

THE STATE OF SOUTH CAROLINA
In The Court of Appeals
APPEAL FROM THE ADMINISTRATIVE LAW COURT
S. Phillip Lenski, Administrative Law Judge
Docket No. 23-ALS-04-0312-AP
Appellate Case No. 2024-000061

RECEIVED

Syncere Shabazz / Kenneth Rivera #318979,
Appellant,

JAN 30 2024

SC Court of Appeals

v.

South Carolina Department of Corrections,
Respondent.

DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL

Appellant proposes the following be included in the
Record on Appeal:

1. June 5, 2023 SCDC Forms 19-198
2. December 27, 2018 Classification Summary Reports
3. Step 1, step 2 Grievance
4. SCDC Change of Religion Preference
5. 5. Affidavits
6. Respondent's December 1, 2023 Motion to Dismiss
7. Administrative Law Court September 22, 2023 Rules of Procedure
8. Appellant's October 2, 2023 Brief
9. Appellant October 19, 2023 Request for Production of Documents

10. December 12, 2023 Motion and Memorandum to Respondents
Motion to Dismiss.

11. 7 Exhibits

12. January 8, 2024 Notice of Appeal

13. January 16, 2024 South Carolina Court of Appeals letter.

I certify that this designation contains no matter which
is irrelevant to this appeal.

January 25, 2024

Syncece Shabazz / Kenneth Rivera
Syncece Shabazz / Kenneth Rivera [#] 318979
LCI-CB #55
PO Box 205
Ridgeville, SC 29472



HEARING NOTIFICATION: Security Threat Group Member Designation

TO (Inmate Name): Rivera, Kenneth Darrell	Inmate Number: 318979
Institution: Broad River Secure Facility	Date of Hearing: 06/05/2023

YOU ARE HEREBY REQUIRED to appear before the DISCIPLINARY HEARING OFFICER, at the above-named Correctional Institution, on the date specified above. A HEARING has been requested by the SCDC Security Threat Group Intelligence Task Force to determine if you should be designated a Security Threat Group Member, in accordance with SCDC Policy.

This hearing was requested for the following reason(s):

SUMMARY OF EVIDENCE:

A recommendation has been forwarded to Headquarters (HQ) Security Threat Group (STG) to have I/M Kenneth Rivera # 318979 be designation as a member of the Bloods for the following reasons:

- Self-admission as STG Leader (preferably in writing)
- STG-related hand signs
- Photograph of inmate with STG indicators
- Common STG identifiers
- Social Media information
- Contact with known STG Member
- STG-related tattoos – Old

Your Rights

You must attend this hearing unless you waive your appearance in the Waiver Section of this form. You must be afforded 48 hours to prepare for this Hearing.

You may be entitled to representation by Counsel Substitute if qualified under SCDC Policy OP-22.14 (8.1.1 – 8.1.7), "Inmate Disciplinary System."

You have the right to submit a written statement to the Hearing Officer on your own behalf.

The Hearing Officer will advise you at the hearing of any impact STG Designation could have on your housing assignment, visitation privileges, privilege to receive funds, or programming requirements.

You have the right to make a verbal statement in your defense during this Hearing.

You have the right to question all witnesses who appear at the Hearing, in accordance with SCDC Policy OP-22.14 (14.5).

You have the right to call relevant witnesses, including SCDC employees, unless their testimony would be repetitive of other testimony, or their appearance would likely jeopardize the safety of persons or the security and good order of the Institution. Any request must be submitted in accordance with SCDC Policy OP-22.14 (14.4).

You have the right to hear all evidence presented at the Hearing, except for sensitive information that could jeopardize the safety of persons or the security and good order of the Institution, and except for the testimony of an adversarial witness or reliable confidential informant.

You have the right to appeal the decision of the Hearing Officer, in accordance with SCDC Policy OP-22.14 (19.1 and 23.1 – 23.2).

You may be afforded additional rights under SCDC Policy OP-22.14.

If you do not sign the Waiver Section and do not attend this hearing, you will forfeit any right to Counsel Substitute, or to the appearance of the Security Threat Group Intelligence Officer or any other witness at the Hearing.

If you do not attend this Hearing, the Hearing may proceed in your absence.

Your signature on this form is NOT an admission of guilt, and is NOT an admission that you are a Security Threat Group Member.

ACCEPTANCE OF SERVICE

I HAVE RECEIVED A COPY of this Hearing Notification and understand its contents.

Inmate Signature: *Kenneth Rivera* Date: 5/26/23

WAIVERS (OPTIONAL) (Check any that apply)

I WAIVE MY RIGHT TO ATTEND this Hearing. I understand a Hearing Officer will determine my Security Threat Group Designation status in my absence and I will be notified of the decision.

I WAIVE MY RIGHT TO 48-HOUR NOTICE before this Hearing.

I WAIVE MY RIGHT TO COUNSEL SUBSTITUTE if I am on segregation or lockdown status. I have no mental health issues.

Inmate Signature: _____ Date: _____

DECLARATION OF SERVER

I CERTIFY that I personally served this Notification on inmate (name) Rivera, Kenneth Darrell # 318979
on (date) 5/26/23 at (Institution) Broad River Secure Facility

~~Initial~~ Initial here if inmate refused to sign.

RW I/m signed acceptance and requested to be at the hearing Date: 5/26/23

STG Intelligence Officer signature: *Mark Davis* Time: 9:58 AM



OFFICE OF THE DISCIPLINARY HEARING OFFICER
for Broad River Correctional Institution

IN THE MATTER OF

Kenneth Rivera
(Name of Inmate)

318979
(SCDC Number)

NOTICE OF DECISION
AND ORDER

On June 5, 2023, this matter came before the Office of the Disciplinary Hearing Officer for a **Security Threat Group Member Designation Hearing**, for determinations of whether: 1) the inmate should be designated a Security Threat Group Member; 2) the inmate holds a leadership position within a Security Threat Group; and 3) of which, *if any*, Security Threat Group the inmate is a member or leader of. After considering the evidence presented, it is the findings of this Office that:

(Initial all that apply)

The inmate participates in a group currently designated by the Agency Director as a Security Threat Group, OR in a formal organization that has not been approved by the South Carolina Department of Corrections; OR in an informal organization, association or group.

The organization, association or group includes three or more inmates.

The organization, association or group has a common name:
Blood (organization name).

Members of the organization, association or group engage, or have engaged in, activities including planning, organizing, threatening, soliciting, or commission of crimes that threaten the safety or security of the Public, visitors to SCDC, SCDC employees, SCDC inmates, or the Agency itself.

The inmate holds a leadership position in the Organization.

Other: See summary of evidence

DECISION AND ORDER

(Initial all that apply)

_____ The inmate _____ SHOULD NOT and will not be designated a Security Threat Group Member as defined by SCDC Policy OP-22. 58 (17), "Security Threat Groups."

JK

The inmate is, and IS DESIGNATED, a Member of a Security Threat Group.

(Enter name of Security Threat Group: Blood.)

_____ The inmate holds a LEADERSHIP POSITION within the Security Threat Group.

If Designated a Security Threat Group Member, the inmate shall be subject to conditions and restrictions required by SCDC Policy OP-22. 58 (17), "Security Threat Groups."

APPEALS: The inmate may appeal this Decision and Order within 15 working days of receipt of this notice through grievance procedures provided in SCDC Policy GA-01.12, "Inmate Grievance System." The Security Threat Group Intelligence Task Force may appeal this Decision and Order to the Assistant Deputy Director for Operations.

AND IT IS SO ORDERED

J. Edmond

Disciplinary Hearing Officer

June 5, 2023

(Date)

Distribution:

- Inmate
- Security Threat Group Task Force
- Division of Classification and Inmate Records

DECLARATION OF SERVER

I CERTIFY that I personally served this Notice on inmate (name) Kevin J. [Signature] on (date) 6-5-23 at (Institution) BROAD RIVER

[Signature]

Employee serving notice (signature)

6/5/2023
Date

South Carolina Department of Corrections

Classification Summary Reports

Date: Thursday, December 27, 2018

Classification Summary Reports

Inmate Number

Classification Summary Report for RIVERA, KENNETH DARRELL :

CLASSIFICATION SUMMARY REPORT DATED 12/27/2018.

SCDC# 00318979

RIVERA, KENNETH DARRELL

FBI# 828624EC5

OFFENDER ADULT-STRAIGHT
TYPE: SENTENCE

INSTITUTION: BROAD RIVER

SECURITY/CUST: 3 MEDIUM

CURR INCARC 15 YRS 0 MOS 0
SENT: DAYS

VICTIM
WITNESS: SEPREQ: N

MED
CLASS:

INST
RESTRICT: NO RESTRICTION

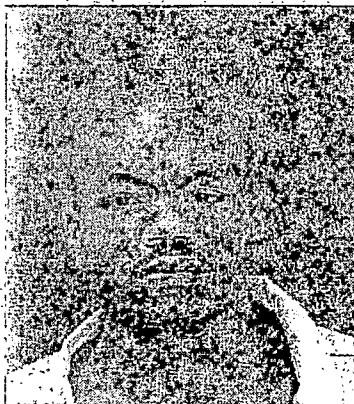
MENTAL
CLASS:

CURRENT NO CURRENT
PROGRAM: PROGRAM

SEX REGISTRY: N

DNA: C

AGE: 32



RESIDENT
STABILITY: NA

DORMROOMBUNK_CODE: MO 0187 A

PROJ MAXOUT
DATE: 06/25/2027

PROJ PAROLE
DATE:

EWC
JOB: WARDKEEPER ASSISTANT

ASSIGNMENT: ASST WARD KEEPER

EWC
LEVEL: 5F5 EEC LEVEL:

EDUC
PGM: NO CURR EDUC PROGRAM

SECURITY THREAT GROUP DESCRIPTION: SECURITY THREAT GROUP STATUS:
BLOODS VALIDATED-GP

AGE VALIDATED FOR STG, SAME EXACT REASON FOR DESIGNATION STG

PREVIOUS NUMBERS:

NO PREVIOUS NUMBERS

.2:08:47 Thursday, December 27, 2018

CMTI330D SCDC OFFENDER MANAGEMENT SYSTEM 12/27/18
OMCOMITA RELEASE DATE SCREEN C060888

SCDC# > 318979 LOC: BROAD RIVER

RIVERA, KENNETH DARRELL SCDC CLASSIFICATION... VIOLENT

OFFENDER TYPE...: ADULT-STRAIGHT SENTENCE SEXUAL REGISTRY... N
SEXUAL PREDATOR...: NOT APP
DNA STATUS.....: COMPLETED
GPS REQUIREMENT...: N
PREA DECISION.....:

PREA VICTIM.....: HIGH VULNERABLE PREA PERP...: NONE

CURRENT SENTENCE: 015-00-000 CONSECUTIVE SENTENCE ...: N
015-00-000 CURRENT SENT START DATE: 09/28/2014

PROJECTED COMPLETION DATES
MAXOUT DATE: 06/25/2027 CURRENT EWC ..: 5 F 5
YOA SIX YEAR DATE: / / CURRENT EEC ..: NOT CURRENTLY EARNING EEC
INITIAL PAROLE DATE: 00/00/0000 NEXT PAROLE HEARING DATE: 00/00/0000

TOTAL GT DAYS EARNED: 000000 LABOR CREW/WORK PROG DATE: 99/99/9999
TOTAL EARNED WORK CREDITS ..: 000218 LABOR CREW DISQ REASON:
TOTAL EDUCATION CREDITS: 000000 ASSAULTIVE DISC W/IN 24 MONTHS
TOTAL EXTRA EARNED CREDITS ..: 000 SUPERVISED REENTRY DATE...: 00/00/00
TOTAL SERVICE TIME EARNED ..: 001529 ISS.....:

PFKEYS: 5:HISTORY OF DATE CHANGES

CURRENT OFFENSES	YRS	MOS	SENTENCE		START	SENTENCE		
			DYS	COUNTY		V/NV	CAT	INDICT
ARMED ROBBERY	15	0	0	GREENVILLE	09/28/2014	V	4	14GS23-10896
POSS FIREARM/AMMO BY FEL	5	0	0	GREENVILLE	09/28/2014	N	3	14GS23-10897
POSS FIREARM/AMMO BY FEL	5	0	0	GREENVILLE	09/28/2014	N	3	14GS23-05139

COMPLETED OFFENSES	YRS	MOS	SENTENCE		START	SENTENCE		
			DYS	COUNTY		V/NV	CAT	INDICT
COMMON LAW ROBBERY	8	0	0	GREENVILLE	06/09/2008	N	3	08GS23-2459
CRACK DISTRIBUTION	7	0	0	GREENVILLE	06/07/2007	N	2	06GS2310371
BURGLARY-2ND DEG/NON-VIO	0	20	0	GREENVILLE	02/26/2007	N	3	05GS2303209
CRACK DISTRIBUTION	2	0	0	GREENVILLE	08/07/2006	N	2	06GS23-5733

PRIOR COMMITMENTS OVER 90 DAYS:

INMATE HAS NO PRIORS

OFFENSES UNDER PREVIOUS NUMBER:

NO PREVIOUS OFFENSES

DETAINERS (HOLD,WANTED,NOTIFY):

NO DETAINERS

ESCAPES:

NO ESCAPE HISTORY

CRIMINAL CHARGES:

NO CRIMINAL CHARGES HISTORY

ALL OLD DISCIPLINARIES

*Violent ones ARE Underlined
And/or STG, LOOK AT DATES !!!
A total of 13 none in the last 5 years!*

ASSAULTIVE DISCIPLINARIES:

<u>07/11/2018</u> POSSESSION OF A WEAPON	CONVICTED	MAJOR DISC. HEARING	N
<u>01/08/2010</u> POSSESSION OF A WEAPON	CONVICTED	MAJOR DISC. HEARING	N
<u>10/31/2008</u> POSSESSION OF A WEAPON	CONVICTED	MAJOR DISC. HEARING	N
<u>05/23/2008</u> STRIKING AN INMATE WITH/WITHOUT A WEAPON	CONVICTED	MAJOR DISC. HEARING	N
		INMATE ASSAULT	N

PREVIOUS ASSAULTIVE DISCIPLINARIES:

NO PREVIOUS ASSAULTIVE DISCIPLINARY HISTORY

NON-ASSAULTIVE DISCIPLINARIES:

09/09/2015 THREATENING TO INFLICT HARM ON EMPLOYEE	CONVICTED	MAJOR DISC. HEARING
03/18/2013 ABUSE OF PRIVILEGES	CLOSED	OTHER ACTION TAKEN/INFORM
03/30/2012 UNAUTH I/M ORGAN/PART STG OR STG ACT	CLOSED	OTHER ACTION TAKEN/INFORM
08/11/2011 DAMAGE,DESTROY,PROP.VALUE AT \$100./MORE	CONVICTED	MAJOR DISC. HEARING
08/11/2011 UNAUTH I/M ORGAN/PART STG OR STG ACT	CLOSED	OTHER ACTION TAKEN/INFORM
08/09/2010 THREATENING TO INFLICT HARM ON EMPLOYEE	CONVICTED	MAJOR DISC. HEARING
08/09/2010 USE OBSCENE,VULGAR,PROFANE LANG/GESTURES	CONVICTED	ADMINISTRATIVE RESOLUTION
08/09/2010 REFUSING OR FAILING OBEY ORDERS	CONVICTED	ADMINISTRATIVE RESOLUTION
08/09/2010 REFUSING OR FAILING OBEY ORDERS	CONVICTED	ADMINISTRATIVE RESOLUTION
<u>03/13/2010</u> FIGHTING WITHOUT A WEAPON	CONVICTED	ADMINISTRATIVE RESOLUTION
10/20/2009 DAMAGE,DESTROY PROP. VALUED LESS \$100.	NOT GUILTY	MAJOR DISC. HEARING
<u>08/21/2009</u> FIGHTING WITHOUT A WEAPON	CONVICTED	MAJOR DISC. HEARING

06/01/2009	UNAUTH I/M ORGAN/PART STG OR STG ACT	NOT GUILTY	MAJOR DISC. HEARING
06/01/2009	FIGHTING WITHOUT A WEAPON	NOT GUILTY	MAJOR DISC. HEARING
10/31/2008	OUT OF PLACE	CONVICTED	MAJOR DISC. HEARING
05/05/2008	POSSESSION OF CONTRABAND	CONVICTED	ADMINISTRATIVE RESOLUTION
03/26/2008	REFUSING OR FAILING OBEY ORDERS	CLOSED	OTHER ACTION TAKEN/INFORM
02/21/2008	FIGHTING WITHOUT A WEAPON	CONVICTED	ADMINISTRATIVE RESOLUTION
02/16/2008	USE OBSCENE,VULGAR,PROFANE LANG/GESTURES	CONVICTED	MAJOR DISC. HEARING
02/11/2008	REFUSING OR FAILING OBEY ORDERS	CONVICTED	ADMINISTRATIVE RESOLUTION
02/11/2008	INTERFERING WITH COUNT	CONVICTED	ADMINISTRATIVE RESOLUTION
02/09/2008	REFUSING OR FAILING OBEY ORDERS	CONVICTED	ADMINISTRATIVE RESOLUTION
01/21/2008	REFUSING OR FAILING OBEY ORDERS	CLOSED	OTHER ACTION TAKEN/INFORM
01/21/2008	REFUSING OR FAILING OBEY ORDERS	CONVICTED	ADMINISTRATIVE RESOLUTION
01/21/2008	INTERFERING WITH COUNT	CONVICTED	ADMINISTRATIVE RESOLUTION
01/09/2008	INTERFERING WITH COUNT	CONVICTED	ADMINISTRATIVE RESOLUTION
12/07/2007	OUT OF PLACE	CLOSED	OTHER ACTION TAKEN/INFORM
12/06/2007	USE OBSCENE,VULGAR,PROFANE LANG/GESTURES	CLOSED	OTHER ACTION TAKEN/INFORM
12/04/2007	REFUSING OR FAILING OBEY ORDERS	CONVICTED	ADMINISTRATIVE RESOLUTION
11/09/2007	SEXUAL MISCONDUCT	DISMISSED	MAJOR DISC. HEARING
11/06/2007	INTERFERING WITH COUNT	CLOSED	OTHER ACTION TAKEN/INFORM
10/20/2007	VIOLATIONS WRITE/POST INST RULES	CONVICTED	ADMINISTRATIVE RESOLUTION
10/13/2007	REFUSING OR FAILING OBEY ORDERS	CONVICTED	ADMINISTRATIVE RESOLUTION
10/01/2007	VIOLATIONS WRITE/POST INST RULES	CONVICTED	ADMINISTRATIVE RESOLUTION
09/11/2007	FIGHTING WITHOUT A WEAPON	CONVICTED	MAJOR DISC. HEARING
09/05/2007	REFUSING OR FAILING OBEY ORDERS	CLOSED	OTHER ACTION TAKEN/INFORM
08/27/2007	USE OBSCENE,VULGAR,PROFANE LANG/GESTURES	CONVICTED	ADMINISTRATIVE RESOLUTION
08/16/2007	REFUSING OR FAILING OBEY ORDERS	CLOSED	OTHER ACTION TAKEN/INFORM
07/24/2007	REFUSING OR FAILING OBEY ORDERS	CONVICTED	ADMINISTRATIVE RESOLUTION
07/13/2007	REFUSING TO WORK	CONVICTED	MAJOR DISC. HEARING
05/29/2007	OUT OF PLACE	CLOSED	OTHER ACTION TAKEN/INFORM
05/16/2007	REFUSING OR FAILING OBEY ORDERS	CLOSED	OTHER ACTION TAKEN/INFORM
05/15/2007	OUT OF PLACE	CLOSED	OTHER ACTION TAKEN/INFORM
05/03/2007	VIOLATIONS WRITE/POST INST RULES	CONVICTED	ADMINISTRATIVE RESOLUTION
04/26/2007	VIOLATIONS WRITE/POST INST RULES	CONVICTED	ADMINISTRATIVE RESOLUTION
03/29/2007	DISRESPECT	CLOSED	OTHER ACTION TAKEN/INFORM
03/28/2007	VIOLATIONS WRITE/POST INST RULES	CLOSED	OTHER ACTION TAKEN/INFORM
03/27/2007	POSSESSION OF CONTRABAND	CONVICTED	ADMINISTRATIVE RESOLUTION
03/16/2007	OUT OF PLACE	CLOSED	OTHER ACTION TAKEN/INFORM
03/09/2007	VIOLATIONS WRITE/POST INST RULES	CLOSED	OTHER ACTION TAKEN/INFORM
03/06/2007	OUT OF PLACE	CLOSED	OTHER ACTION TAKEN/INFORM
02/11/2007	UNAUTH I/M ORGAN/PART STG OR STG ACT	CONVICTED	ADMINISTRATIVE RESOLUTION
02/04/2007	USE OBSCENE,VULGAR,PROFANE LANG/GESTURES	CONVICTED	ADMINISTRATIVE RESOLUTION
02/02/2007	OUT OF PLACE	CLOSED	OTHER ACTION TAKEN/INFORM
01/24/2007	FIGHTING WITHOUT A WEAPON	CONVICTED	MAJOR DISC. HEARING
01/14/2007	INTERFERING WITH COUNT	CLOSED	OTHER ACTION TAKEN/INFORM
01/04/2007	USE OBSCENE,VULGAR,PROFANE LANG/GESTURES	CLOSED	OTHER ACTION TAKEN/INFORM
12/31/2006	REFUSING OR FAILING OBEY ORDERS	CLOSED	OTHER ACTION TAKEN/INFORM
12/28/2006	VIOLATIONS WRITE/POST INST RULES	CONVICTED	ADMINISTRATIVE RESOLUTION
12/21/2006	USE OBSCENE,VULGAR,PROFANE LANG/GESTURES	CONVICTED	ADMINISTRATIVE RESOLUTION

PREVIOUS NON-ASSAULTIVE DISCIPLINARIES:

NO PREVIOUS NON-ASSAULTIVE DISCIPLINARIES HISTORY

HISTORY OF MOVEMENTS:

12/03/2018	BROAD RIVER	INCARCERATED	RETURN FROM COURT
12/03/2018	MCCORMICK CO	AUTH ABSENCE (AWL)	TO COURT
10/08/2018	BROAD RIVER	INCARCERATED	RETURN FROM COURT
10/08/2018	RICHLAND CO	AUTH ABSENCE (AWL)	TO COURT
05/03/2018	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
02/07/2018	LEE	INCARCERATED	ADMINISTRATIVE
05/11/2016	MCCORMICK	INCARCERATED	ADMINISTRATIVE
05/11/2016	KIRKLAND	INCARCERATED	MEDICAL
02/16/2016	MCCORMICK	INCARCERATED	RETURN FROM COURT
02/16/2016	GREENVILLE CO	AUTH ABSENCE (AWL)	TO COURT
11/18/2015	MCCORMICK	INCARCERATED	LOCKUP-ADJUSTMENT COMM.
05/28/2015	LIEBER	INCARCERATED	ADMINISTRATIVE
03/09/2015	KIRKLAND	INCARCERATED	R&E PROCESSING
03/09/2015	PERRY	INCARCERATED	NEW ADMISSION
05/31/2013	UNK	RELEASE	EXPIRATION OF SENTENCE
01/08/2013	PERRY	INCARCERATED	LOCKUP-ADJUSTMENT COMM.
09/14/2010	BROAD RIVER	INCARCERATED	LOCKUP-ADJUSTMENT COMM.
04/28/2010	ALLENDALE	INCARCERATED	LOCKUP-ADJUSTMENT COMM.
06/09/2008	LIEBER	INCARCERATED	RETURN FROM COURT
06/09/2008	GREENVILLE CO	AUTH ABSENCE (AWL)	TO COURT
05/28/2008	LIEBER	INCARCERATED	ADMINISTRATIVE
04/08/2008	TRENTON	INCARCERATED	ADMINISTRATIVE
04/03/2008	PERRY	INCARCERATED	RETURN FROM COURT
04/03/2008	GREENVILLE CO	AUTH ABSENCE (AWL)	TO COURT
04/02/2008	PERRY	INCARCERATED	TO COURT
11/15/2007	TRENTON	INCARCERATED	RETURN FROM COURT
11/15/2007	PERRY	INCARCERATED	TO COURT
06/11/2007	TRENTON	INCARCERATED	ADMINISTRATIVE
06/07/2007	PERRY	INCARCERATED	RETURN FROM COURT
06/07/2007	GREENVILLE CO	AUTH ABSENCE (AWL)	TO COURT
06/06/2007	PERRY	INCARCERATED	TO COURT
02/26/2007	TRENTON	INCARCERATED	RETURN FROM COURT
02/20/2007	GREENVILLE CO	AUTH ABSENCE (AWL)	TO COURT
12/21/2006	TRENTON	INCARCERATED	ADMINISTRATIVE
12/04/2006	KIRKLAND	INCARCERATED	R&E PROCESSING
12/04/2006	PERRY	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LVL
WARDKEEPER ASSISTANT	08/30/2018	08/30/2018	CUSTODY REVIEW	3F5
WARDKEEPER ASSISTANT	08/30/2018	-		5F5
FOOD SERVICE AIDE	06/22/2016	01/07/2018	PLACED IN ST/SP CUSTODY	3F5
GENERAL WORKER	03/17/2016	06/21/2016	LATERAL TRANSFER	3F5
GENERAL WORKER	12/17/2015	03/16/2016	CUSTODY REVIEW	5F5
WARDKEEPER ASSISTANT	08/20/2008	06/01/2009	PLACED IN ST/SP CUSTODY	5F5
WARDKEEPER ASSISTANT	06/10/2008	08/19/2008	CUSTODY REVIEW	3F5
LAUNDRY HELPER	03/09/2008	04/08/2008	INSTIT TRANSFER	3F5
LAUNDRY HELPER	02/26/2008	02/27/2008	PLACED IN ST/SP CUSTODY	3F5
LAUNDRY HELPER	02/08/2008	02/21/2008	PLACED IN ST/SP CUSTODY	3F5
WARDKEEPER	12/04/2007	02/07/2008	LATERAL TRANSFER	3F5
WARDKEEPER	10/09/2007	11/09/2007	PLACED IN ST/SP CUSTODY	3F5
WARDKEEPER	09/18/2007	10/03/2007	PLACED IN ST/SP CUSTODY	3F5
WARDKEEPER	04/05/2007	09/11/2007	PLACED IN ST/SP CUSTODY	3F5

WARDKEEPER	02/15/2007	03/29/2007	PLACED IN ST/SP CUSTODY	3F5
WARDKEEPER	02/08/2007	02/11/2007	PLACED IN ST/SP CUSTODY	3F5
WARDKEEPER	02/02/2007	02/04/2007	PLACED IN ST/SP CUSTODY	3F5
WARDKEEPER	02/01/2007	02/01/2007	ASLT/DRUG/MAJOR DISC	2F5
WARDKEEPER	12/29/2006	01/24/2007	PLACED IN ST/SP CUSTODY	2F5
WARDKEEPER	12/27/2006	12/28/2006	MI ELIGIBLE FOR LEVEL 2	3F5

HISTORY OF EARNED EDUCATION CREDITS:

EEC DESCRIPTION	START DATE	END DATE	TERMINATION REASON
BONUS 15 OR MORE	06/19/2017	01/07/2018	PLACED IN ST/SP CUSTODY
LVL 3 - FULL TIME(NO EWC)	12/09/2009	02/18/2010	PLACED IN ST/SP CUSTODY
LVL 5 - FULL TIME(NO EWC)	08/18/2009	12/08/2009	CUSTODY REVIEW
BONUS 15 OR MORE	12/04/2007	12/20/2007	REDUCTION IN FORCE
BONUS 15 OR MORE	09/18/2007	10/03/2007	PLACED IN ST/SP CUSTODY
BONUS 15 OR MORE	04/05/2007	06/29/2007	INMATE REQUEST
BONUS 15 OR MORE	02/15/2007	03/29/2007	PLACED IN ST/SP CUSTODY
BONUS 15 OR MORE	02/08/2007	02/11/2007	PLACED IN ST/SP CUSTODY
BONUS 15 OR MORE	02/01/2007	02/04/2007	PLACED IN ST/SP CUSTODY
BONUS 15 OR MORE	12/27/2006	01/24/2007	PLACED IN ST/SP CUSTODY

***** END OF REPORT *****

Create PDF

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[Version: 1.4.16 Built: 06/21/2018 03:28:42 PM Time: 12:24:48 PM]

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

JUN 06 2023 LE

STG Committee Appeal

STEP 1

INMATE NAME: <u>Kenneth Rivera</u>	OFFICE USE ONLY
SCDC NUMBER: <u>318979</u>	Grievance No. <u>BCT-361-23</u>
INSTITUTION: <u>BRSF</u>	Code: General <u>STG</u>
HOUSING UNIT: <u>Saluda A # 240</u>	Policy _____
WORK ASSIGNMENT: <u>None</u>	Disc. Hear. <u>6-5-23</u>
	Class. _____
	PREA _____
	Date Received <u>6-7-23</u>
	IGC Initials <u>LS</u>

STATEMENT OF GRIEVANCE (Indicate the date of incident, and if the grievance is a challenge to SCDC Policy, specify which policy. Include supporting documentation and attach answered RTSM or Kiosk reference number.)

I, Kenneth Rivera #318979, is the grievant of this grievance. On the date of June 5, 2023 at 4:41 pm I did Appeal the "STG Committee decision. Since December 1, 2006 I have been a validated Security Threat Group (STG). Today however, the STG committee designated me as a STG. The evidence Lt. Ward presented to the committee was old evidence. I have been in RTU for 10 months the evidence date back to 2021. The committee claim I am a "Blood member" I am a "Rastafarian". TO designate me again as a "STG" is double jeopardy. From 2010-2017 I was in RTU as a validated STG.

STG Appeal

Kenneth Rivera 6/5/2023
Grievant Signature Date

ACTION REQUESTED: I demand to be taken off RTU and removed this STG label from my name.

ACTION TAKEN BY IGC: PROCESSED UNPROCESSED OTHER

IGC Signature Date

WARDEN'S DECISION AND REASON:

Rivera Kenneth 318979

BRCI-0561-23

I have reviewed your concern. In your grievance you state since December 1st, 2006, you were suspected as a (STG) Security Threat Group member. You state on June 5th you went up before the STG board and you were designated as a STG member. You claim the evidence that was being presented by LT Ward were old, and that you been in (RHUU) Restricted Housing Unit for (10) Ten months and the evidence date back to year 2021. You continue by saying the Committee board designated you as a "BLOOD" member when you claim to be a "RASTAFARIAN". You demand to be release from RHU and have the STG label removed from you name. Be advise your concerns were received and investigated by Statewide STG Coordinator and it concludes that you meet the requirements of the Security Threat Group member by the evidence which are considered identifiers such as but not limited to, Hand signs, related tattoos, possession of STG material or writings and etc. You have not proven that SCDC staff and STG were outside of Policy and Procedure.

Therefore, your grievance is denied.

If you disagree with this Warden's Decision (Decision), you may file an appeal by completing SCDC Inmate Grievance Form 10-5A, provided to you while serving you this Decision, and placing it in the Grievance Box at your local correctional institution within five (5) days of your receipt of this Decision.

K. Am 6/13/23
Warden Signature Date

- I accept the Warden's decision and consider the matter closed.
- I do not accept the Warden's decision and wish to appeal.

Kenneth R 06/14/2023
Grievant Signature Date

R. Snow 6/13/23
IGC Signature Date

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM

1. An informal resolution shall be attempted prior to the filing of Step 1 by sending an Inmate Request to Staff Member (RTSM) form or Kiosk reference number to the appropriate supervisor. A copy of the answered RTSM must be attached to the grievance when the grievance is filed.
2. Complete each section in its entirety writing only in the space provided for inmate use. No additional pages will be permitted.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form by placing it in the Grievance Box at your institution within eight (8) working days of the date on the RTSM response; policy grievances can be filed at any time. Disciplinary and Classification Review appeals must be submitted within five (5) working days of the hearing/review. Do not write in the space provided for the Warden's response.
5. If you are not satisfied with the Warden's decision, you may appeal to the appropriate responsible official within five (5) days of your receipt of the Warden's decision, by placing your Step 2 appeal form in the Grievance Box at your institution.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM

STEP 2

Office Use Only

Wedate
6/21/23

LR
6/20/23 6:11 AM

INMATE NAME: Kenneth Rivera

SCDC NUMBER: 318979

INSTITUTION: BLSF

HOUSING UNIT: Saluda A # 240

WORK ASSIGNMENT: N/A

Grievance No. 6501-05101-23
Code: General U.S.T.G.
Policy _____
Disc. Hear. _____
Class _____
PREA _____
Date Received: 6/19/23
IGC Initials: IS
Date Received: 6/23/23
IGA Initials: BW

RECEIVED

JUN 20 2023

INMATE GRIEVANCE

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

I Kenneth Rivera #318979 appeals Warden Kenneth Nelson decision. Since 2006 I have been validated as a STG however, the STG Committee designated me as a STG with old evidence from 3 years ago. Where is the new evidence proving I am a "Blood"? I am a Rastafarian not a gang member.

Grievant Signature Kenneth Rivera Date 06/14/2023

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

I have reviewed your concern. In your grievance you state that you are appealing the results given by the STG committee and you were initially validated as a Security Threat Group (STG) member on December 1, 2006. You state that evidence presented to the committee was "old" which dates to 2021, and you have been in the Restrictive Housing Unit (RHU) for 10 months. You further state that the committee labels you as a "Blood member", however you consider yourself to be a "Rastafarian" and you believe that validating you would be considered as double jeopardy. You have requested that you be removed from RHU and that the STG designation be removed from your name. Your concern was forwarded to the Statewide STG Coordinator for review. Upon further review, it was determined that you met the requirements for a security threat group member as outlined in SCDC Policy OP-22.58 "Security Threat Groups." Their decision is based on evidence, and it was confirmed that the proper number of points was accumulated to be designated as a security threat group member.

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.

Responsible Official Signature Julie Now Date 7-18-23

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.

Kenneth R 8/3/2023
Grievant Signature Date

IGC Signature Date

INSTRUCTIONS FOR COMPLETING STEP 2 GRIEVANCE FORM

1. Complete form in its entirety, writing only in the space provided for inmate use.
2. State your specific reason for further appeal. Do not submit any new issues for review. No additional pages will be permitted.
3. Submit this completed form with your copy of the Step 1 form by placing in the Grievance Box within five (5) days of your receipt of the Warden's decision. Do not write in the space provided for the responsible official.
4. The decision rendered by the responsible official exhausts the appeal process of the SCDC Inmate Grievance Procedure.

South Carolina Department of Corrections

Offender Records

Change of Religious Preference

1. Inmate: Kenneth Rivera
2. SCDC#: 318979 Dorm / Rm.# Monticello A # 212
3. Institution: Broad River C.I.
4. Religious Preference Listed in SCDC Record: Muslim
5. Change Religious Preference To: Rastafarian
6. Inmate Signature: Kenneth Rivera Date: August 26, 2019
7. _____ Date: _____
Chaplain's Signature

If you are interested in attending weekly activities for your new Religious Preference, initial what you want (may be on one or both):

KR	Study Class(es)
KR	Worship Service

You must wait until you receive an (OTR) to start attending classes

Copies Forwarded To:

1. Institutional Classification Record
2. Offender Records
3. Chaplain's File
4. Inmate

THE STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Kenneth Rivera

318979

AFFEANT

AFFIDAVIT

I Kenneth Rivera #318979, is the Affiant of this Affidavit. On the day of May 26, 2023 while at the Broad River Secured facility the following occurred:

1. I was escorted to the conference room of BRSF by 2 officers.
2. Once in the conference room SC-DC Gang Task Force was inside
3. Mrs. Russell, an unidentified woman, and Lt. Ward informed me of the STG changes.
4. Lt. Ward also told me that I had a June 5, 2023 STG hearing.
5. Mrs. Russell kept mentioning that I have been on the news recently.
6. Lt. Ward informed me that I should no longer be a

5. The technician took x-ray photographs 3 times of both of my eyes

6. Dr. Kecher informed me to keep using the prescribed eye drops and he will schedule to see me in 6 months at C.O.A ("Central office Annex").

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

Sworn And Subscribed before Me this
31 Day of May 2023
Wm. Ray

Kenneth Riva
Kenneth Rivera

Notary for the Public of SC
10-4-37

My Commission Expires

THE STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Kenneth Rivera

#318979

AFFIANT

AFFIDAVIT

I Kenneth Rivera #318979, is the Affiant of this Affidavit. On June 1, 2023 While Confined to SCDc Broad River Secured Facility the following did take place:

1. While I was on the rec field counsel substitute Mr. Wright did come to talk with me about my June 5, 2023 Security Threat Group ('STG') hearing.
2. Mr. Wright showed me a file on me which consist of Evidence regarding my STG status, a list of questions and my SCDc photograph with basic information about me.
3. I informed Mr. Wright that I am no longer in on going and stated that I am a "Reinstatement".
4. I also mentioned that I have been in RHU for 10 months, and that I have did RHU time before as a validated - STG for the same reasons the paper is saying.

5. Mr. Wright mentioned that the language changed from "Validated STG" to "Designated STG".

6. Mr. Wright talk notes.

7. He mentioned that Clark from Lee Correctional Institution ("LCI") is the STG coordinator now.

8. I stated "where is now evidence stating that I am in a game?" The record shows old evidence.

I declare Under The Penalty of Perjury That The Above Is True and Correct.

Sworn To And Subscribe Before Me This

5 Day of June, 2023

[Signature]

Notary of The Public for SC

10-4-32

My Commission Expires

[Signature]

Kenneth Rivera

THE STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Benneth Rivera

AFFIANT

AFFIDAVIT

318979

I Kenneth Rivera #818979, is the Affiant of this Affidavit.
On June 5, 2023 while incarcerated at Broad River secured
Facility within SCDC the following did occur:

1. Sgt. Perkins escorted me down to BRSF conference room
to conduct a security threat group (STG) hearing by
the gang intelligence unit.

2. At least 12 employees was present including Lt. Ward,
Mr. Wright, DHO, Cert team, 2 Warden's

3. Lt. Ward presented video evidence, and social media
pictures.

4. I denied being in a gang

5. I ask for a copy of all paperwork regarding this hearing

6. The STG comm. Hee designated me as a STG again.

I declare Under The Penalty of Perjury That The Above is True and Correct.

Sworn Before Me This
7 Day of July, 2023
[Signature]

Kenneth Rain
Kenneth Rivera

Notary for The Republic of SE
10-4-32

My Commission Expires

IN THE STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Kenneth Rivera
AFFIANT

#318979

AFFIDAVIT

I Kenneth Rivera #318979, is the Affiant of this Affidavit. On June 28, 2023 while incarcerated in SCDJ and confined to its BRSF Saluda Unit A #240 the following did occur:

1. Officer Moore of the E1 shift came to my cell and ask "Did you get an'otr" yesterday to listen to your hearing recording?"

2. I mentioned "NO" and who told you to ask me that?"

3. Officer Moore stated "Some lady".

4. I replied by saying "make sure you let her know that I want to listen to my STG hearing recording tomorrow."

5. Officer Moore then wrote what I said down.

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

Sworn Before Me This

29 day of JUNE, 2033
[Signature]

Kenneth Rivera
Kenneth Rivera

Notary of The Public for SC

10-437

My Commission Expires:

IN THE STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Kenneth Rivera

#318979

AFFIANT

AFFIDAVIT

I Kenneth Rivera #318979, is the Affiant of this Affidavit. On June 29, 2023 while incarcerated in SCDC Broad River Secured Facility Saluda A #240 the following did occur:

1. Officer Duffy and Officer Crimm of the E1-shift did escort me to the conference room.
2. While in the conference room the Major Secretary Ms. Lehman allowed me to listen to my Security Threat Group (STG) designation hearing that was held on June 5, 2023.
3. After I listen to the recording I spoke briefly with Counsel substitute Wright in the hallway.
4. I told Mr. Wright that I never received copies of the paperwork I signed during my June 5, 2023 hearing. I stated on record I would like a copy.

5. Mr. Wright stated "Lt. Ward haven't given you a copy yet?"

6. I stated "No".

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

Sworn Before Before Me This
10 Day of July, 2023
[Signature]

Notary of The Public for SC
10-4-32

My Commission Expires

[Signature]
Kenneth Rivera

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER

RECEIVED
JUN 07 2023
DIVISION OF CLASSIFICATION & INMATE RECORDS

TO: STAFF NAME: <u>Stacey Richardson</u> STAFF TITLE: <u>Classification/Inmate records</u>		DATE: <u>June 1, 2023</u>
INMATE NAME: <u>Kenneth Rivera</u>		SCDC #: <u>318979</u>
INSTITUTION: <u>BRSF</u>	DORM/SIDE/BED: <u>Saluda A #240</u>	HOUSING TYPE: <input checked="" type="checkbox"/> RHU <input type="checkbox"/> R&E <input type="checkbox"/> INFIRMARY <input type="checkbox"/> SSR <input type="checkbox"/> DEATH ROW <input type="checkbox"/> ASSISTED LIVING UNIT (ALU) <input type="checkbox"/> N/A
REASON FOR PAPER REQUEST: <input type="checkbox"/> PREA <input type="checkbox"/> MEDICAL <input type="checkbox"/> MENTAL HEALTH <input type="checkbox"/> DENTAL <input type="checkbox"/> MEDICAL COPAY <input type="checkbox"/> MEDICAL RECORDS <input checked="" type="checkbox"/> KIOSK INACCESSIBLE (EXPLAIN): _____		

- YOU MUST USE THE KIOSK IF YOUR PAPER REQUEST DOES NOT MEET ANY OF THE CRITERIA ABOVE.

PEACE,

Be advised that this STG hearing is/will be double jeopardy. I am no longer in a "gang" I am a Restorationist therefore, this STG hearing is not right at all... I look forward to hearing from you.

DISPOSITION BY STAFF MEMBER:
This is not my area. You need to write the Division of Security.

DATE: 6/7/23 STAFF SIGNATURE: SR

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER

TO: STAFF NAME: <u>Mr. Clark</u> STG Coordinator		STAFF TITLE:	DATE: <u>June 3, 2023</u>
INMATE NAME: <u>Kenneth Rivera</u>		SCDC #: <u>318979</u>	
INSTITUTION: <u>BRSE</u>	DORM/SIDE/BED: <u>Saluda A #240</u>	HOUSING TYPE: <input checked="" type="checkbox"/> RHU <input type="checkbox"/> R&E <input type="checkbox"/> INFIRMARY <input type="checkbox"/> SSR <input type="checkbox"/> DEATH ROW <input type="checkbox"/> ASSISTED LIVING UNIT (ALU) <input type="checkbox"/> N/A	
REASON FOR PAPER REQUEST: <input type="checkbox"/> PREA <input type="checkbox"/> MEDICAL <input type="checkbox"/> MENTAL HEALTH <input type="checkbox"/> DENTAL <input type="checkbox"/> MEDICAL COPAY <input type="checkbox"/> MEDICAL RECORDS <input checked="" type="checkbox"/> KIOSK INACCESSIBLE (EXPLAIN): _____			
YOU MUST USE THE KIOSK IF YOUR PAPER REQUEST DOES NOT MEET ANY OF THE CRITERIA ABOVE.			
<p>PEACE,</p> <p>I am writing you regarding this STG designation. Since 2006 I have been a validated STG and placed in RHU as a validated STG from 2010-2017 (7 years). Now you are designating me again with the same evidence? Where is the new evidence showing I am a member/leader within the Blood Nation? I am not affiliated with any gang I am a "Rastafarian" not a Blood gang member. Where is the new evidence? all you have is old evidence in which I was validated for. I look forward to hearing from you.</p>			
DISPOSITION BY STAFF MEMBER:			
<p>Received this date from STG department.</p>			
DATE: <u>6/14/23</u>		STAFF SIGNATURE: <u>[Signature]</u>	

To: Kenneth Rivera #318979

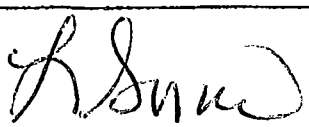
From: J. Werts, Assistant STG Coordinator

Subject: STG Designation

You were brought before an impartial Designation Hearing Officer and evidence was presented against you in accordance with SCDC policy **OP-22.58, Security Threat Groups**. The evidence provided against you was found to be true and just, therefore you were designated as an STG member. Should you wish to renounce your affiliation in the future, you may request a review two years from the date of designation.

J. Werts, Assistant STG Coordinator

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER

TO: STAFF NAME: <u>J. Werts</u> STAFF TITLE: <u>Assistant STG Coordinator</u>		DATE: <u>June 28, 2023</u>
INMATE NAME: <u>Kenneth Rivera</u>		SCDC #: <u>318979</u>
INSTITUTION: <u>BRSF</u>	DORM/SIDE/BED: <u>Saluda A #240</u>	HOUSING TYPE: <input checked="" type="checkbox"/> RHU <input type="checkbox"/> R&F <input type="checkbox"/> INFIRMARY <input type="checkbox"/> SSR <input type="checkbox"/> DEATH ROW <input type="checkbox"/> ASSISTED LIVING UNIT (ALU) <input type="checkbox"/> N/A
REASON FOR PAPER REQUEST: <input type="checkbox"/> PREA <input type="checkbox"/> MEDICAL <input type="checkbox"/> MENTAL HEALTH <input type="checkbox"/> DENTAL <input type="checkbox"/> MEDICAL COPAY <input type="checkbox"/> MEDICAL RECORDS <input checked="" type="checkbox"/> KIOSK INACCESSIBLE (EXPLAIN) _____		
YOU MUST USE THE KIOSK IF YOUR PAPER REQUEST DOES NOT MEET ANY OF THE CRITERIA ABOVE.		
<p>PEACE,</p> <p>Pardon SELF, I am sending you documents regarding this wrongful designation STG. Along with this document is past documents detailing my validation STG status as well as my release from STG custody. What I stated during the June 5, 2023 designation hearing I meant it. You can isolate we leaders but you cannot stop or prevent leaders from rising to fulfill our spots. You cannot stop or prevent what's going on in SCDP FACTS. However, the evidence you have is not admissible because its from 2-3 years ago where is any new evidence to support your claim? I am a "Rastafari"... I look forward to hearing from you.</p>		
DISPOSITION BY STAFF MEMBER:		
See the attach document.		
DATE: <u>7/11/23</u>	STAFF SIGNATURE: 	

TO: Kenneth Rivera, SCDC #318979
FROM: J. Werts, Assistant STG Coordinator
Date: July 11, 2023
Subject: STG Designation

In response to your Request to Staff dated June 28, 2023, you state that the evidence presented against you for STG Designation is from 2 to 3 years ago. Upon a review of your incarceration records, I noted that you were validated in January 2007 as a Blood gang member, released from custody in May 2013, re-admitted in March 2015, validated in November 2015 and Designated in June 2023. If the evidence used against you was 2 to 3 years old, it was behavior exhibited since your incarceration in March of 2015. I was unable to substantiate any requests initiated by you to renounce your STG affiliation, furthermore, in your request, you identify yourself as holding a leadership role.

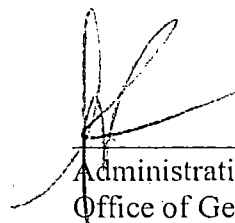
If you remain disciplinary free, you may request to renounce your affiliation 2 years from the date of your designation.

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
OFFICE OF GENERAL COUNSEL**

INMATE: Kenneth Rivera, 318979
INSTITUTION: Broad River Secure Facility
FROM: Office of General Counsel
SUBJECT: Inmate Correspondence
DATE: August 21, 2023

I am in receipt of your inmate correspondence/Request to Staff Member. Your correspondence is being rejected in accordance to SCDC Policy, GA-06.04, Request to Staff Member and returned to you for one or more of the following reasons. Please resubmit your concern in accordance with policy so that I can address it.

- Inmates are only allowed to submit one issue per RTSM, which must be written legibly (to the appropriate area) and must be limited to a single sheet.
- ✓ Inmates are prohibited from sending duplicate or similar RTSM to multiple staff members.
- The RTSM is intended for use by an individual inmate (An inmate may not send a RTSM form multiple inmates).
- ✓ You will have to enter your concerns through the Automated Request to Staff System (kiosk).
- Other:
Your concerns regarding you being designated as a STG should be directed through the appropriate institutional/divisional staff. Please submit your questions/concerns to either the Division of Security or the Division of Operations. Also, you recently sent a RTSM that was similar in nature to the director's office.



Administrative Coordinator
Office of General Counsel

RECEIVED

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER

AUG 16 2023

TO: STAFF NAME: <u>Bart Vincent</u> STAFF TITLE: <u>General Counsel</u>		DATE: <u>August 12, 2023</u> GENERAL COUNSEL
INMATE NAME: <u>Kenneth Rivera</u>		SCDC #: <u>318979</u>
INSTITUTION: <u>BRSF</u>	DORM/SIDE/BED: <u>Saluda A #240</u>	HOUSING TYPE: <input checked="" type="checkbox"/> RHU <input type="checkbox"/> R&E <input type="checkbox"/> INFIRMARY <input type="checkbox"/> SSR <input type="checkbox"/> DEATHROW <input type="checkbox"/> ASSISTED LIVING UNIT (ALU) <input type="checkbox"/> N/A
REASON FOR PAPER REQUEST: <input type="checkbox"/> PREA <input type="checkbox"/> MEDICAL <input type="checkbox"/> MENTAL HEALTH <input type="checkbox"/> DENTAL <input type="checkbox"/> MEDICAL COPAY <input type="checkbox"/> MEDICAL RECORDS <input checked="" type="checkbox"/> KIOSK INACCESSIBLE (EXPLAIN): _____		
YOU MUST USE THE KIOSK IF YOUR PAPER REQUEST DOES NOT MEET ANY OF THE CRITERIA ABOVE.		
<p>PEACE,</p> <p>I am being persecuted and discriminated against! The G.I.U feels because I am a "Rastafarian" and a leader of my Black people that I am a threat to SCDC. However, the G.I.U is not showing me the threat? I am Designated as a STG for the same reasons I was validated as a STG. Where is the violence, influence of security, risk to security? But yet I am being held in Segregation for SCDC political reasons. This is cruel and unusual punishment! I am sending you documents. I look forward to hearing from you. I have been in RITU a year today without any disciplines!!!</p>		
DISPOSITION BY STAFF MEMBER:		
DATE:	STAFF SIGNATURE:	

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Division of Classification and Inmate Records

Inmate River

SMU INSTITUTIONAL CLASSIFICATION COMMITTEE REVIEW

Inmate Name: enneth SCDC# 3189

Institution: Kirkland Date Inmate Placed in SMU: / /

Inmate Assignment (if applicable): Security Detention Death Row Statewide Protective Custody

The Institutional Classification Committee met on 12/1 to conduct a Initial seven-day Review
 Regularly Scheduled 3 Day Review

The Committee recommends that the above referenced inmate be:

- Released from SMU and Returned to the General Population
- INITIALLY Placed in Security Detention in the following SD-Level: Level I Level II
- Advanced/Reduced/Remain in Security Detention Level Assignment: Level I
(circle one) Level II
- Advanced/Reduced/Remain Death Row Level Assignment: Level I
(circle one) Level II
 Level III
- Remain in Protective Custody Status.
- Released from Protective Custody and Returned to the General Population.

The Committee further recommended that the inmate SD
(list any other special restrictions/needs here)

The justification for this decision was: STG Validation SD

S/ _____
Institutional Classification Committee Person

Date: / /

S/ _____
Warden/Duty Warden (only for placement and release from SD)

Date: / /

White: Institutional Record
Canary: Central Records
Green: Inmate

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Division of Classification and Inmate Records

SMU INSTITUTIONAL CLASSIFICATION COMMITTEE REVIEW

Inmate Name: _____ SCDC# _____

Institution: _____ Date Inmate Placed in SMU: ___/___/___

Inmate Assignment (if applicable): Security Detention Death Row Statewide Protective Custody

The Institutional Classification Committee met on ___/___/___ to conduct a Initial seven-day Review
 Regularly Scheduled _____ Day Review

The Committee recommends that the above referenced inmate be:

- Released from SMU and Returned to the General Population
- INITIALLY Placed in Security Detention in the following SD-Level: Level I Level II
- Advanced/Reduced/Remain in Security Detention Level Assignment: Level I
(circle one) Level II
- Advanced/Reduced/Remain Death Row Level Assignment: Level I
(circle one) Level II
 Level III
- Remain in Protective Custody Status.
- Released from Protective Custody and Returned to the General Population.

The Committee further recommended that the inmate _____
(list any other special restrictions/needs here)

The justification for this decision was: _____

S/ _____
Institutional Classification Committee Person

Date: ___/___/___

S/ _____
Warden/Duty Warden (only for placement and release from SD)

Date: ___/___/___

White: Institutional Record
Canary: Central Records
Green: Inmate

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Division of Classification and Inmate Records

SMU INSTITUTIONAL CLASSIFICATION COMMITTEE REVIEW

Inmate Name: _____ SCDC# _____

Institution: _____ Date Inmate Placed in SMU: ___/___/___

Inmate Assignment (if applicable): Security Detention Death Row Statewide Protective Custody

The Institutional Classification Committee met on ___/___/___ to conduct a Initial seven-day Review
 Regularly Scheduled ___ Day Review

The Committee recommends that the above referenced inmate be:

- Released from SMU and Returned to the General Population
- INITIALLY Placed in Security Detention in the following SD-Level: Level I Level II
- Advanced/Reduced/Remain in Security Detention Level Assignment: Level I
(circle one) Level II
- Advanced/Reduced/Remain Death Row Level Assignment: Level I
(circle one) Level II
 Level III
- Remain in Protective Custody Status.
- Released from Protective Custody and Returned to the General Population.

The Committee further recommended that the inmate _____
(list any other special restrictions/needs here)

The justification for this decision was: _____

S/ _____
Institutional Classification Committee Person

Date: ___/___/___

S/ _____
Warden/Duty Warden (only for placement and release from SD)

Date: ___/___/___

White: Institutional Record
Canary: Central Records
Green: Inmate

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Division of Classification and Inmate Records

SMU INSTITUTIONAL CLASSIFICATION COMMITTEE REVIEW

Inmate Name: _____ SCDC# _____

Institution: _____ Date Inmate Placed in SMU: ___/___/___

Inmate Assignment (if applicable): Security Detention Death Row Statewide Protective Custody

The Institutional Classification Committee met on ___/___/___ to conduct a Initial seven-day Review
 Regularly Scheduled ___ Day Review

*This was back dated →
I received it 8/27/15 a month later!*

The Committee recommends that the above referenced inmate be:

- Released from SMU and Returned to the General Population
- INITIALLY Placed in Security Detention in the following SD-Level: Level I Level II
- Advanced/Reduced/Remain in Security Detention Level Assignment: Level I
(circle one) Level II
- Advanced/Reduced/Remain Death Row Level Assignment: Level I
(circle one) Level II
 Level III
- Remain in Protective Custody Status.
- Released from Protective Custody and Returned to the General Population.

The Committee further recommended that the inmate _____
(list any other special restrictions/needs here)

The justification for this decision was: _____

S/ _____
Institutional Classification Committee Person

Date: ___/___/___

S/ _____
Warden/Duty Warden (only for placement and release from SD)

Date: ___/___/___

White: Institutional Record
Canary: Central Records
Green: Inmate

*Warden never signed
NDR was I present*

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Division of Classification : Inmate Records

SMU INSTITUTIONAL CLASSIFICATION COMMITTEE REVIEW

Inmate Name: _____ SCDC# _____

Institution: _____ Date Inmate Placed in SMU: ___/___/___

Inmate Assignment (if applicable): Security Detention Death Row Statewide Protective Custody

The Institutional Classification Committee met on ___/___/___ to conduct a Initial seven-day Review
 Regularly Scheduled ___ Day Review

The Committee recommends that the above referenced inmate be:

- Released from SMU and Returned to the General Population
- INITIALLY Placed in Security Detention in the following SD-Level: Level I Level II
- Advanced/Reduced/Remain in Security Detention Level Assignment: Level I
(circle one) Level II
- Advanced/Reduced/Remain Death Row Level Assignment: Level I
(circle one) Level II
 Level III
- Remain in Protective Custody Status.
- Released from Protective Custody and Returned to the General Population.

The Committee further recommended that the inmate _____
(list any other special restrictions/needs here)

The justification for this decision was: Policy Change

S/ _____
Institutional Classification Committee Person

Date: ___/___/___

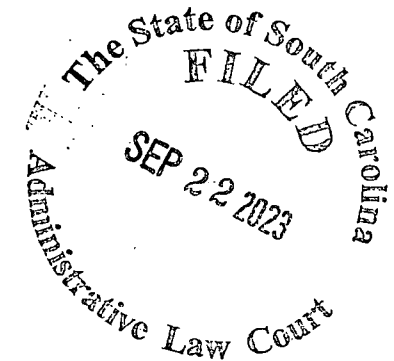
S/ _____
Warden/Duty Warden (only for placement and release from SD)

Date: ___/___/___

White: Institutional Record
Canary: Central Records
Green: Inmate

Below is information regarding your case which has been filed with the ALC. Please refer to the Rules of Procedure (enclosed) for the time frames on filing briefs and other matters.

Case Type	Case Number	Filing Date	Date Assigned	Judge Last	Case Title (Appellant v. Respondent)	Grievance No
DOC 04 Appeal	23C0312	8/11/2023	9/22/2023	Lenski	Kenneth Rivera #318979 v. SC DOC	BRCI 0561-23



You must file all original documents and correspondence regarding this case directly with the above-named Judge and serve a copy on the Dept. of General Counsel, S.C. Dept. of Corrections, PO Box 21787, Columbia, SC 29221.

STATE OF SOUTH CAROLINA
In The Administrative Law Court

Rivera vs. SCDC, 2023-ALJ-04-0312-AP

Grievance No. BRCI-0561-23

Judge Assigned: The Hon. Lenski

APPELLANT'S BRIEF

Statement Of The Case

This matter is before the South Carolina Administrative Law Court ("ALC") pursuant to the Notice of Appeal by the Appellant, Kenneth Rivera, who is an inmate incarcerated with the South Carolina Department of Corrections ("SCDC").

The Appellant appeals the decision of the SCDC denying his Step Two Grievance (No. BRCI-0561-23) in which he was designated as a Security Threat Group ("STG") twice dated July 18, 2023.

The Appellant was sanctioned and placed on lock-up with the loss of 39 days of accrued good time credit so a liberty interest is involved.

ISSUES ON APPEAL

I. Did SCDC Designate Appellant for the same offence twice?

II. Did SCDC place Appellant in the Restricted Housing Unit ('RHU') for the same offence twice?

Standard of Review

Because Appellant trusts this Honorable Court is aware of the applicable standard of review, he will not set forth the standard here other than stating this court that the Supreme Court of South Carolina, in Travelscape, LLC vs. South Carolina Department of Revenue, has held:

"We find the principle enunciated in Dorman and Ward to be sound and hold the ALCs are empowered to hear 'as applied' challenges to statutes and regulations. ALCs are better suited for making the factual determinations necessary for an 'as applied' challenge, and finding a statute or regulation unconstitutional as applied to a specific party does not affect the facial validity of that provision."

Id., 765 S.E. 2d 28 (S.C. 2011); Dorman vs DHEC, 565 S.E. 2d 119 (S.C. App. 2002) ("ALJs can rule on whether a party's constitutional rights have been violated.")

Background And Facts

In this case, on June 5, 2023 Appellant Kenneth Rivera, was designated as a Security Threat Group ("STG") by SCDC. On the same date Appellant filed a Step One Grievance (BCEI-0561-23) challenging and appealing the STG designation.

Appellant in his Step One Grievance mentions that he is/was a validated STG member from 2006-2023 and that he is no longer affiliated with the Blood Organization. Appellant declares that he is a "Rastafarian" and do not hold the rank of Sgt. in the BKB Blood Organization.

SCDC has placed Appellant in the Restricted Housing Unit ("RHU") as a validated STG from 2010-2017. Appellant hasn't been involved with Blood activity since 2018 and as of August 12, 2023 has been placed in RHU as a SD/STG for the same reasons he was placed in RHU back in 2010.

Upon SCDC on records Appellant was placed on protective concerns ("PC") in 2018 due to him no longer wanting to be a leader within the Blood organization. All evidence SCDC produce are old evidence, no disciplinary or violence. Appellant was held thirteen (13) months in RTHU losing a total of 39 good time credit.

Arguments

I. Did SCDC Designate Appellant for the same offence twice?

As shown in the above standard of review, ALCs are now empowered to hear and determine unconstitutional as applied challenges to statutes and regulations.

Appellant was designated as a Security Threat Group ("STG") for the same reasons he was validated in 2010. In U.S. vs. Ayala, 601 F.3d 256 (2010) held:

"Double Jeopardy Clause of the Fifth Amendment prohibits second prosecution for same offense after acquittal, second prosecution for same offense after conviction, and multiple punishments for same offense..."

II. Did SCDC place Appellant in the Restricted Housing Unit ("RHU") for the same offense twice?

On August 12, 2022 Appellant was placed in RHU by SCDC alleging his involvement in STG activity. SCDC has not provided Appellant with any evidence to support their allegations. However, on June 5, 2023 SCDC designated him again as a STG leader. Appellant spent a total of 13 months in RHU due to SCDC allegations.

Appellant wasn't charged nor convicted of any STG related activity. Appellant lost a total of 39¹ earn good time credits. Appellant receives 3 days of good time each month and due to be in RHU he has failed to earn those credits. In Babatunde v. Ward, 2016 WL 375045, held

"If a person is unlawfully placed in security detention and harmed by the conditions of that detention, then he might have a claim even if the conditions of that detention do not violate the Eighth Amendment..."

Relief

Appellant pray that this court grant his relief by ordering SDC to remove the Security Threat Group (STG) label from his name and restore his good time credits.

CONCLUSION

Wherefore, having made the foregoing brief, Appellant request for a copy of the June 5, 2023 STG hearing.

October 2, 2023

Kenneth Rivera

Kenneth Rivera #318979

BRCI-WA #151

4460 Broad River Rd


Columbia, SC 29210

Certificate of Service

I, Kenneth Rivera, do hereby Certify that I served the Appellant's Brief upon SCDC by depositing a copy of same in the U.S. Mail, postage prepaid addressed as:

SCDC- General Counsel
P.O. BOX 21787
Columbia, SC 29221

October 2, 2023


Kenneth Rivera

STATE OF SOUTH CAROLINA
In The Administrative Law Court

Kenneth Rivera vs. SCDC, 2023-ALS-04-0312-AP
Grievance NO. BRCL-0561-23

Judge Assigned: The Honorable S. Phillip Lenski

MOTION TO RESPOND TO RESPONDENT'S
MOTION TO DISMISS

The Appellant Kenneth "Syncere Shabazz" Rivera in the above named case hereby move the South Carolina Administrative Law Court ("ALC") for an Order to respond to respondent motion to dismiss because:

1. Appellant was wrongfully designated as a Security Threat Group ("STG").
2. Appellant as an STG is subject to harsh sanctions.
3. Appellant is not being equally protected.

Said motion is based upon the attached Memorandum of Law, and all of the files, records, and proceedings herein.

December 12, 2023

Syncore Shabazz / Kenneth Rivers
Syncore Shabazz / Kenneth Rivers
#318979

LCI- CB #55

PO BOX 205

Ridgerville, SC 29472

STATE OF SOUTH CAROLINA
In The Administrative Law Court

Kenneth Rivera vs. SCDC, 2023-ALS-04-0312-AP
Grievance No. BRCE-0561-23

Judge Assigned: The Honorable S. Phillip Lenski

MEMORANDUM OF LAW IN OPPOSITION TO
RESPONDENT'S MOTION TO DISMISS

STATEMENT OF THE CASE

This matter is before the Administrative Law Court ("ALC") pursuant to the appeal of Kenneth "Sincere Shabazz" Rivera, an prisoner incarcerated with the South Carolina Department of Corrections ("SCDC"). On June 5, 2023 Appellant was removed from a Validated Security Threat Group to a Designated Security Threat Group ("STG") by the SCDC Gang Task Force.

To designate Appellate as a STG Respondent's used photographs of Appellate when he was free in society, evidence from his 2006 STG Validation, Confidential Informants (C.I.'s) but no recent evidence of gang activity.

On June 5, 2023 Appellate filed a Step one grievance appealing SCDC Gang Task force decisions. June 13, 2023 Appellant's Step one grievance was denied and on June 14, 2023 he filed a Step 2 grievance. July 18, 2023 Appellant Step two was denied. This appeal followed.

ARGUMENT

This case is a prime example to why cases such as this one should be granted. From 2006-2023 Appellant was a validated Security Threat Group. In fact, Appellant was held in the Restricted Housing Unit ("RHU") as a validated STG from 2010-2017. Without any substantial evidence Respondent designated Appellant as a STG again.

Respondent own records would show that January 2018 Appellant requested for Protective Concerns ("PC") because he no longer was a leader within the Blood organization and harm was done to him. Respondent knows that Appellant is a Rastafarian and no longer a leader within a STG.

On June 5, 2023 Respondent produced zero evidence that supports the designation decision, however, old STG evidence no new evidence was used to support their decision.

As a now designated SITS Appellant privileges are subject to limitation. He can now only receive visits from immediate family when none of his visitors are not in violation of any laws. Appellant was a level 2 classification now he must remain on a level 3 prison. His incoming mail is photocopied and he has spent 13 months in RITU without any disciplinary or criminal convictions.

In Prieto v. Clarke, 780 F.3d 245, 248 (4th Cir. 2015)
held:

"The Supreme Court has long recognized that a prisoner may have a state-created liberty interest in certain prison confinement conditions, entitling him to procedural Due Process protections..."

Because Respondent motion is without merit, this court should dismiss their motion and grant his Brief.

December 12, 2023

Sincerely,

Syone Shabazz / Kenneth Rivera
Syone Shabazz / Kenneth Rivera
#318979

LCI-CB #55
PO Box 205
Ridgeville, SC 29472

I hereby certify that a copy of the foregoing motion to respond and memorandum of law was, this date, served upon the following individuals by placing a copy of the same via mail to his/her last known address:

December 12, 2023

Syncore Shabazz / Kenneth Rivers
Syncore Shabazz / Kenneth Rivers

Joseph R. Shakibanessob
SCDC - Office of General Counsel
4444 Broad River Rd.
Columbia, SC 29221-1787

STATE OF SOUTH CAROLINA
In The Administrative Law Court

Rivera vs. SCDC, 2023-ALJ-04-0312-AP

Grievance NO. BRCI-0561-23

Judge Assigned: The Honorable Lenski

APPELLANT'S REQUEST FOR PRODUCTION OF DOCUMENTS

Pursuant to Rule 21 of the Rules of Procedure For The Administrative Law Court, Plaintiff requests that Defendant, South Carolina Department of Corrections produce for inspection and copying the following documents:

1. The complete prison record of the plaintiff
2. All written statements identifiable as reports about the designation Security Threat Group ("STG") hearing on June 5, 2023, made by SCDC employees, and/or witnesses.
3. Any and all rules, regulations, and policies of SCDC regarding Security Threat Groups.

October 19, 2023

Kenneth Rivera

Kenneth Rivera #318979

BRCI-WAA #151

4460 Broad River Rd.

Columbia, SC 29210



SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS
Safety, Service, and Stewardship

HENRY McMASTER, Governor
BRYAN P. STIRLING, Director

December 1, 2023

The Honorable S. Phillip Lenski
South Carolina Administrative Law Court
Edgar A. Brown Building, Suite 224
1205 Pendleton Street
Columbia, South Carolina 29201

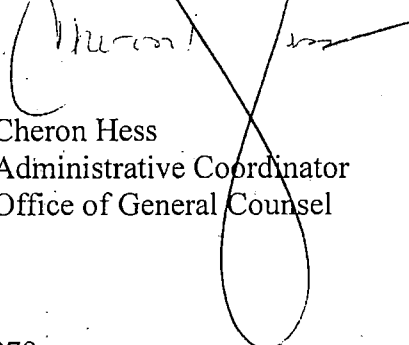
Reference: Inmate Kenneth Darrell Rivera, #318979, vs. SCDC
Docket No. 23-ALJ-04-0312-AP

Dear Judge Lenski:

Find enclosed an original and one copy of the *Respondent's Motion to Dismiss* on the above referenced case. Please file the original in your office and return a clocked-in copy to me in the enclosed self-addressed envelope.

If you have any questions or concerns, please do not hesitate to contact me at (803) 896-3922.

Sincerely,



Cheron Hess
Administrative Coordinator
Office of General Counsel

Enclosures

cc: Inmate Kenneth Darrell Rivera, #318979
File

**STATE OF SOUTH CAROLINA
IN THE ADMINISTRATIVE LAW COURT**

Kenneth Darrell Rivera, # 318979,)	Docket No.: 23-ALJ-04-0312-AP
)	[<u>Grievance No.: BRCI 561-23</u>]
Appellant,)	
)	<i>Hon. Sebastien Phillip "Phil" Lenski</i>
v.)	
)	
South Carolina Department of Corrections,)	RESPONDENT'S MOTION TO
)	DISMISS
Respondent.)	

STATEMENT OF THE CASE

This matter is before the Administrative Law Court ("ALC" or "Court") pursuant to the appeal of Kenneth Darrell Rivera ("Appellant"), an inmate incarcerated with the South Carolina Department of Corrections ("SCDC" or "Department"). On June 5, 2023, Appellant filed a Step One Grievance demanding to be removed from the RHU¹ (restrictive housing unit) and that his designation as a member of a STG (security threat group) be removed. Appellant alleged that old evidence was used to designate Appellant's STG status. The Step One Grievance was investigated and denied on June 13, 2023. Thereafter on June 14, 2023, Appellant filed a Step Two Grievance again alleging he is not gang member, and that old evidence was used to designate Appellant's STG status. The Step Two Grievance was investigated and denied on July 18, 2023. This appeal followed.

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). When reviewing SCDC's decisions in inmate grievance matters, the ALC sits in an appellate

¹ Appellant is now in the general population at Lieber Correctional Institution. *See Rivera vs. SCDC*, 2023-ALJ-04-0308-AP. Therefore Appellant's request to be released from RHU is moot.

capacity. *Id.* at 377, 527 S.E.2d at 754. Recently the South Carolina Supreme Court clarified the Administrative Law Court's jurisdiction as:

[t]hat the ALC has subject matter jurisdiction over inmate grievance appeals that have properly filed. (*internal citations omitted*) . . . [h]owever, the ALC is not required to hold a hearing in every matter and may summarily dismiss an inmate's grievance if does not implicate a state-created liberty or property interest sufficient to trigger procedural due process guarantees. The ALC may not grant an inmate relief from an erroneous administrative decision by SCDC, however, unless the inmate demonstrates the error deprived him of due process... (*internal citations omitted*)

Allen vs. S.C. Dep't of Corr., 439 S.C. 164, 170-71, 886 S.E.2d 671, 674 (2023).

"The requirement of procedural due process apply only to the deprivation of interests encompassed by the Fourteenth Amendment's protection of liberty and property." *Al-Shabazz*, 338 S.C. at 369, 527 S.E.2d at 750 (*quoting Board of Regents of State Colleges. v. Roth*, 408 U.S. 564, 569, 92 S.Ct. 2701, 2705 (1972)). SCDC interprets *Slezak* as encouraging, for the sake of judicial economy, the ALC to summarily dismiss inmate cases that do not involve a state-created liberty or property interest. *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 605 S.E.2d 506 (2004) (holding that the ALC "may summarily dismiss those appeals that do not implicate an inmate's *state created* liberty or property interest") (*emphasis added*). The South Carolina Court of Appeals has interpreted *Slezak* to mean that where a state-created liberty interest is not implicated in a prisoner appeal, a judge of the ALC "should" dismiss the appeal. *Skipper v. S.C. Dep't of Corr.*, 370 S.C. 267, 633 S.E.2d 910 (Ct. App. 2006).

ARGUMENT

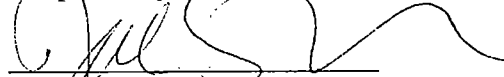
This case is a prime example of a case that should be dismissed under *Slezak* and *Skipper*. This appeal is based on Appellant's allegation that he was improperly designated as a member of a security threat group. Appellant's claim does not implicate a state-created liberty or property interest. Appellant has no state-created liberty interest in having a particular security or custody status as long as the security or custody status does not implicate a constitutional right or exceed

the limits of his sentence. *Brown v. Eyatt*, 322 S.C. 189, 194, 470 S.E.2d 848, 851 (1996). “Within these limits, so far as the federal constitution is concerned, the security and custody classification of state prison inmate is a matter for state prison official discretion whose exercise is not subject to federal procedural due process constraints.” *Id.* at 194, 470 S.E.2d at 851; *see also Al-Shabazz*, 338 S.C. at 382; 527 at 757 (citing *Pruitt v. State*, 274 S.C. 565, 567-68, 266 S.E.2d 779, 780 (1980)) (noting that South Carolina courts typically maintain a hands off approach to internal prison matters). Additionally, Appellant does not allege that SCDC erroneously calculated his sentence, sentence-related credits, or custody status; or allege that a state-created liberty or property interest was taken in a major disciplinary hearing. Because Appellant’s allegations do not implicate a state-created liberty or property interest and do not trigger procedural due process guarantee’s, this Court should dismiss this appeal, with prejudice.

CONCLUSION

Because the case does not implicate a state-created liberty or property interest this case should be dismissed.

Respectfully submitted,



Joseph R. Shakibanasab, SC Bar No. 102825
South Carolina Department of Corrections
4444 Broad River Road
Columbia, South Carolina
Phone: (803) 896-1278
Email: Shakibanasab.joseph@doc.sc.gov

November 30, 2023
Columbia, South Carolina

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals
APPEAL FROM THE ADMINISTRATIVE LAW COURT
S. Phillip Lenski, Administrative Law Judge
Case No. 23-ALS-04-0312-AP

Syncere Shabazz/Kenneth Rivera;
Appellant,

v.

South Carolina Department of Corrections;
Respondent.

NOTICE OF APPEAL

Syncere Shabazz/Kenneth Rivera appeals the decision of the Honorable S. Phillip Lenski dated December 20, 2023. Appellant received a copy of this decision on December 29, 2023.

January 8, 2024

Counsel of Record
Joseph R. Shakibancsib
SCDC
4444 Broad River Rd.
Columbia, SC 29221-1787

Syncere Shabazz/Kenneth Rivera
Syncere Shabazz-Kenneth Rivera #318979
Lieber C.I-CB#55
P.O. Box 205
Ridgeville, SC 29472

THE STATE OF SOUTH CAROLINA
In The Court of Appeals
APPEAL FROM THE ADMINISTRATIVE LAW COURT
S. Phillip Lenski, Administrative Law Judge
Case No. 23-ALJ-04-0312-AP

LETTER TO THE APPELLATE COURT CLERK
FILING THE NOTICE OF APPEAL

The Honorable Jenny Abbot Kitchings
Clerk, SC Court of Appeals
PO Box 11629
Columbia, SC 29211

The Honorable S. Phillip Lenski
Clerk, SC Administrative Law Court
1205 Pendleton Street, suite 224
Columbia, SC 29201

RE: Syreere Shabazz/Kenneth Rivera, Appellant v.
South Carolina Department of Corrections, Respondent,
Case No. 23-ALJ-04-0312-AP

Dear Ms. Kitchings:

Enclosed for filing is a notice of appeal in the above
case. Also enclosed are the following:

(1) Proof of Service of the notice of appeal on the respondent.

(2) A copy of the order which is to be challenged on appeal.

(3) Inmate Trust Fund Account Report for S.C. Court Filing Fees

January 8, 2024

Sincerely,

Syncece Shabazz / Kenneth Rivera
Syncece Shabazz / Kenneth Rivera #315979
Lieber C.I. - CB #55
P.O. Box 205
Ridgeville, SC 29472

Counsel of Record

Joseph R. Shakibanasab
SCDC
4444 Broad River Rd.
Columbia, SC 29221-1787

THE STATE OF SOUTH CAROLINA
In The Court OF Appeals
APPEAL FROM THE ADMINISTRATIVE LAW COURT
S. Phillip Lenski, Administrative Law Judge
Case No. 23-ALS-04-0312-AP

Syncere Shabazz/Kenneth Rivera,
Appellant,

v.

South Carolina Department OF Corrections,
Respondent.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Joseph R. Stokibanasab and S.C. Administrative Law Court by depositing a copy of it in the United States mail, postage prepaid on January 8, 2024, both addresses is as follows: SCDC 4444 Broad River Rd. Columbia, SC 29221-1787; 1205 Pendleton street, suite 224, Columbia, SC 29201.

January 8, 2024

Syncere Shabazz/Kenneth Rivera
Syncere Shabazz/Kenneth Rivera #318979
Lieber C.I. - CB #55
PO BOX 205
Ridgerville, SC 29472

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
APPEAL FROM THE ADMINISTRATIVE LAW COURT
S. Phillip Lenski, Administrative Law Judge
Case No. 23-ALS-04-0312-AP

Syncere Shabazz/Kenneth Rivera,
Appellant,

v.

South Carolina Department of Corrections,
Respondent.

CERTIFICATE OF SERVICE

I certify that I have served The Notice of Appeal on
the SC Court of Appeals by depositing a copy of it
in the United States Mail, postage prepaid on January
8, 2024 addressed to PO Box 11629 Columbia, SC
29211.

January 8, 2024

Syncere Shabazz/Kenneth Rivera
Syncere Shabazz/Kenneth Rivera #318979
Lieber C.I. - CB #55
PO Box 205
Ridgeville, SC 29472

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Kenneth Rivera, #318979,

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

Docket No. 23-ALJ-04-0312-AP

ORDER GRANTING RESPONDENT'S
MOTION TO DISMISS

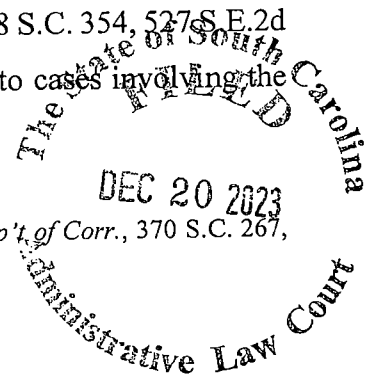
This matter is before the South Carolina Administrative Law Court (ALC or court) pursuant to a Notice of Appeal filed by Kenneth Rivera (Appellant) an inmate in the custody of the South Carolina Department of Corrections (Respondent or Department). After the Appellant's Step 1 and Step 2 grievances were filed and denied, he filed a Notice of Appeal with this court on August 11, 2023. The Appellant is appealing his Security Threat Group (STG) designation because he is not a gang member but a Rastafarian and wants to be removed from the Restrictive Housing Unit (RHU). The Appellant is not appealing a disciplinary hearing conviction, nor did he lose any good time credit as part of any punishment he received.

On December 15, 2023, the Department filed a Motion to Dismiss pursuant to *Slezak* and *Skipper* because the Appellant's appeal does not involve a state-created liberty or property interest.¹ On December 15, 2023, the Appellant filed a response to the Department's Motion to Dismiss asking the court to deny the Department's motion and grant the Appellant relief because he is a Rastafarian and no longer a leader within a STG. The Appellant argues that his STG designation limits his privileges to visits from immediate family only and his incoming mail is photocopied.

DISCUSSION

The court's jurisdiction to hear this matter is derived entirely from the decision of the Supreme Court of South Carolina in *Al-Shabazz*. See *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 cases involving the

¹ *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 605 S.E. 2d 506 (2004); *Skipper v. S.C. Dep't of Corr.*, 370 S.C. 267, 633 S.E.2d 910 (Ct. App. 2006).



denial of a state-created liberty interest,² which typically arises in two ways: (1) when an inmate contends that prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; and (2) when an inmate is disciplined and punishment is imposed in a major disciplinary hearing as a result of a serious rule violation. *See id.* at 369, 527 S.E.2d at 750.

When reviewing the Department's decisions in inmate grievance matters, the court sits in an appellate capacity. *Id.* at 377, 527 S.E.2d at 756. Consequently, the court's review in such cases is limited to the Record on Appeal. Pursuant to *Slezak*, the court is to have jurisdiction over all properly perfected inmate appeals, but "[s]ummary dismissal may be appropriate where the inmate's grievance does not implicate a state-created liberty or property interest." *See Slezak*, 361 S.C. at 331, 605 S.E.2d at 508. Further, in *Skipper*, the Court of Appeals of South Carolina interpreted *Slezak* as holding that a judge "should" dismiss a prisoner's appeal where it does not implicate a state-created liberty interest. *See Skipper*, 370 S.C. at 279, 633 S.E.2d at 917; *see also Brown v. Evatt*, 322 S.C. 189, 470 S.E.2d 848 (1996) (holding that an inmate has no liberty interest in a particular custody status as long as the challenged conditions or degree of confinement are within the sentence imposed and are not otherwise violative of the Constitution). Thus, there is no state-created liberty or property interest implicated in this matter and as such, the court must adhere to the traditional "hands off" doctrine regarding judicial involvement in internal prison matters. *See Al-Shabazz*, 338 S.C. at 382, 527 S.E.2d at 757; *Pruitt v. State*, 274 S.C. 565, 567-68, 266 S.E.2d 779, 780 (1980).

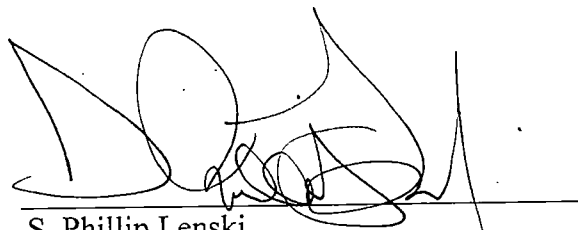
THEREFORE, for the foregoing reasons, the Department's Motion to Dismiss is **GRANTED** and this appeal is hereby **DISMISSED**.

IT IS SO ORDERED.

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served the 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 21st day of December 2023
December 20, 2023
Columbia, South Carolina



S. Phillip Lenski
Administrative Law Judge

² The court does have limited jurisdiction in some property matters, the authority for which need not be cited here.

INMATE TRUST FUND ACCOUNT REPORT
for SOUTH CAROLINA COURT FILING FEES

2023 AUG 23

INSTRUCTIONS TO INMATE: Complete top portion then give to your mailroom. After returned from Accounting, you must mail this form with any payment to the Court.

By signing my name below, I am asking the Financial Accounting Office of the South Carolina Department of Corrections to complete this report. In accordance with SC Code of Laws §24-27-100 and 150, I authorize payment of the full filing fee. If I have insufficient funds in my account at this time to pay the court's full filing fee, I authorize SCDC to deduct the initial and subsequent payments until payment is completed.

INMATE NAME (print): Kenneth Rivera / Synaone Shabazz

SCDC # 3159791 INMATE SIGNATURE: Kenneth Rivera

I plan to file this action in the SC County of Richland

The section below is for SCDC - Financial Accounting Branch's use ONLY.

- (1) Total deposits to inmate's account for preceding six months' period* \$ 750.16
- (2) Twenty percent (20%) of line 1 \$ 150.04
- (3) Account balance - current date \$ 0
- (4) PAYMENT AMOUNT **
(lesser of line 2 or line 3)
Enclosed check # _____ \$ 0

**NOTE to COURT: If payment is for partial fee, Court must notify SCDC once case is accepted and filed. Send notice with case # and balance owed to address below. SCDC will NOT process any additional payments until notification is received from Court.

South Carolina Department of Corrections
Financial Accounting - Room 234
PO Box 21787
Columbia, SC 29221-1787

*Admission date is noted here if inmate incarcerated less than six months 1 1

Peggy Cantor
Financial Accounting Branch - SCDC

9/6/2023



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

January 16, 2024

Kenneth Rivera, 00318979
Lieber Correctional Institution
P.O. Box 205
Ridgeville SC 29472

Re: Kenneth Rivera, #318979 v. SCDC
Appellate Case No. 2024-000061

Dear Mr. Rivera:

This Court has received your notice of appeal, and the case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter.

All parties to this matter are advised that all filings must comply with the requirements of Rule 267 of the South Carolina Appellate Court Rules (SCACR). The SCACR are available online at www.sccourts.org/courtreg. Additionally, any filings submitted by counsel admitted in South Carolina must include counsel's bar number.

The attention of the parties is directed to the order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. The order can be found at www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-04-15-02. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will *not* review

filings for redaction or to determine if materials should be sealed.

This is to advise that the title in the above matter has been changed to read as follows:

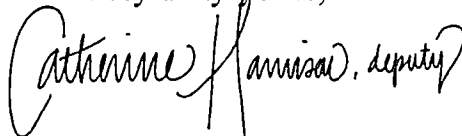
Kenneth Rivera, #318979, Appellant,

v.

South Carolina Department of Corrections, Respondent.

All future records in this matter should be changed to reflect this title. If you have any questions, please do not hesitate to contact this office.

Very truly yours,

A handwritten signature in cursive script that reads "Catherine Hannisa, deputy". The signature is written in black ink and is positioned above the typed name "CLERK".

CLERK

cc: Joseph R Shakibanasab, Esquire

Sincere Shabazz / Kenneth Rivera #318479

LCI-CB#55

PO Box 205

Ridgeville, SC 29472

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JAN 30 2024
SC Court of Appeals

South Carolina Court of Appeals

Jenny Abbott Kitchings, Clerk

PO Box 11629

Columbia, SC 29211

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JAN 25 2024

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