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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT

Honorable Carolyn C. Matthews

Case No.: 12-ALJ-04-0115-AP

Richard Ridley, #285091.....Respondent,

v.

South Carolina Department of Corrections,.....Appellant.

RECORD ON APPEAL

June 6, 2013

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Attorney for Appellant

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Pro Se Attorney for Respondent

RECEIVED

JUN 10 2013

SC Court of Appeals

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Honorable Carolyn C. Matthews

Docket No.: 12-ALJ-04-01115-AP

Richard Ridley, #285091.....Respondent,

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NOV - 5 2012

FILED

NOV 02 2012

GENERAL COUNSEL

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

SC ADMIN. LAW COURT

Richard Ridley, #285091,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

Docket No. 12-ALJ-04-0115-AP
Grievance No. LCI 2352-11

ORDER

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to the Notice of Appeal filed by Appellant (Inmate) above named, who is incarcerated with the South Carolina Department of Corrections (SCDC or Department).

Inmate appeals the decision of SCDC in his Step 2 Grievance in which his conviction for Possession of Any Cell Phone or Other Type of Communication Device (898) SCDC Policy OP-22.14, Inmate Disciplinary System, was affirmed. Inmate lost 100 days of good time credit, therefore a liberty interest is involved. Inmate appeals on the grounds that he was denied due process and that there was no substantial evidence to support the decision of the Department.

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). The Court's appellate jurisdiction in inmate appeals is 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.

When reviewing the Department's decisions in inmate grievance matters, the Court sits in an appellate capacity. Id. at 756. Consequently, the review in these cases is limited to the record presented.

LAW/ANALYSIS

Since a state created liberty interest is involved, it is necessary to determine if Inmate received the process he was due. It is well settled that SCDC must meet certain minimum constitutional requirements for procedural due process in matters where an inmate is disciplined for serious misconduct. Al-Shabazz, 527 S.E.2d at 750. However, these requirements must be balanced against the need to maintain an orderly and safe prison environment. Id. To that end, the Supreme Court has enunciated the following five requirements which, if established, will ensure procedural due process in inmate disciplinary matters:

(1) that advance written notice of the charge be given to the inmate at least twenty-four hours before the hearing; (2) that factfinders must prepare a written statement of the evidence relied on and reasons for the disciplinary action; (3) that inmate should be allowed to call witnesses and present documentary evidence; (4) that counsel substitute...should be allowed to help illiterate inmates or in complex cases an inmate cannot handle alone; and (5) that the persons hearing the matter, who may be prison officials or employees, must be impartial.

Al-Shabazz, 527 S.E.2d at 751, citing Wolff v. McDonnell, 418 U.S. 539, 563-72, 94 S.Ct. 2963, 2978-82 (1974).

Applying those requirements to the record in this case we find the following:

Inmate was served with notice of the charge on October 3, 2011 and the hearing was held on October 5, 2011. The Disciplinary Report and Hearing Record shows reliance on testimony from Sergeant Epps. The Disciplinary Report and Hearing Record show that the reason for the action taken is the nature of the offense. Inmate was given the opportunity to make any statements and present witnesses. Inmate does not raise as an issue the absence of Counsel Substitute. There is nothing in the record to suggest that the Hearing Officer was otherwise than neutral or detached.

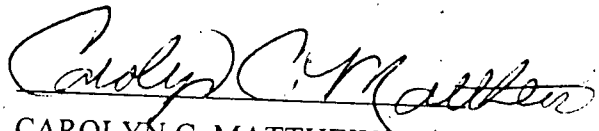
The disciplinary charge is based upon the report of Sergeant Epps. Sergeant Epps reported that during a shakedown of Inmate's room, he found instructions on how to use a cell phone. Inmate asserts that there is not substantial evidence to uphold the conviction because he was only found with a scrap of paper which contained notes that referenced cell phone buttons. A review of the transcript affirms that the charge was based on the evidence and testimony that Inmate had a piece of paper which contained cell phone

instructions. The Department asserts that this is ample evidentiary support to uphold the conviction. The Department alleges that the charge for 898 includes someone who "facilitates" a cell phone's use or possession. However, the Department fails to cite the language from the policy that would include the evidence in this case as supporting the charge. Therefore, the Hearing Officer's conclusion that Appellant is guilty of the offense of Possession of Any Cell Phone or Other Type of Communication Device is not supported by the substantial evidence on the whole record.

Therefore, **IT IS ORDERED** that the order appealed from is **REVERSED** and that all sanctions imposed and privileges denied as a result of the disciplinary conviction shall be immediately restored.

AND IT IS SO ORDERED.

November 2, 2012
Columbia, South Carolina


CAROLYN C. MATTHEWS
S.C. Administrative Law Court

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or in the Interagency Mail Service addressed to the party(ies) or their attorney(s).

This 2 day of November 2012
By: Paye P. Ayde
Judicial Law Clerk

FILED

JUN 20 2012

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

SC ADMIN. LAW COURT

Richard Ridley, # 285091,

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

) Docket No.: 12-ALJ-04-00115-AP

)

) RESPONDENT'S BRIEF

)

) Honorable Carolyn Matthews

)

)

)

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JUN 22 2012

STATEMENT OF THE CASE

GENERAL COUNSEL

This matter is before the Administrative Law Court ("ALC") pursuant to the appeal of Richard Ridley ("appellant"), an inmate incarcerated with the South Carolina Department of Corrections ("SCDC"). Appellant filed a Step One Grievance on October 6, 2011, challenging his disciplinary conviction for the Possession of Any Cell Phone or Other Type of Communication Device, 898 under SCDC Policy OP-22.14, Inmate Disciplinary System. This grievance was investigated and denied. Appellant filed a Step Two Grievance on December 8, 2011. This grievance was also investigated and denied. Appellant now appeals, claiming his disciplinary conviction is the result of due process violations. For the reasons that follow, SCDC respectfully requests the disciplinary conviction be upheld.

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). Subsequently, the Supreme Court clarified the ALC's appellate jurisdiction over inmate appeals in Sullivan v. SCDC, 355 S.C. 437, 586 S.E.2d 124 (2003). In affirming, as modified, the ALC's en banc decision of McNeil v. SCDC, 02-ALJ-04-00336-AP

(September 5, 2001), the Supreme Court held the ALC's jurisdiction was limited to cases in which inmates contend prison officials have erroneously calculated their sentences, sentence-related credits, or custody status; cases in which SCDC has taken inmates' state-created liberty interest as punishment in major disciplinary hearings; or cases in which inmates' confinement implicates a state-created liberty interest.¹ See Sullivan at 443, 586 S.E.2d at 127.

A reviewing court will not disturb findings of an administrative agency if those findings are supported by substantial evidence on record as a whole. Pearson v. JPS Converter & Industry Corp., 327 S.C. 393, 489 S.E.2d 219 (Ct. App. 1997). "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 (Ct. App. 1996). 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, 461 S.E.2d 388 (1995). Administrative agencies are afforded wide latitude in making decisions, as shown in the deferential standard of appellate review. Heater of Seabrook, Inc. v. Public Service Commission of S.C., 332 S.C. 20, 503 S.E.2d 739 (1998).

ARGUMENT

APPELLANT WAS AFFORDED DUE PROCESS

Prison disciplinary cases are not criminal trials in federal or state courts; they are

¹ As the Court notes, such an interest "will generally be limited to freedom from restraint which...imposes atypical or significant hardship on the inmate in relation to the ordinary incidents of prison life." Sullivan, at 128 n.5 (citing Sandin v. Conner, 515 U.S. 472, 484 (1995)). This analysis had previously been applied by the ALC in determining whether an inmate's custody status implicated the inmate's due process rights.

administrative hearings in an institutional setting. Therefore, Due Process in prison disciplinary hearings is substantially less than in a trial before a court. Due Process, as the Supreme Court has noted in Wolff v. McDonnell, 418 U.S. 539, 566, 94 S.Ct. 2963, 2978-2982 (1974), requires the following in prison disciplinary cases:

- a) notice of charges;
- b) disclosure of evidence against defendant (may be limited);
- c) opportunity to be heard;
- d) no right to confront and cross-examine adverse witnesses;
- e) neutral and detached hearing body;
- f) aid of counsel substitute or other substitute aid where inmate is illiterate or complex case (not attorney);
- g) written statement by the fact-finder as to the evidence relied upon.

These requirements were complied with in this appeal. The Disciplinary Report and Hearing Record shows Appellant had notice of the charges (the Possession of Any Cell Phone or Other Type of Communication Device), disclosure of evidence (Disciplinary Offense Report was read), opportunity to be heard (hearing on October 5, 2011), a neutral and detached hearing body (hearing officer), and a written statement of findings (Major Disciplinary Report and Hearing Record).

There was ample evidentiary support for the disciplinary conviction. Sergeant Epps reported that during a shakedown of Appellant's room, Sergeant Epps found instructions on how to use a cell phone. The charge of Possession of a Cell Phone includes someone who "facilitates" a cell phone's use or possession. After hearing all of the evidence presented, the disciplinary hearing officer found Appellant was guilty based on Sergeant Epp's report and a copy of the evidence. See Superintendent, Massachusetts Correctional Institution, Walpole v. Hill, 472 U.S. 445, 455-56 (1985) ("The relevant question is whether there is any evidence in the record that could support the conclusion.

reached by the disciplinary board.")²

Therefore, because the disciplinary hearing complied with due process requirements, SCDC respectfully requests its final agency decision be upheld.

**RESPONDENT'S FINAL AGENCY DECISION IS SUPPORTED
BY SUBSTANTIAL EVIDENCE**

The record conclusively establishes that the "substantial evidence on the whole record" supports SCDC's final agency decision. The hearing officer found Appellant guilty based on the evidence. Appellant cannot show that the decision of SCDC was clearly erroneous, or arbitrary or capricious, or an abuse of discretion, in view of the substantial evidence on the whole record. See Porter v. Public Service Comm'n, 333 S.C. 12, 507 S.E. 2d 328 (1998).

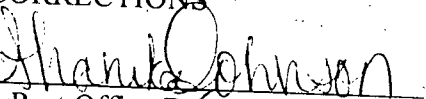
CONCLUSION

Based on the foregoing reasons and legal authorities, SCDC respectfully requests that the final agency decision be affirmed and this matter be dismissed with prejudice.

SHANIKA JOHNSON
Staff Attorney

SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS

BY:



Post Office Box 21787
4444 Broad River Road
Columbia, South Carolina 29221
(803) 896-1943

June 19, 2012
Columbia, SC

² In Hill, the Court further elaborated, "The fundamental fairness guaranteed by the Due Process Clause does not require courts to set aside decisions of prison administrators that have some basis in fact. Revocation of good time credits is not comparable to a criminal conviction, and neither the amount of evidence necessary to support such a conviction, nor any other standard greater than some evidence applies in this context." Id. (citations omitted).

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

Due 12/12/11

INMATE NAME: Richard Ridley
SCDC NUMBER: 285091
INSTITUTION: Lee OCT 06 2011
HOUSING UNIT: Sumter South 1140
WORK ASSIGNMENT: Kitchen

Office Use Only
Grievance No. Lee I 2352-11
Code: General _____
Policy _____
Disc. Hear ☒ _____
Class. _____
Date Received 10/2/11
IGC Initials JS

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

I was found guilty of Possessing A Cell Phone by Mrs Patterson because I had A piece of Paper with phone Number on It Attached to the Word Edit. A Paper that I have had For years that I wrote. No cell phone on Any type of device was found In my possession or Is Even mentioned In my write up. Op 22:14 898. States Possession of Any cell Phone or other type of Communication device or components of device.

ACTION REQUESTED: A Paper that I wrote cannot possibly be Part of A device or even A component of A device. There Is No Evidence to support the charge of 898. This charge should be dismissed with All my privileges restored.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Disciplinary Hearing

Richard Ridley 10-5-11
Grievant Signature Date

ACTION TAKEN BY-IGC:

Reviewed case and considered reasons for appeal. There was substantial compliance with institutional standards and procedures. The decision of the DHO was based on substantial evidence and under the circumstances, the sanctions imposed were proportionate to the rule violation. Therefore, I am recommending the conviction be upheld. See Warden's response.

☒ I accept the action taken by the IGC and consider the matter closed.
☐ I do not accept the action taken and wish to appeal.

James H. [Signature] 10
IGC Signature Date

[Signature]
Grievant Signature Date

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM**

STEP 2

115

INMATE NAME: Richard Ridley
 SCDC NUMBER: 285091
 INSTITUTION: Lee CF
 HOUSING UNIT: Prison #1 Dur. N. 1133
 WORK ASSIGNMENT: _____

DEC 15 2011

INMATE GRIEVANCE

DEC 08 2011

Office Use Only

Grievance No. Lee CF 2352-11

Code: General _____

Policy _____

Disc. Hear. 898 4/5/11 #3

Class. _____

Date Received 12/2/11

IGC Initials 2

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

(Possessing a Cellphone) But Never had one. Sgt Epps charged Me for A piece of Paper that I had 3 phone #'s on with the word Edit And done that I wrote myself. He said this scrap paper was Instructions on how to use A cell phone And charged me for It based on A scrap paper.

898 says possession of Cell phone or other device or Part of A device A scrap paper that I write on. Is none of these. This Is clearly A Misinterpretation of the evidence. ~~There is no evidence that I had a cell phone.~~

~~There is no evidence that I had a cell phone.~~ I had no cellphone Period !!!

Richard Ridley 12-6-11
 Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

The documentation provided indicates that the evidence presented was sufficient to support the conviction of the Possession of Any Cell Phone or Other Type of Communication Device (898) on October 5, 2011, under SCDC OP-22.14, Inmate Disciplinary System, dated September 1, 2009, and the sanction(s) imposed, which included the loss of -100- days accrued good time, were appropriate for the rules violation(s). There was no reason found to warrant a lesser sanction. A review of your appeal revealed that you received twenty-four (24) hour notice prior to the hearing, you were afforded due process rights, as required, and the offense was classified and heard in a timely manner.

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.

Signature

Date

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

Date

IGC Signature

Date

11

(SEE REVERSE SIDE FOR INSTRUCTIONS)

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
DISCIPLINARY REPORT AND HEARING RECORD**

Case#: 32133 Inmate Name: Richard Ridley SCDC#: 285091
 Living Area: SUM - 1140 Job: N/A Custody: MI3
 Offense Date: 09 / 23 / 11 Offense Time: 11:28AM AM/PM Institution: LEE CI

Offense Description:
 898 - Possession of any cell phone or other type of communication device.
 817 - Possession of Contraband

Charging Officer/Employee: L. Epps Title: Sgt
INMATE NOTIFICATION: YOU WILL APPEAR BEFORE A HEARING OFFICER 24 HOURS OR MORE AFTER YOUR RECEIPT OF THIS NOTICE. YOU HAVE THE RIGHT TO SUBMIT A WRITTEN STATEMENT AND MAKE A VERBAL STATEMENT.

INMATE WAIVERS:

- ☐ I GIVE UP MY RIGHT TO 24-HOUR NOTICE AND AUTHORIZE THE HEARING OFFICER TO PROCEED WITH THE HEARING
☐ I DO NOT WANT TO BE PRESENT AT MY HEARING
☒ I DO WANT MY ACCUSER PRESENT AT THE HEARING
☐ I DO NOT WANT MY ACCUSER PRESENT AT THE HEARING
- 12.9
- ☐ I WAIVE MY RIGHT TO A HEARING
SMU/SEGREGATION ONLY
☐ I WANT A COUNSEL SUBSTITUTE
☐ I DO NOT WANT A COUNSEL SUBSTITUTE

Date & Time Notified: 10.3.11 7:59 AM/PM By (Print): Sgt. Simon
 Inmate Signature: R. Ridley SCDC#: 285091 Date: 10.3.11

HEARING INFORMATION:

Hearing Date: 10.5.11 Hearing Time: 12:35 am/pm Tape: 055 Side: B Start: 372 End: 464

EXPLAIN BELOW BY NUMBER: (1) IF COUNSEL SUBSTITUTE WAS NOT PRESENT DURING PART OF THE HEARING; (2) IF ACCUSED WAS EXCLUDED FROM ANY PART OF THE EVIDENCE STAGE; IF ANY (3) WITNESSES, (4) DOCUMENTATION, OR (5) EVIDENCE WAS EXCLUDED FROM THE HEARING; OR (6) IF INMATE WAS DENIED CONFRONTATION QUESTIONING AND/OR CROSS EXAMINATION OF A WITNESS AT THE HEARING

OFFENSE CODES	<u>898</u>	<u>817</u>		
INMATE PLEA (G, NG, None)	<u>NG</u>	<u>G</u>		
FINDINGS (G, NG, DS)	<u>G</u>	<u>G</u>		

IF GUILTY, EVIDENCE PRESENTED CONSIDERED AND REASONS FOR DETERMINATION OF GUILT: (A) ADMISSION OF GUILT; (B) OFFICER'S REPORT; (C) WITNESS TESTIMONY; (D) OTHER. EXPLAIN IN DETAIL: Copy of evidence

HEARING LENGTH: 8 (MINUTES)

SANCTIONS:

Loss of Privileges (Days) _____ Reprimand: _____ Loss of Good Time (days): 160/3
 * Property (Days) _____ Extra Duty: _____ Restitution: \$ _____
 * Canteen (Days) 360 + 360 = 720 / 100 Visit Suspension Thru _____ 360 + 360 = 720 / 100
 * Other PHD (Days) 360 + 360 = 720 / 100 Cell Restriction (Days): _____
 * Disciplinary Detention (Days): 360 / 0

SPECIFIC FACTUAL REASON(S) FOR PARTICULAR PUNISHMENT IMPOSED: Nature of Offense

CREDIT FOR PHD TIME SERVED? YES/NO _____ IF YES, DAYS _____

DATE INMATE PLACED IN PHD 1 / 1 /

INMATE SIGNATURE FOR RECEIPT OF FINAL REPORT: R. Ridley

DATE: 10-5-11

HEARING OFFICER (PRINT NAME) Sharon Patterson

APPROVED/REVERSED/MODIFY Warden

REASON DD Waived

CONTACT YOUR CLASSIFICATION CASEWORKER OR COUNSEL SUBSTITUTE IF YOU DO NOT UNDERSTAND THIS FORM.

White - Institutional Record

Canary - Inmate (Service of Disciplinary Report)

Golden Rod - Inmate (Service of Disciplinary Hearing Disposition)

Pink - Central Record

** (Note: When there is restitution, a copy of this form should be forwarded to Financial Accounting.)

#38
#33 9/20/11

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INCIDENT REPORT

11-09-2660

Page 1 of 1

Institution / Center: Lee CI
Date of Report: 09.23.2011 Time of Report: Approx 11:35 AM
Reporting Official: Sgt. Leanne Epps Date of Incident: 09.23.2011
Location of Incident: Sumter South room #1140 Time of Incident: Approx 11:28 AM
Inmate(s)/Resident: SCDC# Age Race Sex Employee(s) Involved:
1. Ridley, Richard #285091 B/M 1. Agency Search Team
2. 2. Sgt. Epps, L
3. 3.
4. 4.
5. SUM-1140 M/3 5.

On the above date and approximate time: The Agency Search Team along with Sgt. Epps conducted a routine shake down on inmate Ridley, Richard #285091 B/M room #1140 Sumter South and found instructions on how to use a cell phone (4) financial numbers, and (2) birth dates inside the locker and mattress. Inm Ridley claimed ownership and will be charged with 898 (possession of a cell phone or other communication equipment) and 817 (possession of contraband).

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SEP 26 2011

LEECI MAJOR'S OFFICE

Signature: Leanne Epps No Evidence to Support 898

Evidence: Instructions on how to use a cell phone (4) financial numbers (2) birth dates
Witness(es):

Supervisor's Comments: Inm Ridley was informed he will be charged 898 817

Signature: B. Dunn Title: LT Date/Time: 9/23/11 1230 PM

Major / Responsible Authority: Peter 10
DHO 898, 817
9/26/2011

STG Related - Refer to STG Committee
() Yes () No (☒) Unknown

This Incident is DRUG related
() Yes (☒) No () Unknown

Action Taken 13

() Informal Resolution
() Administrative Resolution
(☒) Refer to Disciplinary Hearing

Signature: C. Decker Title: Major Date:

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
DISCIPLINARY HEARING PROCEDURE
DOCKET No.: 12-ALJ-04-00115-AP GRIEVANCE No.: LCI 2352-11
INMATE NAME: Richard Ridley, SCDC #285091
INSTITUTION: Lee Majors Correctional
DATE: October 5, 2011
CHARGE: 898-Possessions of Any Cell Phone or Other Types of Communications Device / 817-Possession of Contraband

DHO: The purpose of this hearing is to treat the matter before me, with fundamental fairness and arrive at a just decision. All parties must conduct themselves properly. Failure to do so will result in your removal. State your name and SCDC Number for the record.

I/M: Richard Ridley, 28-50-91.

DHO: You are appearing before Lee Majors Disciplinary Hearing, being recorded at approximately 12:35 p.m. on October 5, 2011. I am Ms. Patterson, Disciplinary Hearing Officer. Inmate Ridley is representing himself. Inmate Ridley, are you ready to proceed?

I/M: Yes Ma'am.

DHO: This is Case Numbers 32 and 33, of Inmate Richard Ridley, SCDC Number 28-50-91. Offense Date: September 23, 2011; Offense Time: Approximately 11:28 a.m.; Institution: Lee Correctional; You've been charged with 898-Possessions of Cell Phone or Other Types of Communications Device and 817-Possession of Contraband. Charging Officer/Employee: Sergeant E...Epps; Under the inmate waiver section, it is checked-I do want my accuser present at the hearing. Your accuser is present by way of speakerphone. I'm sorry, your accuser is physically present at the hearing. You were notified of this charge on October 3, 2011, at approximately 7:59 p.m. (inaudible), um

DHO: Disciplinary Hearing Officer
I/M: Inmate
OFC: Accuser

supporting documentation for this charge reads as following: On the Above Date and Approximate Time: The Agency Search Team, along with Sergeant Epps, conducted a routine shakedown on Inmate Ridley, Richard, 28-50-91, BM Room 1140, Sumter South and found instruction on how to use a cell phone, four financial numbers and two birth dates inside the locker and mattress. Inmate Ridley claimed ownership and will be charged with 898-Possession of a Cell Phone or Other Types of Communication Equipment and 817-Possession of Contraband. I am looking at a copy of the instructions that, um, were supposed to be possession of a cell phone and what are you saying these are instructions to, sir?

I/M: When I used my computer with my sons a long time ago.

DHO: Okay, now let me ask the question. Do the computer have okay on it?

I/M: Yes, you can actually go to a certain board inside the computer...

DHO: What...what board is that?

I/M: I mean on your Apple, you can go to a certain board inside the computer

DHO: Um hmm.

I/M: That will have okay and you can go to different stages.

DHO: Stages of what?

I/M: I mean, with that I was dealing with financial matters.

DHO: What?

I/M: Okay, if you go to...

DHO: Okay, the reason I say that is because I'm looking at it and it says: "Edit phone number"

I/M: Um hmm.

DHO: Okay, so you edit phone numbers in the computer?

I/M: No, that's when...that's the reason...that's why there's three different phone numbers there, because that was dealing with email, faxing and all that stuff.

DHO: Okay.

I/M: That's why it's three different phone numbers.

DHO: Okay. Sergeant Epps?

OFC: Yes?

DHO: Is this report true and correct?

OFC: Yes Ma'am.

DHO: How...why did you tell...why did you charge the inmate, um, with possession of a cell phone?

OFC: Because of the information we found dealing with how to, um, enter and edit...edit the numbers in it.

DHO: Okay. Hit okay. Then prompt. Anything else?

I/M: Yeah, I mean, I never physically have ever owned a cell phone back in SCDC, period. And there's no way he can turn around and say I owned a device or any kind of communications device.

DHO: Well, you can't have any components of a cell phone, not even instructions on how to work a cell phone. You can't even have a...a back of a cell phone.

I/M: Un-um.

DHO: You understand?

I/M: Yes Ma'am.

DHO: Is there anything else? Anything else?

I/M: No Ma'am.

DHO: Sergeant...Sergeant Epps is this report true and correct?

OFC: Yes Ma'am.

DHO: Any additional statements?

OFC: No Ma'am.

DHO: I've heard the charge. I've provided an opportunity for the accused to make a statement, present evidence, call witnesses on your behalf. I've considered evidence and witnesses against the accused. I will now recess this hearing, to arrive at a decision. Step outside. Inmate Ridley; on Case Number 32, Possession of a Cell Phone, how do you plea?

I/M: Not guilty Ma'am.

DHO: On Possession of Contraband, how do you plea?

I/M: Guilty.

DHO: For your guilty plea, has anyone promised you anything or threaten you in any manner?

I/M: No Ma'am.

DHO: I'll take a short recess to deliberate this hearing. Re-state your name and number for the record.

I/M: Richard Ridley, 28-50-91.

DHO: Inmate Ridley on the...on the charge of Possession of a Cell Phone, I do find you guilty of this charge. The evidence I relied upon to reach this decision was the Officer's Report and a copy of the evidence, your sanctions are as following: loss of canteen, telephone, visitation privileges are suspended for 360 days and disciplinary detention for

360 days, loss of good time, um, 100 days. Also, for, uh...um, on Case Number 33, Possession of Contraband, I find you guilty of this charge. The evidence I relied upon to reach this decision was the Officer's Report. Your sanctions are, and a copy of the evidence. Your sanctions are as following: loss of canteen, telephone and visitation privileges all suspended for 100 days...100 days (inaudible)...are suspended for 100 days and 30 days loss of good time. You will receive a copy of this hearing you have a right to appeal my decision with the determination of guilt and/or punishment imposed. You may appeal my decision by filing SCDC Form 10-5 with the Grievance Coordinator. You may request assistance of the Grievance Coordinator if you are unable to read or write. Would you like a copy of the Grievance Form?

I/M: Yes ma'am.

DHO: You are dismissed. This hearing is concluded.

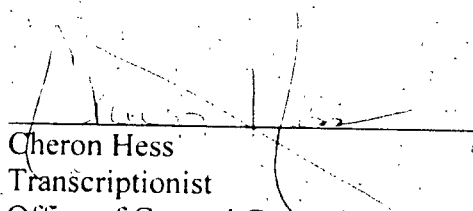
STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW JUDGE COURT

Richard Ridley, 285091)
)
Appellant,)
)
-vs-)
)
South Carolina Department of Corrections,)
)
Respondent.)
_____)

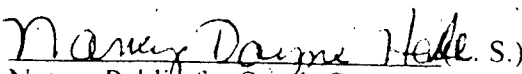
**CERTIFIED
TRANSCRIPT**

This is to certify that the following transcript of this tape-recorded administrative disciplinary hearing is a true, accurate and complete transcript of the proceedings and testimony hereby transcribed.

I do further certify that I was not present at the administrative disciplinary hearing that has been transcribed.


Cheron Hess
Transcriptionist
Office of General Counsel
South Carolina Department
of Corrections

SWORN TO before me this
17th day of April 2012.


Nancy Dwayne Hale, S.)
Notary Public for South Carolina

My Commission Expires: 4/6/2014

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW JUDGE COURT**

Richard Ridley, 285091

Appellant,

-vs-

South Carolina Department of Corrections,

Respondent.

CERTIFICATION

This is to certify that I am the Disciplinary Hearing Officer who presided at the administrative disciplinary hearing in this matter. I have reviewed the attached transcript of this tape-recorded hearing and hereby certify the transcript as true, accurate, complete and constitutes the entire record of the proceedings.

Sharon Patterson

Disciplinary Hearing Officer
South Carolina Department of Corrections

SWORN TO before me this

16 day of April, 2012

Marvick Wilson (L. S.)

Notary Public for South Carolina

My Commission Expires: 3/9/2021

CERTIFICATE OF COUNSEL

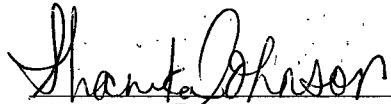
I certify that this *Record on Appeal* contains all material proposed to be included by the parties and not any other material.

Dated: June 6, 2013

Respectfully submitted,

SOUTH CAROLINA DEPARTMENT OF
CORRECTIONS

Attorney for Appellant

A handwritten signature in black ink, appearing to read "Shanika Johnson", is written over a horizontal line.

Shanika Johnson

Staff Attorney

S.C. Dept. of Corrections

P.O. Box 21787

Columbia, SC 29221

(803) 896-8508

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT

Honorable Carolyn C. Matthews

Case No.: 12-ALJ-04-0115-AP

Richard Ridley, #285091.....Respondent,

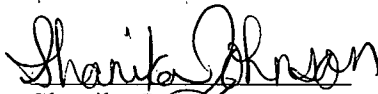
v.

South Carolina Department of Corrections,.....Appellant.

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing *Record on Appeal* to
Respondent by depositing a copy of same in the United States Mail, postage prepaid, June 6,
2013, addressed to the Respondent as follows:

Richard Ridley, #285091
McCormick Correctional Institution
386 Redemption Way
McCormick, SC 29899


Shanika Johnson
Staff Attorney
S.C. Dept. of Corrections
P.O. Box 21787
Columbia, SC 29221
Attorney for Appellant