

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Robert L. Reibold

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

CHRISTOPHER SANTIAGO, # 304243,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

FINAL BRIEF OF RESPONDENT

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

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STATEMENT OF ISSUE ON APPEAL

THE ADMINISTRATIVE LAW COURT PROPERLY DISMISSED THE APPEAL WHERE APPELLANT'S CASE DID NOT IMPLICATE A STATE-CREATED LIBERTY OR PROPERTY INTEREST.

STATEMENT OF THE CASE

This matter comes before this Court pursuant to the appeal of Christopher Santiago, an inmate in the custody of the South Carolina Department of Corrections (SCDC). Appellant submitted a Step One Grievance on October 3, 2024 complaining about funds allegedly stolen by another inmate. This Step One Grievance ultimately led to a February 18, 2025 Order by Administrative Law Judge Crystal M. Rookard remanding the matter to the Department for the case to proceed through the two-step grievance system. Appellant then resubmitted a Step One Grievance on March 5, 2025, asking that the Department refund money stolen from his inmate account and to fix alleged security flaws. In response, the Department issued a Step Two Grievance response denying the grievance. Appellant filed a Notice of Appeal to the ALC on April 3, 2025. On August 20, 2025, the ALC issued an order dismissing the appeal on the ground that no state-created liberty or property interest was implicated. This appeal follows.

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.

S.C. Code Ann. § 1-23-380(5).

In an appeal of a final decision of an administrative agency, the standard of appellate review is whether the ALC's findings are supported by substantial evidence. S.C. Code Ann. § 1-23-610(B). "Substantial evidence" is evidence which, considering the record as a whole, would allow a reasonable mind to reach the same conclusion that administrative agency reached. Hendley v. S.C. State Budget & Control Bd., 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996). A reviewing court shall not substitute its own judgment for that of the ALC as to findings of fact, but it may reverse or modify decisions that are controlled by errors of law or that are clearly erroneous in view of the substantial evidence on the record as a whole. Id.

ARGUMENT

THE ADMINISTRATIVE LAW COURT PROPERLY DISMISSED THE APPEAL WHERE APPELLANT'S CASE DID NOT IMPLICATE A STATE-CREATED LIBERTY OR PROPERTY INTEREST.

The jurisdiction of the ALC to hear this matter was derived from the decision of the South Carolina Supreme Court in Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). Subsequently, the Supreme Court clarified the ALC's appellate jurisdiction over inmate appeals in Sullivan v. S.C. Dep't of Corr., 355 S.C. 437, 586 S.E.2d 124 (2003). The Sullivan court held that the ALC's jurisdiction was limited to cases in which an inmate contends that prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; cases in which SCDC has taken an inmate's created liberty interest as punishment in a major disciplinary hearing; and cases in which an inmate's confinement implicates a state-created liberty or property interest. See Sullivan at 443-44, 586 S.E.2d at 127. In Slezak v. S.C. Dep't of Corr., 361 S.C. 327, 332 605 S.E.2d 506, 508 (2004), the Supreme Court stated that the ALC must provide minimal due process for state-created liberty or property interests. However, the Slezak court also indicated that summary dismissal is appropriate where an inmate's grievance does not implicate a state-created liberty or property interest. Slezak at 333, 605 S.E.2d at 509.

Here, the ALC properly concluded that no state-created liberty or property interest was implicated. A state-created property interest must be grounded in state law. See Logan v. Zimmerman Brush Co., 455 U.S. 422, 430 (1982). To have a property interest subject to procedural due process protection, a person must be entitled to the 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 complaints were that an unknown inmate guessed his PIN number and fraudulently charged money to his account; that the Department should "refund" that money to his account; and that the Department should require its contractor to modify tablet software. As stated above, Appellant's entitlement to such relief must stem from a state law source, such as a statute, regulation, or mandatory SCDC policy. Here, there is no such state law source.

As to Appellant's claim of fraudulently stolen funds, the Department itself did not "steal" those funds. It is undisputed that Appellant alleges that an unknown inmate stole his funds. The unauthorized action of an unknown inmate does not support a due process claim against the Department. See DeShaney v. Winnebago County Dep't of Soc. Servs., 489 U.S. 189, 195 (1989) (stating that nothing in the Due Process Clause requires the State to protect the life, liberty, and property of citizens against invasion by private actors; the Due Process Clause language cannot be fairly extended to impose an affirmative duty on the State to ensure that a person's interests do not come to harm through other means); 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) (the 14th Amendment applies to the acts of the states, not the acts of private persons or entities).

As to Appellant's claim that the Department must transfer funds from his tablet and phone accounts back to his E.H. Cooper Account, the ALC properly dismissed this claim as not preserved for review because Appellant did not present this claim to the Department. See Carson v. S.C. Dep't

of Natural Res., 371 S.C. 114, 120, 638 S.E.2d 45, 48 (2002) (stating that a court sitting in an appellate capacity may not consider issues not raised or ruled upon by the 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 not raised to and ruled upon by the administrative agency are not preserved for review). Regardless, the issue is without merit where Appellant failed to articulate a state statute, regulation, or mandatory Department policy relevant to his scenario. (See R. p. 25).

Finally, as to Appellant's claim that the Department must require its contractor to "fix" the tablet software, this also does not implicate a state-created liberty or property interest. Appellant has not identified a state statute, regulation, or mandatory Department policy which would entitle him to such relief. SCDC Policy OP-22.53, "Inmate Tablets and Kiosks," states that "[u]se of the inmate tablet or kiosk is a privilege and not a right. Loss of this privilege is not grievable." Section 1.9 of this policy also states that "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." Therefore, Appellant has no property right in the use of a tablet, let alone use of a tablet configured in a particular manner.

For the foregoing reasons, Appellant's claim does not implicate a state-created liberty or property interest, and the ALC properly dismissed the case on that ground.

CONCLUSION

For the above reasons, this Court should affirm the Administrative Law Court's decision below.

Respectfully submitted,

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October 23, 2025

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CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the **Final Brief of Respondent** complies with Rule 211(b), SCACR, and also complies with the South Carolina Supreme Court's April 15, 2014, order entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."



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CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that on this date, she mailed a copy of the **Final Brief of Respondent** to Appellant via U.S. Mail addressed as follows:

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