

RECORD ON APPEAL

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
PHILIP S. LENSKI, ADMINISTRATIVE LAW JUDGE

CASE NO. 2024-0008300

James Lynch 244917.

Appellant.

✓

S.C. Department of corrections,

Respondent.

RECORD ON APPEAL

James Lynch 244917
BASF Salvia B-203
4460 Broad River Rd.
Columbia SC 29210
PRO-SE LITIGANT

SADC General Counsel
(Legal Department)
P.O. Box 21787
4444 Broad River Rd.
Columbia SC 29221
Respondent

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OCT 01 2024

SC Court of Appeals

SEARCHED
SERIALIZED
INDEXED

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11/15/21
11/15/21
11/15/21

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INCIDENT REPORT


Page 1 of 1

59-101

Institution/Center: McCormick					Date of Report: 7-23-21
Reporting Official (Full Name): T Robertson					Time of Report: 8pm
Employee ID #: 044773					Date of Incident: 7-23-21
Location of Incident: MCCI office in visitation					Time of Incident: Approx 5:53pm
Inmate(s)/Resident:	SCDC #	Age:	Sex:	Race:	Employee(s)/Witnesses Involved:
1. James Lynch	244917		M		1. LT Merriweather
2.					2. Capt Bibbs
3.					3.
4.					4.
5.					5.

On the above date and approximate time:

I AW Robertson received a call from Lt Merriweather from her state cell phone that Inmate James Lynch #244917 had sexually assaulted her twice and that she was secured in the control room. I ask her where inmate Lynch was and she said she didn't know. I assured Lt Merriweather it was not her fault and help would be right there. I immediately contacted the on duty shift Capt. Bibbs and directed him to find I/M Lynch and secure him in RHU and collect his clothes as evidence and shut his water off. I then contacted Major Terry, Warden Burton, Regional Director Davis and advised them of the situation. I arrived at MCCI and determined the assault was in fact a hostage taking where Lt Merriweather was held in her office by inmate Lynch who placed a pair of scissors to her neck, had her in a choke hold and raped her twice. This incident lasted almost an hour until Lt Merriweather was able to get out of the office and make her way to the control room where she called me. She was taken to the hospital for treatment of her injuries. SLED along with Oll agents are investigating.

Signature:  Title: A/W

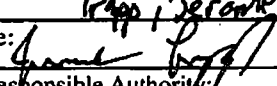
Evidence: SLED

Disposition of Evidence: SLED

Supervisor's Comments:

801, 802, 805

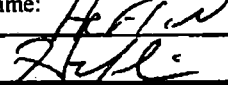
Printed Name: Trapp, Jerome C.

Signature:  Title: LT. Date/Time: 7/23/21 8:40PM

Major/Responsible Authority:

801 802 805

Printed Name: H. F. J. Adm. 7/27/21

Signature:  Title: CAPT Date/Time: 3:01pm

STG Related - Refer to STG Committee

Yes No Unknown

This incident is DRUG related

Yes No Unknown

Responsible Authority

Action Taken

Informal Resolution

Administrative Resolution

Refer to Disciplinary Hearing

(1)

ent 7-30-21
exp 8-19-21

DISCIPLINARY REPORT AND HEARING RECORD

Case#: 60 Inmate Name: James Lynch SCDC#: 244917
Living Area: XBH-0025-A Job: N Custody: MX
Offense Date: 7/23/2021 Offense Time: 05:53 AM [X] PM Institution: McCormick Correctional Institution

Offense Description:

802 Sexual Assault: Forcing another person, by violence or threats of violence, or any other form of coercion to perform a sexual act. (A sexual act is any intentional contact between the genitals of one inmate and the genitals, mouth, anus, or hands of another person.)

Charging Officer/Employee: T. Robertson

Title: AW

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 AND AUTHORIZE THE HEARING OFFICER TO PROCEED WITH THE HEARING. I DO NOT WANT TO BE PRESENT AT MY HEARING. I DO NOT WANT MY ACCUSER PRESENT AT MY HEARING. I DO NOT WANT MY ACCUSER PRESENT AT MY HEARING. I WANT A COUNSEL SUBSTITUTE. I DO NOT WANT A COUNSEL SUBSTITUTE. Date & Time Notified: 11/07/23 1:30 AM/PM By (Print): J. Wilhems. Inmate Signature: James Lynch SCDC#: 244917 Date: 11/07/23

HEARING INFORMATION:

Hearing Date: 11/16/23 Hearing Time: 11:40 am/pm Medclass: MH-4 Reading Level: 9.2

DD: Assigned Counsel Substitute: C/S Rice

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; IF ANY (3) WITNESSES, (4) DOCUMENTATION, OR (5) EVIDENCE WAS EXCLUDED FROM THE HEARING; (6) IF INMATE WAS DENIED CONFRONTATION, QUESTIONING AND/OR CROSS EXAMINATION OF A WITNESS AT THE HEARING OR (7) IF HEARING WAS DELAYED.

Re-hearing appeal with attachment documents submitted by inmate Lynch - 13 pages!

Table with 3 columns: OFFENSE CODES, INMATE PLEA (G, NG, None), FINDINGS (G, NG, DS) (NGMI) (GMI). Values: 802, NG, G.

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:

Based on the narrative of A/W Robertson, inmate is guilty. The charges of forcing in SCDC employee to perform a sexual act.

SANCTIONS:

Loss of Privileges (Days): Reprimand: Loss of Good Time (Days): N/A
Property (Days): Extra Duty (Hours): Restitution: \$
Canteen (Days): Time Served Visit Suspension (Days): Time Served Restriction (Days):
Disciplinary Detention (Days): Time Served since 7/23/21 Phone (Days): Time Served Other: (Days):

SPECIFIC FACTUAL REASON(S) FOR PARTICULAR PUNISHMENT IMPOSED:

Level 1; sexual assault offense

CREDIT FOR PHD TIME SERVED?

YES NO

IF YES, DAYS:

DATE INMATE PLACED IN PHD: 7/23/2021 DATE INMATE RELEASED FROM PHD

INMATE SIGNATURE FOR RECEIPT OF FINAL REPORT: James Lynch DATE: 11-16-23

HEARING OFFICER (PRINT NAME) Audrey Daniels-Moore

APPROVED/DD MODIFICATION ONLY AW. [Signature] 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

RECEIVED

NOV 22 2023

STEP 1

802 (Sex-Assault)

INMATE NAME: <u>James Lynch</u>	OFFICE USE ONLY
SCDC NUMBER: <u>244917</u>	Grievance No. <u>KCI-0744-23</u>
INSTITUTION: <u>Kirkland R&E</u>	Code: General _____
HOUSING UNIT: <u>55R XBH-25</u>	Policy _____
WORK ASSIGNMENT: <u>N/A</u>	Disc. Hear. <u>802##60 11-16-23</u>
<u>Disciplinary APPEAL 802</u>	Class. _____
	PREA _____
	Date Received <u>11-22-23</u>
	IGC Initials <u>MS</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.)

This Grievance is to Appeal my Disciplinary Hearing Conviction held on November 16, 2023. According to DHO Officer, I was found guilty of 802 Based on the narrative of A/W Robertson. The first procedural error is: (1) The observing Employee Merril Weather did not write the incident report. Per Policy of 22.14 3. Supervisor Review/Responsibilities, in short if the incident is to serious the Supervisor will instruct the observing employee to complete side form 19-21A. This part of Policy was violated when A/W Robertson wrote the report and when I mentioned this to the Hearing Officer she stated per Policy 22.14 2.1 When an side employee witnesses or has knowledge of any act he can write the report. Please see the Policy and disciplinary tape because she was incorrect and did not read all of Policy 2.1 this part of Policy refers to level 3. It is disciplinary offenses of rules of SCDC. My offense is a level 1 offense (See 22.14 2.2) which was violated. 3.2 REVIEW was also violated by A/W Robertson.

The 2nd procedural error is: (2) I presented documentary Evidence in the form of STD Sexual Assault Examination Protocol conducted at Self regional health care. There was no physical evidence of forced penetration found within the vaginal area consistent with sexual assault. This evidence was disregarded and the hearing officer stated that it had no signature on it. No where in Policy of 22.14 14.2 Presentation of Evidence at hearing. 14.2 The accused inmate may present documentary evidence. Policy does not specify that documentary evidence must have a signature.

The 3rd procedural error is: (3) JUN 23, 2021 was offense date. August 26, 2021 received Notice of extension hearing would be held on August 19, 2021 (due to covid) I went to hearing and it was cancelled due to Dennis Patterson on September 1, 2021 entered an approval in the OMS stating per Police Services charges 11-3-23 was placed under investigation. According to Warden Charles Muscato and STD documentation revealed November 13, 2021 investigation was complete. SCDC DHO of Warden or Police service no one provided any procedural due process informing me of proof of Notification James Lynch 11-21-23 4:00pm of any other extensions. October 17, 2023 Mr. Patterson gave approval to hear the charges. 11-3-23 a rehearing was requested due to charges dismissed on November 21, 2023. All procedural time frame elapsed its been 2 years and 4 months since incident. Extensions that was granted don't measure up.

ACTION REQUESTED:

ACTION TAKEN BY IGC: PROCESSED UNPROCESSED OTHER

See Wardens decision on back

Turn Over Tress Mitchell 12/11/23

(3) IGC Signature Date

WARDEN'S DECISION AND REASON:

Lynch, James

SCDC#244917

KCI-0744-23

I have reviewed your concern. In your grievance you request to appeal the results of your 11/16/2023 Disciplinary Hearing where you were found guilty of SCDC Disciplinary Charge 802, Sexual Assault: Forcing another person, by violence or threats of violence, or any other form of coercion to perform a sexual act. (A sexual act is any intentional contact between the genitals of one inmate and the genitals, mouth, anus, or hands of another person.) Although you did not state anything in the Action Requested Section on SCDC Form 10-5, it appears that you are requesting that the 802 Charge is dismissed. Your concern is noted, and it is not summarily dismissed, however, your argument is without merit. Your conviction was consistent with SCDC Policy OP-22.14, 802 Charge. You have not shown that SCDC Staff did not performed their job improperly by not following the Inmate Disciplinary System which affords you Due Process of the Law. No technicalities, procedural errors, or misrepresentation of evidence were noted, and such did not justify overturning the decision of the Disciplinary Hearing Officer Moore.

Therefore, your grievance is denied.

If you disagree with this Warden's Decision (Decision), you may file an appeal by completing SCDC Step 2 Inmate Grievance Form 10-5A, provided to you while serving you this Decision, and placing it in the Grievance Box at your local correctional institution within five (5) days of your receipt of this Decision.

AW Lynch

12-8-23

Warden Signature

Date

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

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

*Received 12/19/23 1:20pm
James Lynch 12-20-23*

Grievant Signature

Date

Teresa Mitchell 12/11/23

IGC Signature

Date

Served by L. Brown 12/15/23

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.

802 (SEX-ASSAULT)

Due Date 12/22/23

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

DEC 28 2023
Office Use Only BRSF 1955-23

RECEIVED
JAN 05 2024

Grievance No: KCI-07423
Code: General
Policy: _____
Disc. Hear: 802#6011-16-23
Class: _____
PREA: _____
Date Received: 12/24
IGC Initials: _____
Date Received: 1/5/24
IGA Initials: KN

INMATE GRIEVANCE
INMATE NAME: James Lynch
SCDC NUMBER: 244917
INSTITUTION: Broad River Corr Inst
HOUSING UNIT: BRSF Saluda B-203
WORK ASSIGNMENT: NIA

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):
(1) The DHO found me guilty based on narrative of Alw Thomas Robertson (forcing an scdc employee to perform a sexual act). However, no evidence was presented by SCDC on the employee that made the allegation on Alw Robertson, Per. SCDC disciplinary Policy 22.14
3. Supervisors Review/Responsibilities: The observing employee will be instructed to write or complete scdc form 19-29a. However, Alw Robertson wrote the report violating procedure when he did not witness or observe anything he is third party.
(2) This charge has been pending since July 23, 2021 and was finally heard on November 16, 2023 (2 years and 4 months) have passed. According to SCDC disciplinary Policy page 5, 4.3.1 Extensions for investigations and page 4 21 days time frame for hearings the charge all time frames expired.
(3) SCDC presented no evidence on behalf of my self I submitted South Carolina law Enforcement (SLED) Sexual Assault Medical Examination Report which found no physical evidence of penetration and no injury to reproductive organs consistent with being sexually assaulted if so it would have been documented this report on page 157 states no witnesses.
Grievant Signature James Lynch Date 12-20-23

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

The documentation provided indicates that the evidence presented was sufficient to support the conviction of Sexual Assault (802), case #60 on November 16, 2023, under SCDC Policy OP-22.14, Inmate Disciplinary System, dated February 2, 2015, and the sanctions imposed, which included the loss of -00- days accrued good time, were appropriate for the rules 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 Dee Daw Date 1-17-24

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 James Lynch Date 2/7/24

IGC Signature [Signature] Date 2/7/24

(SEE REVERSE SIDE FOR INSTRUCTIONS)

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

James Lynch, #244917,)
)
 Appellant,)
)
 v.)
)
 South Carolina Department of Corrections,)
)
 Respondent.)

Docket No. 24-ALJ-04-0213-AP

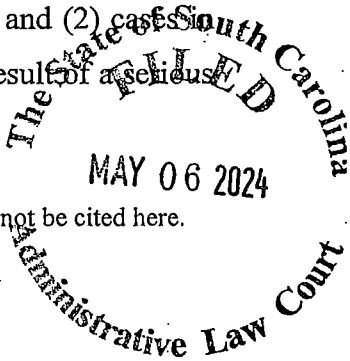
**ORDER GRANTING
RESPONDENT'S MOTION TO
DISMISS**

This matter is before the South Carolina Administrative Law Court (ALC or court) pursuant to the Notice of Appeal filed by James Lynch (Appellant), an inmate in the custody of the South Carolina Department of Corrections (Respondent or Department). After the Appellant's Step 1 and Step 2 grievances were filed and denied, the Appellant filed a Notice of Appeal with this court on February 12, 2024. The Appellant is appealing his conviction of Sexual Assault (802) because his disciplinary hearing for the charge was held two (2) years and four (4) months after the incident date and because his accuser did not write the incident report in violation of Department policies. The Appellant did not lose any good time credit as a part of his punishment but failed to earn good time credit for the month in which the disciplinary infraction occurred. On April 22, 2024, the Department filed a Motion to Dismiss pursuant to *Howard v. S.C. Dep't of Corr.*, 399 S.C. 618, 733 S.E.2d 211 (2016) and S.C Code Ann. § 1-23-600(D). On April 30, 2024, the Appellant filed a response to the Department's motion requesting the court deny the Department's Motion to Dismiss because of the various demonstrated procedural violations that deprived him of a fair hearing.

DISCUSSION

This court'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). The court's appellate jurisdiction in inmate appeals is limited to cases involving denial of state created liberty interests typically involving: (1) cases in which an inmate contends that prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; and (2) cases in which an inmate has received punishment in a major disciplinary hearing as a result of a serious rule violation.¹ *Id.*

¹ The court does have limited jurisdiction in some property matters, the authority for which need not be cited here.




In its motion to dismiss, the Department argues that because the Appellant is not alleging the loss of any good time credit as part of his punishment, nor that the Department erroneously calculated his sentence, sentence-related credits, or custody status, the Appellant's appeal does not trigger procedural due process guarantees, and no state-created liberty or property interest is implicated in this case. Therefore, the court should dismiss this appeal pursuant to *Howard* and subsection 1-23-600(D) of the South Carolina Code. *See Howard v. S.C. Dep't of Corr.*, 399 S.C. 618, 636, 733 S.E.2d 211, 221 (2012) (holding that "because the plain language of section 1-23-600(D) would prohibit an ALC from hearing *all* inmate appeals involving the loss of the opportunity to earn sentence-related credits...the ALC may not summarily dismiss an appeal solely on the basis that it involves the loss of the opportunity to earn sentence-related credits. Instead, the ALC must also consider whether the appeal implicates a state-created liberty or property interest") (emphasis in original).

When reviewing the Department's decisions in inmate grievance matters, the court sits in an appellate capacity. *SCDC v. Mitchell*, 377 S.C. 256, 659 S.E.2d 233 (Ct. App. 2008). Consequently, the review in these inmate grievance cases is limited to the record before the court. In this case, the Appellant did not lose any good time credit as part of his punishment but only failed to earn good time credit for the month in which the disciplinary incident occurred, therefore his punishment does not affect a state-created liberty or property interest. As such, this is a case in which this court must adhere to the traditional "hands off" doctrine regarding judicial involvement in prison disciplinary procedures and other internal prison matters. *See Pruitt v. State*, 274 S.C. 565, 266 S.E.2d 779 (1980) and *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). Therefore, based on the foregoing,

IT IS HEREBY ORDERED that the Department's Motion to Dismiss is **GRANTED** and this appeal is **DISMISSED**.

AND IT IS SO ORDERED.

May 6, 2024
Columbia, South Carolina


S. Phillip Lenski
Administrative Law Judge

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 interagency Mail Service addressed to the party(ies) or their attorney(s).

(6)
This 6th day of May 2024

Judicial Law Clerk

SCDC POLICY OP-22.14

TITLE: INMATE DISCIPLINARY SYSTEM

ISSUE DATE: FEBRUARY 2, 2015

RESPONSIBLE AUTHORITY: DIVISION OF OPERATIONS

STATE / FEDERAL STATUTES: S.C. Code of Laws
Sections 24-1-140 and 24-13-210

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1.1 All SCDC rules and regulations for which an inmate may be disciplined must be in written form describing *disciplinary offenses*, sanctions, and penalties; must provide adequate notice of the conduct prohibited by SCDC; must be appropriately distributed for inmates to review; and must be reviewed by the responsible authority annually, and updated as necessary. These rules will be enforced and ignorance of the rules will not be accepted as an excuse for *disciplinary offenses*. A written explanation of the inmate disciplinary system will be provided to each inmate during the inmate's processing at the Reception and Evaluation Center. Receipt of the written explanation by inmates will be documented via the fiscal/commissary automated system.

1.2 When an inmate exhibits a literacy or language problem, an employee will be designated at each institution to assist the inmate in understanding the rules. A memorandum from the Warden will be posted for the staff and inmate population identifying the employee(s) designated to assist the inmates. This memorandum will be updated as necessary.

1.3 Employees who work with inmates will receive training regarding rules of inmate conduct, the rationale for the rules, and the sanctions available.

1.4 If the inmate has a mental health issue noted on his/her MEDCLASS screen or is acting in such a manner that indicates a mental health concern, then a copy of SCDC Form 19-29A, "Incident Report," must be forwarded to the mental health staff. This referral must be documented on SCDC Form 19-29A. In these instances, a memorandum from the mental health care professional must be included as an attachment to SCDC Form 19-29A, attesting to the inmate's mental status and accountability for his/her actions. Refer to SCDC Policy HS-19.01, "Placement of Inmates in Mental Health Observation and Evaluation Status," for additional information.)

2. IMMEDIATE CORRECTIVE ACTION:

2.1 When an SCDC employee witnesses or has knowledge of any act by an inmate which is a *Level 3, 4, or 5 disciplinary offense* of the rules and regulations of the SCDC, the employee will first attempt, if appropriate, to correct the behavior immediately. The circumstances of the *disciplinary offense* and the inmate's disciplinary history should be taken into consideration when determining whether or not to attempt to correct the behavior on the spot. Corrective action may include:

- Counseling;
- Instructions, or directives;
- Verbal reprimand;
- Extra duty or chores not to exceed four (4) hours;
- Restriction of recreation time not to exceed one (1) day (general population only);
- Restriction of television viewing and/or radio not to exceed one (1) day;
- Restriction of canteen privileges not to exceed one (1) day;
- And/or confinement to his/her cell or cubicle for the remainder of the shift;
- If confinement to his/her cell is to exceed the shift, approval must be obtained from the shift supervisor. This confinement cannot exceed 24 hours.

2.2 If the inmate's behavior cannot be corrected on the spot by the observing employee, the employee will bring the matter to the attention of the supervisor on-duty. *All Level 1 and 2*

disciplinary offenses will be documented on SCDC Form 19-29A within 24 hours of the incident.

If the disciplinary offense is a Level 3, 4, or 5, the supervisor on-duty may attempt to resolve the matter with the above actions, if appropriate. The supervisor may also impose an additional four (4) hours of extra duty or chores (for a total of eight (8) hours) and/or up to seventy-two hours of cell/cubicle confinement.

3. SUPERVISORS' REVIEW/RESPONSIBILITIES: If the supervisor on-duty cannot correct the inmate's behavior using the corrective actions listed in Paragraph 2.1 and 2.2, above, or if the incident is too serious to be resolved in this manner, s/he 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:

- Institution/Center;
- Reporting Official's Full Name,
- Location of Incident;
- Date/Time of Report;
- Date/Time of Incident, or Date of Discovery;
- Employee(s)/Witnesses Involved.

3.1 A description of the facts of the offense(s), to include, at a minimum:

- The name and SCDC number of the inmate;
- The names of all witnesses;
- The general location of the offense;
- 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.

3.2 Review: The supervisor will review SCDC Form 19-29A within 24 hours of the incident or date of discovery, unless there are exceptional circumstances for delaying this review, which must be approved by the Warden or Associate Warden. The review may include interviewing the reporting employee, other employee witnesses, the accused inmate, or the accused inmate's witnesses. Upon review, the supervisor will make a determination whether to refer the inmate to the Major/Responsible Authority (Responsible Authority includes the Warden or Duty Warden, or for institutions with no Major assigned, the Captain) for disciplinary action. The supervisor will document his/her review in the space provided on SCDC Form 19-29A and will annotate the form in the proper block to indicate whether or not the incident was Security Threat Group (STG) or drug related. **NOTE:** If the inmate has a mental health issue noted on his/her MEDCLASS screen or is acting in such a manner that indicates a mental health concern, then a copy of the *SCDC Form 19-29A* must be forwarded to the mental health staff. This referral must be documented on the *SCDC Form 19-29A*. In these instances, a memorandum from the mental health care professional must be included as an attachment to SCDC Form 19-29A attesting to the inmate's mental status and accountability for his/her actions. Refer to SCDC Policy/Procedure HS-19.01, "Placement of Inmates in Mental Health Observation and Evaluation Status," for additional information.)

4. MAJOR/RESPONSIBLE AUTHORITY REVIEW:

4.1 Formally Charging the Inmate: The Major/Responsible Authority will have up to nine (9) calendar days from the date of the incident or date of discovery of the incident to take one of the following three (3) actions:

- Informally Resolve the incident;
- Administratively Resolve the incident; or
- Formally charge the inmate and refer the incident to a Disciplinary Hearing. **NOTE:** When the *disciplinary offense* has been received by the Hearing Officer, the *disciplinary offense* will not be rescinded for Informal/Administrative Resolution without written approval by the Division of Operations.

4.1.1 All Level I and II *disciplinary* offenses will be heard Hearing Officer only.

4.2 The Major/Responsible Authority will review the inmate's disciplinary history and the SCDC Form 19-29A. After this review, the Major/Responsible Authority will use the space provided on the SCDC Form 19-29A to indicate his/her decision and then will sign and date the SCDC Form 19-29A. The inmate will be considered formally charged on the date the disciplinary is entered into the Offender Management System (OMS).

4.3 Extension for Investigations:

4.3.1 Institutional Investigations: If the Major/Responsible Authority believes that further investigation of the circumstances is needed in order to determine the inmate(s) to be charged, the nature of their acts, etc., then he/she can direct that an institutional investigation be conducted. Investigations conducted by the institution will be completed within 21 calendar days. The start and end of the 21 day initial investigation should be documented on *SCDC* Form 19-29 A, by the Major/Responsible Authority. An entry of investigation should be made into the OMS. The OMS narrative should reflect the beginning and ending dates of the investigation, to include any extensions, if applicable. If more than 21 calendar days are required for completion of the investigation, an extension may be granted by the Division of Operations. The written extension request should be completed and signed by the Warden/Designee and approved by the Division of Operations prior to the expiration of the initial 21 days. The 21-day extension will commence on the date of approval by the Division of Operations. The nine (9) day time frame for entering the charge into the system will commence from the date of the completion of the investigation and submission of the results in writing.

4.3.2 Inspector General Investigations: Investigations conducted by the Inspector General (IG) will be conducted in accordance with Agency Policy. Due to the serious nature of the matters referred to the *IG*, and due to the requirement that certain matters must be referred to other law enforcement entities, a prescribed time frame will not be established. The OMS entry described in paragraph 4.3.1 will be completed. Upon completion of the investigation by the IG or receipt of a completed investigation from an outside law enforcement entity, a report will be furnished by the IG to the Warden through the Division of Operations. The nine (9) day time frame for entering the charge into the system will commence from the date the investigative report is submitted to the Warden, Associate Warden or Major. The 24-hour review by a supervisor will not be required in these instances.

~~NOTE: Visitation and Telephone restrictions can be imposed only if the charge involved visitation or telephone disciplinary offenses.~~ **Visitation and Telephone restrictions can be imposed up to 20 days if the inmate does not have a MH classification regardless of the disciplinary offense. If the inmate has a MH classification, Visitation and Telephone restrictions can be imposed only if the charge involved visitation or telephone disciplinary offenses.** (Changes in BLUE below, amended by Change 1, dated May 29, 2015.)

NOTE: The Major/Responsible Authority will not impose sanctions on inmates found to be GBNA NGMI or GWMC GMI by a Mental Health Professional. Inmates with a mental health issue/classification will be referred to the Mental Health Disciplinary Treatment Team (MHDTT) for appropriate sanctions. (Changes in BLUE, amended by Change 4, dated August 26, 2016.)

6.3 The Major/Responsible Authority may impose any of the above sanctions or combination of sanctions and may suspend implementation of these sanctions for up to 90 days if the inmate does not commit any additional disciplinary infractions during that time period. If the inmate accepts administrative resolution, s/he will be required to sign SCDC Form 19-106, accepting administrative resolution, waiving the privilege of a disciplinary hearing, and waiving his/her grievance rights. If the inmate does not wish to accept administrative resolution, the Major/Responsible Authority will refer the matter for a disciplinary hearing.

6.4 If the inmate accepts the administrative resolution, the incident is entered into the automated system **with a plea of "Guilty" and disposition of either Convicted, GBNA NGMI, or GWMC GMI.** (Changes in BLUE, amended by Change 4, dated August 26, 2016.)

7. DISCIPLINARY HEARINGS:

7.1 Inmates will be served with notice of disciplinary charges at least forty-eight (48) hours prior to their hearings. Should the inmate refuse to sign **SCDC Form 19-69, "Inmate Disciplinary Report and Hearing Record"**, s/he will forfeit the opportunity to request that their accuser and/or witness(s) be present at their scheduled hearing. **If an inmate with a mental health issue refuses to sign their SCDC Form 19-69 or refuses to attend the DHO hearing, the inmate will be represented by a Counsel Substitute who can request the presence of the inmate's accuser and/or witnesses. If the inmate has a mental health issue noted on his/her MEDCLASS screen or is acting in such a manner that indicates a mental health concern, then a copy of SCDC Form 19-29A must be forwarded to the mental health staff. The MHP will prepare a MH Statement as to the inmate's status that will be considered during the disciplinary hearing.**

* 7.2 Once the inmate is formally charged (and entered into the Offender Management System), the hearing will be held within 21 calendar days. SCDC Form 19-69, will be used to document the charges and the results of the hearing. The charges will be explained by the Hearing Officer to the inmate in terms s/he can understand. Inmates may not be subjected to any form of coercion designed to persuade them to waive their rights to 48 hour notice. If inmates are offered the opportunity to waive the 48 hours notice, they must be fully informed, in terms understandable to them, of the nature of the rights at stake. In addition, an inmate may waive his/her right to a hearing and indicate such on SCDC Form 19-69. When an inmate waives his/her right to a hearing, the Hearing Officer will review the waiver section of the SCDC Form 19-69, conduct the hearing in the absence of the inmate, determine guilt or innocence; if guilty, decide on appropriate penalties, and

8.1.6 8.1.7 When a witness requested by the accused inmate is unable to attend a disciplinary hearing because either the requested witness or the accused inmate has been transferred to another institution. (NOTE: Inmates who exhibit inappropriate behavior with a counsel substitute will forfeit the use of counsel substitute and may be charged accordingly.)

8.2 Responsibilities: Prior to the disciplinary hearing, the Counsel Substitute has the following responsibilities in preparing for the hearing:

8.2.1 When the inmate's literacy or understanding of English is questionable, the Counsel Substitute will read the SCDC Form 19-29A and *SCDC Form* 19-69 to the accused inmate, ensure that the inmate has received copies of SCDC Form 19-29A and *SCDC Form* 19-69, and that the inmate understands the charge, as well as the facts and evidence underlying the charge.


8.2.2 Obtain the accused inmate's statement as to exactly what took place.

8.2.3 Obtain the names of all employees and inmates whom the accused wishes to call as witnesses.

8.2.4 Interview relevant witnesses prior to the hearing *and obtain written statements or oral testimonies from the inmates to present during the hearing.* (NOTE: Inmates will be required to use SCDC Form 19-11, "Request to Staff Member," listing the names of all witnesses they wish to be made available at their hearing. *Inmates in the general population are to use the automated Request To Staff Member System (ARTSM) through the Kiosk.* The form must be addressed to the inmate's Counsel Substitute or to the Hearing Officer if no Counsel Substitute has been assigned and must be received no later than 24 hours prior to the hearing.)

8.2.5 Inform the Hearing Officer of the names of all witnesses the inmate has requested.

8.2.6 Obtain any documentary evidence relevant to the case that is not already in the possession of the accused inmate.

 **9. HEARING OFFICER DUTIES:** The Hearing Officer is responsible for the following:

9.1 Implementing and adhering to established guidelines as they relate to the hearing phase of the disciplinary process;

9.2 Overseeing and coordinating due process hearings for inmates with *disciplinary offenses* to include, but not be limited to maintaining an automated disciplinary case tracking system, and providing assistance to the institutions in setting case dockets and proper scheduling of rule violators to appear at hearings in the prescribed time limits set forth above.


9.3 Ensuring that the appropriate transactions are executed in the inmate's automated record within two (2) working days of the completion of *the* SCDC Form 19-69.

9.4 The charges will be explained by the Hearing Officer to the inmate in terms s/he can understand. The Hearing Officer will also inform the inmate that if a guilty plea is rendered or if s/he is found guilty, s/he will automatically fail to earn his/her normal rate of good time (3 or 20

19. APPEALS:

19.1 At the conclusion of the hearing, the Hearing Officer will inform the inmate of his/her right to appeal the decision of the Hearing Officer with respect to guilt or to the penalty imposed by using the inmate grievance procedure. If the inmate requests, a SCDC Form 10-5, "Step I Grievance Form," it will be provided to the inmate, as well as a SCDC Form 19-11, "Request To Staff," *or through the automated Request to Staff Member System*, to request to listen to his/her recording by the Hearing Officer (see SCDC Policy/Procedure GA-01.12, "Inmate Grievance System"). (**NOTE:** Inmates may request the assistance of the Institutional Inmate Grievance Coordinator to assist them in completing their grievance form if they are unable to read or write, *mental disability*, or have a language barrier.)

19.2 Inmates may appeal the decision of the Hearing Officer. Appeals will be processed as described in SCDC Policy GA-01.12, "Inmate Grievance System."

 **19.3** The following factors must be considered when reviewing an appeal:

- Whether the Hearing Officer acted in substantial compliance with policies/procedures.
- Whether the decision of the Hearing Officer was based on any evidence.
- Whether, under the circumstances, the sentence imposed was proportionate to the *disciplinary offense*.

20. WARDEN'S REVIEW: Upon receipt of SCDC Form 19-69, when the inmate is found guilty, the Warden or his/her designee at the institution where the inmate is housed may approve hearing results, ~~overturn a guilty finding~~, or reduce the *Disciplinary Detention (DD)* sanction of the Hearing Officer. The Warden will document this information on SCDC Form 19-69 in the space provided. If the Warden ~~overturns or~~ reduces the *DD* sanction, s/he will be responsible for providing the inmate with written notice of the ~~overturned or~~ reduced disposition. Copies of both SCDC Form 19-69 and the written notice provided to the inmate by the Warden will be placed in the inmate's Institutional Record and Central Record. An additional copy will be maintained in the Hearing Officer's files. *Upon completion, the Warden's Review may not be modified without approval by the Division of Operations. (Changes in BLUE, amended by Change 4, dated August 26, 2016.)*

20.1 Disciplinary data entered into the OMS at the conclusion of a disciplinary hearing *or after the Warden's review* will not be arbitrarily modified. Any need for modification must have the approval of the Division of Operations.

20.2 Waiver of Disciplinary Detention (DD) Time: Subsequent to the Warden's signing of the 19-69 form, he/she may need to waive the balance of an inmate's DD time in order to create bed space in *RHU*. The decision to "waive" the duration of an inmate's DD time is the Warden's prerogative, but it does not negate the DHO's DD sanction during their review.

20.3 Although an inmate's DD time can be waived, the DD time entry on the restriction screen will remain as is. Also, other sanctions such as canteen, phone, visitation privileges are consecutive to the DD time received, and will not be affected by the Warden's waiver of DD time.

20.4 If a Warden waives DD time, and the inmate is subsequently transferred to another institution before the completion of the DD time, the gaining Warden may place the inmate in *RHU* to

RECEIVED SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

NOV 22 2023

INMATE GRIEVANCE FORM

STEP 1

805 (Hostage Taking)

INMATE NAME: <u>James Lynch</u>	OFFICE USE ONLY
SCDC NUMBER: <u>244917</u>	Grievance No. <u>KCI-0743-23</u>
INSTITUTION: <u>Kirkland R/E</u>	Code: General _____
HOUSING UNIT: <u>SCR XBH-25</u>	Policy _____
WORK ASSIGNMENT: <u>N/A</u>	Disc. Hear. <u>805 #61 11-16-23</u>
<u>Disciplinary Appeal 805</u>	Class. _____
	PREA _____
	Date Received <u>11-22-23</u>
	IGC Initials <u>MS</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.) This Grievance is to appeal my Disciplinary Hearing Conviction on November 16, 2023. Reasons for Appeal: Violation of Procedural Due Process.

Regarding the offense 805 (Hostage Taking) the first procedural error is: (1) The disciplinary hearing officer stated on side form 19-69 that I was found guilty based on the Narrative of A/W Robertson, inmate is guilty of acting alone and physically force an employee to remain in the control room without her consent. The procedural error is that the Narrative or incident report, does not reflect the reasons hearing officer found me guilty. The Narrative and Reason found Guilty contradict each other.

The 2nd procedural error is: (2) The offense date was July 23, 2021. On August 26, 2021 I received notice of extension that the new hearing date would be 8-19-21 reason for extension due to Covid. So I went to the hearing and the hearing was cancelled due to on September 1, 2021 An Approval by Dennis Patterson was entered in the system to reflect that pending charges were placed under investigation by Police Services. According to Sled and Warden Charles Burttion documentation indicates as of November 18, 2021 the investigation was complete. Sled, Warden of BDO provided no other procedural proof of any other extensions and on October 17, 2023 Dennis Patterson gave approval to have the hearing however, the charge was dismissed a request for rehearing was made 11-2-23 the procedural error is the procedural time frame had already ended. It's been two years and three and half months the old time frame, Notice of extension, investigation time frames all elapsed.

Procedural error (3) is: Per Policy of 22-14 3. Supervisors Review/Responsibilities the supervisor will instruct the observing employee to complete side form 19-69A. A/W Robertson was not the observing employee. Therefore he can not write the report. The D/O [Signature] 11-21-2023 4:00pm mps. Moore stated he can't sign 2.1 of OP 22-17 Grievant Signature Date However, this was incorrect she failed to read all of that portion of policy what she read refers to level 3. 4. is disciplinary offense, my offense is a level 2 offense 2.3 and 3. applies to me.

ACTION REQUESTED: Due to valid procedural and D/O errors I request the charges of 805 be dismissed.

ACTION TAKEN BY IGC: PROCESSED UNPROCESSED OTHER

See Warden's Decision on Back

Turn Over (13)

Teresa Mitchell 12/1/23
IGC Signature Date

WARDEN'S DECISION AND REASON:

Lynch, James

SCDC#244917

KCI-0743-23

I have reviewed your concern. In your grievance you request to appeal the results of your 11/16/2023 Disciplinary Hearing where you were found guilty of SCDC Disciplinary Charge 805, Hostage Taking: The act of any inmate acting alone or with others who by threats, coercion, intimidation, or physical force, takes, holds, or carries away any person as a hostage for any reason whatsoever. You are requesting that the 805 Charge be dismissed. Your concern is noted, and it is not summarily dismissed, however, your argument is without merit. Your conviction was consistent with SCDC Policy OP-22.14, 852 Charge. You have not shown that SCDC Staff did not performed their job improperly by not following the Inmate Disciplinary System which affords you Due Process of the Law. No technicalities, procedural errors, or misrepresentation of evidence were noted, and such did not justify overturning the decision of the Disciplinary Hearing Officer Moore.

Therefore, your grievance is denied.

If you disagree with this Warden's Decision (Decision), you may file an appeal by completing SCDC Step 2 Inmate Grievance Form 10-5A, provided to you while serving you this Decision, and placing it in the Grievance Box at your local correctional institution within five (5) days of your receipt of this Decision.

AW Lynch 12-8-23
Warden Signature Date

- I accept the Warden's decision and consider the matter closed.
- I do not accept the Warden's decision and wish to appeal.

Received 12-19-23 11:20 pm
James Lynch 12/20/23
Grievant Signature Date

Terese Mitchell 12/11/23
IGC Signature Date
Served: L. Snow 12/15/23

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.

805 (Hostage Taking)

Use Date 12/20/23

RECEIVED

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

DEC 28 2023

LT

Office Use Only ~~BRSF 1154-2~~

JAN 05 2024

INMATE GRIEVANCE
INMATE NAME: James Lynch
SCDC NUMBER: 244917
INSTITUTION: Broad River Corr. Inst.
HOUSING UNIT: BRSF Saluda B-203
WORK ASSIGNMENT: N/A

Grievance No. KCI-074323
Code: General _____
Policy _____
Disc. Hear. 805#61 11-16-23
Class _____
PREA _____
Date Received: 12/20/23
IGC Initials: LT
Date Received: 1/5/24
IGA Initials: kn

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): (1) The DHO found me guilty based on the narrative of incident report. However, the DHO stated reason for finding me guilty contradicts the narrative of what allegedly occurred and it created a incident that did not take place and therefore found me guilty. (2) The incident report 19-29A Per Policy 22.14 3. Supervisors Review/Responsibilities states that the observing employee will be instructed to write SCDC form 19-29A however, LT Merriweather M. accused the observing employee did not write a report and Alw Thomas Robertson wrote the report. (3) This charge has been pending since July 23, 2021 and was finally heard on November 16, 2023 (2 years and 4 months) have passed. According to SCDC disciplinary Policy Page 5 4.3 Extensions for investigations and the 21 days to have the hearing as well as civil extension had procedurally expired therefore, the hearing officer violated the disciplinary policy and Page 12 9.1 and 9. Hearing officers duties. Also no evidence was presented by the hearing officer on scene. Grievant Signature James Lynch Date 12-20-23

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

The documentation provided indicates that the evidence presented was sufficient to support the conviction of Hostage Taking (805), case 61 on November 16, 2023, under SCDC Policy OP 22.14, Inmate Disciplinary System, dated February 2, 2015, and the sanctions imposed, which included the loss of -00- days accrued good time, were appropriate for the rules 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 1-17-24

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 _____

(SEE REVERSE SIDE FOR INSTRUCTIONS)

DISCIPLINARY REPORT AND HEARING RECORD

Case#: 6 Inmate Name: James Lynch SCDC#: 244917
Living Area: XBH-0025-A Job: N Custody: MX
Offense Date: 7/23/2021 Offense Time: 05:53 AM PM Institution: McCormick Correctional Institution

Offense Description:

805 Hostage Taking: The act of any inmate acting alone or with others who by threats, coercion, intimidation, or physical force, takes, holds, or carries away any person as a hostage for any reason whatsoever.

Charging Officer/Employee: T. Robertson Title: AW

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 AND AUTHORIZE THE HEARING OFFICER TO PROCEED WITH THE HEARING. I DO NOT WANT TO BE PRESENT AT MY HEARING. I WANT A COUNSEL SUBSTITUTE ONLY. I WANT A COUNSEL SUBSTITUTE. I DO NOT WANT A COUNSEL SUBSTITUTE. Date & Time Notified: 11/07/23 1:31 AM/PM By (Print): J. Williams. Inmate Signature: James Lynch SCDC#: 244917 Date: 11/07/23

HEARING INFORMATION:

Hearing Date: 11/16/23 Hearing Time: 11:00 am pm Medclass: MH-4 Reading Level: 9.2

DD: Assigned Counsel Substitute: C/S Rice

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; IF ANY (3) WITNESSES, (4) DOCUMENTATION, OR (5) EVIDENCE WAS EXCLUDED FROM THE HEARING; (6) IF INMATE WAS DENIED CONFRONTATION QUESTIONING AND/OR CROSS EXAMINATION OF A WITNESS AT THE HEARING OR (7) IF HEARING WAS DELAYED.

Re: Hearing - See Attachment Documents submitted by Inmate Lynch - 12 pages

Table with 3 columns: OFFENSE CODES (805), INMATE PLEA (G, NG, None) (NG), FINDINGS (G, NG, DS) (NGMI) (GMI) (6)

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:

Based on the narrative of T. Robertson, inmate acting alone and physically forced an employee to remain in the control room without her consent.

SANCTIONS:

Loss of Privileges (Days): Reprimand: Loss of Good Time (Days): N/A
Property (Days): Extra Duty (Hours): Restitution: \$
Canteen (Days): Jim Seavey Visit Suspension (Days): Jim Seavey Restriction (Days):
Disciplinary Detention (Days): Jim Seavey since 7/23/21 Phone (Days): Jim Seavey Other: (Days):

SPECIFIC FACTUAL REASON(S) FOR PARTICULAR PUNISHMENT IMPOSED:

Level 1, serious, 3 offense

CREDIT FOR PHD TIME SERVED? YES NO IF YES, DAYS:

DATE INMATE PLACED IN PHD: 7/23/2021 DATE INMATE RELEASED FROM PHD:

INMATE SIGNATURE FOR RECEIPT OF FINAL REPORT: James Lynch DATE: 11-16-23

HEARING OFFICER (PRINT NAME): Audrey Daniels - Moore

APPROVED/ADD MODIFICATION ONLY: AW Jim WARDEN 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 Rod - Inmate (Service of Disciplinary Hearing Disposition) Pink - Central Record

(15)

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

James Lynch, #244917,)
)
 Appellant,)
)
 v.)
)
 South Carolina Department of Corrections,)
)
 Respondent.)

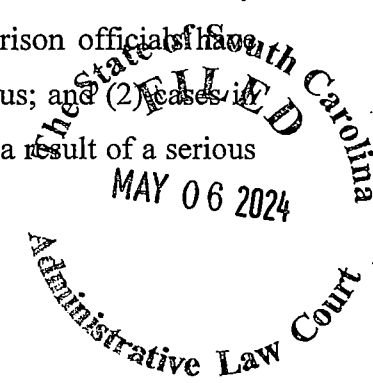
Docket No. 24-ALJ-04-0214-AP

**ORDER GRANTING
RESPONDENT'S MOTION TO
DISMISS**

This matter is before the South Carolina Administrative Law Court (ALC or court) pursuant to the Notice of Appeal filed by James Lynch (Appellant), an inmate in the custody of the South Carolina Department of Corrections (Respondent or Department). After the Appellant's Step 1 and Step 2 grievances were filed and denied, the Appellant filed a Notice of Appeal with this court on February 12, 2024. The Appellant is appealing his conviction of Hostage Taking (805) because his disciplinary hearing for the charge was held two (2) years and four (4) months after he was considered formally charged and Department policy stated the Department had twenty-one (21) days to have the hearing and because his accuser did not write the incident report also in violation of Department policies. The Appellant did not lose any good time credit as a part of his punishment but failed to earn good time credit for the month in which the disciplinary infraction occurred. On April 22, 2024, the Department filed a Motion to Dismiss pursuant to *Howard v. S.C. Dep't of Corr.*, 399 S.C. 618, 733 S.E.2d 211 (2016) and S.C Code Ann. § 1-23-600(D). On April 30, 2024, the Appellant filed a response to the Department's motion requesting the court deny the Department's Motion to Dismiss because of the various demonstrated procedural violations that deprived him of a fair hearing.

DISCUSSION

This court'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). The court's appellate jurisdiction in inmate appeals is limited to cases involving denial of state created liberty interests typically involving: (1) cases in which an inmate contends that prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; and (2) cases in which an inmate has received punishment in a major disciplinary hearing as a result of a serious



rule violation.¹ *Id.*

In its motion to dismiss, the Department argues that because the Appellant is not alleging the loss of any good time credit as part of his punishment, nor that the Department erroneously calculated his sentence, sentence-related credits, or custody status, the Appellant's appeal does not trigger procedural due process guarantees, and no state-created liberty or property interest is implicated in this case. Therefore, the court should dismiss this appeal pursuant to *Howard* and subsection 1-23-600(D) of the South Carolina Code. *See Howard v. S.C. Dep't of Corr.*, 399 S.C. 618, 636, 733 S.E.2d 211, 221 (2012) (holding that "because the plain language of section 1-23-600(D) would prohibit an ALC from hearing *all* inmate appeals involving the loss of the opportunity to earn sentence-related credits...the ALC may not summarily dismiss an appeal solely on the basis that it involves the loss of the opportunity to earn sentence-related credits. Instead, the ALC must also consider whether the appeal implicates a state-created liberty or property interest") (emphasis in original).

When reviewing the Department's decisions in inmate grievance matters, the court sits in an appellate capacity. *SCDC v. Mitchell*, 377 S.C. 256, 659 S.E.2d 233 (Ct. App. 2008). Consequently, the review in these inmate grievance cases is limited to the record before the court. In this case, the Appellant did not lose any good time credit as part of his punishment but only failed to earn good time credit for the month in which the disciplinary incident occurred, therefore his punishment does not affect a state-created liberty or property interest. As such, this is a case in which this court must adhere to the traditional "hands off" doctrine regarding judicial involvement in prison disciplinary procedures and other internal prison matters. *See Pruitt v. State*, 274 S.C. 565, 266 S.E.2d 779 (1980) and *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). Therefore, based on the foregoing,


IT IS HEREBY ORDERED that the Department's Motion to Dismiss is **GRANTED** and this appeal is **DISMISSED**.

AND IT IS SO ORDERED.

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 interagency Mail Service addressed to the party(ies) or their attorney(s).

This 6th day of May 2024
May 6, 2024
Columbia, South Carolina
Judicial Law Clerk


S. Phillip Lenski
Administrative Law Judge

¹ The court does have limited jurisdiction in some property matters, the authority for which need not be cited here.

CERTIFICATE OF COUNSEL

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM ADMINISTRATIVE LAW COURT
PHILIP S. LENSKI, ADMINISTRATIVE LAW JUDGE

CASE NO. 2024-000800

James Lynch 244917,

Appellant,

SIC Department of Corrections,

Respondent.

V.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the record on appeal contains all material proposed to be included by any of the parties and not any other material.

September 23, 2024

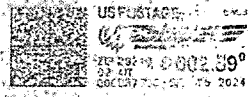
By James Lynch
James Lynch 244917
BASF Saluda B-203
4460 Broad River Rd.
Columbia SC 29210
PRO-SE Litigant

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OCT 01 2024

SC Court of Appeals

James Lynch 244917
BRSF Saluda B-203
4460 Broad River Rd.
Columbia SC 29210



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SC Court of Appeals
Catherine S. Harrison
C. Deputy Clerk
P.O. BOX 11629
Columbia SC 29221

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