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SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge S. Phillip Lenski

ALC Case No. 24-ALJ-04-213 & -214
Appellate Case No. 2024-000800

JAMES LYNCH, # 244917,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

INITIAL BRIEF OF RESPONDENT

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

Christina Catoe Bigelow
Deputy General Counsel
Office of General Counsel
South Carolina Dept. of Corrections
Post Office Box 21787
Columbia, South Carolina 29221
(803) 896-8508

ATTORNEY FOR RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

THE ADMINISTRATIVE LAW COURT PROPERLY DISMISSED THE APPEALS FOR FAILURE TO IMPLICATE STATE-CREATED LIBERTY OR PROPERTY INTERESTS WHERE APPELLANT DID NOT LOSE ANY GOOD TIME CREDIT AS A PUNISHMENT FOR HIS DISCIPLINARY OFFENSES.

STATEMENT OF THE CASE

This matter comes before this Court pursuant to the appeal of James Lynch, an inmate in the custody of the South Carolina Department of Corrections (SCDC). In the fall of 2023, Appellant submitted Step One and Two Grievances challenging his disciplinary convictions for sexual assault and hostage taking. (See Step 1 and 2 Grievances). These grievances were denied, and on February 12, 2024, Appellant filed Notices of Appeal with the Administrative Law Court (ALC). On May 6, 2024, the ALC issued two Orders Granting Respondent's Motion to Dismiss. In these Orders, the ALC found that because Appellant did not lose any good time as a result of the disciplinary convictions, the cases should be summarily dismissed because they did not implicate state-created liberty or property interests. This appeal follows, and it consolidates ALC case # 24-ALJ-04-0213-AP and ALC case # 24-ALJ-04-214-AP.

STANDARD OF REVIEW

S.C. Code Ann. § 1-23-610(B) provides the applicable standard of review:

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 or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, 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;
- (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.

In an appeal of a final decision of an administrative agency, the standard of appellate review is whether the ALC's findings are supported by substantial evidence. S.C. Code Ann. § 1-23-610(B). "Substantial evidence" is evidence which, considering the record as a whole, would allow a reasonable mind to reach the same conclusion that administrative agency reached. Hendley v. S.C. State Budget & Control Bd., 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996). A reviewing court shall not substitute its own judgment for that of the ALC as to findings of fact, but it may reverse or modify decisions that are controlled by errors of law or that are clearly erroneous in view of the substantial evidence on the record as a whole. Id.

ARGUMENT

THE ADMINISTRATIVE LAW COURT PROPERLY DISMISSED THE APPEALS FOR FAILURE TO IMPLICATE STATE-CREATED LIBERTY OR PROPERTY INTERESTS WHERE APPELLANT DID NOT LOSE ANY GOOD TIME CREDIT AS A PUNISHMENT FOR HIS DISCIPLINARY OFFENSES.

Initially, the issues presented in Appellant's Brief are not preserved for review because they were not the issues that were ruled upon by the Administrative Law Court (ALC). The ALC only ruled on one issue – whether Appellant's grievances implicated a state-created liberty or property interest. (See Orders). The ALC dismissed the cases on the sole ground that the grievances did not implicate state-created liberty or property interests. (See Orders, p. 2). Accordingly, the unrelated issues presented in Appellant's Brief are not preserved for review. See State v. Wise, 359 S.C. 14, 596 S.E.2d 475 (2004) (“Arguments not raised to or ruled upon by the trial court are not preserved for appellate review.”); State v. Rogers, 361 S.C. 178, 183, 603 S.E.2d 910, 912-13 (Ct. App. 2004) (in order for an issue to be preserved for appellate review, it must have been raised and ruled upon below).

Secondly, the ALC was correct in finding that Appellant's grievances did not implicate state-created liberty or property interests. The requirements of procedural due process apply only to the deprivation of interests encompassed by the Fourteenth Amendment's protection of liberty and property. Al-Shabazz v. State, 338 S.C. 354, 369, 527 S.E.2d 742, 750 (2000). The ALC may summarily dismiss inmate cases that do not involve state-created liberty or property interests. Slezak v. S.C. Dep't of Corr., 361 S.C. 327, 605 S.E.2d 506 (2004). The loss of the opportunity to earn sentence-related credits does not implicate a state-created liberty interest. Howard v. S.C. Dep't of Corr., 399 S.C. 618, 626-27, 733 S.E.2d 211, 216 (2012) (citing to S.C. Code 1-23-600(D)).

Here, Appellant did not lose any good time credits as a result of either disciplinary conviction. (See Disciplinary Hearing Reports and Hearing Records.). Therefore, the lower court properly dismissed the appeal as not implicating a state-created liberty or property interest.

CONCLUSION

For the foregoing reasons, this Court should affirm the Administrative Law Court's decision below.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

BY:


CHRISTINA CATOE BIGELOW

Deputy General Counsel
Office of General Counsel
S. C. Department of Corrections
Post Office Box 21787
Columbia, South Carolina 29221
(803) 896-8508

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