

**STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT**

Darryl Keith Louis, #279494, )  
 )  
 Appellant, )  
 vs. )  
 )  
 South Carolina Department of Corrections, )  
 )  
 Respondent. )

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Docket No.: 23-ALJ-04-0606-AP  
 Grievance No.: KRCI 300-23

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JUL 05 2024

**SC Court of Appeals**

This matter is before the South Carolina Administrative Law Court (“ALC” or “Court”) pursuant to the Notice of Appeal filed by Darryl Keith Louis (“Appellant”), an inmate incarcerated with the South Carolina Department of Corrections (“Department”). Appellant requests review of the Department’s decision regarding his disciplinary conviction of Possession of any Communication Device. Specifically, Appellant argues that an officer violated SCDC policy by not listing the evidence and disposition of evidence on the 19-29 incident report and that his due process rights were violated when Appellant’s witness was not allowed to testify at the disciplinary hearing. As a result of the conviction, Appellant received sanctions that included the loss of 90 days of accrued good time.

The Court’s jurisdiction to hear this matter is derived from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). The *Al-Shabazz* decision explained that “procedural due process is guaranteed when an inmate is deprived of an interest encompassed by the Fourteenth Amendment’s protection of liberty and property.” *Wicker v. S.C. Dept. of Corr.*, 360 S.C. 421, 424, 602 S.E.2d 56, 58 (2004) (citation omitted). Such a liberty interest is implicated when an inmate has lost accrued good time due to a major disciplinary hearing. *See Al-Shabazz*, 338 S.C. at 369, 526 S.E.2d at 750; *see also Howard v. S.C. Dep’t of Corr.*, 399 S.C. 618, 629, 733 S.E.2d 211, 217 (2012).

When reviewing the Department’s decisions in inmate grievance matters, this Court sits in an appellate capacity, applying the appellate standard of the Administrative Procedures Act. *Al-Shabazz*, 338 S.C. at 377-80, 527 S.E.2d at 754-56. Consequently, this Court’s review is limited to the record. S.C. Code Ann. § 1-23-380(4). The court may not substitute its judgment for that

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of the agency as to the weight of the evidence on questions of fact but may modify or reverse the decision of the agency when substantial rights of the appellant have been prejudiced. S.C. Code Ann. § 1-23-380(5).

First, Appellant argues that an officer violated SCDC policy by not listing the evidence and disposition of evidence on the 19-29 incident report. A prison official's failure to follow the prison's own policies, procedures or regulations does not constitute a violation of due process if constitutional minima are nevertheless met. *Weatherholt v. Bradley*, 316 Fed. Appx. 300, 303. (4th Cir. 2009) (citing *Myers v. Klevenhagen*, 97 F.3d 91, 94 (5th Cir. 1996)).

Here, Appellant lost good time credits as the result of a disciplinary conviction, which creates a state-created liberty interest. Because a state-created liberty interest is involved in this case, it is necessary to determine if Appellant received the due process to which he was entitled. Appellant additionally argues that he was not allowed to call his witness during the hearing. Because the right to have witnesses testify is a constitutional concern, the issue here is whether the Department met the minimum constitutional requirements for procedural due process in this matter where an inmate was disciplined for serious misconduct. *Al-Shabazz v. State*, 338 S.C. 354, 369, 527 S.E.2d 742, 750 (2000). Minimum due process requirements must be balanced against the need to maintain an orderly and safe prison environment. *Id.* To that end, the South Carolina Supreme Court has enunciated the following five requirements which, if established, will ensure procedural due process in inmate disciplinary matters:

- (1) that advance written notice of the charge be given to the inmate at least twenty-four hours before the hearing;
- (2) that fact finders must prepare a written statement of the evidence relied on and reasons for the disciplinary action;
- (3) that the inmate should be allowed to call witnesses and present documentary evidence;
- (4) that counsel substitute . . . should be allowed to help illiterate inmates or in complex cases an inmate cannot handle alone; and
- (5) that the persons hearing the matter, who may be prison officials or employees, must be impartial.

*Al-Shabazz*, 527 S.E.2d at 751 (citing *Wolff v. McDonnell*, 418 U.S. 539, 563-72 (1974)).

Applying the five due process requirements in Appellant's case, the Court finds the following: Appellant was given notice of the charge on September 10, 2023, and signed the SCDC form 19-69 acknowledging notice of hearing. The disciplinary hearing was held on September 19, 2023, more than twenty-four hours later. The record indicates that Appellant did not qualify for a counsel substitute because his reading level is above 6.0. The Record also indicates that Appellant initially asked for his accuser to be present at the hearing, but prior to changed his mind. Appellant

was also given the opportunity to make a statement and present evidence of his innocence. Appellant claims that he was not allowed to call his witness during the disciplinary hearing. The Record shows that Appellant submitted an Inmate Request form asking for his witness to testify during the hearing. However, the disciplinary hearing transcript does not show that Appellant mentioned or requested his witness to testify. The Appellant did in fact present evidence of unrelated cases to show an example of how to fill out an incident report and a dorm roster. Further, Appellant does not deny the underlying charge of possession of a communication device. The hearing officer's Disciplinary Report and the hearing transcript both show the hearing officer's decision finding Appellant guilty of the charge was based on SCDC 19-69 Disciplinary Report and the Hearing Record. Finally, there is nothing in the record that indicates the hearing officer was biased or not neutral. Therefore, Appellant has been afforded the minimum due process required in prison disciplinary proceedings. *Wolff*, 418 U.S. at 563-72.

Appellant further contends that the Hearing Officer's decision was arbitrary and capricious. Based upon the argument set forth in his discussion the court interprets Appellant's claim as one of a lack of substantial evidence. Substantial evidence exists to support the hearing officer's finding of guilt. "Substantial evidence" is evidence, which after considering the whole record, would allow reasonable minds to reach the same conclusion that the administrative agency reached. *Lark v. Bi-Lo, Inc.*, 276 S.C. 130, 135, 276 S.E.2d 304, 306 (1981). In Appellant's case, Lieutenant Small removed two sheets blocking his view of the cell and found Appellant standing behind it with a pair of black earbuds with talking capabilities on the mattress middle bunk. Further, Lieutenant Small lifted up the mattress of the bunk and found an orange bag containing a blue Motorola cell phone, four black earbuds with talking capabilities, one USB cable, one charging block and a charging adapter. Upon questioning Appellant's cellmate Bobby Caughman, Lieutenant Smalls discovered that Appellant was assigned to the bunk where the above-mentioned items were found. After further investigation, Lieutenant Small was able to unlock the phone and discovered photos of Appellant looking into the camera. Offense 898 prohibits the possession, receipt, use, concealment, storage, purchase, sale or facilitation of cellular phones or other communications equipment and/or any components thereof. The possibility of drawing two inconsistent conclusions from the evidence presented does not prevent the agency's findings from being supported by substantial evidence. *Grant v. S.C. Coastal Council*, 319 S.C. 348, 353, 461 S.E.2d 388, 391, (Ct. App. 1996). Because there is substantial evidence in the record to support

the hearing officer's decision, this Court will not substitute its judgment for that of the agency.

Based upon the foregoing the Department's decision is **AFFIRMED**.

**AND IT IS SO ORDERED.**

*Crystal M. Rookard*

The Honorable Crystal M. Rookard  
South Carolina Administrative Law Judge

June 6, 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 emergency M-10 Service addressed to the party's (name/s).

This 6 day of June, 2024

By: [Signature]  
Crystal M. Rookard  
South Carolina Administrative Law Judge

CK: 945128

Kershaw

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**INMATE TRUST FUND ACCOUNT REPORT**  
for **SOUTH CAROLINA COURT FILING FEES**

JUL 05 2024

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SC Court of Appeals

**INSTRUCTIONS TO INMATE:** Complete top portion then give to your mailroom. When 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.

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INMATE NAME (print): Darryl Keith Louis Jr.

KERSHAW CI  
MAIL ROOM

SCDC# 279494

INMATE SIGNATURE: Darryl Louis 5/24/2024

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

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

- (1) Total deposits to inmate's account for preceding six months' period\* ..... \$ 25.14
- (2) Twenty percent (20%) of line 1 ..... \$ 5.03
- (3) Account balance - current date ..... \$ 175.67 with \$ 15 hold  
Actual Balance: 60.67
- (4) PAYMENT AMOUNT \*\*  
(lesser of line 2 or line 3)  
Enclosed check # ..... \$ 5.03

**\*\*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     /    /