

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Stephen Christopher Stanko, #006022,
Appellant,
v.
South Carolina Department of Corrections,
Respondent.

Docket No. 23-ALJ-04-0433-1

RECEIVED
JUL 25 2024
SC Court of Appeals

ORDER VACATING
MAY 15, 2024 ORDER
AND
ORDER OF DISMISSAL

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to a Notice of Appeal filed by Stephen Christopher Stanko (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (Department or SCDC). In his Notice of Appeal, Appellant is grieving regarding the loss of his personal property and alleging employee misconduct, including violating its own policies. This case was assigned on November 3, 2023, and re-assigned on May 3, 2024. On January 16, 2024, the Department filed a Motion to Dismiss this case, stating the underlying issue does not implicate a state-created liberty or property interest. Appellant responded to that motion on January 30, 2024. On May 15, 2024, this Court issued an Order of Dismissal for failure to exhaust administrative remedies. On May 31, 2024, Appellant mailed a Motion to Reconsider that Order. Upon further review of this matter, this Court will vacate its earlier order in this case. SCALC Rule 67 states:

Clerical mistakes in orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the administrative law judge at any time of his own initiative or on the motion of any party and after such notice, if any, as the administrative law judge orders.

SCALC Rule 67.

Appellant seeks review of a Step 1 Grievance decision,¹ which SCDC stated he has exceeded the established time frame for filing a grievance on this issue. Appellant alleges no infringement upon a state-created property interest, nor does he allege infringement upon a liberty interest.

This Court reviews Department grievance decisions pursuant to the South Carolina Supreme Court decision in Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). Under the

¹ In his Motion for Reconsideration, Appellant considers, and requests this Court consider, the Step 1 Grievance as the final decision in this matter, arguing the date of incident in the Action Taken section, which causes the grievance to be untimely, is not the correct date.



Al-Shabazz line of cases, this Court may only review matters related to a state-created liberty or property interest. See id., 338 S.C. at 368–69, 527 S.E.2d at 749–50 (vesting the ALC with jurisdiction over the loss of state-created liberty interests such as accrued good time credit); Wicker v. S.C. Dept. of Corrs., 360 S.C. 421, 602 S.E.2d 56 (2004) (holding that inmate had a right to procedural due process in matters involving a state-created right to property such as wages). Specifically, the South Carolina Supreme Court has stated that summary dismissal of an otherwise properly perfected inmate appeal “may be appropriate where the inmate’s grievance does not implicate a **state-created** liberty or property interest.” Slezak v. S.C. Dept. of Corrs., 361 S.C. 327, 331, 605 S.E.2d 506, 508 (2004) (citation omitted) (emphasis added); see also Howard v. S.C. Dept. of Corrs., 399 S.C. 618, 627–28, 733 S.E.2d 211, 216 (2012) (discussing further limitations on reviewable constitutional injury in sentence credit cases).

Furthermore, the Wicker Court cautioned that circumstances under which the ALC may review an inmate property matter are very limited. Wicker, 360 S.C. at 424–25, 602 S.E.2d at 58. Because Appellant has raised only a personal property issue, and not an issue related to a state-created property interest, it is appropriate to summarily dismiss this appeal.

IT IS THEREFORE ORDERED that the May 15, 2024 Order dismissing this case is hereby **VACATED**.

IT IS ALSO ORDERED that Respondent’s Motion to Dismiss is **GRANTED**, and this appeal is **DISMISSED, WITH PREJUDICE**.

AND IT IS SO ORDERED.



Deborah Brooks Durden, Judge

S.C. Administrative Law Court

June 18, 2024
Columbia, South Carolina