

STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT
The Honorable Robert L. Reibold, Administrative Law Judge

Case No. 25-ALJ-04-0162-AP
(Appellate Case No. 2025-001744)

Christopher Santiago, #304243,

Appellant,

v.

South Carolina Department of Corrections

Respondent.

RECORD ON APPEAL

Christopher Santiago 304243
Kirkland Corr. Inst. F2-235
4344 Broad River Road
Columbia, SC 29210

Appellant, pro se.

South Carolina Department of Corrections
Office of General Counsel
P.O. Box 21787
4444 Broad River Road
Columbia, SC 29221-1787

Respondent.

RECEIVED

OCT 10 2025

SC Court of Appeals

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

STEP 1

INMATE NAME: <u>CHRISTOPHER SANTIAGO</u> SCDC NUMBER: <u>304243</u> INSTITUTION: <u>KIRKLAND</u> HOUSING UNIT: <u>F2-235</u> WORK ASSIGNMENT: <u>DORMKEEPER R&E GRIEVANCE</u>	<p align="center">OFFICE USE ONLY</p> Grievance No. <u>KCI-0604-24</u> Code: <u>General</u> Policy: <u>GPMY/BM</u> Disc. Hear.: _____ Class.: _____ PREA: _____ Date Received: <u>10/4/24</u> IGC Initials: <u>JM</u>
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RECEIVED

OCT 04 2024

STATEMENT OF GRIEVANCE (Indicate the date of incident, and if the grievance is a challenge to SCDC Policy, specify which policy. Include supporting documentation and attach answered RTSM or Kiosk reference number.)

On October 1, 2024, I discovered someone had gained access to my GTL account and made an unauthorized purchase of \$320 Tablet Time and \$100 Phone Debit. The prisoner who did this used GTL's software to figure out my scdc PIN number by trying every 4-digit number combination until they hit the correct PIN number. I have never shared my PIN number or used it in front of anyone. I reported this to Sgt. Cassandra Kness and Lt. Riley in unit F2. I asked them and ICS Program Administrative Assistant Ms. Davis to help me get my PIN number changed and a refund. Ms. Davis contacted Sabrina Jarvis-Davis of GTL and Captain Carter. My PIN number was changed, but I was told that GTL does not give refunds.

I attempted an informal resolution by sending an RTSM to the appropriate supervisor requesting a refund and a criminal investigation into the identity fraud. The response said that "GTL does not provide refund or transfer" and "It is your responsibility to keep your PIN number secured."
 (Informal resolution Kiosk Reference number 24-03670738.)

But it was GTL's software that allowed someone to figure out my PIN number by trying different combinations of 4-digit numbers. This is due to a flaw in the security of GTL's software. It is not my responsibility.

Identity fraud was committed using GTL software with a security flaw, and GTL is pocketing the money from this crime that their software enabled.

Clewis Jolley Oct. 03, 2024
 Grievant Signature Date

ACTION REQUESTED: Refund \$420 to my E.H. Cooper Trust Fund. Conduct a criminal investigation into the crime of identity fraud mentioned above. Make GTL software more secure to prevent this from happening again.

ACTION TAKEN BY IGC: PROCESSED UNPROCESSED OTHER

Your grievance is being Processed (Reviewed) and Returned (No Wardens Decision) for the following reason: Per Policy GA-01.12, Inmate Grievance System, Section 8.4.4 Non-Grievable Issues. Any other matters outside the control of the SCDC. Tablet issues are not grievable. Pursuant to SCDC Policy OP-22.53, Inmate Tablets and KIOSK, the inmate tablet is a privilege, not a right, and the loss of this privilege is not grievable. Please note: You must contact GTL regarding monies not being placed on your tablet. Also, prior to you accessing the functions of your tablet, under the Terms and Conditions, which is located on the first page of your tablet, outlines no refunds or reimbursements for any monies because you did not have access to your tablet or phone use.

Teresa Mitchell 10/4/24
 IGC Signature Date

(CONTINUE ON REVERSE SIDE)

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

STEP 1

RECEIVED
MAR 11 2025

INMATE NAME: Christopher	RECEIVED	OFFICE USE ONLY
SCDC NUMBER: 304243		Grievance No. KCI-0141-25
INSTITUTION: Kirkland	MAR 11 2025	Code: General
HOUSING UNIT: F2-235	KCI R&E GRIEVANCE	Policy
WORK ASSIGNMENT: Dormkeeper		Disc. Hear.
		Class.
		PREA
		Date Received 3/11/25
		IGC Initials im

STATEMENT OF GRIEVANCE (Indicate the date of incident, and if the grievance is a challenge to SCDC Policy, specify which policy. Include supporting documentation and attach answered RTSM or Kiosk reference number.)

This grievance is refiled pursuant to an order from the SC Admin Law Court in the case Santiago v SCDC, 24-ALJ-04-0701-IJ (enclosed). The original grievance was no. KCI 0604-24. The Viapath tablet software that SCDC provides to inmates contains security flaws that allow prisoners to figure out other prisoners' PINs, access other prisoners' trust accounts, and place fraudulent orders from other prisoners' accounts. SCDC then fills the orders, removing money from the victims' accounts and giving it to Viapath. SCDC then refuses to provide refunds. On Sep. 30, 2024, a prisoner used this software to crack my PIN, gain access to my account, and make \$420 worth of unauthorized orders in tablet time and phone debit. SCDC removed the money from my inmate trust account on Oct. 1, 2024. I reported this to Sgt. Cassandra Kness, Lt. Riley, and Admin. Davis at unit F2. I asked for a PIN change and a refund. Ms. Davis contacted Capt. Taia Carter and Viapath employee Sabrina Jarvis-Davis. My PIN was changed but I was told that Viapath does not give refunds. I attempted an informal resolution by sending an RTSM to the appropriate supervisor. My RTSM gives more details about the security flaws. See kiosk reference no. 24-03670738. In response to my RTSM, I was told, "GTL does not provide refunds" and "It is your responsibility to keep your PIN number secured." But I have never shared my PIN with anyone. I have never written it down or spoken it aloud. I have never used it in front of anyone. An inmate learned my PIN by exploiting the aforementioned software security flaws. SCDC has a legal obligation to safeguard the money in my inmate trust account. All inmate accounts are vulnerable with the current software.

Chris Santiago March 5, 2025
Grievant Signature Date

ACTION REQUESTED: Refund 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 inmates to get refunds from unauthorized orders.

ACTION TAKEN BY IGC: PROCESSED UNPROCESSED OTHER

IGC Signature Date

(CONTINUE ON REVERSE SIDE)

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

Office Use Only

INMATE NAME: Christopher Santiago

SCDC NUMBER: 304243

INSTITUTION: Kirkland

HOUSING UNIT: _____

WORK ASSIGNMENT: _____

Grievance No. KCI-0604-24

Code: General MY/IBM

Policy _____

Disc. Hear. _____

Class _____

PREA _____

Date Received: _____

IGC Initials: _____

Date Received: 3/10/25

IGA Initials: CA

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

The following is in response to the inmate's appeal to the South Carolina Administrative Law Court (ALC).

Grievant Signature N/A Date _____

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

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 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."

Therefore, your grievance is denied.

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

Responsible Official Signature [Signature] Date 3/24/25

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.

[Signature] March 31, 2025
Grievant Signature Date

[Signature] 3/31/25
IGC Signature Date

State of South Carolina
In the Administrative Law Court

APPEAL FROM THE FINAL DECISION OF
THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Docket No.: 25-ALJ-04-0162-AP
Grievance No.: KCI-0604-24

South Carolina Department of Corrections,

Respondent,

v.

Christopher Santiago #304243,

Appellant.

BRIEF OF APPELLANT

Christopher Santiago #304243
Kirkland Corr. Inst, F2-235
4344 Broad River Rd.
Columbia, SC 29210

Appellant, pro se

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STATEMENT OF ISSUES ON APPEAL

1. **Arbitrary and capricious.** Courts have held that agencies act arbitrarily and capriciously when they fail to follow their own procedures. SCDC failed to follow its own grievance procedures, preventing Santiago from correcting the Agency's mischaracterization of his grievance and preventing him from presenting evidence of his claims. Was SCDC's failure to follow its own grievance procedures arbitrary and capricious?

2. **Arbitrary and capricious/clearly erroneous.** The South Carolina Court of Appeals has held that SCDC's mischaracterization of an inmate's grievance was arbitrary and capricious. SCDC mischaracterized Santiago's grievance about refundable money in his Tablet Time and Phone Debit accounts as a grievance about non-refundable entertainment subscriptions and phone calls without considering the actual issue raised in his grievance. Was SCDC's mischaracterization of Santiago's grievance arbitrary and capricious and/or clearly erroneous?

STATEMENT OF THE CASE

This matter is before the Administrative Law Court ("ALC" or "Court") pursuant to the appeal of Christopher Santiago, a person incarcerated in the South Carolina Department of Corrections ("SCDC" or "Department" or "Agency"). On March 5, 2025, Santiago refiled a Step One grievance (See Step One Grievance No. KCI-0141-25, enclosed) in accordance with an ALC Order remanding his grievance to proceed through SCDC's two-step grievance system. (A copy of the Order is enclosed for the Court's convenience.)

In his grievance, Santiago reported that another inmate had exploited security flaws in Viapath Technologies' prison tablet software to crack his PIN, and had thereby gained unauthorized access to Santiago's account and placed \$420 worth of fraudulent orders in Tablet Time and Phone Debit with Santiago's money.

Santiago's grievance requested a refund for the money that SCDC, in filling the fraudulent order, had removed from Santiago's inmate trust account and placed into Tablet Time and Phone Debit accounts. Santiago also requested that the software security flaws be fixed to prevent this from happening again.

But SCDC did not respond to Santiago's Step One grievance on the Step One form, as required by SCDC policy. (See SCDC Policy GA-01.12, "Inmate Grievance System," section 11, which states: "Each grievance will be answered at each level of decision using the applicable SCDC Form" (emphasis added).) See also SCDC Policy GA-01.12, section 13.5, which states: "The Warden will respond to the grievant in writing (in the space provided on SCDC Form 10-5, Step 1).") Santiago never received the required response from the Warden on his Step One grievance form.

Also, SCDC did not give Santiago an opportunity to appeal the Step One decision to Step Two, as required by SCDC Policy GA-01.12, "Inmate Grievance System," section 13.7, which states: "The grievant may appeal by completing SCDC Form 10-5a, Step 2." Instead, on March 20, 2025, SCDC used the bottom half of a Step Two grievance form to prematurely issue the Agency's final decision. (See Step Two Grievance No. KCI-0604-24, enclosed.) The final decision was delivered to Santiago on March 31, 2025.

(Note: Although the Step One and Step Two grievances show different grievance numbers, the lower half of the Step Two form numbered KCI-0604-24 clearly states that it is in response to Santiago's Step One grievance numbered KCI-0141-25.)

In their final decision, SCDC mischaracterized Santiago's grievance by suggesting that he was requesting refunds for non-refundable entertainment subscriptions and phone calls. But Santiago's grievance made no mention of subscriptions or calls. Santiago's grievance only requested a refund for money that SCDC removed from his inmate trust account and placed into Tablet Time and Phone Debit accounts.

SCDC Policy OP-22.53, "Inmate Tablets and Kiosks," section 1.7 states: "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" SCDC was therefore capable of refunding Santiago's money, but the Department's premature final decision prevented Santiago from correcting SCDC's mischaracterization in a Step Two grievance appeal.

In addition, SCDC's failure to follow its own grievance procedures prevented Santiago from providing the Department with evidence of his claims. This is important because SCDC, in their final decision, stated: "You have failed to provide evidence that substantiates your allegations against Viapath tablet software." (See Step Two grievance.)

Santiago filed and served his Notice of Appeal on April 2, 2025. The case was assigned to the Honorable Robert L. Reibold on April 10, 2025. On May 16, 2025, the Department filed a Motion to Dismiss. And on June 24, 2025, the Court denied the Department's Motion to Dismiss.

ARGUMENTS

I. SCDC'S FAILURE TO FOLLOW ITS OWN GRIEVANCE PROCEDURES WAS ARBITRARY AND CAPRICIOUS.

A. SCDC's grievance procedures are binding on the Agency.

"Although SCDC's statements concerning the inmate grievance system are within a document entitled 'SCDC Policy/Procedure,' they are 'binding norms' and, thus, more like rules or regulatory regulations" Ackerman v. S.C. Dep't of Corr., 415 S.C. 412, 782 S.E.2d 757, 761 n.6 (Ct. App. 2016).

B. Agencies must follow their own procedures. Failure to do so is arbitrary and capricious.

"Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures." Morton v. Ruiz, 415 U.S. 199, 235, 94 S.Ct. 1055, 1074 (1974); See also

Triska v. DHEC, 292 S.C. 190, 194, 355 S.E.2d 531, 533 (1987) ("[An administrative agency] must follow its own regulations.")

"The failure of an agency to abide by its rules is per se arbitrary and capricious." Guier v. Teton County Hosp. Dist., 2011 WY 31, 248 P.3d 623 (Wyo. 2011). See also N.B. v. United States, 522 F.Supp.3d 387, 398 (E.D.N.Y. Aug 3, 2021)("An agency action may be arbitrary and capricious if they fail to follow their own procedures and regulations.")

"Substantial rights of [appellant] were prejudiced due to the arbitrary and capricious nature of the agency's interpretation of its grievance procedure." Trowell v. S.C. Dep't of Public Safety, 384 S.C. 232, 237, 681 S.E.2d 893, 896 (Ct. App. 2009).

C. SCDC failed to follow its own grievance procedures.

SCDC Policy GA-01.12, "Inmate Grievance System," section 11, states: "Each grievance will be answered in writing at each level of decision using the applicable SCDC Form (either Form 10-5 or Form 10-5a)." Concerning Step One grievances, SCDC Policy GA-01.12, section 3.5 states: "The Warden will respond to the grievant in writing (in the space provided on SCDC Form 10-5, Step 1)." Santiago never received the required response from the Warden to his Step One grievance.

Also, Santiago was not given an opportunity to appeal his grievance to Step Two. This contradicted SCDC Policy GA-01.12, section 13.7, which states: "The grievant may appeal by completing SCDC Form 10-5a, Step 2." Instead, SCDC responded to Santiago's Step One grievance using the bottom half of a Step Two form.

By essentially skipping a step in their grievance procedure, SCDC denied Santiago an opportunity to be heard. Santiago's Step Two grievance would have contained, among other things, an explanation of the software security flaws and an offer to demonstrate, in person, how these security flaws can be exploited using a tablet or kiosk connected to the GTL/Viapath network. This would have been sufficient evidence for SCDC to

resolve the grievance in his favor.

- D. Santiago's due process right -- his protected property interest in his inmate trust account -- was prejudiced.

As an incarcerated person, Santiago has a protected property interest in his inmate trust account under the Due Process Clauses of the Fourteenth Amendment to the U.S. Constitution and Article 1, Section 3, of the South Carolina Constitution. Henderson v. Harmon, 102 F.4th 242 (4th Cir. 2024); Millholland v. S.C. Dep't of Corr., 436 S.C. 547, 873 S.E.2d 784 (Ct. App. 2022).

Though it could be argued that the South Carolina Supreme Court, in Al-Shabazz v. State, held that SCDC's grievance system meets the requirements of due process, that argument fails here because the Supreme Court, in making its decision, assumed that SCDC would follow its own grievance procedures. 338 S.C. 354, 527 S.E.2d 742 (2000). In the instant case, SCDC did not.

- E. SCDC failed to comply with a court order requiring this matter to proceed through the two-step grievance system.

In an Order from this Court in Santiago v. S.C. Dep't of Corr., No. 24-ALJ-04-0701-IJ (S.C. Admin. Law Ct., Feb. 18, 2025) the Honorable Crystal M. Rookard wrote, "[T]he Court finds it appropriate to remand this matter for it to proceed through the two-step grievance system available to inmates," not through a one-step version of that system. (See Enclosed Order.)

- F. Under the South Carolina Administrative Procedures Act (APA), arbitrary and capricious agency actions are grounds for reversal or remand.

S.C. Code § 1-23-380(5) states, in part: "The [ALC] may reverse or modify the decision [of the agency] if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions

are ... (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion."

II. SCDC'S MISCHARACTERIZATION OF SANTIAGO'S GRIEVANCE WAS ARBITRARY AND CAPRICIOUS AND/OR CLEARLY ERRONEOUS.

In Ackerman v. S.C. Dep't of Corr., the South Carolina Court of Appeals held that SCDC's mischaracterization of an inmate's grievance was arbitrary and capricious. 415 S.C. 412, 782 S.E.2d 757 (Ct. App. 2016).

In the instant case, SCDC's Step Two grievance response mischaracterized Santiago's grievance. SCDC's response suggested that Santiago was requesting a refund for non-refundable entertainment subscriptions and phone calls and stated "SCDC will not incur any costs associated with tablets and kiosks" (See Step Two grievance). But Santiago never mentioned any entertainment subscriptions or calls. Santiago's grievance was about funds that SCDC moved from Santiago's inmate trust account to his Vispath Tablet Time and Phone Debit accounts. SCDC Policy OP-22.53, "Inmate Tablets and Kiosks," section 1.7, states, "No refunds will be given for entertainment subscriptions, but any funds transferred to the tablet account but not spent on subscriptions will be refunded"

In other words, SCDC could have refunded Santiago's money from his tablet account back to his inmate trust account, and it would not have cost SCDC any money. Unfortunately, Santiago was unable to explain this to SCDC's decisionmakers because they prematurely issued the Agency's final decision, as mentioned previously. In their final decision, the Department denied Santiago's grievance, and their denial was based on the mischaracterization. As a result, SCDC has not addressed the actual matter Santiago raised in his grievance.

SCDC's attempt to characterize Santiago's grievance about refundable Tablet Time and Phone Debit as a grievance about non-refundable entertainment subscriptions and calls was therefore arbitrary and capricious. It was not rationally based on the

facts of the grievance and prejudiced Santiago's protected property interest in his inmate trust account. Henderson, 102 F.4th 242 (4th Cir. 2024); Millholland, 436 S.C. 547 (Ct. App. 2022).

"A decision is arbitrary and capricious if it is without a rational basis, is based alone on one's will and not upon any course of reasoning or judgment; is made at pleasure, without adequate determining principles, or is governed by no fixed rules or standards." Blackmon v. DHEC, 441 S.C. 342, 353, 893 S.E.2d 578, 584 (Ct. App. 2022).

Again, arbitrary and capricious agency decisions are grounds for reversal or remand. S.C. Code § 1-23-380(5)(f).

Moreover, for the reasons stated in the above argument, SCDC's decision was clearly erroneous in view of the whole record. Clearly erroneous decisions are grounds for reversal. S.C. Code § 1-23-380(5)(e).

Also, it is worth mentioning that since the tablet software contains security flaws that inmates are exploiting to commit identity fraud, and since SCDC has an obligation to safeguard the money in inmates' trust accounts, it follows that money removed from those accounts pursuant to fraudulent orders should be refunded regardless of whether it went to tablet time, phone debit, entertainment subscriptions or phone calls. Incarcerated victims of identity fraud deserve a way to obtain refunds.

CONCLUSION

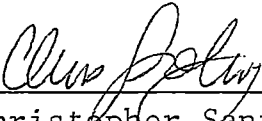
Because SCDC's failure to follow their own grievance procedures and SCDC's mischaracterization of Santiago's grievance were arbitrary and capricious and prejudiced Santiago's due process rights, and because SCDC's final decision was clearly erroneous, Santiago requests this Honorable Court provide the following relief:

•Reverse the Agency's final decision and order SCDC to obtain a software update from Viapath Technologies that fixes the security flaws that enable inmates to commit identity fraud on its tablets; order SCDC to refund Santiago's money to his inmate trust account, and order SCDC to provide a way for incarcerated victims of identity fraud to obtain refunds in the future;

or

•Reverse the Agency's final decision and remand the matter to SCDC for further proceedings taking into account the contents of this brief and the additional evidence Santiago offers to provide.

Respectfully submitted,



Christopher Santiago #304243
Kirkland Corr. Inst. F2-235
4344 Broad River Road
Columbia, SC 29210

Appellant, pro se.

June 30, 2025
Columbia, South Carolina

**STATE OF SOUTH CAROLINA
IN THE ADMINISTRATIVE LAW COURT**

Christopher Santiago, #304243)	Docket No.: 25-ALJ-04-0162-AP
)	[Grievance No.: KCI 604-24]
Appellant,)	
)	<i>Hon. Robert L. Reibold</i>
v.)	
)	
South Carolina Department of Corrections,)	RESPONDENT’S MOTION TO
)	DISMISS
Respondent.)	
<hr style="width: 40%; margin-left: 0;"/>		

STATEMENT OF THE CASE

This matter is before the Administrative Law Court (“ALC” or “Court”) pursuant to the appeal of Christopher Santiago (“Appellant”), an inmate incarcerated with the South Carolina Department of Corrections (“SCDC” or “Department”). On October 3, 2024, Appellant filed a Step One Grievance requesting a refund of \$420.00 to his E.H. Cooper account, a criminal investigation into identity fraud and make GTL’s software more secure.¹ Appellant alleged an inmate discovered his personal PIN number and used it to charge \$320.00 in tablet time and \$100.00 in phone debit to his E. H. Cooper account. On October 4, 2024, the Step One Grievance was processed and returned because tablet issues are non-grievable. Appellant filed a Notice of Appeal on October 24, 2024. Thereafter, on February 18, 2025, the case was remanded by the Honorable Crystal M. Rookard for SCDC to issue a Step Two response. On or about March 20, 2025, SCDC issued a response and denied the Grievance.² This appeal followed.

STANDARD OF REVIEW

The ALC’s jurisdiction to hear this matter is derived entirely from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000).

¹ A copy of the Step One Grievance is attached for the Court’s and parties’ convenience.

² A copy of the Step Two Grievance is attached for the Court’s and parties’ convenience.

When reviewing SCDC's decisions in inmate grievance matters, the ALC sits in an appellate capacity. *Id.* at 377, 527 S.E.2d at 754. Recently the South Carolina Supreme Court clarified the Administrative Law Court's jurisdiction as:

[t]hat the ALC has subject matter jurisdiction over inmate grievance appeals that have been properly filed. (*internal citations omitted*) . . . [h]owever, 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 sufficient to trigger procedural due process guarantees. The ALC may not grant an inmate relief from an erroneous administrative decision by SCDC, however, unless the inmate demonstrates the error deprived him of due process... (*internal citations omitted*)

Allen vs. S.C. Dep't of Corr., 439 S.C. 164, 170-71, 886 S.E.2d 671, 674 (2023).

“The requirements of procedural due process apply only to the deprivation of interests encompassed by the Fourteenth Amendment's protection of liberty and property.” *Al-Shabazz*, 338 S.C. at 369, 527 S.E.2d at 750 (*quoting Board of Regents of State Colleges. v. Roth*, 408 U.S. 564, 569, 92 S.Ct. 2701, 2705 (1972)). SCDC interprets *Slezak* as encouraging, for the sake of judicial economy, the ALC to summarily dismiss inmate cases that do not involve a state-created liberty or property interest. *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 605 S.E.2d 506 (2004) (holding that the ALC “may summarily dismiss those appeals that do not implicate an inmate's *state created* liberty or property interest”) (*emphasis added*). The South Carolina Court of Appeals has interpreted *Slezak* to mean that where a state-created liberty interest is not implicated in a prisoner appeal, a judge of the ALC “should” dismiss the appeal. *Skipper v. S.C. Dep't of Corr.*, 370 S.C. 267, 633 S.E.2d 910 (Ct. App. 2006).

ARGUMENT

This case should be dismissed under *Slezak* and *Skipper*. In this appeal Appellant alleges that an inmate discovered his PIN number using Global Tel-Link's (“GTL”) tablet software and then used that PIN to accrue \$420.00 in charges to his E.H. Cooper account. *See* Step One

Grievance. SCDC determined that Appellant had not proved another inmate used GTL's software to steal his PIN, GTL did not give refunds, SCDC would not bear the costs associated with alleged fraudulent behavior of inmates, and inmates were prohibited from both sharing their PIN number and using another inmate's PIN number. *See* Step Two Grievance. This appeal does not implicate a state-created liberty or property interest. Appellant does not allege that SCDC erroneously calculated his sentence, sentence-related credits, or custody status; or allege that a state-created liberty or property interest was taken in a major disciplinary hearing. Because Appellant's allegations do not implicate a state-created liberty or property interest sufficient to trigger procedural due process guarantees, this Court should dismiss this appeal, with prejudice.

CONCLUSION

Because the case does not implicate a state-created liberty or property interest this case should be dismissed.

Respectfully submitted,

Lauren Stevens

Lauren Stevens
Staff Attorney
South Carolina Department of Corrections
PO Box 21787
Columbia, South Carolina 29221
Phone: (803) 896-8508

June 20, 2025
Columbia, South Carolina

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Christopher Santiago #304243,
Appellant,
v.
South Carolina Department of
Corrections,
Respondent.

} Docket No. 25-ALJ-04-0162-AP
[Grievance No. KCI-0604-24]
Hon. Robert L. Reibold
} APPELLANT'S RESPONSE TO
} RESPONDENT'S MOTION TO DISMISS

Appellant Christopher Santiago submits this Response in opposition to the Motion to Dismiss filed by Respondent South Carolina Department of Corrections ("SCDC" or "Department") and dated June 30, 2025, which was delivered to Santiago on July 3, 2025. For the reasons set forth below, this Court should deny Respondent's Motion to Dismiss.

ARGUMENT

In their Motion to Dismiss, SCDC claimed that Santiago's appeal to the Administrative Law Court does not implicate a state-created liberty or property interest. That claim is inaccurate. As an incarcerated person, Santiago has a protected property interest in his inmate trust account (also called E.H. Cooper Trust Fund) under the Due Process Clauses of the Fourteenth Amendment to the United States Constitution and Article 1, Section 3, of the South Carolina Constitution. Henderson v. Harmon, 102 F.4th 242 (4th Cir. 2024); Millholland v. S.C. Dep't of Corr., 436 S.C. 547, 873 S.E.2d 784 (Ct. App. 2022).

As stated in Santiago's Notice of Appeal, 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. SCDC then processes the unauthorized orders and refuses to provide refunds or allow inmates to use the

grievance system as a post-deprivation remedy. When this happened to Santiago, his due process right -- his protected property interest in his inmate trust account -- was implicated.

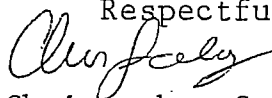
Further, SCDC has mischaracterized Santiago's grievance about refundable Tablet Time and Phone Debit as a grievance about non-refundable entertainment subscriptions and phone calls. (See Step 2 grievance No. KCI-0604-24 response.) In their response, as in their Motion to Dismiss, SCDC stated, "SCDC would not bear the costs." But Santiago never requested a refund for entertainment subscriptions or calls. His grievance requested funds that SCDC transferred, pursuant to a fraudulent order, from Santiago's inmate trust account to his Tablet Time and Phone Debit accounts. SCDC Policy OP-22.53, "Inmate Tablets and Kiosks, section 1.7, states: "No refunds will be given for entertainment subscriptions, but any funds transferred to the tablet account [i.e., Tablet Time] but not spent on subscriptions will be refunded"

In other words, SCDC was 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.

CONCLUSION

Because Santiago's due process right -- his protected property interest in his inmate trust account -- was implicated in this case, this Court should deny the Department's Motion to Dismiss.

Respectfully submitted,



Christopher Santiago 304243
Kirkland Corr. Inst. F2-235
4344 Broad River Road.
Columbia, SC 29210

JULY 03, 2025
Columbia, SC

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Christopher Santiago, #304243

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

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

**ORDER GRANTING
MOTION TO DISMISS**

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

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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

Certificate of Appellant

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

October 07, 2025
date



Christopher Santiago #304243

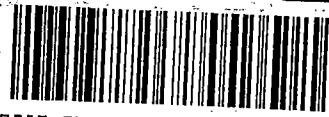
Kirkland Corr. Inst. F2-235

4344 Broad River Road

Columbia, SC 29210

Appellant, pro se.

CHRISTOPHER SANTIAGO 804243
KIRKLAND CORR. INST. FA-235
4344 BROAD RIVER ROAD
COLUMBIA, SC 29210



9589 0710 5270 0680 8058 93



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