

STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT **Dec 27 2024**

Administrative Law Judge S. Phillip Lenski

SC Court of Appeals

ALC Case No. 23-ALJ-04-0447-AP
Appellate Case No. 2024-001796

CLIFTON D. LYLES, # 294075

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

MOTION TO REMAND

This appeal relates to a claim that a particular SCDC policy does not allow for meaningful review under certain circumstances. After reviewing the documentation from the Record before the Administrative Law Court, undersigned counsel agrees that there was an error with regard to the response provided to Appellant on the Step 2 grievance form. (See Attached Step 1 and Step 2 Forms.) Accordingly, Respondent respectfully requests that this Court remand the matter to the ALC with instructions to further remand to the Department for issuance of a corrected Step 2 grievance response.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

BY:



CHRISTINA BIGELOW

Deputy General Counsel

Office of General Counsel

S.C. Department of Corrections

Post Office Box 21787

Columbia, South Carolina 29221

(803) 896-8508

ATTORNEY FOR RESPONDENT

December 27, 2024

WARDEN'S DECISION AND REASON:

Lyles, Clifton - 294075

LIWC- 0059 - 24

I have reviewed your concern. In your grievance you state to your understanding that in GA 01.12 "Inmate Grievance System" it fails to provide inmates an adequate remedy to appeal an unprocessed grievance. You request to have the policy changed and to be able to appeal the Agency Inmate Grievance Coordinator's final decision to the Administrative Law Court. In accordance with GA-01.12 "Inmate Grievance System: 13.3 "Unprocessed (reviewed but returned) grievances may only be appealed by utilizing SCDC Form 19-11 "Inmate Request to Staff Member" (RTSM) to the Agency Grievance Coordinator within ten (10) days of the grievance being returned to the inmate. The inmate must provide a copy of the unprocessed (reviewed but returned) grievance with the RTSM. The Agency Grievance Coordinator will then review the decision made by The Inmate Grievance Coordinator and make a final decision. If the decision is upheld this will exhaust all appeals for unprocessed (reviewed but returned) grievances. The Administrative Law Court will only review appeals that have successfully completed the grievance process. You have not shown that SCDC staff have failed to do their jobs properly.

Therefore, your grievance is denied.

If you disagree with this Warden's 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 within five (5) days of the receipt of this decision.

AJU Smith 5-6-2024
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.

Clifton Lyles 5-6-24
Grievant Signature Date

K. Curran 05-06-24
IGC Signature Date

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.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

DATE DUE: 5-11-24

Office Use Only

INMATE NAME: Clifton Lyles
SCDC NUMBER: 294075
INSTITUTION: LIVESAY MAY 09 2024
HOUSING UNIT: 2-24-A
WORK ASSIGNMENT: HORTICULTURE

Grievance No. LWJ - 0059-24
Code: General Policy PL-AD
Disc. Hear. _____
Class _____
PREA _____
Date Received: 5-09-24
IGC Initials: (10)
Date Received: 5/23/24
IGA Initials: dc

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MAY 09 2024
INMATE GRIEVANCE

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

In his decision, the Board states that, "the Administrative Law Court will only review appeals that have successfully completed the grievance process. You have not shown that SDC staff have failed to do their jobs properly." His decision is flawed in that appellate review of the Administrative Law Court is determined by whether or not an Appellant has properly exhausted his Administrative remedies, not on a successful completion of the grievance process. In the Grievance policy, section 13.3, even if an inmate properly exhaust the remedies required for an unprocessed grievance, he is not being allowed to receive review beyond the Department. That is a direct violation of his rights to seek redress of his grievance in violation of Article 19 of the South Carolina Constitution and the 14 Amendment of the U.S. Constitution.

Grievant Signature Clifton Lyles Date 5-6-2024

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

This grievance is being processed and returned to you because your issues are non-grievable. In accordance with SCDC policy GA-01.12 Inmate Grievance System "Inmates cannot file a grievance on the following issues: Unprocessed (reviewed but returned) grievance(s); The disposition on another grievance; The status of a pending grievance."

Responsible Official Signature [Signature] Date 5/23/24

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)

SCDC 10-5A (Rev. May 2015)

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APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that on this date, she mailed a copy of the Respondent's **Motion to Remand** to Appellant, addressed as follows:

Clifton D. Lyles, # 294075
Livesay Correctional Institution
N2-0024
Post Office Box 580
Una, South Carolina 29378



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

December 27, 2024



SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS
Division of Legal Counsel & Compliance

HENRY McMASTER, Governor
BRYAN P. STIRLING, Director

OFFICE OF GENERAL COUNSEL

December 27, 2024

The Honorable Jenny A. Kitchings
Clerk of Court, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

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Dec 27 2024

SC Court of Appeals

RE: Clifton D. Lyles, # 294075 v. South Carolina Department of Corrections
Appellate Case No. 2024-001796

Dear Ms. Kitchings:

Enclosed please find the Respondent's **Motion to Remand** in the above captioned appeal, along with **Proof of Service**.

Thank you for your attention to this matter, and please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

Christina C. Bigelow
Deputy General Counsel
South Carolina Department of Corrections

cc: Clifton D. Lyles, # 294075
Livesay Correctional Institution
N2-0024
Post Office Box 580
Una, South Carolina 29378