

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Edward Lee Hall, 184752,)
)
Appellant,)
)
vs.)
)
South Carolina Department of Corrections,)
)
Respondent.)
)
)
)

Docket No. 13-ALJ-04-0136-AP

ORDER OF DISMISSAL

This matter is before the South Carolina Administrative Law Court (ALC or court) pursuant to the Notice of Appeal filed by the Appellant above named, who is incarcerated with the South Carolina Department of Corrections (Department).

The appellant appeals the denial of his grievance in which he complained that he does not receive his special, low-cholesterol, therapeutic dinner tray when the facility is on lock down. There is no contention by the Appellant that he has lost good time or failed to earn good time or that his sentence, sentence related credits or custody status have been erroneously calculated.

DISCUSSION

The 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 interests¹ 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. Id.

The Supreme Court further explained the court's jurisdiction in Slezak v. South Carolina Department of Corrections, 361 S.C. 327, 605 S.E.2d 506 (2004). Slezak emphasized that, while the court has jurisdiction over all properly filed inmate grievance appeals, the Court is not required to hold a hearing on every matter. Id. "Summary dismissal may be appropriate where

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

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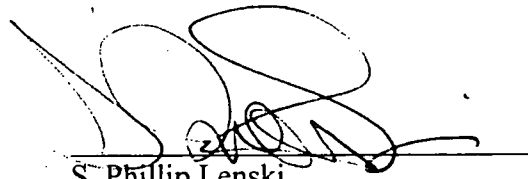
AUG 23 2013

the inmate's grievance does not implicate a state-created liberty or property interest." Id citing Sandin v. Conner, 515 U.S. 472, 115 S.Ct. 2293 (1995).

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 presented.

In this case, the Appellant's denial of a special meal tray is clearly not 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 procedure 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, for the foregoing reasons, the decision appealed from is **AFFIRMED** and this appeal is **DISMISSED WITH PREJUDICE**.


S. Phillip Lenski
Administrative Law Judge

August 23, 2013
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Leah E. Garland, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail to the address provided by the party(ies) and/or their attorney(s).



Leah E. Garland
Judicial Law Clerk

August 23, 2013
Columbia, South Carolina

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AUG 23 2013

SC ADMIN. LAW COURT

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Mr. Eddie L. Hall #184752

Appellant,

vs.

South Carolina Department
of Corrections,

Respondent.

Docket No: 13-CO-136

Grievance No: KRCI-524-12

Motion To Denied
Dismissal

FACTS

The fact that the agency neglect to use both Rules to show fault, this matter is in order with the rules of the Administrative Law Court.

Argument

Rule 59, Section C is the issue at fault here before this Administrative Law Court by the Department of Corrections.

A copy of the final decision which is the subject of the appeal and the date received,

Within forty-five (45) days of the date the case is assigned to an Administrative Law Judge (date of assignment), the agency shall file the record with the Court, including a statement of the contents of the record, unless the time for filing the record is extended by the Administrative Law Judge assigned to the appeal.

The rule 59 is a element here and a necessary basic part, section C that tells the agency the ^{ex} next step after appeal is filed.

Conclusion Here

Wherefore, Mr. Eddie L. Hall, respectfully request that this matter is in order, and the Department of Corrections here is the agency in err and Dismissal Be Denied.

Sworn or Affirmed To And
Subscribed Before Me This

4 Day of June 2013
Catharine A. Amora

Notary Public

My Commission Expires

My Commission Expires December 22, 2018

Bless Ye The Lord

Respectfully Submitted

Eddie L. Hall

Mr. Eddie L. Hall, Christian Jew
Kershaw C.I. Palmetto B.R. 33B, #184752
4848 Goldmine Highway
Kershaw, S.C., 29067



NIKKI R. HALEY, Governor
WILLIAM R. BYARS, JR., Director

May 22, 2013

The Honorable S. Phillip Lenski
South Carolina Administrative Law Court
Edgar A. Brown Building, Suite 224
1205 Pendleton Street
Columbia, South Carolina 29201

Reference: Inmate Edward Lee Hall, #184752, vs. SCDC
Docket No. 13-ALJ-04-0136-AP

Dear Judge Lenski:

Find enclosed an original and one copy of the *Respondent's Motion to Dismiss* on the above referenced case. Please file the original in your office and return a clocked-in copy to me in the enclosed self-addressed envelope.

If you have any questions or concerns, please do not hesitate to contact me at (803) 896-3922.

Sincerely,

A handwritten signature in black ink, appearing to read "Cheron M. Hess", is written over a large, stylized circular flourish.

Cheron M. Hess
Administrative Assistant
Office of General Counsel

Enclosures

cc: Inmate Edward Lee Hall, #184752
File

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Edward Lee Hall, # 184752,)	
)	
Appellant,)	Docket No.: 13-ALJ-04-0136-AP
)	Honorable S. Phillip Lenski
v.)	
)	
South Carolina Department of Corrections,)	RESPONDENT'S MOTION
)	TO DISMISS
Respondent.)	
_____)	

STATEMENT OF FACTS

This matter is before the South Carolina Administrative Law Court (ALC) pursuant to the appeal of Edward Lee Hall (appellant). The case was assigned on March 6, 2013. SCDC filed the record on April 17, 2013. Appellant did not properly date his Notice of Appeal, however it was received by Respondent on February 21, 2013. Appellant has not filed a brief.

ARGUMENT

The ALC's jurisdiction to hear this matter is derived entirely from the decision of the South Carolina Supreme Court in Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). In Al-Shabazz, the Supreme Court created a new avenue by which inmates could seek review of final decisions of the Department in "non-collateral" matters, *i.e.*, matters in which an inmate does not challenge the validity of a conviction or sentence, by appealing those decisions to the ALC. Id. at 373, 376, 527 S.E.2d at 752, 754.

The language in Rule 60 states:

Unless otherwise ordered, the party first noticing the appeal shall file an original brief within sixty-five (65) days after the date of the assignment. Within eighty-five (85) days after the date of assignment, the respondent shall file an original brief in response. A reply brief may be filed within ninety-five (95) days after the date of assignment. The principal briefs shall not exceed ten (10) pages and the reply brief shall not exceed five (5) pages... At the time of filing the brief with the Court, one copy of the brief and any appendix shall be served on each party to the appeal.

Rule 62 states that:

Upon motion of any party, or on its own motion, an Administrative Law Judge may dismiss an appeal for failure to comply with any of the rules of procedure for appeals, including the failure to comply with any of the time limits provided by this section....

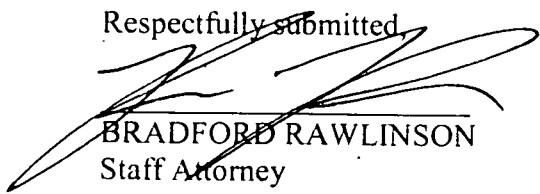
In the present case, although appellant has filed a notice of appeal, pursuant to Rule 60, the appellant was required to file and serve an original brief "within sixty-five (65) days after the date of assignment." This case was assigned March 6, 2013.

Rule 62 provides that "upon motion of any party, or on its on motion, an Administrative Law Judge may dismiss an appeal for failure to comply with any of the rules of procedure, including the failure to comply with any time limits provided by this section. (Emphasis added). Appellant had an obligation to advance his position, Appellant has been given ample time to do so, and appellant has not notified SCDC of any extenuating circumstances regarding his failure to file. However, appellant has failed to file a brief in support of his appeal.

CONCLUSION

WHEREFORE, SCDC respectfully requests this matter be dismissed pursuant to Rule 62 for failure to comply with the time limits set forth in Rule 60.

Respectfully submitted,



BRADFORD RAWLINSON
Staff Attorney
South Carolina Department of Corrections
Post Office Box 21787
4444 Broad River Road
Columbia, South Carolina 29221
(803) 896-8508

May 22, 2013
Columbia, South Carolina

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Mr. Eddie L. Hall, #184752

Appellant,

vs.

South Carolina Department
of CORRECTIONS,
Respondent.

Case No: 13-CO-136

Grievance No: KRCI-524-12

BRIEF

Declaration of Policy

It shall be the policy of this State in the Operation and management of the Department of Corrections to manage and conduct the Department in such a manner as will be consistent with the Operation of a modern prison system and with the views of making the system self-sustaining, and that those convicted of violating the law and sentenced to a term in the State Penitentiary shall have humane treatment.

Facts

Petition shall set forth the type and quantity of the controlled substance involved, as which in this case policy.

Argument

Under Policy ADM-16.05 Food Service Operations Section 7.2 Therapeutic Diets. OP-22.15, Section 8, Prisoners will not be deprived of their food.

All therapeutic diets are prescribed by the S.C.D.C. physicians and dentists, and a list of approved is approved therapeutic diet, which will be maintained in each institutions Cafeteria.

Diabetics is not the only ones need their diet therapeutic trays, all therapeutic diets need their diet trays.

A list shows that therapeutic diets on this be prepared as prescribed by the physician.

Lock-down and changing diets is only implement through S.C.D.C. force policy which is the subjected to reprisal, retaliation, harassment, through that treatment.

Conclusion

To lock me down without any charge or any disciplinary infractions against me is cruel and unusual punishment.

Requesting Relief

Attention to the Department of Corrections, that Mr. Eddie L. Hall, Christian Jew, #184752 be place on therapeutic diets of his choice, because all therapeutic diets is prescribed by a physician of S.C.D.C. medical staff.

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Mr. Eddie L. Hall, #184752

Appellant,

vs,

South Carolina Department
of Corrections,

Respondent.

Case No: 13-CD-136

Grievance No: KRCI-524-12

Proof of Services

This Brief Petition has been hereby place in the
Kershaw C. I. mailroom to show that all parties
has been serve through the institutional mail-
room.

Sworn or Affirmed To And
Subscribed Before Me This

12 Day of June 2013

Cathrine A. Amara

Notary Public

My Commission Expires December 22, 2015

Bless Ye The Lord

Respectfully Submitted

Eddie L. Hall

Mr. Eddie L. Hall, (Christian Jew)
Kershaw C. I. Palmetto B.R. 33, #184752
4848 Goldmine Highway
Kershaw S.C. 29067

STATE SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Mr. Eddie L. Hall, #184752

Appellant,

vs,

South Carolina Department,
of Corrections,

Respondent.

Case No: 13-CD-136

Grievance No: KRCI-524-12

Administrative Hearing
On Evidence Presented

On the dates of July 7, 8, 9, and 10, 2013, Palmetto unit (B) side was lock-down without any diets given to any prisoners that receive diet trays. Kershaw C.I. refuse to give any diet trays to those in need like myself.

The record would show that all prisoners was under the punishment of reprisal, retaliation and harassment of keeping diet trays away from those with No charge or any disciplinary infraction against them are myself.

Therapeutic diets are not prepared for those not involve with the necessary conditions at hand.

The incident begin June 17, through to the 28 under mortify lock-down. June 29 and 30, 2013, lock-down in the rooms.

Punishment was enhanced from (8) O'clock mortify lock-down to (6) O'clock mortify lock-down to lock down again without any charge or disciplinary infraction, July 7 through to the time of this document.

This Corporal Punishment is proof of Case 13-CO-136, and Grievance number K.R.C.I. 524-12.

Notification is hereby serve to Administrative Law Judge and to the Department of Corrections.

Respectfully Submitted
Eddie L. Hall
Mr. Eddie L. Hall, Christian Jew
Kershaw C.I. Palmetto B.R. 33B, #184752
4848 Goldmine Highway
Kershaw S.C. 29067

Administrative Hearing On Evidence Presented.
Page 2.

Dear Appellant:

Below is information regarding your case which has been filed with the ALC. Please refer to the Rules of Procedure (enclosed) for the time frames on filing briefs and other matters.

Case Number	Inmate Number	Inmate First Name	Inmate Last Name	Grievance No	Respondent	Filing Date	Date Assigned	Judge Last Name
13C0136	184752	EDDIE	HALL	KRCI 524-12	DOC	2/20/2013	3/6/2013	LENSKI

FILED

MAR 06 2013

SC ADMIN. LAW COURT

You must file all original documents and correspondence regarding this case directly with the above-named Judge and serve a copy on the Dept. of General Counsel, S.C. Dept. of Corrections, PO Box 21787, Columbia, SC 29221.