

RECEIVED

JUN 27 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA

Court of Appeals

Appeal from Administrative Law Court

Judge M.G. Kimpton

ALC Case No. 2023ALJ040097AP

Ct. App. Case: 2023-000776

Robert Wazney, Appellant,

v.

Director of South Carolina Department of Corrections, Respondent.

INITIAL BRIEF

Affidavit or Declaration

COMES NOW, Robert Wazney, Appellant, pro se, who after being duly sworn deposes and states:

I, Robert Wazney, am the Appellant in this action. I bailed My property with the Defendant (Bailee) and the Defendant stole my property. I filed a grievance against the Defendant because Defendant was grossly negligent in handling the storage of my property, however, Defendant failed to provide adequate post-deprivation remedy.

I then filed an appeal with Administrative Law Court (ALC) stating Defendant failed to provide due process in violation of US CONST Amend. 14 and SC CONST Art. I § 3. I clearly stated on the first page of the Notice of Appeal to ALC:

" In violation of procedural guarantee of the due process clause, SC CONST Art. I § 3, U.S. Constitution Amendment 14, ... [Defendant] has imposed atypical and significant hardship beyond ordinary incident of prison life in where [Defendant] has failed to provide postdeprivation remedy for [my] claim concerning the taking of [my] private property ..."

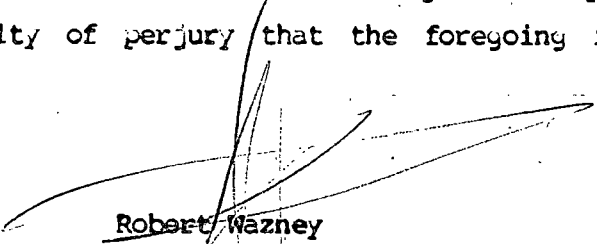
In ALC's response, ALC believes I failed to raise due process and ALC issued summary dismissal with prejudice, the ALC is obviously in error.

My appeal is based on where the Inmate Grievance Procedure provided by the Department failed to provide an adequate post-deprivation remedy. Procedural due process is guaranteed when I, an inmate, am deprived of an interest encompassed by the Fourteenth Amendments protection of liberty and property. Al-Shabazz v. State, 338 SC 354, 527 SE2d 742 (2000). Matter is reviewable by the ALC where my appeal implicates a state-created liberty or property interest. Howard v. S.C. Dep't of Corr., 399 SC 618, 733 SE2d 211, 218 (2012); See also Wicker v. S.C. Dep't. of Corr., 360 C 421, 424, 602 SE2d 56, 57-58 (2004)(holding that inmate had a right to procedural due process in matters involving a state-created right to property). Additionally, summary dismissal is not appropriate where my grievance implicates a state created or property interest. Slezak v. S.C. Dep't of Corr., 361 SC 327, 331, 605 Se2d 506, 507-08 (2004).

The ALC has jurisdiction and the authority to hear my case and should do just that. I request the ~~Court~~^{Court} to reverse ~~its~~^{ALC} decision and for this case to be heard by the ALC and any other relief this Court deems just and equitable.

I declare under penalty of perjury that the foregoing is true and correct.

June 23, 2023.


Robert Wazney

610 Hwy. 9 West

Bennettsville SC 29512

Appellant, victim

RECEIVED

JUN 27 2023

CERTIFICATE OF SERVICE

SC Court of Appeals

I certify that I have served the foregoing Initial Brief on all parties to this action by placing copy of the same in the U.S. Mail postage prepaid address to S.C. Court of Appeals, PO Box 11629, Columbia, SC 29211, and Office of General Counsel, SC Dept. of Corrections, PO Box 21787, Columbia, C 29221, on this day:

I declare under penalty of perjury that the foregoing is true and correct.

June 23, 2023.

Marlboro County, USA



Robert Wazney

610 Hwy. 9 West

Bennettsville, SC 29512

Appellant, victim

ROBERT WILLIAM WAZNEY
363679 F5D140
c/o Evans Correctional Institution
610 Highway 9 West
Bennettsville, South Carolina 29512

COLUMBIA SC 290

24 JUN 2023 PM 4 L



RECEIVED

JUN 27 2023

SC Court of Appeals

JUN 23 A.M.

SC Court of Appeals
PO Box 11629
Columbia, SC 29211

29211-162929

