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FEB 03 2012

S.C. Supreme Court

William Deans, #204228,

Petitioner,

v.

South Carolina Department of Corrections,

Respondent.

APPENDIX

William Deans
7901 Farrow Road
Bldg. 3, Room 307
Columbia, SC 29203
(803) 896-2922

Other Counsel of Record
Christopher D. Florian
SCDC General Counsel
PO Box 21787
Columbia, SC 29221-1787
803/896-8555

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FEB 03 2012

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

The Honorable Ralph K. Anderson, III
Administrative Law Court
Case No: 2009-AL-04-00290

WILLIAM DEANS

APPELLANT,

V.

SOUTH CAROLINA DEPARTMENT OF
CORRECTIONS,

RESPONDENT.

NOTICE OF INTENT TO FILE WRIT OF CERTIORARI
FROM THE SOUTH CAROLINA COURT OF APPEALS

William Deans gives Notice of intent to appeal the final order of Few, C.J., Thomas, J., ?, J., (signature illegible) of the SC Court Of Appeals dated January 25, 2012, ie: (Unpublished Op: No: 2011-UP-483) Appellant received written notice of entry of this order on January 27, 2012.

January 31, 2012

x-prisoner

William Deans

William Deans
SCDMH, BRCI, EDISTO UNIT
c/o:
Bldg. 3, 3d floor
7901 Farrow Rd.
Columbia, SC 29203

Other Counsel Record:
David M. Tatarsky
SCDC General Counsel
PO Box 21787
Columbia, SC 29221-1787
803/ 896-8555

January 31, 2012

The Honorable Daniel E. Shearhouse
Clerk, South Carolina Supreme Court
PO Box 11330
Columbia, SC 29211

RE: William Deans vs. SCDC (not prisoner)
2009-ALJ-00290

Tracking Number: 2009-145946
Final Order: Op: No: 2011-UP-483

Dear Mr. Shearhouse

Enclosed for filing is a notice of appeal in the above case, whereby I intend to file writ of Certiorari to the SC Supreme Court.

Please, find enclosed copies of other notices given in this matter.

Sincerely,

x-prisoner

William Deans

William Deans
SCDMH, BRCI, EDISTO UNIT
c/o:
Bldg. 3, 3d floor
7901 Farrow Rd.
Columbia, SC 29203

January 31, 2012

The Honorable Tanya A. Gee
Clerk, South Carolina Court Of Appeals
PO Box 11629
Columbia, SC 29211

RE: William Deans vs. SCDC (not prisoner)
2009-ALJ-00290

Tracking Number: 2009-145946
Final Order: Op: No: 2011-UP-483

Dear Mrs. Gee

Enclosed for filing is a notice of appeal in the above case, whereby I intend to file writ of Certiorari.

SECONDLY, pursuant to your letter of 1/25/2012 you told me that I had 10 days in which to pay \$7.50 to mail the records to me.

This is impossible to do so in 10 days, I am civilly committed to the SCDMH, it will take the SCDMH up ward of 2-3 weeks to cut you a check from my account.

I have ordered the SCDMH to send you a check, so lease be patient.

Mr. Richstad was aware of the problem of delay caused by the SCDMH financial office.

Sincerely,

x-prisoner

William Deans

William Deans
SCDMH, BRCI, EDISTO UNIT
c/o:
Bldg. 3, 3d floor
7901 Farrow Rd.
Columbia, SC 29203

David M. Tatarsky
SCDC General Counsel
PO Box 21787
Columbia, SC 29221-1787

1/31/12

WILLIAM DEANS
SCDMH, BRCI, EDISTO UNIT 197
c/o:
Bldg. 3, 3d floor
7901 Farrow Rd.
Columbia, SC 29203

RE: William Deans vs. SCDC (not prisoner)
2009-ALJ-00290

Tracking Number: 2009-145946
Final Order: Op: No: 2011-UP-483
from SC Court Of Appeals

To: Mr. Tatarsky,

Find enclosed notices of intent to file writ of Certiorari in this matter.

Sincerely,

x-prisoner

William Deans

William Deans
SCDMH, BRCI, EDISTO UNIT
c/o:
Bldg. 3, 3d floor
7901 Farrow Rd.
Columbia, SC 29203

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

William Deans,

Appellant,

v.

South Carolina Department of
Corrections,

Respondent.

Appeal from the Administrative Law Court
Ralph King Anderson, III, Administrative Law Court Judge

Unpublished Opinion No. 2011-UP-483
Submitted October 1, 2011 – Filed October 28, 2011

AFFIRMED

William Deans, pro se, of Columbia.

Christopher D. Florian, of Columbia, for Respondent.

PER CURIAM: William Deans, a civilly committed sexually violent predator (SVP), appeals the dismissal of his Department of Corrections (DOC) grievance by the Administrative Law Court (ALC). He argues he is entitled to grievance procedures provided by DOC to SVPs to redress grievances arising from DOC's control, care, and treatment. We affirm¹ pursuant to Rule 220(b)(1), SCACR, and the following authorities: S.C. Code Ann. § 1-23-610(B) (Supp. 2010) (limiting reversal of an ALC decision unless "in violation of constitutional or statutory provisions; . . . [or] clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record"); S.C. Code Ann. § 1-23-600(D) (Supp. 2010) (providing the ALC "shall preside over all appeals from final decisions of contested cases"); S.C. Code Ann. § 1-23-310(3) (2005) (defining "contested case" as 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"); Al-Shabazz v. State, 338 S.C. 354, 375, 527 S.E.2d 742, 753 (2000) ("An inmate brings a contested case for the purposes of judicial review when he challenges a disciplinary outcome, calculation of sentence related credits, custody status, or other condition of imprisonment."); S.C. Code Ann. § 44-48-100(A) (Supp. 2010) ("If the court or jury determines that the person is a [SVP], the person must be committed to the custody of the Department of Mental Health" (emphasis added)).

AFFIRMED.

FEW, C.J., THOMAS and KONDUROS, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX (803) 734-1839
www.sccourts.org

January 25, 2012

William Deans
7901 Farrow Road
Bldg 3, Rm 307
Columbia, SC 29203

Re: Deans, William v. SCDC

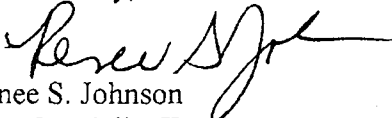
Dear Mr. Dean:

Enclosed is a copy of an Order of the Court denying your Petition for Rehearing in the above case.

The Remittitur in this case will be held in this Court only so long as required by Appellate Court Rule 221 (b).

Please notify this office, in writing, within ten (10) days from the date of this letter, whether or not you want any of the remaining Records on Appeal and briefs we may have in this case. Also enclose a check payable to the S. C. Court of Appeals, in the amount of \$7.50, to cover mailing costs. If we have not heard from you within ten (10) days, the Record on Appeal and briefs will be disposed of.

Sincerely,


Renee S. Johnson
Case Specialist II

VCA
TAG/rj

cc: Christopher D. Florian, Esquire

The South Carolina Court of Appeals

William Deans,

Appellant,

v.

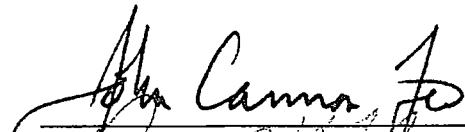
South Carolina Department of
Corrections,

Respondent.


The Honorable Ralph King Anderson, III
Administrative Law Court
Case No. 2009-AL-04-00290

ORDER


After a careful consideration of the Petition for Rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded and hence, there is no basis for granting a rehearing. It is, therefore, ordered that the Petition for Rehearing be denied.



C.J.



J.



J.

Columbia, South Carolina

FILED

25 January 2012

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Ralph King Anderson III, Administrative Law Judge

Case No. 09-ALJ-04-00290-AP

South Carolina
Department of Corrections,

Respondent,

v.

WILLIAM DEANS,

Appellant,

APPELLANT PETITION FOR RE-HEARING OF OPINION NUMBER 2011-UP-483

WILLIAM DEANS
7901 Farrow Rd.
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Columbia, SC 29203

(803) 896-2922

Other Counsel Of Record
David M. Tatarsky
SCDC General Counsel
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SC Court of Appeals

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APPELLANT PETITION OR RE-HEARING OF
SC COURT OF APPEALS OP: 2011-UP-483.

Come Now, Appellant, William Deans moves this Court pursuant to SCACR, Rule 221, SCRCP, Rule 59 for Re-hearing of denial of relief in SC Court Of Appeal Op: 2011-UP-483

1. Appellant received a copy of referenced Opinion 2011-UP-483 on 10/31/11 at approx. 6:45 pm.
2. Appellant argues specifically, the SC Court Of Appeals erred by denying Appellant relief by ruling that Appellant is not a SCDC prisoner pursuant to AL-Shabazz and thus the ALC is without the Subject Matter Jurisdiction to hear SVPTP grievance against the SCDC.
4. The S.C. Court Of Appeals erred by not fashioning relief in the form of a grievance system where Appellant can seek re-dress against the SCDC.
5. The S.C. Court Of Appeals erred by denying Appellant an avenue for filing grievances pursuant to SC Constitution Art. I, sec 2.
6. See as if fully Incorporated herein, Appellants Brief on Appeal.

Prayer or Relief

Wherefore, Appellant moves this Court to,

1. remand the case back to the ALC, granting the ALC subject matter jurisdiction to hear and adjudicate grievance[s] that arise between Appellant and SCC Ann. 44-48-10/170 SVPTP Edisto unit 197 residents and the SC Dept. Corrections.

2. In the alternation, grant the SC Court Of Common Peas, Richland County, the subject matter jurisdiction to hear and adjudicate grievance[s] that arise between SCC Ann. 44-48-10/170 SVPTP Edisto unit 197 resident, Appellant William Deans and the SC Dept. Corrections.

3. Or in the Alternative, adjudicate the SVPTP SCC Ann. 44-48-10/170 specifically at 44-48-100 is unconstitutional for failing to afford Appellant with an equitable grievance system between Appellant and the SCDC.

4. Or in the Alternative, adjudicate the SVPTP SCC Ann. 44-48-10/170 specifically at "Interagency Agreement between the SCDC and SCDMH" is unconstitutional for failing to afford Appellant with an equitable grievance system between SVPTP resident Wigwam Deans and the SCDC.

Nov. 7, 2011

William Deans

William Deans
7901 Farrow Rd.
Bldg. 3, 3rd Floor
Columbia, SC 29203

MEMORANDUM IN SUPPORT OF APPELLANT PETITION FOR RE-HEARING

Appellant a person held by the SCDMH pursuant to SCC 44-48-10/170 at 100, filed an appeal for the denial of a grievance system between SVPTP residents held within the Edisto unit 197, BRCI and the SCDC BRCI.

The SC Court Of Appeals in Op: 2011-UP-483 denied relief, stating basically that since Appellant is not serving a criminal convicted sentence at the SCDC, then Appellant is not entitled to use [a] SCDC Grievance system pursuant to (Al-Shabaz).

As shown in Appellate s Appeal Brief, he specifically states he knows he not a convicted prisoner not serving a criminal sentence, and is not asking to use the SCDC (Al-Shabaz) Grievance system.

The SC Court Of Appeals decision appears to have double talked itself into the given decision; or it is like Appellant saying the Sky is blue, and the SC Court Appeal turns around and says "No, the sky is Blue".

See Appellants Appeal Brief, it states Appellant grieves there is no grievance system between a SVP resident (Appellant) and the SCDC. The SC Court Of Appeals comes back and says the appeal is denied because there is no grievance system between a SVP resident and the SCDC.

The original grievance does not say Appellant ask / attempted to use the SCDC Grievance system pursuant to (Al-Shabaz)

But yet, that is exactly why this Court of Appeals has used as a reason to dismiss the appeal.

Appellant ask for the SC Court Of Appeals to either adjudicate that Administrative Law Court has the subject matter jurisdiction to decide SCDMH SVP resident / SCDC grievance[s] under another authority producing a new grievance system that has nothing to do with an Al-Shabaz SCDC grievance system.

Or, to state which court that holds such jurisdiction to decide grievances between Appellant, being a SCDMH SVP resident and the SCDC at the Broad River Correctional Institution.

The SC Court Of Appeals erred by denying Appellant the protections afforded though the SC Constitution Article I and section 22.

Which states:

SECTION 22. Procedure before administrative agencies; judicial review.

"No person shall be finally bound by a judicial or quasi-judicial decision of an administrative agency affecting private rights except on due notice and an opportunity to be heard; nor shall he be subject to the same person or both prosecution and adjudication; nor shall he be deprived of liberty or property unless by a mode of procedure prescribed by the General Assembly, and he shall have in a such instances the right to judicial review"

Appellant asserts this Court err of SC Const. Art I, sec 22 denies Appellant an "opportunity to be heard", this is a violation of U.S. Const. 1st amendment proglamated through the 14th Amendment. And, SC Const. Art. I, sec. 2.

Appellant can not file a grievance against the SCDC with the SCDMH, ALC, Court of Common Pleas or in U.S. District Court.

This Court's decision, claims either Appellant has no rights to grieve issues any where except with the SCDMH.

This is again in error for the SC Court Of Appeals just dis enfranchised this Appellant to a no-man's land here through the SCDMH grievance system that is without the jurisdiction to Challenger the SCDC.

See. Pursuant to SCDMH Memorandum, dated 1/8/10, revised 9/28/2011, RESIDENT GRIEVANCE PROCEDURE, policy II, at © states

"Actions of persons not under the jurisdiction of the program (see exceptions related to SCDC matters in paragraph III D."

III Procedures (D) (3) Review Resolution"

3) Grievances related to SCDC responsibilities under the "Interagency Agreement" ie: food services, canteen and chaplain services, will be subject to discussion between the SVP Program Director and the Warden.

"The SVP Program Director will compete and sign the response. SCDC matters are not subject to appeal."

Appellants Appeal Brief raised and addressed everyone of the foregoing issues.

This Court failed and refused to state or design a forum in which Appellant is suppose to file his grievance[s] against the SCDC to.

Appellants Appeal Brief describes just a small look into just how much the SCDC controls and involves / violates itself in Appellants civil commitment.

SCDC provides the building, food, lights, water, air / heating, outside fence security, fire and safety, Appellant's personal property control and controls the use of body restraints on this Appellant.

simple grievance issues the SCDMH can not address.

"The Edisto building where Appellant is housed has been condemned as unfit for habitation, extremely poor operating pumping, most cell sinks are clogged up, shower drains are clogged, with one shower drain has been completely clogged for at least the past six months.

There was no heat on B-side Edisto during the dead of winter, with temperatures hit as low as 43 degrees in some cells, with the average temperature of 52 degree's Fahrenheit.

SCDC provided food is fro the most part rotten, old, burnt. Showers water either are extremely cold or scalding hot. Either very seldom being with in standards.

The air inside Edisto unit stay's permeated with dust, whereby the re-turn ducts are clogged with dust approximately 1 to 2 inch thick, with mold.

SCDC guards think nothing of opening and inspecting SVPTP residents mail and packages and confiscating any item that does not meet their approval.

Warden Stevenson dictates what food items that can or can not be brought into the Edisto unit, to which Warden Stevenson mandates eh Edisto unit SVPTP residents receive the same food as SCDC prisoner ho are on SMU (Special Management Unit) which is the punishment unit or misbehaving SCDC prisoners.

A secondary question raises being, is why does SCDC serve Appellant prisoner food which is designed to punish when Appellant is held under civilly commitment.

No Chaplin services are provided that are not Christian or Catholic denomination.

SCDC guards have actually come in and inspected SVPTP cells, and threatened to punish any residents who voices an objection to this violation.

SCDC canteen management has threatened punishment of any SVPTP residents violating SCDC canteen rules.

SCDC confiscates SVPTP residents money's from their Cooper Trust Fund (canteen account) for such as medical fee's, and DNA from when the given SVP resident was actually serving a prison sentence which is over now and the resident is now being held civilly committed to the SCDMH.

The SCDC dictates SVPTP residents recreation yard time and usage.

The SCDC denies Edisto unit, SVPTP residents treatment incentive personal property that SCDC prisoner are allowed to have such as small TV's, typewriters. that are not grand fathered being items prior to approximate 2009. This appears to be SCDC Warden Stevenson inflicted punishments upon SVPTP Edisto unit residents which includes this Appellant.

Appellant does not raise these issues for any reason except for a simple example to show there are grievable issues that should be addressed by Appellant to the SCDC.

Broad River Correction Institution Food Supervisor ordered all SVPTP Edisto unit residents which includes this Appellant to be punished in retaliation for complaints being made about the rat in-fessed food by with holding specialty food items such as cakes, cookies, chips, fancy breads, drinks, ice creams and such items that are donated.

And extremely deffer mental is On March , 2009, Appellant suffered heart failure, SCDC held up the EMS ambulance or 45 minutes at the front entrance gate (Broad River Correctional Institution) based on Wardens orders.

On another occasion, the lights in Appellants assigned cell were burnt out or over 5 weeks.

In Appellants prior assigned cell, the electric cell door lock ailed to release over 1900 times in a five year period, to which SCDC still reuses to ix.

All the foregoing are are grievable issues the SCDMH has no jurisdiction or grievance system in place to address.

As shown there is absolutely no court or agency according to this Courts ruling (Op: 2011-UP-483 , where Appellant can seek re-dress of grievances to / in.

Appellant stated this on appeal and this Court came back and said since Appellant is in the custody of the SCDMH, Appellant can not file grievances to / or against the SCDC.

The prayer for relief is or this Court to grant jurisdiction to either order the ALC or (Richland County) Court Of Common Pleas to address SVPTP grievances against the SCDC.

The only alternative is to deny Appellant as stated in Op: 2011-UP-483 so that this Appellant and other 104 SVPTP's residents can flood the Richand County Court Of Common Pleas, and U.S. District Court with law-suits against the SCDC.

Conclusion:

It is simply a matter of dollars and cents, either it's a grievance system through the SCDC and ALC on appeal of grievance or pay attorneys untold amounts of money defending the State against SVP residents law suits for conditions of confinement.

The average cost per such complaints is near 8-\$10,000.00 per case to case has and appears to be headed or Washington, DC. defend, not even counting should the case go on to appeal as this

Respectfully Submitted by,

November 8, 2011

William Deans
William Deans
7901 Farrow Rd.
Bldg. 3 , 3rd Floor
Columbia, SC 29203

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph King Anderson III, Administrative Law Judge

Case No. 09-ALJ-04-00290-AP

South Carolina
Department of Corrections,

Respondent,

v.

WILLIAM DEANS,

Appellant,

PROOF OF SERVICE

I certify that I have served the foregoing "Appellant Petition for Re-hearing", and notice of change of address", by depositing a copy of it in the United States Mail, postage prepaid, on November 8, 2011, addressed to SCDC General Counsel, PO Box 21787, Columbia, SC 29221-1787.

Nov. 8, 2011

x-prisoner 204228

William Deans
WILLIAM DEANS
7901 Farrow Rd.
Bldg. 3, 3rd Floor
Columbia, SC 29203
(803) 896-2922

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph King Anderson III, Administrative Law Judge

Case No. 09-ALJ-04-00290-AP

South Carolina
Department of Corrections,

Respondent,

v.

WILLIAM DEANS,

Appellant,

APPELLANTS NOTICE OF CHANGE OF MAILING ADDRESS

Please, take Notice change of address; The new given mailing address for Appellant is 7901 Farrow Rd, Bldg 3, 3rd Floor, Columbia, SC 29203.

Note:

The SCDMH Further orders Appellant to place "SVPTP" above the new given street address, Appellant refuses to do so, being that such "SVPTP" violates Federal Code referred to as (HIPPA). SCDMH can not order Appellant to violate Federal law.

Nov. 2 2011

x-prisoner 204228

William Deans
WILLIAM DEANS
7901 Farrow Rd.
Bldg. 3, 3rd Floor
Columbia, SC 29203
(803) 896-2922

RECEIVED

NOV 10 2011

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Supreme Court

The Honorable Ralph K. Anderson, III
Administrative Law Court
Case No: 2009-AL-04-00290

WILLIAM DEANS

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF
CORRECTIONS

RESPONDENT.

PROOF

I certify that I have served the Notice Of Appeal on,
David M. Tatarsky, SCDC General Counsel, PO Box 21787, Columbia, SC
29221-1787 and, The Honorable Tanya A. Gee, Clerk, South Carolina
Court Of Appeals, PO Box 11629, Columbia, SC 29211 and,
The Honorable Daniel E. Shearhouse, Clerk, South Carolina Supreme
Court, PO Box 11330, Columbia, SC 29211, and
Clerk, South Carolina, Administrative Law Court, 1205 Pendleton St.,
Suite 224, Columbia, SC 29201.

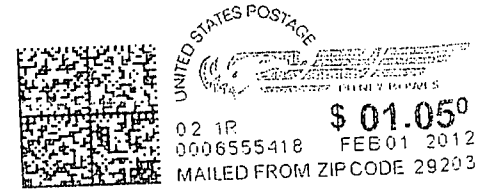
January 31, 2012

x-prisoner

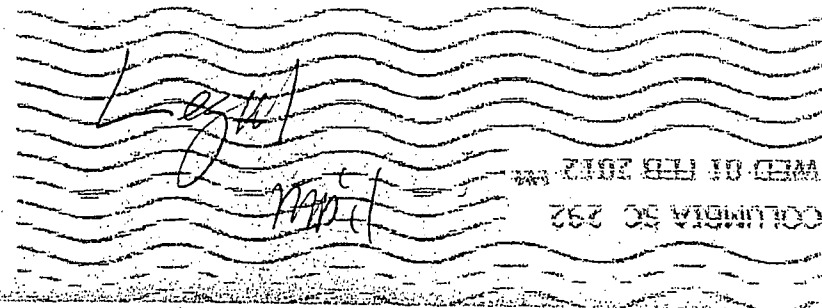
William Deans

William Deans
SCDMH, BRCI, EDISTO UNIT
c/o:
Bldg. 3, 3d floor
7901 Farrow Rd.
Columbia, SC 29203

William Davis
Bldg 3, 3D Floor
2901 FARRON RD



The Honorable David E. Sherman, Clerk
South Carolina Supreme Court
PO Box 11330
Columbia, SC 29211



18195

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

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FEB 19 2010

APPEAL FROM THE ADMINISTRATIVE LAW COURT

SC Court of Appeals

Ralph King Anderson III, Administrative Law Judge

Tracking Number: 2009-145946

WILLIAM DEANS, #204228

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

APPELLANTS RECORD ON APPEAL

WILLIAM DEANS
7901 Farrow Rd.
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Other Counsel Of Record
Christopher D. Florian
SCDC General Counsel
PO Box 21787
Columbia, SC 29221-1787
803/896-8555

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EXHIBIT (I) same as (D)
SCDC General Counsel reply to Appellants request for a grievance procedure
between the SCDC and SCDMH resident held at the SCDC Edisto unit.....11 b

other:

EXHIBIT (j) lost at moment to be supplemented in at a later date of submission
letter SCDC Grievance Branch, ie: Mar. 6, 09 signed by Harry H. Storkes
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note: Appellant knows of no transcript of record from ALJ in this matter

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM

STEP 1

Office Use Only

FORMER PRISONER
INMATE NAME: WILLIAM DEAN S
SCDC NUMBER: 204228 SCDMH 1007-2446
INSTITUTION: BRCI
HOUSING UNIT: EDISTO UNIT
WORK ASSIGNMENT: NONE

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)

I am a civilly committed person pursuant to SCC Ann. 44-48-10/170 and held at the Edisto unit BRCI.

I have just become aware of the SC Supreme Court ruling in SCDC v Darrell Williams MO-024 (2007), which requires "former" inmate to pursue SCDC Grievance Policy, i.e.: GA-01.12 (1-30-2008) in a back-wage dispute.

The logic in my requesting the SCDC Grievance Policy is that since former inmates are now required to file through the SCDC, it stands to reason that any former inmate being held under civil commitment (SVP's) on SCDC property and is subject to being violated by SCDC, is therefore required to exhaust applicable grievable issues through the SCDC Grievance Branch such as: continued,

see hereto APPENDIX I.

ACTION REQUESTED:

1. Provide Grievant with copy of SCDC Grievance Policy
2. Put in place SCDC / SCDMA grievance procedure

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Contacted SCDC Grievance Branch / SCDC Legal Counsel and was denied

SEE HERETO GRIEVANTS EXHIBITS

WILLIAM DEAN S 9-16-08
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 _____

App Ex. (AA) p 3

APPENDIX I

Example: The SCDC confiscating SVP's Canteen Cooper Trust Funds for such items as DNA, past prison medical fees.

And or any punishments or restrictions for when the SVP was an inmate, any SCDC condition of confinement directly affecting the SVP, i.e.: any SCDC policy or rule directly affecting an SVP such as visitation, inmate phone system, Edisto unit, fire and safety,

By letter dated July 24, 2008, I clearly explained the situation and requested a copy of the SCDC Grievance Policy from the SCDC Grievance Branch.

My request was denied, with a Mrs. Coleman apparently not comprehending that I know the difference between a grievable SCDC issue and a SCDMH grievable issue, the key word that I used was "Applicable".

See hereto referenced Exhibits,

A) Grievants July 24, 2008 letter to SCDC Grievance Branch,

B) Mrs. Colman Reply, of July 31, 2008

C) Grievants Reply to Mrs. Coleman and SCDC Legal Counsel Mr. Tatarsky. Dated Sept. 1, 2008.

D) SCDC Tatarsky Reply to Greivant, of Sept. 10, 2008.

E) Grievants Reply to Mr. Tatarsky, of Sept. 16, 2008.

[and] relevant Affidavits of Service.

Secondly, the answer is no, there has not been a SC Supreme Court ruling to this Grievants knowledge addressing the filing of grievances between an SVP and the SCDC.

It is this Grievants contention that there does not have to have been a direct ruling by the ALC or SC Supreme Court on whether a SVP is required to file grievances with the SCDC in order for a SVP to file SCDC grievances.

My grievance is as follows,

1. That I am being denied access to the Courts by both Mrs. Coleman and Mr. Tatarsky who refuse to provide me with a copy of the SCDC Grievance Policies.

2. That there is no SCDC policy or procedure for addressing SVP's grievances against the SCDC.

Sept. 16, 2008

William Deans
William Deans SCDMH 1007-2446
Bldg 3, Rm. 307
7901 Farrow Rd.
Columbia, SC 29203

APP EX. (AA) p 4

INMATE GRIEVANCE FORM

STEP 2

Office Use Only

INMATE NAME: William Deans
 SCDC NUMBER: 204228
 INSTITUTION: BRCJ
 HOUSING UNIT: Edisto Unit
 WORK ASSIGNMENT: SCDMH 1007-2446

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

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

William Deans 1-12-09
 Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

 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)

APP EX (BB) P 5

STEP 2 GRIEVENCE
APPENDIX I

Issue #1.

On Oct. 27, 2008 Grievant did serve upon the SCDC Grievance Branch a Step I Grievance addressing the removal of (bread) toaster from the SCDMH SVPTP Edisto unit, BRCI by order of SCDC Fire and Safety Officer Sgt. (Mrs. Johnson).

See hereto, copy of said grievance Step I.

Issue #2.

That as of this below referenced date, the SCDC Grievance Branch has refused to make a timely response as required by the Administrative Law Court Rules.

Argument

The SCDC, Mary Coleman, SCDC Legal Counsel are violating Grievant right to SC Const., Article I, section 22 Redress Of Grievances as stated above.

Requested relief:

That SCDC Legal Counsel make a timely reply, either making a contention to the above stated issues or by refusing to make a response, the SCDC voluntarily waives the right to argue against the above stated issues by this Grievant in any subsequent ALJ Appeal and or State or Federal Court.

(note:) I am presently civilly committed to the SC Dept. Mental Health, held at the Edisto SVPTP unit, Broad River Corr. Inst.

1-12-09

Ref: Ex-SCDC # 204228
SCDMH # 1007-2446

William Deans

WILLIAM DEANS
BRCI, Edisto unit
7901 Farrow Rd.
Columbia, SC 29203

App Ex. (BB)

P 6

To: SCDC Inmate Grievance Branch
PO Box 21787
Columbia, SC 29221-1787

July 24, 2008

Fm: WILLIAM DEANS
SCDMH, SVP Resident
Edisto unit, BRCI
c/o
Bldg. 3, rm. 307
7901 Farrow Rd.
Columbia, SC 29203

Ref: To establish a grievance procedure.

To, Whom it may concern,

Please be advised and take notice that the Richland County Court Of Common Pleas, Chief Administrative Judge Alison Lee, requires South Carolina Dept. Mental Health Sexually Violate Predator[s], housed at the Edisto Unit, 197, Broad River Correctional Institution, to exhaust SVP grievances against the SCDC, pursuant to GA-01.12 through the SC Administrative Law Judge.

Accordingly, I ask that you provide me, pursuant to SCDC Policy GA-01.12, with Grievance Forms step 1 and Step 2., and a full / complete copy of the grievance rules.

Secondly, please provide the name and correct address for the SCDC Grievance person that is designated to coordinate the processing of grievances between the SCDMH, SVP residents and the SCDC.

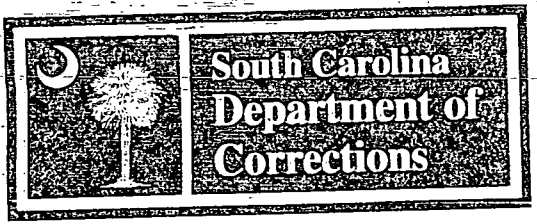
At present, The Resident Adviser, Mrs. Sheila Lindsey is the problem resolution person for the SVP Treatment Program, Edisto unit, Broad River Correctional Inst., to which, There is no reconizable grievance system in place at this time for the SCDMH, SVPTP.

I thank you for your cooperation and timely reply, so that within thirty days of this request I will be able to report to both the Richland County Court Of Common Pleas, and the Office of the ALJ, that this matter has been resolved and operational.

Respectfully,

William Deans

APP EX. (A) p 7



MARK SANFORD, Governor
JON OZMINT, Director

August 26, 2008

William Deans
SCDMH SVP Resident
Edisto Unit-BRCI
C/o Building 3, Room 307
7901 Farrow Road
Columbia, SC-29203

William Deans:

This letter is in response to your correspondence dated July 24, 2008, which was received in my office on July 31, 2008.

Please be advised that you are now under the control of the South Carolina Department of Mental Health's Sexual Predator Program, not SCDC. In accordance with SCDC Policy GA-01.12, Inmate Grievance System, any issue which is outside the control of SCDC is non-grievable. As you stated in your letter, SCDMH presently provides a mechanism to solve issues you may be experiencing in their program by allowing you the opportunity to resolve the problem through Mrs. Sheila Lindsey.

Sincerely,

Mary Coleman
Branch Chief
Inmate Grievance Branch

Cc: David Tatarsky, Chief General Counsel-SCDC

APP EX. (B) p 8

C1

To: Mary Coleman

Branch Chief

SCDC INMATE Grievance Branch

P.O. Box 21787

Columbia, SC 29221-1787

Sept. 1, 08

Fm: WILLIAM DEANS

Bldg. 3 Rm. 307

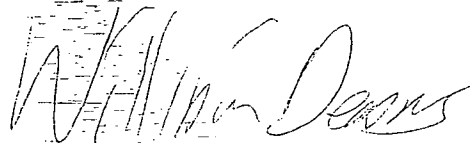
7901 Farrow Rd.

Columbia, SC 29203

To: Mrs. Coleman,

Thank you for the reply of 8-26-08, in which you poorly side-step my request for a copy of the SCDC Grievance Rules in order to better effectuate the SCDMH SVP'S applicable grievance against the SCDC. And, again thank you for documenting my belief that very few if any State employees are qualified for the position they hold. My notice and request for a copy of the SCDC Grievance policy of July 24, 08, was very clear in stating that grievable issues between SCDMH RESIDENTS AND SCDC are now required by the ALJ to be addressed through the SCDC Grievance procedures. Please, be advised that you are under the jurisdiction control of the Administrative Law Judge; your cooperation would be appreciated by both myself and the ALJ.

Submitted by,



c/c ALJ

C/c David Tatarsky, Chief General Counsel-SCDC

App Ex. (C1) p 9

To: David Tatarsky
Chief General Counsel-SCDC
PO Box 21787
Columbia, SC 29221-1787

Sept. 1, 08

Fm: WILLIAM DEANS
Bldg. 3 Rm 307
7901 Farrow Rd.
Columbia, SC 29203

Sir, Please, find enclosed copies of correspondence between myself and the Grievance Branch of the SCDC.

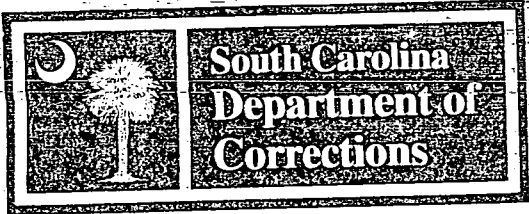
I believe my request for a copy of the SCDC Grievance Policy is warranted in order to file and process applicable grievances.

It appears Mrs. Coleman does not understand what the word applicable means, it is either that or she wants to start off with the first grievance filed with the ALJ is against Mrs. Coleman for obstructing my access to the Courts.

i.e.: Applicable means in this context: Subject Matter addressing contestable legal issues between the SCDMH SVP's residents and the SCDC.

William Deans

APP EX. (C2) p 10



MARK SANFORD, Governor
JON OZMINT, Director

September 10, 2008

William Deans
SCDMH SVP Resident
Edisto Unit BRCI
C/O Building 3, Room 307
7901 Farrow Road
Columbia, SC 29203

Re: Your Correspondence dated September 1, 2008

Dear Mr. Deans:

This is in response to your correspondence to me dated September 1, 2008, concerning SCDC's Inmate Grievance Policy. First and foremost, I would recommend that you change the tone of your correspondence. Ms. Coleman responded accurately and timely to your various letters.

If you will provide me with a copy of any ruling by Judge Lee or the Administrative Law Court requiring you to file grievances with SCDC even though you are no longer an SCDC inmate, I will be glad to review and respond. Further, if you will provide me with something in writing regarding the specifics of any grievance you wish to file, I can make a determination as to whether your complaint should be addressed by SCDC or SCDMH. Matters outside the control of SCDC are not grievable through the SCDC Inmate Grievance System. I have been informed that SCDMH does provide a mechanism to SVP residents for redress of grievances.

Thank you for your cooperation.

Sincerely,

David M. Tatarsky
General Counsel

CC: Mary Coleman, Chief, Inmate Grievance Branch

APP EX (D) p 11 A

MIS COUNT

APP EX I (D)

P 11 B

To: David M. Tatarsky
SCDC General Counsel
PO Box 21787
Columbia, SC 29221-1787

Sept. 16, 2008

Fm: William Deans
Bldg. 3, rm. 307
7901 Farrow Rd.
Columbia, SC 29203

Ref: third request for copy of SCDC Grievance Policy

To: Mr. Tatarsky.

Thank you for the remiss of Sept. 10, 2008, but no thank you for your contentions.

1. I don't know who you're talking to, but you have absolutely no say so or control over what tone I take that I believe is warranted as the events depict in my correspondence.

I asked for a copy of the SCDC grievance in a civil tone and was talked down to and plagiarized by two SCDC employees.

2. If you want a copy of any rulings by Judge Lee or the Administrative Law Court, go get them yourself. It's not my job to keep you up dated, see the enclosed grievance.

3. Nice try on the offer to let you determine whether (my) complaint should be addressed by the SCDC or SCDMH.

I'll let the ALC make those decisions.

[sic]

WILLIAM DEANS

APP EX. (E) p 12

Mis placed

will supplement later

App Ex. (J)

P 13

STATE OF SOUTH CAROLINA

ADMINISTRATIVE LAW COURT

WILLIAM DEANS, x-prisoner
SCDMH 1

DOCKET NO: 09-ALJ-C0290

Appellant,

vs.

South Carolina Department
of Corrections,

Respondent.

Honorable Ralph K. Anderson, III

APPELLANT AMENDED INITIAL APPEAL BRIEF

SCDMH 1007-2446
X-SCDC 204228
WILLIAM DEANS
7901 Farrow Rd.
Bldg. 3, rm 307
Columbia, SC 29203
held at BRCL

Other:

South Carolina Dept, Corrections
SCDC General Counsel
PO Box 21787
Columbia, SC 29221-1878

APP EX. (K) p 14

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App Ex (K) p 15

STATEMENT OF CASE

The date of filing of Notice Of Intent To Appeal is April 15, 2009

1. This matter arose when Appellant attempted to grieve issues that are only addressable between Appellant and the Respondant SCDC, not between Appellant and the SC Dept. Mental Health;

To which the SCDC refused to process any grievance from Appellant to the SCDC or even acknowledge that Appellant has the right as a non-prisoner to a SCDC/ SCDMH resident grievance policy / procedure.

Appellant a civilly committed person pursuant to SCC Ann. 4448-10/170 is held answerable to/ under a colorable Inter-Agency Agreement between the SCDC and the SCDMH to which the SCDC has direct quasi control and involvement in Appellant care and treatment.

The SCDC provides outside parameter security, canteen, a canteen moneys account ie: Cooper Trust Fund, phones, visitations approval and security, fire and safety issues, and final say so on who is allowed into the Edisto unit, BRCI as the medical provider to Appellant. ie: such as EMS.

2. In the earliest stages prior to Appellant filing this appeal, the SCDC imposed itself upon Appellant in such areas as fire/safety, physically searched Appellants assigned cell, confiscate personal property without a warrant or court order, and either directly or indirectly controls or enforces physical control and restraint, is directly involved in the care, and treatment of Appellants civil commitment, to which all aspects of Appellant civil commitment is considered treatment, to include control over Appellants visitation, Cooper Trust Fund, canteen, property.

Upon learning that other SCDMH SVP residents attempted to file law suites in the Richland County Court Of Common Pleas against the SCDC, the at the time Administrative Judge, the Honorable Allison Lee would not allow the filings and after contacting the ALJ herself, instructed SVP residents through the Clerk of Court, to take their issues through the ALJ

APP EX (K) p17

3- Appellant of learning of the requirements, requested for the SCDC Grievance branch to provide Appellant with a copy of the SCDC grievance Policy so that Appellant can pursue his own grievances against the SCDC.

The SCDC Grievance Branch Chief, a Mrs. Mary Coleman, refused to provide the policy and instead talked down to this Appellant by stating that Appellant is no longer a prisoner of the SCDC and for him to take all his personal issues to the SCDMH.

Appellant then informed SCDC General Counsel of the problem and then again another self-appointed legal scholar informed Appellant he is not a SCDC prisoner and to take his issues against the SCDC to the SCDMH.

Appellant then proceeded to file two grievances against SCDC that the SCDC refused to answer to and then again the SCDC by letter from another arrogant SCDC employee informed Appellant he is no longer a prisoner and for him to take issues to the SCDMH.

Arrogance is defined in this case as someone who violates another and then informs that injured party that it was his fault for being violated.

A) Appeal as follows raises the fact the SCDC refuse to be answerable to/ for their own violations made against this Appellant.

Appellant would not have filed appeal if there were in fact a SCDMH procedure / policy that would address issues for when the SCDC violates this Appellant but there are none and has been in fact instructed by the SCDMH grievance person to take his issue with the SCDC to the SCDC.

B) Appeal as follows request as a prayer for relief is for this Court to write a grievance policy made specific between a SCDMH resident and the SCDC and enforce said policy.

C) the only alternative is for this Court to Order that any issues arising directly between a SCDMH resident and the SCDC be filed in the Richland County Court Of Common Pleas pursuant to the SC State Tort Claim Act.

App Ex. (K) p/8

~~see hereto Appellants Motion To Deny Respondants Frivolous Motion To Dismiss.~~

Appeal is as follows.

Note: Attached to Appellant Notice Of Appeal, contained therein was a instrument entitled "Appeal", Appellant amends that Appeal with the following, to read

APPEAL

Grievant an X-prisoner is a civilly committed person pursuant to SCC Ann. 44-48-10/170, who is denied by both the SCDC and the SCDMH access to a legal law library.

PARTY'S

WILLIAM DEANS is held at the SCDMH, Edisto unit, Broad River Correctional Institution, who's correct mailing address (only) is 7901 Farrow Rd., Bldg 3, rm 307, Columbia, SC 29203

SCDC Legal Counsel, PO Box 21787, Columbia, SC 29221-1787

App Ex. (K) p19

ISSUES ON APPEAL

1. The SCDC is wrong to refuse to provide Appellant with copies of the SCDC Grievance Policy.
2. The SCDC is wrong for refusing to put in place a grievance procedure to address issues arising between a SCDMH Resident subject to the SCDC / SCDMH Interagency Agreement, ie: SCC Ann. 44-48-10/ 170, held at the SCDC BRCI, Edisto unit 197.

HISTORY

3. See hereto for brevity, Appellants Exhibits.

Exhibit (AA) Grievant SCDC Step 1, Grievance

Exhibit (A) July 2, 2008 Appellants request of the SCDC Grievance Branch to establish a grievance procedure between the SCDC and a SCDMH resident, Edisto unit, BRCI.

Exhibit (B) Aug. 26, 2008 reply of the Grievance Branch Chief.

Exhibit (C)(1-2) Sept. 5, 2008 Appellants reply letter to SCDC letter dated Aug. 26, 2008.

Exhibit (D) Sept. 10, 2008 SCDC General Counsel reply to Appellant's Sept. 5, 2008 letter.

Exhibit (E) Sept. 16, 2008 Appellant's reply to SCDC General Counsel's Sept. 10, 2008 letter.

Exhibit (I) SCDC General Counsel reply to Appellant's request for a grievance procedure between the SCDC and a SCDMH Resident held at the SCDC Edisto unit.

Other: Step 1, SCDC Grievance, Step 2 Grievance

and primary exhibit, SCDC Grievance Branch, ie: March 6, 2009 signed by a Harry H. Storkes, Jr. Deputy General Counsel and Exhibit SCDC / SCDMH Interagency Agreement.

App Ex (K) 20

ARGUMENT

5. Appellant asserts that he has the right to pursue a grievance against the SCDC for any violation thereof pursuant to being held civilly committed pursuant to:

#1. the SCDC / SCDMH Interagency Agreement pursuant to SCC Code Of Law 44-48-10/170, in which Appellant is being held accountable to the SCDC supervisory rules and polices to include physical restraint such as hand cuffs and leg irons, and assigned cell searches.

#2. direct control and supervision of the SCDC involvement in Appellants civil commitment care and treatment.

#3. the SCDC willful numerous encroachment on Appellants everyday confinement to include fire, safety, food, canteen, visitation, phones, housing and actual incarceration.

Appellant asserts that he has more right to a grievance procedure then the normal [X]-prisoner because Appellant is being held by the SCDC under a quasi colorable fictional jurisdiction by being placed into a prison and held under all the prison rules / policy's as if serving a criminal conviction but under the jester of civil commitment for no other reason then preventive detention.

Appellant is seeking a grievance policy/-procedure designed specifically to address issues between Appellant as a SCDMH resident held at the SCDC Edisto unit pursuant to SCC Ann 44-48-10/170 and the SCDC.

SC Article I, sec. 22, SC Constitution require grievance systems be in place in the various state agency's.

SCC Ann 44-48-100 makes a appeal process available to appeal the actual civil commitment, which includes the right to raise issues of confinement either through a petition directly to the courts and or through a grievance process.

The bottom line is that the SCDC refuse to accept being held accountable for their own violations against this Appellant, and through what appears to be more bravo inspired arrogance then by any provision of law, the SCDC legal counsel is advising the SCDC Grievance Branch Chief to not process a SCDMH resident vs. SCDC grievance.

Appellant agrees in part with a few of SCDC points,

(1) that Appellant is no longer a SCDC prisoner,

(2) that the SCDC grievance system is for SCDC inmates only,

(3) that I am civilly committed to the SCDMH that has an Interagency Agreement with the SCDC who in turn enforces it's (SCDC) rules and policy's upon this Appellant,

(4) and that there is no grievance procedure between a SCDMH resident being held that the Edisto unit 197, Broad River Correctional Institution and the SCDC.

A primary issue that requires a grievance procedure between a SCDMH resident vs SCDC is that the SCDC is directly involving itself in Appellants control, care and treatment.

see hereto SCDMH SCDC Interagency Agreement, And SCC Ann. 4448-100.

These two documents order the SCDC be involved in Appellants control, care and treatment.

See Appellants Exhibit "letter dated Mar. 6, 2009 signed by SCDC Deputy General Counsel Harry H. Stokes Jr., arrogantly states the Respondent contention, stating in sum that according to the SCDC, Appellant has no rights, not even those afforded a prisoner serving a criminal sentence.

ie: a prisoner is defined as a person serving a given, known sentence, whereby, Appellant is being held in the exact same prison, not under just one set of rules but two sets of rules being that of the SCDMH and the SCDC, but basically serving a life sentence with one half the due-process and equal protection afforded the convicted prisoner who at least has a grievance procedure to follow when that given person takes issue with SCDC.

Pursuant to Youngberg v Romeo 102 SCT 2452 (1982)

"Persons who have been involuntarily committed are entitled to more considerate treatment and conditions of confinement than criminals whose conditions of confinement are designed to punish".

Appellant demands equal protection from the SCDC who affords it convicted prisoners a grievance procedure, in that Appellant is entitled to a SCDMH resident vs SCDC grievance procedure, specifically designed and remedies afforded this Appellant who is a civilly committed person.

Prayer For Relief

Appellant, moves this court to find,

1. That the SCDC was wrong to not process Appellants herein referenced Grievance[s].
2. that there is no statute of limitations applied to SCDMH SVPTP Resident past issue[s] against the SCDC that can be brought in the foreseeable future through a pending [new] grievance procedure.

3. To order the SCDC to produce a grievance procedure that directly addresses and affords Appellant and SCDMH residents an equitable remedy process;

a) Informal Resolution addressable through the SCDC office of the offending SCDC employee and or event.

b) Step 1 Grievance addressable directly through the SCDC Grievance Branch,

c) Step 2 Grievance addressable directly through the SCDC General Counsel,

d) then if not resolved, a appeal to the ALJ.

e) it is further understood that the effective dates for service by SCDMH Resident,

i) will be pursuant to Houston v Lack 87 US 266 (1989) ie: service is made by the SCDMH Resident when handed to SCDMH Officials for mailing.

ii) and the date the SCDMH Resident receives [a] document is the effective date of service upon the SCDMH Resident.

4. and to any other relief that is above the foregoing stated prayer for relief herein sec.

1-2.

June 15, 2009

William Deans
WILLIAM DEANS
7901 Farrow Rd.
Bldg 3, rm 307
Columbia, SC 29203

OMITTED

AFFIDAVIT OF SERVICE

APP EX. (K) p 25-

RECEIVED

NOV-18 2009

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

SC Court of Appeals

William Deans. #204228.)
)
 Appellant.)
)
 vs.)
)
 South Carolina Department of Corrections.)
)
 Respondent.)

Docket No. 09-ALI-04-00290-AP

ORDER OF DISMISSAL

This matter is before me on the appeal of William Deans (Appellant), a civilly committed person to the South Carolina Department of Mental Health (Department), filed on March 24, 2009. Appellant is civilly committed to the Department of Mental Health pursuant to S.C. Code Ann. 44-48-10. He is not an inmate with the South Carolina Department of Corrections, therefore, this Court does not have jurisdiction over the Department of Corrections in this matter.

IT IS THEREFORE ORDERED that this appeal is dismissed.
AND IT IS SO ORDERED.

Ralph King Anderson, III
Ralph King Anderson, III
Chief Administrative Law Judge

October 23, 2009
Columbia, South Carolina

App Ex. (L) p 26

CERTIFICATE OF SERVICE
This is to certify that the undersigned has this date served this order in the above entitled action upon all parties in this cause by telecopy, e-copy, hand, in the United States mail (postage paid), or in the interagency Mail Service addressed to the parties or their attorney(s).

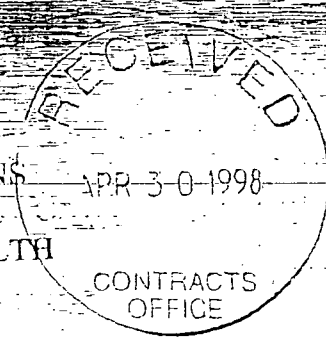
This 23rd day of October, 2009
By: Amul M. Scott
Judicial Law Clerk

FILED

OCT 23 2009

SC ADMIN. LAW COUR

INTERAGENCY AGREEMENT
BETWEEN
THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
AND
THE SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH



PREAMBLE

Proposed legislation is pending in the South Carolina General Assembly which would create a new civil commitment law for the commitment of individuals found to be "sexually violent predators." The proposed legislation provides, among other things, that:

- ~~such individuals be committed~~ to the custody of SCDMH
- such individuals must be kept in a secure facility
- ~~such individuals must be segregated~~ at all times from other patients of SCDMH
- SCDMH may enter into an interagency agreement with SCDC for the control, care and treatment of these individuals
- in the event of such an interagency agreement, such individuals must, so far as practical and to the degree possible, be housed and managed separately from inmates at SCDC.

PURPOSE

IT IS THE PURPOSE OF THIS AGREEMENT to set forth the roles and responsibilities of the South Carolina Department of Corrections (SCDC) and the South Carolina Department of Mental Health (SCDMH) in the operation of the Sexual Predator Treatment Program to be located in Edisto Unit within SCDC's Broad River Correctional Institute (BRCI), Columbia, South Carolina, in the event the proposed legislation described above is enacted into law. Unless otherwise specified, each agency will bear the cost, if any, associated with discharging its responsibilities pursuant to this agreement.

TERMS AND CONDITIONS

SCDC shall make available for use by SCDMH Edisto Unit which shall be used to house individuals committed to the Sexual Predator Treatment Program.

Except as otherwise set forth in this agreement, SCDMH shall be responsible for maintaining the premises in good condition and shall return the premises to SCDC in the same condition, ordinary wear and tear excepted. SCDC will provide necessary maintenance of the physical plant. SCDMH shall follow established policies and procedures governing work orders at SCDC in requesting maintenance services. SCDMH shall not make improvements and/or alterations which change the structure of the building or interfere with other SCDC operations without the written approval of the Director of SCDC. SCDMH may make nonstructural changes, improvements and/or alterations without written permission. Such changes, improvements and/or alterations shall be consistent with all applicable codes, statutes, ordinances, or

ADD EX. (M) p 27

regulations governing the premises. SCDMH shall be responsible for additional maintenance costs associated with any such changes, improvements and/or alterations. SCDC and SCDMH will strive to avoid commingling the residents of the treatment program with the inmate population at SCDC as much as possible.

PROGRAM OPERATION:

SCDMH shall operate a Sexual Predator Treatment (SPT) Program within Edisto Unit. SCDMH employees and contract employees, if any, shall be subject to all SCDC policies and procedures covering operations of the facility. SCDMH employees and contract employees coming onto correctional grounds will also be subject to background checks including criminal history and security searches. SCDMH will provide signed releases and information necessary for SCDC to conduct background checks including but not limited to name, date of birth, social security number, references and a list of previous employers.

SCDC shall provide perimeter security for residents. SCDC shall also provide emergency back up security pursuant to the provisions governing "Emergency Situations" herein.

Training

SCDMH staff and any contract program staff shall be required to complete an orientation and initial training program provided by SCDC at no cost to SCDMH. SCDC shall provide mutually agreed upon training that is appropriate for SCDMH security staff at the SCDC training academy. SCDMH shall provide additional training to its staff on treatment, programming and all other SCDMH responsibilities.

Resident Meals

SCDC will prepare all meals for residents to be consumed on the unit. SCDC is responsible for delivering the meals to the unit. SCDMH is responsible for serving the meals to the residents.

Program treatment staff shall provide SCDC with advance notice of the number of meals required each day. Residents who require medical or religious diets will be provided such by SCDC upon request.

Resident Clothing

SCDC shall make available state issued clothing to residents through correctional industries. SCDMH shall ensure that residents are dressed in appropriate institutional clothing.

Medical/Dental

SCDMH will be responsible for obtaining necessary medical and dental care for residents of the treatment program. In medical emergencies, upon notification and request from authorized

treatment program staff, SCDC shall provide all assistance possible. SCDC also agrees to make its pharmacy services available to support the SPT Program.

Laundry

SCDC shall provide laundry services for residents for washing state issued clothing, bedding and linens. SCDC is not responsible for washing personal clothing.

Barber Service

SCDMH will be responsible for providing barber services to treatment program residents.

Notification

SCDC shall provide a monthly list to SCDMH inmates who have been referred for commitment as a sexually violent predator. The list shall provide the inmate's name, offense and anticipated release date. SCDMH agrees to maintain the confidentiality of this list.

Prior to admission into the SPT program, SCDC will provide to SCDMH a detention summary containing any relevant medical/psychiatric, or psychological information in SCDC records to allow the SPT treatment and evaluation staff to prepare for behavioral or health needs. Once the probable cause hearing has been held, and probable cause found, criminal history, disciplinary history, mental health records, escape risk and other relevant information shall be supplied to SCDMH. SCDMH agrees to maintain the confidentiality and security of this information.

Routine Maintenance and Sanitation

SCDMH shall be responsible for maintaining appropriate sanitation and cleanliness on the unit and ensuring compliance with fire safety standards.

SCDC will provide routine pest control to Edisto Unit in the same manner as provided to the remainder of SCDC.

Identification Cards

SCDC shall issue identification cards to residents that will be designated for use by residents and will be distinguishable from identification cards issued to inmates.

Staff

SCDMH shall administer the treatment component of the SPT program. SCDMH shall also be responsible for hiring, training, supervising, disciplining and terminating all SCDMH staff from the SPT program. SCDMH shall be responsible for costs of SCDMH staff. SCDC has the right

to ban from the facility any SCDMH employee or contractor for violation of SCDC policy. SCDC shall advise SCDMH of the reason for the ban.

Capital Costs

SCDMH shall assume responsibility for any minor capital improvements associated with the SPT program. Any improvements shall be made in cooperation with, and with approval of the BRCI SCDC Director. SCDMH and SCDC shall jointly participate in pursuing mutually agreed upon major capital improvements for the SPT program. SCDMH shall be responsible for the costs of capital improvements unless funding is provided to SCDC for capital improvements for the Sexual Predators Treatment program. SCDC shall not be responsible for using funds from its budget which are allocated for correctional facilities. Capital improvements shall become the property of SCDC upon termination of this agreement.

Chaplain Services

SCDC will make available chaplaincy services to SPT residents through their staff and volunteer chaplains. A schedule of rounds for chaplaincy visits will be developed in conjunction with SCDMH.

Personal Funds

In accordance with SCDC's policy, residents shall not be permitted to keep money in their possession. SCDC shall make its Trust Fund procedure available for receiving and disbursing the personal funds of the residents committed to the Sexual Predator Treatment Program.

Canteen

SCDC shall provide a list of items available in the inmate canteen. Residents may order and purchase available items using SCDC procedures for inmate purchases. SCDMH staff shall pick up and deliver canteen purchases to residents.

Residents Personal Property

Residents will follow SCDC personal property policies. The quantity of clothing and other property may be further limited by the Program Director consistent with reasonable safety, security and treatment concerns. Excess or unauthorized personal property shall be sent home at the resident's expense, or picked up by the resident's family, or destroyed or stored remotely by SCDMH. SCDC shall not be responsible for storing residents' excess or unauthorized clothing and property.

Radios and Keys

SCDC shall provide SCDMH security keys for use by SCDMH staff as appropriate. The keys will be subject to SCDC inventory and key control procedures and use procedures.

Reportable Incidents

SCDC must be promptly notified of reportable incidents.

Resident Records

SCDMH shall maintain a resident treatment record and shall share information with SCDC as needed for treatment or security. Similarly, it will be necessary for SCDC to share all master file/medical/clinical/field services record information with SCDMH as necessary for the proper evaluation and treatment of SPT residents and program safety and security. SCDMH will be permitted to maintain the resident treatment record at the SCDMH treatment location. Within 30 days following the signing of this agreement, SCDC and SCDMH shall determine the location of the SPT resident's master healthcare record and shall develop procedures for ensuring that this healthcare record is appropriately maintained and made available should the SPT resident require healthcare services.

Staff Uniforms

SCDMH security staff shall be dressed in uniforms provided by SCDMH.

GENERAL CLAUSES:

Emergency Situations

SCDC shall provide emergency back-up security upon request from the Program Director or a designee as reasonably available, subject to legal restrictions. SCDMH shall request assistance from SCDC when a situation arises which SCDMH staff are unable to control. In the event that SCDC is called in to provide back-up security, SCDC is in command. SCDMH staff shall provide assistance as directed by SCDC security staff.

The SCDC Director of the BRCL or his designee may direct BRCL staff to assist SCDMH staff if, in his opinion, a situation in the program has escalated to the point in which assistance is deemed necessary by the Warden or his designee and assistance has not been requested by the Program Director or his designee.

Mail/Packages

SCDMH staff shall be responsible for opening and screening the mail and packages.

Recreation Yard

SCDMH and SCDC understand that SPT residents will need recreation space and shall arrange for access to suitable recreational space. Both agencies will enter into good faith discussions to modify this agreement when the population of the treatment program warrants increased space and time for recreational purposes or when special circumstances exist as mutually agreed upon by SCDC and SCDMH.

Transportation

SCDMH shall provide transportation/escort for residents to court, medical, dental, clinical and other appointments that are outside of SCDC following SCDMH procedures and policies.

Visitation Area

SCDMH shall provide resident visiting space within Edisto Unit to accommodate visits as determined appropriate by SCDMH. SCDMH staff shall search residents prior to and upon exit from the visiting area. Visitors shall be searched for contraband prior to entering the facility and are subject to SCDC policies governing visitation. In the event the population of the treatment program increases or when special circumstances exist and additional visitation space is needed, both agencies will enter into good faith discussions to address visitation issues.

AGREEMENT ALTERATIONS AND AMENDMENTS:

This agreement may be amended upon mutual agreement of the parties. Such amendment shall not be binding unless it is in writing and signed by the Director of SCDC and the Director of SCDMH.

POLICIES AND PROCEDURES:

SCDMH shall adopt operational policies and procedures for the treatment program, which provide the appropriate level of supervision for each resident based on behavioral indicators in order to ensure the safety and security of the facility. A copy of such policies and procedures shall be provided to SCDC and BR/CI. Policies and procedures shall be based on statutes specific to sexually violent persons, SCDMH administrative policy, and designed so they do not interfere with SCDC policy in all matters related to the safety, security and orderly operation of the unit. Issues of "safety, security and orderly operation of the institution" include, but are not limited to, counts, visitation, contraband, resident property and its storage, money usage, key management, tool control, storage and use of caustic and flammable substances.


To ensure SCDMH compliance with SCDC policies and procedures, SCDC shall place SCDMH SPT administrative staff on the routine distribution list for all applicable new and revised Administrative Regulations, Administrative Directives, and SCDC Institutional Directives. SCDMH agrees to maintain the confidentiality of these policies and procedures.

General Statement of Cooperation

The parties agree that this newly mandated program involves a cooperative process and will require periodic modifications as the program expands. The Director of SCDC and the Director of SCDMH will establish a standing committee by which there can be ongoing discussions and, if necessary, negotiations for modification in the operations of the Sexual Predator Treatment Program.

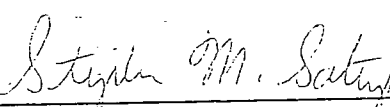
IN WITNESS WHEREOF, parties have executed this agreement.

SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS

By 
Michael W. Moore, Director

4-29-98
Date

SOUTH CAROLINA
DEPARTMENT OF MENTAL HEALTH

By 
Stephen M. Soltys, Director

4/29/98
Date

MOORE (M) P 33

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

RECEIVED

APPEAL FROM THE ADMINISTRATIVE LAW COURT

FEB 19 2010

SC Court of Appeals

Ralph King Anderson III, Administrative Law Judge

Tracking Number: 2009-145946

WILLIAM DEANS, #204228

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

APPELLANTS CERTIFICATION RECORD ON APPEAL CONTAINS

ALL MATERIAL PROPOSED BY APPELLANT AND NOT ANY OTHER MATTER

I, William Deans, certify that to the best of Appellants knowledge and belief, Appellants Record On Appeal contains all material proposed by Appellant and no other material.

Feb. 16, 2010

William Deans
WILLIAM DEANS

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Columbia, SC 29203
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THE STATE OF SOUTH CAROLINA
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APPEAL FROM THE ADMINISTRATIVE LAW COURT

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Ralph King Anderson III, Administrative Law Judge

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Appellant,

v.

South Carolina Department of Corrections,

Respondent.

PROOF OF SERVICE

I certify that I have served the foregoing "Appellants Record On Appeal and Appellants Certification Record On Appeal Contains All Material Proposed By Appellant And Not Any Other Material, by depositing said into the United States Mail, posted, prepaid, preaddressed,

SCDC General, PO Box 29221-1787

Feb. 16¹⁴⁵⁹ 2010
12

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THE STATE OF SOUTH CAROLINA

MAR 08 2010

In The Court Of Appeals

SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph King Anderson III, Administrative Law Judge

Tracking Number: 2009-145946

WILLIAM DEANS, #204228

Appellant,

v.

South Carolina Department Of Corrections

Respondent.

APPELLANTS ~~INITIAL~~ BRIEF

Final

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STATEMENT OF ISSUES ON APPEAL

I

DID THE ADMINISTRATIVE LAW COURT ERR BY DENYING APPELLANT APPEAL OF NON-FINAL GRIEVANCE SYSTEM BETWEEN APPELLANT, A SVP AND THE SCDC, BECAUSE THERE IS NO GRIEVANCE SYSTEM BETWEEN APPELLANT A SVP AND THE SCDC

STATEMENT OF CASE

Appellant was civilly committed on July 27, 2004, Anderson County, pursuant to SCC Ann. 44-48-10/170, specifically: 44-48-30 after serving a twenty-year sentence, reconfined pursuant to 44-48-100 to the control and security of the South Carolina Dept. Of Corrections, (SCDC) under the care and treatment of the South Carolina Dept. Mental Health, (SCDMH) held within the Edisto unit, Broad River Correctional Institution, prisoner number 204228.

1. This matter arose when Appellant attempted to grieve issues to the Respondent SCDC that are only addressable between Appellant and the Respondant SCDC, not between Appellant and the SC Dept. Mental Health;

To which the SCDC refused to process any grievance from Appellant to the SCDC or even acknowledge that Appellant has the right as a non-prisoner to a SCDC/ SCDMH resident grievance policy / procedure.

An appeal was then taken to the ALJ who denied accepting jurisdiction over the matter.

Appellant a civilly committed person pursuant to SCC Ann. 44-48-10/170 is held answerable to/ under a colorable Inter-Agency Agreement between the SCDC and the SCDMH to which the SCDC has direct involvement in Appellant control, care and treatment.

The SCDC provides outside parameter security, canteen, a canteen moneys account ie: Cooper Trust Fund, phones, visitations approval and security, fire and safety issues, and final say so on who is allowed into the Edisto unit, SCDC as the medical provider to Appellant. ie: such as EMS.

2. In the earliest stages prior to Appellant filing a ALJ appeal, the SCDC imposed itself upon Appellant in such areas as fire/safety, physically searched Appellants assigned cell, confiscate personal property without a warrant or court order, and either directly or indirectly controls or enforces physical control and restraint, is directly involved in the care, and treatment of Appellants civil commitment, to which all aspects of Appellant civil commitment is considered treatment, to include Respondent SCDC control over Appellants visitation, Cooper Trust Fund, canteen, personal property.

Upon Appellant learning that other SCDMH SVP residents attempted to file law suites in the Richland-County Court-Of-Common-Pleas against the SCDC, the at-the-time Administrative Judge, the Honorable Allison Lee would not allow the filings of SVP resident James T. Mills suit against the SCDC and after contacting the ALJ herself, instructed SVP residents through the Clerk of Court, to take their issues through the ALJ.

3. Appellant then based upon Judge Lee's order and the SCDMH refusing to correct SCDC violations, requested for the SCDC Grievance branch to provide Appellant with a copy of the SCDC grievance Policy so that Appellant can pursue his own grievances against the SCDC.

The SCDC Grievance Branch Chief, a Mrs. Mary Coleman, refused to provide the policy and instead talked down to this Appellant by stating that Appellant is no longer a prisoner of the SCDC and for him to take all his personal issues to the SCDMH.

Appellant informed SCDC General Counsel of the problem and then again another self-appointed legal scholar informed Appellant he is not a SCDC prisoner and to take his issues against the SCDC to the SCDMH.

Appellant then proceeded to file two grievances against SCDC that the SCDC refused to answer to and then again the SCDC by letter from another arrogant SCDC employee informed Appellant he is no longer a prisoner and for him to take issues to the SCDMH.

Arrogance is defined in this case as someone who violates another and then informs that injured party that it was his fault for in fact being violated.

A) Appeal as follows raises the fact the ALJ declined to address the total lack of a grievance system between Appellant and the SCDC who refuse to be answerable to/ for their own violations made against this Appellant.

Appellant would not have filed an ALJ appeal if there were in fact a SCDMH procedure/-policy that would address issues for when the SCDC violates this Appellant but there are none and has been in fact instructed by the SCDMH grievance person to take his issue with the SCDC to the SCDC, and then again it has been noted the Richland County Court Of Common Pleas refused to file suits against the SCDC.

B) Appeal as follows request as a (conclusion) prayer for relief is for this Court to write a grievance policy made specific between a SCDMH resident and the SCDC and enforce said SVP Grievance Policy answerable to the ALJ, then onward if needed through the courts.

C) the only alternative is for this Court to Order that any issues arising directly between a SCDMH resident and the SCDC be filed in the Richland County Court Of Common Pleas pursuant to the SC State Tort Claim Act.

HISTORY

4. Appellants Exhibits,

see Exhibit (AA) pages 3/4, Appellants SCDC Step 1, Grievance

see Exhibit (BB) pages 5/6, Appellants SCDC Step 2, Grievance

see Exhibit (A) page 7, July 2, 2008 Appellants request of the SCDC Grievance Branch to establish a grievance procedure between the SCDC and a SCDMH resident, Edisto unit, BRCL.

see Exhibit (B) page 8, Aug. 26, 2008 reply of the Grievance Branch Chief.

see Exhibit (C)(1-2) page 9/10, Sept. 5, 2008 Appellants reply letter to SCDC letter dated Aug. 26, 2008.

see Exhibit (D) page 11, Sept. 10, 2008 SCDC General Counsel reply to Appellant's Sept. 5, 2008 letter.

see Exhibit (E) page 12, Sept. 16, 2008 Appellant's reply to SCDC General Counsel's Sept. 10, 2008 letter.

see Exhibit (I) same as (D) page 11, SCDC General Counsel reply to Appellant's request for a grievance procedure between the SCDC and a SCDMH Resident held at the SCDC Edisto unit.

Other:

see Exhibit (j) page 13, (lost (to be added later), Letter SCDC Grievance Branch, ie: March 6, 2009 signed by a Harry H. Storkes, Jr. Deputy General Counsel, refusing to acknowledge Appellants right to a grievance system between SVP and SCDC

and see Exhibit (k) pages 1-2, Appeal to ALJ.

see Exhibit (l) page 26, ALJ Order Of Denial of Appeal.

see Exhibit (M) pages 27-33, SCDC / SCDMH Interagency Agreement.

5. Oct. 23, '09 ALJ Honorable Judge R.K. Anderson III denies Appellant appeal, stating basically the Administrative Law Judge did have the jurisdiction to adjudicate an appeal of no grievance system between an SVP and the SCDC because there is no grievance system between a civilly committed SVP and the SCDC. (see Appellants Exhibit (L) page 26)

6. Nov. 16, 2009 Appellant serves Notice Of Intent To Appeal, Motion To Proceed Informa Pauperis on this Court, ALJ and SCDC legal Counsel. (see Appellants Exhibit page 1-25)

ARGUMENT

THE ADMINISTRATIVE LAW COURT ERR BY DENYING APPELLANT APPEAL OF NO GRIEVANCE SYSTEM BETWEEN APPELLANT, A SVP AND THE SCDC; BECAUSE THERE IS NO GRIEVANCE SYSTEM BETWEEN APPELLANT A SVP AND THE SCDC.

7. Appellant, a civilly committed person pursuant to SCC Ann. 44-48-10/170, specifically: 44-48-100 which states in part.

"The Department of Mental Health may enter into an interagency agreement with the Department of Corrections for control, care, and treatment of these persons.

"A person who is in confinement of the Department of Corrections pursuant to an interagency agreement authorized by this chapter must be kept in a secure facility and must, if practical and to the degree possible, be housed and managed separately from offenders in the custody of the Department of Corrections..

a) The foregoing subsection of 44-48-100 clearly states Appellant is held, controlled, care and treatment of the Respondent SCDC, with treatment provided by the SCDMH.

b) the Interagency Agreement Between The SCDC and the SCDMH is a set of SCDC polices that control and rule every day of Appellants civil commitment, to include housing, personal property, medical care, security, mail, transportation, program operation, laundry, barber services, sanitation, building maintenance, Id cards, personal funds, canteen, emergency situation, recreation yard, visitation, polices and procedures, (see Appellants Exhibit (M) pages 27-33.

No where in SCC Ann. 44-48-10/170 or the SCDC-/SCDMH Interagency Agreement does it provide for nor establishes a grievance system to address issues between a SVP resident ie: Appellant and the SCDC.

a) a direct example of a grievable issue is that the SCDC confiscates money from SVP's personal accounts to pay for SLED DNA bank, medical fees, to which the SCDC lost jurisdiction over when SVP's are no longer a prisoner of the SCDC.

8. Appellant attempted an informal resolution to/ with the SCDC, with the SCDC refusing to acknowledge any responsibility for it's violations against this appellant. (see Appellants Exhibit (A) page 7)

a) refusing to put in place a grievance system.

9. Appellant asserts that he has the right to pursue a grievance against the SCDC for any violation thereof while being held civilly committed pursuant to:

#1. the SCDC/ SCDMH Interagency Agreement pursuant to SCC Code Of Law 44-48-10/170. (see Appellants Exhibit (M) pages 27-33 in which

Appellant is being held accountable to the SCDC supervisory rules and polices to include physical restraint such as hand cuffs and leg irons, and assigned cell searches by the SCDC.

#2. direct control and supervision of the SCDC involvement in Appellants civil commitment care and treatment.

#3. the SCDC willful numerous encroachment on Appellants everyday confinement to include fire, safety, food, canteen, visitation, phones, housing, money account and actual reincarceration.

Appellant asserts that he has more right to a grievance procedure then the normal [X]-prisoner because Appellant is being held by the SCDC under a quasi colorable fictional jurisdiction by being placed into a prison and held under all the prison rules / policy's as if serving a criminal conviction.

Appellant is seeking a grievance policy / procedure designed specifically to address issues between Appellant as a SCDMH resident held at the SCDC Edisto unit pursuant to SCC Ann. 44-48-10/170 and the SCDC.

Similar to Al-Shabazz 338 SC 354, (2000) but specifically designed to address SVP/SCDC issues.

SC Article I, sec. 22, SC Constitution require grievance systems be in place in the various state agency's.

SCC Ann. 44-48-100 makes a appeal process available to appeal the actual civil commitment, which includes the right to raise issues of confinement either through a petition directly to the courts and or through a grievance process.

The bottom line is that the SCDC refuse to accept being held accountable for their own violations against this Appellant, and through what appears to be more bravo inspired arrogance than by any provision of law, the SCDC legal counsel is advising the SCDC Grievance Branch Chief to not process a SCDMH resident vs. SCDC grievance. (see Appellants Exhibit (B) page 8), Exhibit (I)(D),page 11, Exhibit (J) page 13)

Appellant agrees in part with a few of SCDC points,

- (1) that Appellant is no longer a SCDC convicted prisoner,
 - (a) but that Appellant is a civilly committed prisoner of the SCDC and SCDMH.
- (2) that the SCDC grievance system pursuant to Al-Shabazz is for SCDC inmates only,
- (3) that appellant is civilly committed to the SCDMH that has an Interagency Agreement with the SCDC who in turn enforces it's (SCDC) rules and policy's upon this Appellant,
- (4) and that there is no grievance procedure between a SCDMH SVP resident being held that the Edisto unit 197, Broad River Correctional Institution and the SCDC.

A primary issue that requires a grievance procedure between a SCDMH resident vs SCDC is that the SCDC is directly involving itself in Appellants control, care and treatment.

see hereto (see Appellants Exhibit (M) page 27-33) SCDMH SCDC Interagency Agreement, And SCC Ann. 44-48-100.

These two documents order the SCDC be involved in Appellants control, care and treatment.

See Appellants Exhibit (J) page 13) "letter dated Mar. 6, 2009 signed by SCDC Deputy General Counsel Harry H. Stokes Jr., arrogantly states the Respondent contention, stating in sum that according to the SCDC, Appellant has no rights, not even those afforded a prisoner serving a criminal sentence.

ie: a prisoner is defined as a person serving a given, known sentence, whereby, Appellant is being held in the exact same prison, not under just one set of rules but two sets of rules being that of the SCDMH and the SCDC, but basically serving a life sentence with one half the due-process and equal protection afforded the convicted prisoner who at least has a grievance procedure to follow when that given person takes issue with SCDC.

Pursuant to Youngberg v Romeo 102 SCT 2452 (1982)

"Persons who have been involuntarily committed are entitled to more considerate treatment and conditions of confinement than criminals whose conditions of confinement are designed to punish".

10. The ALJ erred by not putting in place a grievance system between Appellant SVP to raise issues against the SCDC.

11. The ALJ had the jurisdiction,

a) pursuant to SCC Ann. 44-48-30, for the civil commitment is an extension of a criminal conviction.

b) pursuant to SCC Ann. 44-48-100 orders Appellant to be committed to the control, care, and treatment of the SCDC,

c) pursuant to SCC Ann. 44-48-100, orders Appellant's civil commitment treatment be jointly administered through the Interagency Agreement Between the SCDC And SCDMH;

Appellant prayer for relief request equal protection from the SCDC who affords it convicted prisoners a grievance procedure, in that Appellant is entitled to a SCDMH resident vs SCDC grievance procedure, specifically designed and remedies afforded this Appellant who is a civilly committed person.

12. In conclusion, whether the State of South Carolina is responsible, or blame the err on the Administrative Law Judge makes no difference.

a) the SCDC, The ALJ and the (Richland) Court Of Common Pleas all claim not to have the jurisdiction to accept and adjudicate Appellant grievable issues against the SCDC.

South Carolina Constitution Article I, sec. 22. states otherwise.

CONCLUSION

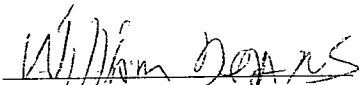
Appellant, moves this court to find,

1. That the ALJ was wrong to not process Appellants herein referenced Grievance[s] against the SCDC.
2. that there is no statute of limitations applied to SCDMH SVPTP Resident past issue[s] against the SCDC that can be brought in the foreseeable future through a pending [new] grievance procedure.
3. To order the SCDC to produce a grievance procedure that directly addresses and affords Appellant and SCDMH SVP residents an equitable remedy process,
 - a) Informal Resolution addressable through the SCDC office of the offending SCDC employee and or event.
 - b) Step 1 Grievance addressable directly through the SCDC Grievance Branch,
 - c) Step 2 Grievance addressable directly through the SCDC General Counsel.
 - d) then if not resolved, a appeal to the ALJ.
 - e) it is further understood that the effective dates for service by SCDMH Resident,
 - i) will be pursuant to *Houston v Lack* 87 US 266 (1989) ie: service is made by the SCDMH Resident when handed to SCDMH Officials for mailing.

ii) and the date the SCDMH Resident receives [a] document is the effective date of service upon the SCDMH SVP Resident.

4. and to any other relief that is above the foregoing stated prayer for relief herein sec. 1-3.

Mar. 4, 2010


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THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph King Anderson III, Administrative Law Judge

Tracking Number: 2009-145946

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South Carolina Department Of Corrections

Respondent.

PROOF OF SERVICE

I certify that I have served the Appellants Final Appeal Brief", by depositing a copy of it
in the United States Mail, postage prepaid, addressed to

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Columbia, SC 29221-1787,

Mar, 4, 2010

x-prisoner 204228

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STATEMENT OF THE ISSUES ON APPEAL

- I. DID THE ADMINISTRATIVE LAW COURT CORRECTLY DISMISS THIS APPEAL BECAUSE APPELLANT IS NOT AN INMATE WITH THE DEPARTMENT OF CORRECTIONS?**

STATEMENT OF THE CASE

This matter comes before this Honorable Court pursuant to the appeal of William Deans (“appellant”), a former Department of Corrections inmate who is now civilly committed to the Department of Mental Health. Appellant attempted to initiate an inmate grievance alleging denial of access to inmate grievance procedures. (R.pp.3-4). The grievance was returned unprocessed because appellant was not an SCDC inmate, but instead was civilly committed to the Department of Mental Health. (R.p.8) Appellant received the final agency determination on March 10, 2009.

Appellant filed a Notice of Appeal in the Administrative Law Court (ALC). By way of an order dated October 23, 2009, the ALC dismissed the appeal. Specifically, the ALC concluded that since appellant is not an inmate with the Department of Corrections, there was no jurisdiction over the Department of Corrections in this matter. (R.p.26).

Appellant now seeks review of the ALC’s decision. For the reasons that follow, SCDC respectfully requests that the ALC’s decision in be affirmed.

STANDARD OF REVIEW

S.C. Code Ann. § 1-23-610(B) provides the applicable standard of review:

The review of the administrative law judge's order must be confined to the record. The reviewing tribunal may affirm the decision or remand the case for further proceedings; or it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

See also S.C. Code Ann. § 1-23-380(5); Lake v. Reeder Constr. Co., 330 S.C. 242, 246, 498 S.E.2d 650, 653 (Ct. App. 1998).

In an appeal of the final decision of an administrative agency, the standard of appellate review is whether the ALC's findings are supported by substantial evidence.

See S.C. Code Ann. § 1-23-610(B). A reviewing Court shall not substitute its judgment for that of the ALC as to findings of fact, but it may reverse or modify decisions which are controlled by error of law or are clearly erroneous in view of the substantial evidence on the record as a whole. Id. In determining whether the ALC's decision was supported by substantial evidence, the Court need only find, considering the record as a whole, evidence from which reasonable minds could reach the same conclusion that the ALC

reached. DuRant v. S.C. Dep't of Health & Environmental Control, 361 S.C. 416, 420, 604 S.E.2d 704, 706 (Ct. App. 2004). The mere possibility of drawing two inconsistent conclusions from the evidence does not prevent a finding from being supported by substantial evidence. Id.

ARGUMENT AND CITATION OF AUTHORITY

THE ADMINISTRATIVE LAW COURT CORRECTLY DISMISSED THIS APPEAL BECAUSE APPELLANT IS NOT AN INMATE WITH THE DEPARTMENT OF CORRECTIONS.

The ALC properly dismissed the appeal since appellant was not an inmate with the Department of Corrections.

Inmates within the Department of Corrections may address administrative matters pursuant to procedures described in Al-Shabazz v. State, 338 S.C. 354, 368-69, 527 S.E.2d 742, 749-50 (2000) and the Administrative Procedures Act. However, these procedures apply only to current inmates. See id. at 368, 527 S.E.2d at 749 (addressing the procedure an *inmate* must use when seeking the review of a decision of the Department of Corrections in an administrative or non-collateral matter); Furtick v. SCDC, 374 S.C. 334, 338, 649 S.E.2d. 35, 37 (2007) (explaining an *inmate* can seek review of certain decisions by the Department of Corrections in the ALC).

Appellant is not an inmate within the Department of Corrections; instead he is committed to the Department of Mental Health pursuant to a civil commitment order. (R.p.3). Therefore, when appellant attempted to file an inmate grievance, the grievance was returned unprocessed since only current inmates are permitted to file an inmate grievance. (R.p.8). The ALC dismissed appellant's appeal of the Department's decision,

ruling it did not have jurisdiction over the Department of Corrections since appellant was not an inmate. (R.p.26).

The ALC correctly dismissed this appeal because appellant is not an inmate. The inmate grievance procedures established for administrative matters do not apply to former inmates. Al-Shabazz, 338 S.C. at 368, 527 S.E.2d at 749 (2000). Accordingly, because appellant is not a current inmate within the Department of Corrections, the ALC did not have jurisdiction over the Department in this matter.

Finally as to the other issues appellant raises in his brief, those issues are not preserved for appellate review. It is a well-settled principle of South Carolina law that, if an issue was not raised and ruled upon below, it will not be considered for the first time on appeal. Brown v. S.C. Dep't of Health & Environmental Control, 348 S.C. 507, 519, 560 S.E.2d 410, 417 (2002) (“[I]ssues not raised to and ruled upon by the ALJ are not preserved for appellate consideration.”). An issue may not be raised for the first time on appeal, but must have been properly preserved for appellate review. See State v. Walker, 366 S.C. 643, 623 S.E.2d 122 (Ct. App. 2005); State v. Carlson, 363 S.C. 586, 611 S.E.2d 283 (Ct. App. 2005). Therefore, those issues should not be considered on their merits.

In sum, the Department of Corrections respectfully requests the ALC's decision be upheld since SCDC was not a proper party to the appeal in the ALC and the ALC had no jurisdiction over SCDC.

CONCLUSION

WHEREFORE, for all the reasons stated above, this Court should affirm the

ALC's decision in this case. Moreover, pursuant to Rule 220(b) SCACR, respondent requests that this Honorable Court affirm respondent's decision based on any ground(s) appearing in the Record on Appeal.¹

Respectfully submitted,

SOUTH CAROLINA DEPARTMENT OF
CORRECTIONS

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March 3, 2010

¹ Respondent reserves the right to request all available remedies pursuant to S.C. Code Ann. § 24-27-200 (2006), as well as Rule 240, SCACR, to be assessed against the Appellant for the filing of this frivolous appeal.

CERTIFICATE OF COMPLIANCE

The undersigned hereby certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR and the Supreme Court's order of August 13, 2007.



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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT

Honorable Ralph King Anderson, III

Case No. 09-ALJ-04-000290-AP

William Deans, # 204228,.....Appellant,


v.

South Carolina Department of Corrections.....Respondent.

CERTIFICATE OF SERVICE

I hereby certify that I have served Appellant a copy of the Respondent's Final Brief by depositing a copy of same in the United States Mail, postage prepaid, on March 3, 2009, addressed to the Appellant as follows:

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