

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Christopher Santiago, #304243

Docket No. 25-ALJ-04-0162-AP

Appellant,

ORDER GRANTING
MOTION TO DISMISS

v.

South Carolina Department of Corrections,

Respondent.

RECEIVED

AUG 29 2025

SC Court of Appeals

STATEMENT OF THE CASE

This matter is pending before the South Carolina Administrative Law Court (“ALC” or “Court”) pursuant to an appeal filed by Christopher Santiago (“Appellant”), an inmate incarcerated with the South Carolina Department of Corrections (“Respondent” or “Department”). Appellant submitted a Step 1 Grievance on October 3, 2024, which ultimately led to a February 18, 2025 Order by Administrative Law Judge Crystal Rookard remanding the matter to the Department “for it to proceed through the two-step grievance system.” *Santiago v. S.C. Dep’t of Corr.*, 24-ALJ-04-0701-IJ (filed Feb. 18, 2025).

Appellant “resubmitted” a Step 1 Grievance on March 5, 2025 in which he asked that the Department “[r]efund the money that was taken from my inmate trust account. Viapath must update their software to fix the security flaws I have identified in my RTSM. SCDC must provide a way for inmate to get refunds from unauthorized orders.” The Department does not appear to have responded but instead prepared a Step 2 decision “in response to the inmate’s appeal to the South Carolina Administrative Law Court.” The Department’s March 20, 2025 Step 2 decision denied the grievance and states:

In response to the Order of The Honorable Crystal M. Rookard, South Carolina Administrative Law Court, I have reviewed your appeal stated in Grievance KCI-0141-25. In it you alleged, on 09/30/2024, a prisoner used Viapath tablet software to crack your PIN, gain access to your account, and make unauthorized purchases/calls totaling \$420.00. You request that SCDC refund the amount of \$420.00 to you. Pursuant to SCDC Policy OP-22.53 Inmate Tablets and Kiosks, inmates shall not allow other inmates to use their PIN to access an inmate tablet or kiosk for any purpose, including sharing of entertainment subscription content. Since the



alleged incident(s), your PIN has been changed. SCDC prohibits inmates from using another inmate's GTL account or PIN for any reason or allow use of one's own GTL account or PIN by another inmate for any reason. You have failed to provide evidence that substantiates your allegations against Viapath tablet software. Use of the inmate tablet or kiosk is a privilege and not a right. SCDC will not bare [sic] costs associated with fraudulent behavior imposed by other inmates' actions. Furthermore, Section 1.9 of the aforementioned policy states, "SCDC will not incur any costs associated with inmate tablets and kiosks, as all inmate tablet and kiosk hardware and software are provided by the vendor as part of the contract in exchange for the opportunity to sell entertainment subscription services to the inmate population."

Appellant received the decision on March 31, 2025.

On April 3, 2025, Appellant filed a Notice of Appeal outlining his position as follows:

By providing its inmates with tablet software that contains known security flaws that compromise my (and other inmates') trust account(s); by allowing a prisoner to use that software to crack my PIN, gain unauthorized access to my account, and place unauthorized orders totaling \$420; by filling the unauthorized orders; by refusing to provide me with a refund; and by refusing to provide me with meaningful use of the SCDC grievance system as a post-deprivation remedy, SCDC deprived me of my property interest in my inmate trust account in violation of the Due Process Clause of the 14th Amendment to the U.S. Constitution.

The case was assigned to the undersigned on April 10, 2025.

On April 21, 2025, Appellant filed an "Application for Leave to Present Additional Evidence" pursuant to section 1-23-380(3) of the South Carolina Code (Supp. 2004). On May 16, 2025, the Department filed a Motion to Dismiss, arguing Appellant failed to serve the Notice of Appeal on the Department. On June 2, 2025, Appellant filed a motion seeking additional time to respond to the Department's motion to dismiss and filed a response to the motion at the same time. On June 24, 2025, the Court denied Appellant's first motion, denied the Department's motion, and granted the Appellant's motion for additional time.

The Department filed a motion to dismiss on July 1, 2025 arguing that Appellant's underlying grievance does not implicate a state-created liberty or property interest, and that dismissal is therefore appropriate pursuant to *Slezak v. South Carolina Department of Corrections*, 361 S.C. 327, 605 S.E.2d 506 (2004) and *Skipper v. South Carolina Department of Corrections*,

370 S.C. 267, 633 S.E.2d 910 (Ct. App. 2006), because neither a state-created liberty interest nor state-created property interest is implicated in this case. Appellant filed his brief on July 2, 2025, and a response in opposition on July 9, 2025, in which he restates the merits of his argument and asserts a state-created property interest in his E.H. Cooper Trust Fund account. He elaborates that “SCDC provides inmates with tablet software that contains security flaws that inmates can exploit to crack other inmates’ PINs, gain unauthorized access to their accounts, and place unauthorized orders with their money.” Finally, he clarifies “his grievance requested funds the SCDC transferred, pursuant to a fraudulent order, from Santiago’s inmate trust account to his Tablet Time and Phone Debit accounts.”

DISCUSSION

The Court generally has jurisdiction to hear inmate appeals that have been properly filed and served. See S.C. Code Ann. § 1-23-600(D) (Supp. 2024); *Allen v. S.C. Dep’t of Corr.*, 439 S.C. 164, 170, 886 S.E.2d 671, 674 (2023) (“[T]he ALC has subject matter jurisdiction over inmate grievance appeals that have been properly filed.”); see also *Slezak*, 361 S.C. at 331, 605 S.E.2d at 507; *Al-Shabazz v. State*, 338 S.C. 354, 369, 527 S.E.2d 742, 750 (2000).

However, the Court may summarily dismiss an inmate's appeal when the appeal does not implicate state-created liberty or property interests. See *Slezak*, 361 S.C. at 331, 605 S.E.2d at 507 (explaining summary dismissal is appropriate when “the inmate's grievance does not implicate a state-created liberty or property interest”); *id.* (explaining the Due Process Clause is only offended when an inmate is subjected to “atypical and significant hardships in relation to ordinary incidents of prison life” (citing *Sandin v. Conner*, 515 U.S. 472, 484 (1995))); *Skipper*, 370 S.C. at 272-74, 633 S.E.2d at 913-14. “Courts traditionally have adopted a ‘hands off’ doctrine regarding judicial involvement in prison disciplinary procedures and other internal prison matters, although they must intercede when infringements complained of by an inmate reach constitutional dimensions.” *Al-Shabazz*, 338 S.C. at 382, 527 S.E.2d at 757. The Department argues that no state-created liberty or property interest is affected by the Department's decision.

The determination of whether a state-created property interest is implicated is critical to the outcome of the Department’s motion. There is no doubt that a constitutionally protected interest exists in the funds held in Appellant’s inmate trust account, but the South Carolina Supreme Court has consistently required that an interest be more than constitutionally protected before an inmate is entitled to be heard before the Administrative Law Court. The interest at stake must be both

constitutionally protected and “state-created.” See *Allen*, 439 S.C. at 171, 886 S.E.2d at 674 (“the ALC is not required to hold a hearing in every matter and may summarily dismiss an inmate’s grievance if it does not implicate a *state-created liberty or property interest*”) (emphasis added); *Skipper*, 370 S.C. at 279, 633 S.E.2d at 917 (“ALC should have dismissed [inmate’s] appeal given his grievance did not implicate a *state-created liberty interest*”); *Slezak*, 361 S.C. at 333, 605 S.E.2d at 509 (“[w]e hold that the [ALC] has jurisdiction over all properly perfected inmate appeals, but clarify that it may summarily decide those appeals that do not implicate an inmate’s *state-created liberty or property interest*”) (emphasis added).¹

A state-created property interest is grounded in state law. See *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 430 (1982) (“The hallmark of property ... is an individual entitlement grounded in state law, which cannot be removed except ‘for cause’”). “To have a property interest subject to procedural due process protection, an individual must be entitled to a benefit created and defined by a source independent of the Constitution, such as state law.” *Huang v. Bd. of Governors of Univ. of N.C.*, 902 F.2d 1134, 1141 (4th Cir. 1990). An inmate claiming a protected interest must have a legitimate claim of entitlement to it. *Allen v. S.C. Dep’t of Corr.*, 434 S.C. 114, 118–19, 862 S.E.2d 268, 270 (Ct. App. 2021), *reh’g denied* (Sept. 8, 2021), *cert. granted* (Apr. 5, 2023), *aff’d as modified*, 439 S.C. 164, 886 S.E.2d 671 (2023).

Appellant’s complaint is that some other inmate guessed Appellant’s PIN² and fraudulently charged \$420 to his account. In his Step 1 Grievance, Appellant states “a prisoner used [the] software to crack my PIN, gain access to my account, and make \$420 worth of unauthorized orders in tablet time and phone debit” and that the funds were given to Viapath. In his Notice of Appeal, Appellant indicates the unauthorized prisoner “placed unauthorized orders totaling \$420” and attacks the Department for “filling the unauthorized orders.” Similarly, in his brief, Appellant first alleged “unauthorized access to Santiago’s account” whereby the unknown inmate “placed \$420 worth of fraudulent orders in Tablet Time and Phone Debit with Santiago’s money.” However, later in his brief, Appellant asserted the Department mischaracterized his grievance on the basis that he only intended to request a “refund for money that SCDC removed from his inmate trust account and placed into Tablet Time and Phone Debit accounts.” Similarly, in his response to the

¹ Other forums such as the South Carolina Circuit Court or the United States District Court may adjudicate prisoner claims based upon violations of federal rights.

² In Appellant’s October 3, 2024 Step 1 Grievance, he alleges he had a 4-digit PIN. The Department’s Inmate Tablets and Kiosks Policy OP-22.53 (July 27, 2021) indicates in Section 2.2 that the PIN consists of 10-digits.

Department's motion, Appellant insists the Department is "capable of moving Santiago's funds from his Tablet Time and Phone Debit accounts back to his inmate trust account, and SCDC would not 'bear the costs' in doing so. They could simply put the money back." Finally, Appellant insists the Department must require its contractor to modify tablet software.

Any entitlement to the relief requested by Appellant must stem from a state law source, such as a statute, regulation, or mandatory SCDC policy. If there is no such state law entitlement, then the Department's motion is well founded.

The Court will assess Appellant's requests for relief against this background.

I. Return of Stolen Funds

Due Process is not implicated by Appellant's request that the \$420 be returned to him. As the U.S. Supreme Court has explained:

nothing in the language of the Due Process Clause itself requires the State to protect the life, liberty, and property of its citizens against invasion by private actors. The Clause is phrased as a limitation on the State's power to act, not as a guarantee of certain minimal levels of safety and security. It forbids the State itself to deprive individuals of life, liberty, or property without "due process of law," but its language cannot fairly be extended to impose an affirmative obligation on the State to ensure that those interests do not come to harm through other means.

DeShaney v. Winnebago County Dept. of Soc. Servs., 489 U.S. 189, 195(1989).

Stated differently, the requirements of due process apply only to state action. Here, Appellant concedes that the Department did not take his funds; rather, another inmate is responsible for the alleged loss of funds. The unauthorized action of the unknown inmate does not support a due process claim against the Department. *See Nat'l Collegiate Athletic Ass'n v. Tarkanian*, 488 U.S. 179, 191(1988) ("Embedded in our Fourteenth Amendment jurisprudence is a dichotomy between state action, which is subject to scrutiny under the Amendment's Due Process Clause, and private conduct, against which the Amendment affords no shield, no matter how unfair that conduct may be."); *Rendell-Baker v. Kohn*, 457 U.S. 830, 837 (1982) ("Fourteenth Amendment ... applies to acts of the states, not to acts of private persons or entities.").

II. Modification of Tablet Software

Appellant next demands that the Department or its contractor fix the software on the tablets. However, the Court concludes that this request does not implicate a state-created liberty or

property interest. Appellant has failed to identify a state statute, regulation, or mandatory Department policy which would entitle him to such relief. Additionally, Policy OP-22.53, Inmate Tablets and Kiosks, which governs inmate use of tablets, states in part that: "Use of the inmate tablet or kiosk is a privilege and not a right. Loss of this privilege is not grievable." Section 1.9 of the same policy states:

1.9 SCDC will not incur any costs associated with inmate tablets and kiosks, as all inmate tablet and kiosk hardware and software is provided by the vendor as part of the contract in exchange for the opportunity to sell entertainment subscription services to the inmate population.

Consequently, Appellant appears to have no property right in the use a tablet let alone a tablet configured in a specific manner.

III. Transfer of Funds to Trust Account

Appellant finally insists that the Department must transfer funds from his tablet and phone accounts back to his E.H. Cooper account. The Court deems this request to be distinct from what Appellant first presented to the Department when initiating the grievance process, *i.e.*, a complaint that an unknown inmate performed fraudulent transfers in his account resulting in the loss of \$420. If an inmate was responsible for the removal of funds from Appellant's tablet and/or phone accounts, the funds so removed would not be available for transfer back to his trust account. Appellant's request for transfer is a new request for relief which was not presented to the Department below. Consequently, the argument is not preserved for review in this appeal. *See Carson v. S.C. Dep't of Natural Res.*, 371 S.C. 114, 120, 638 S.E.2d 45, 48 (2002) (court sitting in appellate capacity may not consider issues not raised or ruled on by administrative agency); *Gatewood v. S.C. Dep't of Corr.*, 416 S.C. 304, 324-25, 785 S.E.2d 600, 611-12 (Ct. App. 2016) (issues which are not raised to and ruled upon by an administrative agency are not preserved).³

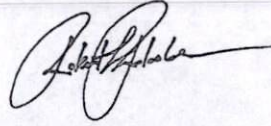
Because the Court concludes that Appellant's claims do not implicate *state-created* property interests, summary dismissal is appropriate.

³ Even if the Court could reach the issue, it lacks merit. In support of his claim, Appellant invokes section 1.7 of Policy OP-22.53. That section states: "Upon release, an inmate will turn in their assigned inmate tablet. No refunds will be given for unused entertainment subscriptions, but any funds transferred to the tablet account but not spent on subscriptions will be refunded to the inmate upon release." (emphasis added). Again, Appellant has failed to identify a state statute, regulation, or mandatory Department policy which would entitle him to the transfer he requests prior to being released. The refund function of section 1.7 is only mandatory in the context of an inmate's release.

ORDER

IT IS THEREFORE ORDERED that the Department's Motion to Dismiss is **GRANTED.**

AND IT IS SO ORDERED.



The Honorable Robert L. Reibold
Administrative Law Judge

August 20, 2025
Columbia, South Carolina