

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

S. Phillip Lenski, Administrative Law Judge

Case No. 2025-001699

Harlan D. Melton, #364742, Appellant,

v.

South Carolina Department
of Corrections, Respondent.

FINAL BRIEF
OF APPELLANT

Harlan D. Melton #364742
Ridgeland CI CA-46
P.O. Box 2039
Ridgeland, S.C. 29936
Appellant, Pro se

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STATEMENT OF ISSUES ON APPEAL

Appellant's issue that he brings before The Court of Appeals is that his Constitutional right to due process and equal protection of the laws, which is protected by U.S.C.A. Const. Amend. XIV, Section 1 and also by S.C. CONST art. I, §3, which is a Constitutionally created liberty interest, was violated by the South Carolina Department of Corrections (SCDC hereafter) employees by their not following of SCDC's established written policy and thereby causing Appellant to face an administrative tribunal without requested witnesses and evidence, which made said disciplinary hearing unfair.

Is not Appellant still a citizen of this Country and State with the same right to due process and equal protection of the law in spite of being an incarcerated man? Is South Carolina not bound to uphold these laws as all other states and federal jurisdictions are bound to uphold these same laws? As a state agency, is the SCDC also not bound to follow this Country's and State's laws and ethical guidelines while upholding their own guidelines and written policy concerning internal agency affairs?

As freedom from restraint of body being the highest form of liberty, and the SCDC's employees' actions causing Appellant to be deprived of his most cherished liberty interest, Appellant does file this appeal.

STATEMENT OF THE CASE

All of the following in the Statement of the Case has not been contested by the Respondent in The Administrative Law Court (The ALC hereafter). On Friday, January 31, 2025, Ridgeland Correctional Institution was "locked down" due to an upcoming execution. At approximately 12:45pm, according to SCDC form 19-29A states:

I, Lt. James Williams and the RCI Search Team conducted a Random search of the Charleston A Wing cell #47 housing inmates Melton, Harlan #364742 and Ginter, Nathan #395536. Discovered an Orbic Verizon cellphone under the sink. Inmate Melton claimed ownership of the above item. I recommend inmate Melton be charged with (898) possession of a communication device.

The search was actually conducted by Lt. Beeler and Sgt. Wright. First names of which are unknown to Appellant. During the search, Sgt. Wright found a pair of scissors in Appellant's hobby crafting supplies and asked if they were contraband. After a brief discussion, it was determined by Lt. Beeler, who was actually the dorm Lt. at that time, that Appellant was allowed to keep the scissors. Lt. Williams walked away and never entered Appellants cell.

After a few minutes, Lt. Beeler found the contraband item. Appellant was standing beside the cell door and watched as Lt. Beeler lay down on the floor and removed the item from its concealment. Lt. Beeler and Sgt. Wright were the only staff to enter Appellants cell on that day.

After Lt. Beeler came out of Appellant's cell, he proceeded to give the item to Sgt. Wright, who was the staff in possession of it the last time Appellant saw it.

Contrary to SCDC policy OP-22.14:3, Lt. James Williams was the staff member to complete form 19-29A.

On February 6, 2025, at 5:49pm, Appellant made a request to staff utilizing the inmate kiosk as directed by SCDC policy OP-22.14:14.4 to "Disciplinary" for the purpose of requesting witness, Lt. Beeler, to be present at Appellant disciplinary hearing. That Kiosk request (# 25-03818041) and other relevant information will be presented in STATEMENT OF FACTS.

On February 7, 2025, at 9:20am, Appellant sent another request by kiosk to have video evidence, captured by permanently mounted ceiling cameras, and a kiosk request sent by Appellant's cellmate as evidence in Appellant's disciplinary hearing (kiosk request # 25-03818676).

On February 8, 2025, at 1:42pm, Appellant sent another request by kiosk to have chain of custody of evidence documentation and also for Sgt. Wright to appear as a witness. (kiosk request # 25-03819944)

All requests were made much in advance of the 24 hours required by SCDC policy
OP-22.14:14.4

On February 12, 2025, at 9:50am, Appellant did appear before Disciplinary Hearing Officer Catherine James (DHO James hereafter). Appellant informed DHO James of his kiosk requests when asked if there was anything he would like to say before starting the proceedings. He was denied of his requests. DHO James' reason for this denial was that she had cleared her requests the previous Friday (February 7, 2025) and hadn't looked at kiosk requests since. This denial is unconstitutional due to the fact that Appellant followed the proper procedure directed by policy and his 14th Amendment right to due process.

Appellant was afforded the opportunity to make a statement on record, and since he requested that his accuser be present, question Lt. James Williams. Lt. Williams lied on record during the hearing. If Appellant had obtained the requested evidence he could have proven that Lt. Williams' statement was false and that the case against him should have been dismissed.

Appellant was found guilty, but DHO James failed to complete SCDC for 19-69 by failing to "EXPLAIN BELOW BY NUMBER:... IF ANY (3) WITNESSES, (4) DOCUMENTATION, OR (5) EVIDENCE WAS EXCLUDED FROM THE

HEARING” in the space provided as directed by SCDC policy OP-22.14:14.3 and 18.1.2 and .3.

Appellant appealed with a step 1 grievance on February 12, 2025, Grievance No. RCI-0033-25, explaining all of the proceeding and requesting reinstatement of privileges, removal of charge from his record, and complete dismissal of charge. Warden Levern Cohen denied Appellant’s grievance, and it was returned to him on March 3, 2025.

Appellant filed a step 2 grievance to SCDC headquarters in Columbia on March 3, 2025, explaining the same as in step 1 grievance, also requesting restoration of privileges and dismissal of the charges. Again, the grievance was denied and returned to Appellant. Appellant appealed SCDC’s decision to ALC and his case was filed April 22, 2025. It was assigned on May 8, 2025, to the Honorable S. Phillip Lenski, Case No. 2500203 (Docket No. 25-ALJ-04-0203-AP).

Appellant filed a brief with ALC explaining all that happened to deprive Appellant of his 14th Amendment right. Appellant does not have a copy with the date of service because all of his copies were mailed that had that date on them. General Council of SCDC and the ALC have these documents. Appellant provides a copy that was signed after the fact but not dated. Appellant cannot remember said date. The

Respondent filed a MOTION TO DISMISS as their response citing Howard v. S.C. Dep't of Corr., 399 S.C. 618, 626-27, 733 S.E2d 211, 216 (2012) (holding that “the plain terms of section 1-23-600(D) precludes [sic] the ALC from hearing all inmate appeals involving loss of the opportunity to earn sentence-related credits”).

Appellant concedes that this case does in fact involve the loss of the opportunity to earn sentence-related credits as he is currently serving a sentence for a “no parole offence”. As outlined in S.C. Code Ann. §24-13-210(A) and (B), Appellant earns three (3) days per month “good -time” and as a result of the guilty verdict from the disciplinary hearing on February 12, 2025, he was to fail to earn for the month of the infraction. Respondent’s MOTION TO DISMISS is dated July 2, 2025, and was received by Appellant on July 8, 2025. Appellant filed a response dated July 9, 2025.

The ALC granted the Respondent’s MOTION TO DISMISS and Appellant was served with the order, dated July 21, 2025, three (3) days later on July 24, 2025.

Appellant prepared NOTICE OF APPEAL, and PROOF OF SERVICE for all parties including the ALC and SCDC General Counsel, and letters to Clerks of the ALC and The Court of Appeals and mailed all to his sister, Tina Adams, for copying (SCDC will not make copies of inmate created documents) and mailing to respective parties on August 15, 2025. Those copies were made and sent to the appropriate parties, including all pertinent documents and a filing fee of \$250.00 to The Court of Appeals on August 20, 2025 (those documents and filing fee to The Court of Appeals

being sent "two-day priority mail" tracked and verified delivered on August 23, 2025, tracking no. 9505513664625232402028) via U.S. Mail.

Appellant sent a letter to the ALC Court Reporter or Responsible Authority requesting a transcript (to the Responsible Authority because there is no identity of a court reporter included on any document received from the ALC). There has been no reply as of this date.

Finally, to conclude the statement of the case, Appellant does not know the mode of trial as he was not present and can only assume it was a bench trial. There was no amount of money on appeal to the ALC, only the amount of good-time credit, the removal of the infraction from Appellant's record, the complete dismissal of this charge, and for his projected release date to be moved back to 8/18/33.

This concludes STATEMENT OF CASE.

STANDARD OF REVIEW

S.C. Code Ann. § 1-23-600(D) precludes the ALC from hearing all inmate cases or appeals involving the loss of opportunity to earn sentence-related credits. Since Appellant's sentence is for a "no-parole" offence, he only earns good time credits at a rate of three (3) days per month, and since disciplinary infraction always denies an inmate, that can earn these credits, of his ability to earn them for the month of the infraction, the ALC cannot hear Appellant's appeal.

S.C. Code Ann. § 1-23-600(D) states:

[A]n administrative law judge shall not hear an appeal from an inmate in the custody of the Department of Corrections involving the loss of the opportunity to earn sentence-related credits pursuant to section 24-13-210(A) or 24-13-230(A).

Based upon the conclusion of SCDC DHO James, Appellant asks the Court of Appeals to make a ruling on this case in accord with Rule 201(a)(b) SCACR and S.C. Code Ann. § 1-23-610(B)(a)(b)(c)(e)(f) which states:

(B) The review of the administrative law judge's order must be confined to the record. The court may not substitute its judgement for the judgement of the administrative law judge as to the weight of the evidence on questions of fact. The Court of Appeals 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 of 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;

(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.

Because the General Assembly has removed the ALC's jurisdiction to review all appeals from inmates in the SCDC concerning the loss of the ability to earn credits under S.C. Code Ann. § 1-23-600(D), the General Assembly has in effect returned initial review of those decisions to the judicial branch. So, it is also because of what S.C. CONT art. I, § 22 states;

No person shall be bound by a judicial or quasi-judicial decision of an administrative agency affecting private rights except on due notice opportunity to be heard; nor shall he be subject to the same person for 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 all such instances the right to judicial review.

that Appellant does submit this appeal to the Court of Appeals.

*Appellant erroneously omitted the word "finally" before the word bound in the preceding Constitutional section. He also erroneously omitted the words "and an" before the word opportunity. Please forgive this oversight.

STATEMENT OF FACTS

Relevant parts of SCDC Policy OP-22.14 is on pages 4 and 5 of Appellant's Brief to the ALC except for OP-22.14:17.2 Note which states: "A finding of guilt as a result of a disciplinary hearing will result in the inmate's failure to earn good time for the month in which the disciplinary offense occurred and may also result in the loss of good time as shown in the above chart." This was included in this appeal in ARGUMENT 3.

Kiosk requests are found on pages 5 and 6 of Appellant's Brief to the ALC.

Appellant referenced page 1, line 1 of Respondent's MOTION TO DISMISS in this brief, cited in ARGUMENT 3. Document included in the Record.

Appellant referenced form 19-29A in this brief in STATEMENT OF THE CASE.

Appellant referenced form 19-69 in this brief in STATEMENT OF THE CASE.

Included in the Record is a Request to staff (form 19-11), that Appellant sent to Disciplinary Hearing Officer, dated 8/3/25, requesting clarification of how his

sentence had been calculated but the DISPOSITION by staff member, dated 8/22/25 is not correct.

Document dated 5/7/25 is from the ALC informing Appellant of case particulars stamped May 8, 2025.

ARGUMENT

The issue of Appellant's 14th Amendment right to due process and equal protection of the law being violated and the effects of that violation of that right I argued as follows:

ARGUMENT 1

SCDC STAFF FAILED TO FOLLOW WRITTEN POLICY

Had SCDC staff followed proper procedures, as outlined in the established written policy of the SCDC, Appellant would have no reason to appeal this case.

“The doctrine that an administrative agency must adhere to its own rules and regulations was set forth by the United States ex rel. Accardi v. Shaughnessy, 347, U.S. 260, 74 S. Ct. 499, 98 L.ED. 681 (1954) decision. Courts have regularly insisted that when an administrative agency, [h]as established rules and regulations for its own internal procedures, these rules and regulations cannot then be ignored by them even in the exercise of discretionary authority, the court pointed out. Case law is consistent with the Accardi doctrine's purpose to prevent the arbitrariness which is inherently characteristic of an agency's violation of its own procedures, the court declared. As has been held, the court concluded, departures from an agency's procedures “cannot be reconciled with fundamental principle that ours is a government of laws and not men” 74 ALR Fed 2d. 227, I, §27

The Constitution and its Amendments are the highest law of the land and any agency subject to the laws of this State and Country must continuously perform their duties in compliance within the boundaries set by statute and the Constitution and its Amendments. An agency that has an established written policy and follows only a part of that policy beneficial to that agency while disregarding another part of that same policy found not to be beneficial to the agency is engaged in self-contradictions; trying to have things both ways is arbitrary.

“Pursuant to the Accardi Doctrine, rules and regulations promulgated by an administrative agency cannot be waived, suspended, or disregarded in a particular case as long as such rules remain in force, the court declared in Hopkins v. Maryland Inmate Grievance Commission, 40 Md. App. 329, 391 A.2d 1213 (1978), held as it reversed the lower tribunal’s order denying the complaint of a state penitentiary inmate who had been convicted of institutional infractions.” 74 A.L.R. Fed. 2d 277, H, §25.

DHO James and other staff at Ridgeland Correctional Institution failed to prove every element of the case against the Appellant by failing to prove the false statement made by Lt. James Williams was true, they failed to prove that form 19-29A was completed by the proper staff member, that DHO James’ failure to properly complete form 19-69 as directed by policy OP-22.14:14.3 and :18.1.2 and .3.

In United States v. Heffner, 420 F.2d 809 (4th Cir. 1969) the court declared “An agency of government must scrupulously observe rules, regulations, or procedures which it has established. When it fails to do so, its action cannot stand, and courts will strike it down.”

In United States v. Morgan, 193 F3d 252, 266 (4th Cir. 1999) the court held “We have recognized that an agency’s failure to afford an individual procedural safeguards required under its own regulations may result in invalidation of the ultimate administrative determination. [T]he fact that a particular regulation or procedure is not mandated by the Constitution or by statute is of no moment for purpose of an analysis under the Accardi doctrine. [A]lthough cases on this issue have generally addressed agency decisions outside the prison context, we believe that the principles apply equally here.”

ARGUMENT 2

ABILITY TO EARN GOOD-TIME CREDITS IS A STATE CREATED

LIBERTY INTEREST

The State created good-time credits by enacting statute S.C. Code Ann. §24-13-210. It is the Appellant’s firm belief that because adherence to this statute culminates in the accrual of good-time credits through the ability to earn them, it is in fact a State-created liberty interest. In Howard v. S.C. Dep’t of Corr., 733 S.E.2d 211, 217

(S.C. 2012), Justice Pleicones' dissenting opinion held that "The General Assembly created such an interest in S.C. Code Ann. §24-13-210(A)(2007). Moreover, the Constitutional dimension of that interest is the same whether the discipline imposed is to withhold good-time credits already earned or the opportunity to earn them. [T]he entitlement is not merely to speculatively hope about a future benefit that might be conferred as an exercise of pure discretion. Rather, the accrual of good-time credits lies within the prisoner's control under §24-13-210." Also concerning good-time credits as a liberty interest, Howard, supra; "[I] continue to believe that Furtick (underlined to show S.C. Supreme Court Justice Pleicones' emphasis of Furtick v. S.C. Dep't of Corr., 649 S.E.2d 35 (S.C. 2007)) was correctly decided for the reasons expressed by the majority in that case, namely that Wolf v. McDonnell, 419 U.S. 539, 94 S.Ct 2963, 41 L.Ed.2d 935 (1974) is controlling. The Wolf (underlined for emphasis, same as above) court acknowledged that "the Constitution itself does not guarantee good-time credit for satisfactory behavior while in prison" Id. at 557, 94 S.Ct. 2963. Nevertheless, "the State having created the right to good-time and itself recognizing that its deprivation is a sanction authorized for major misconduct, the prisoner's interest has real substance and is sufficiently embraced within Fourteenth Amendment 'liberty' to entitle to those minimum procedures appropriate under the circumstances and required by the Due Process Clause to ensure that the state-created right is not arbitrarily abrogated.

⁶⁹Id.

In Wolf v. McDonnell, supra; The Supreme Court Justice White, held, “[t]hat due process required that prisoners in procedure resulting in loss of good-time or in imposition of solitary confinement be afforded advance written notice of claimed violation, written statement of fact findings, and right to call witnesses and present documentary evidence where such would not be unduly hazardous to institutional safety or correctional goals”. (all underlined for emphasis)

Appellant asserts claim that the ability to earn good-time is a liberty interest protected by the Due Process and Equal Protection Clauses of the 14th Amendment.

ARGUMENT 3

SCDC VIOLATED STATUTORY LIMIT

Appellant can only earn three (3) days of good-time per month due to the fact that he is convicted of a “no parole offence” as defined in S.C. Code ann. §24-13-100. His projected release date before he was found guilty by DHO James was August 18, 2033. After the conviction, his projected release date changed to September 17, 2033, for a total of 30 days. Previously in Appellant’s RESPONSE TO RESPONDENTS MOTION TO DISMISS filed with the ALC July 9, 2025, Appellant used the wrong date of August 22, 2033, and totaled the days to 25 because he

didn't have access to the previous Information Services pdf of Appellant's "Public Information" found on inmate tablets. Appellant has since obtained the correct information.

Appellant fails to understand how his Projected Release Date changed, indicating that he failed to earn 30 days for the month of the infraction when he can only earn 3 days per month to begin with. For this reason, Appellant said that they "took 30 days of good+time". This is in excess of what is allowed by statute S.C. Code ann. §24-13-210(B) which states:

"An inmate convicted of a "no parole offence" against this state as defined in Section 24-13-100 and sentenced to the custody of the Department of Corrections, [w]hose record of conduct shows that he has faithfully observed all the rules of the institution where he is confined and has not been subjected to punishment for misbehavior, I entitled to a deduction from the term of his sentence beginning with the day on which the service of his sentence commences to run, computed at the rate of three days for each month served."

SCDC Policy PO-22.14:17.2 has a note under the chart showing Disciplinary Offence Level and the amount of Accrued Good Time that may be imposed corresponding to each level. That note states: "A finding of guilt as a result of disciplinary hearing will result in the inmate's failure to earn good time for the month in which the disciplinary offence occurred and may also result in the loss of good time as shown in the above chart."

Since Appellant only “failed to earn” and no actual accrued good time was taken, Appellant’s projected release date should not have changed more than 3 days. Respondent’s claim that their MOTION TO DISMISS filed with the ALC on page 1 paragraph 2, sentence 1, states: “To clarify, Appellant did not lose any good time as a result of this disciplinary conviction.” Also, on SCDC form 19-69 in the “SANCTIONS” section it shows that DHO James only sanctioned Appellant with 120 days each of Canteen, Visit suspension and Phone privileges. No “Loss of Good Time” was indicated so, once again, Appellant’s projected release date should not have changed but 3 days. This is another prime example of SCDC’s failure to follow its written policy, thereby depriving Appellant of his most cherished Liberty Interest; his freedom from bodily restraint in prison.

ARGUMENT CULMINATION

The foregoing arguments culminate to show that there are three elements to this case that present one fact; SCDC agency actors did in fact deprive Appellant of his right to due process and equal protection of the law by way of denying him a fair trial in an administrative tribunal setting. The fact that SCDC agency actors failed to follow their own written policies and continuously abandoned the Appellant’s issue with this case, caused this deprivation. Secondly, the opportunity to earn sentence-related good-time credits is a State-created Liberty Interest when looked at from the standpoint of the several cases cited, the statutes, and the belief of S.C. Supreme Court Justice Pleiones et. al. Finally, that Appellant was robbed of the

opportunity to earn good-time much in excess of the statutory authority of the agency.

CONCLUSION

“A deprivation of liberty includes not just bodily restraint, but also the loss of significant freedom of action or the denial of a freedom provided by the Constitution or by statute.” (Black’s Law Dictionary) When looked at from this perspective, Appellant can reach no other conclusion than that the good-time credits that Appellant is entitled to by statute, to earn each and every month, are indeed a liberty interest to be protected by the 14th Amendment. Whether earned or the opportunity to earn, as Justice Pleicones said, “[t]he constitutional dimension of that interest is the same” because it lies within the Appellant’s control and that is a liberty interest.

As the procedural errors of this case were harmful and prejudicial, Appellant pleads to the court to apply Accardi Doctrine when deciding this case. All that is written herein, to the knowledge of the Appellant, is true and for this reason plus the arbitrary nature of the South Carolina Department of Corrections and the agency actors thereof who have a history of far exceeding the boundaries of the Constitution and statutes of State and Country, the Appellant asks this honorable court to find in his favor.

Appellant seeks the following relief: \$250 filing fee reimbursement plus \$200 for the cost of making copies, mailing fees, and gas money for Appellant’s sister who did all

of this for him as he has no money; expungement of this charge from Appellant's record; return all privileges to previous states such as his EWC level back to 2F5 and spending limit back to \$180 per week; move Appellant's projected release date back to August 18, 2033; and for SCDC to provide at no cost to the Appellant a full transcript of this case from start through verdict in The Court of Appeals and the Administrative Law Court; and such other and further relief that the court deems just and appropriate.

November 18, 2025

Respectively submitted,

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