

The State of South Carolina
In the Court of Appeals

Appeal from Richland County
Court of Common Pleas

Honorable James R. Barber, III, Circuit Court Judge

RECORDED

DEC 28 2012

SC Court of Appeals

Appellate Case No. 2012-211917
Case No. 2010-CF-40-05896

Stewart Buchanan, Appellant,

v.

Robert Brown, in his individual capacity, [First Name Unknown] Bawle, in her
individual capacity, and David Tartansky, in his individual capacity. Respondents.

Record on Appeal

Stewart Buchanan, #060848
McConnick CI
386 Redemption Way
McConnick, SC 29829
Appellant Pro Se

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End.

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER**

WARDEN

MAY 12 2008

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SS

TO: NAME: Mr. A.J. Padula, Warden, Lee CI	TITLE: Lee CI	DATE: 05/07/08	LEE CI
INMATE'S NAME: BUCHANAN, Stewart		SCDC #: 069848	
INSTITUTION: Lee CI		LIVING QUARTERS: RID-225	

During the past 37 months I have been at Lee CI, I invested over \$3,000.00 in Hobby Craft because this institution did not practice Policy PS-10.06's suspensions and disposing of hobby craft tools and materials for minor disciplinarys (which are handed out at this facility like popcorn). I felt safe in making this investment because of the atmosphere and expectation this created.

During Coach Brown's 27-month tenure, he had never suspended anyone for a minor disciplinary. In fact, he often held hobby craft tools and materials for more then 12 months while an inmate was getting back to West Yard from a Major disciplinary (Inmate Carlton Brown is one, and another whose property has now been in storage in the gym for more than a year who is in Chesterfield on a Major, are just two examples). The way Coach Brown used the discretion given him by policy also made me feel safe in investing in my craft without fear of losing my investment.

I received a Minor disciplinary April 22, 2008 and was given 10-days canteen restriction. The 23rd, I was suspended from Hobby Craft for 9 months, was removed from my job as "Hobby Craft Room Monitor", and I have to send all tools and materials out or have them destroyed (everything I had is now in Property Control).

I have been singled out for especially harsh treatment. Coach Brown does, by policy, reserve the authority to suspend, but he cannot use that discretion unfairly or unethically as he has in my case. His behavior is unethical by any standard and is illegal by at least two standards: (1) Due Process requires prior notice of change before an inmate suffers grievous loss of significant property, and (2) Equal Protection of the Law requires that I be treated as others similarly situated (a review of all hobby craft participants' disciplinary records over the past 3 years would reveal more

CONTINUED NEXT PAGE

DISPOSITION BY STAFF MEMBER:

I will report to you grievances.

DATE: 5/20/08	SIGNATURE: <i>Mr. A.J. Padula, Warden</i>
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REQUEST TO STAFF
WARDEN A.J. PADULA
STEWART BUCHANAN, 3069848
MAY 7, 2008
PAGE TWO OF TWO PAGES

than 50% would be removed* under the standard applied to me). I've been blind-sided without any notice.

I plan to file a few related, separate-issue grievances addressing my distress. I have sent you this letter so the matter can be more readily viewed as a whole.

I ask to have my hobby craft suspension revoked and I be reinstated in hobby craft and my job.

I also ask that the institutional practice of not suspending from hobby craft for minor offenses be reinstated. These are handed out for the most trivial of things and anyone can be found guilty of something at any time. Suspensions of the nature I have experienced will excessively inhibit inmates from investing in this most noteworthy manner of combatting inmate idleness. Continuing the practice of not suspending and forfeiting investments is good for the institution.

Thank you for considering my request and for any assistance you may be able to provide.

Respectfully,


Stewart Buchanan

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: BUCHANAN, Stewart
SCDC NUMBER: 069848
INSTITUTION: Lee CI
HOUSING UNIT: Richland, D-225
WORK ASSIGNMENT: Recreation

MAY 08 2008
W

Office Use Only
Grievance No. Lee CI 1383-08
Code: General _____
Policy _____
Disc. Hear. 817
Class. _____
Date Received 5/12/08
IGC Initials mm

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

COMPLAINT OF COACH BROWN'S ADMINISTRATIVE ACTION -- DENIAL OF DUE PROCESS.

Coach Brown has never suspended from Hobby Craft any of the numerous inmates who have had minor disciplinaries during his 27 months at Lee CI.

April 22nd, I receive a disciplinary so minor that the only punishment given by the Captain was 10 days canteen restriction.

April 23rd, without prior notice of any change, Coach Brown suspends me from Hobby Craft for 9 months and I have to send home more than \$3,000.00 in tools and materials.

Had I known I would possibly face this punishment at this institution (where it had never been done before), I would not have pled guilty to the minor disciplinary.

n I have been denied Due Process of the Law when I've been deprived of significant property without prior notice. With no notice, I was deprived of the opportunity to plead "not guilty" and fight to protect my property.

CONTINUED ON ATTACHED PAGE . . .

ACTION REQUESTED:

That my hobby craft suspension be revoked, my tools & materials returned to me, and that things return back to before this action occurred as if it never happened.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Since 04/23, I have asked Coach Brown to reconsider, I have written to A/W Brooks and to Warden Padula.

Stewart Buchanan 05/27/08
Grievant Signature Date

ACTION TAKEN BY IGC:

This grievance is being returned to you unprocessed in accordance with Policy GA-01.12, Inmate Grievance System. The disposition of any Department disciplinary proceeding (Disciplinary Hearing, Administrative Hearing) which resulted from a **Guilty Plea** by the inmate, or if the inmate accepted Informal or Administrative Resolution, unless the sanction imposed was excessive in relationship to the rule violation is **non-grievable**. According to Policy, OP 22.14, sanctions imposed are appropriate to the Level 3 rules violation.

[Signature] 5/27/08
IGC Signature Date

Grievant Signature Date

I accept the action taken by the IGC and consider the matter closed.
 I do not accept the action taken and wish to appeal.

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GRIEVANCE -- COACH BROWN'S ADMINISTRATIVE ACTION -- DENIAL OF DUE PROCESS.
BUCHANAN, Stewart, SCDC #069848
PAGE TWO OF TWO PAGES

Coach Brown's failure to give prior notice that he was changing his practice and would begin suspending from hobby craft for minor disciplinaries, and then suspending me without such notice, is unethical and has damaged me seriously. I cannot recoup such a financial loss.

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: BUCHANAN, Stewart
 SCDC NUMBER: 069848
 INSTITUTION: Lee CI
 HOUSING UNIT: Richland, D-225
 WORK ASSIGNMENT: Recreation

Office Use Only

Grievance No. _____
 Code: General _____
 Policy _____
 Disc. Hear. _____
 Class. _____
 Date Received _____
 IGC Initials _____

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

COMPLAINT OF COACH BROWN'S ADMINISTRATIVE ACTION -- EQUAL PROTECTION VIOLATION.

Coach Brown has never suspended from Hobby Craft any of the numerous inmates who have had minor disciplinaries during his 27 months at Lee CI.

April 22nd, I receive a disciplinary so minor that the only punishment given by the Captain was 10 days canteen restriction.

April 23rd, without prior notice of any change, Coach Brown suspends me from Hobby Craft for 9 months and I have to send home more than \$3,000.00 in tools and materials.

Coach Brown ~~has~~ held inmate's hobby craft property over a year while on East Yard for a Major violation (Inmate Carlton Brown) and returned the tools and materials to them. He has now been holding for more than a year property for a guy in Chesterfield who is there on a major charge.

CONTINUED ON ATTACHED PAGE . . .

ACTION REQUESTED:

That my hobby craft suspension be revoked, my tools and materials returned to me, and that things return back to before this action occurred as if it never happened.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Since 04/23, I have asked Coach Brown to reconsider, I have written to A/W Brooks and to Warden Padula.

Stewart Buchanan 05/07/08
 Grievant Signature Date

ACTION TAKEN BY IGC:

- I accept the action taken by the IGC and consider the matter closed.
- I do not accept the action taken and wish to appeal.

 IGC Signature Date

 Grievant Signature Date

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S

GRIEVANCE -- COACH BROWN'S ADMINISTRATIVE ACTION -- EQUAL PROTECTION VIOLATION
BUCHANAN, Stewart, SCDC #069848
PAGE TWO OF TWO PAGES

If a review of minor disciplinaries was made on hobby craft participants at Lee over the past 27 months Coach Brown has been here, over 50% would have been subject to suspension, but they were not.

Coach Brown's suspending me from hobby craft for 9 months without suspending others since I've been here is unequal treatment rising to the level of unethical behavior and has damaged me seriously. I cannot recoup such a financial loss.

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: BUCHANAN, Stewart
SCDC NUMBER: 069848
INSTITUTION: Lee CI
HOUSING UNIT: Richland, D-225
WORK ASSIGNMENT: Recreation

Office Use Only
Grievance No. _____
Code: General _____
Policy _____
Disc. Hear. _____
Class. _____
Date Received _____
IGC Initials _____

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

COMPLAINT OF COACH BROWN'S ADMINISTRATIVE ACTION -- EXCESSIVE SUSPENSION.

Coach Brown has never suspended from Hobby Craft any of the numerous inmates who have had minor disciplinaries during his 27 months at Lee CI.

April 22nd, I receive a disciplinary so minor that the only punishment given by the Captain was 10 days canteen restriction.

April 23rd, without prior notice of any change, Coach Brown suspends me from Hobby Craft for 9 months.

SCDC Policy PS-10.06 allows a 6-month suspension for first offense of a minor disciplinary. This is my first suspension.

Coach Brown should have suspended me for only 6 months, if any at all.

ACTION REQUESTED:

That, if my other grievances requesting my suspension to be revoked completely are denied, my suspension be lessened to 6 months.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Since 04/23, I have asked Coach Brown to reconsider, I have written to A/W Brooks and to Warden Padula.

Stewart Buchanan 05/07/08
Grievant Signature Date

ACTION TAKEN BY IGC:

- I accept the action taken by the IGC and consider the matter closed.
 I do not accept the action taken and wish to appeal.

IGC Signature Date

Grievant Signature Date

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: BUCHANAN, Stewart
SCDC NUMBER: 069848
INSTITUTION: Lee CI
HOUSING UNIT: Richland, D-225
WORK ASSIGNMENT: Recreation

Office Use Only

Grievance No. _____
Code: General _____
Policy _____
Disc. Hear. _____
Class. _____
Date Received _____
IGC Initials _____

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

COMPLAINT OF COACH BROWN'S ADMINISTRATIVE ACTION — RETALIATION FOR FILING LAWSUIT.

Coach Brown has never suspended from Hobby Craft any of the numerous inmates who have had minor disciplinaries during his 27 months at Lee CI.

April 22nd, I receive a disciplinary so minor that the only punishment given by the Captain was 10 days canteen restriction.

April 23rd, without prior notice of any change, Coach Brown suspends me from Hobby Craft for 9 months and I have to send home more than \$3,000.00 in tools and materials.

Coach Brown has held other inmates' hobby craft property over a year while they were on East Yard for a Major violation (Inmate Carlton Brown is one) and returned the tools and materials to them. He has not been holding for more than a year property for a guy in Chesterfield who is there on a major charge.

CONTINUED ON ATTACHED PAGE . . .

ACTION REQUESTED:

That a copy of this grievance and my Grievances headed "Denial of Due Process", "Equal Protection Violation", and "Excessive Suspension" (each filed this date) be forwarded to David Tatarsky, General Counsel, so that he may review these grievances with counsel for the defendants and initiate an investigation (using Internal Affairs or whomever) to remedy the wrong of my suspension.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Since 04/23, I have asked Coach Brown to reconsider, I have written to A/W Brooks and Warden Padula.

Stewart Buchanan 05/07/08
Grievant Signature Date

ACTION TAKEN BY IGC:

- I accept the action taken by the IGC and consider the matter closed.
 I do not accept the action taken and wish to appeal.

IGC Signature Date

Grievant Signature Date

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GRIEVANCE -- COACH BROWN'S ADMINISTRATIVE ACTION -- RETALIATION FOR FILING LAWSUIT.
BUCHANAN, Stewart, SCDC #069848
PAGE TWO OF TWO PAGES

I have had other Minor disciplinaries during Coach Brown's tenure, but he took no action. The only thing in my circumstance which has changed between the earlier ones and the current one is that I have filed a lawsuit against SCDC employees for denial of medical treatment.

Upon filing my suit, I asked the court for a preliminary injunction to prevent retaliation against me. My affidavit listed a conspiracy which stretched from Headquarters, through Lee Medical Department, Lee Mail Room and Lee Grievance Procedure. It appears the conspiracy has entered into the Recreation Department at Lee where I work and do my hobby craft.

I have been deprived of my only means of financial income, denied the use and suffered the loss of thousands of dollars of tools and materials. The only thing different from me now and when my previous disciplinaries occurred, or between me and other inmates in similar circumstances at Lee, is that I filed the lawsuit.

I believe this suspension is unlawful retaliation for exercising my constitutional rights to seek access to the courts through the lawsuit.

The preliminary injunction motion I filed is still pending in the Federal District Court. I plan to raise this issue of retaliation to the Court. However, I am giving the SCDC one chance to correct this problem before I renew my Motion in the court based upon this action.

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**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER**

TO: NAME: Ms. Miller, IGC, Lee CI	TITLE:	DATE: 05/29/08
INMATE'S NAME: BUCHANAN, Stewart		SCDC #: 069848
INSTITUTION: Lee CI		LIVING QUARTERS: RID-225

Attached you will find Warden Padula's response to my "Request to Staff Member, dated 05/07/08 and answered 05/20/08.

Please note that he stated "I will respond to your grievances. These are the four (4) grievances I forwarded to your office on 05/07/08.

You are in error on the one (1) grievance you logged into the system, Lee CI 1383-08. I did not grieve any disciplinary action.

It is very plain. Every grievance I filed stated at the very top, "COMPLAINT OF COACH BROWN'S ADMINISTRATIVE ACTION ...". Coach Brown is not now nor ever has been a disciplinary hearing officer. The average high school student would not have made the wrong interpretation which you did. This is not the first time you've done this to me, and I am tired of it. I will not let this one go ... it's too important.

PLEASE READ the "Request to Staff Member" in which Warden Padula stated he would respond to what I called on page 2, lines 3-4, "...a few related, separate-issue grievances addressing my distress". PLEASE SEE that the warden does not see things as you do. He believes my grievances to fit within the grievance procedure guidelines (because I am not grieving a disciplinary action!).

As for the three (3) grievances to which you did not file, assign a grievance number or log into the CRT system ... you are in direct violation of SCDC Policy and you are denying me due process and access to the courts. These are legal documents and I am initiating a legal process. I am pursuing legal rights. Please do not ignore this. This is not a game.

Attached you will find, as I stated before, the Request to warden Padula which he answered, and the four grievances I originally submitted to you which you returned to me. ALSO, you will find a new grievance which addresses the manner in which you have handled this case so far.

Your cooperation is expected.

Stewart Buchanan

DISPOSITION BY STAFF MEMBER:

DATE:	SIGNATURE:
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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM

STEP 1

INMATE NAME: BUCHANAN, Stewart
SCDC NUMBER: 069848
INSTITUTION: Lee CI
HOUSING UNIT: RTD-225
WORK ASSIGNMENT: Recreation

Office Use Only

Grievance No. _____
Code: General _____
Policy _____
Disc. Hear. _____
Class. _____
Date Received _____
IGC Initials _____

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

05/07/08, I submitted 4 grievances for filing. As of today, IGC Miller has not filed, assigned a grievance number, nor logged into the system 3 of these grievances. he returned them to me with no notation whatsoever.

The one she did file, across the top, stated, "COMPLAINT OF COACH BROWN'S ADMINISTRATIVE ACTION ...". IGC Miller classified it as a disciplinary, stated I couldn't appeal a disciplinary where I pled guilty, etc., etc., covering the grievance up in technical mumbo-jumbo. It's all clap-trap.

IGC Miller ignores the responsibilities of her job. She has, in this case, obstructed the processes of SCDC Policy. She obstructs my gaining access to and use of the grievance system.

Review of my personal grievance file will demonstrate that she has done this to me repeatedly — but the other instances weren't as important to me and I let them go.

ACTION REQUESTED:

1. That IGC Miller be disciplined and such discipline be entered in her permanent employee record.
2. That IGC Miller receive additional training in the Grievance Procedure and what her responsibilities actually are.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

I have written to Internal Affairs, but will not receive a response within the time limits to file this grievance.

Stewart Buchanan 05/29/08
Grievant Signature Date

ACTION TAKEN BY IGC:

IGC Signature Date

- I accept the action taken by the IGC and consider the matter closed.
 I do not accept the action taken and wish to appeal.

Grievant Signature Date

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GRFI100D SCDC OFFENDER MANAGEMENT SYSTEM 04/01/10
 OMGRIEFA INMATE GRIEVANCE APPLICATION COLEM
 SCDC #: 69848 INQUIRE
 BUCHANAN, STEWART RUSSELL RACE/SEX: WM AGE: 54 CURR LOC: MCCORMICK
 PROJ MAXQUT: 99/99/99 PROJ PAROLE: 02/03/82 CURR CUST: MI2

GRIEV LOC: 0551 LEECI GRIEV NUM: 1696-08 GRIEV TYPE.: G GENERAL GRIE
 GRIEV ISSUE.....: IP INST PROCEDURES DATE OCCURRED...: 05/07/08
 GRIEV AGAINST.....: DATE FILED.....: 05/29/08
 POLICY.....: IGC INITIAL: LM DATE RECEIVED...: 06/06/08
 TEXT/REQUESTED ACTION: I/M ALLEGES 5.7.08 SUBMITTED FOUR GRIEVANCES AND IGC MIL
 LER ONLY PROCESSED ONE. HE FURTHER COMPLAINS SHE CODED THE GRIEVANCE A DISCIPLI
 NARY AND UNPROCESSED AND IT WAS NOT A DISCIPLINARY GRIEVANCE. GRIEVANCE FWD TO
 IGB BY L. MILLER 6/10/08. IGB COULD NOT LOCATE GRIEVANCE. REQUESTED FROM LEE A
 ND MCCI - OPEN IF FOUN. :END

---INSTITUTION-----|---CENTRAL OFFICE----|
 ACTION DUE DATE.: 07/16/08 DUE DT: 08/09/08
 ACTION DATE.....: 06/10/08 ACTION: 06/30/09
 HOW RESOLVED....: FORMAL CURR LEVEL: CENTRAL OFFICE
 INMATE RESPONSE.: APPL FINAL DISP: 05 ADMINISTRATIVELY
 DATE APPEALED...: 06/10/08 CREATE BY: PRINGLE DATE: 06/04/08
 UPDATED BY: COLEMAN DATE: 06/30/09

GRIEVANCE INFORMATION DISPLAYED FOR INQUIRY ONLY...
 PEKEY PF3:ADD PF4:MOD PF6:AUDIT PF8:NEXT PF10:MENU

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: BUCHANAN, Stewart
SCDC NUMBER: 069848
INSTITUTION: Lee CI
HOUSING UNIT: RID-225
WORK ASSIGNMENT: Recreation

Office Use Only
Grievance No. Lee 1692-08
Code: General
Policy: _____
Disc. Hear. _____
Class. _____
Date Received 6/18/08
IGC Initials LMm

JUN 04 2008
pl

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

Cpl. Williams stated on or about 04/23/08 that I would have 30 days to send out my Hobby Craft tools and materials.

On 05/07/08, I submitted 4 grievances related to my suspension and having to send these items out from the institution or have them disposed of. These grievances are still being processed, filed, refiled, appealed, etc....

To informally resolve this problem, I wrote a Staff Request to Cpl. Williams, explaining the administrative decision of Coach brown was under grievance review. (See, Request to Staff Member, dated 05/23/08).

Cpl. Williams still insists on sending these items out at her earliest convenience (see response to Request).

ACTION REQUESTED:

Somebody needs to tell Cpl. Williams that if these items are sent out by her insistence and my suspension is revoked and my privileges are restored, she will be liable for over \$3,000.00 in reimbursements to me for these things which can never be sent back in to me.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Wrote Cpl. Williams, see above

Stewart Buchanan 6/18/08
Grievant Signature Date

ACTION TAKEN BY IGC:

I have confirmed with Corporal Williams that your hobby craft property will be held here at Lee CI pending Inmate Grievance Branch grievance review/determination, per Ms. S. Bowie.

[Signature] 6/18/08
IGC Signature Date
Stewart Buchanan 6/18/08
Grievant Signature Date

- I accept the action taken by the IGC and consider the matter closed.
- I do not accept the action taken and wish to appeal.

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State of South Carolina
County of Richland

In the Court of Common Pleas

Stewart Buchanan, #19848
Plaintiff,

C/A. No. ~~2010-CP-40-05896~~

vs.

Robert Brown, in his individual
capacity,

[first name unknown] Bowie, in her
individual capacity, and

David Tatarsky, in his individual
capacity,
Defendants.

2010 SEP 20 PM 4:25
RECEIVED
CLERK OF COURT
RICHLAND COUNTY
SOUTH CAROLINA

AMENDED

COMPLAINT

Jury Trial Demanded

RECEIVED

OCT 08 2010

INSURANCE RESERVE FUND
CLAIMS DEPARTMENT

To: The Resident or Presiding Judge of the Court of Common Pleas for
Richland County

I. Jurisdiction

1. Plaintiff has been deprived of personal property, deprived of constitutionally secured due process of law and deprived of constitutionally secured equal protection of the law by each and every defendant, all in violation of South Carolina State law, custom and usage, and in violation of the South Carolina Constitution. Plaintiff seeks

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(2)

both declaratory and injunctive relief; judgment against each defendant, individually and severally; judgment that this court's findings of law are that the defendants' actions deprived Plaintiff of personal property unlawfully, the defendants' actions deprived Plaintiff of constitutionally secured due process of law, and that the defendant's actions deprived Plaintiff of constitutionally secured equal protection of the law. Plaintiff seeks monetary remuneration in award, both individually and severally, totaling thirty-six thousand dollars (\$36,000.00) in actual damages and thirty-six thousand dollars (\$36,000.00) in punitive damages.

II. Parties

2. Plaintiff Stewart Buchanan, #698148, is and was during all times listed herein an inmate of the South Carolina Department of Corrections (SCDC).
3. Defendant Robert Brown is and was during all times listed herein an employee of the SCDC, conducting business in both Richland and Lee Counties.
4. Defendant [first name unknown] Bowie is and was during all times listed herein an employee of the SCDC, Grievance Office, Office of General Counsel, conducting business in both Richland and Lee Counties.
5. Defendant David Tatarsky is and was during all times listed herein

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(3)

an employee of the SCDC as "General Counsel", conducting business in both Richland and Lee Counties.

6. Each defendant is being sued in their individual capacity.

III. Statement of the Case

7. The SCDC has established a "Hobby Craft Program" under the auspices of Policies and Procedures PS-10.06.

8. The Lee Correctional Institution (LCI) Hobby Craft Program operated according to SAC Policies and Procedures PS-10.06 (December 1, 2002 and May 1, 2005 editions) between March, 2005 and April 23, 2008.

9. Plaintiff participated in the Hobby Craft Program at LCI from March, 2005 through April 23, 2008.

10. Between March, 2005 and April 22, 2008 no inmate at LCI was suspended from the Hobby Craft Program or required to forfeit all tools and supplies due to guilt of a "Minor" disciplinary.

11. Between March, 2005 and April 22, 2008 there were inmates suspended from Hobby Craft at LCI by Defendant Brown for twelve (12) months for guilt of "Major" disciplinarys whose tools and supplies were not

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(4)

forfeited, but instead were returned to the inmate after completion of their suspension period by Defendant Brown.

12. From January, 2006 through April 23, 2008 Defendant Robert Brown served as the LCI "Hobby Craft Coordinator" as Cognizable under PS-10.06.

13. On April 23, 2008 Defendant Brown suspended Plaintiff from the LCI Hobby Craft Program due to a "Minor" disciplinary.

14. On April 23, 2008 all Plaintiff's Hobby Craft tools and supplies, valued in excess of three-thousand dollars (\$3,000.00) were confiscated for forfeiture pursuant to written instructions by Defendant Brown.

15. SCDC Policies and Procedures PS-10.06 (May 1, 2006 edition) did not authorize Defendant Brown to ^(s)suspend Plaintiff from the LCI Hobby Craft Program. ^(s)

16. SCDC Policies and Procedures PS-10.06 (May 1, 2006 revised edition) did not authorize Defendant Brown to instruct Plaintiff's tools and supplies to be confiscated subject to forfeiture.

17. On May 7, 2008 Plaintiff filed Grievance Number "Lee 1383-08" pursuant to SCDC Policies and Procedures GA-01.12, challenging Defendant Brown's actions.

(5)

18. On May 20, 2008 Warden Padula advised Plaintiff in writing, "I will respond to your grievance".

19. During times listed herein Defendant Bowie immediately supervised the LCI Grievance Coordinators and grievance process.

20. Sometime between May 7 and June 18, 2008 Defendant Bowie removed Plaintiff's Grievance from LCI to SCDC Headquarters in Columbia.

21. The action of Defendant Bowie's removing Grievance No. Lee 1383-08 deprived Plaintiff of Warden Padula's answer to his grievance and Warden Padula's involvement in Plaintiff's suspension.

22. Defendant Bowie has withheld Grievance No. Lee 1383-08 from agency review, response or action.

23. Defendant Tatarsky is the highest SCDC employee over grievances.

24. Defendant Tatarsky refuses to obtain an answer to Grievance No. Lee 1383-08 or answer it himself.

IV: Equity

✓ 25. Plaintiff has been deprived of substantial personal property and has been denied rights to due process of law and equal protection of law conferred upon him by the South Carolina State Constitution as a direct

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SB

(6)

and proximate result of the defendants' actions as complained of herein. The defendants' actions have been willful and wanton, with careless, reckless and grossly negligent disregard of the State Policies and Procedures governing the responsibilities of their positions and duties owed Plaintiff, as well as his inherent property and liberty interests. Plaintiff has suffered unnecessary economic loss and the unnecessary infliction of severe pain, anguish, humiliation, degradation, severe emotional distress as the direct result of the defendants' actions. Plaintiff will continue to suffer same unless and until this Court intervenes in Plaintiff's behalf against the defendants.

V. Causes of Action

First Cause

X 26. When Defendant Brown abused the authority of his position to have Plaintiff's Hobby Craft tools and supplies confiscated for forfeiture he did unlawfully deprive Plaintiff of personal property valued in excess of three-thousand dollars (\$3,000.00).

Second Cause

27. When Defendant Brown abused the authority of his position to violate Policies and Procedures PS-10.06 (May 1, 2005 revised edition)

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(7)

So as to deprive Plaintiff of his personal property, Defendant Brown deprived Plaintiff of due process of law.

Third Cause

28. When Defendant Brown abused the authority of his position to deprive Plaintiff of his property without prior notice, Defendant deprived Plaintiff of due process of law.

Fourth Cause

29. When Defendant Brown abused the authority of his position to treat Plaintiff differently than all other, similarly-situated inmates, and in doing this he caused Plaintiff to suffer a significant economic loss not experienced by those other inmates, Defendant Brown has deprived Plaintiff of equal protection of the law.

Fifth Cause

30. When Defendant Bowie abused the authority of her position to remove Grievance No. Lee 1383-08 from review by Warden Padula, Defendant deprived Plaintiff of due process of the law.

Sixth Cause

31. When Defendant Bowie abused the authority of her position to treat Plaintiff differently than all other, similarly-situated inmates, and in doing

(8)

So caused Plaintiff to suffer significant prejudice, Defendant Bowie has deprived Plaintiff of equal protection of the law.

Seventh Cause

32. When Defendant Bowie abused the authority of her position to prevent Plaintiff from ever receiving a response to Grievance Number Lee 1383-08, Defendant has deprived Plaintiff of due process of law.

Eighth Cause

33. When Defendant Bowie abused the authority of her position to deprive Plaintiff of an agency response on action to Grievance Number Lee 1383-08, and this manner of treatment is inconsistent with the treatment provided other, similarly-situated inmates, and in doing so caused Plaintiff to suffer significant prejudice, Defendant Bowie has deprived Plaintiff of equal protection of the law.

Ninth Cause

X 34. When Defendant Tatarsky failed to properly use the authority of his position to return Plaintiff's Hobby Craft tools and supplies, he did deprive Plaintiff of personal property valued in excess of three-thousand dollars (\$3,000.00).

(9)

Tenth Cause

35. When Defendant Tatarsky abused the authority of his position to deprive Plaintiff of his Hobby Craft tools and supplies in a manner which violated SCDC Policies and Procedures PS-10.06, Defendant deprived Plaintiff of due process of law.

Eleventh Cause

36. When Defendant Tatarsky abused the authority of his position to deprive Plaintiff from ever receiving a response to Grievance Number Lee 1383-08, Defendant has deprived Plaintiff of due process of law.

Twelfth Cause

37. When Defendant Tatarsky abused the authority of his position to deprive Plaintiff of an agency response or action to Grievance Number Lee 1383-08, and this manner of treatment is inconsistent with the treatment provided other, similarly-situated inmates, and in doing so caused Plaintiff to suffer significant prejudice, Defendant Tatarsky has deprived Plaintiff of equal protection of the law.

(16)

VI. Grounds for Relief

Ground One

38. Each Defendant violated well-established principles of good-faith and equity when they individually acted against Plaintiff to deprive him of his property and liberty interests.

Ground Two

39. Each Defendant acted against Plaintiff in such manner that they individually and repeatedly deprived him of constitutionally secured due process of law in violation of the South Carolina State Constitution.

Ground Three

40. Each Defendant acted against Plaintiff in such manner that they individually and repeatedly deprived him of constitutionally secured equal protection of the law in violation of the South Carolina State Constitution.

VII. Prayer for Relief

41. Wherefore, premises considered, Plaintiff respectfully prays for equitable justice in this matter, that this Honorable Court grant all declarations, motions and injunctions necessary to ensure justice, and that this Court grant the following, further relief:

(11)
A. That all matters of fact remaining in dispute between the parties be submitted to jury at trial;

X B. That this Court issue an injunction against each Defendant, individually and severally, to return to Plaintiff all tools and supplies which were confiscated for use in the Hobby Craft Program at his current institution; or, in the alternative, to repurchase each item which has been lost or stolen and disburse these items to Plaintiff.

C. That Plaintiff be awarded monetary remuneration for damages he sustained at the hands of each defendant individually in the amount of three-thousand dollars (\$3,000.00) actual damages and three-thousand dollars (\$3,000.00) punitive for each and every violation listed hereafter:

- (1) Defendant Brown, for his culpability in Plaintiff's First Cause of Action;
- (2) Defendant Brown, for his culpability in Plaintiff's Second Cause of Action;
- (3) Defendant Brown, for his culpability in Plaintiff's Third Cause of Action;
- (4) Defendant Brown, for his culpability in Plaintiff's Fourth Cause of Action;
- (5) Defendant Bourne, for her culpability in Plaintiff's Fifth Cause of Action;
- (6) Defendant Bourne, for her culpability in Plaintiff's Sixth Cause of Action;

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(12)

(1) Defendant Bourne, for her culpability in Plaintiff's Seventh Cause of Action;

(8) Defendant Bourne, for her culpability in Plaintiff's Eighth Cause of Action;

(9) Defendant Tatarsky, for his culpability in Plaintiff's Ninth Cause of Action;

(10) Defendant Tatarsky, for his culpability in Plaintiff's Tenth Cause of Action;

(11) Defendant Tatarsky, for his culpability in Plaintiff's Eleventh Cause of Action;

(12) Defendant Tatarsky, for his culpability in Plaintiff's Twelfth Cause of Action;

D. Plaintiff also prays for any such and further relief as may be deemed equitable, appropriate and just.

VIII. Conclusion

42. Plaintiff Stewart Buchanan hereby swears under penalty of perjury that I have read the foregoing twelve pages and the contents thereof are true and correct to the best of my knowledge and understanding, excepting matters stated on information and belief, and as to those I believe them to be true also.

Respectfully submitted:

Stewart Buchanan
Stewart Buchanan #68048, Rose
McCormick CI; R4324
386 Redemption Way
McCormick, SC 29889

Dated: 9/16/10

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

Stewart Buchanan, #69848,)
)
Plaintiff,)
)
v.)
)
Robert Brown, in his individual)
capacity,)
)
Sandra S. Bowie, in her individual)
capacity, and)
)
David Tatarsky, in his individual)
capacity,)
)
Defendants.)

C/A No. 2010-CP-40-5896

JEANETTE WINTERS BRIDE
C.C.P. & CIV. S.
2010 NOV - 8 PM 2:50
RICHLAND COUNTY
FILED

MOTION FOR JUDGMENT
ON THE PLEADINGS
SCRCivP

TO: THE RESIDENT OR PRESIDING JUDGE OF THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT.

NOW COMES Plaintiff Stewart Buchanan who moves this Court to grant a Judgment on the Pleadings pursuant to the South Carolina Rules of Civil Procedure (SCRCivP). In support of his Motion for Judgment on the Pleadings, Plaintiff would respectfully show this Court:

I. HISTORY

1. Plaintiff filed his "Complaint" in the Richland County Clerk of Court's Office on August 27, 2010.
2. On September 17, 2010 Plaintiff served upon the Richland County Clerk of Court his "Amended Complaint" with copies for each defendant to be file-stamped prior to service upon them.
3. On September 17, 2010 Plaintiff served upon the Attorney General of South Carolina, via Certified United States Mail, a true and correct copy of the "Amended Complaint", with proof of service provided to the Richland County Clerk of Court.
4. On October 1, 2010 Plaintiff served upon each defendant a true and correct file-stamped copy of his "Notice of Summons and Summons" and the "Amended Complaint".

SBH

5. On October 20, 2010 each defendant answered the "Notice of Summons and Summons" and "Amended Complaint" through their retained counsel, Samuel F. Arthur, III, Esquire.

II. RIPENESS FOR REVIEW

- 6. This Court has jurisdiction over the subject matter of this case.
- 7. This Court has jurisdiction over the persons of each defendant.
- 8. The defendants have waived any and all objections and/or defenses which they might have raised.
- 9. There is no dispute between the parties regarding the facts of this case.
- 10. The plaintiff is entitled to the relief prayed for in this "Amended Complaint" as a matter of fact and law.

III. CONCLUSION

WHEREFORE, PREMISES CONSIDERED, Plaintiff moves this Court to grant his "Motion for Judgment on the Pleadings" and that this Court grant the following relief:

- A. That this Court grant Plaintiff declaratory relief in his favor against the defendants as prayed for in his "Amended Complaint";
- B. That this Court grant Plaintiff injunctive relief in his favor against the defendants as prayed for in his "Amended Complaint";
- C. That this Court grant Plaintiff a cash award in his favor and against Defendant Robert Brown in the amount of twenty-four thousand dollars (\$24,000.00) in both compensatory and punitive damages as prayed for in his "Amended Complaint";
- D. That this Court grant Plaintiff a cash award in his favor and against Defendant Sandra S. Bowie in the amount of twenty-four thousand dollars (\$24,000.00) in both compensatory and punitive damages as prayed for in his "Amended Complaint";

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E. That this Court grant Plaintiff a case award in his favor and against Defendant David Tatarsky in the amount of twenty-four thousand dollars (\$24,000.00) in both compensatory and punitive damages as prayed for in his "Amended Complaint"; and,

F. That this Court grant any such and further relief as may be deemed appropriate, just and in accordance with the law.

RESPECTFULLY SUBMITTED:

Stewart Buchanan

Stewart Buchanan, Pro Se Plaintiff
McCormick Correctional Institution
386 Redemption Way; F4-224; 69848
McCormick, SC 29899

Dated: November 4, 2012

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STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
C/A NO.: 2010-CP-40-05896

Stewart Buchanan, #69848,)
)
Plaintiff,)

vs.)

**NOTICE OF MOTION AND MOTION
TO DISMISS FOR LACK OF
SUBJECT MATTER JURISDICTION**

Robert Brown, in his individual)
capacity, [first name unknown])
Bowie, in her individual capacity,)
and David Tatarsky, in his individual)
capacity,)
)
Defendants.)

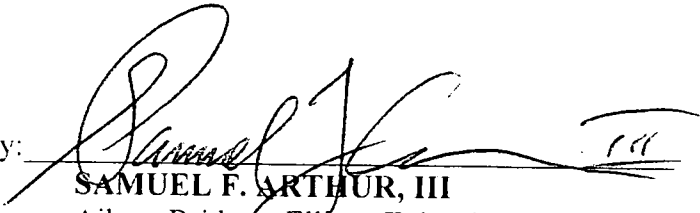
TO: THE PLAINTIFF ABOVE NAMED:

YOU WILL PLEASE TAKE NOTICE that the undersigned Samuel F. Arthur, III, as attorney for Defendants, will move before the Resident or Presiding Judge of the Fifth Judicial Circuit at the Richland County Courthouse located at Columbia, South Carolina, not less than ten (10) days hence, or at such time as may be scheduled by the Court, for an Order dismissing this case pursuant to Rule 12(h)(3) of the *South Carolina Rules of Civil Procedure* inasmuch as this court lacks subject matter jurisdiction of the claims asserted in Plaintiff's Complaint.

Plaintiff's Complaint clearly states allegations designed to challenge a disciplinary outcome, calculation of sentence-related credits, custody status, and/or other conditions of confinement. Therefore, prior to judicial review of Defendants' handling of said issues, Plaintiff is required to submit his case to the Administrative Law Judge Division ("ALJD"). See *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (1999).


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This motion may further be supported by affidavits and/or a supporting memorandum of law that may be submitted at or prior to the hearing of this motion.

By: 

SAMUEL F. ARTHUR, III
Aiken, Bridges, Elliott, Tyler & Saleeby, P.A.
SC Bar # 13618
PO Drawer 1931
Florence, SC 29503
Telephone: 843.669.8787
Fax: 843.664.0097
SFA@AIKENBRIDGES.COM

ATTORNEYS FOR DEFENDANTS

Florence, South Carolina
February 21, 2011 
February 18, 2011.

State of South Carolina
County of Richland

In the Court of Common Pleas

Stewart Buchanan, #069848,

C/A No. 2010-CP-40-5896

Plaintiff,

v.

Robert Brown, in his individual
capacity;

Plaintiff's Objection to Defendants'
Motion to Dismiss for Lack of
Subject Matter Jurisdiction

[first name unknown] Bowle, in her
individual capacity; and,

David Tatarsky, in his individual
capacity,

Defendants.

FILED
11 MAR 10 AM 9:50
JEANETTE W. MCBRIDE
C.C.P. & G.S.

To: The Resident or Presiding Judge of the Court of Common Pleas
for the 5th Judicial Circuit.

Now comes Plaintiff Stewart Buchanan who objects to and
moves this court to deny the defendants' "Motion to Dismiss for
Lack of Subject Matter Jurisdiction". In support of his Objection,
Plaintiff would respectfully show this court:

1. Defendants assert in their "Motion..." that subject matter
jurisdiction over Plaintiff's "Amended Complaint" resides in the

(2)

Administrative Law Court (ALC) pursuant to Al-Shabazz v. State,
338 S.C. 354, 527 S.E.2d 742 (1999).

2. Plaintiff denies the assertion that subject matter jurisdiction resides in the ALC, and he demands strict proof thereof.

3. Plaintiff claims the ^(S)ALC lacks subject matter jurisdiction over his "Amended Complaint" for the following reasons:

a. The ALC has no jurisdiction over the persons of defendants who are sued in their individual capacities;

b. There is no final agency decision;

c. There is no challenge to a disciplinary outcome;

d. There is no challenge to calculation of sentence-related credits;

e. There is no challenge to custody status; and,

f. There is no challenge to conditions of confinement.

4. Jurisdiction is conferred upon this court pursuant to Title 15, S.C. Code Ann.

Wherefore, premises considered, Plaintiff respectfully prays that this court deny the defendants' "Motion to Dismiss for Lack of

(3)

33

Subject Matter Jurisdiction", and that this Court grant any such and further relief as may be deemed appropriate and just.

Respectfully submitted:

Stewart Buchanan

Stewart Buchanan #069848, ProSe
McCormick CI; F4-224
386 Redemption Way
McCormick, SC 29899

Dated: March 9, 2011

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88

Aiken Bridges Attorneys at Law

J. Boone Aiken, III •
Saunders M. Bridges, Jr. •+
E. Glenn Elliott •
Matthew N. Tyler •
James M. Saleeby, Jr.
J. David Banner
Samuel F. Arthur, III
Jay R. Lee
Preston B. Dawkins
Carrie A. Fox
J. Rufus Bratton, III
John G. Hofler, III

SFA@AIKENBRIDGES.COM
843-669-8787, ext. 308
Facsimile: 843-664-0097

Alvin A. Coleman (1930-1995)

September 23, 2011

•Certified Mediator/Arbitrator
+Also Admitted District of Columbia

The Honorable James R. Barber, III
Richland County Judicial Center
P. O. Box 2766
Columbia, SC 29202

RE: Stewart Buchanan, #69848 vs. Robert Brown, in his individual capacity, Sandra S. Bowie, in her individual capacity, and David Tatarsky, in his individual capacity
C/A No.: 2010-CP-40-5896
AB File No.: 28740

Dear Judge Barber:

Per your request, I have conferred with SCDC officials regarding the administrative grievance (LEECI 1383-08) identified by Plaintiff at the recent hearing of Defendants' Motion to Dismiss in connection with the above-referenced matter.

According to the SCDC General Counsel's Office, Plaintiff has filed a total of six (6) grievances in connection with his suspension from the hobby craft program at Lee Correctional Institution. The grievances at issue are identified as follows: LEECI 1383-08; LEECI 1692-08; LEECI 1693-08; LEECI 1694-08; LEECI 1695-08; and LEECI 1696-08. Copies of documents relating to these grievances are enclosed herewith for your review.

Upon review of the enclosed documents, you will note the following: (1) LEECI 1383-08 was returned unprocessed on the grounds that results of disciplinary proceedings wherein the inmate pleaded guilty are non-grievable; (2) LEECI 1692-08 proceeded to Step 2 and is currently on appeal to the South Carolina Court of Appeals after having been dismissed by the Administrative Law Court; (3) LEECI 1693-08, LEECI 1694-08; and LEECI 1695-08 were combined with LEECI 1383-08 and returned unprocessed; and LEECI 1696-08 was misplaced during processing, but has been administratively closed because it was a grievance about the processing of grievances and the grievances at issue have been disposed of.

Based on the enclosed documents, it appears Plaintiff's grievances regarding his suspension from the hobby craft program have been processed and/or returned with an explanation as to why they would not be processed. A closer review of the documents relating to LEECI 1692-08 shows that Plaintiff received a detailed explanation of the disposition of the grievance at the Step

Aiken, Bridges, Elliott, Tyler & Saleeby, P.A.

181 East Evans St. Suite 409
Florence, South Carolina 29506

www.aikenbridges.com

Post Office Drawer 1931
Florence, South Carolina 29503

September 23, 2011

Page 2

2 level, including an explanation that per SCDC policy, his suspension from the hobby craft program was within the discretion of the program director in light of Plaintiff's acceptance of administrative discipline for the charge of possession of contraband. Furthermore, Plaintiff was advised of his rights to appeal said decision to the Administrative Law Court pursuant to the Administrative Procedures Act.

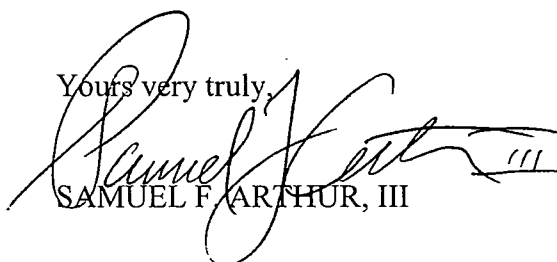
Apparently, Plaintiff has in fact appealed the disposition of LEECI 1692-08 and his appeal was dismissed by the ALC. Plaintiff then filed a Notice of Appeal of the ALC dismissal to the South Carolina Court of Appeals. Plaintiff's appeal to the South Carolina Court of Appeals was initially dismissed, but has since been recalled and is currently being held for further disposition.

Based on the foregoing, Defendants maintain the position asserted in the currently pending Motion to Dismiss that Plaintiff's appropriate course of action for seeking relief from his administrative suspension from the LCI hobby craft program consists of the institutional grievance process and the appellate review levels available to him pursuant to the Administrative Procedures Act. Therefore, while the Richland County Court of Common Pleas may have appellate jurisdiction to review the decision of the ALC, Defendants respectfully assert that it does not have original subject matter jurisdiction to hear and dispose of Plaintiff's complaints regarding administrative decisions of LCI officials that flow from the outcome of a disciplinary proceeding involving Plaintiff.

I am hopeful this correspondence and the enclosed documents are sufficient to clarify the present status of Plaintiff's grievances regarding his suspension from the LCI hobby craft program and provide you with sufficient information with reach to dispose of Defendants' Motion to Dismiss. However, upon review, should you have any questions or require anything further, please do not hesitate to contact me.

With kind regards,

Yours very truly,



SAMUEL F. ARTHUR, III

SFAIII/twd
Enclosures

cc: Mr. Stewart Buchanan, #69848
McCormick Correctional Institution
386 Redemption Way
McCormick, SC 29899

From:

02/16/2011 16:29

#434 P.003/003

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: BUCHANAN, Stewart
SCDC NUMBER: 069848
INSTITUTION: Lee CI
HOUSING UNIT: Richland, D-225
WORK ASSIGNMENT: Recreation

MAY 08 2008

Office Use Only
Grievance No. Lee CI 43-83-07
Code: General _____
Policy _____
Disc. Hear. 817
Class. _____
Date Received 5/20/08
IGC Initials lmm/lm

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

COMPLAINT OF COACH BROWN'S ADMINISTRATIVE ACTION -- DENIAL OF DUE PROCESS.

Coach Brown has never suspended from Hobby Craft any of the numerous inmates who have had minor disciplinarys during his 27 months at Lee CI.

April 22nd, I receive a disciplinary so minor that the only punishment given by the Captain was 10 days canteen restriction.

April 23rd, without prior notice of any change, Coach Brown suspends me from Hobby Craft for 9 months and I have to send home more than \$3,000.00 in tools and materials.

Had I known I would possibly face this punishment at this institution (where it had never been done before), I would not have pled guilty to the minor disciplinary.

I have been denied Due Process of the Law when I've been deprived of significant property without prior notice. With no notice, I was deprived of the opportunity to plead "not guilty" and fight to protect my property.

CONTINUED ON ATTACHED PAGE . . .

ACTION REQUESTED:

That my hobby craft suspension be revoked, my tools & materials returned to me, and that things return back to before this action occurred as if it never happened.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Since 04/23, I have asked Coach Brown to reconsider, I have written to A/W Brooks and to Warden Padula.

Stewart Buchanan 05/27/08
Grievant Signature Date

ACTION TAKEN BY IGC:

This grievance is being returned to you unprocessed in accordance with Policy GA-01.12, Inmate Grievance System. The disposition of any Department disciplinary proceeding (Disciplinary Hearing, Administrative Hearing) which resulted from a **Guilty Plea** by the inmate, or if the inmate accepted Informal or Administrative Resolution, unless the sanction imposed was excessive in relationship to the rule violation is **non-grievable**. According to Policy, OP 22.14, sanctions imposed are appropriate to the Level 3 rules violation.

[Signature] 5/27/08
IGC Signature Date

- I accept the action taken by the IGC and consider the matter closed.
- I do not accept the action taken and wish to appeal.

Grievant Signature Date

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1383.08

GRIEVANCE -- COACH BROWN'S ADMINISTRATIVE ACTION -- DENIAL OF DUE PROCESS.
BUCHANAN, Stewart, SCDC #069848
PAGE TWO OF TWO PAGES

Coach Brown's failure to give prior notice that he was changing his practice and would begin suspending from hobby craft for minor disciplinaries, and then suspending me without such notice, is unethical and has damaged me seriously. I cannot recoup such a financial loss.

38

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: BUCHANAN, Stewart
SCDC NUMBER: 069848
INSTITUTION: Lee CI
HOUSING UNIT: Richland, D-225
WORK ASSIGNMENT: Recreation

Office Use Only
Grievance No. Lee CI 1693-08
Code: General _____
Policy _____
Disc. Hear. _____
Class _____
Date Received 5/12/08
IGC Initials LMM / LMM

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

COMPLAINT OF COACH BROWN'S ADMINISTRATIVE ACTION — EQUAL PROTECTION VIOLATION.

Coach Brown has never suspended from Hobby Craft any of the numerous inmates who have had minor disciplinarys during his 27 months at Lee CI.

April 22nd, I receive a disciplinary so minor that the only punishment given by the Captain was 10 days canteen restriction.

April 23rd, without prior notice of any change, Coach Brown suspends me from Hobby Craft for 9 months and I have to send home more than \$3,000.00 in tools and materials.

Coach Brown has held inmate's hobby craft property over a year while on East Yard for a Major violation (Inmate Carlton Brown) and returned the tools and materials to them. He has now been holding for more than a year property for a guy in Chesterfield who is there on a major charge.

CONTINUED ON ATTACHED PAGE . . .

ACTION REQUESTED:

That my hobby craft suspension be revoked, my tools and materials returned to me, and that things return back to before this action occurred as if it never happened.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Since 04/23, I have asked Coach Brown to reconsider, I have written to A/W Brooks and to Warden Padula.

Stewart Buchanan
Grievant Signature

05/07/08
Date

ACTION TAKEN BY IGC:

Grievance closed and combined with Lee CI 1383-08.

- I accept the action taken by the IGC and consider the matter closed.
- I do not accept the action taken and wish to appeal.

IGC Signature _____ Date _____

Grievant Signature _____ Date _____

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1693-08

GRIEVANCE -- COACH BROWN'S ADMINISTRATIVE ACTION -- EQUAL PROTECTION VIOLATION
BUCHANAN, Stewart, SCDC #069848
PAGE TWO OF TWO PAGES

If a review of minor disciplinaries was made on hobby craft participants at Lee over the past 27 months Coach Brown has been here, over 50% would have been subject to suspension, but they were not.

Coach Brown's suspending me from hobby craft for 9 months without suspending others since I've been here is unequal treatment rising to the level of unethical behavior and has damaged me seriously. I cannot recoup such a financial loss.

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: BUCHANAN, Stewart
SCDC NUMBER: 069848
INSTITUTION: Lee CI
HOUSING UNIT: Richland, D-225
WORK ASSIGNMENT: Recreation

Office Use Only
Grievance No. Lee CI 1383-08
Code: General _____
Policy _____
Disc. Hear. _____
Class. _____
Date Received 5/2/08 / 6/10/08
IGC Initials mm / mm

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

COMPLAINT OF COACH BROWN'S ADMINISTRATIVE ACTION — EXCESSIVE SUSPENSION.

Coach Brown has never suspended from Hobby Craft any of the numerous inmates who have had minor disciplinaries during his 27 months at Lee CI.

April 22nd, I receive a disciplinary so minor that the only punishment given by the Captain was 10 days canteen restriction.

April 23rd, without prior notice of any change, Coach Brown suspends me from Hobby Craft for 9 months.

SCDC Policy PS-10.06 allows a 6-month suspension for first offense of a minor disciplinary. This is my first suspension.

Coach Brown should have suspended me for only 6 months, if any at all.

ACTION REQUESTED:

That, if my other grievances requesting my suspension to be revoked completely are denied, my suspension be lessened to 6 months.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Since 04/23, I have asked Coach Brown to reconsider, I have written to A/W Brooks and to Warden Padula.

Stewart Buchanan 05/07/08
Grievant Signature Date

ACTION TAKEN BY IGC:

Grievance closed and combined with Lee CI 1383-08.

- I accept the action taken by the IGC and consider the matter closed.
- I do not accept the action taken and wish to appeal.

IGC Signature Date

Grievant Signature Date

85/21/2010 09:12 86444432114

③

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: BUCHANAN, Stewart
 SCDC NUMBER: 069848
 INSTITUTION: Lee CI
 HOUSING UNIT: Richland, D-225
 WORK ASSIGNMENT: Recreation

Office Use Only
 Grievance No. Lee CI #1695-08
 Code: General _____
 Policy _____
 Disc. Hear. _____
 Class. _____
 Date Received 6/26/08 / 6/18/08
 IGC Initials mm / gm

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

COMPLAINT OF COACH BROWN'S ADMINISTRATIVE ACTION -- RETALIATION FOR FILING LAWSUIT.

Coach Brown has never suspended from Hobby Craft any of the numerous inmates who have had minor disciplinaries during his 27 months at Lee CI.

April 22nd, I receive a disciplinary so minor that the only punishment given by the Captain was 10 days canteen restriction.

April 23rd, without prior notice of any change, Coach Brown suspends me from Hobby Craft for 9 months and I have to send home more than \$3,000.00 in tools and materials.

Coach Brown has held other inmates' hobby craft property over a year while they were on East Yard for a Major violation (Inmate Carlton Brown is one) and returned the tools and materials to them. He has not been holding for more than a year property for a guy in Chesterfield who is there on a major charge.

CONTINUED ON ATTACHED PAGE . . .

ACTION REQUESTED:

That a copy of this grievance and my Grievances headed "Denial of Due Process", "Equal Protection Violation", and "Excessive Suspension" (each filed this date) be forwarded to David Tatarsky, General Counsel, so that he may review these grievances with counsel for the defendants and initiate an investigation (using Internal Affairs or whomever) to remedy the wrong of my suspension.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Since 04/23, I have asked Coach Brown to reconsider, I have written to A/W Brooks and Warden Padula.

Stewart Buchanan 05/21/08
 Grievant Signature Date

ACTION TAKEN BY IGC:

Grievance closed and combined with Lee CI 1383-08.

- I accept the action taken by the IGC and consider the matter closed.
- I do not accept the action taken and wish to appeal.

IGC Signature Date

Grievant Signature Date
 8544432114 09:12 05/21/2010

42
SB

1695-08

GRIEVANCE -- COACH BROWN'S ADMINISTRATIVE ACTION -- RETALIATION FOR FILING LAWSUIT.
BUCHANAN, Stewart, SCDC #069848
PAGE TWO OF TWO PAGES

I have had other Minor disciplinaries during Coach Brown's tenure, but he took no action. The only thing in my circumstance which has changed between the earlier ones and the current one is that I have filed a lawsuit against SCDC employees for denial of medical treatment.

Upon filing my suit, I asked the court for a preliminary injunction to prevent retaliation against me. My affidavit listed a conspiracy which stretched from Headquarters, through Lee Medical Department, Lee Mail Room and Lee Grievance Procedure. It appears the conspiracy has entered into the Recreation Department at Lee where I work and do my hobby craft.

I have been deprived of my only means of financial income, denied the use and suffered the loss of thousands of dollars of tools and materials. The only thing different from me now and when my previous disciplinaries occurred, or between me and other inmates in similar circumstances at Lee, is that I filed the lawsuit.

I believe this suspension is unlawful retaliation for exercising my constitutional rights to seek access to the courts through the lawsuit.

The preliminary injunction motion I filed is still pending in the Federal District Court. I plan to raise this issue of retaliation to the Court. However, I am giving the SCDC one chance to correct this problem before I renew my Motion in the court based upon this action.

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

43
8

CASE NUMBER: 2010CP4005896

Stewart #69848 Buchanan

Robert Brown

Ms Bowie

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____	Attorney for : <input type="checkbox"/> Plaintiff. <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
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DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge _____ Judge Code _____ Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this 21 November 2011 to attorneys of record or to parties (when appearing pro se) as follows:

Stewart #69848 Buchanan

Robert Brown
Samuel F. Arthur III

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court _____

Jeanette W. McBride

33

44
88

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
C/A NO.: 2010-CP-40-05896

Stewart Buchanan, #69848,)
)
Plaintiff,)

vs.)

Robert Brown, in his individual)
capacity, [first name unknown])
Bowie, in her individual capacity,)
and David Tatarsky, in his individual)
capacity,)
Defendants.)

**ORDER GRANTING MOTION TO
DISMISS FOR LACK OF
SUBJECT MATTER JURISDICTION**

2011 NOV 17 AM 11:09
JEANETTE W. HUBBRIDE
C.C.P. & G.S.

RICHLAND COUNTY
FILED

This matter comes before the court for disposition of Defendants' previously filed Motion to Dismiss for Lack of Subject Matter Jurisdiction. A hearing of said Motion was conducted by this court on September 15, 2011. Appearing at the hearing on behalf of the Defendants was Samuel F. Arthur, III, Esquire. Plaintiff appeared *pro se*.

This court acknowledges that multiple other motions were pending and scheduled to be heard on September 15, 2011. However, given that Defendants' Motion to Dismiss for Lack of Subject Matter Jurisdiction had the potential to end this case and render all other pending motions moot, this court opted to receive and consider arguments from both sides regarding the Motion to Dismiss for Lack of Subject Matter Jurisdiction and hold all other pending motions in this case in abeyance until disposition of the Motion to Dismiss for Lack of Subject Matter Jurisdiction. For reasons more fully set forth below, this court finds that it is appropriate to dismiss this case for lack of subject matter jurisdiction, thereby rendering all other pending motions moot.

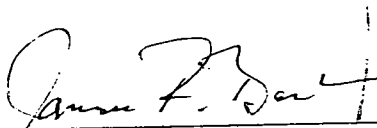
45
SB

Plaintiff's Complaint clearly states allegations designed to challenge a disciplinary outcome, calculation of sentence-related credits, custody status, and/or other conditions of confinement. Therefore, prior to judicial review of Defendant's handling of said issues, Plaintiff is required to submit his case to the Administrative Law Judge Division ("ALJD"). See *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (1999).

Following a review of the court's file regarding this matter and receipt and consideration of arguments presented by counsel for Defendant and *pro se* Plaintiff, this court finds that Plaintiff has indeed failed to exhaust all available administrative remedies, including, but not limited to appeal of unfavorable grievance decisions to the Administrative Law Judge Division. Therefore, inasmuch as Plaintiff has failed to exhaust his available administrative remedies in this case, this court finds that it is appropriate to dismiss Plaintiff's action pursuant to Rule 12(h)(3) of the *South Carolina Rules of Civil Procedure* for lack of subject matter jurisdiction.

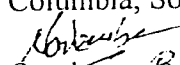
THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendants' Motion to Dismiss is **GRANTED**. Furthermore, any and all other pending motions related to this matter are also hereby dismissed as moot.

AND IT IS SO ORDERED!



THE HONORABLE JAMES R. BARBER, III
FIFTH JUDICIAL CIRCUIT

Columbia, South Carolina


October 8, 2011.

State of South Carolina
County of Richland

In the Court of Common Pleas

Stewart Buchanan,

CIA No. 2010-CP-40-05896

Plaintiff,

Motion to Alter or Amend Judgment

v.

Rule 59(e), SCCRUP

Robert Brown, et al.,

Defendants.

TO: THE DEFENDANTS ABOVE-NAMED:

YOU WILL PLEASE TAKE NOTICE that the undersigned, Plaintiff Stewart Buchanan, will move before the Resident or Presiding Judge of the Fifth Judicial Circuit at the Richland County Courthouse located at Columbia, South Carolina, not less than ten (10) days hence, or at such time as may be scheduled by the court, for an Order which alters or amends, pursuant to Rule 59(e), SCCRUP, the judgment of this Court in its November 8, 2011 "Order Granting Motion to Dismiss For Lack of Subject Matter Jurisdiction".

This Court erred when it held, "... prior to judicial review of Defendants' handling of said issues, Plaintiff is required to submit his case to the [sic] Administrative Law Judge Division ("ALJD"). See, Al-Shabazz v. State, 338 S.C. 394, 527 S.E.2d 742 (1999)." (See, Order, pg. 2, ls. 3-5.)

First, this matter is not a "contested case" cognizable under S.C. Code Ann. §1-23-310(3) (Supp. 1998) (quoted in Al-Shabazz, supra.) Jurisdiction is not conferred upon the Administrative Law Court by the APA on Al-Shabazz.

Secondly, this case "is ripe for judicial review when actions of agency is such that it denies a right of a party which, as a practical matter, is irrevocable through further administrative action, exhaustion of administrative remedies is not required, and

Court should not hesitate to review the agency action." Fort Sumter Farms, Inc. v. Andrews, 440 F.Supp. 914, affirmed, 564 F.2d 1119 (D.S.C. 1977).

This motion will be further supported by affidavits and/or a supporting memorandum of law which will be submitted before or during the hearing of this motion.

WHEREFORE, PREMISES CONSIDERED, Plaintiff moves this Court to open the judgment, amend findings of fact and conclusions of law or make new findings and conclusions, and direct entry of a new judgment in Plaintiff's favor and denying Defendants' "Motion to Dismiss for Lack of Subject Matter Jurisdiction", and that this Court grant Plaintiff any such and further relief as may be deemed appropriate and just.

Respectfully submitted:

Stewart Buchanan

Stewart Buchanan, #069848, Pro Se
McCormick CI
386 Redemption Way
McCormick, SC 29849

Dated: November 28, 2011

State of South Carolina
County of Richland

In the Court of Common Pleas

Stewart Buchanan, #69848,
Plaintiff,
v.
Robert Brown, et al.,
Respondents

C/A No. 2010-CP-40-05846
Memorandum In Support of
Plaintiff's Motion to Alter or
Amend Judgment, Rule 59(e),
SCRCP

To: The Resident or Presiding Judge of the Court of Common Pleas for the Fifth Judicial Circuit.

NOW COMES Plaintiff Stewart Buchanan who, in support of his "Motion to Alter or Amend Judgment, Rule 59(e), SCRCP," would respectfully show the Court:

A. THE FACTS

On May 7, 2008, Plaintiff filed four (4) grievances. The Institutional Grievance Coordinator (IGC) returned the grievances unprocessed. Plaintiff challenged the IGC's actions with a fifth grievance.

On June 6, 2008, the four (4) grievances were re-opened. To date, after 3 1/2 years' struggle to have these grievances answered, the defendants refuse -- the four (4) grievances are left unanswered.

Plaintiff filed eight (8) Causes of Action against the defendants' refusing to hear and answer Plaintiff's grievances, and four (4) Causes about the grievance subject matter.

On November 8, 2011, this Court dismissed this Civil Action due to Plaintiff's not filing an appeal with the Administrative Law Court under the APA.

B. Questions Presented

I. Whether jurisdiction of this case is conferred upon the Administrative Law Court by the Administrative Procedures Act when it is not a "contested case" as defined by S.C. Code Ann. § 1-23-310(3) (Supp. 1998)?

II. Whether the case is ripe for judicial review when actions of agency is such that it denies a right of a party which, as a practical matter, is irrecoverable through further administrative action, exhaustion of administrative remedies is not required, and court should not hesitate to review the agency action? (Font Sumner Towers, Inc. v. Andrews, 440 F.Supp. 914, aff'd, 564 F.2d 1119 (D.S.C. 1977)).

C. Argument and Authority

I. Jurisdiction of this case is not conferred upon the Administrative Law Court by the Administrative Procedures Act because it is not a "contested case" as defined by S.C. Code Ann. § 1-23-310(3) (Supp. 1998).

According to Al-Shabazz v. State, 527 S.E.2d 742 (S.C.S.Ct. 1999), an inmate "... may seek judicial review of Department's final decision in an administrative matter under the provisions for contested cases contained in the APA".

The APA, specifically, S.C. Code Ann. § 1-23-310(3) (Supp. 1998), defines "contested case":

"'Contested Case' means a proceeding ... in which the legal rights, duties or privileges of a party are required by law to be determined by an agency after an opportunity for hearing". (Quoted in Al-Shabazz.)

There are three prongs to the test of whether a matter is a "contested case": (1) Legal rights, duties or privileges must be involved; (2) There must be a determination by the agency; and, (3) The agency must have conducted some type of hearing.

"Placing review of these cases within the ambit of the APA will ensure that an inmate receives due process, which consists of notice, a hearing, and judicial review." Al-Shabazz, supra.

This case fails two of the three-pronged test: a. There is no final agency determination; and, (b) The agency never conducted a hearing.

II. The case is ripe for judicial review when actions of agency is such that it denies a right of a party which, as a practical matter, is irrevocable through further administrative action, exhaustion of administrative matters is not required, and court should not hesitate to review the agency action. (Font Sumter Tours, Inc. v. Andrews, 440 F.Supp. 914, aff'd., 564 F.2d 1119 (D.S.C. 1977)).

Matters of the Complaint are irrevocable administratively as the ALC is legally obligated to dismiss the appeal due to it not being a "contested case" according to S.C. Code Ann. §1-23-310(3) (Supp. 1998).

Additionally, Al-Shobazz limits the ALC to appellate review of Department's final decisions. There are no final decisions to appeal.

Exhaustion is not required in this case. It is ripe for judicial review. This Court should not hesitate to review the agency action. Font Sumter, supra.

D. Conclusion

WHEREFORE, Plaintiff moves this Court to open the judgment, amend findings of fact and conclusions of law or make new findings and conclusions, and direct entry of a new judgment in Plaintiff's favor and denying Defendants' "Motion to Dismiss For Lack of Subject Matter Jurisdiction", and that this Court grant Plaintiff any such and further relief as may be deemed appropriate and just.

Respectfully submitted:

Stewart Buchanan

Stewart Buchanan, #064848, Pro Se
McCormick CE
386 Redemption Way
McCormick, SC 29844

Dated: November 28, 2012

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2010-CP-40-5896

51

Stewart Buchanan #69848

Robert Brown, et al.

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
---------------------	--

DISPOSITION TYPE (CHECK ONE)

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- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
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- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX): Affirmed; Reversed; Remanded; Other _____

RICHLAND COUNTY
 FILED
 2012 MAR 27 AM 10:21
 JANETTE W. McBRIDE
 C. C. P. & S.

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

Plaintiff's Motion to Alter or Amend pursuant to 59(e) is denied without oral argument.

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

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Circuit Court Judge Samuel F. Arthur, III Judge Code 2110 Date 3/23/12

For Clerk of Court Office Use Only

This judgment was entered on the 27 day of Mar, 20 12 and a copy mailed first class or placed in the appropriate attorney's box on this 27 day of Mar, 20 12 to attorneys of record or to parties (when appearing pro se) as follows:

Stewart Buchanan
ATTORNEY(S) FOR THE PLAINTIFF(S)

Samuel F. Arthur, III.
ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court Janette W. McBride

Certification of Record

Appellant certifies that this Record on Appeal contains all material which has been certified in their Designation by any party to this case, or by his Counsel of Record, to contain no matter which is irrelevant to the appeal, and has thereby been proposed to be included by the parties, and this Record on Appeal does not contain any other material.

Stewart Buchanan
Stewart Buchanan, Appellant, Pro Se