

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Samuel A. Wilder, #258295,)
)
 Appellant,)
)
 v.)
)
 South Carolina Department of Corrections,)
)
 Respondent.)
_____)

Docket No. 13-ALJ-04-0513-AP

ORDER

This matter is before the South Carolina Administrative Law Court (ALC) pursuant to the Notice of Appeal filed July 15, 2013 by Appellant Samuel A. Wilder (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (Department or SCDC). It appears that Appellant is seeking corrective action against a medical nurse employed by SCDC.

STATEMENT OF FACTS

Appellant states that he had a medical issue and requested that he be allowed to attend the medical clinic to treat his shaking. Due to a miscommunication, the medical clinic was not informed that Appellant was arriving for evaluation. Since the nurse was not expecting Appellant when he arrived at the medical clinic, he was sent back to his dorm. Appellant asserts that due to nurse's inaction, he fainted in his dorm, injuring his left arm and shoulder. Appellant filed a Step 1 grievance on March 27, 2013, seeking the Nurse's termination. The Warden denied Appellant's request. Appellant then filed his Step 2 grievance, stating the nurse lied about his condition and overstepped her authority. The Step 2 grievance was denied on June 12, 2013 and served on Appellant on June 17, 2103. On July 15, 2013, Appellant filed this Appeal seeking corrective action against the nurse.

STANDARD OF REVIEW

The Court's jurisdiction to hear this matter is 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). In *Al-Shabazz*, the Court held that the ALC's jurisdiction in inmate appeals is limited to state-created liberty interests, typically involving: (1) cases in which an inmate contends that prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; and (2)

FILED

October 28, 2013

SC ADMIN. LAW COURT

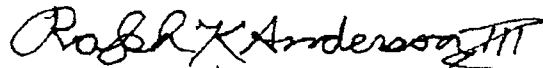
cases in which an inmate has received punishment in a major disciplinary hearing as a result of a serious rule violation. *Id.* at 382; 527 S.E.2d at 757.¹ Furthermore, when reviewing the Department's decisions in inmate grievance matters, the ALC sits in an appellate capacity. *Id.* at 377; 527 S.E.2d at 754; *see also* S.C. Code Ann. § 1-23-600(E) (Supp. 2012) (directing administrative law judges to conduct appellate review in the same manner prescribed in § 1-23-380).

In *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 331, 605 S.E.2d 506, 508 (2004), the S.C. Supreme Court explained that while the ALC has jurisdiction over properly filed inmate grievance appeals, summary dismissal is appropriate "where the inmate's grievance does not implicate a state-created liberty or property interest." In the case of *S.C. Dep't of Corr. v. Mitchell*, 377 S.C. 256, 659 S.E.2d 233 (2008), the Court further found that there was no state-created liberty interest for the Department to provide medically recommended support shoes for an inmate. Although the provision of medical care by prison officials is not discretionary, the type and amount of medical care is discretionary. *See Brown v. Thompson*, 868 F.Supp. 326 (S.D. Ga. 1994).

In the present case, Appellant has not established that the Department deprived him of a state-created liberty or property interest.

IT IS THEREFORE ORDERED that the appeal of the Appellant is **DISMISSED**.

AND IT IS SO ORDERED.



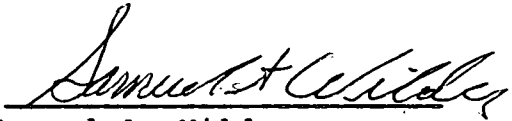
Ralph King Anderson, III
Chief Administrative Law Judge

October 28, 2013
Columbia, South Carolina

¹ In *Sullivan v. S.C. Dep't of Corr.*, the Supreme Court also found that other conditions of confinement could potentially implicate a state-created liberty interest. However, those interests are "generally limited to freedom from restraint which. . . imposes atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life." 355 S.C. 437, 586 S.E.2d 124 (2003) (quoting *Sandin v. Conner*, 515 U.S. 472, 484 (1995)); *see also Slezak, supra*.

CERTIFICATE OF SERVICE

I hereby certify that I cause to be mailed the foregoing Notice of Intent to Appeal on Jenny A. Kitchings, Clerk, PO Box 11629, Columbia, SC 29211 this 18 day of November 2013 by depositing same in the U.S. mail at McCormick mail-room.


Samuel A. Wilder