

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Sandtario Poole, #360120,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

Docket No. 23-ALJ-04-0058-IJ

**ORDER GRANTING MOTION TO
DISMISS**

RECEIVED

JUN 12 2023

SC Court of Appeals

STATEMENT OF THE CASE

This matter is pending before the South Carolina Administrative Law Court (the ALC or the Court) pursuant to an appeal filed by Sandtario Poole (Appellant), an inmate incarcerated by the South Carolina Department of Corrections (SCDC or the Department). In his notice of appeal filed on February 9, 2023, Appellant stated the following:

I respectfully appeal because: the final decision of the [inmate grievance coordinator (IGC)], is in factual and policy error, and abrogates the SCDC grievance process, when it was processed and returned without submitting to warden or allowing a step 2 appeal. This a SCDC classification matter and is grievance pursuant to GA 01.12 (7.1)(7.6), and my prior offenses from NC [were] robbery and 2nd degree kidnapping without sexual finding by judge; that SCDC classification is [using] to deny custody level. I submit that this violates due process under the SC and US Const. I have no past or curr[e]nt sexual charges or convictions.

Appellant attached a copy of his step 1 grievance dated January 24, 2023, to his notice of appeal:

Policy GA.02.12(13-9): Grievance on improper calculation of sentence by [a]pplying a sexual [e]nhancement from prior conviction, from the State of North Carolina that do[es] not exist in sentencing sheet; to deny me level 1 custody. Limitations [d]o not [a]pply to the type of complaint.

Informal resolution) 23-02953564 Response Date 1/4/2023 9:08
P. Author (043856)

23-02981038 Response Date 1/23/2023 Author



Case worker has a copy of my sentencing sheet which show[s] that the judge did[no]t find any sexual misconduct within my crimes in 2003[.] I can get more copies made if I need to. Proof is mark[ed] with Highlighter (pink)[.] Everything with a[n] X in the Box Apply to me[. ¹]

The IGC responded with the following: "Your grievance is being Processed & Returned because the issues/concerns stated are to be considered non-grievable. Pursuant to SCDC policy GA-01.12.8.5.2 PLEASE NOTE: **This charge is from North Carolina that you are grieving.**" This matter was assigned to the undersigned on February 24, 2023.

On May 8, 2023, the Department filed a motion to dismiss, arguing "Appellant failed to exhaust his administrative remedies." According to the Department, when Appellant's step 1 grievance was returned unprocessed and he wanted to appeal, he "was required to file a [Request to Staff Member (RTSM)] with the Branch Chief" within ten days of the grievance being returned. *See* S.C. Dep't of Corr., Policy GA-01.12, at 13.3; *see also Williams v. S.C. Dep't of Corr.*, Docket No. 04-ALJ-17-0276-CC, 2005 WL 828024 (S.C. Admin L. Ct. filed Mar. 9, 2005). The Department asserts that in contrast to following this procedure, Appellant appealed directly to the ALC. The Department's standard of review in its motion references law surrounding summary dismissal, state-created liberty and property interests, and procedural due process.

Also, on May 8, 2023, Appellant filed a motion to compel the Department to file the record on appeal and to stay the time for his principal brief for twenty (20) days pending receipt of the record on appeal.

On May 16, 2023, Appellant filed a response to the Department's motion to dismiss. In his response, Appellant asserts the Court has jurisdiction, the application of GA-01.12 is unreasonable, GA-01.12 is discretionary, the Department "inserted . . . **May Only** be appealed by utilizing SCDC form 19-11" in quoting section 13.3 and stating the actions Appellant had to take in exhausting his administrative remedies, and the returned step 1 grievance was a final agency decision. Appellant further states: "Digital Kiosk & Tablet REF 23-02953564 & 23-02981038, [were] timely sought & denied, and a timely step 1 grievance pursuant to Policy GA.01.12(7.1)(7.6), which are grievable. 19-11 paper request to staff, are only allowed on medical issues since @2014, all others are digital." Appellant additionally disagrees with the Department's assertions related to the

¹ Appellant did not include any attachments to the step 1 grievance.

standard of review, the Fourteenth Amendment, and the underlying merits of his case. Also, on May 16, 2023, Appellant filed a motion to add certain documents to the record on appeal related to the merits of his claim as to his status.

DISCUSSION

The Court generally has jurisdiction to hear inmate appeals that have been properly filed and served after the Department issues a final decision. *See* S.C. Code Ann. § 1-23-600(D) (Supp. 2022); *Allen v. S.C. Dep't of Corr.*, Op. No. 28147 (S.C. Sup. Ct. filed Apr. 5, 2023) (Howard Adv. Sh. No. 13 at 32) ("[T]he ALC has subject matter jurisdiction over inmate grievance appeals that have been properly filed."); *see also Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 331 605 S.E.2d 506, 507 (2004); *Al-Shabazz v. State*, 338 S.C. 354, 369, 527 S.E.2d 742, 750 (2000).

The Court conducts a review of inmate appeals pursuant to the Administrative Procedures Act (APA), S.C. Code Ann. §§ 1-23-310 *et seq.* (2005 & Supp. 2022); *see also* § 1-23-600(e). A prerequisite for the ALC to review a decision of the Department on appeal is that the party, or inmate, has exhausted all of the administrative remedies with the Department. *See* § 1-23-380 ("A party who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision in a contested case is entitled to judicial review pursuant to this article and Article 1."); *see also Brown v. James*, 389 S.C. 41, 48, 697 S.E.2d 604, 608 (Ct. App. 2010) ("The doctrine of exhaustion of administrative remedies requires that where a remedy before an administrative agency is provided, relief must be sought by exhausting this remedy before the courts will act. This doctrine is well established, is a cardinal principle of practically universal application, and must be borne in mind by the courts in construing a statute providing for review of administrative action." (quoting 2 Am. Jur. 2d, *Administrative Law* § 595 (1962))).

Traditionally, inmates in South Carolina must follow through the process of filing a step 1 and step 2 grievance with the Department, and the final agency decision is the responsible official's decision as to the inmate's step 2 grievance. *See generally Barnes v. S.C. Dep't of Corr.*, Docket No. 15-ALJ-30-0318-IJ, 2015 WL 7187970, at *4 (S.C. Admin. L. Ct. filed Nov. 5, 2015). However, certain procedures exist when the IGC returns a grievance. *See* SCDC Policy GA-01.12, at 13.3. Section 13.3 of the Department's Policy GA-01.12 provides the following:

Unprocessed grievances may only be appealed by utilizing SCDC Form 19-11, "Inmate Request To Staff Member," (RTSM) to the Branch Chief within ten (10) days of the grievance being returned

to the inmate. The inmate must provide a copy of the unprocessed grievance with the RTSM. The inmate can not file a grievance against the IGC for un-processing the grievance.

*Grievance is
"Processed"*

Section 7.1 and 7.6 of the Department's Policy GA-01.12 provide the following in pertinent part: "Only one issue, or one disciplinary conviction may be addressed on each grievance form. The following issues will be considered grievable: 7.1 Department policies/procedures, directives, or conditions which directly affect the inmate; . . . Any classification decision that directly affects the inmate's custody level"

Presently, the Department seeks an order of dismissal because it asserts Appellant failed to exhaust his administrative remedies with the Department pursuant to policy. On May 16, 2023, Appellant filed a response to the Department's motion to dismiss. In his response, Appellant asserts the Court has jurisdiction, the application of GA-01.12 is unreasonable, GA-01.12 is discretionary, the Department "inserted . . . **May Only** be appealed by utilizing SCDC form 19-11" in quoting section 13.3 and stating the actions Appellant had to take in exhausting his administrative remedies, and the returned step 1 grievance was a final agency decision. Appellant further states: "Digital Kiosk & Tablet REF 23-02953564 & 23-02981038, [were] timely sought & denied, and a timely step 1 grievance pursuant to Policy GA.01.12(7.1)(7.6), which are grievable. 19-11 paper request to staff, are only allowed on medical issues since @2014, all others are digital." Appellant also disagrees with the Department's assertions related to the standard of review and the Fourteenth Amendment.

The Court agrees with the Department. As noted above, section 13.3 requires an inmate to appeal an unprocessed grievance to the Branch Chief within ten days of the grievance being returned to the inmate. Appellant did not follow the procedures as outlined above; instead, he appealed directly to the ALC after the IGC returned his grievance as not grievable.

The Court acknowledges Appellant's arguments but disagrees with Appellant. Initially, Appellant is incorrect about the language that is included in section 13.3 because as quoted above, section 13.3 includes the "may only" language Appellant asserts the Department added in its motion. *See* S.C. Dep't of Corr., Policy GA-01.12, at 13.3. Next, Appellant asserts the kiosk references listed above indicate he tried to conduct an informal resolution; however, the Court notes that the kiosk references Appellant cites to were included in his step 1 grievance as to the merits of his status, and there is no indication in the record before the Court that Appellant tried to

follow the steps as required by section 13.3 to challenge the returned grievance. The Court additionally concludes that Appellant's reliance on sections 7.1 and 7.6 is misplaced as a reason for why the Court should not dismiss this matter. The Court makes no statement about the properness of the IGC returning the grievance to Appellant; rather, the Court concludes that the first step in challenging the IGC's action is to exhaust the administrative remedies available to him. Even assuming Appellant were correct that his step 1 grievance should have been processed pursuant to sections 7.1 and 7.6, once the IGC returned the grievance, Appellant was required to follow the proper process in challenging that action. Appellant failed to do so.

Based on the foregoing, Appellant has not exhausted his administrative remedies, and the Court determines dismissal is appropriate. *See* S.C. Dep't of Corr., Policy GA-01.12, at 13.3; *see also* § 1-23-380 ("A party who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision in a contested case is entitled to judicial review pursuant to this article and Article 1.").

ORDER

IT IS THEREFORE ORDERED that the Department's motion to dismiss is **GRANTED** and this matter is **DISMISSED WITHOUT PREJUDICE**.²

AND IT IS SO ORDERED.




Robert L. Reibold
Administrative Law Judge

May 19, 2023
Columbia, South Carolina

² Based on the Court's disposition of the Department's motion to dismiss, the Court need not address Appellant's motions to compel, stay, and add certain documents to the record on appeal. *See Futch v. McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999) (stating an appellate court need not review remaining issues when its determination of a prior issue is dispositive of the appeal).

CERTIFICATE OF SERVICE

I, James Smith Harrison, III, 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, in the Interagency Mail Service, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).



James Smith Harrison, III
Judicial Law Clerk

May 19, 2023
Columbia, South Carolina