

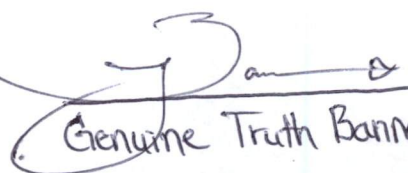
STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM SOUTH CAROLINA COURT OF APPEALS
ORDER OF DISMISSAL

ALC CASE No. 22-ALJ-04-047-AP
APPELLATE CASE No. 2023-001786

Genuine Truth Banner Appellant
v.
SCDC Respondent

Appeal from Order of Dismissal
And
Petition for a Writ of Certiorari


Genuine Truth Banner #375165

Pro Se
BRSF
Saluda #218 B-Side
4460 Broad River Rd
Columbia, SC 29210

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S.C. SUPREME COURT

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Argument

Did the South Carolina Court of Appeals err in dismissing Appellant's case for failure to timely file a notice of appeal where the Administrative Law Court (ALC) failed to serve Appellant with the correct appellate procedure regarding the time to file, instead citing that appellant must "file a notice of appeal to the clerk of court" only and where the ALC failed to serve Appellant with ANY appellate procedure upon dismissal of his Disciplinary hearing appeal.

Did the South Carolina Court of Appeals err in dismissing Appellant's case for failure to timely file a notice of appeal where the disciplinary hearing officer's blatant constitutional violation in admitting she would not/did not review documentary evidence (video) before finding guilt, constitutes a continued and sustained injury to appellant as it has resulted in illegal, long term solitary confinement After Appellant was acquitted of all charges in a court of law.

ISSUE PRESENTED

The South Carolina Court of Appeals erred in dismissing Appellant's disciplinary hearing appeal for failure to timely file a notice of appeal where the Administrative Law Court (ALC) failed to serve appellant with the correct appellate procedure in its initial documentation or ANY appellate procedure upon dismissal.

The South Carolina Court of Appeals erred in dismissing Appellant's disciplinary hearing appeal where the disciplinary hearing officer's blatant constitutional violation in admitting she would not/did not review documentary evidence (video) before finding guilt, constitutes a continued and sustained injury to appellant where it has resulted in illegal and long term (4 years) solitary confinement AFTER Appellant was acquitted of all charges in a court of law.

STATEMENT

On April 2nd, 2020 Appellant was charged with attempted murder of a Correctional officer. Those charges prompted SCDC to bring Appellant to its Supermax facility also known as Substantiated Security Risk (SSR) on the same day. No disciplinary hearing was held until April 2021. At that hearing Appellant was Not found guilty. However, Appellant was told he would continue to be held pending the disposition of the related criminal charges. In October 2021, Appellant was acquitted of all charges at trial.

SCDC did not release appellant from SSR after trial and when appellant questioned as to why not, SCDC served him a second set of institutional charges for the same April 2nd, 2020 incident. At that hearing, the disciplinary hearing officer (DHO) did not call all of Appellant's witnesses or accusers and openly admitted that she did not and would not review appellants documentary evidence and yet still convicted appellant.

Appellant appealed to the ALC who clearly rubber stamped a decision in favor of SCDC. In the ALC's initial documentation in regards to appeals it only cited: "A notice of appeal must be filed to the clerk of court". It did not include a time frame or deadline to file, further, in its order of dismissal, the ALC included NO documentation whatsoever regarding appeals or appellate procedure.

Some time later appellant filed a petition for a Writ of Habeas Corpus in federal courts which was premature because appellant had to appeal to the state courts. Appellant then filed an appeal which was dismissed because appellant apparently failed to provide the court with some July 12th dated letter that he NEVER received. After some time, this appeal was filed correcting former deficiencies and noting that no July 12th correspondence was ever received.

As it stands, appellant is still in SSR/solitary confinement without due process for charges that were disposed of in his favor for almost four years to date. Three of those years came after the bogus finding of guilt without due process gave a "Time Served" in solitary sentence.

Conclusion

The South Carolina Court of Appeals erred in dismissing appellant's appeal of his disciplinary conviction as untimely where the only appellate procedure provided to him from the ALC included no mention of a timeline to file an appeal.

Genuine Truth Banner #375165
BRSF
Saluda #218, B-Side
4460 Broad River Rd
Columbia, SC 29210

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