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SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge S. Phillip Lenski

ALC Case No. 25-ALJ-04-0144-AP
Appellate Case No. 2025-001627

MATTHEW BROWN, # 370550,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

INITIAL BRIEF OF RESPONDENT

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

Christina Catoe Bigelow
Deputy General Counsel
Office of General Counsel
South Carolina Dept. of Corrections
Post Office Box 21787
Columbia, South Carolina 29221
(803) 896-8508

ATTORNEY FOR RESPONDENT

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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 Matthew Brown, an inmate in the custody of the South Carolina Department of Corrections (SCDC). Appellant submitted grievances in February 2025 complaining about being charged a co-payment for his blood pressure and cholesterol medications. After his grievances were denied, he filed a Notice of Appeal in the Administrative Law Court (ALC) in March 2025. On July 9, 2025, Judge S. Phillip Lenski issued an Order granting the Department's Motion to Dismiss. In that Order, Judge Lenski found that Appellant's complaint did not implicate a state-created liberty or property interest. 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).

In this case, Appellant complains that he should not be charged co-payments for his blood pressure and cholesterol medications because section 4.11 of SCDC Policy HS-18.17 states that “[n]o co-payment will be charged for certain medications.” See SCDCD Policy HS-18.17, section 4.11, *available at* <https://www.doc.sc.gov/sites/doc/files/Documents/policy/HS-18-17.pdf>. Appellant then argues, in a wholly conclusory fashion, that “[b]lood pressure medication and cholesterol medication are considered chronic medications and fall under this category.” (See Brief of Appellant, p. 3). In fact, “chronic medications” are not listed in Section 4.11 of the policy as exemptions to the co-payment requirement. “Blood pressure medication” and “cholesterol medication” are also not listed. Appellant has provided no support for his argument that his medications are not subject to a co-payment. Accordingly, Appellant failed to demonstrate that his case implicates a state-created liberty or property interest, and the ALC properly dismissed the appeal.

CONCLUSION

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

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

BY:


CHRISTINA CATOE BIGELOW

Deputy General Counsel
Office of General Counsel
S. C. Department of Corrections
Post Office Box 21787
Columbia, South Carolina 29221
(803) 896-8508

December 5, 2025