

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INCIDENT REPORT

09-12-047

9/3/12

Page 1 of 1

Institution/Center: ECT	
Date of Report: Sept 3, 2012	Time of Report: approx 1:15 pm
Reporting Official: J. Brock 048331	Date of Incident: Sept 3, 2012
Location of Incident: Workman A wing from 181	Time of Incident: Approx 1:15 pm
Inmate(s)/Resident: SCDC# Age Race Sex	Employee(s) Involved:
1. Darnell Hunter 260730 F/m	1. Ofc Breeden
2. Joseph Abercrombie 293021 M/m	2. 4A 181 Pidge 10.5 MH
3.	3.
4.	4. 4A 181 Pidge 10.5 MH
5.	5.

On the above date and approximate time: I ofc Brock assigned to workman B wing conducted a routine shakedown on workman A wing with ofc Breeden. When entering the cell I ofc Brock found approx 2 gallons of a red frothy liquid in a clear trash bag between the bed and lockers. I ofc Brock am charging both F/m listed above with #899 the use, possession, or distilling and/or Breeding of any alcoholic Beverage.

Signature: Ofc Brock

Evidence:

Witness(es):

Supervisor's Comments: Airtel to major meet

Signature: A. Ashington Title: Capt Date/Time: 9-3-12 7:00 pm

Major/Responsible Authority: 899

INMATE Darnell Request DHO

Signature: M. Rogers Title: ADM CAPT Date: 9/2/12

190578
State of South Carolina
Inmate Relevance Coordinator

STG Related - Refer to STG Committee
 Yes No Unknown

This Incident is DRUG related
 Yes No Unknown

Action Taken

- Informal Resolution
- Administrative Resolution DHO Request
- Refer to Disciplinary Hearing

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
DISCIPLINARY HEARING PROCEDURE
DOCKET No.: 13-ALJ-04-0206-AP GRIEVANCE No.: ECI 1902-12
INMATE NAME: Darnell Hunter SCDC No.: 260730
INSTITUTION: Evans Correctional Institution
DATE: September 17, 2012
CHARGE: 899-The Use, Possession or Distilling and/or Brewing of Any Alcoholic
Beverage**

DHO: The purpose of this hearing is to treat the matter before me with fundamental fairness to arrive at a just decision. All parties must conduct themselves properly. Failure to do so will result in removal. State your name and your SCDC Number for the record, please.

I/M: Darnell Hunter, 260730.

DHO: Inmate Hunter, you're appearing before the Evans Correctional Institution Major Disciplinary Hearing, being recorded on September 17th, 2012, at 11:05 a.m. I am Ms. Brown. Inmate Hunter, are you ready to proceed?

I/M: Yes ma'am.

DHO: This is Case 69; Inmate name is Darnell Hunter; SCDC Number's 260730; the Offense Date is September 3rd, 2012; the Offense Time is 1:00 o'clock; the Offense Location is Evans; the Offense Description is, On the Above Date and Approximate Time: I, Officer Brock, assigned to Waxhaw B, conducted a routine shakedown on Waxhaw A Wing with Officer Breeden. When entering the cell, I, Officer Brock, found approximately two (2) gallons of red fruity liquid in a clear trash bag between the bed and lockers. I, Officer Brock, am charging both inmates listed above with 899. You're being charged by Officer Brock. If found guilty of these charges, you may be counseled,

DHO: Disciplinary Hearing Officer

I/M: Inmate

C/S: Counsel Substitute

reprimanded, lose privileges, assigned extra duty, cell restriction, visitation privileges suspended, and pay restitution. Also, with you being a straight timer, you may or may not receive an extension on your time. You received a copy of these charges on September 12th, 2012 at...and you were served by Sergeant Hunter. Is this correct?

I/M: Yes ma'am.

DHO: Alright. Um, Mr. Hutson, you are representing Inmate Hunter. Is this correct?

C/S: Yes ma'am.

DHO: Okay. Inmate Hunter indicated prior to the hearing starting that he did not want his accuser. Is that fine with you, Mr. Hutson?

C/S: Yes...yes ma'am.

DHO: Okay. Um, do you wish...do you have anything you would like to present on the inmate's behalf, Mr. Hutson?

C/S: Um...uh, yes ma'am. I would just like to ask, um, as far as what was used to determine that this was an alcoholic substance?

DHO: Um, usually alcoholic substances, um, sight and smell. Cause' we don't have a test to actually test it with, so they go by the sight and smell. The smell is fruity or smell funny, that's usually what we go by, or how it looks to us. And that's in the policy, sight and smell.

I/M: Yes ma'am.

DHO: Do you have anything you want to say?

I/M: No ma'am. It just that he...he ain't...he ain't, um, I just...he ain't...he ain't look at it. It just...it just...uh, it just...I'm just go ahead and just...

DHO: What do you mean he didn't look at it?

I/M: (inaudible).

DHO: You had liquid in a bag. Right?

I/M: Yes ma'am. Yes ma'am.

DHO: Okay.

I/M: Yes ma'am.

DHO: Alright. What was in the bag?

I/M: Sodas and candy.

DHO: Soda?

I/M: Yes ma'am. I ain't lie.

DHO: For what? What you got soda and candy in the bag for? To do what with?

I/M: To be honest with you...

DHO: Yeah, be honest with me.

I/M: I was getting' ready to put it together to make some wine.

DHO: Of course you was.

I/M: But it ain't ever got to...he took...he took the sodas and the candy...

DHO: Oh, okay.

I/M: ...and left the other stuff to make the wine.

DHO: Oh, okay then. Do you have anything else?

I/M: (inaudible). No ma'am. That's all.

DHO: Well, did you turn them in and say, "Hey, you forgot this."

I/M: Yes ma'am.

DHO: Oh, well, that's a good thing.

I/M: Yes ma'am.

DHO: Alright. Disciplinary Report Number 69, which was read at the beginning of this hearing will be used as evidence against you. Uh, Mr. Hutson, you have anything else to add?

C/S: Um, just like to ask for any leniency possible seeing this is his first offense of 899.

DHO: Alright. I've heard the charges and provided an opportunity for the accused to make a statement and present evidence on his behalf. I will now recess this hearing to arrive at a decision. Restate your name and SCDC Number for the record.

I/M: Darnell Hunter, 260730.

DHO: Inmate Hunter, I find you guilty of the charges brought against you. The evidence I relied upon to reach my decision was based on: the Offense Report, as written. My sanctions against you will be: 90 canteen; 90 phone; and 90 visit; and 30 days loss of good time. This punishment is given because this is your first charge of this nature within six months. You will receive a copy of this hearing today explaining results and appeals process, which is located on the back of this 19-69. You have 15 days to file a grievance with the Grievance Coordinator, if you're unsatisfied with my sanctions or my findings. Case now concluded.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

STEP 1 to
D. O. C. 2

INMATE NAME: Darnell Hunter OCT 24 2012
 SCDC NUMBER: 260730
 INSTITUTION: EVANS INMATE GRIEVANCE
 HOUSING UNIT: Waxhaw A #18K OCT 22 2012
 WORK ASSIGNMENT: Unit BY: JP

Office Use Only
 Grievance No. 19076
 Code: General _____
 Policy _____
 Disc. Hear. 899 CWC #69
 Class. H3 9/17/12
 Date Received 10/17/12
 IGC Initials AS

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): This appeal is for the fact that the warden totally disregarded the plaintiff facts of no alcohol was provided the officer never stated he smell alcohol. There was nothing provided to substantiate the fact that the red fruity liquid was indeed alcohol. The Otto Angela Brown stated all the officer had to do was state he smell alcohol and that was enough to warrant a guilty verdict. In the case at BAR the officer never stated he smell alcohol, he said a red fruit substance. At most the charge can only be contraband because the trash bags are contraband on this yard. There was nothing presented to substantiate the charge. (view the facts)

[Signature] 10-19-12
 Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

The documentation provided indicates that the evidence presented was sufficient to support the conviction of the Use, Possession, or Distilling and/or Brewing of any Alcoholic Beverage (8.99) on September 17, 2012, and the sanction(s) imposed under SCDC Policy OP-22.14, Inmate Disciplinary System, dated July 1, 2012, which included the loss of -30- days accrued good time, were appropriate for the rules violation(s). There was no reason found to warrant a reversal of the Disciplinary Hearing Officer's decision. A review of your appeal revealed that you received forty-eight (48) hour notice prior to the hearing, you were afforded due process rights, as required, and the offense was classified and heard in a timely manner.

Therefore, your grievance is denied.

You may appeal this decision under the Administrative Procedures Act to the Administrative Law Court. In order to appeal, you must fill out the attached Notice of Appeal Form and submit it as instructed on the form within 30 days of receipt.

[Signature] 2/19/13
 Signature Date

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)

INSTRUCTIONS FOR COMPLETING STEP 2 GRIEVANCE FORM

1. Complete form in its entirety, writing only in the space provided for inmate use.
2. State your specific reason for further appeal. Do not submit any new issues for review.
3. Submit this completed form with your original Step 1 attached, to the Institutional Grievance Coordinator within five (5) days of your receipt of the Warden's decision. Do not write in the space provided for the responsible official.
4. The decision rendered by the responsible official exhausts the appeal process of the SCDC Inmate Grievance Procedure.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM

STEP 1

INMATE NAME: Darnell Hunter
 SCDC NUMBER: 260730
 INSTITUTION: EVANS **RECEIVED**
 HOUSING UNIT: Waldsaw A 181 **OCT 02 2012**
 WORK ASSIGNMENT: Unit BY: J

Office Use Only
 Grievance No. EC7-1902-12
 Code: General _____
 Policy _____
 Disc. Hear. SCDC #64
 Class. HD 9/17/12
 Date Received 10/2/12
 IGC Initials AG

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy) I am appealing the guilty verdict of 1-17-12 for (899) for the following procedural errors of 22.14(C, 2) states that a statement of facts of the offense to include at a minimum Name and SCDC Number of the inmate, (which was not included see incident report) general location of the offense (which was not included see incident report) Both were not included and was mandated by 22.14(B, 2) and procedural errors. In as much (899) states, any inmate acting under the influence of alcohol or in possession of alcohol or alcoholic beverage, or other brewed substance which when ingested creates altered states of physical or mental

ACTION REQUESTED:

that my case be reversed and remanded to Contraband and all sanctions ^{Enlightened}

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

on 9-17-12, I tried to get the charge dropped to it's original charge, contraband all to no avail.

Darnell Hunter
9-30-2012
 Grievant Signature Date

ACTION TAKEN BY IGC:

1. IGC reviewed disciplinary hearing record and relevant agency policies. I have reviewed the tape recording of this hearing. There were no technical/procedural errors noted in the handling of this case.
2. Forwarded to Warden Eageiton for a response.

A. GW 10/12/12
 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

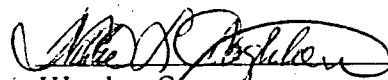
WARDEN'S DECISION AND REASON:

Inmate Hunter:

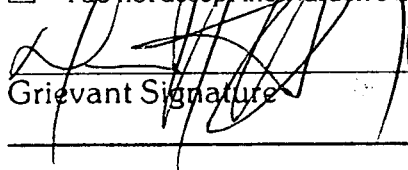
This is in response to grievance ECI 1902-12

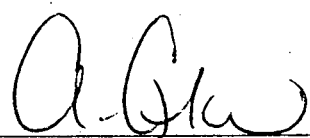
I have reviewed your grievance and the facts. The points you raised do not substantiate any errors in the disciplinary hearing procedures and do not warrant a reversal. I find no technicalities, misinterpretations of evidence, or disproportionate sentencing in which you may appeal. You were convicted of (899) Use, Possession or Distilling or Brewing case # 69 Hearing Date 09/17/12 based upon credible evidence. The sanctions imposed were well within the guidelines for the offense and your grievance is denied.

If you wish to pursue this matter, please contact your grievance coordinator for the appropriate forms. You have five (5) days from receipt of my response to submit a Step 2-grievance form.


Warden Signature 10-15-12
Date

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


Grievant Signature 10/15/12
Date


IGC Signature 10/15/12
Date

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM

1. An informal resolution shall be attempted prior to the filing of Step 1.
2. Complete each section in its entirety, writing only in the space provided for inmate use.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form to the Institutional Grievance Coordinator within fifteen (15) days of an alleged incident; policy grievances at any time. 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, via the Institutional Grievance Coordinator.

South Carolina Department of Corrections
Inmate Grievance Form

Sep 7 pg 2 of 1

Activity.. The incident report clearly states; "I ofc Brock found approx 2 gallons of red fruity liquid in a clear trash bag Between bed and lockers..."

No where is it stated, a alcohol test was administered to substantiate the fact that it was Alcohol... No where was it admitted that ofc, Brock smelt Alcohol, or any thing in that vicinity. The Narrative doesn't fit the charge of (899) maybe Contraband but not 899. Therefore the case should be remanded and reversed and all Sanctions imposed eradicated for the following procedural Errors listed above.

(Pg. 2 of 1)