

State of South Carolina
In The Court of Appeals

Appeal From The Administrative Law Court

Crystal M. Rookard
Administrative Law Judge

Appellate Case No. 2025-001934
ALC Docket No. 25-ALJ-04-0035-AP

Royal Williams, #338068

Appellant

v.

S.C. Dept. of Corrections

Respondent

Final Reply Brief

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SC Court of Appeals

Royal D. Williams III
Perry C.F. C9-12
430 Oaklawn Rd.
Pelzer, SC 29669

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Reply Argument

The Administrative Law Court improperly upheld appellant's Disciplinary Conviction where appellant did not receive the procedural due process to which he was entitled and the Disciplinary Conviction was not supported by Substantial evidence.

Mr. Williams was not afforded adequate Procedural Due Process

The Due Process requirements set forth in *Wolff v. McDonnell*, 418 U.S. 539 were not complied with. SCDC did not provide the requested video footage in adequate time & fashion to review and present in defense. Also, the DHO was not a neutral & impartial party.

As stated in Appellant's Initial Brief, Mr. Williams issue that he was unable to view the video footage was properly preserved for review. The Counsel Substitute specifically mentioned he "Wasn't given the video until the beginning of the hearing and didn't get an opportunity to review any of it." (see Record on Appeal p. 18 of 52 line 18-21) This statement to the DHO is sufficient to establish there was an issue that the video wasn't reviewed. This is why the Counsel substitute mentioned it.

Also, the Counsel substitute's mentioning of this covers Mr. Williams as well since he acts on behalf of Mr. Williams.

SCDC further states Appellant did not raise the issue in Step 1 & Step 2 grievances. With this I'm confused. Nowhere in SCDC's brief to the ALC did it mention or bring forth this argument.

However, the ALC judge made it's own finding that "Appellant failed to challenge the ability to review the video footage and it's admittance into evidence during the hearing and his failure to do so precludes him from doing so now..." (see Order p. 5; Record p. 50 line 21-25)

Since appealing the ALC Order and showing the issue was brought to the DHO's attention "During the hearing", SCDC now takes the

position that Mr. Williams did not raise it in his Step 1 and Step 2 grievances, in effect creating a red herring. Despite their difference in views, both SCDC and ALC cite the same case law. *Brown v. S.C. Dept. of Health & Envtl. Control*, 348 S.C. 507, 560 S.E. 2d 410 (2002) and *Gatewood v. S.C. Dept. of Corr.*, 416 S.C. 304, 324-25, 785 S.E. 2d 600, 11-12 (Ct. App. 2016) Both stating issues must be raised to an administrative agency to be preserved.

To counter the ALC's Order, it's Mr. Williams position this was preserved by Counsel substitutes mentioning "During" the hearing that "video footage was not made available to him until the beginning of the hearing and didn't get an opportunity to review any of it."

Even though SCDC never mentioned this, but to ~~consider~~ counter their position, the Counsel substitutes statement was brought to the DHO's attention. Raising an issue to the DHO is sufficient to consider being raised to the Agency. Also, SCDC is attempting to use the report of Alw Brightarp to apply to what the DHO observed, which is impossible. The DHO never stated what she observed, Alw Brightarps report is his version of events not hers. The DHO stated she relied on this video but never put on the record what she personally observed in this video. If Mr. Williams would have had the opportunity to review and present this video, he would have shown his actual whereabouts and innocence.

SCDC did not engage Mr. Williams remaining Due Process issue (DHO was not neutral nor impartial)

SCDC's Final Agency Decision is Not supported by substantial evidence.

The report of Alw Brightarp state Mr. Williams along with 2 other inmates walked into a corner area and moments later more people came into that corner. However, Mr. Williams

testimony provided the information that once the other inmates came into the corner, he left before the fighting began. (see Record on Appeal p. 13 of 52, line 23-26). The evidence presented does not show that any interaction Mr. Williams had with anyone violated "832" STG Affiliation nor contribute to the incident at all.

SCDC admits in its own Brief that inmates eventually dispersed in different ways and then members of the group began fighting with weapons" (Respondent's Brief p. 5 line 14-16) The incident reports specifically mentioned who was observed fighting and with weapons. Mr. Williams was not observed fighting nor in possession of any weapon. ¹²³

Finally in *Wolff v. McDonnell*, 418 U.S. 539, 565 it was the Courts position that a written statement by the fact finder as to the evidence relied on would "ensure that administrators, faced with possible scrutiny by officials, the public, and perhaps even the courts... will act fairly." and "without this written record the inmate will be at a severe disadvantage in propounding his own cause or defending himself." *id.* In other words this will assist in the event of additional review. That being said...

The DHO specifically stated during the hearing and on the written record, that she relied only on the incident reports and video footage. (see Record on Appeal p. 19 of 52, line 8-10 and p. 5 of 52) SCDC is relying on an improper finding by the AHC that Mr. Williams statement could be reasonably construed as admitting to STG Affiliation. The DHO did not state or use Mr. Williams testimony as evidence of guilt. S.C. Code Ann. 1-23-380 prohibits the AHC from making its own factual findings when sitting in

notes

1. Although there was no mention of Mr. Williams fighting or possessing any weapon, he was still charged with possession of a weapon, Riot and STG Affiliation
2. On appeal to the AHC, the possession of a weapon charge was remanded for dismissal. The other charge remains. In Court of Appeals
3. As a result of the convictions, Mr. Williams is being held in Solitary Confinement for an indefinite time period.

its appellate capacity. The ALC must review the finding made by the Agency. The ALC "may not substitute its judgment for the judgment of the Agency as to the weight of the evidence on questions of fact." id.

Accordingly, the ALC sitting in its appellate capacity, may not make its own factual finding" (see *Stubbs v. S.C. Dept. of Employment & Workforce*, 407 S.C. 288, 290) citing *Todd's Ice Cream, Inc. v. S.C. Emp't Sec. Comm'n*, 281 S.C. 254, 258, 315 S.E. 2d 373, 375 (Ct. App. 1984) stating the standard set forth in section 1-23-380 "does not allow judicial fact finding by the reviewing court") The ALC improperly made its own factual finding and based its decision on those findings.

SCDC is hanging their hats on this improper finding simply because no other evidence presented suggest Mr. Williams violated "832" STG Affiliation nor did he participate in the events.

Simply interacting with people does not violate "832." The question that should be asked is "what is the nature of the interactions." As explained in his Initial Brief, Mr. Williams statement was conveying to the DHO that he was designated STG earlier that year around April 2024. Being designated STG is a Custody Status and "832" STG Affiliation is a disciplinary offense.

There is nothing in the record to show Mr. Williams interacted with anyone in a manner to violate "832" STG Affiliation. SCDC is asking the Court to affirm on a basis that is clearly an error of law.

Conclusion

Respectfully, based on the reasons stated this Court should reverse Mr. Williams convictions.

Respectfully Submitted,
Royal D. Williams # 338068
Perry C.I. CY-12
430 Oaklawn Rd.
Pelzer, SC 29669