



**SOUTH CAROLINA**  
DEPARTMENT OF CORRECTIONS  
*Division of Legal Counsel & Compliance*

HENRY McMASTER, Governor  
BRYAN P. STIRLING, Director

February 9, 2024

The Honorable Crystal M. Rookard  
South Carolina Administrative Law Court  
Edgar A. Brown Building, Suite 224  
1205 Pendleton Street  
Columbia, South Carolina 29201

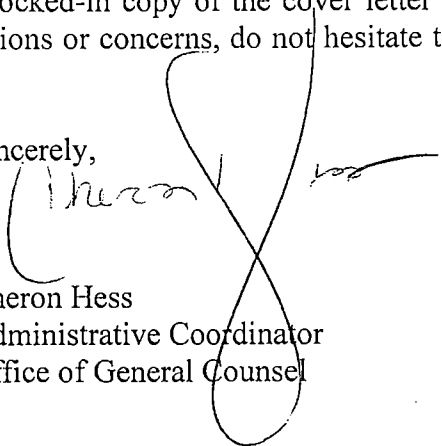
Reference: Inmate Darryl Keith Louis, #279494, vs. SCDC  
Docket No. 23-ALJ-04-0606-AP

Dear Judge Crystal M. Rookard:

Find the enclosed **Record on Appeal** for the above referenced case. The Record for this case, relating to Inmate Grievance KRCI 300-23, consists of: Inmate Grievance Form(s); Disciplinary Report and Hearing Record; Incident Report(s); Disciplinary Hearing Transcript; and other supporting documents.

Please file the originals and return a clocked-in copy of the cover letter in the enclosed self-addressed envelope. If you have any questions or concerns, do not hesitate to contact me at (803) 896-3922.

Sincerely,

  
Cheron Hess  
Administrative Coordinator  
Office of General Counsel

Enclosures

cc: Inmate Darryl Keith Louis, #279494  
File

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
INMATE GRIEVANCE FORM  
STEP 2

DUE  
Back  
10-12-23  
STEP 1 & 2  
Receive @  
10/15/23  
ecm

Office Use Only

INMATE NAME: LOUIS, DARRYL  
SCDC NUMBER: 279494  
INSTITUTION: Kershaw Corrections  
HOUSING UNIT: RHU-04  
WORK ASSIGNMENT: N/A

Grievance No. KRCL-0300-23  
Code: General \_\_\_\_\_  
Policy \_\_\_\_\_  
Disc. Hear.  9-19-23  
Class case 16 898  
PREA \_\_\_\_\_  
Date Received: 10/5/23  
IGC Initials: EM  
Date Received: 10/17/23  
IGA Initials: KM

OCT 10 2023

INMATE GRIEVANCE

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

~~warden's decision~~  
D.H.O. decision was capricious and an  
characterization of abuse of discretion.

Grievant Signature [Signature] Date 10/5/2023

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

The documentation provided indicates that the evidence presented was sufficient to support the conviction of the Possession of Any Communication Device (898), case #16 on September 19, 2023, under SCDC OP-22.14, Inmate Disciplinary System, dated February 2, 2015, and the sanctions imposed, which included the loss of -90- days accrued good time, were appropriate for the rule violation. There was no reason found to warrant a reversal of the Disciplinary Hearing Officer's decision. A review of your appeal revealed that you received forty-eight (48) hour notice prior to the hearing. You were afforded due process rights, as required, and the offense was classified and heard in a timely manner.

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 [Signature] Date 10-27-23

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.

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.

9/25

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

DISCIPLINARY REPORT AND HEARING RECORD

Case#: 16 Inmate Name: Darryl Louis SCDC#: 279494
Living Area: OB 30 Job: N/A Custody: N/A
Offense Date: 8/29/2023 Offense Time: 02:40 AM PM Institution: Kershaw Correctional Institution
Offense Description:

898 The Possession of Any Communication Device: The possession, receipt, use, concealment, storage, purchase, sale or facilitation of cellular phones or other communications equipment and/or any components thereof. This includes, but is not limited to, MP3 players, i-pods, e-readers or any like devices.

Charging Officer/Employee: L. Small Title: Lt

INMATE NOTIFICATION: YOU WILL APPEAR BEFORE A HEARING OFFICER 48 HOURS OR MORE AFTER YOUR RECEIPT OF THIS NOTICE. YOU HAVE THE RIGHT TO SUBMIT A WRITTEN STATEMENT AND MAKE A VERBAL STATEMENT.

Form with checkboxes: I GIVE UP MY RIGHT TO 48-HOUR NOTICE... I DO NOT WANT MY ACCUSER PRESENT... Includes inmate signature and date 9/10/23.

HEARING INFORMATION table with columns: Hearing Date (9/10/23), Hearing Time, Medclass (NMH), Reading Level (12.9 TV-Y)

DD: Assigned Counsel Substitute: N/A

EXPLAIN BELOW BY NUMBER: (1) IF COUNSEL SUBSTITUTE WAS NOT PRESENT DURING PART OF THE HEARING; (2) IF ACCUSED WAS EXCLUDED FROM ANY PART OF THE EVIDENCE STAGE...

PHD denied evidence presented by inmate to include items posted from OB from Sept 11th. Inmate incidents reports from Hebert and Ricketts that had to be helpful nothing to do with this case

Table with columns: OFFENSE CODES, INMATE PLEA (G, NG, None), FINDINGS (G, NG, DS) (NGMI) (GMI)

IF GUILTY, EVIDENCE PRESENTED CONSIDERED AND REASONS FOR DETERMINATION OF GUILT: (A) ADMISSION OF GUILT; (B) OFFICER'S REPORT; (C) WITNESS TESTIMONY; (D) OTHER. Explain in detail: 19-294, 5-23, pictures of evidence

SANCTIONS section with fields for: Loss of Privileges (Days), Reprimand, Loss of Good Time (Days), Property (Days), Extra Duty (Hours), Restitution (\$), Canteen (Days), Visit Suspension (Days), Restriction (Days), Disciplinary Detention (Days), Phone (Days)

SPECIFIC FACTUAL REASON(S) FOR PARTICULAR PUNISHMENT IMPOSED: Level 1 offense - 1st 898, 100+ 898 w/ audio, 12/21

CREDIT FOR PHD TIME SERVED? YES NO IF YES, DAYS:
DATE INMATE PLACED IN PHD: DATE INMATE RELEASED FROM PHD
INMATE SIGNATURE FOR RECEIPT OF FINAL REPORT: DATE: 9/19/2023

HEARING OFFICER (PRINT NAME): L. Nough
APPROVED/OD MODIFICATION ONLY: REASON:
CONTACT YOUR CLASSIFICATION CASEWORKER OR COUNSEL. SUBSTITUTE IF YOU DO NOT UNDERSTAND THIS FORM.

White - Institutional Record Canary - Inmate (Service of Disciplinary Report) Golden Red - Inmate (Service of Disciplinary Hearing Disposition) Pink - Central Record

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS**

**INMATE GRIEVANCE FORM**

**STEP 1**

RECEIVED SEP 20 2023 9

INMATE NAME: <u>Darryl Louis</u> SCDC NUMBER: <u>279494</u> INSTITUTION: <u>Kershaw Corrections</u> HOUSING UNIT: <u>OB-30 RHU-4 CWF-4</u> WORK ASSIGNMENT: <u>N/A</u>	<p align="center"><b>OFFICE USE ONLY</b></p> Grievance No. <u>KRCI-0300-23</u> Code: General Policy _____ Disc. Hear. <u>9-19-23</u> Class. <u>Case 16 218</u> PREA _____ Date Received <u>9-20-23</u> IGC Initials <u>ELM</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.) 11/14/23

This grievance is an appeal to disciplinary hearing held on 9/19/2023. The Hearing Officer and Reporting Officer did not act in substantial compliance with policies/procedures ~~OP-22.14:3.1~~ OP-22.14:3.1 "A description of the facts of the offenses to include, at a minimum:..... disposition of evidence".

Also, witness Bobby Caughman was not present, and not part of the hearing, nor was his statement ~~presented~~ during his Disciplinary Hearing about the photo taken from the phone ~~presented~~ presented at my hearing, although he was requested via ARTSM 23-03239253. Consequently, DHC did not explain on SCDC 19-69 or during hearing why witness was excluded. -OP-22.14:13.3;18.1.2

Darryl Louis 9/19/2023  
 Grievant Signature Date

**ACTION REQUESTED:** Reverse DHC decision and sanctions.

**ACTION TAKEN BY IGC:**  PROCESSED     UNPROCESSED     OTHER

This grievance has been processed. I have reviewed all pertinent documentation. Please review the Warden's Decision on the reverse side.

Elaine Hill 9-26-23  
 IGC Signature Date

**WARDEN'S DECISION AND REASON:**

Inmate Louis #279494

KRCI-0300-23

I have reviewed your concerns. In your grievance you stated your conviction of September 19, 2023. of Disciplinary Charge 898. The Possession of any Communication Device: The possession, receipt use concealment, storage, purchase, sale or facilitation of cellular phones or other communications equipment and/or any components thereof. This includes, but is not limited to, MP3 players, I-pods, e-readers or any like devices. Case Number 16 should be overturned because Disciplinary Hearing Officer and Charging Officer did not act in substantial compliance with policy/procedures of OP-22.14. Inmate Disciplinary System 3.1 A full description of the facts of the offense(s) to include, at a minimum, disposition of evidence. You continued, there was no disposition of evidence listed on 19-29A form, incident report. You further stated, witness requested via ARTSM # 23-03239253 was not present at hearing nor was his statement read during hearing process. You stated, Hearing Officer did not explain on SCDC 19-69 form, Disciplinary Report and Hearing Record why witness was excluded. You are requesting DHO decision and sanctions be reversed. Upon reviewing your concerns, I discovered there is some validity to your claim and the facts you've provided will be forwarded to the next level of review. You may file an appeal to this decision as the Warden is limited in addressing appeals from DHO hearing.

Therefore, your grievance is denied.

If you disagree with this Warden's 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, within five (5) days of your receipt of this decision.

*[Handwritten Signature]*  
Warden Signature *9-28-23*  
Date

I accept the Warden's decision and consider the matter closed.

I do not accept the Warden's decision and wish to appeal.

*[Handwritten Signature]*  
Grievant Signature *10-5-23*  
Date

*[Handwritten Signature]*  
IGC Signature *10-5-23*  
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.

9/25

9/16

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
INCIDENT REPORT

Institution/Center: KERSHAW CORRECTIONAL INSTITUTION			Date of Report: 8/29/2023		
Reporting Official (Full Name): Lester Small			Time of Report: 5:50 P.M		
Employee ID #: 041169			Date of Incident: 8/29/2023		
Location of Incident: OB cell 30			Time of Incident: Approx: 2:40 P.m		
Inmate(s)/Resident:	SCDC #	Age:	Sex:	Race:	Employee(s)/Witnesses Involved:
1. Inmate Bobby Caughman	242187				1. Ofc. Bowen
2. Inmate Darryl Louis	279494	OB 30			2.
3.					3.
4.					4.
5.					5.

On the above date and approximate time:

I Lt. Small entered Oak b and observed Ofc. Bowen standing at cell 30 making calls for the inmates who live in the cell to come to the cell. I began to approach the cell and Inmate Bobby Caughman 242187 begin to run from upstairs yelling that he was on his way. I looked in the cell and noticed a sheet hanging blocking the view inside the cell. I entered the cell and removed that sheet and noticed a second sheet hanging preventing anyone from seeing on the beds. I removed that sheet and inmate Darryl Louis 279494 was standing behind the sheet. I observed a pair of black ear buds with talking capabilities laying in plain view on the mattress on the middle bunk. I then lifted up the mattress and found a orange bag that contained the following: (1) blue Motorola cell phone, (4) black ear buds with talking capabilities, (1) white usb cable, (1) white charging block and (1) charging adapter. Inmate Louis was inside the cell and inmate Caughman was standing outside the door. I asked who was claiming the items in the orange bag inmate Caughman stated he is going to claimed all items inside the bag. I exited the cell then came back to the door and asked who was assigned to the the middle bunk where the items was found and inmate Louis stated he was. Once back in the office I was able to get into the phone and found pictures on inmate Louis looking into the camera. Inmate Caughman and Inmate Louis both is being charge with 898.

Signature: *[Signature]* Title: L.T SEP 01 2023

Evidence: pictures of evidence listed above.

Disposition of Evidence:

Supervisor's Comments:

*Forward to Major Office Occur with 898*

Printed Name: *Stuckey, M*

Signature: *[Signature]* Title: *SGT* Date/Time: *8:00 AM 9/30/23*

Major/Responsible Authority: *Both inmates are charged with 898. Ref: to DHO*

Printed Name: *Terrence Thompson*

Signature: *[Signature]* Title: *Officer* Date/Time: *9/1/23 3:06 AM*

STG Related - Refer to STG Committee

Yes  No  Unknown

NMH 12.9 TV-Y

This incident is DRUG related

Yes  No  Unknown

Responsible Authority

Action Taken

Informal Resolution

Administrative Resolution

Refer to Disciplinary Hearing

9/5

CASE NO.: 21-096

**South Carolina Department of Corrections  
CONTRABAND/EVIDENCE CHAIN OF CUSTODY**

Date/Time Contraband/Evidence Found 8/29/2023 Approx: 2:40 P.M

Institution Kershaw C.I


Contraband/Evidence Description/Specific Location Evidence Found  
(Weighted items will be described with approximate field weights.)

Item #	Description of Evidence	Location Found
1	Blue Motorola Cell Phone	Ob cell 30
2	(5) ear buds with talk capabilities	Ob cell 30
3	Usb cable with charging block	Ob cell 30
4	Charging adapter	Ob cell 30

Suspect(s) Name Bobby Caughman SCDC # 242187  
Darryl Louis SCDC # 279494  
 \_\_\_\_\_ SCDC # \_\_\_\_\_  
 Victim (s) Name \_\_\_\_\_ SCDC # \_\_\_\_\_  
 \_\_\_\_\_ SCDC # \_\_\_\_\_

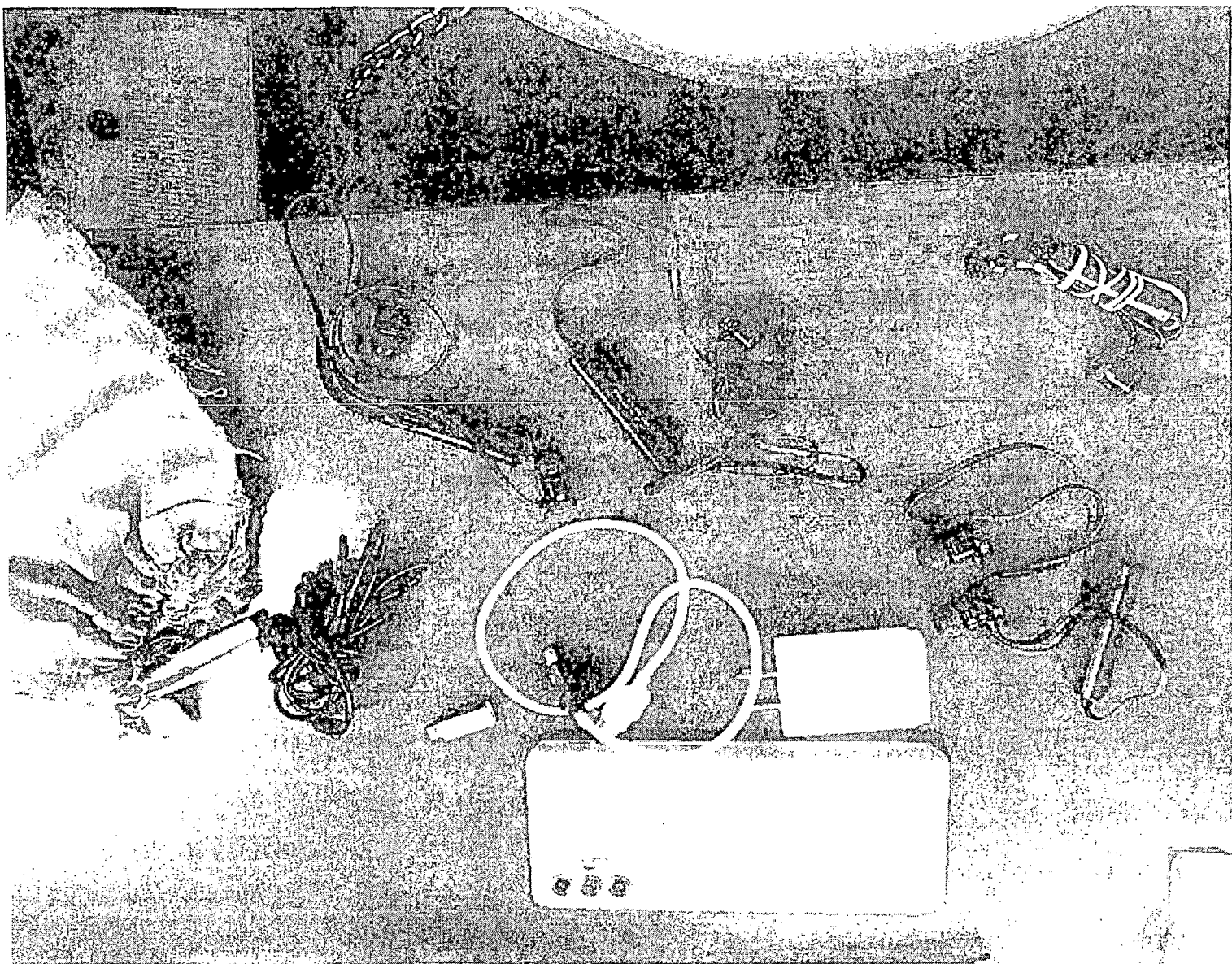
Contraband/Evidence Recovered by: Lt. L. Small   
 TITLE PRINTED NAME SIGNATURE

-----  
**SUBSEQUENT CUSTODY**

Date	Time	Transferred by (print name and SCDC #)	Transferred to (print name and SCDC #)	Reason for Transfer	Item #	Receiving Party Signature
8/29/2023	3:30 P.M	Lt. Small	Sgt. Stuckey	Processing	1-4	

-----  
**FINAL DISPOSITION IF RETAINED AT INSTITUTION**

Date Destroyed \_\_\_\_\_ Method of Destruction \_\_\_\_\_  
 Witness \_\_\_\_\_ Witness \_\_\_\_\_  
 PRINT NAME/TITLE SIGNATURE PRINT NAME/TITLE SIGNATURE





### Inmate Request - General

Today's Date: 9/27/2023 9:30

Name: LOUIS, DARRYL KEITH  
Booking #: 279494  
Permanent #: 279494

Reference #: 23-03239253  
Date Requested: 09/11/23 21:47  
Request Type: Disciplinary  
Requested By: Kiosk

Request Details: I would like to have inmate bobby caughtman #242187 of oak-b 30 as a witness at my hearing. Respectfully, Louis

Disposition: Complete  
Officer:  
Disposition Date: 09/15/23 16:19

#### Request Responses

Date	Author	Note
09/15/23 16:20	c068767	Attached to DHO paperwork.

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
DISCIPLINARY HEARING PROCEDURE**

**DOCKET No.: 23-ALJ-04-0606-AP**

**GRIEVANCE No.: KRCI 300-23**

**INMATE NAME: Darryl Louis**

**SCDC No.: 279494**

**INSTITUTION: Kershaw Correctional Institution**

**DATE: September 19, 2023**

**CHARGE: 898 - Possession of Any Communication Device (Case 16)**

DHO: The purpose of this hearing is to treat the matter before me with fundamental fairness and arrive at a just decision. All parties must conduct themselves properly. Failure to do so will result in your removal. State your name and your SCDC Number for the Record.

I/M: Darryl Louis, 279494.

DHO: You are appearing before the Kershaw Correctional Institution disciplinary hearing being recorded on today's date of September the 19th, 2023, at 9:18 a.m. I am Disciplinary Hearing Officer, Ms. Hough. You are representing yourself. Are you ready to proceed?

I/M: Yes, ma'am.

DHO: This is Case 16 for Inmate Darryl Louis, SCDC Number 279494. The date of the offense is August the 29th, 2023. It occurred at 2:40 PM at Kershaw Correctional Institution. The alleged offense is 898, possession of any communication device. The charging official is Lieutenant Small. You were served notice of this hearing on September the 10th, 2023 at 9:01 p.m., and originally you stated you wanted your accuser present. However, prior to the hearing, you indicated you did not want your accuser present. I also would like to notate that you do not qualify for a counsel substitute due to your reading level is above 6.0. The evidence that I have to support the charge is SCDC Form 19-29A, a Incident Report, which reads as following: "I, Lieutenant Small, entered Oak B and observed Officer Bowen standing at Cell 30, making rounds for the inmates who live in the cell to come to the cell. I began to approach the cell of Inmate Bobby Caughman, 242187, began to run from upstairs, yelling that he was on his way. I looked into the cell, noticed a sheet hanging, blocking the view inside the cell. I entered the cell

**DHO: Disciplinary Hearing Officer (Ms. Hough)**

**I/M: Inmate (Darryl Louis)**

**OFC: Accuser/Charging Official (Lt. Small)**

and removed that sheet and noticed a second sheet hanging preventing anyone from seeing on the beds. I removed that sheet, and Inmate Darryl Louis, 279494, was standing behind the sheet. I observed a pair of black earbuds with talking capabilities laying in the plain view on the mattress on the middle bunk. I then lifted up the mattress and found a orange bag that contained the following: one blue Motorola cell phone; four black earbuds with talking capabilities; one white USB cable; one white charging block; and one charging adapter. Inmate Louis was inside the cell and Inmate Caughman was standing outside the cell. I asked who was claiming the items in the orange bag. Inmate Caughman stated he is going to claim all items inside the bag. I exited the cell, then came back to the door and asked who was assigned to the middle bunk where the item was found and Inmate Louis stated he was. Once back in the office, I was able to get into the phone and found pictures on Inmate Louis looking into the camera. Inmate Caughman and Inmate Louis both is being charged with a 898." This Incident Report was signed off by Sergeant Stuckey on August the 30th, 2023 at eight o'clock a.m., and it was graded by Major Thompson on September the 1st, 2023 at 3:06 p.m. Other supporting documentation to support the charge include: SCDC Form S-23, which is our Evidence Form, along with a photo of the cell phone, the five earpieces, along with the orange bag, and a picture of the charging block and the USB cable. Do you see a picture of all the items I just indicated?

I/M: Yes, ma'am.

DHO: And I also have a photo of yourself, which is the photo once Small got inside the phone. This was your photo. Do you see a picture of yourself?

I/M: That --

DHO: Does that look like you?

I/M: It does look like me.

DHO: Okay. Inmate Louis, be advised, if you are found guilty of this charge you will fail to earn good time for the month of August, you may lose canteen, phone, visitation privileges, receive disciplinary detention, and loss of good time. On Case Number 16 for the offense of 898, possession of any communication device, how would you like to plea?

I/M: Not Guilty.

DHO: Okay. At this time, would you like to make any statements or present any evidence on your behalf?

I/M: Yes, ma'am. I have three documents that I would like to include into the Record.

DHO: Okay. Tell me what those three documents are.

I/M: These documents are complete, full Incident Reports. Uh, an example of how to complete...fully complete an Incident Report. As long as SCDC's roster for the unit that I stay in showing which bunk I reside on. I have a question. Is it possible, I know that you mentioned the evidence sheet, could I take a look at that, please?

DHO: That's not something that we show inmates, okay? This is...this is an SCDC Form. Okay? It's not a form that I am required to...I just glanced to tell you this is our process and procedure, but it's not something that inmates are allowed to have, okay? Okay?

I/M: Yes, ma'am. I got you.

DHO: Anything else?

I/M: Ma'am, um, according to the disciplinary policy, it states that at a bare minimum...at bare minimum to complete this form, supervisor is advised to have the accusing officer to complete both the inmates being accused and officers full name, to have the SCDC Number, to have the location, the time of incident, the time of the report, the evidence, as well as the disposition of the evidence.

DHO: Go ahead.

I/M: When the actual reading of the policy, it states, it actually states it two times.

DHO: Okay.

I/M: It states, "to include in the full narrative, the full statement," then right underneath there, it stresses it again, "To put inside of the...um, right underneath there, there's a little area where it says, put [Inaudible] as well. I'm aware that you just showed it to me, but per policy, it states to include it inside the Incident Report, and I would just assume, or from previous experiences, and I believe this is common knowledge, if any of the other elements was to be missing, such as the name, the location, the time, it would be dismissed.

DHO: Okay. What is missing? What...what are you alleging is missing on this Incident Report that was written by Lieutenant Small? What are you alleging is missing? Because your previous Incident Report from things that happened at another institution, I cannot accept them into evidence regarding this. I...I understand what your stating. You're saying that this report is not full and accurate. So, what's missing?

I/M: Again, the disposition of it...of the evidence.

DHO: Okay.

I/M: Which would be to include, as you...the chain of custody.

DHO: Okay.

I/M: The disposition is actually labeled, "Controlled Substance and Disposition of Evidence."

DHO: Okay.

I/M: Then you can also include the actual book, the ledger itself, when you put down the disposition of...of the evidence.

DHO: Okay. So, what you've indicated to me, during my, um, deliberation, I would take into consideration. Okay?

I/M: Okay.

DHO: All right.

I/M: I understand that you said that you cannot...you will not be accepting the documentation. However, I would also like to state that the policy states that I can produce --

DHO: Okay.

I/M: -- the documentation. This is just for the purpose of putting it on the Record.

DHO: Okay, so you have a dorm roster, and this is not something that any inmate inside of South Carolina Department of Correction should have. And the reason why is because it gives you all of the SCDC Numbers of, and the custody security level, of all the inmates. You should not even have this in your possession, number one, which is why I'm not accepting it. And then you're presenting to me a Incident Report from an incident that happened, um, at Ridgeland Correctional Institution on March the 8th, 2023, and then you're presenting another one that happened at Libra on September the 8th of 2020. So, these Incident Reports have no bearing on this case. Now, I...what you've indicated as far as the report, is not fully filled out entirely, as you allege. I told you once before that I will take that into consideration during my deliberation. Okay?

I/M: Okay. I appreciate that.

DHO: Thank you.

I/M: And I'm not trying to be rude or anything, but if you would look at the Incident Report, You do acknowledge that in both the evidence, it do make mention of that form, 19-79, as well as SCDC Form --

DHO: Um hm, Controlled Substance and Disposition Form on the Evidence Form. Okay.

I/M: Chain of custody, as well as, it does state photos of the items that are being directly underneath that, the disposition of...of the evidence. And one of these forms, it says attachment and the other one, it actually states the disposition of evidence to look referred to such and such and such.

DHO: Okay.

I/M: That's all of it.

DHO: All right. Case Number 16, which was read at the end of the hearing, will now be used evidence against you. Inmate Louis, any final statements to make on your behalf?

I/M: As a side note, I just happen to notice that it also says to have the reviewing officer is a supervisor. I couldn't help but notice that. Supervisor Comi is actually a subordinate of the lieutenant who filled out the form, not the actual supervisor.

DHO: Okay. I've heard the charge, provided an opportunity for you to make a statement, present evidence, and call witnesses on your behalf. I've considered all evidence and witness statements. I will now recess this hearing to arrive at a just decision.

[RECESS]

DHO: Restate your name and your SCDC Number for the Record.

I/M: Darryl Louis, 279494.

DHO: Inmate Louis, on Case 16 for the offense of 898, the possession of any communication device, I have found you guilty. The evidence that I've relied upon is the Incident Report written by your accuser, Lieutenant Small, SCDC Form S-23, which is our Evidence Form, along with photos of the evidence. Your sanctions imposed, being this is your fourth offense of 898, your last infraction of a 898 was just on December the 21<sup>st</sup>, 2021. Your sanctions will include: 60 days

of disciplinary detention; plus 180 days of canteen, phone, visitation restriction for a total of 240 days of canteen, phone, visitation restriction; 90 days of tablet restriction; and 90 days loss of good time. You will receive a copy of this Hearing Record. You have the right to appeal my decision by filing a grievance within five days of today's hearing. You also have the right to hear today's Hearing Record by filing SCDC Form 19-11, Request to Staff, to the Major's office within three days of today's hearing. You are dismissed and this hearing is concluded.

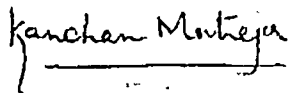
**STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW JUDGE COURT**

Darryl Louis, #279494, )  
 )  
Appellant, )  
 )  
-vs- )  
 )  
South Carolina Department of Corrections, )  
 )  
Respondent. )  
\_\_\_\_\_ )

**CERTIFIED TRANSCRIPT**  
Docket Number: 23-ALJ-04-0606-AP

This is to certify that the transcript of the recording of this administrative disciplinary hearing is a true, accurate and complete transcript of the proceedings and testimony hereby transcribed.

I do further certify that I was not present at the administrative disciplinary hearing that has been transcribed.



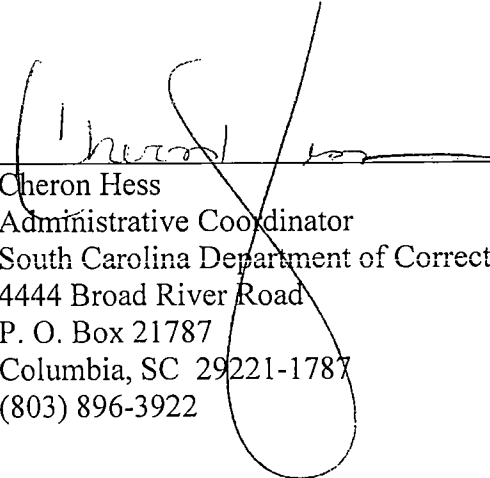
Kanchan Mutreja  
Transcriptionist  
Datagain, Inc.  
1 Creekside Ct.  
Secaucus, NJ 07094



## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document(s) was/were, this date, served upon the following individual(s) by placing a copy of the same via mail to his/her last known address as follows:

Inmate Darryl Keith Louis  
Inmate Number: 279494  
Kershaw Correctional Institution  
Dorm-Room-Bunk: HB-0278-B



Cheron Hess  
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4444 Broad River Road  
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February 9, 2024



**STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT**

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

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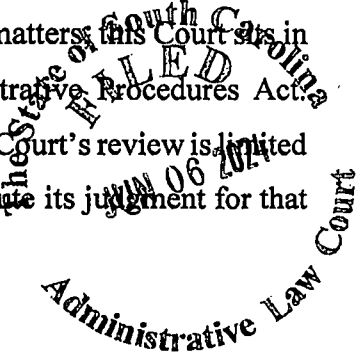
Docket No.: 23-ALJ-04-0606-AP  
 Grievance No.: KRCI 300-23

**ORDER**

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



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 the cause by depositing the same by first class mail in the United States mail postage paid, at the post office in Columbia, South Carolina, by the undersigned.  
The 6 day of June, 2024.  
By: *[Signature]*  
Crystal M. Rookard

**STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT**

Darryl K. Louis, #279494, )  
 )  
 Appellant, )  
 )  
 v. )  
 )  
 South Carolina Department of Corrections, )  
 )  
 Respondent. )  
 )

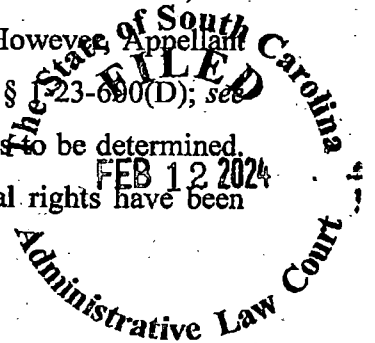
Docket No.: 23-ALJ-04-0606-AP  
Grievance No.: KRCI 0300-23

**ORDER DENYING APPELLANT'S  
MOTION FOR SUMMARY JUDGMENT**

This matter is before the South Carolina Administrative Law Court ("ALC" or "Court") pursuant to the Notice of Appeal filed November 14, 2023 by Darryl K. Louis ("Appellant"), an inmate incarcerated with the South Carolina Department of Corrections ("Department"). Appellant's appeal arises from the Department's administration of his disciplinary hearing and the correlating disciplinary conviction for which he contends there was insufficient evidence to support the conviction. As a result of the conviction, Appellant received a loss of ninety (90) days of accrued good time. Appellant filed timely step 1 and step 2 grievances, each of which was denied.

On December 18, 2023 Appellant filed his brief with the Court. Thereafter, on January 17, 2024, Appellant filed a motion for summary judgment, arguing that there is "no genuine issue of material fact to be decided on trial" and that Appellant is entitled to summary judgment. As of the date of this order, a response has not been filed by the Department.

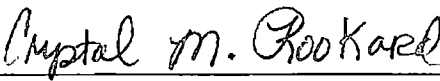
Appellant now moves this Court pursuant to Rule 56 of the South Carolina Rules of Civil Procedure. This Court generally has jurisdiction to hear inmate appeals that have been properly filed and served. *See* S.C. Code Ann. § 1-23-600(D) (Supp. 2023); *Allen v. S.C. Dep't of Corr.*, 439 S.C. 164, 170, 886 S.E.2d 671, 674 (2023) ("[T]he ALC has subject matter jurisdiction over inmate grievance appeals that have been properly filed."); *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 331 605 S.E.2d 506, 507 (2004); *Al-Shabazz v. State*, 338 S.C. 354, 369, 527 S.E.2d 742, 750 (2000). There is no question that Appellant's appeal was properly filed. However, Appellant overlooks that this Court hears inmate appeals in its appellate capacity. *See* § 1-23-600(D); *see also* § 1-23-380. As duly noted in Appellant's motion, the appeal lacks facts to be determined. Rather, the appeal presents a question as to whether Appellant's substantial rights have been



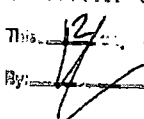
prejudiced. Accordingly, within this procedural posture, a motion for summary judgment is not the proper vehicle for Appellant to present arguments to support a conclusion that his substantial rights have been prejudiced. In appeals from final agency decisions, Rule 60(B) of the South Carolina Administrative Law Court Rules directs parties to present issues and arguments within the form of a brief. As such, the issues raised by way of a Motion for Summary Judgment are more appropriate for inclusion in a brief or reply brief.

**IT IS HEREBY ORDERED** that Appellant's Motion for Summary Judgment is **DENIED**.

**AND IT IS SO ORDERED.**

  
\_\_\_\_\_  
THE HONORABLE CRYSTAL M. ROOKARD  
South Carolina Administrative Law Judge

February 12, 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 at the emergency M of Service address.  
This 12 February 2024  
By:  \_\_\_\_\_  
Judicial Law

STATE OF SOUTH CAROLINA  
In the Administrative Law Court

Darryl Keith Louis, # 279494 ) Docket No.: 23-ALJ-04-0606-AP  
Appellant, ) [Grievance No.: KRC I 300-23]  
v. )  
South Carolina Department ) Judge Crystal M. Rookard  
of Corrections, ) APPELLANT'S REPLY BRIEF  
Respondent. )

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STATEMENT OF THE CASE

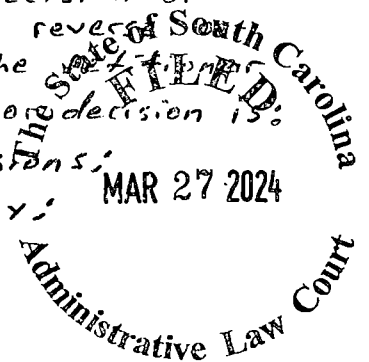
This matter is before the Administrative Law Court (ALC) pursuant to the appeal of a prison major disciplinary hearing within the South Carolina Department of Corrections. On 9/19/2023, Appellant filed a Step-One Grievance, which was denied. Appellant filed a Step-Two Grievance, which was denied on 10/27/2023. Appellant's Notice to Appeal was ~~assigned~~ filed on 11/14/2023. Date of assigned Judge was on 12/01/2023. Appellant's Original Brief was filed on 12/18/2023. Appellant's Motion for Summary Judgment was filed on 01/17/2024, and denied on 02/12/2024. Respondent's Brief was received by Appellant on 03/25/2024.

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 capacity. *Id.* at 377, 527 S.E.2d at 754. ~~Recently,~~ ~~the~~ Furthermore, the APA (Administrative Procedures Act) establishes the standard of review and the court's authority in reviewing the ALJ's decision:

The review of the administrative law judge's order must be confined to the record. The reviewing tribunal may affirm the decision or remand the case for further proceedings; or it may reverse, modify the decision if the substantive rights of the party has been prejudiced because of the findings, conclusion, or decision is:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;



1. On 05/19/2023, Lt. Small completed SCDC Form 19-29A, but did not list disposition of evidence in space provided or include disposition of evidence in the statement of facts. Rec. PP. 6

The Agency failed to follow its own regulations for Prisoners incurring major disciplinary infractions satisfies the "violation of constitutional and statutory provisions" standard of proof to vacate Appellant's conviction. Here are the salient facts brought forth at the disciplinary hearing:

I. BECAUSE CONSTITUTIONAL AND STATUTORY PROVISIONS WERE VIOLATED, THE COURT SHOULD VACATE AND REVERSE SCDC'S FINAL AGENCY ACTION.

The final agency decision should be vacated and reversed because substantial rights of the Appellant have been prejudiced because the administrative findings, inferences, conclusions, and decision was in violation of constitutional and statutory provisions, and Appellant did not receive the due process which he was entitled.

BRIEF

Finally, The APA subjects agency action to judicial review to determine whether it is both supported by the administrative record and consistent with the APA. (5 U.S.C. § 704). A reviewing court must "decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action". (Id. at § 706.) The Court shall "hold unlawful and set aside agency action, findings, and conclusions found to be... arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law," (Id. § 706 (a)(A)); "contrary to constitutional right, power, privilege, immunity," (Id. § 706 (a)(B)); "in excess of statutory jurisdiction, authority, or limitation - or short of statutory right," (Id. § 706 (a)(C)); "without observance of procedure required by law;" (Id. § 706 (a)(D)); or unsupported by substantial evidence," (Id. 706 (a)(E)).

- (e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. Id at 379-380, 527 S.E.2d at 755-756.

2. SCDC Policy OP-22.14(3-3.1) Inmate Disciplinary System states ~~is~~  
 "SUPERVISOR'S REVIEW RESPONSIBILITIES:..... she will instruct the observing employee to complete SCDC Form 19-29A. This report will be typed (if possible) and will, at a minimum, include the following information:..... A description of the facts of the offense(s), to include, at a minimum:..... A full statement of the facts underlying the offense, to include witnesses, evidence, and disposition of evidence, and the reporting employee's signature, title, list of any evidence, and disposition of evidence.
3. On 09/19/2023, D.H.O. Housh completed SCDC Form 19-69, but did not write her reason for denial or exclusion of the requested witness in space provided. Rec. pp. 5 & 3
4. SCDC Policy OP-22.14(14.3) Inmate Disciplinary System states "..... If witnesses are denied by the Hearing Officer, the Hearing Officer must write his/her reasons for this denial on SCDC Form 19-69, in the space provided."

Albeit, administrative agencies are afforded wide latitude in making decisions, as shown in the deferential standard of appellate review. Heater of Seabrook, Inc. v. Pub. Svc. Comm'n of S.C., 332 S.C. 20, 503 S.E. 2d 739 (1998). Regardless of how serious the problem an administrative agency seeks to address, however, it may not exercise its authority "in a manner that is inconsistent with the administrative structure that Congress enacted into law" Food and Drug Admin. v. Brown & Williamson Tobacco Corp 529 U.S. 120, 125, 120 S.Ct. 1291, 146 L.Ed. 2d 121 (2000). A reviewing "court, as well as the agency, must give effect to the unambiguously expressed intent of Congress." Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc. 467 U.S. 837, 842-843, 104 S.Ct. 2778, 81 L.Ed. 2d 694 (1984).

Here, it is evident that the Agency was prejudiced to Appellant's substantial rights. Even the warden agreed to the validity of Appellant's claim in the response to the Step-One Grievance. Rec. pp. 4 Therefore, because Appellant's ~~due to a result of~~ substantial rights <sup>were</sup> being prejudiced, Appellant respectfully requests the Court vacate and reverse SCDC's final agency action.

**II. BECAUSE APPELLANT DID NOT RECEIVE THE DUE PROCESS TO WHICH HE WAS ENTITLED, THE COURT SHOULD REVERSE SCDC'S FINAL AGENCY ACTION.**

Due Process, as the United States Supreme Court noted in Wolff v. McDonnell, requires the following in Prison disciplinary cases:

- a) written notice of charges at least 24 hours in advance of hearing;
- b) opportunity to present witnesses and documentary evidence;
- c) neutral and detached hearing body;
- d) aid of counsel substitute where inmate is illiterate or the case is complex;
- e) written statement by the fact-finder.

418 U.S. 539, 566 (1974).

It is clear that SCDC did not comply with one or more of the requirements in the administrative hearing about which Appellant has filed the present appeal. Respondent argues that nowhere in the disciplinary hearing record does Appellant request inmate Bobby Caughman to testify. See Respondent's brief p. 6. However, Appellant did request for Bobby Caughman as a witness eight (8) days before the hearing was held thru the A.R.T.S.M. (Automated Request to Staff Member). See Rec. PP. 10.

An inmate has a conditional constitutional right to call witnesses to testify at a Prison disciplinary hearing involving serious misconduct. Id. That right is implemented by OP-22.14(14.3), "Inmate Disciplinary System," which requires that when an inmate's request to call a witness is denied, "the hearing officer must write his/her reasons, for this denial on the SCDC Form 19-69, in the space provided." As stated earlier, Disciplinary Hearing Officer Hough did not meet that burden. See Rec. PP 5 & 3-4.

Furthermore, the Agency's disciplinary decision as well as its final decision was arbitrary and an abuse of discretion. During the disciplinary hearing Appellant informed the Hearing Officer that the Reporting official's written report was not in accordance with the Agency's Regulation and that by law she was required to dismiss the charges. See Rec. PP 3-5 & Respondent's Brief p. 6. Subsequently, Appellant detailed the same facts in ~~both~~ <sup>or</sup> Step-One ~~Step Two~~ Grievance(s), adding that the Requested witness was denied. See Rec. PP 3 ~~6~~ <sup>5</sup> and Respondent's Brief p. 6. Black's Law Dictionary defines "arbitrary" among other things as,

"depending on individual discretion; or, relating to, or involving a determination made w/out consideration of or regard for facts, circumstances, fixed rules, or procedures. (Of a judicial decision) founded on Prejudiced or Preference rather than on reason or fact.", Black's Law Dictionary (11th Ed. 2019), "Agency action is arbitrary and capricious if the agency relies on factors that Congress did not intend for it to consider, entirely ignores important aspects of the problem...." Appalachian Voices v. State Water Control Board, 912 F.3d 746 at 750. Under the APA, agency action may be set aside if the court finds that the agency action was 'arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. Genetics & IVF Institute v. Kappos, 801 F. Supp.2d 497

If the Agency's actions was neutral, detached from the hearing body, ~~and/or~~ wasn't arbitrary, ~~and/or~~ not an abuse of discretion, and ultimately was in accordance with law, then cows really can jump over the moon.

## CONCLUSION

SCDC did not afford Appellant all of the due Process safeguards to which he was entitled. Moreover, the Reporting official did not follow Statutory Provisions; DHO Hough did not afford Appellant opportunity to Present witness (Bobby Caughman); and ultimately the Agency's final decision was nothing short of an abuse of discretion and arbitrary knowing that Procedural Regulations were not followed. My state & Federal Constitutional Rights were violated under Article I § 3 of The South Carolina Constitution, and The 14th Amendment to the Federal Constitution.

WHEREFORE, Appellant respectfully requests the Court to vacate & reverse the Agency's final decision.

Respectfully Submitted,

Darryl Keith Louis Jr.  
Darryl Keith Louis Jr.  
Ker. C. I. / HB-278  
4848 Goldmine Highway  
Kershaw, S.C. 29077

March 27<sup>th</sup>, 2024.  
Kershaw, South Carolina



STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Darryl Keith Louis Jr,

Appellant,

vs,

South Carolina Department

of Corrections,

Respondent.

Docket No.: 23-ALS-04-0606-AP

[Grievance No.: KRCI 300-23]

Judge Crystal M. Rookard

CERTIFICATE of SERVICE

I hereby certify that a copy of the foregoing brief was this date served upon the following individuals by placing a copy of the same via mail (institutional mailroom) to his/her last known address as follows:

Office of General Counsel

S.C. D.C.

4444 Broad River Road

P.O. Box 21787

Columbia, S.C. 29221-1787

Darryl Keith Louis Jr.

Darryl Keith Louis Jr.

Ker. C.I./HB-278

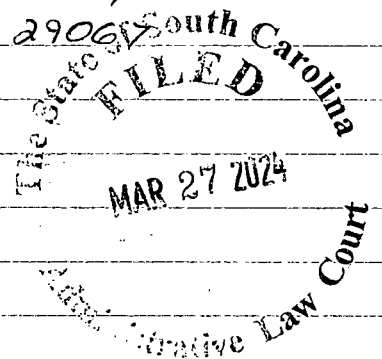
4848 Goldmine Hwy.

Kershaw, S.C. 29067

Pro Se

March 28<sup>th</sup>, 2024

Kershaw, S. Carolina





**SOUTH CAROLINA**  
DEPARTMENT OF CORRECTIONS  
*Division of Legal Counsel & Compliance*

HENRY McMASTER, Governor  
BRYAN P. STIRLING, Director

March 20, 2024

The Honorable Crystal M. Rookard  
South Carolina Administrative Law Court  
Edgar A. Brown Building, Suite 224  
1205 Pendleton Street  
Columbia, South Carolina 29201

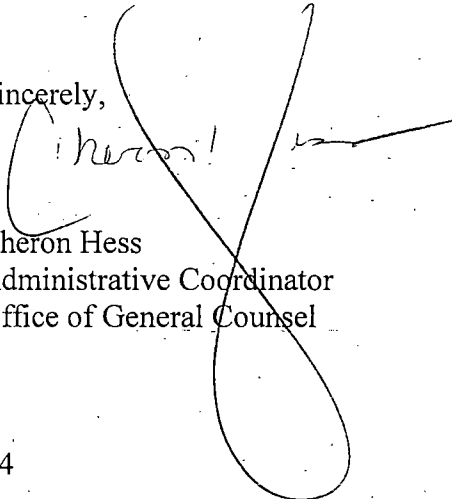
Reference: Inmate Darryl Keith Louis, Jr., #279494, vs. SCDC  
Docket No. 23-ALJ-04-0606-AP

Dear Judge Rookard:

Find enclosed an original and one copy of the *Respondent's Brief* 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 Darryl Keith Louis, Jr., #279494  
File

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

Darryl Keith Louis, # 279494	)	Docket No.:23-ALJ-04-0606-AP
	)	[ <u>Grievance No.: KRCI 300-23</u> ]
Appellant,	)	
	)	<i>Hon. Crystal M. Rookard</i>
v.	)	
	)	
South Carolina Department of Corrections,	)	<b>RESPONDENT’S BRIEF</b>
	)	
Respondent.	)	
	)	

**STATEMENT OF THE CASE**

This matter is before the Administrative Law Court (“ALC” or “Court”) pursuant to the appeal of Darryl Keith Louis (“Appellant”), an inmate incarcerated with the South Carolina Department of Corrections (“SCDC” or “Department”). On September 19, 2023, Appellant filed a Step One Grievance seeking to overturn his September 19, 2023, disciplinary conviction for the offense of 898, “The Possession of any Communication Device.” This grievance was investigated and denied on September 28, 2023. Thereafter on October 5, 2023, Appellant filed a Step Two Grievance. The Step Two Grievance was investigated and denied on October 27, 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 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 been 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 it 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)).

Furthermore, the ALC should not disturb findings of an administrative agency if those findings are supported by substantial evidence on the record. *Pearson v. JPS Converter & Ind. Corp.*, 327 S.C. 393, 489 S.E.2d 219 (Ct. App. 1997). Stated differently, an Administrative Law Judge may not substitute his judgment for that of an agency “as to the weight of the evidence on questions of fact.” S.C. Code Ann. § 1-23-380(5) (amended by 2008 Act No. 334, § 5, eff. June 16, 2008). Additionally, Courts may not substitute their judgement for that of the agency in terms of the weight of the evidence but may modify an agency’s decision if it is “clearly erroneous in view of the substantial evidence on the whole record, in violation of a constitutional or statutory provision or arbitrary.” *Marietta Garage, Inc. v. S.C. Dep't. of Pub. Safety*, 337 S.C. 133, 136-37, 522 S.E.2d 605, 607 (1999); *see* S.C. Code Ann. § 1-23-380(5)(e); *see also* S.C. *Dep't. of Labor, Licensing & Regulation v. Girgis*, 332 S.C. 162, 503 S.E.2d 490 (1998).

“Substantial evidence” is evidence which, considering the record as a whole, would allow a reasonable mind to reach the same conclusion that the administrative agency reached. *Hendley v. S.C. State Budget & Control Bd.*, 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996). The possibility of drawing two inconsistent conclusions from the

evidence does not prevent an administrative agency's finding from being supported by substantial evidence. *Grant v. S.C. Coastal Council*, 319 S.C. 348, 461 S.E.2d 388 (1995). Administrative agencies are afforded wide latitude in making decisions, as shown in the deferential standard of appellate review. *Heater of Seabrook, Inc. v. Pub. Svc. Comm'n of S.C.*, 332 S.C. 20, 503 S.E.2d 739 (1998).

Finally, in deciding appeals from inmate grievances, the ALC must consider that prisons officials are in the best position to decide inmate disciplinary matters. In *Al-Shabazz*, the South Carolina Supreme Court affirmed that the Courts "traditionally have adopted a "hands off" doctrine regarding judicial involvement in prison disciplinary procedures and other internal prison matters, although they must intercede when infringements complained of by an inmate reach constitutional dimensions." 338 S.C. at 382, 527 S.E.2d at 257; *see also Pruitt v. State*, 274 S.C. 565, 266 S.E.2d 779 (1980) (referring to the traditional "hands off" approach of South Carolina courts regarding internal prison discipline and policy).

### **BRIEF**

The final agency decision should be affirmed because substantial evidence existed to support the disciplinary conviction and Appellant received the due process which he was entitled.

#### **I. BECAUSE SUBSTANTIAL EVIDENCE EXISTED TO SUPPORT THE CHARGE OF 898 AND THE CONVICTION, THE COURT SHOULD AFFIRM SCDC'S FINAL AGENCY ACTION.**

The evidence presented at the hearing and relied upon by DHO Hough satisfies the "substantial evidence" standard of proof to uphold Appellant's conviction. Here are the salient facts brought forth at the disciplinary hearing:

1. On August 29, 2023, Lieutenant Small entered Oak b unit. Rec. pp. 6 & 11. Lt. Small observed Officer Bowen standing at Cell 30,

making rounds for the inmates who live in the cell to come to the cell. Rec. pp. 6 & 11.

2. As he approached the cell of inmate Bobby Caughman #242187 he observed inmate Caughman begin to run from upstairs yelling that he was on his way. Rec. pp. 6 & 11.
3. Lt. Small looked into Caughman's cell and found that a bed sheet was blocking the view into the cell. Lt. Small entered the cell to remove the sheet only to find a second sheet being used to block the view of the beds. Rec. pp. 6 & 11-12.
4. Lt. Small removed the second sheet and found that Appellant was standing behind it. Lt. Small observed a pair of black earbuds with talking capabilities laying in the plain view on the mattress of the middle bunk pp. 6 & 12.
5. Lt. Small lifted up the mattress of the middle bunk and found an orange bag which contained the following: a blue Motorola cell phone; four black earbuds with talking capabilities; one white USB cable; one white charging block; and one charging adapter. Rec. pp. 6, 8, & 12.
6. Inmate Caughman stated that he would claim ownership of all the items found in the orange bag. Upon questioning, Appellant stated to Lt. Small that the middle bunk was assigned to Appellant. pp. 6 & 12.
7. Lt. Small was able to get into the phone and found photos of Appellant looking into the camera. Pp. 6, 9, & 12.
8. SCDC Policy OP-22.14 Inmate Disciplinary Systems<sup>1</sup> states for disciplinary offense "**898 *The Possession of Any Communication Device: The possession, receipt, use, concealment, storage, purchase, sale or facilitation of cellular phones or other communications equipment and/or any components thereof. This includes, but is not limited to, MP3 players, I-pods, e-readers or any like devices.***"

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<sup>1</sup> SCDC Policy OP-22.14, states, "[a]violation of these rules may consist of any of the following: ... [a]iding others in engaging, attempting to engage, or conspiring to engage in the specified behavior." See SCDC Policy OP-22.14, Inmate Disciplinary System, SCDC Disciplinary Offenses, 1. Rules Violation Defined.

DHO Hough weighed the evidence based on the facts and testimony presented at the hearing and came to a just and fair decision. Rec. pp 16-17. It is up to the DHO to consider the evidence and make a determination “as to the weight of the evidence on questions of fact.” S.C. Code Ann. § 1-23-380. Here, evidence relied upon included the incident report provided by Lt. Small, SCDC Form S-23, photos of the various items found, and a photo of Appellant found on the contraband phone. Rec. pp. 5-7, 11-12, & 16. Appellant has failed to show the Court that his substantial rights have been prejudiced or that DHO Hough’s decision was clearly erroneous, arbitrary, or affected by legal error. *See Marietta Garage, Inc.*, 337 S.C. at 137, 522 S.E.2d at 607; *Pruitt*, 274 S.C. at 567-68, 266 S.E.2d at 780. Therefore, because Appellant’s conviction was supported by substantial evidence, SCDC respectfully requests the Court affirm SCDC’s final agency action.

**II. BECAUSE APPELLANT RECEIVED THE DUE PROCESS TO WHICH HE WAS ENTITLED, THE COURT SHOULD AFFIRM SCDC’S FINAL AGENCY ACTION.**

Prison disciplinary cases are not criminal trials in federal or state courts; they are administrative hearings in an institutional setting. Therefore, due process in prison disciplinary hearings is substantially less than in a trial before a court. Due process, as the United States Supreme Court noted in *Wolff v. McDonnell*, requires the following in prison disciplinary cases:

- a) Written notice of charges at least 24 hours in advance of hearing;
- b) opportunity to present witnesses and documentary evidence;
- c) neutral and detached hearing body;
- d) aid of non-attorney counsel substitute where inmate is illiterate or the case is complex;
- e) written statement by the fact-finder as to the evidence relied upon (disclosure of this evidence may be limited).

418 U.S. 539, 566 (1974). SCDC complied with these requirements in the administrative

hearing about which Appellant has filed the present appeal.

Here, due process was met because, Appellant was given written notice of the charges when he was served on September 10, 2023, which was more than 24 hours in advance of his September 19 2023, disciplinary hearing. Rec. pp. 5 & 11.

Appellant initially requested his accuser's presence at the hearing, but prior to the hearing changed his mind and as such Lt. Small was not at the hearing. Rec. pp. 5 & 11. Appellant had the opportunity to make a statement and present evidence. Rec. pp. 13-16.<sup>2</sup> Appellant argues that he was not allowed to call his witness, inmate Cunningham. See Appellant's Brief p. 3. However, nowhere in the disciplinary hearing transcript does Appellant request inmate Cunningham to testify, additionally, other than pleading not guilty, nowhere in the transcript does Appellant deny being in possession of the cell phone. See Rec. pp. 11-17. Instead, Appellant argued that the incident report was not complete because it did not state anything under the section labeled "disposition of evidence." Rec. pp. 6, 13-16.

Appellant had a neutral and detached hearing officer in the form of DHO Hough. Rec. pp. 11-17. Appellant did not require counsel substitute due to his reading level surpassing 6.0. See Rec. p. 11. DHO Hough provided Appellant with a written statement of the findings and the evidence relied upon on the SCDC from 16-69 Disciplinary Report and Hearing Record. Rec. p. 5, *see also* Rec. p. 17. Further, DHO Houghs was careful to ensure all these constitutionally required safeguards occurred. See Rec. p. 11-17. There is nothing in the record to indicate that Appellant's due process rights were

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<sup>2</sup> Appellant attempted to introduce incident reports from other institutions unrelated to the this case as an example of how to fill out an incident report and a dorm roster. Rec. pp. 13-15. DHO Hough explains in the transcript why she does not except these documents into evidence but states she will consider Appellant's argument that the incident report was not properly filled out during deliberation. Rec. pp. 14-15.

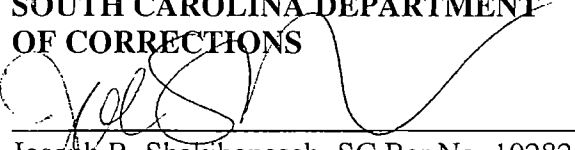
violated. Accordingly, SCDC's final agency decision should be affirmed.

**CONCLUSION**

SCDC afforded Appellant all of the due process safeguards to which he was entitled. Moreover, DHO Hough relied on substantial evidence when making her decision to find Appellant guilty of the 898 offense. Thus, SCDC respectfully requests that this Court affirm SCDC's final agency decision.

Respectfully Submitted,

**SOUTH CAROLINA DEPARTMENT  
OF CORRECTIONS**



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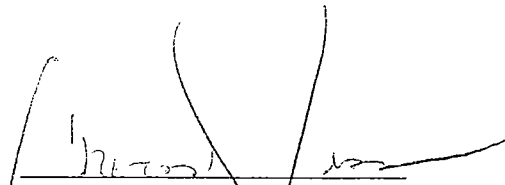
March 20, 2024  
Columbia, South Carolina

**STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT**

Darryl Keith Louis, Jr., #279494,	)	
	)	
Appellant,	)	<b>Certificate of Service</b>
vs.	)	
	)	Docket# 23-ALJ-04-0606-AP
South Carolina Department of Corrections,	)	
	)	
Respondent.	)	

I hereby certify that a copy of the foregoing **Respondent's Brief** was, this date, served upon the following individuals by placing a copy of the same via mail to his/her last known address as follows:

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Inmate Number: 279494  
Kershaw Correctional Institution  
Dorm-Room-Bunk: HB-0278-B

  
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March 20, 2024