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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

S.C. SUPREME COURT

Samuel A. Wilder, #258295,)
)
Appellant,)
)
v.)
)
South Carolina Department of Corrections,)
)
Respondent.)

Docket No. 23-ALJ-04-0387-AP

**ORDER GRANTING
RESPONDENT'S MOTION TO
DISMISS**

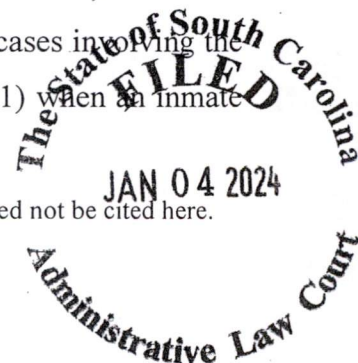
This matter is before the South Carolina Administrative Law Court (ALC or court) pursuant to the Notice of Appeal filed on September 25, 2023 by Samuel A. Wilder (Appellant), an inmate in the custody of the South Carolina Department of Corrections (Department). After the Appellant's Step 1 and Step 2 grievances were denied, the Appellant filed an appeal with the court alleging that a Correctional Officer (CO) stared at the Appellant's private parts and watched him wipe himself after the Appellant finished using the restroom, with the intent to gratify his desire for sexual abuse, in violation of the Eighth Amendment. The Appellant is requesting that the CO be terminated from the Department or removed from being around prisoners. The Appellant is not appealing a disciplinary hearing conviction, nor did he lose any good time credit as part of any punishment.

On December 19, 2023, the Department filed a Motion to Dismiss pursuant to *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 605 S.E.2d 506 (2004) and *Skipper v. S.C. Dep't of Corr.*, 370 S.C. 267, 633 S.E.2d 910 (Ct. App. 2006) because the appeal does not involve a state-created liberty or property interest. As of the date of this Order, the Appellant has not filed a response to the Department's Motion to Dismiss.

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 denial of a state-created liberty interest,¹ which typically arise in two ways: (1) when an inmate

¹ The court does have limited jurisdiction in some property matters, the authority for which need not be cited here.

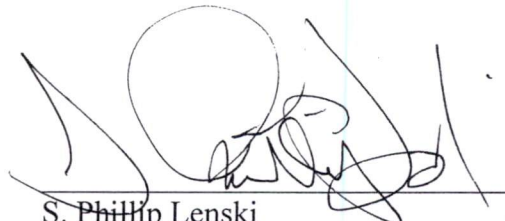


contends that prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; and (2) when an inmate is disciplined and punishment is imposed in a major disciplinary hearing as a result of a serious rule violation. *See id.* at 369, 527 S.E.2d at 750.

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 (citation omitted). 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 (citation omitted). 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. There is no state created liberty or property interest implicated here. As such, this is a case in which the court must adhere to the traditional "hands off" doctrine regarding judicial involvement in internal prison matters. *See Pruitt v. State*, 274 S.C. 565, 266 S.E.2d 779 (1980); *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000) (emphasis supplied). Therefore, based on the foregoing,

IT IS HEREBY ORDERED that the Department's Motion to Dismiss is **GRANTED** and this appeal is hereby **DISMISSED**.

IT IS SO ORDERED.



S. Phillip Lenski
Administrative Law Judge

January 4, 2024
Columbia, South Carolina

CERTIFICATE OF SERVICE

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

This 4th day of January 2024


Judicial Law Clerk