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SC Court of Appeals

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Alonzo C. Jeter, #282902,)
)
Appellant,)
)
v.)
)
South Carolina Department of)
Corrections,)
)
Respondent.)

Docket No. 22-ALJ-04-0183-AP

ORDER OF DISMISSAL

This matter is before the South Carolina Administrative Law Court (“ALC” or “Court”) pursuant to a Notice of Appeal filed by Alonzo C. Jeter (“Appellant”), an inmate incarcerated with the South Carolina Department of Corrections (“SCDC” or “Department”). Appellant appeals the SCDC’s decision from his Step 2 Grievance, which denied his request for his personal records that were allegedly made through SCDC Policy OP-21.09 and the Freedom of Information Act (“FOIA”).

On October 21, 2022, the Department filed a Motion to Dismiss, arguing that Appellant’s appeal regarding access to his personal prison records does not implicate a state created liberty or property interest. Appellant filed a Return to Respondent’s Motion to Dismiss on October 28, 2022 disagreeing with the Department’s position because the records are necessary for his pending Post-Conviction Relief (“PCR”) action. Appellant contends that the records are necessary in order to present the PCR court with a full review of his records, that would not be presented to the court if he relied upon the State to obtain his records in this action.

The Court’s jurisdiction to review Department final decisions in non-collateral or administrative matters ¹ stems from the South Carolina Supreme Court decision in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). These administrative matters entitled to review

¹ A non-collateral or administrative matter is “[o]ne in which an inmate does not challenge the validity of a conviction or sentence.” *Al-Shabazz v. State*, 338 S.C. 354, 368, 527 S.E.2d 742, 749 (2000). PCR is a collateral attack, challenging the validity of a conviction or sentence. *Id.* at 338 S.C. 354, 367, 527 S.E.2d 742, 749. An application for PCR should be filed in the county of the original conviction. S.C. Code Ann. § 17-27-30.

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“[t]ypically arise in two ways: (1) when an inmate is disciplined and punishment is imposed and (2) when an inmate believes prison officials have erroneously calculated his sentence, sentence-related credits, or custody status.” *Id.* at 369, 527 S.E.2d at 750. In determining to adhere to the limited nature of judicial review in inmate matters, the court prefaced that “Courts traditionally have adopted a ‘hands off’ doctrine regarding judicial involvement in prison disciplinary procedures and other internal prison matters, although they must intercede when infringements complained of by an inmate reach constitutional dimensions.” *Id.* at 382, 527 S.E.2d at 757 (citation omitted). The court further recognized that procedural due process is guaranteed only when an inmate is deprived of an interest encompassed by the Fourteenth Amendment's protection of liberty and property. *Id.* at 369, 527 S.E.2d at 750 (quoting *Board of Regents of State Colleges v. Roth*, 408 U.S. 564, 569 (1972)).

Post *Al-Shabazz* decisions have determined that a matter is reviewable by the ALC where an inmate's appeal implicates a state-created liberty or property interest. *See, e.g., Howard v. S.C. Dep't of Corr.*, 399 S.C. 618, 630, 733 S.E.2d 211, 218 (2012); *see also Wicker v. S.C. Dep't. of Corr.*, 360 S.C. 421, 602 S.E.2d 56 (2004) (recognizing another limited ALC jurisdictional exception where inmate claims deprivation of a property interest). Under certain circumstances, states may create liberty interests which are protected by the Due Process Clause, but “[t]hese interests will be generally limited to freedom from restraint which . . . imposes atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life.” *Sandin v. Conner*, 515 U.S. 472, 484 (1995); *see also Sullivan v. S.C. Dep't of Corr.*, 355 S.C. 437, 443-45, 586 S.E.2d 124, 127-28 (2003) (applying *Sandin* to resolve a “condition of confinement claim”).

In *Slezack v. S.C. Department of Corrections*, 361 S.C. 327, 605 S.E.2d 506 (2004), our supreme court distinguished subject matter jurisdiction from appellate jurisdiction in clarifying the ALC's jurisdiction in inmate grievance matters. The court explained that the ALC has subject matter jurisdiction to hear appeals from the final decision of the Department in non-collateral or administrative matters. *Id.* at 331, 605 S.E.2d at 507 (citation omitted); *see also Howard*, 399 S.C. at 625, 733 S.E.2d at 215 (“The ALC has subject matter jurisdiction under the [APA] to hear properly perfected appeals from the SCDC's final orders in administrative or non-collateral matters.”) In addition, “[t]he AL[C] has appellate jurisdiction over any matter where the procedural prerequisites for perfecting such an appeal have been met.” *Slezack*, 361 S.C. at 331, 605 S.E.2d at 507 (citation omitted). However, while the ALC has jurisdiction over all properly perfected


appeals from Department final orders, summary dismissal may be appropriate where the inmate's grievance does not implicate a state-created liberty or property interest. *Id.* at 333, 605 S.E.2d at 509.

Despite Appellant's contentions, his appeal relates to a pending PCR action which is a collateral attack regarding his sentence. An attempt to obtain prison records related to this matter is most likely proper in the jurisdiction of the Court where the PCR matter is pending. Appellant's appeal also does not relate to his sentence, sentence-related credits, or custody. Further, the failure of an agency to follow its own policies does not amount to a constitutional violation. *Joyner v. Ozmint*, No. 3:09-CV-2524-DCN-JRM, 2010 WL 3783167, at *5 (D.S.C. Sept. 22, 2010), *aff'd*, 425 F. App'x 223 (4th Cir. 2011). There is clearly no state-created liberty or property interest implicated here. In the absence of such a state-created liberty or property interest, the Court finds that summary dismissal is appropriate. *See Slezak*, 361 S.C. at 331, 605 S.E.2d at 508 (“[s]ummary dismissal may be appropriate where the inmate’s grievance does not implicate a state created liberty or property interest.”) Therefore,

IT IS HEREBY ORDERED that the Department’s Motion is **GRANTED** and this appeal is **DISMISSED, WITH PREJUDICE.**

AND IT IS SO ORDERED.

April 25, 2018
Columbia, SC



Milton G. Kimpson, Judge
South Carolina 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 25 day of April, 2018
By: C. Selman
Judicial Law Clerk