also found that other conditions of confinement could potentially implicate state-created liberty interests. 355 S.C. 437, 586 S.E.2d 124 (2003). However, those interests are "generally limited to freedom from restraint which . . . imposes atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life." *Id.* at 442, 586 S.E.2d at 126 (quoting *Sandin v. Conner*, 515 U.S. 472, 484 (1995)); *see also Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 605 S.E.2d 506 (2004).

(Ct. App. 1998). “‘Substantial evidence’ is not a mere scintilla of evidence nor the evidence viewed blindly from one side of the case, but is evidence which, considering the Record as a whole, would allow reasonable minds to reach the conclusion that the administrative agency reached or must have reached in order to justify its action.” *Lark v. Bi-Lo*, 276 S.C. 130, 135, 276 S.E.2d 304, 306 (1981). Accordingly, the possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency’s finding from being supported by substantial evidence. *Grant v. S.C. Coastal Council*, 319 S.C. 348, 353, 461 S.E.2d 388, 391 (1995).

### DISCUSSION

In Appellant’s additional arguments, he asserts the Department improperly charged him for the DNA processing fee twice for a total of \$500.00. Specifically, he argues his DNA had already been taken and the processing fee paid sometime between 2000-2003 when he was on probation in Anderson County, South Carolina, for a Burglary charge. He therefore claims the Department improperly took another sample and erroneously charged him for the processing fee again in 2016 for his current convictions. Because he was allegedly charged twice, he asserts his fifth and fourteenth amendment rights were violated. Appellant attached documents to support his arguments, including an affidavit and his sentencing sheet from 2000. However, Court’s review is confined to the Record; therefore, the Court cannot consider the documents attached to this filing. S.C. Code Ann. § 1-23-380(4) (Supp. 2021) (“The review . . . must be confined to the record.”); SCALC Rule 36(G) (“The Administrative Law Judge will not consider any fact which does not appear in the Record.”); Rule 210(c), SCACR (explaining a record on appeal “shall not, however, include matter which was not presented to the lower court or tribunal”).

In contrast, the Department argues Appellant was properly charged for the fee. It contends Appellant has presented no documentation to support his claim that he paid for a DNA test in 2000-2003 other than his own affidavit—an assertion the Department does not find credible. Rather, the Department asserts it charged Appellant one processing fee for a DNA sample taken as a result of his current offenses.

Section 23-3-620 governs the collection of DNA and provides that:

(A) Following a lawful custodial arrest, the service of a courtesy summons, or a direct indictment for:

(1) a felony offense or an offense that is punishable by a sentence of five years or more; or

# Attachment F

(2) eavesdropping, peeping, or stalking, any of which are committed in this State, a person, except for any juvenile, arrested or ordered by a court must provide a saliva or tissue sample from which DNA may be obtained for inclusion in the State DNA Database. Additionally, any person, including any juvenile, ordered to do so by a court, and any juvenile convicted or adjudicated delinquent for an offense contained in items (1) or (2), must provide a saliva or tissue sample from which DNA may be obtained for inclusion in the State DNA Database.

This sample must be taken at a jail, sheriff's office that serves a courtesy summons, courthouse where a direct presentment indictment is served, or detention facility at the time the person is booked and processed into the jail or detention facility following the custodial arrest, or other location when the taking of fingerprints is required prior to a conviction. The sample must be submitted to SLED as directed by SLED. If appropriately trained personnel are not available to take a sample from which DNA may be obtained, the failure of the arrested person to provide a DNA sample shall not be the sole basis for refusal to release the person from custody. An arrested person who is released from custody before providing a DNA sample must provide a DNA sample at a location specified by the law enforcement agency with jurisdiction over the offense on or before the first court appearance.

\*

\*

\*

(D) Unless a sample has already been provided pursuant to the provisions of subsection (A), before a person is released from confinement or released from the agency's jurisdiction, a suitable sample from which DNA may be obtained for inclusion in the State DNA Database must be provided as a condition of probation or parole.

S.C. Code Ann. § 23-3-620 (Supp. 2021). Meanwhile, section 23-3-670 further provides that:

(A) The cost of collection supplies for processing a sample pursuant to this article must be paid by the general fund of the State. A person who is required to provide a sample pursuant to this article, upon conviction, pleading guilty or nolo contendere, or forfeiting bond, **must** pay a two hundred fifty dollar processing fee which **may not** be waived by the court. However:

(1) if the person is incarcerated, the fee must be paid before the person is paroled or released from confinement and may be garnished from wages the person earns while incarcerated; and

(2) if the person is not sentenced to a term of confinement, payment of the fee must be a condition of the person's sentence and may be paid in installments if so ordered by the court.

SC. Code Ann. § 23-3-670(A) (Supp. 2021) (emphasis added). *See Collins v. Doe*, 352 S.C. 462, 470, 574 S.E.2d 739, 743 (2002) ("Under the rules of statutory interpretation, use of words such as "shall" or "must" indicates the legislature's intent to enact a mandatory requirement.").

# Attachment F

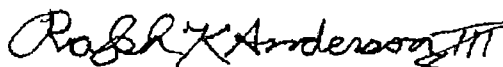
Here, despite Appellant's allegations that his DNA was collected and invoiced twice, the Record only shows the Department collected one sample of Appellant's DNA sample in 2016 and charged Appellant the \$250 processing fee in March 2016. Additionally, the Record shows the \$250 fee was collected through a series of thirty-eight deductions from Appellant's account, with the first deduction in April 2016 and the last in May 2018. Furthermore, even if a sample had been taken twice from Appellant, subsection (E) of the statute provides that "a person may be required to submit another sample if the original sample is lost, damaged, contaminated, or unusable for examination prior to the creation of a DNA record or DNA profile suitable for inclusion in the State DNA Database." S.C. Code Ann. § 23-3-670(E) (Supp. 2021). Appellant acknowledges subsection (E) but maintains there was "no need for a second sample or processing fee." Appellant has not presented any evidence that if a sample was taken in 2000-2003, it was determined to be suitable by SLED. Nonetheless, there is no documentation in the Record that shows a previous sample and processing fee was taken from Appellant while he was serving a five-year probation sentence in 2000-2003.

In sum, Appellant failed to carry his burden of proving that the Department improperly charged him for his DNA collection; therefore, the Department's decision must be affirmed. *See Porter*, 333 S.C. at 20, 507 S.E.2d at 332 (holding "the party challenging [an administrative agency's] order bears the burden of convincingly proving that the decision is clearly erroneous, or arbitrary or capricious, or an abuse of discretion, in view of the substantial evidence on the whole record.").

## ORDER

For the reasons set forth in this Order,

**IT IS HEREBY ORDERED** that the Department's final agency decision is **AFFIRMED**.  
**AND IT IS SO ORDERED.**



Ralph King Anderson, III  
Chief Administrative Law Judge

December 5, 2022  
Columbia, South Carolina

Attachment  
F

CERTIFICATE OF SERVICE

I, Stephanie Perez, 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).



---

Stephanie Perez  
Judicial Law Clerk

December 5, 2022  
Columbia, South Carolina

RECEIVED

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Inmate Copy

JUN 27 2019

INMATE GRIEVANCE FORM

WARDEN'S OFFICE

STEP 1

PMOJ: 6-13-23

|                                             |                                       |
|---------------------------------------------|---------------------------------------|
| INMATE NAME: <u>James Millholland</u>       | OFFICE USE ONLY                       |
| SCDC NUMBER: <u>367569</u>                  | Grievance No. <u>ACT-074-19</u>       |
| INSTITUTION: <u>Allendale C.I.</u>          | Code: General <u>MY/IS</u>            |
| HOUSING UNIT: <u>F1A50</u>                  | Policy _____                          |
| WORK ASSIGNMENT: <u>Peer Support / Dorm</u> | Disc. Hear. _____                     |
|                                             | Class. _____                          |
|                                             | PREA _____                            |
|                                             | Date Received <u>6-27-19</u>          |
|                                             | IGC Initials <u>CB</u> <u>8-11-19</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.)

In the years of 2000 to 2003 I was on probation in Anderson County. During this time I had to give my blood to SLED for DNA and I was charged \$250<sup>00</sup> for the fee of this. I paid this fee of 250<sup>00</sup> to SLED through the probation office. Then in the year of 2016 when I came to prison on my current charges, SCDC charged me a 250<sup>00</sup> fee for my DNA again. They took 5% out of every money order I got until this was paid. This DNA fee for SLED is a one time fee of 250<sup>00</sup>. SCDC charged me a second time, when SLED already had my DNA and the 250<sup>00</sup> fee was paid. in 2001-2003 while serving time on probation for Burglary 2nd. I was not supposed to be charged two times by S.C.D.C. when I came to prison this time. ref. 16-172499, 16-175712, J. Millholland 6-25-19  
16-177831, 16-281933, 16-296158, 16-322946, 19-01287998, 19-01272876, 19-01272877

Grievant Signature

Date

ACTION REQUESTED: I request that S.C.D.C confirm with SLED that they did in fact have my DNA from 2001-2003 and that the fee was paid while on probation in Anderson County. I also request that the 250<sup>00</sup> fee S.C.D.C. took from me be returned since the fee was previously Paid.

ACTION TAKEN BY IGC: ☒ PROCESSED ☐ UNPROCESSED ☐ OTHER

Your grievance has been received and processed. Please see the Warden's Decision (Decision) on the reverse side of this form.

Connie Buehner 7.9.19

IGC Signature

Date

(CONTINUE ON REVERSE SIDE)

DUE: 7-29-19

JUL 26 2019

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

STEP 2

WARDEN'S OFFICE

Office Use Only

ACID

INMATE NAME: James Millholland

Grievance No. ACI-0174-19

Code: General my/IS

SCDC NUMBER: 367569

RECEIVED

INSTITUTION: Allendale C.I.

JUL 30 2019

HOUSING UNIT: F1A50

INMATE GRIEVANCE

WORK ASSIGNMENT: Peer Support/ Dorm

Policy

Disc. Hear.

Class

PREA

Date Received:

IGC Initials:

Date Received: 7-26-19

IGA Initials: CS

8/2/19

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): I paid the 250<sup>00</sup> DNA Fee in the years of 2000-2001 to the SLED while on probation in Anderson, SC for Burglary. This is a one time fee but SCDC charged me 250<sup>00</sup> again in the year of 2016 when I entered the Dept of Corr. SLED already had my DNA in the Database from my previous charges. I should not have been charged a second time. This is a violation of my 5th Amendment right. This violates the double jeopardy clause of my 5th Amendment right to be free from successive punishments. United States V. Ursery, 518 U.S. 267, 273 (1996) I am resolved to diligently seek a remedy to enforce my rights.

Grievant Signature J. Millholland Date 7-25-2019

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

Your grievance has been reviewed. In it you stated you paid a DNA fee of \$250.00 while incarcerated with South Carolina Department of Corrections during years 2000 and 2001. You do not believe you should be assessed the fee a second time upon your return to SCDC custody. You would like to be reimbursed of the total amount. You were notified on 07/24/19 that the DNA database is administered under the direction of State Law Enforcement Division (SLED). Pursuant to OP-21.09 Inmate Records Plan, any person incarcerated in SCDC who has been convicted of or who has pled guilty or nolo contendere to any of the offenses identified in the DNA Statute, will be required to provide a blood sample for inclusion into the State DNA Database and assessed a fee of \$250.00. Records indicate you were admitted SCDC as a New Admission on 03/29/16. New admissions will be assessed the fee as required by SLED.

Therefore, your grievance is denied.

You may appeal this decision under the Administrative Procedures Act to the Administrative Law Court. In order to appeal, you must fill out the attached Notice of Appeal Form and submit it as instructed on the form within 30 days of receipt.

Responsible Official Signature Randall P. Allen Date 9/5/19

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

Grievant Signature James Millholland Date 9-18-19

IGC Signature Connie Buehler Date 9/18/19

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

James Millholland 367569,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

DOCKET NO. -ALJ-04-  
GRIEVANCE NO.: A.C.I-0174-19

Notice is hereby given that James Millholland does hereby appeal the final decision of the South Carolina Department of Corrections dated 9/9/2019 and received on 9/18/2019, a copy of which is attached. A general statement of the grounds for appeal is (See S.C. Code Ann. § 1-23-380(A)(6)):

In the years of 2000-2001 I give SLED my DNA at the probation office in Anderson, SC. They charged me \$250.00 for this transaction. SLED was paid then and my DNA has been in the database, but when I came into the SCDC in 2016, SCDC charged me again. This is a one time fee. SCDC shouldn't have charged me for a second time. This is a violation of my 5<sup>th</sup> Amendment right to be free from successive punishment and violates the double Jeopardy clause, United States v. Ursery, 518 U.S. 267, 273 (1996) I am resolved to diligently seek a remedy to enforce my rights.

James Millholland

Appellant's Name

Attendale Corr. Inst. FIASO  
PO Box 1151

Mailing Address

Fairfax, SC 29827

City, State, Zip Code

Signed

Dated

9/25/2019

CERTIFICATE OF SERVICE

I hereby certify that I, James Millholland (your name), on the 25 day of September 2019, in Fairfax (city), South Carolina, served a copy of the foregoing Notice of Appeal on all parties to this matter by depositing the same in the United States Mail, postage paid, or in the mail room of the undersigned's institution and addressed as follows:

Name of person/Agency served: S.C. Dept. of Corrections

Address: PO Box 21787

City, State, Zip Code: Columbia, SC 29221

Print your name: James Millholland  
(See reverse side for instructions)

Sign your name: [Signature]

STATE OF SOUTH CAROLINA  
Administrative Law Court

James Millholland, #367569  
Appellant,

v.

South Carolina Department  
of Corrections  
Respondent,

Honorable Ralph Anderson

APPELLANTS BRIEF

CA NO: 19C0492

GRIEVANCE NO: A.C.I. 174-19

This matter is before the Court by way of appeal from the final decision of the South Carolina Department of Corrections (SCDC) in grievance number A.C.I. 174-19.

CASE HISTORY

The Appellant is an inmate incarcerated in the SCDC and housed at the Allendale Correctional Institution in Fairfax, South Carolina. On June 25, 2019, Appellant submitted a Step 1 grievance appealing being charged two times for a one time DNA fee of \$250<sup>00</sup>. Following denial of his Step 1 grievance, Appellant submitted a Step 2 grievance on July 25, 2019 arguing that his 5<sup>th</sup> amendment right had been violated.

This appeal was denied on September 9, 2019.

Appellant timely filed a notice of appeal to this court. This case was assigned to the Honorable Anderson under the above docket number.

### STANDARD OF REVIEW

In appeals from the final decision of the S.C.D.C. summary dismissal is appropriate if the prisoner cannot demonstrate the decision implicated a liberty or property interest sufficient to warrant due process protections of the 14<sup>th</sup> Amendment Skinner v. S.C.D.C., 370 S.C. 267, 635 Se. 2d. 910, (Ct. App. 2006)

A decision by an administrative agency may be modified or reversed if the findings and conclusions of the agency are affected by error of law or clearly erroneous in view of the reliable, probative and substantial evidence on the whole record. Brown v. Bilo, Inc., 341 S.C. 611 at 614, 535 Se. 2d. 445 at 447, (Ct. App. 2000). Review of an administrative agency decision is deferential and will be upheld if substantial evidence supports

it. Heater of Seabrook, Inc. v. S.C. Public Service Comm'n., 324 S.C. 56 at 60, 478 Se.2d. 826 at 828, (1996). Substantial evidence is relevant evidence that, considering the record as a whole would allow reasonable minds to reach the conclusion that the administrative agency reached; its decision must be based on documented factual findings within the record.

Hamm v. S.C. Public Service Comm'n., 309 S.C. 295, 422 Se.2d. 118, (1992)

An administrative agency must follow its own rules and regulations. Triska v. S.C. Dept. of Health and Environmental Control, 292 S.C. 190, 355 Se.2d. 531, (1987). Although failure to do so does not rise to the level of a constitutional violation, administrative principles do apply. Board of Regents v. Horowitz, 435 U.S. 78, 98 S. Ct. 948, (1978); Ogburn - Matthews v. Loblolly Partners, 332 S.C. 551, 505 Se.2d. 603, (Ct. App. 1998). While administrative agencies generally have little or no discretion in deciding whether its actions are rationally grounded as opposed to the arbitrary. Al-Shabazz v. State, 338 S.C. 354 at 381, 527 Se.2d 742 at 761.

### Issue(s) Present

Did the South Carolina Dept. of Corrections error, when they failed to confirm with S.L.E.D. that Appellant was already entered into the DNA Database, and that the \$250.<sup>00</sup> fee was already paid?

### ARGUMENT

In the year of 2000-2003, in Anderson County, S.C. I was on probation. I was required by the South Carolina Dept. of Probation, Parole, and Pardon Services, to provide a sample of my blood for the SLED Database. A nurse came to probation office and drew my blood sample and in return, I had to provide a money order in the amount of 250.<sup>00</sup> for S.L.E.D.. This was paid and I was entered into the Database.

Then in 2016, I came to the South Carolina Dept. of Corrections on my current charges. I was charged for the DNA Database again. This time 5% of all the money orders I received on my EIT Cooper account, was taken

until I had paid the \$250.00 fee for the DNA Database again.

I should not have to pay twice for the same DNA Database fee. In 2000-2003 while serving time on probation for Burglary 2nd, I paid the \$250.00 fee, I should not have been required to pay again for the same DNA Database.

This should not have happened because the DNA Database is administered by S.L.E.D. Someone has to know that I was already entered into the Database in 2000-2003. My DNA has not changed since then. and S.C.D.C. did not have to take another sample.

I am not arguing that I have to pay the \$250.00. I'm only arguing that I was charged two times for a one time fee.

### Conclusion

I am requesting that this Court order the South Carolina Dept. of Corrections, first verify with S.L.E.D.

that they collected my DNA while on probation for Burglary in Anderson County, SC. and that the \$250<sup>00</sup> fee was in fact paid. Then I request that this Court order S.C.D.C. to refund the \$250<sup>00</sup> fee that was charged to my account, since the fee had previously been paid.

January 14, ~~2019~~<sup>2020</sup>  
Fairfax, SC

Respectfully,

  
James M. Millholland 367569  
A.C.I. FIASO  
PO Box 1151  
Fairfax, SC 29827

cc:

State Of South Carolina  
Administrative Law Court  
Honorable Ralph Anderson

James Millholland 367569  
Appellant,

CA NO: 19C0492

Grievance NO: A.C.I. 174-19

v.

South Carolina Department  
Of Corrections

Certificate Of Service

Respondents

This is to certify that a true and correct copy of appellants  
brief has been sent by U.S. mail to the parties listed  
below on this 14<sup>th</sup> day of January, 2020

Honorable Ralph Anderson  
S.C. Administrative Law Court  
1205 Pendleton St., Suite 224  
Columbia, SC 29201

Dept. Of General Counsel  
S.C. Dept. Of Corrections  
P.O. Box ~~2080~~ 21787  
Columbia, SC 29221

January 14, 2020  
Fairfax, SC

x 

James Millholland 367569  
A.C.I./Colleton A-50  
P.O. Box 1151  
Fairfax, SC 29827

STATE OF SOUTH CAROLINA  
Administrative Law Court

James Millholland 367569  
Appellant

V.

South Carolina Dept.  
of Corrections  
Respondent

Docket No.: 19-ALJ-04-0499-AP  
[Grievance No.: ACI 174-19]

Honorable Ralph King Anderson III

Reply Brief

This matter is before the Court by way of appeal from the final decision of the South Carolina Dept. of Corrections (S.C.D.C.)

The Respondents are misstating Appellants claim in his appeal. Appellant is not challenging the constitutionality of the manner in which funds were deducted to pay for the \$250.00 DNA processing fee.

This Court does have jurisdiction to hear this case. Where as stated in the Respondents Statement of the case "he believed this should have been a one time Fee charged to him". South Carolina Code Ann. 23-3-620 (D) is clear and needs no interpretation "unless a sample has already been provided pursuant to the provisions of subsection (A).

before a person is released from confinement or released from the agency jurisdiction a suitable sample from which DNA may be obtained for inclusion in the State Database must be provided as a condition of probation or parole" further "Anyone required to provide a sample must also pay a processing fee and if the person required to provide the sample is not sentenced to a term of confinement payment of the fee must be a condition of the persons sentence."

Appellant has claimed through out this process grievance and the Notice of Appeal, and brief to this Court that he already gave a sample of DNA for the S.L.E.D. Database and paid the required processing fee at the Anderson County Probation Office in 2000-2001 when I entered the S.C.D.C. , I should not have been processed as a new admission for the purpose of the D.N.A Database.

No-one or no where through out this process has anyone said that I was not in the S.L.E.D. Database or that I had not paid the 250.00 fee. Again I ask this Court to to take notice that I am not challenging

the constitutionality of the DNA law in any form, Only that I paid the 250<sup>00</sup> DNA processing fee in Anderson County as a condition of Probation for Burglary 2nd.

Conclusion

I am requesting that this Court Order S.C.D.C. to refund to the Appellant 250<sup>00</sup> that he was over charged. The statute is clear on the amount to be paid. And the Respondents did not deny that the Appellant payed the fee, two times.

I am,  
  
James Tillholland 367569  
A.C.I. FIA50  
PO Box 1151  
Fairfax, SC 29827

February 21, 2020  
Fairfax, SC 29827

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
[In The Supreme Court]

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APPEAL FROM ADMINISTRATIVE LAW COURT

Rolph K. Anderson III, Administrative Law Judge

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Docket No. 19-ALJ-04-0492-AP

Appellate Ca. No. 2020-000521

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James Millholland 367569 . . . . . Appellant,

South Carolina Department of Corrections<sup>v</sup> . . . . . Respondent.

---

[INITIAL] Brief of Appellant

---

James Millholland 367569  
Appellant

A.C.I. / Colleton A-50  
PO Box 1151  
Fairfax, SC 29837

Pro-se Appellant

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# TABLE OF AUTHORITIES

## South Carolina Cases:

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Ogburn-Mathews v. Loblolly Partners, 332 S.C. 551, 505 S.E.2d 603,  
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Triska v. S.C. Dept. of Health and Environmental Control, 292 S.C. 190,  
335 S.E.2d 531, (1987) . . . . . 2

## Federal Cases:

Board of Regents v. Horowitz, 435 U.S. 78, 98 S.Ct. 948 (1978) . . . . . 2

## Other Authorities:

South Carolina Code Ann. § 23-3-620 (D) subsection (A) . . . . . 3 4

## Constitutional Provisions:

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Fourteenth Amendment to the United States Constitution . . . . . 1

## STATEMENT OF THE CASE

The Appellant is an inmate in the South Carolina Department of Corrections (S.C.D.C.) and housed at Allendale Correctional Institution in Fairfax, South Carolina. On June 25, 2019 Appellant submitted a Step 1 grievance appealing being charged two times for a one time DNA processing fee of \$250<sup>00</sup>. Following denial of his step 1 grievance, Appellant submitted a step 2 grievance on July 25, 2019 arguing that his Fifth amendment right had been violated. Step 2 was denied on September 9, 2019. Appellant then filed a notice of appeal in the Administrative Law Court on October 24, 2019. This appeal was denied on March 4, 2020. Appellant timely filed a notice of appeal and motion to proceed in forma pauperis to this court. The motion to proceed in forma pauperis was granted on May 1, 2020.

## STANDARD OF REVIEW

In appeals from the final decision of the S.C.D.C. summary dismissal is appropriate if the prisoner cannot demonstrate the decision implicated a liberty or property interest sufficient to warrant due process protections of the 14<sup>th</sup> Amendment

SKipper v. S.C.D.C., 310 S.C. 267, 635 S.e.2d. 910 (Ct. App. 2006) A

decision by an administrative agency may be modified or

reversed, if the findings and conclusions of the agency are affected by error of law or clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record Brown v. BiLo, Inc. 341 S.C. 611 at 614, 535 S.E. 2d. 445 at 447,

(Ct. App. 2000) Review of an administrative agency decision is deferential and will be upheld if substantial evidence supports it. Heater of Seabrook, Inc. v. S.C. Public Service Comm'n.

324 S.C. 56 at 60, 478 S.E. 2d. 826 at 828 (1996) substantial evidence is relevant evidence that considering the record as a whole would allow reasonable minds to reach the conclusion that the administrative agency reached, its decision must be based on documented factual findings within the record. Hamm v. S.C. Public Service Comm'n. 309 S.C. 295, 422 S.E. 2d. 118, (1992)

An administrative agency must follow its own rules and regulations. Triska v. S.C. Dept. of Health and Environmental Control, 292 S.C. 190, 335 S.E. 2d. 531, (1987) Although failure to do so does not rise to the level of constitutional violation, administrative principles do apply Board of Regents v. Horowitz, 435 U.S. 78, 98 S. Ct 948, (1978) Ogburn-Matthews v. Loblolly Partners, 332 S.C.

551,505 Se. 2d. 603, (Ct. App. 1998) while administrative agencies generally have little or no discretion in deciding whether its actions are rationally grounded as opposed to the arbitrary. Al-Shabazz v. State, 338 S.C. 354 at 391, 527 Se. 2d. 742 at 761.

### STATEMENT OF ISSUE(S) ON APPEAL

Did the South Carolina Dept. of Corrections error when they failed to confirm with S.L.E.D. that Appellant was already entered into the DNA Database, and that the "250<sup>00</sup>" processing fee was already paid?

### ARGUMENT

In the years of 2000-2003, Appellant was charged and convicted of 2<sup>nd</sup> degree burglary in Anderson County, South Carolina. Appellant was sentenced to five years probation. Since the burglary charge was a violent crime, the Appellant was required by the Dept. of Probation, Parole, and Pardon Services to provide a sample of blood for the DNA database. A nurse came to the Anderson Probation Office and collected a blood sample and the Appellant had to pay \$250<sup>00</sup> processing fee to S.L.E.D. at the time of service. South Carolina Code Ann. 23-3-620 (D) is clear

and needs no interpretation" unless a sample has already been provided pursuant to the Subsection (A), before a person is released from confinement or released from the agency jurisdiction a suitable sample from which DNA may be obtained for inclusion in the state database must be provided as a condition of probation or parole" Further "anyone required to provide a sample must also pay a processing fee and if the person required to provide a sample is not sentenced to a term of confinement payment of the fee must be a condition of the persons sentence."

Then in 2016, Appellant was sentenced to nine years in the S.C.D.C. for trafficking meth. At this time S.C.D.C. proceeded in charging Appellant a second time for the same database. This time the fee was taken out of Appellants E.H. Cooper account. 50% of every money order deposited on Appellants account was taken for S.L.E.D. until the \$250<sup>00</sup> fee was paid in full again. Appellant sent several request to staff to inmate financial and to the Warden explaining this error, and also wrote a letter to S.L.E.D. asking them for their help in resolving this mistake made by S.C.D.C. Appellant has claimed through out this grievance process, notice of appeal,

brief and reply brief to the Administrative Law Court, and in this initial brief to the Court of Appeals, that the required processing fee of \$250<sup>00</sup> for the state D.N.A. database was paid to S.L.E.D. as a condition of his sentence while serving on probation in Anderson County for Burglary in the years of 2000-2003. Therefore S.C.D.C. should have never charged the Appellant in 2016 an additional \$250<sup>00</sup>. This is not a \$500<sup>00</sup> fee, only \$250<sup>00</sup> one time. S.C. Code Ann § is clear "unless, the original sample was lost or contaminated, no second sample would be required" and no second processing fee would be required either.

Again, I ask this Court to take notice that I am not challenging the constitutionality of the D.N.A. law in any form. Only that I paid the \$250<sup>00</sup> DNA processing <sup>fee</sup> as a condition of my probation sentence in Anderson County for 2nd Burglary in 2000-2003. And that S.C.D.C. made an error when they charged me a second time for S.L.E.D. DNA database when I entered S.C.D.C. in 2016.

Furthermore, Respondents have never once through out this entire process denied that Appellant paid this fee two times and

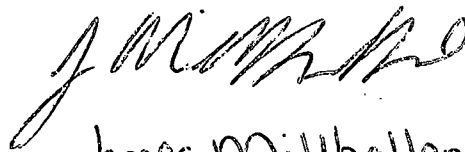
the statute is clear. This is a one time fee not to be paid twice.

### CONCLUSION

For the reasons listed above, this Court should order the S.C.D.C. to refund the \$250<sup>00</sup> to the Appellant that they overcharged him or reverse the judgment of the Administrative Law Court and remand back to the Lower Court.

WHEREFORE, Appellant prays this Court grant the relief requested; and, for such other relief as this Court deems just and proper.

Respectfully Submitted,



James Millholland 367569  
A.C.I./ Colleton A-50  
PO Box 1151  
Fairfax, SC 29827

June 9., 2020  
Fairfax, SC

---

## CERTIFICATE OF COMPLIANCE

---

I hereby certify that this Initial Brief of Appellant complies  
with Rule 208(b) SCACR. and with Rule 267(a) SCACR.

Respectfully Submitted,



James Millholland 367569  
A.C.I./Colleton A-50  
PO Box 1151  
Fairfax, SC 29827

June 9, 2020  
Fairfax, SC

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
[In The Supreme Court]

APPEAL FROM ADMINISTRATIVE LAW COURT

Ralph K. Anderson, III, Administrative Law Court

Appellate Ca. No. 2020-000521

James Millholland 367569 . . . . . Appellant

v.

South Carolina Department of Corrections . . . . . Respondent

DESIGNATION OF MATTER  
TO BE INCLUDED IN THE RECORD ON APPEAL

Appellant proposes the following be included in the record on appeal:

1. Inmate Kiosk Request to Staff (reference #) (A) 19-01287998  
(B) 19-01278878 (C) 19-01272877 (D) 16-322946 (E) 16-296158  
(F) 16-281933 (G) 16-177831 (H) 16-175712 (I) 16-172499
2. Letter to S.L.E.D. dated May 3, 2019
3. S.L.E.D. DNA Database record for Appellant (years 2000-2003)
4. D.N.A. payment receipts from Anderson County Probation Office  
record from 2000-2003
5. E.H. Cooper account deductions for D.N.A. database (years  
2016-2019)
6. Step 1 grievance
7. Step 2 grievance

8. Appellants Brief and Reply Brief, Administrative Law Court
9. Reply Brief of Respondents, Administrative Law Court.
10. S.L.E.D. record of D.N.A. processing fee paid by S.C.D.C. from Appellants E.H. Cooper.

I certify that this designation contains no matter which is irrelevant to this appeal.

X *James Millholland*

James Millholland 367569

A.C.I. / Colleton A-50

PO Box 1151

Fairfax, SC 29827

June 6<sup>th</sup> 9, 2020  
Fairfax, SC

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
[In The Supreme Court]

APPEAL FROM ADMINISTRATIVE LAW COURT

Ralph K. Anderson III, Administrative Law Judge

Appellate Ca No. 2020-000521

James Millholland 367569 . . . . . Appellant

v.  
South Carolina Department of Corrections . . . . . Respondent

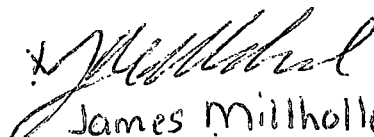
PROOF OF SERVICE

This is to certify that a true and correct copy of the Initial Brief of Appellant, Designation of Matter To Be Included In The Record on Appeal, and proof of Service has been served on the following listed below by depositing a copy in the U.S. mail with postage prepaid on this. 9 day of ~~May~~<sup>June</sup>, 2020:

S.C.D.C.  
Office of General Counsel  
PO Box 21787  
4444 Broad River Rd.  
Columbia, SC 29221

Administrative Law Court  
1205 Pendleton St., Suite 224  
Columbia, SC 29201

S.C. Court of Appeals  
Jenny Abbott Kitchings, clerk  
PO Box 11629  
Columbia, SC 29211

  
James Millholland 367569  
A.C.I. / Colleton A-50  
PO Box 1151  
Fairfax, SC 29827

June 9  
May, 2020  
Fairfax, SC





**SOUTH CAROLINA**  
DEPARTMENT OF CORRECTIONS  
*Safety, Service, and Stewardship*

HENRY McMASTER, Governor  
BRYAN P. STIRLING, Director

OFFICE OF GENERAL COUNSEL

August 10, 2020

The Honorable Jenny A. Kitchings  
Clerk of Court, S.C. Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

RE: James Millholland, #367569, v. South Carolina Department of Corrections  
Appellate Case No. 2020-000521

Dear Ms. Kitchings:

Enclosed please find the **Initial Brief of Respondent** and **Designation of Matter to be Included in the Record on Appeal** in the above captioned appeal, along with **Proof of Service**.

Thank you for your attention to this matter, and please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

Kensey Evans  
Deputy General Counsel  
South Carolina Department of Corrections

cc: James Millholland, 367569  
Allendale Correctional Institution  
COA-0050-B  
1057 Revolutionary Trail  
Fairfax, SC 29827

STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Ralph K. Anderson, III

---

ALC Case No. 19-ALJ-04-0492-AP  
Appellate Case No. 2020-000521

---

JAMES MILLHOLLAND, # 367569,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

---

**INITIAL BRIEF OF RESPONDENT**

---

**SOUTH CAROLINA DEPARTMENT  
OF CORRECTIONS**

**Kensley Evans**  
Deputy General Counsel  
Office of General Counsel  
South Carolina Department of Corrections  
Post Office Box 21787  
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**ATTORNEY FOR RESPONDENT**

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**STATEMENT OF ISSUES ON APPEAL**

- I. DID THE ADMINISTRATIVE LAW COURT PROPERLY DISMISS APPELLANT'S APPEAL WHERE NO STATE CREATED LIBERTY OR PROPERTY INTEREST WAS IMPLICATED IN THE CLAIMS RAISED BY APPELLANT?
- II. DID THE DEPARTMENT OF CORRECTIONS ERR IN FAILING TO CONFIRM WITH THE LAW ENFORCEMENT DIVISION WHETHER APPELLANT HAD PREVIOUSLY PAID A DNA PROCESSING FEE?



## STATEMENT OF THE CASE

This matter comes before the Court pursuant to the appeal of James Millholland, an inmate incarcerated with the Department of Corrections. On June 25, 2019, Appellant filed a Step 1 grievance disputing deductions taken by SCDC for payment of a DNA processing fee. Appellant alleged this occurred in violation of policy because he had paid \$250.00 to the State Law Enforcement Division ("SLED") prior to these deductions, and he believed this should have been a one-time fee charged to him. Appellant's Step One Grievance was timely reviewed by the Warden and denied based on SCDC Policy OP 21.09: "Inmate Records Plan," whereby "the DNA database is administered under the direction of [SLED] . . . [and] any person incarcerated in SCDC who has been convicted of . . . any of the offenses identified in the DNA Statute will be required to provide a blood sample for inclusion into the State DNA Database" and be required to pay the associated \$250.00 fee. Appellant then filed a Step 2 Grievance in response to the Warden's decision on July 25, 2019 on the same basis. This grievance was denied by the reviewing Responsible Official on September 9, 2019. They informed Appellant that, although he believes the fee is a one-time fee, "[r]ecords indicate [Appellant was] admitted into SCDC as a New Admission on 03/26/16 . . . [and that n]ew admissions will be assessed the fee as required by SLED." R. p. 1.

Appellant filed a Notice of Appeal in the Administrative Law Court on September 25, 2019. The Department of Corrections filed a Motion to Dismiss on February 11, 2020. Appellant filed a Reply Brief on February 24, 2020. Thereafter, on March 4, 2020, the Honorable Ralph K. Anderson, III issued an order granting the Department's Motion to Dismiss, dismissing Appellant's appeal with prejudice. Appellant filed Notice of this appeal on March 15, 2020.

## STANDARD OF REVIEW

S.C. Code Ann. § 1-23-610(B) provides the applicable standard of review:

The review of the administrative law judge's order must be confined to the record. The reviewing tribunal may affirm the decision or remand the case for further proceedings; or it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code Ann. § 1-23-380(5).

In an appeal of a final decision of an administrative agency, the standard of appellate review is whether the ALC's findings are supported by substantial evidence. S.C. Code Ann. § 1-23-610(B). "Substantial evidence" is evidence which, considering the record as a whole, would allow a reasonable mind to reach the same conclusion that administrative agency reached. *Hendley v. S.C. State Budget & Control Bd.*, 325 S.C. 413, 481 S.E.2d 159 (S.C. Ct. App. 1996). A reviewing court shall not substitute its own judgment for that of the ALC as to findings of fact, but it may reverse or modify decisions that are controlled by errors of law or that are clearly erroneous in view of the substantial evidence on the record as a whole. *Id.*

## ARGUMENT

### **THE ADMINISTRATIVE LAW COURT PROPERLY DISMISSED APPELLANT'S APPEAL WHERE APPELLANT'S CLAIM DID NOT IMPLICATE A STATE CREATED LIBERTY OR PROPERTY INTEREST.**

The ALC's jurisdiction to hear appeals from final agency decisions of the South Carolina Department of Corrections 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). When reviewing SCDC's decisions in inmate grievance matters, the ALC sits in an appellate capacity. *Id.* at 377, 527 S.E.2d at 754. Subsequently, the South Carolina Supreme Court clarified the ALC's appellate jurisdiction over inmate appeals in *Sullivan v. S.C. Dep't of Corr.*, 355 S.C. 437, 586 S.E.2d 124 (2003). In affirming, as modified, the ALC's *en banc* decision of *McNeil v. S.C. Dep't of Corr.*, 02-ALJ-04-00336-AP (September 5, 2001), the supreme court held the ALC's jurisdiction was limited to (1) cases in which an inmate contends prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; (2) cases in which SCDC has taken an inmate's *state-created* liberty interest in major disciplinary hearings; and (3) cases in which an inmate's confinement implicates a *state-created* liberty interest. *See Sullivan*, 355 S.C. at 443, 586 S.E.2d at 127 (emphasis added).

Moreover, regarding categories (2) and (3), *supra*, the South Carolina Supreme Court has consistently emphasized that the liberty or property interest implicated must be one that is *state-created*. *See Wicker v. S.C. Dep't of Corr.*, 360 S.C. 421, 602 S.E.2d 56 (2004) (emphasizing that the ALC's jurisdiction extends only to those cases involving the denial of "state-created liberty interests" and that the Court's holding [*i.e.*, in *Wicker*] "is not to be viewed as expanding the jurisdiction of the [ALC] in any other circumstance."); *Slezak v.*



*S.C. Dep't of Corr.*, 361 S.C. 327, 605 S.E.2d 506 (2004) (holding that the ALC “may summarily dismiss those appeals that do not implicate an inmate’s *state created* liberty or property interest”) (emphasis added). Further, this Court has interpreted *Slezak* to mean that where a state-created liberty interest is not implicated in a prisoner appeal, a judge of the ALC “should” dismiss the appeal. *Skipper v. S.C. Dep't of Corr.*, 370 S.C. 267, 633 S.E.2d 910 (S.C. Ct. App. 2006).

This appeal concerns Appellant’s challenge of a second DNA processing fee that was levied against deposits made into his E.H. Cooper account. *See* Appellant’s Initial Brief, p. 4. SCDC takes DNA samples from inmates and provides those samples to SLED for inclusion in the State DNA Database in accordance with S.C. Code Ann. § 23-3-620. That statute states, in relevant part, that DNA samples will be required,

(A) Following a lawful custodial arrest, the service of a courtesy summons, or a direct indictment for: (1) a felony offense or an offense that is punishable by a sentence of five years or more . . . This sample must be taken at a jail, sheriff’s office that serves a courtesy summons, courthouse where a direct presentment indictment is served, or detention facility at the time the person is booked and processed into the jail or detention facility following the custodial arrest, or other location when the taking of fingerprints is required prior to a conviction. The sample must be submitted to SLED as directed by SLED. . . .

Appellant was admitted to SCDC custody on March 29, 2016 as a New Admission after previously serving a sentence in SCDC custody. *See* Respondent’s ALC Motion to Dismiss, p. 4. Per S.C. Code Ann. §23-3-620(A), Appellant was properly assessed an additional \$250.00 following a lawful custodial arrest. Appellant contends that because he paid the DNA processing fee during his previous term of incarceration he should not have had to pay the fee again when he was admitted to SCDC in 2016. *See* Appellant’s Initial Brief, p. 5. Appellant’s sole issue on appeal to the ALC and here is: “Did the South Carolina Dept. of

Corrections [err] when they failed to confirm with SLED that Appellant was already entered into the DNA Database, and that the \$250.00 fee was already paid?” *See* Appellant’s ALC Brief, p. 4; Appellant’s Initial Brief, p. 3. In support of his argument that SCDC’s actions were in error, Appellant puts forth that “Someone has to know that I was already entered into the Database . . .”, “I should not have to pay twice for the same DNA Database fee”, and “SCDC should have never charged Appellant in 2016, an additional \$250.00.” *See* Appellant’s ALC Brief, p. 5; *See* Appellant’s Initial Brief, p. 5. Appellant also asks the Court to “take notice that [he] is not challenging the constitutionality of the DNA law in any form.” *See* Appellant’s ALC Reply Brief, p. 1; Appellant’s Initial Brief, p. 5. Appellant’s only argument is the fact that he was charged the DNA processing fee twice, which constitutes a facial challenge to the statute. Because Appellant did not present any arguments challenging the constitutionality of the actual method by which SCDC deducted amounts to which they are entitled under §23-3-620(A), the ALC did not have subject matter to hear his Appeal. *See Travelscape, LLC v. S.C. Dep’t of Revenue*, 391 S.C. 89, 109 705 S.E.2d 28, 38-39 (2011) (where the Court held that the ALC can rule on as-applied challenges to statutes or regulations but not facial challenges to the constitutionality thereof). *See* ALC Order of Dismissal, p. 2-3.

Because no state created liberty or property interest is implicated in this case, Administrative Law Judge Anderson’s March 4, 2020 Order dismissing the appeal on this basis was proper and should be upheld.

**THE DEPARTMENT'S DEDUCTION OF THE DNA PROCESSING FEE FROM APPELLANT'S E.H. COOPER ACCOUNT IS IN ACCORDANCE WITH STATE LAW AND THUS PROPER.**

Even if the ALC had jurisdiction over Appellant's appeal, Appellant's argument is without merit. S.C. Code Ann. § 23-3-670 requires that Appellant pay a \$250.00 fee for the processing of his DNA sample. That statute says in relevant part, "A person who is required to provide a sample pursuant to this article, upon conviction, pleading guilty or nolo contendere, or forfeiting bond, **must** pay a two hundred fifty dollar processing fee which **may not be waived** by the court." S.C. Code Ann. § 23-3-670(A) (emphasis added); *See Collins v. Doe*, 352 S.C. 462, 470, 574 S.E.2d 739, 743 (2002) ("Under the rules of statutory interpretation, use of words such as "shall" or "must" indicates the legislature's intent to enact a mandatory requirement.").

Appellant's argument that SCDC erred in accessing the DNA processing fee a second time relies on S.C. Code Ann. § 23-3-620(D). *See* Appellant's Initial Brief, p. 4. That section provides that

[u]nless a sample has already been provided pursuant to the provisions of subsection (A), before a person is released from confinement or released from the agency's jurisdiction, a suitable sample from which DNA may be obtained for inclusion in the State DNA Database must be provided as a condition of probation or parole.

Appellant incorrectly interprets § 23-3-620(D) as establishing a state-created liberty or property interest in having DNA and the associated fee collected only once. A statute "must be read as a whole and sections [that] are part of the same general statutory law must be construed together and each one given effect." *S.C. State Ports Auth. v. Jasper County*, 368 S.C. 388, 398, 629 S.E.2d 624, 629 (2006). Therefore, the Court should avoid concentrating on "isolated phrases within the statute." *Id.* Instead, the Court must "read the statute as a

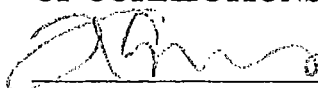
whole and in a manner consonant and in harmony with its purpose.” *Id.* Finally, “when the terms of a statute are clear and unambiguous, the court must apply them according to their literal meaning . . . without resort to subtle or forced construction to limit or expand the statute’s operation.” *State v. Blackmon*, 304 S.C. 270, 273, 403 S.E. 2d 660, 662 (1991). Nowhere in the unambiguous language of § 23-3-620 does the General Assembly provide that the collection of DNA samples, and the corresponding assessment of the collection fee under § 23-3-670, is to be a one-time occurrence. Rather, when § 23-3-620 is read as a whole it is clear that the legislature’s intent behind subsection (D) was to provide that in situations where an incarcerated individual’s DNA had not been collected upon lawful arrest for an offense enumerated in subsection (A), then the DNA sample must be obtained as a condition of probation or parole. Thus, to interpret § 23-3-620(D) as Appellant suggests would force the statute to operate in a manner contrary to the General Assembly’s intention.

Thus, SCDC’s charge for and deductions towards the \$250.00 DNA processing fee were proper as these actions were carried out in accordance with state law.

### **CONCLUSION**

For the foregoing reasons, the Court should affirm the Administrative Law Court’s decision below.

Respectfully submitted,  
**SOUTH CAROLINA DEPARTMENT  
OF CORRECTIONS**



Kensey Evans  
Deputy General Counsel  
Office of General Counsel  
South Carolina Department of Corrections  
Post Office Box 21787  
Columbia, South Carolina 29221  
(803) 896-8508

August 10, 2020

STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Ralph K. Anderson, III

---

ALC Case No. 19-ALJ-04-0492-AP  
Appellate Case No. 2020-000521

---

JAMES MILLHOLLAND, # 367569,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

---

**RESPONDENT'S DESIGNATION OF MATTER  
TO BE INCLUDED IN THE RECORD ON APPEAL**

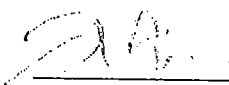
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The Respondent submits that the following should be included in the Record on Appeal:

- (1) Appellant's Administrative Law Court Notice of Appeal dated September 25, 2019;
- (2) Record filed with the Administrative Law Court dated December 31, 2019;
- (3) Appellant's Administrative Law Court Brief dated January 14, 2020;
- (4) Respondent's Administrative Law Court Motion to Dismiss dated February 11, 2020;
- (5) Appellant's Administrative Law Court Reply Brief dated February 24, 2020
- (6) Administrative Law Judge Anderson's Order dated March 4, 2020;

The undersigned hereby certifies this Designation contains no matter that is irrelevant to this appeal.

**[SIGNATURE BLOCK ON FOLLOWING PAGE]**

---

**Kensey Evans**  
Deputy General Counsel  
South Carolina Department of Corrections  
Post Office Box 21787  
Columbia, South Carolina 29221  
(803) 896-8508

August 10, 2020

**ATTORNEY FOR RESPONDENT**



STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Ralph K. Anderson, III

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ALC Case No. 19-ALJ-04-0492-AP  
Appellate Case No. 2020-000521

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JAMES MILLHOLLAND, # 367569,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

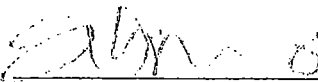
RESPONDENT.

---

**CERTIFICATE OF SERVICE**

---

Undersigned counsel hereby certifies that on today's date she mailed a copy of the **Initial Brief of Respondent and Designation of Matter to be Included in the Record on Appeal** to Appellant, addressed as follows: **James Millholland (#367569)**, Allendale Correctional Institution, COA-0050-B, 1057 Revolutionary Trail, Fairfax, SC 29827.



---

Kensey Evans  
Deputy General Counsel  
Office of General Counsel  
South Carolina Department of Corrections  
Post Office Box 21787  
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August 10, 2020

State of South Carolina  
IN THE COURT OF APPEALS

Appeal From The Administrative Law Court

Administrative Law Judge Ralph K. Anderson, III

ALC Case No. 19-ALJ-04-0492-AP  
Appellate Case No. 2020-000521

James M. Holland, 367569

✓  
South Carolina Dept. of Corrections

Reply Brief

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## Statement of Issues on Appeal

1. Did The Administrative Law Court properly Dismiss Appellant's Appeal where NO STATE created liberty or property interest was implicated in the claims raised by Appellant?
2. Did the Department of Corrections Err in Failing to Confirm with the Law Enforcement Division whether Appellant had previously paid a DNA processing fee?

## Statement of the Case

The Appellant is an inmate in the South Carolina Department of Corrections (S.C.D.C.) and housed at Allendale Correctional Institution in Fairfax, South Carolina. On June 25, 2019 Appellant submitted a Step 1 grievance appealing being charged two times for a one time DNA processing fee of \$250<sup>00</sup>. Following denial of his step 1 grievance, Appellant submitted a Step 2 grievance on July 25, 2019 arguing that his 5<sup>th</sup> Amendment right had been violated. Step 2 was denied on September 9, 2019. Appellant then filed a notice of appeal in the Administrative Law Court on October 24, 2019. This appeal was denied on March 4, 2020. Appellant timely filed a notice of appeal and motion to proceed in forma pauperis to this Court. The motion to proceed in forma pauperis was granted on May 1, 2020

## Standard of Review

S.C. Code 1-23-610(B) provides the Applicable Standard of Review.

The Review of the Administrative Law Judge's order must be confined to the record. The reviewing tribunal may affirm the decision or remand the case for further proceedings; or it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion or decision is:

- (a) in violation of Constitutional or Statutory provisions;
- (b) in excess of the Statutory Authority of the Agency.
- (c) MADE UPON UNLAWFUL PROCEDURE
- (d) Affected by other error of law
- (e) Clearly ERRONEOUS in view of the reliable, probative and substantial evidence on the whole record, or
- (f) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code Ann. 1-23-380 (5)

IN AN APPEAL of a Final decision from an administrative Agency, the Standard of Appellate Review is whether the ALC's finding are supported by substantial Evidence. S.C. Code Ann. 1-23-610(B) "Substantial Evidence" is Evidence which considering the Record as a whole, would allow a reasonable mind to reach the same Conclusion that Administrative Agency reached. *Hendley v. S.C. State Budget & Control Bd.* 325 S.C. 413, 481 S.E.2d 159 (S.C. Ct. App. 1996). A Reviewing Court shall not substitute its own Judgment for that of the ALC as to finding of fact, but it may reverse or modify decisions that are controlled by errors of law or that are clearly erroneous in view of the substantial Evidence on the Record as a whole.

## Argument

Did The Administrative Law Court Properly Dismiss Appellant's Appeal Where No State Created Liberty or Property Interest Was Implicated in the Claim Asserted by Appellant?

The Respondent ARE INCORRECT in their Assertion that NO property interest was asserted! The ALJ did have Jurisdiction. When the 250<sup>00</sup> processing fee established by S.C. Code 23-3-620 is a State Created Property Interest. When the State Requires ONE to submit his property to pay a processing fee. See *Wickner v. S.C.D.C.* 360 S.C. 421, 682 S.E. 2d 56. ALC Jurisdiction Extends to this case when the Appellant is denied his right to only to pay this processing fee ~~once~~<sup>ONCE</sup>. See S.C. Code Ann. 23-3-620 (D) "Unless a sample has already been provided." The respondents ARE side stepping this very simple claim, they have attempted to change the issue, but they have NEVER addressed the facts in this claim.

Did the S.C. Dept. of Corrections err in failing to confirm with the Law Enforcement Division whether Appellant had previously paid a DNA processing fee?

The only answer to this question is YES, they failed. There must be some system between agencies to verify these kind of matter with so many repeat offenders!

Appellant is not challenging S.C. Code Ann. 23-3-620! It has not been disputed that Appellant should not have to pay the processing fee 2 times. Nor is it disputed that he did. As stated above S.C. Code 23-3-620 (D) the Statute is clear and unambiguous and the intent of the General Assembly is clear.

To imply that DNA was never taken is without merit. In fact this is the root of the claim, for S.C. Code to verify that the DNA was taken and the processing fee paid. S.C. Code 23-3-620 (D) is clear. "Unless a sample has already been provided pursuant to the provisions of Subsection (A)". The Respondent don't want the Court to consider the meaning of this very important part of this Statute!



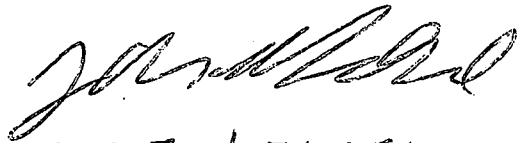
## Conclusion

For the foregoing reasons, the Court should overturn the ALC's decision. Make S.C.D.C. refund the \$250<sup>00</sup> they over charged Appellant. And make S.C.D.C. create a system with S.L.E.D. so they can verify who and who has not already provided a sample of DNA For the database and who<sup>has</sup> or has not already paid the processing fee.

Wherefore, Appellant prays this Court grant him the relief requested and all other relief this Court seems just and proper.

Respectfully Submitted,

James Millholland 367569



A.C.I. / FIA56  
PO Box 1151  
Fairfax, SC 29827



STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Administrative Law Judge Ralph K. Anderson, III

ALC Case No. 19-ALJ-04-0492-AP

Appellate Case No. 2020-000521

James Millholland, #367569 . . . . . Appellant

V.

South Carolina Dept of Corrections . . . . . Respondent

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This is to certify that a copy of Appellants Reply Brief  
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August 18, 2020



THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
[In The Supreme Court]

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph K. Anderson III, Administrative Law Judge

ALC Docket Case No. 19-ALJ-04-0492-AP  
Appellate Case No. 2020-000521

James Millholland 367569 - - - - - Appellant

v.

South Carolina Department of Corrections - - - - - Respondent

FINAL BRIEF OF APPELLANT

James Millholland 367569  
Pro-se, Appellant

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## STATEMENT OF THE CASE

The Appellant is an inmate in the South Carolina Department of Corrections (S.C.D.C.) and housed at Allendale Correctional Institution in Fairfax, South Carolina. On June 25, 2019 Appellant submitted a Step 1 Grievance appealing being charged two times for a one time DNA processing fee of \$250.00 (R.p. 9-10). Following denial of his Step 1 Grievance, Appellant submitted a Step 2 Grievance on July 25, 2019 arguing that his Fifth Amendment right had been violated. (R.p. 11). Step 2 was denied on September 9, 2019. Appellant then filed a Notice of Appeal in the Administrative Law Court on October 24, 2019. (R. p. 12) This appeal was denied on March 4, 2020. (R.p. 4-7). Appellant timely filed a Notice of Appeal and Motion to Proceed Informa Pauperis to this Court. The Motion to Proceed Informa Pauperis was granted on May 1, 2020.

## STANDARD OF REVIEW

In appeals from the final decision of the S.C.D.C. summary dismissal is appropriate if the prisoner cannot demonstrate the decision implicated a liberty or property interest sufficient to warrant

due process protections of the 14<sup>th</sup> Amendment Shipper v. S.C.D.C. 370 S.C. 267, 635 Se. 2d. 910 (Ct. App. 2006). A decision by an administrative agency may be modified or reversed if the findings and conclusions of the agency are affected by error of law or clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record Brown v. Bilo, Inc. 341 S.C. 611 at 614, 535 Se. 2d 445 at 447, (Ct. App. 2000) Review of an administrative agency decision is deferential and will be upheld if substantial evidence supports it. Heater of Seabrook, Inc. v. S.C. Public Service Comm'n 324 S.C. 56 at 60, 479 Se. 2d. 826 at 828 (1996) substantial evidence is relevant evidence that considering the record as a whole would allow reasonable minds to reach the conclusion that the administrative agency reached its decision must be based on documented factual findings within the record. Hamm v. S.C. Public Service Comm'n. 309 S.C. 295, 422 Se. 2d. 113. (1992). An Administrative agency must follow its own rules or regulations. Trisko v. S.C. Dept of Health and Environmental Control, 292 S.C. 190, 335 Se. 2d. 531, (1987) Although failure to do so does not rise to the level of constitutional violation, administrative principles do apply. Board of Regents v. Horowitz, 435 U.S. 78, 98

5. Ct. 948 (1978) Ogburn - Mothews v. Loblolly Partners, 332 S.C. 551, 505 Se. 2d. 603, (Ct. App. 1998) while administrative agencies generally have little or no discretion in deciding whether its actions are rationally grounded as opposed to the arbitrary. Al-Shabazz v. State, 338 S.C. 354 at 381, 527 Se. 2d. 742 at 761.

### STATEMENT OF ISSUES ON APPEAL

Did the South Carolina Dept. of Corrections error when they failed to confirm with S.L.E.D. that Appellant was already entered into the DNA Database, and that the \$250<sup>00</sup> processing fee was already paid?

### ARGUMENT

In the years of 2000-2003, Appellant was charged and convicted of 2<sup>nd</sup> degree burglary in Anderson County, South Carolina. Appellant was sentenced to five years probation. Since the burglary charge was a violent crime, the Appellant was required by the Dept. of Probation, Parole and Pardon Services to provide a sample of blood for the D.N.A. database. A nurse came to the Anderson Probation Office and collected a blood sample and the Appellant had to pay a \$250<sup>00</sup> processing fee to S.L.E.D. at the time of service.

(A.p. 9-10 ; p.11 ; p.12 ; p.13-14 ; p.20-22 ; p.23-25) S.C. Code Ann. § 23-3-620 (b) is clear and needs no interpretation "unless a sample has already been provided pursuant to the subsection (A), before a person is released from confinement or released from the agency jurisdiction a suitable sample from which D.N.A. may be obtained for inclusion in the state database must be provided as a condition of probation or parole" further "any one required to provide a sample must also pay a processing fee and if the person required to provide a sample is not sentenced to a term of confinement payment of the fee must be a condition of the persons sentence."

Then in 2016, Appellant was sentenced to (9) nine years in the S.C.D.C. for trafficking meth. At this time S.C.D.C. proceeded in charging Appellant a second time for the same database. This time the fee was taken out of Appellants E.H. Cooper account. (5%) Five percent of every money order deposited on Appellants account was taken for S.C.E.D. until the \$250<sup>00</sup> fee was paid in full again. (R. p. 9) Appellant sent several request to staff to inmate financial and to the warden explaining this

error. (R.p. 69-74; p. 77-79) And also wrote a letter to S.L.E.D asking them for their help in resolving this mistake made by S.C.D.C. (R.p. 75-76). Appellant has claimed through out this grievance process, (R.p. 9-12) notice of appeal, (R.p. 12) brief and reply brief to the Administrative Law Court, (R.p. 13-22) and in this initial brief to the Court of Appeals, (R.p. 23-35) that the required processing fee of \$250<sup>00</sup> for the state D.N.A. database was paid to S.L.E.D. as a condition of his sentence while serving on probation in Anderson County for Burglary in the years of 2000-2003. Therefore S.C.D.C. should have never charged the Appellant in 2016 and additional \$250<sup>00</sup> (R.p. 9) This is not a \$500<sup>00</sup> fee, only \$250<sup>00</sup> one time. S.C. Code Ann. § is clear "unless, the original sample was lost or contaminated, no second sample would be required" and no second processing fee would be required either.

Again I ask this Court to take notice that I am not challenging the constitutionality of the D.N.A. Law in any form. Only that I paid the \$250<sup>00</sup> D.N.A. processing fee as a condition of my probation sentence in Anderson County for

2<sup>nd</sup> Burglary in 2000-2003. And that S.C.D.C. made an error when they charged me a second time for S.L.E.D. DNA database when I entered S.C.D.C. in 2016. (R.p.9)

Furthermore, Respondents have never once through out this entire process denied that Appellant paid this fee twice. (R.p. 61-65 ; p. 23-35) And the statute is clear. This is a one time fee not to be paid twice.

### CONCLUSION

For the reasons listed above, this Court should order the S.C.D.C. to refund to the Appellant the \$250<sup>00</sup> they overcharged him or reverse the judgment of the Administrative Law Court and remand back to the Lower Court.

WHEREFORE, Appellant prays this Court grant the relief requested and for such other relief as this Court deems just and proper.

Respectfully Submitted,

James Millholland 367569  
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October 14, 2020  
Fairfax, SC

---

CERTIFICATE OF COMPLIANCE

---

I hereby certify that this Final Brief of Appellant  
complies with Rule 211(b) SCACR.

Respectfully Submitted,

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October 14, 2020  
Fairfax, SC

STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Ralph K. Anderson, III

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ALC Case No. 19-ALJ-04-0492-AP  
Appellate Case No. 2020-000521

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JAMES MILLHOLLAND, # 367569,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

---

**FINAL BRIEF OF RESPONDENT**

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**STATEMENT OF ISSUES ON APPEAL**

- I. DID THE ADMINISTRATIVE LAW COURT PROPERLY DISMISS APPELLANT'S APPEAL WHERE NO STATE CREATED LIBERTY OR PROPERTY INTERST WAS IMPLICATED IN THE CLAIMS RAISED BY APPELLANT?
- II. DID THE DEPARTMENT OF CORRECTIONS ERR IN FAILING TO CONFIRM WITH THE LAW ENFORCEMENT DIVISION WHETHER APPELLANT HAD PREVIOUSLY PAID A DNA PROCESSING FEE?

## STATEMENT OF THE CASE

This matter comes before the Court pursuant to the appeal of James Millholland, an inmate incarcerated with the Department of Corrections. On June 25, 2019, Appellant filed a Step 1 grievance disputing deductions taken by SCDC for payment of a DNA processing fee. Appellant alleged this occurred in violation of policy because he had paid \$250.00 to the State Law Enforcement Division (“SLED”) prior to these deductions, and he believed this should have been a one-time fee charged to him. Appellant’s Step One Grievance was timely reviewed by the Warden and denied based on SCDC Policy OP 21.09: “Inmate Records Plan,” whereby “the DNA database is administered under the direction of [SLED] . . . [and] any person incarcerated in SCDC who has been convicted of . . . any of the offenses identified in the DNA Statute will be required to provide a blood sample for inclusion into the State DNA Database” and be required to pay the associated \$250.00 fee. Appellant then filed a Step 2 Grievance in response to the Warden’s decision on July 25, 2019 on the same basis. This grievance was denied by the reviewing Responsible Official on September 9, 2019. They informed Appellant that, although he believes the fee is a one-time fee, “[r]ecords indicate [Appellant was] admitted into SCDC as a New Admission on 03/26/16 . . . [and that n]ew admissions will be assessed the fee as required by SLED.” R. p. 11.

Appellant filed a Notice of Appeal in the Administrative Law Court on September 25, 2019. The Department of Corrections filed a Motion to Dismiss on February 11, 2020. Appellant filed a Reply Brief on February 24, 2020. Thereafter, on March 4, 2020, the Honorable Ralph K. Anderson, III issued an order granting the Department’s Motion to Dismiss, dismissing Appellant’s appeal with prejudice. Appellant filed Notice of this appeal on March 15, 2020.

## STANDARD OF REVIEW

S.C. Code Ann. § 1-23-610(B) provides the applicable standard of review:

The review of the administrative law judge's order must be confined to the record. The reviewing tribunal may affirm the decision or remand the case for further proceedings; or it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code Ann. § 1-23-380(5).

In an appeal of a final decision of an administrative agency, the standard of appellate review is whether the ALC's findings are supported by substantial evidence. S.C. Code Ann. § 1-23-610(B). "Substantial evidence" is evidence which, considering the record as a whole, would allow a reasonable mind to reach the same conclusion that administrative agency reached. *Hendley v. S.C. State Budget & Control Bd.*, 325 S.C. 413, 481 S.E.2d 159 (S.C. Ct. App. 1996). A reviewing court shall not substitute its own judgment for that of the ALC as to findings of fact, but it may reverse or modify decisions that are controlled by errors of law or that are clearly erroneous in view of the substantial evidence on the record as a whole. *Id.*

## ARGUMENT

### **THE ADMINISTRATIVE LAW COURT PROPERLY DISMISSED APPELLANT'S APPEAL WHERE APPELLANT'S CLAIM DID NOT IMPLICATE A STATE CREATED LIBERTY OR PROPERTY INTEREST.**

The ALC's jurisdiction to hear appeals from final agency decisions of the South Carolina Department of Corrections 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). When reviewing SCDC's decisions in inmate grievance matters, the ALC sits in an appellate capacity. *Id.* at 377, 527 S.E.2d at 754. Subsequently, the South Carolina Supreme Court clarified the ALC's appellate jurisdiction over inmate appeals in *Sullivan v. S.C. Dep't of Corr.*, 355 S.C. 437, 586 S.E.2d 124 (2003). In affirming, as modified, the ALC's *en banc* decision of *McNeil v. S.C. Dep't of Corr.*, 02-ALJ-04-00336-AP (September 5, 2001), the supreme court held the ALC's jurisdiction was limited to (1) cases in which an inmate contends prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; (2) cases in which SCDC has taken an inmate's *state-created* liberty interest in major disciplinary hearings; and (3) cases in which an inmate's confinement implicates a *state-created* liberty interest. *See Sullivan*, 355 S.C. at 443, 586 S.E.2d at 127 (emphasis added).

Moreover, regarding categories (2) and (3), *supra*, the South Carolina Supreme Court has consistently emphasized that the liberty or property interest implicated must be one that is *state-created*. *See Wicker v. S.C. Dep't of Corr.*, 360 S.C. 421, 602 S.E.2d 56 (2004) (emphasizing that the ALC's jurisdiction extends only to those cases involving the denial of "state-created liberty interests" and that the Court's holding [*i.e.*, in *Wicker*] "is not to be viewed as expanding the jurisdiction of the [ALC] in any other circumstance."); *Slezak v.*

*S.C. Dep't of Corr.*, 361 S.C. 327, 605 S.E.2d 506 (2004) (holding that the ALC “may summarily dismiss those appeals that do not implicate an inmate’s *state created* liberty or property interest”) (emphasis added). Further, this Court has interpreted *Slezak* to mean that where a state-created liberty interest is not implicated in a prisoner appeal, a judge of the ALC “should” dismiss the appeal. *Skipper v. S.C. Dep't of Corr.*, 370 S.C. 267, 633 S.E.2d 910 (S.C. Ct. App. 2006).

This appeal concerns Appellant’s challenge of a second DNA processing fee that was levied against deposits made into his E.H. Cooper account. *See* Appellant’s Initial Brief, p. 4. SCDC takes DNA samples from inmates and provides those samples to SLED for inclusion in the State DNA Database in accordance with S.C. Code Ann. § 23-3-620. That statute states, in relevant part, that DNA samples will be required,

(A) Following a lawful custodial arrest, the service of a courtesy summons, or a direct indictment for: (1) a felony offense or an offense that is punishable by a sentence of five years or more . . . This sample must be taken at a jail, sheriff’s office that serves a courtesy summons, courthouse where a direct presentment indictment is served, or detention facility at the time the person is booked and processed into the jail or detention facility following the custodial arrest, or other location when the taking of fingerprints is required prior to a conviction. The sample must be submitted to SLED as directed by SLED. . . .

Appellant was admitted to SCDC custody on March 29, 2016 as a New Admission after previously serving a sentence in SCDC custody. *See* R. p. 64. Per S.C. Code Ann. §23-3-620(A), Appellant was properly assessed an additional \$250.00 following a lawful custodial arrest. Appellant contends that because he paid the DNA processing fee during his previous term of incarceration he should not have had to pay the fee again when he was admitted to SCDC in 2016. *See* R. p. 30. Appellant’s sole issue on appeal to the ALC and here is: “Did the South Carolina Dept. of Corrections [err] when they failed to confirm with SLED that

Appellant was already entered into the DNA Database, and that the \$250.00 fee was already paid?” *See* R. p. 16; R. p. 28. In support of his argument that SCDC’s actions were in error, Appellant puts forth that “Someone has to know that I was already entered into the Database . . .”, “I should not have to pay twice for the same DNA Database fee”, and “SCDC should have never charged Appellant in 2016, an additional \$250.00.” *See* R. p. 17; *See* R. p. 30. Appellant also asks the Court to “take notice that [he] is not challenging the constitutionality of the DNA law in any form.” *See* R. p. 20; R. p. 30. Appellant’s only argument is the fact that he was charged the DNA processing fee twice, which constitutes a facial challenge to the statute. Because Appellant did not present any arguments challenging the constitutionality of the actual method by which SCDC deducted amounts to which they are entitled under §23-3-620(A), the ALC did not have subject matter to hear his Appeal. *See Travelscape, LLC v. S.C. Dep’t of Revenue*, 391 S.C. 89, 109 705 S.E.2d 28, 38-39 (2011) (where the Court held that the ALC can rule on as-applied challenges to statutes or regulations but not facial challenges to the constitutionality thereof). *See* R. pp. 5-6.

Because no state created liberty or property interest is implicated in this case, Administrative Law Judge Anderson’s March 4, 2020 Order dismissing the appeal on this basis was proper and should be upheld.

**THE DEPARTMENT'S DEDUCTION OF THE DNA PROCESSING FEE FROM APPELLANT'S E.H. COOPER ACCOUNT IS IN ACCORDANCE WITH STATE LAW AND THUS PROPER.**

Even if the ALC had jurisdiction over Appellant's appeal, Appellant's argument is without merit. S.C. Code Ann. § 23-3-670 requires that Appellant pay a \$250.00 fee for the processing of his DNA sample. That statute says in relevant part, "A person who is required to provide a sample pursuant to this article, upon conviction, pleading guilty or nolo contendere, or forfeiting bond, **must** pay a two hundred fifty-dollar processing fee which **may not be waived** by the court." S.C. Code Ann. § 23-3-670(A) (emphasis added); *See Collins v. Doe*, 352 S.C. 462, 470, 574 S.E.2d 739, 743 (2002) ("Under the rules of statutory interpretation, use of words such as "shall" or "must" indicates the legislature's intent to enact a mandatory requirement.").

Appellant's argument that SCDC erred in accessing the DNA processing fee a second time relies on S.C. Code Ann. § 23-3-620(D). *See* R. p. 29. That section provides that

[u]nless a sample has already been provided pursuant to the provisions of subsection (A), before a person is released from confinement or released from the agency's jurisdiction, a suitable sample from which DNA may be obtained for inclusion in the State DNA Database must be provided as a condition of probation or parole.

Appellant incorrectly interprets § 23-3-620(D) as establishing a state-created liberty or property interest in having DNA and the associated fee collected only once. A statute "must be read as a whole and sections [that] are part of the same general statutory law must be construed together and each one given effect." *S.C. State Ports Auth. v. Jasper County*, 368 S.C. 388, 398, 629 S.E.2d 624, 629 (2006). Therefore, the Court should avoid concentrating on "isolated phrases within the statute." *Id.* Instead, the Court must "read the statute as a whole and in a manner consonant and in harmony with its purpose." *Id.* Finally, "when the

terms of a statute are clear and unambiguous, the court must apply them according to their literal meaning . . . without resort to subtle or forced construction to limit or expand the statute's operation." *State v. Blackmon*, 304 S.C. 270, 273, 403 S.E. 2d 660, 662 (1991). Nowhere in the unambiguous language of § 23-3-620 does the General Assembly provide that the collection of DNA samples, and the corresponding assessment of the collection fee under § 23-3-670, is to be a one-time occurrence. Rather, when § 23-3-620 is read as a whole it is clear that the legislature's intent behind subsection (D) was to provide that in situations where an incarcerated individual's DNA had not been collected upon lawful arrest for an offense enumerated in subsection (A), then the DNA sample must be obtained as a condition of probation or parole. Thus, to interpret § 23-3-620(D) as Appellant suggests would force the statute to operate in a manner contrary to the General Assembly's intention.

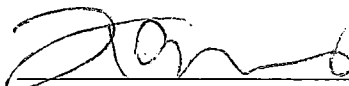
Thus, SCDC's charge for and deductions towards the \$250.00 DNA processing fee were proper as these actions were carried out in accordance with state law.

### **CONCLUSION**

For the foregoing reasons, the Court should affirm the Administrative Law Court's decision below.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT  
OF CORRECTIONS**



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November 9, 2020

STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Ralph K. Anderson, III

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ALC Case No. 19-ALJ-04-0492-AP  
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JAMES MILLHOLLAND, # 367569,

APPELLANT,

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

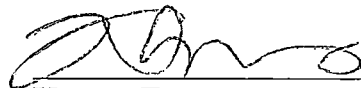
RESPONDENT.

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**CERTIFICATE OF COUNSEL**

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The undersigned hereby certifies that the **Final Brief of Respondent** complies with Rule 211(b), SCACR, and also complies with the South Carolina Supreme Court's April 15, 2014, order entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."



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APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

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**CERTIFICATE OF SERVICE**

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Undersigned counsel hereby certifies that on today's date she mailed a copy of the **Final Brief of Respondent and Certificate of Counsel** to Appellant, addressed as follows: **James Millholland (#367569)**, Allendale Correctional Institution, COA-0050-B, 1057 Revolutionary Trail, Fairfax, SC 29827.



---

Kensey Evans  
Deputy General Counsel  
Office of General Counsel  
South Carolina Department of Corrections  
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November 9, 2020

THE STATE OF SOUTH CAROLINA  
[In The Court of Appeals  
In The Supreme Court]

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph K. Anderson III, Administrative Law Judge

ALC Docket Case No. 19-ALJ-04-0492-AP

Appellate Case No. 2020-000521

James Millholland 367569 . . . . . Appellant

South Carolina Department of Corrections<sup>v.</sup> . . . . . Respondent

FINAL REPLY BRIEF OF APPELLANT

James Millholland 367569  
Pro-se, Appellant

A.C.I. / Colleton A-50  
PO Box 1151  
Fairfax, SC 29827

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## STATEMENT OF ISSUES ON APPEAL

1. Did The Administrative Law Court properly dismiss Appellants Appeal where no state created liberty or property interest was implicated in the claims raised by Appellant?
2. Did the S.C. Department of Corrections err in failing to confirm with the S.C. Law Enforcement Division whether Appellant had previously paid a DNA processing fee?

## STATEMENT OF THE CASE

The Appellant is an inmate in the South Carolina Department of Correction (S.C.D.C.) and housed at Allendale Correctional Institution in Fairfax, South Carolina. On June 25, 2019 Appellant submitted a Step 1 Grievance appealing being charged two times for a one time DNA processing fee of \$250.00 (R.p. 9-10) Following of his Step 1 Grievance, Appellant submitted a Step 2 Grievance on July 25, 2019 arguing that his 5<sup>th</sup> Amendment right had been violated (R.p. 11). Step 2 was denied on September 9, 2019. Appellant then filed a Notice of Appeal in the Administrative Law Court on October 24, 2019. (R.p. 12) This appeal was denied on March 4, 2020. (R.p. 4-7) Appellant timely filed a Notice of Appeal and Motion to proceed in forma pauperis to this Court. The motion to Proceed Informa Pauperis was granted on May 1, 2020

## STANDARD OF REVIEW

S.C. Code 1-23-610(b) Provides the applicable standard of review:

The review of the Administrative Law Judges order must be confined to the record. The reviewing tribunal may affirm the decision or remand the case for further proceedings; or it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion or decision is;

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the record, or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code Ann. § 1-23-380(5)

In an appeal of a final decision from an administrative agency, the standard of appellate review is whether the ALC's Findings are supported by substantial evidence. S.C. Code Ann. § 1-23-610(5)

"Substantial evidence" is evidence which considering the record as a whole, would allow a reasonable mind to reach the same conclusion that administrative agency reached. Hendley v. S.C.

State Budget & Control Bd. 325 S.C. 413, 481 S.E. 2d 159 (S.C. Ct.

App. 1996) A reviewing Court shall not substitute its own Judgment for that of the ALC as to Finding of fact, but it may reverse or modify decisions that are controlled by errors of law or that are clearly erroneous in view of the substantial evidence on the record as a whole

## ARGUMENT

Did the Administrative Law Court properly dismiss Appellant's appeal where no state created liberty or property interest was implicated in the claim raised by Appellant?

The Respondent are incorrect in their assertion that no property interest was asserted! (R.p. 42-43) The ALC did have jurisdiction. When the \$250.<sup>00</sup> processing fee established by S.C. Code Ann. § 23-3-620 is a state created property interest. When the state requires one to submit his property to pay a processing fee. see Wicker v. S.C.D.C. 360 S.C. 421, 602 S.E. 2d 56. ALC jurisdiction extends to this case when the Appellant is denied his right to only pay this processing fee once. See S.C. Code Ann. § 23-3-620(D) "unless a sample has already been provided" (R.p. 28-29). The Respondents are side stepping this very simple claim, they have attempted to change the issue, but they have never addressed the facts in this claim.

Did the S.C. Dept. of Corrections err. in failing to confirm with the S.C. Law Enforcement Division whether Appellant had previously paid a D.N.A. processing fee?

The only answer to this question is yes, they failed! There must be some system between agencies to verify these kind of matter with so many repeat offenders. Appellant is not challenging S.C. Code Ann. § 23-3-620! It has not been disputed that Appellant should not have to pay the processing fee two times. Nor is it disputed that he did. As stated above S.C. Code Ann. § 23-3-620 (D) the statute is clear and unambiguous and the intent of the General Assembly is clear.

To imply that D.N.A. was never taken is without merit. In fact this is the root of the claim, for S.C.D.C. to verify that the DNA was taken and the processing fee paid. S.C. Code Ann. § 23-3-620(D) is clear. "unless a sample has already been provided pursuant to the provisions of subsection (A)" (R.p. 28-29) The Respondent don't want the Court to consider the meaning of this very important part of this statute!

## Conclusion

For the foregoing reasons, the Court should overturn the ALJ's decision. Make S.C.D.C. refund the \$2500 they

overcharged Appellant, and make S.C.D.C. create a system with S.L.E.D. so they can verify who and who has not already provided a sample of D.M.A. for the database

and who has or has not already paid the processing fee. WHEREFORE, Appellant prays this Court grant

him the relief requested and all other relief this Court

seems just and proper.

Respectfully Submitted,

James Millmoll and 367569  
R.C.I./FIASO  
PO Box 1151  
Fairfax, SC 29827

October 16, 2020  
Fairfax, SC.

---

CERTIFICATE OF COMPLIANCE

---

I hereby certify that this Final Reply Brief of Appellant  
complies with Rule 211(b) SCACR.

Respectfully Submitted,

James Millholland 367569  
A.C.I. FIA50  
PO Box 1151  
Fairfax, SC 29827

October 14, 2020  
Fairfax, SC

STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Administrative Law Judge Ralph King Anderson, III

---

Opinion No. 5909 (S.C. Ct. App. filed 5/25/22)  
Appellate Case No. 2020-00521

---

James Millholland,

APPELLANT,

v.

South Carolina Department of Corrections,

RESPONDENT.

---

**PETITION FOR REHEARING**

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On May 25, 2022, this Court reversed the Administrative Law Judge's conclusion that the Administrative Law Court (ALC) did not have subject matter jurisdiction to consider the appeal. Respondent respectfully petitions this Court for rehearing pursuant to SCACR, Rule 221(a), regarding the points overlooked and misapprehended, as discussed below.

In its opinion, this Court found "the ALC erred in failing to hold a hearing to determine whether Millholland's due process rights were violated (*internal citation removed*)."

Respectfully, this Court overlooked S.C. Code Ann. 23-3-620(D) (Supp. 2019), which does not grant the ALC "subject matter jurisdiction [or . . .] establish a state-created liberty or property interest in having DNA only collected once." ALC Case 19-ALJ-04-0492-AP Order of Dismissal (March 4, 2020).

Should a rehearing not be granted, Respondent requests that a formal hearing on the merits not be required unless deemed necessary by the Administrative Law Judge, pursuant to ALC Rule 64.

Additionally, Appellant filed a Motion Requesting Cost of Appeal on June 1, 2022. Because this case is not fully concluded, this motion is not ripe for consideration. Therefore, Respondent respectfully requests it be denied.

### **CONCLUSION**

For the reasons set forth above, Respondent respectfully asks that this Court reconsider the case and reverse the ultimate outcome.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT  
OF CORRECTIONS**

BY: 

**KENSEY EVANS**

Deputy General Counsel  
S. C. Department of Corrections  
Post Office Box 21787  
Columbia, South Carolina 29221  
(803) 896-8508  
**ATTORNEY FOR RESPONDENT**

June 8, 2022

James Michael Millholland 367569  
Allendale C.I. / F3A34  
PO Box 1151  
Fairfax, SC 29827

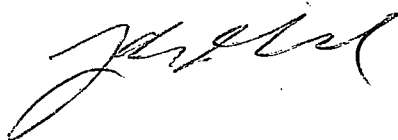
October 16, 2022

Administrative Law Court  
Jona E. Cox Shealy, Clerk  
1205 Pendleton Street, Suite 224  
Columbia, SC 29201

Re: Millholland v. S.C.D.C. Docket No 19-ALT-04-0492

Dear Jona Shealy,

Please find enclosed additional arguments that I would like to file with your office concerning the above mentioned matter. I respectfully request a stamped clocked copy be mailed to me at the address above. Thank you for your time.



THE STATE OF SOUTH CAROLINA  
Administrative Law Court

James Millholland 367569  
Appellant

v.

South Carolina Department  
of Corrections Respondent

Case No. 19-ALJ-04-0493-A-AP

Ralph K. Anderson III

Additional Arguments

CASE HISTORY

The above captioned matter was originally filed by James Millholland, Appellant on September 26, 2019 in the South Carolina Administrative Law Court (ALC). There after, on March 4, 2020, the Court issued an Order of Dismissal which was appealed to the South Carolina Court of Appeals. (COA). On August 4, 2022, the COA ruled in favor of Appellant and the decision of the ALC was reversed and remanded back to this Court to hold a hearing on the merits.

STANDARD OF REVIEW

In appeals from the final decision of the S.C.D.C. summary dismissal is appropriate if the prisoner cannot demonstrate the decision implicated a liberty or property interest sufficient to warrant due process protections

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of the 14th Amendment Shipper v. S.C.D.C., 370 S.C. 267, 635 Se.2d. 910 (Ct. App. 2006) A decision by an administrative agency may be modified or reversed if the findings and conclusions of the agency are affected by error of law or clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record Brown v. BiLa, Inc., 341 S.C. 611 at 614, 535 Se.2d. 445 at 447 (Ct. App. 2000) Review of an administrative agency decision is deferential and will be upheld if substantial evidence supports it. Heater of Seabrook, Inc. v. S.C. Public Service Comm'n. 324 S.C. 56 at 60, 478 Se.2d. 826 at 828, (1996) substantial evidence is relevant evidence that considering the record as a whole would allow reasonable minds to reach the conclusion that the administrative agency reached, its decision must be based on factual findings within the record. Hamm v. S.C. Public Service Comm'n., 309 S.C. 295, 422 Se.2d, 118 (1992) An administrative agency must follow its own rules and regulations. Triska v. S.C. Dept. of Health and environmental Control, 292 S.C. 190, 335 Se.2d. 531. (1987) Although failure to do so does not rise to the level of a constitutional violation, administrative principles do apply. Board of Regents v. Horowitz, 435 U.S. 78, 98 S. Ct. 948, (1978) Ogburn-Mathews v. Loblolly Partners, 332 S.C. 551, 505 Se.2d. 603, (Ct. App. 1998) while administrative agencies generally have little or no discretion in deciding whether its actions are rationally grounded as opposed to the arbitrary. Al-Shobazz v. State, 338 S.C. 354 at 381

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527 Se. 2d. 742 at 761.

## ISSUE(S) PRESENT

1. Does the funds that are gifted to Appellant and deposited on his inmate EH Cooper Trust account hold enough merit to be considered a state created liberty or property interest?
2. Did the ALC error in summarily dismissing Appellants appeal because his grievance did, in fact, implicate a protected property interest — his inmate trust account?
3. Did the ALC error in finding it did not have subject matter jurisdiction to hear the Appellants appeal?
4. Does the ALC have jurisdiction over all inmate grievances that have been properly filed?
5. Was the Appellant required to submit two DNA samples and also charged two times, totaling \$500<sup>00</sup> for a processing fee to include his samples into SLED's state database or did S.C.D.C. make an error when it collected the second sample and charged him two times pursuant to S.C. Code Ann § 23-3-620 through 23-3-700?

## ARGUMENTS

1/17/17

1/17

Appellants arguments throughout this entire process have been simple, but to the point, and holding significant merit. The ALC's Order of Dismissal, Footnote 2 (see attachment A②) stating S.C. Code Ann § 23-3-670 (A) (The cost of collection supplies for processing a sample pursuant to this article, upon conviction, pleading guilty or nolo contendere, or forfeiting bond must pay a two hundred fifty dollar processing fee which may not be waived by the Court) However: (if the person is not sentenced to a term of confinement, payment of the fee must be a condition of the persons sentence and may be paid in installments if so ordered by the Court) This has been the Appellants argument all along because he was required by this same DNA law to provide a suitable sample to SLED while serving a Five (5) year probation sentence in Anderson County, South Carolina for the charge of Burglary during the years of 2000-2003. As stated in previous claims, A nurse came to the Anderson County Probation Office, in the company of SLED, and collected a suitable sample of blood from the Appellant. to be included in the States DNA Database and they also collected a \$250<sup>00</sup> processing fee at the time of service. This processing fee had to be paid as a condition of probation as stated in S.C. Code Ann. § 23-3-670 (... "payment of the fee must be a condition of the persons sentence.") Since the charge of Burglary is viol-

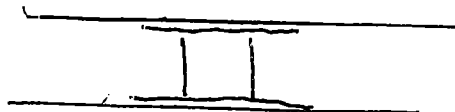
## LEGAL MAIL

the Appellants E.H. Cooper Trust account by medical in the Department. After this happened, every time the Appellant would receive money on his account, 5% would be deducted immediately until this outstanding bill would be paid in full for the second time. This is where the mistake was made. Since there is no system in place between SLED and S.C.D.C. to know or be able to confirm whether a suitable sample of DNA has been collected and the processing fee already been paid, the Department erred when it automatically administered the DNA requirement on the Appellant for the second time. You see, the Appellants argument is simple. He fulfilled his obligations and met all the requirements necessary to please this States DNA law while serving a 5 year probation sentence in Anderson County, SC for Burglary in the years of 2000-2003. (see attachment B ) To add, the states DNA law is clear and needs no interpretation S.C Code Ann § 23-3-620(D) (unless a sample has already been provided pursuant to the subsection (A)). And, not once has the Respondents throughout this entire process denied that the Appellants suitable sample of DNA and the required \$250<sup>00</sup> processing was previously paid before entering S.C.D.C. To do so, would show the mistake and ultimately open the door for many others to receive justice, past, present, and future. This is a can of worms no one wants to open so the only logical answer and fairness the Appellant has received through his greivances and appeal to this Court was a rubber-stamped dismissal.

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ent, the Appellant was required to provide this sample of DNA for the database. (see attachment B). Clearly the Anderson County Probation Office and SLED didnt miss this very important factor or we wouldnt be here today.



Furthermore, the ALC's Order of Dismissal, Footnote 2, is again incorrect when it states ("... DNA samples are not even taken by the Department but rather by other law enforcement agencies prior to conviction...") S.C. Code Ann. § 23-3-670 (A) (A person is required to provide a sample pursuant to this article, upon conviction, pleading guilty...) Upon, not meaning before or prior to conviction as stated in Footnote 2. There is no way someone should have to provide a sample of DNA for the states database prior to being convicted while they should still be assumed innocent or before guilt. Webster defines the word Prior as being before.

Footnote 2 is again incorrect when it states that the "DNA samples are not even taken by the "Department" but rather by other law enforcement agencies." When in fact the "Department" actually did collect a blood DNA sample from the Appellant. As the Appellant has claimed throughout this entire process, a nurse employed by the S.C. "Department" of Corrections collected a second suitable DNA blood sample upon arriving at the Kirkland R+E center in Columbia, S.C. in March of 2016. Then a second, \$250<sup>00</sup> processing fee was charged to

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Also, the respondents have asserted there has been no state created liberty or property interest raised in the Appellants claims. But the Court of Appeals found the ALC erred in summarily dismissing Appellants appeal based on these grounds because his grievance did implicate a protected property interest — in his inmate trust account. see Al-Shabazz v. State, 338 S.C. 354, 369, 527 S.e.2d 742, 750 (2000). ("The requirements of procedural due process apply only to the deprivation of interest encompassed by the Fourteenth Amendment's protection of liberty and property") (quoting Board of Regents of State Colleges v. Roth, 408 U.S. 564, 569 (1972)).

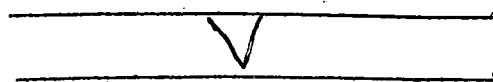
There is no doubt the Appellants grievances and appeals had subject matter. Although no South Carolina case has addressed this issue, federal courts have consistently found that inmates have a property interest in their inmate accounts. see Campbell v. Miller, 787 F.2d 217, 222 (7th Cir. 1986) ("It is beyond dispute that Campell has a property interest in the funds on deposit in his prison account."); Quick v. Jones, 754 F.2d 1521, 1523 (9th Cir. 1985) ("There is no question that Quick's interest in the funds in his prison account is a protected property interest."); Jensen v. Klecher, 648 F.2d 1179, 1183 (8th Cir. 1981) (stating inmates "obviously have a property interest in the funds on deposit in their inmate accounts") Obviously, reasonable minds can reach the same conclusion, that the Appellants money on deposit in his

inmate trust account and his inmate trust account as a whole, is a protected interest outlined by the Constitution of the United States

\_\_\_\_\_

To add, the ALC's Order of Dismissal, Footnote 2, also stated that the ALC did not have jurisdiction to hear the Appellants appeal but the Court of Appeals ruled that it does. The Court of Appeals (COA) ruled that Appellants appeal implicated a protected property interest — in his inmate trust account and thus the ALC and that the ALC erred in Finding it did not have subject matter jurisdiction to hear the appeal. (see attachment C) see Furtick v. S.C. Department of Corr., 374 S.C. 334, 340, 649, S.E. 2d. 35, 38 (2007) ("The ALC has jurisdiction over all inmate grievance appeals that have been properly Filed; however is not required to hold a hearing in every matter.") abrogated on other grounds by Howard v. S.C. Department of Corr., 399 S.C. 618, 733 S.E. 2d 211 (2012); Slezak v. S.C. Dept of Corr., 361 S.C. 327, 331, 605 S.E. 2d 506, 508 (2004) holding summary dismissal is appropriate "where the inmates grievance does not implicate a state-created liberty or property interest"); if it pleases the Court, Appellant respectfully request it take notice of Quick, 754 F.2d at 1523 "Once a protected interest is found, the Court must then decide what process is due. This is a question of law" Accordingly, the COA, found the ALC erred in failing to hold a hear-

ing to determine whether Appellants due process rights were violated (see attachment C) see Kiawah Dev. Partners, II v. S.C. Dept of Health & Env'tl. Control, 411 S.C. 16, 28, 766 S.E. 2d 707, 715 (2014) "[T]he Court may reverse the decision of the ALC where it is in violation of statutory provision or it is affected by an error of law." The Court of Appeals was correct when it reversed and remanded this case back to the ALC to determine what process is due to the Appellant. And if the ALC summarily dismisses the Appellants appeal for the second time after being shown the errors it made by the higher Court and instructed to correct them would mean only one thing, that the ALC is making a conscience decision to intently violate the Appellants right to due process.



To close the S.C.D.C. erred when it charged Appellant the second \$250<sup>00</sup> dollar processing fee totalling the amount he paid to \$500<sup>00</sup>. Thus, Appellants 5th and 14th Amendment rights have been violated throughout this entire process and his rights to his rightfully owned property has been withheld from him for almost 6 1/2 years now causing him great mental and emotional stress.

Moreover, the ALC's Order of Dismissal, Footnote 2, states "Appellant has not presented any evidence that his previous sample was determined to be suitable by SLED." This is the first time during the Appellants grievances and

appeals, the ALC has acknowledged there was a previous sample, now we can move on the next important issue, the fact that there was no reason for the S.C.D.C. to collect a second sample of DNA from the Appellant for inclusion in the State Database nor was there any reason to collect a second \$250<sup>00</sup> dollar processing fee. Again as stated in footnote 2 (see attachment A) S.C. Code Ann § 23-3-620(A)

provides that: "Unless a sample has already been provided pursuant to the provisions of subsection (A) before a person is released from confinement or released from the agency's jurisdiction, a suitable sample from which DNA may be obtained for inclusion in the State DNA Database must be provided as a condition of probation or parole". Since the Appellant was on probation in Anderson County, South Carolina for Burglary (see attachment B) in the years of 2000-2003 and since the Burglary Charge is a violent crime that requires a suitable sample of DNA be collected pursuant to the DNA law for inclusion in the State Database, His sample of DNA was taken and the processing fee was paid then, in 2000-2003. As stated above S.C. Code Ann. § 23-3-620(D)(A)

... before a person is released from the agency's jurisdiction a suitable sample must be provided... ) In other words, the Anderson County Probation Office could not have even released the Appellant from their jurisdiction unless he had submitted a suitable sample of DNA and paid the required processing fee. And

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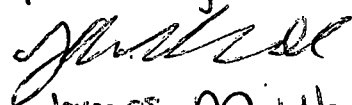
with the sample already being taken and the processing fee being paid, there was no need for S.C.D.C. to complete this process for the second time. S.C. Code Ann. § 23-3-620 is clear "unless the original sample is lost or contaminated" no need for a second sample or processing fee.

To close the Appellant would like to enter into evidence a sworn Affidavit (see attachment D), sentencing sheet for probation in Anderson County (see attachment B) and the Remittitur sent to this Court from the Court of Appeals.

WHEREFORE,

Appellant prays this Court will hold a hearing in this matter to determine what due process the Appellant is entitled to, tax the \$250<sup>00</sup> to Respondents for overcharging Appellant a second DNA processing fee, tax the Respondents the \$300<sup>00</sup> awarded to the Appellant for Cost on Appeal in the Order from the COA, create a system between SLED and SCDC to be able to confirm an inmates DNA status in the State Database upon entering S.C.D.C., and for all other cost of briefs and arguments filed in this Court and all other relief this Court deems just and proper.

Respectfully Submitted,

X 

October 16, 2022  
Fairfax, SC

James Millholland 367569  
Allendale C.I. / F3A34  
PO Box 1151  
Fairfax, SC 29827

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STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

|                                           |   |                              |
|-------------------------------------------|---|------------------------------|
| James Millholland, #367569,               | ) | Docket No. 19-ALJ-04-0492-AP |
|                                           | ) |                              |
| Appellant,                                | ) |                              |
|                                           | ) |                              |
| vs.                                       | ) | <b>ORDER OF DISMISSAL</b>    |
|                                           | ) |                              |
| South Carolina Department of Corrections, | ) |                              |
|                                           | ) |                              |
| Respondent.                               | ) |                              |
|                                           | ) |                              |

This matter is before the South Carolina Administrative Law Court (Court or ALC) on an appeal filed by James Millholland (Appellant), an inmate housed with the South Carolina Department of Corrections (Department or SCDC).

On June 25, 2019, Appellant filed a Step 1 Grievance objecting to the deduction of funds from his personal account to pay a DNA processing fee. He argued that he had already paid the fee while on probation in the early 2000s, and he believed it should have been a one-time fee. After the Warden denied the grievance, Appellant filed a Step 2 Grievance asserting that his Fifth Amendment rights were violated when they charged him the fee twice. The Responsible Official denied his grievance citing to SCDC Policy 21.09 and advising Appellant, *inter alia*, that "records indicate [Appellant was] admitted into SCDC as a New Admission on 03/26/16. New admissions will be assessed the fee as required by SLED."

Appellant filed a Notice of Appeal on September 26, 2019. On January 14, 2020, Appellant filed his brief. On February 12, 2020, the Department filed a Motion to Dismiss (Motion) asserting the Court lacks jurisdiction to hear the case because Appellant's complaint does not implicate a state-created liberty or property interest. Appellant filed a Response<sup>1</sup> to the Motion on February 25, 2020.

**DISCUSSION**

This Court must first determine whether it has subject matter jurisdiction to decide this case. "Subject matter jurisdiction is the power to hear and determine cases of the general class to

<sup>1</sup> Appellant labeled this document "Reply Brief," however, upon reviewing it, the Court interprets this to be his Response to the Motion.

**FILED**

March 4, 2020

SC ADMIN. LAW COURT

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which the proceedings in question belong.” *Dove v. Gold Kist, Inc.*, 314 S.C. 235, 237–38, 442 S.E.2d 598, 600 (1994) (internal quotation marks and citation omitted). “The ALC has subject matter jurisdiction under the Administrative Procedures Act (“APA”) to hear properly perfected appeals from the SCDC’s final orders in administrative or non-collateral matters.” *Howard v. S.C. Dep’t of Corr.*, 399 S.C. 618, 625, 733 S.E.2d 211, 215 (2012). Nevertheless, the Court’s jurisdiction in inmate matters is limited to agency decisions implicating a state-created liberty or property interest. *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). When an inmate’s appeal does not implicate a state-created liberty or property interest, the ALC may summarily dismiss the appeal at its discretion. *Slezak v. S.C. Dep’t of Corr.*, 361 S.C. 327, 331, 605 S.E.2d 506, 508 (2004).

In his Response to the Department’s Motion, Appellant asserts the Court has jurisdiction pursuant to section 23-3-620(D) of the South Carolina Code (Supp. 2019). He also clarifies he “is not challenging the constitutionality of the manner in which funds were deducted to pay the \$250.00 DNA processing fee,” nor is he challenging the “constitutionality of the DNA law.” Rather, Appellant is challenging being charged again when he already paid for his DNA to be taken for a previous crime. In other words, Appellant does not think he should be charged again when his DNA is already in the State DNA database.

Section 23-3-620(D) provides that:

Unless a sample has already been provided pursuant to the provisions of subsection (A), before a person is released from confinement or released from the agency’s jurisdiction, a suitable sample from which DNA may be obtained for inclusion in the State DNA Database must be provided as a condition of probation or parole.

However, this statute does not grant this Court subject matter jurisdiction; nor does it establish a state-created liberty or property interest in having DNA only collected once.<sup>2</sup> Because Appellant’s complaint does not implicate a state-created liberty or property interest, the Court does not have jurisdiction and summary dismissal is appropriate. *See Slezak*, 361 S.C. at 331, 605 S.E.2d at 508. Accordingly,

<sup>2</sup> Even if the Court had jurisdiction, Appellant’s argument is without merit. S.C. Code Ann. § 23-3-670(A) (Supp. 2019) provides that: “A person who is required to provide a sample pursuant to this article . . . must pay a two hundred fifty-dollar processing fee which may not be waived by the court. *See Collins v. Doe*, 352 S.C. 462, 470, 574 S.E.2d 739, 743 (2002) (emphasis added) (“Under the rules of statutory interpretation, use of words such as “shall” or “must” indicates the legislature’s intent to enact a mandatory requirement.”). Furthermore, the DNA samples are not even taken by the Department but rather by other law enforcement agencies prior to conviction. *See* S.C. Code Ann. § 23-3-620(A). The Department is thus simply charged with collecting the fee for actions taken by another agency. Moreover, Appellant has not presented any evidence that his previous sample was determined to be suitable by SLED.

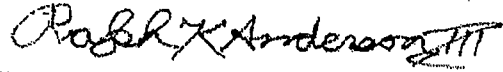
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Attachment  
A (3)

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IT IS HEREBY ORDERED that the Department's Motion to Dismiss is GRANTED and Appellant's appeal is DISMISSED WITH PREJUDICE.

AND IT IS SO ORDERED.



---

Ralph King Anderson, III  
Chief Administrative Law Judge

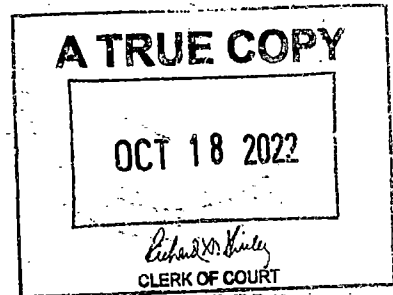
March 4, 2020  
Columbia, South Carolina

LEGAL MAIL  
Attachment  
B

James Michael Millholland 367569  
Allendale Correctional Inst./F3A34  
1057 Revolutionary Trail  
PO Box 1151  
Fairfax, SC 29827

18

11/2  
2000-  
2000-  
Prisoners' Rights Act of 1980



October 13, 2022

Richard A. Shirley  
Anderson County Clerk of Court  
PO Box 8002  
Anderson, SC 29622

I have sent a  
copy of this to  
Probation because  
of the DNA testing  
being done there.

Re: State v. James Millholland

Dear Clerk;

I'm writing concerning the  
2nd Burglary and Grand Larceny that I  
was convicted of in the years of 1999  
to 2001. I can't remember the exact date  
nor do I have access to the warrant  
numbers. That is the reason I write.  
I need to obtain my sentencing sheets  
and other related materials that was  
filed in these two charges. To include  
the restitution that was paid. My  
name is James Millholland (middle Michael)  
SS# [REDACTED], D/O/B [REDACTED] 82. My  
address at the time of arrest was 115

Central Ave, Honea Path, SC 29654. So I was sentenced to 5 years probation in Anderson County for these charges and I also need a copy of any probation paperwork that was filed with your office concerning the Burglary charge as well.

To explain, as a condition of my probation, I was required to give my DNA to SLED for inclusion in the State Database because the Burglary charge is a violent conviction. While I was serving my sentence on probation, SLED came to the probation office on S. Towers St. in Anderson, right behind the courthouse. They had a nurse with them and she took tubes of blood from me and they charged me a \$250 dollar processing fee. I'm trying to find out how I can obtain these records. I need to show the Court that my DNA was taken as a part / condition of my probation. Can you please help me find this documentation. And please forward to me everything that was ever filed with your office concerning this case?

Also can you please clock stamp this letter and return it with all the other related materials, to the address above. Thank you for your attention in this matter.

Attachment X  
B

STATE OF SOUTH CAROLINA

County of Anderson

STATE VS.

James Michael Millholland

AKA: 2013 JUL

Race: W Sex: M

DOB: [REDACTED] 82

SSN: [REDACTED]

SID#: 1281695

IN THE COURT OF GENERAL SESSIONS

INDICTMENT#:

00 -GS- 04 - 152

CMW#: W-04-02-0289 (6-18-02)

Name of Original Offense: Burglary 2nd

Conviction S.C. Code §: 16-11-312 B

Conviction CDR Code #: 0 1 0 8 16

Date of Original Offense: 11-04-99

Original Sentence: 15yrs ss 5yrs Prob

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 01/20/00 in the Court of General Sessions of Anderson County as set forth in the attached warrant or citation dated 06/18/02. After hearing the evidence and being duly advised, in the (presence/absence) of the defendant, I find that the above named defendant has violated the following condition(s) of probation: (List by number or indicate special condition as provided in the affidavit) 1, 2, 3, 6, 7, 8 - 110

Therefore, IT IS ORDERED that:

☒ the suspended sentence be revoked and the above named defendant be required to serve 90 days months/years, the remainder of the original sentence, and/or pay \$                     .

☒ the suspended sentence be revoked and the above named defendant be required to serve 90 days months/years of the original sentence and/or pay \$                     , thereupon to be reinstated on probation, subject to the conditions set forth in the attached order and not inconsistent with this order.

☐ the above named defendant is continued on probation as provided for in the original sentence, subject to the conditions set forth therein and not inconsistent with this order.

☐ probation is reduced to time served under supervision and the defendant is discharged from supervision on this date.

☒ Additional Conditions ordered by the Court:

Term. Probation

Commitment

7-21-03

☐ The defendant is given credit for pre-revocation hearing detention time on current probation violation to be calculated and applied by the SC Department of Corrections.

☒ The defendant has previously served 0 months/years on this sentence. (split sentence time and/or prior partial revocation time)

This 21<sup>st</sup> day of July, 03

Anderson, SC.

Presiding Judge

10th

Judicial Circuit

You are hereby advised that under the law the Court may at any time revoke or modify any condition of this probation; impose any lawful conditions it deems proper; or extend your period of probation not to exceed five (5) years. At any time within the period of your probation, the Court may require you to serve any part of the original sentence imposed.

This is to certify that I have read, or have had read to me, the order and the conditions set out therein. I agree to comply with such conditions and any conditions of my attached probation order during the period of my probation. I have received a copy of this Court's order and all attachments.

Offender's Signature [Signature]

Witnessed by [Signature]

TRUE COPY  
OCT 18 2022

Signed this 21<sup>st</sup> day of July, 03, at Anderson, SC.

Day Month Year

City

[Signature]  
CLERK OF COURT

## LEGAL MAIL

Attachment

22

STATE OF SOUTH CAROLINA

COUNTY OF Anderson

STATE VS JAMES MICHAEL MILLHOLLAND)

AKA: \_\_\_\_\_

Race: W

Sex: M

DOB: 1982

AGE: 17

SSN: [REDACTED]

SCDL#:

SID: SC01281695

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

~~99-03-04~~ 2000 CS04 153

A/W#: G043178

Date of Offense: 11/04/99

S.C. Code: 16-13-0030(B)(1) CDR Code#: 0478

SENTENCE

PLEA ☒ TRIAL ☐In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO:Grand Larceny 1-5000in violation of 16-13-0030(B) of th S.C. Code of Laws, bering CDR Code# 0478☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.David Wagner  
SolicitorJames Millholland  
DEFENDANTRobert [Signature]  
Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of Five 5 ~~days~~ months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment of \$ \_\_\_\_\_ plus costs and assessments as applicable\*, the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation. Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ The Defendant is to be given credit for \_\_\_\_\_ days/months jail time.☐ CONCURRENT or ☐ CONSECUTIVE to sentences on: \_\_\_\_\_30 days

## SPECIAL CONDITIONS:

☒ RESTITUTION ☐ Heard, ☐ Waived, ☐ OrderedTotal: \$ 1,850.00 plus 20% fee \$ \_\_\_\_\_

set by SCDPPPS

Recipient: Tammy A. Baldwin453 S. GARDEN RDMoreland SC 29054

\*Fine: \_\_\_\_\_ \$ \_\_\_\_\_

14-1-206 - Assessments 100% ..... \$ \_\_\_\_\_

14-1-211 - Surcharge ..... \$ 100

(Exceptions: See 14-1-211)

56-5-2995 (DUI) ..... \$ \_\_\_\_\_

County(3%) ..... \$ \_\_\_\_\_

TOTAL ..... \$ 100Clerk of Court/Deputy Clerk: Linda DeShieldsCourt Reporter: Wanda

PTUP \_\_\_\_\_

\_\_\_\_\_ days/hours Public Service Employment

Obtain GED \_\_\_\_\_

Attend Voc Rehab. or Job Corps \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

Substance Abuse Counseling \_\_\_\_\_

Random Drug/Alcohol Testing \_\_\_\_\_

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_

\$ \_\_\_\_\_ paid to Public Defender Fund.

Other: \_\_\_\_\_

A TRUE COPY

OCT 18 2022

[Signature]  
CLERK OF COURTPRESIDING JUDGE Frank EggenJudge Code: 10012Sentence Date 1/20/2000

Attachment

STATE OF SOUTH CAROLINA

County of Anderson  
STATE VS.

James Michael Millholland

AKA: \_\_\_\_\_

Race: W Sex: M

DOB: [REDACTED]-82

SSN: [REDACTED]

SID#: 1281695

IN THE COURT OF GENERAL SESSIONS

INDICTMENT#:

00 -GS- 04 - 153

CW#: W-04-02-0289 (6-18-02)

Name of Original Offense: Grand Larceny 1-5000

Conviction SIC Code §: 16-13-0080 B1

Conviction CDR Code #: 0141718

Date of Original Offense: 11-4-99

Original Sentence: 5y3 SPP

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 01/20/00 in the Court of General Sessions of Anderson County as set forth in the attached warrant or citation dated 06/18/02. After hearing the evidence and being duly advised, in the (presence/absence) of the defendant, I find that the above named defendant has violated the following condition(s) of probation: (List by number or indicate special condition as provided in the affidavit) 1, 2, 3, 6, 7, 8 & 10

Therefore, IT IS ORDERED that:

☒ the suspended sentence be revoked and the above named defendant be required to serve 90 days months/years, the remainder of the original sentence, and/or pay \$ \_\_\_\_\_.

☒ the suspended sentence be revoked and the above named defendant be required to serve 90 days months/years of the original sentence and/or pay \$ \_\_\_\_\_, thereupon to be reinstated on probation, subject to the conditions set forth in the attached order and not inconsistent with this order.

☐ the above named defendant is continued on probation as provided for in the original sentence, subject to the conditions set forth therein and not inconsistent with this order.

☐ probation is reduced to time served under supervision and the defendant is discharged from supervision on this date.

☒ Additional Conditions ordered by the Court:

terminate Probation

Commitment

7-21-03

☐ The defendant is given credit for pre-arrest detention time on current probation violation to be calculated and applied by the SC Department of Corrections.

☒ The defendant has previously served 0 months/years on this sentence (split sentence time and/or prior partial revocation time)

This 21<sup>st</sup> day of July, 03

Anderson SC

Presiding Judge

10th Judicial Circuit

You are hereby advised that under the law the Court may at any time revoke or modify any condition of this probation; impose any lawful conditions it deems proper; or extend your period of probation not to exceed five (5) years. At any time within the period of your probation, the Court may require you to serve any part of the original sentence imposed.

This is to certify that I have read, or have had read to me, the order and the conditions set out therein. I agree to comply with such conditions and to the conditions of my attached probation order during the period of my probation. I have received a copy of this Court's order and all attachments.

Offender's Signature

Witnessed by

A TRUE COPY

OCT 18 2022

Signed this

21<sup>st</sup> day of

July Year

03 at

Anderson City

CLERK OF COURT



## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

August 04, 2022

The Honorable Jana E. Shealy  
Edgar A. Brown Building  
1205 Pendleton Street  
Suite 224  
Columbia SC 29201

### REMITTITUR

Re: James Millholland, #367569 v. SCDC  
Lower Court Case No. 2019ALJ040492AP  
Appellate Case No. 2020-000521

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

*V. Claire Allen*

CLERK

Enclosure

cc: James Millholland, 00367569  
Kensey Evans, Esquire

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

James Millholland, Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2020-000521

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Appeal From The Administrative Law Court  
Ralph King Anderson, III, Administrative Law Judge

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Opinion No. 5909  
Submitted May 12, 2022 – Filed May 25, 2022

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**REVERSED AND REMANDED**

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James Millholland, pro se.

Kensley Evans, of South Carolina Department of  
Corrections, of Columbia, for Respondent.

---

**PER CURIAM:** James Millholland appeals an order from the Administrative Law Court (ALC) arguing the ALC erred in dismissing his appeal from the South Carolina Department of Corrections (SCDC). Millholland argues SCDC violated his right to due process when it automatically charged him a \$250 processing fee for the collection of his DNA pursuant to the South Carolina DNA Identification Record Database Act<sup>1</sup> (the DNA Act) when he had already submitted a DNA

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<sup>1</sup> S.C. Code Ann. §§ 23-3-600 to -700 (2007 & Supp. 2021).

sample following a previous conviction. We reverse the ALC's dismissal of Millholland's appeal and remand for a hearing on the merits.

In 2016, Millholland was sentenced to nine years' imprisonment for manufacturing methamphetamine. Pursuant to the DNA Act, SCDC charged Millholland a \$250 DNA-sample processing fee, which it deducted from Millholland's inmate trust account. Millholland asserts that he previously gave a DNA sample pursuant to the DNA Act as a condition of his probation served for a previous offense, and therefore, he contends SCDC should not have automatically applied a second \$250 fee. He filed a Step 1 grievance asserting these claims, and when SCDC denied it, he filed a Step 2 grievance arguing SCDC had violated his Fifth Amendment rights. SCDC also denied the Step 2 grievance, and Millholland appealed to the ALC. The ALC summarily dismissed the appeal, finding it lacked subject matter jurisdiction because Millholland's claim did not implicate a state-created liberty or property interest.

Although we believe the specific issue Millholland raises on appeal was not well articulated, in broadly construing his arguments, we find the ALC erred in summarily dismissing Millholland's appeal because his grievance implicated a protected property interest—his inmate trust account. See *Al-Shabazz v. State*, 338 S.C. 354, 369, 527 S.E.2d 742, 750 (2000) ("The requirements of procedural due process apply only to the deprivation of interests encompassed by the Fourteenth Amendment's protection of liberty and property." (quoting *Board of Regents of State Colleges v. Roth*, 408 U.S. 564, 569 (1972))). Although no South Carolina case has addressed this issue, federal courts have consistently found that inmates have a property interest in their inmate accounts. See, e.g., *Campbell v. Miller*, 787 F.2d 217, 222 (7th Cir. 1986) ("It is beyond dispute that Campbell has a property interest in the funds on deposit in his prison account."); *Quick v. Jones*, 754 F.2d 1521, 1523 (9th Cir. 1985) ("There is no question that Quick's interest in the funds in his prison account is a protected property interest."); *Jensen v. Klecker*, 648 F.2d 1179, 1183 (8th Cir. 1981) (stating inmates "obviously have a property interest in the funds on deposit in their inmate accounts"). Thus, we find Millholland's appeal implicated a protected property interest, and the ALC erred in finding it did not have subject matter jurisdiction to hear the appeal. See *Furtick v. S.C. Dep't of Corr.*, 374 S.C. 334, 340, 649 S.E.2d 35, 38 (2007) ("[T]he ALC has jurisdiction over all inmate grievance appeals that have been properly filed; the ALC, however, is not required to hold a hearing in every matter."), *abrogated on other grounds by Howard v. S.C. Dep't of Corr.*, 399 S.C. 618, 733 S.E.2d 211 (2012); *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 331, 605 S.E.2d 506, 508 (2004) (holding summary dismissal is appropriate "where the inmate's grievance does not implicate

a state-created liberty or property interest"); *Quick*, 754 F.2d at 1523 ("Once a protected interest is found, the court must then decide what process is due. This is a question of law."). Accordingly, we find the ALC erred in failing to hold a hearing to determine whether Millholland's due process rights were violated. See *Kiawah Dev. Partners, II v. S.C. Dep't of Health & Envtl. Control*, 411 S.C. 16, 28, 766 S.E.2d 707, 715 (2014) ("[T]he Court may reverse the decision of the ALC where it is in violation of a statutory provision or it is affected by an error of law."). Thus, we reverse and remand to the ALC for a hearing on the merits.

**REVERSED AND REMANDED.<sup>2</sup>**

**THOMAS, MCDONALD, and HEWITT, JJ., concur.**

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<sup>2</sup> We decide this case without oral argument pursuant to Rule 215, SCACR.

AFFIDAVIT  
OF  
JAMES M. MILLHOLLAND

I James Michael Millholland, do solemnly swear, to the best of my knowledge affirm that I submitted a suitable sample of blood (DNA) to SLED for inclusion in the State Database and paid a \$250<sup>00</sup> processing fee as a condition of my 5 year probation sentence in Anderson County, South Carolina for the charge of Burglary in the years of 2000-2003.

x [Signature]

James Millholland 367569  
Allendale C.I. / P3A34  
PO Box 1151  
Fairfax, SC 29827

Sworn and subscribed  
this 14th day of October 2022

x Ashley Vandave / ACI mailroom Admin  
my commission expires Sept 9 2032

seal



October 14, 2022  
Fairfax, SC



**SOUTH CAROLINA**  
DEPARTMENT OF CORRECTIONS  
*Safety, Service, and Stewardship*

HENRY McMASTER, Governor  
BRYAN P. STIRLING, Director

November 9, 2022

The Honorable Ralph K. Anderson, III  
South Carolina Administrative Law Court  
Edgar A. Brown Building, Suite 224  
1205 Pendleton Street  
Columbia, South Carolina 29201

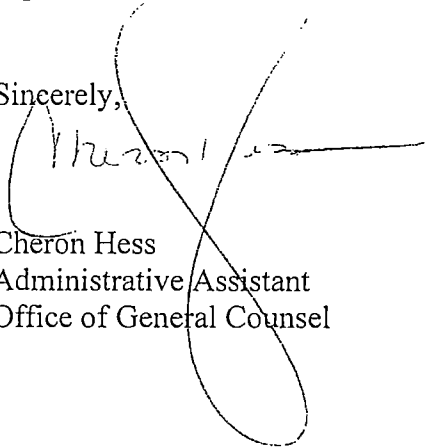
Reference: Inmate James Michael Millholland, #367569, vs. SCDC  
Docket No. 19-ALJ-04-0492-AP

Dear Judge Anderson:

Find enclosed an original and one copy of the *Respondent's Response to Appellant's Additional Arguments* on the above referenced case. Please file the original in your office and return a clocked-in copy to me in the enclosed self-addressed envelope.

If you have any questions or concerns, please do not hesitate to contact me at (803) 896-3922.

Sincerely,

  
Cheron Hess  
Administrative Assistant  
Office of General Counsel

Enclosures

cc: Inmate James Michael Millholland, #367569  
File

**STATE OF SOUTH CAROLINA**  
**IN THE ADMINISTRATIVE LAW COURT**

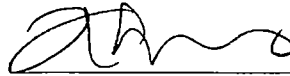
|                                           |                                        |
|-------------------------------------------|----------------------------------------|
| James Millholland, #367569,               | ) Docket No.: 19-ALJ-04-0492-A-AP      |
|                                           | ) [Grievance No.: ACI 174-19]          |
| Appellant,                                | )                                      |
|                                           | ) <i>Hon. Ralph King Anderson, III</i> |
| v.                                        | )                                      |
|                                           | )                                      |
| South Carolina Department of Corrections, | ) <b>RESPONDENT'S RESPONSE</b>         |
|                                           | ) <b>TO APPELLANT'S</b>                |
| Respondent.                               | ) <b>ADDITIONAL ARGUMENTS</b>          |
| _____                                     | ) _____                                |

Appellant filed a document entitled Additional Arguments on October 31, 2022. Included in this filing are a number of arguments that are not properly before this Court. See App. Additional Arguments p. 3. The only question before this Court is whether or not Respondent appropriately charged Appellant for his DNA collection per S.C. Code Ann. § 23-3-670(A). Appellant claims via an affidavit that he previously had a blood sample drawn and paid for during the years 2000-2003 in Anderson County. App. Additional Arguments Attachment D. Appellant has presented no documentation to support this claim, and SCDC has no documentation regarding this claim. As this Court found in its previous March 4, 2020 Order, "A person who is required to provide a sample pursuant to this article, upon conviction, pleading guilty or nolo contendere, or forfeiting bond, must pay a two hundred fifty dollar processing fee which may not be waived by the court." S.C. Code Ann. § 23-3-670(A). After Appellant was convicted for his current offenses, Respondent took the required DNA sample and subsequently collected the processing fee required by the statute. Respondent only collected the fee once. See Affidavit of Debra Long.

Thus, SCDC respectfully requests that this Court affirm SCDC's final agency action.

Respectfully Submitted,

**SOUTH CAROLINA DEPARTMENT  
OF CORRECTIONS**



---

Kensey Evans  
Deputy General Counsel  
S.C. Department of Corrections  
4444 Broad River Road  
Columbia, South Carolina 29221  
(803) 896-8508

Columbia, South Carolina  
November 9, 2022



THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
In The Supreme Court

APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Ralph K. Anderson III, Administrative Law Judge

---

APPELLATE CASE NO. 2022-001765

---

James Millholland 367569

Appellant

v.

South Carolina Dept. of Corrections

Respondent

---

NOTICE OF APPEAL

---

X James Millholland

James Millholland 367569  
Allendale C.I. / F 3A34  
1057 Revolutionary Trail  
PO Box 1151  
Fairfax, SC 29827

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
In The Supreme Court

APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Ralph K. Anderson III, Administrative Law Judge

---

APPELLATE CASE NO. 2022-001765  
ALC Docket Case No. 19-ALJ-04-0492-AP

---

James Millholland 367569

Appellant

V

South Carolina Dept. of Corrections

Respondent

---

NOTICE OF APPEAL

---

James Millholland appeals the Order of the Honorable Ralph K. Anderson III, dated December 5, 2022. Appellant received notice of this order stating that the Department (SCDC) properly followed the DNA law by charging him two times for a one time processing fee and by collecting a second sample of DNA for inclusion in the States (SLED) Database after it was previously included and affirming for the second time the erroneous final agency's

decision of the Department, dated December 8,  
2022.

X James Millholland

James Millholland 367569  
Allendale C.I/F3A34  
PO Box 1151  
Fairfax, SC 29827

December 27, 2022

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
In The Supreme Court

APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Ralph K. Anderson III, Administrative Law Judge

---

APPELLATE CASE NO. 2022-001765

---

James Millholland 367569

Appellant

v.

South Carolina Dept. of Corrections

Respondent

---

PROOF OF SERVICE

I, James Millholland, pro-se, Appellant hereby certify that I have this date served this Notice of Appeal and Motion To Proceed In Forma Pauperis on the parties listed below to this cause by depositing a copy hereof in the United States mail with postage paid, to the address provided by the party and/or their attorney(s)

December 27, 2022

X James Millholland

James Millholland 367569

Allendale C.I./F3A34

PO Box 1151

Fairfax, SC 29827

136

1. Office of General Counsel  
S.C.D.C.

PO Box 21787  
4444 Broad River Road  
Columbia, SC 29221

2. The Honorable Jenny A. Kitchings  
Clerk, SC Court of Appeals  
PO Box 11629  
Columbia, SC 29211

3. Administrative Law Court  
Edgar A. Brown Building  
1205 Pendleton Street, Suite 224  
Columbia, SC 29201

**STATE OF SOUTH CAROLINA  
IN THE ADMINISTRATIVE LAW COURT**

|                                           |   |                                      |
|-------------------------------------------|---|--------------------------------------|
| James Milholland, #367569,                | ) | Docket No.: 19-ALJ-04-0492-AP        |
|                                           | ) | [Grievance No.: ACI 174-19]          |
| Appellant,                                | ) |                                      |
|                                           | ) | <i>Hon. Ralph King Anderson, III</i> |
| v.                                        | ) |                                      |
|                                           | ) |                                      |
| South Carolina Department of Corrections, | ) | RESPONDENT'S MOTION TO               |
|                                           | ) | DISMISS                              |
| Respondent.                               | ) |                                      |
| _____                                     | ) |                                      |

**STATEMENT OF THE CASE**

This matter is before the Administrative Law Court ("ALC" or "Court") pursuant to the appeal of Mr. James Millholland ("Appellant"), an inmate presently incarcerated with the South Carolina Department of Corrections ("SCDC"). On June 25, 2019, Appellant filed a Step One Grievance disputing deductions taken by SCDC money orders sent to Appellant for payment of a DNA processing fee. R. p. 2. Appellant alleged this occurred in violation of policy because he had paid \$250.00 to the State Law Enforcement Division ("SLED") prior to these deductions, and he believed this should have been a one-time fee charged to him. *Id.* Appellant's Step One Grievance was timely reviewed by the Warden and denied based on SCDC Policy OP 21.09: "Inmate Records Plan," whereby "the DNA database is administered under the direction of [SLED] . . . [and] any person incarcerated in SCDC who has been convicted of . . . any of the offenses identified in the DNA Statute will be required to provide a blood sample for inclusion into the State DNA Database" and be required to pay the associated \$250.00 fee.

Appellant then filed a Step Two Grievance in response to the Warden's decision on July 25, 2019 on the same basis. This grievance was denied by the reviewing Responsible Official on September 9, 2019. They informed Appellant that, although he believes the fee is a one-time fee,

“[r]ecords indicate [Appellant was] admitted into SCDC as a New Admission on 03/26/16 . . . [and that n]ew admissions will be assessed the fee as required by SLED.” R. p. 1.

### STANDARD OF REVIEW

The ALC’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). When reviewing SCDC’s decisions in inmate grievance matters, the ALC sits in an appellate capacity. *Id.* at 377, 527 S.E.2d at 754. Subsequently, the Supreme Court of South Carolina clarified the ALC’s appellate jurisdiction over inmate appeals in *Sullivan v. S.C. Dep’t of Corr.*, 355 S.C. 437, 586 S.E.2d 124 (2003). In affirming, as modified, the ALC’s *en banc* decision of *McNeil v. S.C. Dep’t of Corr.*, 02-ALJ-04-00336-AP (September 5, 2001), the Supreme Court of South Carolina held the ALC’s jurisdiction is limited to (1) cases in which an inmate contends prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; (2) cases in which SCDC has taken an inmate’s *state-created* liberty interest in major disciplinary hearings; and (3) cases in which an inmate’s confinement implicates a *state-created* liberty interest. *See Sullivan*, 355 S.C. at 443, 586 S.E.2d at 127 (emphasis added).

Moreover, regarding categories (2) and (3), *supra*, the Supreme Court has consistently emphasized that the liberty – or, under subsequent precedent, property – interest implicated must be one that is *state created*. *See Wicker v. S.C. Dep’t of Corr.*, 360 S.C. 421, 602 S.E.2d 56 (2004) (emphasizing that the ALC’s jurisdiction extends only to those cases involving the denial of “state created liberty interests” and that the Court’s holding “is not to be viewed as expanding the jurisdiction of the [ALC] in any other circumstance.”); *Slezak v. S.C. Dep’t of Corr.*, 361 S.C. 327, 605 S.E.2d 506 (2004) (holding that the ALC “may summarily dismiss those appeals that do not implicate an inmate’s *state created* liberty or property interest”) (emphasis added).

Furthermore, the ALC should not disturb findings of an administrative agency if those



findings are supported by substantial evidence in the record as a whole. *Pearson v. JPS Converter & Ind. Corp.*, 327 S.C. 393, 489 S.E.2d 219 (Ct. App. 1997). Stated differently, an Administrative Law Judge may not substitute his judgment for that of an agency “as to the weight of the evidence on questions of fact.” S.C. Code Ann. § 1-23-380(5) (amended by 2008 Act No. 334, § 5, eff. June 16, 2008). Additionally, “an Administrative Law Judge may not reverse or modify an agency’s decision unless substantial rights of the Appellant have been prejudiced because the decision is clearly erroneous in view of the substantial evidence on the whole Record, arbitrary or affected by an error of law.” *Marietta Garage, Inc. v. S.C. Dep’t. of Pub. Safety*, 337 S.C. 133, 136-37, 522 S.E.2d 605, 607 (1999); see S.C. Code Ann. § 1-23-380(5)(e); see also *S.C. Dep’t. of Labor, Licensing & Regulation v. Girgis*, 332 S.C. 162, 503 S.E.2d 490 (1998).

### ARGUMENT

**I. APPELLANT HAS RAISED NO ARGUMENT CHALLENGING THE CONSTITUTIONALITY OF THE MANNER IN WHICH FUNDS WERE DEDUCTED TO PAY FOR THE \$250.00 DNA FEE ACCRUED IN 2016; THEREFORE, NO STATE-CREATED LIBERTY OR PROPERTY INTERESTS ARE IMPLICATED, AND THIS COURT HAS NO JURISDICTION TO HEAR THE CASE.**

SCDC takes DNA samples from inmates and provides those samples to SLED for inclusion in the State DNA Database in accordance with S.C. Code Ann. § 23-3-620. That statute states, in relevant part, that DNA samples will be required,

(A) Following a lawful custodial arrest, the service of a courtesy summons, or a direct indictment for: (1) a felony offense or an offense that is punishable by a sentence of five years or more . . .

This sample must be taken at a jail, sheriff’s office that serves a courtesy summons, courthouse where a direct presentment indictment is served, or detention facility at the time the person is booked and processed into the jail or detention facility following the custodial arrest, or other location when the taking of fingerprints is required prior to a conviction. The sample must be submitted to SLED as directed by SLED. . . .



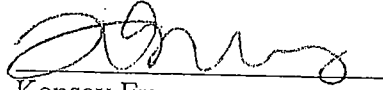
Here, Appellant was readmitted to SCDC custody on March 29, 2016 as a New Admission. Per S.C. Code Ann. §23-3-620(A), Appellant was properly assessed an additional \$250.00 following a lawful custodial arrest. R. p. 1. In his brief, Appellant states the issue presented as follows: “Did the South Carolina Dept. of Corrections [err] when they failed to confirm with SLED that Appellant was already entered into the DNA Database, and that the \$250.00 fee was already paid?” *See* Brief of Appellant, p. 4. Appellant alleges a violation of his 5<sup>th</sup> Amendment rights. *See* Brief of Appellant, p. 1; R. p. 1. Because Appellant did not present any arguments challenging the constitutionality of the actual method by which SCDC deducted amounts to which they are entitled under §23-3-620(A), this Court does not have subject matter to hear this Appeal. *See Travelscape, LLC v. S.C. Dep’t of Revenue*, 391 S.C. 89, 109 705 S.E.2d 28, 38-39 (2011) (where the Court held that the ALC can rule on as-applied challenges to statutes or regulations but not facial challenges to the constitutionality thereof).

In his Step Two Grievance, Appellant states, “I should not have been charged a second time. This is a violation of my 5<sup>th</sup> Amendment right . . . to be free from successive punishment.” R. p. 1. In failing to specifically state why the way in which he was charged was unconstitutional, and instead stating that being charged the \$250.00 DNA fee twice was improper, Appellant has raised a facial challenge to the statute.

### CONCLUSION

Therefore, for the above state reasons, SCDS respectfully requests this Appeal be dismissed.

Respectfully submitted,



Kensey Evans  
Deputy General Counsel  
S.C. Department of Corrections  
4444 Broad River Road  
Columbia, South Carolina 29221  
(803) 896-8508

February 11, 2020  
Columbia, South Carolina

**OMIS****Offender Management System**

## Inmate Request Audit Trail - General

Today's Date: 7/2/19 11:49

Name: MILLHOLLAND, JAMES MICHAEL

Booking #: SCB0037795

Permanent #: SCP0037795

Reference #: 16-172499

Date Requested: 06/11/16 22:41

Request Type:

Requested By: Kiosk

Request Details: CAN YOU PLEASE TELL ME WHY I OWE MEDICAL 250 DOLLARS I THINK THEY HAVE MY ACCOUNT MESSED UP. I ALSO PAID FOR MY DNA IN 1999 WHILE I WAS ON PROBATION FOR BURGLARY AND GRAND LARCONY. WILL YOU PLEASE HELP ME ON THIS MATTER. THERE IS NO WAY THAT I OWE MEDICAL 250 DOLLARS. PLEASE HELP ME GET THIS STRAIT. I DONT GET VERY MUCH MONEY AND CANT AFFORD FOR THEM TO KEEP TAKING IT. THANK YOU FOR YOUR TIME AND ALL YOUR HARD WORK

Review Level: Inmate Financial - Level 1

Disposition: Complete

Officer:

Disposition Date: 06/15/16 08:41

### Request Responses

| Date           | Author  | Note                                                                                        |
|----------------|---------|---------------------------------------------------------------------------------------------|
| 06/15/16 08:42 | c053296 | Mr. Hollandnbspl just sent you the answer to this on your previous request. Thank You! Cook |

### Request Notes

| Date | Author | Note |
|------|--------|------|
|------|--------|------|

### Audit Trail Updates

| Date           | User ID | Original Value        | New Value             | Column Name         |
|----------------|---------|-----------------------|-----------------------|---------------------|
| 06/13/16 16:42 | c011076 | 2016-06-11 22:41:31.0 | 2016-06-11 22:41:00.0 | DATE_REQUESTED      |
| 06/13/16 16:42 | c011076 |                       | INFIN1                | REVIEW_WORKFLOW     |
| 06/13/16 16:42 | c011076 | VISIT                 | INMFIN                | INMATE_REQUEST_TYPE |
| 06/15/16 08:42 | c053296 | PEND                  | COMP                  | DISPOSITION         |
| 06/15/16 08:42 | c053296 |                       | 2016-06-15 08:41:00.0 | DISPOSITION_DATE    |





OMS

Offender Management System

## Inmate Request Audit Trail - General

Today's Date: 7/2/19 11:50

Name: MILLHOLLAND, JAMES MICHAEL

Booking #: SCB0037795

Permanent #: SCP0037795

Reference #: 16-175712

Date Requested: 06/14/16 11:11

Request Type:

Requested By: Kiosk

Request Details: my mental heath counsler at kirkland told me that i owe medical for 250 dollars. i dont know how in the world i owe them that much.ive been in the system only 80 days. can you please check on this for me. i also paid my dna when i was on probation in 1999. they took my dna at the probation office and i paid them already can you please look into this for me. thank you so much

Review Level:

Disposition: Complete

Officer:

Disposition Date: 06/15/16 08:38

## Request Responses

| Date           | Author  | Note                                                                                                                                                                                                                                                                                         |
|----------------|---------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 06/15/16 08:41 | c053296 | Mr. MillhollandAs of 061516 you owe the state a total of \$256.62.The charges you owe for DNA is \$247.15.If you have the paper work showing this was paidnduring your probation, we would need to see them. If your family could get them for you this be helpful.nbspThanknbspyouL Cooknbs |

## Request Notes

| Date | Author | Note |
|------|--------|------|
|------|--------|------|

## Audit Trail Updates

| Date           | User ID | Original Value        | New Value             | Column Name      |
|----------------|---------|-----------------------|-----------------------|------------------|
| 06/15/16 08:41 | c053296 | PEND                  | COMP                  | DISPOSITION      |
| 06/15/16 08:41 | c053296 |                       | 2016-06-15 08:38:00.0 | DISPOSITION_DATE |
| 06/15/16 08:41 | c053296 | 2016-06-14 11:11:45.0 | 2016-06-14 11:11:00.0 | DATE_REQUESTED   |



## Inmate Request Audit Trail - General

Today's Date: 7/2/19 11:50

Name: MILLHOLLAND, JAMES MICHAEL  
 Booking #: SCB0037795  
 Permanent #: SCP0037795

Reference #: 16-177831  
 Date Requested: 06/15/16 17:44  
 Request Type:  
 Requested By: Kiosk

Request Details: mrs cook, the only family members that i have that will do anything for live in atlanta ga so getting them to go to my probation office ans getting my records would be asking a whole lot. besides my dad and grandmother are not able to travel. i was on probat-on in anderson county if there is any ay you could get the information from them for me i would greatly appreciate it. like i said i paid my dna in 1999 while i was on probation in anderson sc thank you

Review Level: Inmate Financial - Level 2 HQ  
 Disposition: Complete  
 Officer:  
 Disposition Date: 06/23/16 11:28

### Request Responses

| Date           | Author  | Note                                                                                                                                                                                                                        |
|----------------|---------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 06/20/16 11:31 | c053296 | Mr. Millholland! understand. I have sent your request to headquarters. This will take some time to research. We ask that you be patient during this time. Headquarters will follow up with you thrunbspthe Kiosk.Thank YouL |
| 06/23/16 14:47 | c044581 | Cooknbsp<br>You will have to write them or call.nbsp                                                                                                                                                                        |

### Request Notes

| Date          | Author  | Note                                                                                                                                          |
|---------------|---------|-----------------------------------------------------------------------------------------------------------------------------------------------|
| 6/20/16 11:34 | c053296 | Mr. Holland said his DNA was paid while he was on probation in 1999. Indicated it was paid at the probation office.<br>Thanks<br>Lydia<br>ACI |

### Audit Trail Updates

| Date           | User ID | Original Value        | New Value             | Column Name      |
|----------------|---------|-----------------------|-----------------------|------------------|
| 06/20/16 11:34 | c053296 |                       | INFIN2                | REVIEW_WORKFLOW  |
| 06/20/16 11:34 | c053296 |                       | 2016-06-20 11:28:00.0 | DISPOSITION_DATE |
| 06/20/16 11:34 | c053296 | 2016-06-15 17:44:37.0 | 2016-06-15 17:44:00.0 | DATE_REQUESTED   |
| 06/23/16 14:47 | c044581 | PEND                  | COMP                  | DISPOSITION      |
| 06/23/16 14:47 | c044581 | 2016-06-20 11:28:00.0 | 2016-06-23 11:28:00.0 | DISPOSITION_DATE |

## Inmate Request Audit Trail - General

Today's Date: 7/2/19 11:51

Name: MILLHOLLAND, JAMES MICHAEL  
 Booking #: SCB0037795  
 Permanent #: SCP0037795

Reference #: 15-281933  
 Date Requested: 09/04/16 17:52  
 Request Type:  
 Requested By: Kiosk

Request Details: I PAID FOR MY DNA IN1999 WHILE I WAS ON PROBATION IN ANDERSON SC. CAN YOU PLEASE CORRECT THIS FOR ME. THANK YOU

Review Level: Inmate Financial - Level 2 HQ  
 Disposition: Complete  
 Officer:  
 Disposition Date: 09/14/16 13:12

### Request Responses

| Date           | Author  | Note                                                   |
|----------------|---------|--------------------------------------------------------|
| 09/14/16 13:13 | c044581 | Please get a receipt from probation for reimbursement. |

### Request Notes

| Date | Author | Note |
|------|--------|------|
|------|--------|------|

### Audit Trail Updates

| Date           | User ID | Original Value        | New Value             | Column Name      |
|----------------|---------|-----------------------|-----------------------|------------------|
| 09/12/16 16:04 | c011076 | 2016-09-04 17:52:21.0 | 2016-09-04 17:52:00.0 | DATE_REQUESTED   |
| 09/12/16 16:04 | c011076 |                       | INFIN2                | REVIEW_WORKFLOW  |
| 09/14/16 13:13 | c044581 | PEND                  | COMP                  | DISPOSITION      |
| 09/14/16 13:13 | c044581 |                       | 2016-09-14 13:12:00.0 | DISPOSITION_DATE |



## Inmate Request Audit Trail - General

Today's Date: 7/2/19 11:50

Name: MILLHOLLAND, JAMES MICHAEL  
Booking #: SCB0037795  
Permanent #: SCP0037795

Reference #: 16-296158  
Date Requested: 09/15/16 19:55  
Request Type:  
Requested By: Kiosk

Request Details: I paid my dna while on probation in anderson county during the year of 1999 and 2000. i have no way of going to the probation office and getting a receipt to show this and my dad and grandmother live in dallas ga and are disabled and therefore are unable to travel 4 hrs one way to get a receipt for me. i am paying for dna for my second time and would greatly appreciate it if you can get the receipt for me so they will stop taking money off my account for something i have paid dearly for already. i am working with a budget with my money because my parents are on a fixed income an anything you can do to help me is greatly appreciated. or please advise me about how or what i can do to fix this thank you

Review Level: Inmate Financial - Level 2 HQ  
Disposition: Complete  
Officer:  
Disposition Date: 09/23/16 09:38

## Request Responses

| Date           | Author  | Note                                                                                                                    |
|----------------|---------|-------------------------------------------------------------------------------------------------------------------------|
| 09/23/16 09:38 | c044581 | You can write them and have them mail you a receipt. nbsp I will look on their web-site and see if they have it posted. |

## Request Notes

| Date | Author | Note |
|------|--------|------|
|------|--------|------|

## Audit Trail Updates

| Date           | User ID | Original Value        | New Value             | Column Name      |
|----------------|---------|-----------------------|-----------------------|------------------|
| 09/20/16 09:39 | c053296 |                       | INFIN2                | REVIEW_WORKFLOW  |
| 09/20/16 09:39 | c053296 |                       | 2016-09-20 09:38:00.0 | DISPOSITION_DATE |
| 09/20/16 09:39 | c053296 | 2016-09-15 19:55:55.0 | 2016-09-15 19:55:00.0 | DATE_REQUESTED   |
| 09/23/16 09:38 | c044581 | PEND                  | COMP                  | DISPOSITION      |
| 09/23/16 09:38 | c044581 | 2016-09-20 09:38:00.0 | 2016-09-23 09:38:00.0 | DISPOSITION_DATE |



## Inmate Request Audit Trail - General

Today's Date: 7/2/19 11:51

Name: MILLHOLLAND, JAMES MICHAEL  
Booking #: SCB0037795  
Permanent #: SCP0037795

Reference #: 16-322946  
Date Requested: 10/10/16 20:57  
Request Type:  
Requested By: Kiosk

Request Details: i am writing because im trying to figure out where my money went. on 10-1 i had 25 dollars put on my books and my balance after dna was taking out was 64 dollars. i went to the store on monday 10-3 for 24dollars. that left my balance at 40 dollars. i checked my account on the phone and it is saying that i only have 26dollars. i dont know if the phone is possibly wrong because i have not been to medical or nothing. we have been locked down so can you please tell me where my money went

Review Level:

Disposition: Complete

Officer:

Disposition Date: 10/17/16 11:08

## Request Responses

| Date           | Author  | Note                                                                                                                                                                                                                                                                 |
|----------------|---------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10/17/16 11:12 | c053296 | Mr. MillhollandSee your transactions below. Hopefully this will help.<br>DATE REF-NUM TYPE DEPOSIT WITHDRAWAL BALANCE<br>817334 CANTEEN PURCH 0.00 26.54<br>COURT 0.00 13.25<br>STATE 26.88<br>CANTEEN PURCH 0.00<br>DNA PROCESS 0.00 1.25<br>64.18 Thank You L Cook |

## Request Notes

| Date | Author | Note |
|------|--------|------|
|------|--------|------|

## Audit Trail Updates

| Date           | User ID | Original Value        | New Value             | Column Name      |
|----------------|---------|-----------------------|-----------------------|------------------|
| 10/17/16 11:12 | c053296 | PEND                  | COMP                  | DISPOSITION      |
| 10/17/16 11:12 | c053296 |                       | 2016-10-17 11:08:00.0 | DISPOSITION_DATE |
| 10/17/16 11:12 | c053296 | 2016-10-10 20:57:39.0 | 2016-10-10 20:57:00.0 | DATE_REQUESTED   |

## Inmate Request Audit Trail - General

Today's Date: 7/2/19 11:55

Name: MILLHOLLAND, JAMES MICHAEL

Booking #: SCB0037795

Permanent #: SCP0037795

Reference #: 19-01272877

Date Requested: 06/08/19 16 58

Request Type:

Requested By: Kiosk

**Request Details:** mrs english , i am writing concerning the fee i paid for dna. i already paid the 250 dollars one time in the year of 2000-2001 while on probation in anderson county . then scdc charged me a second 250 dollars when sled already had my dna. i have wrote siled several times and thus far i have not gotten a response. is there anyway you can tell me who i need to contact and their address. i should not have been charged two times for the same thing. and i request your help in this matter/ please tell me who i need to contact.

**Review Level:**

**Disposition:** Pending

**Officer:**

**Disposition Date:** 06/26/19 08:42

### Request Responses

| Date           | Author  | Note                                                                            |
|----------------|---------|---------------------------------------------------------------------------------|
| 06/10/19 08:43 | c011076 | I am forwarding your request to Ms. Cook in Inmate Financial.<BR><BR>C. English |

### Request Notes

| Date | Author | Note |
|------|--------|------|
|------|--------|------|

### Audit Trail Updates

| Date           | User ID | Original Value                                                                                                                                                                      | New Value                                                                                                                                                                          | Column Name         |
|----------------|---------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| 06/10/19 07:43 | c011076 |                                                                                                                                                                                     | 2019-06-10 08:42:00.0                                                                                                                                                              | DISPOSITION_DATE    |
| 06/10/19 07:43 | c011076 | VISIT                                                                                                                                                                               | INMFIN                                                                                                                                                                             | INMATE_REQUEST_TYPE |
| 06/10/19 07:43 | c011076 | 2019-06-08 16:58:29.493                                                                                                                                                             | 2019-06-08 16:58:00.0                                                                                                                                                              | DATE_REQUESTED      |
| 06/10/19 07:43 | c011076 | PEND                                                                                                                                                                                | COMP                                                                                                                                                                               | DISPOSITION         |
| 06/10/19 07:43 | c011076 |                                                                                                                                                                                     | 0                                                                                                                                                                                  | RESPONSE_AMOUNT     |
| 06/10/19 07:43 | c011076 | com.dsicdiiti.tnt.oms.codetables.<br>REQUEST_DISPOSITIONData@24<br>6cb427(comp_id=com.dsicdiiti.tnt.<br>oms.codetables.<br>CodeTableDataPK@75844bbb<br>[id=PEND,JLocat=DSI_SHARED]) | com.dsicdiiti.tnt.oms.codetables.<br>REQUEST_DISPOSITIONData@39<br>63e385(comp_id=com.dsicdiiti.tnt.<br>oms.codetables.<br>CodeTableDataPK@1d555f7<br>[id=COMP,JLocat=DSI_SHARED]) | DISPOSITION         |
| 06/26/19 10:08 | c011076 | 2019-06-10 08:42:00.0                                                                                                                                                               | 2019-06-26 08:42:00.0                                                                                                                                                              | DISPOSITION_DATE    |
| 06/26/19 10:08 | c011076 | COMP                                                                                                                                                                                | PEND                                                                                                                                                                               | DISPOSITION         |

## Inmate Request Audit Trail - General

Today's Date: 7/2/19 11:55

Name: MILLHOLLAND, JAMES MICHAEL  
 Booking #: SCB0037795  
 Permanent #: SCP0037795

Reference #: 19-01272878  
 Date Requested: 06/08/19 17:04  
 Request Type:  
 Requested By: Kiosk

**Request Details:** i am writing concerning the 250 dollar dna charge that was deducted from my account. i paid sled 250 dollars already one time while i was on probation in anderson county .there has to be some record of this somewhere. then scdc charged me 250 dollars again for the same dna charge. that is a total of two times that i was when i was only supposed to be charged one time. can you please give me the name and address of who i would need to contact to have this matter taken care off thank you

Review Level:  
 Disposition: Complete  
 Officer:  
 Disposition Date: 06/20/19 12:30

### Request Responses

| Date           | Author  | Note                                                           |
|----------------|---------|----------------------------------------------------------------|
| 06/20/19 12:32 | c037463 | please send a request to inmate financial for that information |

### Request Notes

| Date | Author | Note |
|------|--------|------|
|------|--------|------|

### Audit Trail Updates

| Date           | User ID | Original Value                                                                                                                                                                    | New Value                                                                                                                                                                         | Column Name      |
|----------------|---------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| 06/20/19 11:33 | c037463 | 2019-06-08 17:04:36.62 .                                                                                                                                                          | 2019-06-08 17:04:00.0                                                                                                                                                             | DATE_REQUESTED   |
| 06/20/19 11:33 | c037463 |                                                                                                                                                                                   | 2019-06-20 12:30:00.0                                                                                                                                                             | DISPOSITION_DATE |
| 06/20/19 11:33 | c037463 | PEND                                                                                                                                                                              | COMP                                                                                                                                                                              | DISPOSITION      |
| 06/20/19 11:33 | c037463 |                                                                                                                                                                                   | 0                                                                                                                                                                                 | RESPONSE_AMOUNT  |
| 06/20/19 11:33 | c037463 | com.dsicdlii.int.oms.codelables.<br>REQUEST_DISPOSITIONData@30<br>a0dc8d[comp_id=com.dsicdlii.int.<br>oms.codelables.<br>CodeTableDataPK@6f57c5c1<br>[id=PEND,JLocat=DSI_SHARED]] | com.dsicdlii.int.oms.codelables.<br>REQUEST_DISPOSITIONData@78<br>02b8ab[comp_id=com.dsicdlii.int.<br>oms.codelables.<br>CodeTableDataPK@1bd6f1f8<br>[id=COMP,JLocat=DSI_SHARED]] | DISPOSITION      |

## Inmate Request Audit Trail - General

Today's Date: 7/2/19 11:54

Name: MILLHOLLAND, JAMES MICHAEL

Booking #: SCB0037795

Permanent #: SCP0037795

Reference #: 19-01287998

Date Requested: 06/22/19 10:41

Request Type:

Requested By: Kiosk

**Request Details:** mrs. wilkins smith, i am writing to ask for your help. when i was on probation in the year of 2000- and 2001 . i had to pay sled 250 dollars for my dna. they came to the probation office and drew my blood. then when i came to prison in 2016 i was charged again 250 dollars for my dna. sled already had my dna and i had already paid them the 250 dollars. to my understanding i was only supposed to pay the fee one time but scdc took the money out of my account every time i would get money. in the end i ended up paying 500 dollars for a 250 dollars fee. i have been trying to get this taken care of for some time i have wrote mrs english several times and she said that she was forwarding my message to someone else.mrs english also said that i would need proof showing that paid this and i have wrote sled and the probation office several times but they will not respond . i even talked to one of the men form sled in the visitation room office and he said for me to write them. i did again and got no response. i guess what i am tring to say is scdc charged me when my one time fee had already been paid while i served my probation time on a burglary charge in 2000-2001, i ask that my money be refunded from scdc since i have already paid sled one time thank you

**Review Level:****Disposition:** Complete**Officer:****Disposition Date:** 06/26/19 11:52

## Request Responses

| Date           | Author  | Note                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|----------------|---------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 06/26/19 11:53 | c011076 | I am returning this request to you so that you can submil ACCURATE information to A/W Wilkins-Smith.&nbsp;   You have NOT written me several times concerning this issue.&nbsp;   You sent me ONE request that I forwarded to the Inmate Financial category which is where it should have gone to.&nbsp;   I NEVER advised you that you would need "proof" showing this was paid.&nbsp;   SCDC Policy allows up to 45 days to respond to inmate requests.&nbsp;   You sent the original request to me on 6/8/19.&nbsp;   Please allow up to 45 days for a response before duplicating requests to other staff.&nbsp;   Your request will be marked as a "DUPLICATE" and returned to you via the kiosk system if you do not allow the request adequate time to be responded to.<br><BR><BR>C. English |

## Request Notes

| Date | Author | Note |
|------|--------|------|
|------|--------|------|

## Audit Trail Updates

| Date           | User ID | Original Value                                                                                                                                                                    | New Value                                                                                                                                                                         | Column Name      |
|----------------|---------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| 06/26/19 10:53 | c011076 |                                                                                                                                                                                   | 2019-06-26 11:52:00.0                                                                                                                                                             | DISPOSITION_DATE |
| 06/26/19 10:53 | c011076 | 2019-06-22 10:41:24.657                                                                                                                                                           | 2019-06-22 10:41:00.0                                                                                                                                                             | DATE_REQUESTED   |
| 06/26/19 10:53 | c011076 | PEND                                                                                                                                                                              | COMP                                                                                                                                                                              | DISPOSITION      |
| 06/26/19 10:53 | c011076 |                                                                                                                                                                                   | 0                                                                                                                                                                                 | RESPONSE_AMOUNT  |
| 06/26/19 10:53 | c011076 | com.dsicditi.tnt.oms.codetables.<br>REQUEST_DISPOSITIONData@3b<br>42a32e[comp_id=com.dsicditi.tnt.<br>oms.codetables.<br>CodeTableDataPK@29926b3a<br>[id=PEND,JLocat=DSI_SHARED]] | com.dsicditi.tnt.oms.codetables.<br>REQUEST_DISPOSITIONData@46<br>0e2fa9[comp_id=com.dsicditi.tnt.<br>oms.codetables.<br>CodeTableDataPK@59f0c451<br>[id=COMP,JLocat=DSI_SHARED]] | DISPOSITION      |

INPI355D SCDC INMATE FINANCIAL SYSTEM 10/17/22  
 INPI355M INMATE PAYROLL APPLICATION  
 SCDC ID : 367569 DISPLAY INMATE RESTITUTION  
 MILLHOLLAND, JAMES MICHAEL CURR LOC: ALLENDALE

OFFENDER TYPE: ADULT-STRAIGHT  
 TYPE OF RESTITUTION ...: DA DNA PROCESSING PAYEE NOT FOUND  
 FUND .....: 0000 PAYMENTS/DEBITS: 250.00  
 COST CENTER.....: 0000000000 CREDITS .....: 0.00  
 FUNC AREA.....: 0000 BALANCE .....: 0.00  
 ACCOUNT.(BUDGET CLASS): 000000 DEDUCTION TYPE : F FULL PAY  
 DATE INCURRED .....: 03/29/16 PARTIAL AMOUNT : 0.00  
 AMOUNT OF RESTITUTION ..: 250.00 PAYMENT START IND:  
 TEXT .....: DNA BLOOD TEST

UPDATED BY: DATE: HOLD PAYABLE/COOPER: 0.00  
 CREATED BY: READIND DATE: 03/29/16

| --- | TYPE           | DATE     | AMOUNT |
|-----|----------------|----------|--------|
| --- | COOPER PAYMENT | 05/01/18 | 17.30  |
| --- | COOPER PAYMENT | 04/10/18 | 2.25   |
| --- | COOPER PAYMENT | 03/27/18 | 1.50   |
| --- | COOPER PAYMENT | 02/27/18 | 5.00   |
| --- | COOPER PAYMENT | 02/21/18 | 1.00   |

PAGE> 0001

RESTITUTION ADJUSTMENT HISTORY DISPLAYED...  
 PFKEYS: 3:ADDADJ 4:MODADJ ENTER:DISADJ

INPI355D SCDC INMATE FINANCIAL SYSTEM 10/17/22  
INPI355M INMATE PAYROLL APPLICATION  
SCDC ID : 367569 DISPLAY INMATE RESTITUTION  
MILLHOLLAND, JAMES MICHAEL CURR LOC: ALLENDALE  
OFFENDER TYPE: ADULT-STRAIGHT  
TYPE OF RESTITUTION .... DA DNA PROCESSING PAYEE NOT FOUND  
FUND .....: 0000 PAYMENTS/DEBITS: 250.00  
COST CENTER.....: 0000000000 CREDITS .....: 0.00  
FUNC AREA.....: 0000 BALANCE .....: 0.00  
ACCOUNT.(BUDGET CLASS): 000000 DEDUCTION TYPE : F FULL PAY  
DATE INCURRED .....: 03/29/16 PARTIAL AMOUNT : 0.00  
AMOUNT OF RESTITUTION .. 250.00 PAYMENT START IND:  
TEXT .....: DNA BLOOD TEST  
UPDATED BY: DATE: HOLD PAYABLE/COOPER: 0.00  
CREATED BY: READIND DATE: 03/29/16  
--- TYPE ----- DATE ----- AMOUNT -----  
- COOPER PAYMENT 02/06/18 1.00  
- COOPER PAYMENT 02/03/18 1.50  
- COOPER PAYMENT 01/11/18 5.00  
- COOPER PAYMENT 11/28/17 7.50  
- COOPER PAYMENT 10/12/17 0.75

PAGE&gt; 0002

PFKEYS: 3:ADDADJ 4:MODADJ ENTER:DISADJ

INPI355D SCDC INMATE FINANCIAL SYSTEM 10/17/22  
INPI355M INMATE PAYROLL APPLICATION  
SCDC ID : 367569 DISPLAY INMATE RESTITUTION  
MILLHOLLAND, JAMES MICHAEL CURR LOC: ALLENDALE

OFFENDER TYPE: ADULT-STRAIGHT  
TYPE OF RESTITUTION ...: DA DNA PROCESSING PAYEE NOT FOUND  
FUND .....: 0000 PAYMENTS/DEBITS: 250.00  
COST CENTER.....: 0000000000 CREDITS .....: 0.00  
FUNC AREA.....: 0000 BALANCE .....: 0.00  
ACCOUNT.(BUDGET CLASS): 000000 DEDUCTION TYPE : F FULL PAY  
DATE INCURRED .....: 03/29/16 PARTIAL AMOUNT : 0.00  
AMOUNT OF RESTITUTION ..: 250.00 PAYMENT START IND:  
TEXT .....: DNA BLOOD TEST

UPDATED BY: DATE: HOLD PAYABLE/COOPER: 0.00

CREATED BY: READIND DATE: 03/29/16

| --- | TYPE           | ----- | DATE     | ----- | AMOUNT | ----- |
|-----|----------------|-------|----------|-------|--------|-------|
| -   | COOPER PAYMENT |       | 10/05/17 |       | 5.00   |       |
| -   | COOPER PAYMENT |       | 09/26/17 |       | 2.25   |       |
| -   | COOPER PAYMENT |       | 08/18/17 |       | 1.00   |       |
| -   | COOPER PAYMENT |       | 08/01/17 |       | 2.00   |       |
| -   | COOPER PAYMENT |       | 07/25/17 |       | 5.00   |       |

PAGE> 0003

PFKEYS: 3:ADDADJ 4:MODADJ ENTER:DISADJ

INPI355D SCDC INMATE FINANCIAL SYSTEM 10/17/22  
INPI355M INMATE PAYROLL APPLICATION  
SCDC ID : 367569 DISPLAY INMATE RESTITUTION  
MILLHOLLAND, JAMES MICHAEL CURR LOC: ALLENDALE

OFFENDER TYPE: ADULT-STRAIGHT  
TYPE OF RESTITUTION ...: DA DNA PROCESSING PAYEE NOT FOUND  
FUND .....: 0000 PAYMENTS/DEBITS: 250.00  
COST CENTER.....: 0000000000 CREDITS .....: 0.00  
FUNC AREA.....: 0000 BALANCE .....: 0.00  
ACCOUNT.(BUDGET CLASS): 000000 DEDUCTION TYPE : F FULL PAY  
DATE INCURRED .....: 03/29/16 PARTIAL AMOUNT : 0.00  
AMOUNT OF RESTITUTION ..: 250.00 PAYMENT START IND:  
TEXT .....: DNA BLOOD TEST

UPDATED BY: DATE: HOLD PAYABLE/COOPER: 0.00  
CREATED BY: READIND DATE: 03/29/16

| --- | TYPE           | ----- | DATE     | ----- | AMOUNT | ----- |
|-----|----------------|-------|----------|-------|--------|-------|
| -   | COOPER PAYMENT |       | 05/24/17 |       | 100.00 |       |
| -   | COOPER PAYMENT |       | 05/17/17 |       | 2.00   |       |
| -   | COOPER PAYMENT |       | 05/09/17 |       | 2.50   |       |
| -   | COOPER PAYMENT |       | 04/04/17 |       | 2.50   |       |
| -   | COOPER PAYMENT |       | 03/30/17 |       | 3.50   |       |

PAGE&gt; 0004

PFKEYS: 3:ADDADJ 4:MODADJ ENTER:DISADJ

INPI355D SCDC INMATE FINANCIAL SYSTEM 10/17/22  
INPI355M INMATE PAYROLL APPLICATION  
SCDC ID : 367569 DISPLAY INMATE RESTITUTION  
MILLHOLLAND, JAMES MICHAEL CURR LOC: ALLENDALE  
OFFENDER TYPE: ADULT-STRAIGHT  
TYPE OF RESTITUTION ...: DA DNA PROCESSING PAYEE NOT FOUND  
FUND .....: 0000 PAYMENTS/DEBITS: 250.00  
COST CENTER.....: 0000000000 CREDITS .....: 0.00  
FUNC AREA.....: 0000 BALANCE .....: 0.00  
ACCOUNT.(BUDGET CLASS): 000000 DEDUCTION TYPE : F FULL PAY  
DATE INCURRED .....: 03/29/16 PARTIAL AMOUNT : 0.00  
AMOUNT OF RESTITUTION ..: 250.00 PAYMENT START IND:  
TEXT .....: DNA BLOOD TEST  
UPDATED BY: DATE: HOLD PAYABLE/COOPER: 0.00  
CREATED BY: READIND DATE: 03/29/16  
--- TYPE ----- DATE ----- AMOUNT -----  
- COOPER PAYMENT 02/25/17 1.25  
- COOPER PAYMENT 02/24/17 1.25  
- COOPER PAYMENT 02/23/17 1.25  
- COOPER PAYMENT 01/24/17 4.00  
- COOPER PAYMENT 01/04/17 2.50

PAGE&gt; 0005

PFKEYS: 3:ADDADJ 4:MODADJ ENTER:DISADJ

INPI355D SCDC INMATE FINANCIAL SYSTEM 10/17/22  
INPI355M INMATE PAYROLL APPLICATION  
SCDC ID : 367569 DISPLAY INMATE RESTITUTION  
MILLHOLLAND, JAMES MICHAEL CURR LOC: ALLENDALE

OFFENDER TYPE: ADULT-STRAIGHT  
TYPE OF RESTITUTION ...: DA DNA PROCESSING PAYEE NOT FOUND  
FUND .....: 0000 PAYMENTS/DEBITS: 250.00  
COST CENTER.....: 0000000000 CREDITS .....: 0.00  
FUNC AREA.....: 0000 BALANCE .....: 0.00  
ACCOUNT.(BUDGET CLASS): 000000 DEDUCTION TYPE : F FULL PAY  
DATE INCURRED .....: 03/29/16 PARTIAL AMOUNT : 0.00  
AMOUNT OF RESTITUTION ..: 250.00 PAYMENT START IND:  
TEXT .....: DNA BLOOD TEST

UPDATED BY: DATE: HOLD PAYABLE/COOPER: 0.00  
CREATED BY: READIND DATE: 03/29/16

| --- | TYPE           | ----- | DATE     | ----- | AMOUNT | ----- |
|-----|----------------|-------|----------|-------|--------|-------|
| -   | COOPER PAYMENT |       | 12/22/16 |       | 3.00   |       |
| -   | COOPER PAYMENT |       | 12/09/16 |       | 1.25   |       |
| -   | COOPER PAYMENT |       | 11/29/16 |       | 5.00   |       |
| -   | COOPER PAYMENT |       | 11/26/16 |       | 5.00   |       |
| -   | COOPER PAYMENT |       | 11/17/16 |       | 0.50   |       |

PAGE> 0006

PFKEYS: 3:ADDADJ 4:MODADJ ENTER:DISADJ

INPI355D SCDC INMATE FINANCIAL SYSTEM 10/17/22  
INPI355M INMATE PAYROLL APPLICATION  
SCDC ID : 367569 DISPLAY INMATE RESTITUTION

MILLHOLLAND, JAMES MICHAEL

CURR LOC: ALLENDALE

OFFENDER TYPE: ADULT-STRAIGHT

TYPE OF RESTITUTION .... DA DNA PROCESSING

PAYEE NOT FOUND

FUND ..... 0000

PAYMENTS/DEBITS: 250.00

COST CENTER..... 0000000000

CREDITS ..... 0.00

FUNC AREA..... 0000

BALANCE ..... 0.00

ACCOUNT.(BUDGET CLASS).. 000000

DEDUCTION TYPE : F FULL PAY

DATE INCURRED ..... 03/29/16

PARTIAL AMOUNT : 0.00

AMOUNT OF RESTITUTION .. 250.00

PAYMENT START IND:

TEXT ..... DNA BLOOD TEST

UPDATED BY:

DATE:

HOLD PAYABLE/COOPER:

0.00

CREATED BY: READIND

DATE: 03/29/16

--- TYPE -----

DATE ----- AMOUNT -----

- COOPER PAYMENT

10/19/16

35.55

- COOPER PAYMENT

09/28/16

1.25

- COOPER PAYMENT

09/13/16

7.50

- COOPER PAYMENT

08/05/16

1.00

- COOPER PAYMENT

07/14/16

1.25

PAGE&gt; 0007

PFKEYS: 3:ADDADJ 4:MODADJ ENTER:DISADJ

|                                            |                              |                             |
|--------------------------------------------|------------------------------|-----------------------------|
| INPI355D                                   | SCDC INMATE FINANCIAL SYSTEM | 10/17/22                    |
| INPI355M                                   | INMATE PAYROLL APPLICATION   |                             |
| SCDC ID : 367569                           | DISPLAY INMATE RESTITUTION   |                             |
| MILLHOLLAND, JAMES MICHAEL                 |                              | CURR LOC: ALLENDALE         |
| OFFENDER TYPE: ADULT-STRAIGHT              |                              |                             |
| TYPE OF RESTITUTION ...: DA DNA PROCESSING |                              | PAYEE NOT FOUND             |
| FUND .....: 0000                           |                              | PAYMENTS/DEBITS: 250.00     |
| COST CENTER.....: 00000000000              |                              | CREDITS .....: 0.00         |
| FUNC AREA.....: 0000                       |                              | BALANCE .....: 0.00         |
| ACCOUNT.(BUDGET CLASS): 000000             |                              | DEDUCTION TYPE : F FULL PAY |
| DATE INCURRED .....: 03/29/16              |                              | PARTIAL AMOUNT : 0.00       |
| AMOUNT OF RESTITUTION ..: 250.00           |                              | PAYMENT START IND:          |
| TEXT .....: DNA BLOOD TEST                 |                              |                             |
| UPDATED BY:                                | DATE:                        | HOLD PAYABLE/COOPER: 0.00   |
| CREATED BY: READIND                        | DATE: 03/29/16               |                             |
| ---                                        | TYPE                         | DATE                        |
| ---                                        | COOPER PAYMENT               | 07/02/16 7.05               |
| ---                                        | COOPER PAYMENT               | 05/07/16 1.75               |
| ---                                        | COOPER PAYMENT               | 04/02/16 1.10               |

PAGE> 0008

PFKEYS: 3:ADDADJ 4:MODADJ ENTER:DISADJ

STATE OF SOUTH CAROLINA  
**Administrative Law Court**

Ralph K. Anderson, III  
*Chief Judge*

Jana E. Cox Shealy  
*Clerk*



PHONE: (803) 734-0550  
FAX: (803) 734-6400  
WEB: WWW.SCALC.NET

Office of General Counsel  
South Carolina Department of Corrections  
4444 Broad River Road  
P.O. Box 21787  
Columbia, South Carolina 29221

James Millholland, #367569  
Allendale Correctional Institution  
P.O. Box 1151  
Fairfax, SC 29827

Re: Millholland v. South Carolina Department of Corrections, Docket No. 19-ALJ-04-0492-A-AP

Dear Mr. Vincent and Mr. Millholland,

The above-captioned matter originally was filed by James Millholland (Appellant) on September 26, 2019, in the South Carolina Administrative Law Court (Court). Thereafter, on March 4, 2020, the Court issued an Order of Dismissal (Order of Dismissal) which was appealed to the South Carolina Court of Appeals (Court of Appeals). On August 4, 2022, the Court of Appeals reversed and remanded the decision to this Court for a hearing on the merits. However, the Court clearly does not conduct hearings on the merits in these matters. *See Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). Rather, the Court reviews these matters in “an appellate capacity.” *Id.* at 388, 527 S.E.2d at 754. Furthermore, although apparently not recognized by the Department or the Court of Appeals, in the ALC’s Order of Dismissal, the Court addressed the merits of this case in footnote two. Therefore, please notify the Court within thirty (30) days if the parties wish to make additional arguments regarding the merits of this case.

Sincerely,

Ralph King Anderson, III  
Chief Administrative Law Judge

160

CERTIFICATE OF SERVICE

I, Stephanie Perez, hereby certify that I have this date served this letter 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).



---

Stephanie Perez  
Judicial Law Clerk

September 27, 2022  
Columbia, South Carolina

James M. Millholland 367569  
Allendale C.I./F5A114  
PO Box 1151  
Fairfax, SC 29827

October 4, 2022

Ralph K. Anderson III  
Chief Administrative Law Judge  
Edgar A. Brown Building  
1205 Pendleton St., Suite 224  
Columbia, SC 29201

Office of General Counsel  
S.C.D.C.  
4444 Broad River Road  
PO Box 21787  
Columbia, SC 29221

Re: Millholland v. S.C.D.C., Docket No. 19-ALJ-04-0492-A-AP

Dear Mr. Anderson and Mr. Vincent,

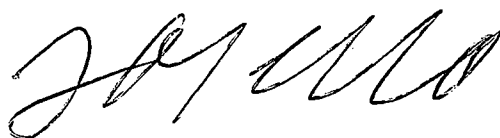
I write in regards to the above captioned matter. I received correspondence from the Administrative Law Judge Ralph K. Anderson dated 9/27/22 which I received on 9/29/22. The letter stated if the parties involved wish to make additional arguments regarding the

162 9. millholland case

merits of this case. I, James Millholland, Appellant,  
respectfully respond, giving notice that I would like to  
make additional arguments and ask for an additional  
30 days to do so.

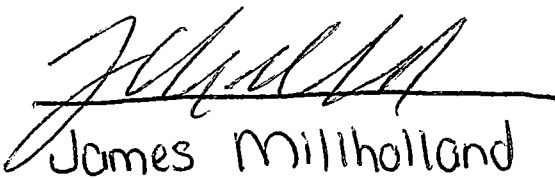
Sincerely,

James Millholland 367569

A handwritten signature in black ink, appearing to read 'J Millholland', with a stylized, cursive script.

## CERTIFICATE OF SERVICE

I, James Millholland, hereby certify that I have this date served this letter upon all parties to this cause by depositing a copy hereof in the United States mail postage prepaid and addressed to the parties involved.

  
James Millholland  
Appellant

October 4, 2022  
Fairfax, SC

SLED

May 3, 2019

RE: DNA

Attachment E

Dear Sir or Madam,

My name is James  
Nichole Millholland. My date of birth is  
[REDACTED] 82 and my SS# is [REDACTED]  
I am writing in regards to the DNA  
that I have been charged two times  
for. In 1999 I was sentenced to 5  
years probation in Anderson County  
S.C. for a 2<sup>nd</sup> Burglary and Grand Larceny.  
While on probation there I had to  
report to their office and give my blood  
to SLED during the years of 2000-2004.  
I was charged \$250<sup>00</sup>. The probation  
office said this payment was for SLED.  
I have tried reaching out to the  
Anderson County Probation Office  
concerning this matter because I need  
to obtain a record of this. Thus far I  
cannot get a response. That is why I  
am writing you. I am now incarcerated  
in the South Carolina Department of  
Corrections. They too have charged  
me again for my DNA. That is a total  
of \$250<sup>00</sup>, two times equaling \$500<sup>00</sup>.



## Attachment E

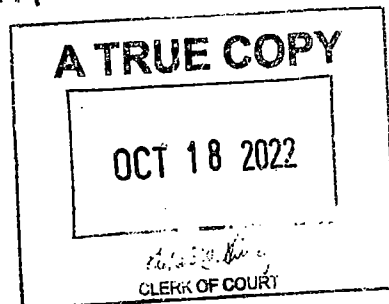
The second time the DOC charged me. To my understanding this is only supposed to be a one time payment. They tell me that I need to write SLED concerning this matter. Can you please respond back to me and send something showing proof that I did already give and pay for my DNA in the year of 2000-2004 while on probation in Anderson County. Thank you for your time. My address is

James M. Millholland 367569  
Allendale C.I. FIASO  
1057 Revolutionary Trail  
Po Box 1151  
Fairfax, SC 29827



Attachment  
B

James Michael Millholland 367569  
Allendale Correctional Inst./F3A34  
1057 Revolutionary Trail  
PO Box 1151  
Fairfax, SC 29827



October 13, 2022

Richard A. Shirley  
Anderson County Clerk of Court  
PO Box 8002  
Anderson, SC 29622

G043178  
G043195

Re: State v. James Millholland

Dear Clerk;

I'm writing concerning the  
2nd Burglary and Grand Larceny that I  
was convicted of in the years of 1999  
to 2001. I can't remember the exact date  
nor do I have access to the warrant  
numbers. That is the reason I write.  
I need to obtain my sentencing sheets  
and other related materials that was  
filed in these two charges. To include  
the restitution that was paid. My  
name is James Millholland (middle Michael)  
SS# [REDACTED], D/O/B [REDACTED] 82. My  
address at the time of arrest was 115

RECEIVED

11-7

18

1/200  
2000-15  
2000-15  
44 USC 11751-1b:18  
Anderson, SC CCC, CP/BS

Central Ave, Honea Path, SC 29654. So I was sentenced to 5 years probation in Anderson County for these charges and I also need a copy of any probation paperwork that was filed with your office concerning the Burglary charge as well.

To explain, as a condition of my probation, I was required to give my DNA to SLED for inclusion in the State Database because the Burglary charge is a violent conviction. While I was serving my sentence on probation, SLED came to the probation office on S. Towers St. in Anderson, right behind the court-house. They had a nurse with them and she took tubes of blood from me and they charged me a \$250 dollar processing fee. I'm trying to find out how I can obtain these records. I need to show the Court that my DNA was taken as a part / condition of my probation. Can you please help me find this documentation. And please forward to me everything that was ever filed with your office concerning this case?

Also can you please Clock Stamp this letter and return it with all the other related materials, to the address above. Thank you for your attention in this matter.

## STATE OF SOUTH CAROLINA

County of Anderson  
STATE VS.James Michael MillhollandAKA: 2003 JURace: W Sex: MDOB: [REDACTED]-82SSN: [REDACTED]SID#: 1281695

## IN THE COURT OF GENERAL SESSIONS

INDICTMENT#:

00 -GS- 04 - 152CW#: W-04-02-0289 (6-18-02)Name of Original Offense: Burglary 2ndConviction S.C. Code §: 16-11-312 BConviction CDR Code #: 0 1 0 1 8 1 6Date of Original Offense: 11-04-99Original Sentence: 15 yrs ss 5 yrs Prob.

## ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 01/20/00 in the Court of General Sessions of Anderson County as set forth in the attached warrant or citation dated 06/18/02. After hearing the evidence and being duly advised, in the (presence/absence) of the defendant, I find that the above named defendant has violated the following condition(s) of probation: (List by number or indicate special condition as provided in the affidavit) 1, 2, 3, 6, 7, 8 - 110

## Therefore, IT IS ORDERED that:

☒ the suspended sentence be revoked and the above named defendant be required to serve 90 days months/years, the remainder of the original sentence, and/or pay \$\_\_\_\_\_.

☒ the suspended sentence be revoked and the above named defendant be required to serve 90 days months/years of the original sentence and/or pay \$\_\_\_\_\_, thereupon to be reinstated on probation, subject to the conditions set forth in the attached order and not inconsistent with this order.

☐ the above named defendant is continued on probation as provided for in the original sentence, subject to the conditions set forth therein and not inconsistent with this order.

☐ probation is reduced to time served under supervision and the defendant is discharged from supervision on this date.

☒ Additional Conditions ordered by the Court:

Term. Prob.

Commitment

7-21-03

☐ The defendant is given credit for pre-arrest detention time on current probation violation to be calculated and applied by the SC Department of Corrections.

☒ The defendant has previously served 0 months/years on this sentence.  
(split sentence time and/or prior partial revocation time)

This 21<sup>st</sup> day of July, 03

Anderson, SC.

Presiding Judge

10th

Judicial Circuit

You are hereby advised that under the law the Court may at any time revoke or modify any condition of this probation; impose any lawful conditions it deems proper; or extend your period of probation not to exceed five (5) years. At any time within the period of your probation, the Court may require you to serve any part of the original sentence imposed.

This is to certify that I have read, or have had read to me, the order and the conditions set out therein. I agree to comply with the conditions and the conditions of my attached probation order during the period of my probation. I have received a copy of this Court's order and all attachments.

Offender's Signature

Witnessed by

A TRUE COPY

OCT 18 2022

Signed this 21<sup>st</sup> day of July, 03, at Anderson, SC

Day Month

Year

City

CLERK OF COURT

Attachment

STATE OF SOUTH CAROLINA

COUNTY OF Anderson

STATE VS JAMES MICHAEL MILLHOLLAND

AKA:

Race: W

Sex: M

DOB: 1/8/82

AGE: 17

SSN: [REDACTED]

SCDL#:

SID: SC01281695

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

~~99-03-04~~

2000 65 04 15-2

A/W#: G043195

Date of Offense: 11/04/99

S.C. Code: 16-11-0311 CDR Code#: 0079

SENTENCE

PLEA ☒ TRIAL ☐

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO:

in violation of

16-11-312B

of the S.C. Code of Laws, bearing CDR Code#

0086

☐ NON-VIOLENT

☒ VIOLENT

☒ SERIOUS

☐ MOST SERIOUS

☐ 17-25-45

The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

David Wagner  
Solicitor

JAMES MICHAEL MILLHOLLAND  
DEFENDANT

Robert Treacy  
Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of Fifteen 15 days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for Five 5 months/years and subject to South Carolina Department of Probation. Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ The Defendant is to be given credit for \_\_\_\_\_ days/months jail time.

☐ CONCURRENT or ☐ CONSECUTIVE to sentences on: \_\_\_\_\_

**SPECIAL CONDITIONS:**

☐ RESTITUTION ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ \_\_\_\_\_ plus 20% fee \$ \_\_\_\_\_

set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_

\*Fine: \_\_\_\_\_ \$

14-1-206 - Assessments 100% ..... \$

14-1-211 - Surcharge ..... \$ 100

(Exceptions: See 14-1-211)

56-5-2995 (DUI) ..... \$

County(3%) ..... \$

TOTAL ..... \$ 100

Clerk of Court/Deputy Clerk: Linda DeShields

Court Reporter: Wanna

PTUP \_\_\_\_\_

\_\_\_\_\_ days/hours Public Service Employment

Obtain GED \_\_\_\_\_

Attend Voc Rehab. or Job Corps \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

Substance Abuse Counseling \_\_\_\_\_

Random Drug/Alcohol Testing \_\_\_\_\_

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_

\$ \_\_\_\_\_ paid to Public Defender Fund.

Other: \_\_\_\_\_

**A TRUE COPY**

OCT 18 2022

CLERK OF COURT

170 PRESIDING JUDGE Frank Egger

Judge Code: 1 0 1 0 1 2

Sentence Date 1/20/2000

Attachment

22

STATE OF SOUTH CAROLINA

COUNTY OF Anderson

STATE VS JAMES MICHAEL MILLHOLLAND)

AKA: \_\_\_\_\_)

Race: W

Sex: M

DOB:       /82

AGE: 17

SSN:       

SCDL#:

SID: SC01281695

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

~~99-03-04~~ 2000 CS04 153

A/W#: G043178

Date of Offense: 11/04/99

S.C. Code: 16-13-0030(B)(1) CDR Code#: 0478

SENTENCE

PLEA ☒ TRIAL ☐In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO:Grand Larceny 1-5000in violation of 16-13-0030(B) of th S.C. Code of Laws, bering CDR Code# 0478☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.David Wagner  
SolicitorJames Millholland  
DEFENDANTRobert [Signature]  
Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of Five 5 ~~days/months~~/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation. Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ The Defendant is to be given credit for \_\_\_\_\_ days/months jail time.☐ CONCURRENT or ☐ CONSECUTIVE to sentences on: \_\_\_\_\_30 days

## SPECIAL CONDITIONS:

☒ RESTITUTION ☐ Heard, ☐ Waived, ☐ OrderedTotal: \$ 1,850.00 plus 20% fee \$ \_\_\_\_\_  
set by SCDPPPS 5671234Recipient: Tammy Baldwin  
453 30th St N Rd  
Home Path SC 29034

\*Fine:.....\$ \_\_\_\_\_

14-1-206 - Assessments 100% .....\$ \_\_\_\_\_

14-1-211 - Surcharge.....\$ 100

(Exceptions: See 14-1-211)

56-5-2995 (DUI).....\$ \_\_\_\_\_

County(3%).....\$ \_\_\_\_\_

TOTAL.....\$ 100Clerk of Court/Deputy Clerk: Linda DeShieldsCourt Reporter: Wan

PTUP \_\_\_\_\_

\_\_\_\_\_ days/hours Public Service Employment

Obtain GED \_\_\_\_\_

Attend Voc Rehab. or Job Corps \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

Substance Abuse Counseling \_\_\_\_\_

Random Drug/Alcohol Testing \_\_\_\_\_

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_

\$ \_\_\_\_\_ paid to Public Defender Fund.

Other: \_\_\_\_\_

A TRUE COPY

OCT 18 2022

[Signature]  
CLERK OF COURTPRESIDING JUDGE Frank EggenJudge Code: 10012Sentence Date 1/20/2000

Attachment

## STATE OF SOUTH CAROLINA

County of Anderson  
STATE VS.James Michael MillhollandAKA: 2003 JDRace: W Sex: MDOB: 82SSN: [REDACTED]SID#: 1281695

## IN THE COURT OF GENERAL SESSIONS

INDICTMENT#:

00 -GS- 04 - 153CW#: W-04-02-0289 (6-18-02)Name of Original Offense: Grand Larceny 1-5000Conviction SIC Code §: 16-13-0080 B1Conviction CDR Code #: 0141718Date of Original Offense: 11-4-99Original Sentence: 5 yrs SPP

## ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 01/20/00 in the Court of General Sessions of Anderson County as set forth in the attached warrant or citation dated 06/18/02. After hearing the evidence and being duly advised, in the (presence/absence) of the defendant, I find that the above named defendant has violated the following condition(s) of probation: (List by number or indicate special condition as provided in the affidavit) 1, 2, 3, 6, 7, 8-110

## Therefore, IT IS ORDERED that:

☒ the suspended sentence be revoked and the above named defendant be required to serve 90 days months/years, the remainder of the original sentence, and/or pay \$ \_\_\_\_\_.

☒ the suspended sentence be revoked and the above named defendant be required to serve 90 days months/years of the original sentence and/or pay \$ \_\_\_\_\_; thereupon to be reinstated on probation, subject to the conditions set forth in the attached order and not inconsistent with this order.

☐ the above named defendant is continued on probation as provided for in the original sentence, subject to the conditions set forth therein and not inconsistent with this order.

☐ probation is reduced to time served under supervision and the defendant is discharged from supervision on this date.

☒ Additional Conditions ordered by the Court:

Term into Probation

Commitment

7-21-03

☐ The defendant is given credit for pre-revocation hearing detention time on current probation violation to be calculated and applied by the SC Department of Corrections.

☒ The defendant has previously served 0 months/years on this sentence (split sentence time and/or prior partial revocation time)

This 21<sup>st</sup> day of July, 03

Anderson, SC.

Presiding Judge

10th Judicial Circuit

You are hereby advised that under the law the Court may at any time revoke or modify any condition of this probation; impose any lawful conditions it deems proper; or extend your period of probation not to exceed five (5) years. At any time within the period of your probation, the Court may require you to serve any part of the original sentence imposed.

This is to certify that I have read, or have had read to me, the order and the conditions set out therein. I agree to comply with such conditions and the conditions of my attached probation order during the period of my probation. I have received a copy of this Court's order and all attachments.

Offender's Signature

Witnessed by

Signed this 21<sup>st</sup> day of July, 03 at Anderson

Day Month Year City

28 172

A TRUE COPY

OCT 18 2022

Richard D. Bivins  
CLERK OF COURT

AFFIDAVIT  
OF  
JAMES M. MILLHOLLAND

I James Michael Millholland, do solemnly swear, to the best of my knowledge affirm that I submitted a suitable sample of blood (DNA) to SLED for inclusion in the State Database and paid a \$250<sup>00</sup> processing fee as a condition of my 5 year probation sentence in Anderson County, South Carolina for the charge of Burglary in the years of 2000-2003.

x [Signature]  
James Millholland 367569  
Allendale C.I. / P3A34  
PO Box 1151  
Fairfax, SC 29827

Sworn and subscribed  
this 14th day of October 2022

x Asheep Vance / ACI main room Admin  
my commission expires Sept 9 2032

seal



October 14, 2022  
Fairfax, SC

CERTIFICATE  
OF  
APPELLANT

Pursuant to Rule 210 (g), SCACR, Appellant hereby certifies that this Record of Appeal contains all material to be included by any of the parties and not any other material.

Respectfully Submitted,

James Millholland 367569

Appellant

Allendale C.I. / F1 A08

1057 Revolutionary Trail

PO Box 1151

Fairfax, SC 29827

April 17  
Fairfax, SC

, 2023

**RECEIVED**

APR 19 2023

SC Court of Appeals