

SOUTH CAROLINA COURT OF APPEALS

JOSH JETER # 314407

CASE No: 13 C0390

PETITIONER,

v.

THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

NOTICE FOR APPEAL OF JUDGEMENT  
OF ALC

DEFENDANT,

**RECEIVED**

JUN 19 2013

ARGUMENT OF FACTS

**SC Court of Appeals**

I JOSH JETER # 314407 PRO SE PETITIONER RESPECTFULLY MOVE BY AND THROUGH THIS COURT FOR THE PURPOSE TO REQUEST THAT THIS COURT OPEN THIS CASE AND GRANT THIS MOTION FOR THE REVIEWING OF THE VIOLATION BY JUDICIAL REVIEWING WILL SHOW THAT PETITIONER DUE PROCESS HAS BEEN OPENINGLY VIOLATED. THE ADMINISTRATIVE LAW COURT DISMISS THE CASE, STATING THAT PETITIONER DIDN'T MEET THE STANDARDS FOR ALL VIEWING.

THE ALC'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). SUBSEQUENTLY, THE SUPREME COURT CLARIFIED THE ALC'S APPELLATE JURISDICTION OVER INMATE APPEALS IN SIEZAK V. SCDL 355 S.C. 437, 586 S.E. 2d 124 (2004). THE SUPREME COURT HELD THAT, ALTHOUGH THE ALC HAD JURISDICTION OVER ALL PROPERLY PERFECTED INMATE APPEALS, THE ALC MAY SUMMARILY DECIDE THOSE APPEALS THAT DO NOT IMPLICATE AN INMATES STATE-CREATED LIBERTY OR PROPERTY INTEREST.

THE PETITIONER (LIBERTY PERSON) IS BEING SUBJECTED TO CRUEL AND UNUSUAL PUNISHMENT, NOT GETTING PROPER VENTILATION, FOOD, NO JOB PERFORMANCE, ATTENDING RELIGIOUS SERVICES, STATE-CREATED VISITATION, PHONE CALLS, CANTEEN HAS ALL BEEN TAKEN FOR SUCH IMPROPER INFRACTION OF DHO HEARING, PETITIONER DUE PROCESS RIGHTS WERE VIOLATED, UNABLE TO HAVE CELL-CHART SHOWING THAT PETITIONER WAS IN BED ASLEEP AT THE TIME OF THE INFRACTION WAS STATED, FAILURE TO HAVE WITNESS. PETITIONER HAS LIFE SENTENCE, MORESO; THESE INFRACTIONS EFFECT PETITIONER LIBERTY AGAIN DUE TO HE WILL NOT BE ABLE TO ADVANCE IN LEVEL AS TOO A LEVEL TWO (2) PRISON. THEREFORE PETITIONER DO HAVE RIGHTS UNDER STATE/FEDERAL LAWS TO BE FREE FROM THESE TYPE OF VIOLATIONS, AND WITH RESPECT TO SUCH RIGHTS GIVEN BY LAW TO PETITIONER, HE RESPECTFULLY MOVES, BY AND THROUGH THIS COURT TO REVIEW SUCH VIOLATIONS OF THE PETITIONER, WRIGHT V. ENOMOTO 462 F. SUPP 397 COURT HELD THAT PRINCIPLES OF DUE PROCESS REQUIRE THAT BEFORE AN INMATE IS PLACED IN ADMINISTRATIVE SEGREGATION, HE MUST BE AFFORDED PROMPT WRITTEN NOTICE OF THE REASONS FOR HIS CONFINEMENT, AN OPPORTUNITY TO PREPARE A DEFENSE, A FAIR AND EXPEDITIOUS HEARING AT WHICH TO PRESENT EVIDENCE, REPRESENTATION BY A COUNSEL-SUBSTITUTE WHEN APPROPRIATE, AND A WRITTEN DECISION BY THE HEARING PANEL. U.S. CONST. ART I SEC. 17

### STATEMENT OF CASE

ON 2/5/13 PETITIONER WAS UNKNOWINGLY WRITTEN UP FOR THE DISCIPLINARY INFRACTION OF 854 EXHIBITIONISM AND PUBLIC MASTURBATION. PETITIONER PLEADED NOT GUILTY AND WAS AFFORDED COUNSEL SUBSTITUTE. AT DISCIPLINARY HEARING COUNSEL SUBSTITUTE UPON REQUEST FROM PETITIONER SUBMITTED HIS CELL CHART AS EVIDENCE TO SHOW THAT THIS WAS A CASE OF MISIDENTIFICATION

AT THE DISCIPLINARY HEARING PETITIONER GAVE A STATEMENT AS TO WHAT HAPPENED ON THE DAY AT HAND AND WENT ON TO EXPLAIN THAT HE WAS IN BED SLEEP AT TIME OF ALLEGED INCIDENT AND TO SOLIDIFY HIS DEFENSE COUNSEL SUBSTITUTE READ OFF PETITIONER CELL CHART AS FOLLOWS "ON 2/5/13 AT 11:40 P.M. THE CHART WAS MARKED IN BED SIGNED BY F. ROGERS" WHO IS ALSO THE CHARGING OFFICER. PETITIONER WAS FOUND GUILTY ON 2/14/13 AND GIVEN 365 DAYS OF DISCIPLINARY DETENTION TIME (ADMINISTRATIVE SEGREGATION) AND VISITATION WAS TAKEN FOR 725 DAYS AS WELL AS PHONE AND CANTEEN PRIVILEGES. STEP ONE GRIEVANCE WAS FILED ON 2/17/13 DENIED ON 3/27/13, STEP 2 GRIEVANCE WAS FILED 4/14/13 AND DENIED. TIMELY NOTICE OF APPEAL TO ALL FOLLOWED AND DISMISSED ON 5/31/13.

### ARGUMENT

DHO TURNER FAILED TO TREAT THE DISCIPLINARY HEARING WITH FUNDAMENTAL FAIRNESS. AT HEARING PETITIONER PRESENTED EVIDENCE (CELL CHART) FOR HIS DEFENSE WHICH WAS READ ON RECORD BY COUNSEL SUBSTITUTE. OFFICER F. ROGERS THE CHARGING OFFICER IN THIS CASE CAME AROUND THE DORM AT 11:40 P.M. DOING HER INMATE SECURITY CHECK. OFC. ROGERS JOB IS TO LOOK INTO INMATES CELLS THEN RECORD THEIR BEHAVIOR ON CELL CHART SIGN AND DATED. ON PARTICULAR DAY 2/5/13 AT 11:40 P.M. WHEN OFC. ROGERS CAME AROUND DOING HER CHECK SHE RECORDED MY BEHAVIOR AS IN BED AT 11:40 P.M. SIGNED AND DATED AND THIS IS ALSO THE SAME TIME THE INCIDENT HAPPENED. THIS WAS PRESENTED TO DHO TURNER WHO STILL FOUND ME GUILTY OF CHARGE DUE TO OFC. REPORT WHICH VIOLATED MY DUE PROCESS TO A FAIR TRIAL. IT IS CLEAR FROM THE EVIDENCE PRESENTED THAT PETITIONER PROVED HE WAS MISIDENTIFIED BY OFC. ROGERS, BUT DHO TURNER TOOK IT UPON HIS OWN CONSIDERATION TO RULE IN THE OFC. FAVOR EVEN THOUGH THEY WERE NOT PRESENT AND PETITIONER PRESENTED FACTUAL/ CONTRADICTING EVIDENCE TO THE OFC. REPORT WHICH SHOULD HAVE

LEAD TO FINDING PETITIONER NOT GUILTY BECAUSE IT IS A FACT PETITIONER CANNOT BE IN BED AND MASTURBATING AT THE DOOR AT THE SAME TIME.

CONCLUSION

FOR THE FOREGOING REASON, THE JUDGEMENT SHOULD BE REVERSED AND REMANDED FOR REVIEW, OR ANY OTHER RELIEF TO WHICH PETITIONER MAY BE ENTITLED

RESPECTFULLY SUBMITTED,

Josh Jeter # 314407

JOSH JETER # 314407

430 OAKLAWN RD.

PELZER, S.C. 29669

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I, JOSH JETER # 314407  
ON THE 13TH DAY OF THE JUNE, 2013, IN PELZER 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 MAILROOM OF  
THE UNDERSIGNED INSTITUTION AND ADDRESSED AS FOLLOWS:

NAME OF PERSON/AGENCY SERVED: DEPARTMENT OF GENERAL COUNSEL / SC. COURT OF APPEALS  
ADDRESS: P.O. BOX 21757 / P.O. BOX 11629

CITY, STATE, ZIP CODE: COLUMBIA, S.C. 29221 / COLUMBIA, S.C. 29211

JOSH JETER # 314407

PERRY C.I. (6-7-7)

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S.C. COURT OF APPEALS

JENNY ABBOTT KITCHINGS, CLERK

P.O. Box 11629

COLUMBIA, S.C. 29211

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JUN 14 2013

P.C.I. MAILROOM



PITNEY BOWES

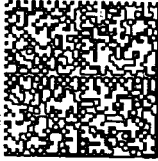
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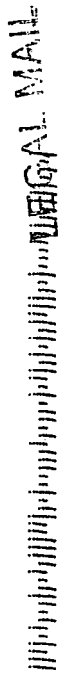


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