

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

George Tomlin, 166361,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

Docket No. 13-ALJ-04-0054-AP

ORDER DENYING MOTION TO
ALTER OR AMEND JUDGMENT

SEP 20 2013

SC Court of Appeals

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

This matter first came before the court by a Notice of Appeal filed on January 24, 2013 by the Appellant. He was seeking the reversal of the Department's decision that no inmates should receive pen pal information. The Appellant did not lose any accrued good time as a result of being denied access to pen pal information. The Department filed the Record on Appeal on March 22, 2013 and the Appellant timely filed his brief on March 22, 2013. The Department filed a Brief and Motion to Dismiss on May 1, 2013. The Department's grounds for requesting dismissal were that this court did not have jurisdiction over the Appellant's appeal because 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.

The court issued an Order of Dismissal on May 9, 2013 on the grounds that the court did not have jurisdiction over the appeal. On May 14, 2013 the Appellant filed an Answer to Respondent's Brief and Motion. On May 22, 2013 the Appellant filed the present Motion to Alter or Amend Judgment. On July 8, 2013 he filed a Supplement to Appellant's Motion to Alter or Amend. The Appellant's grounds for seeking that the court alter or amend its judgment are that the Department's policy/procedure PS-10.8 entitles inmates to correspondence privileges including correspondence with pen pals and that a complaint should not be dismissed unless it appears beyond a doubt that the plaintiff can prove no set of facts in support of his claim which

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would entitle him to relief.

After carefully considering the Appellant's Reply Brief and Motion to Alter or Amend Judgment, this court declines to alter or amend the Order of Dismissal issued in this case. 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 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 access to pen pal information does not implicate 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 Appellant's Motion to Alter or Amend Judgment is **DENIED**.

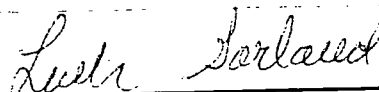
August 23, 2013
Columbia, South Carolina


S. Phillip Lenski
Administrative Law Judge

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

CERTIFICATE OF 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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