

The State of South Carolina In the Court of Appeals

Appeal from the South Carolina Dept. OF Correction

John D. McLeod, Administrative Law Judge

Appellant Case No: 2013 - 002073

S.C.D.C. Respondent

v.

Kevin McCallum #277577 Appellant

[Designation of Matter To Be included in the record on
Appeal]

To: Jenny Abbott Kitchings, Clerk

P.O. Box 11629

Columbia, SC 29211

Appellant proposes the following be included in the recorded on Appeal:

1. I hereby certify that my designation of matter to be included in recorded on appeal contains no matter which is irrelevant to my appeal.

Respectfully submitted,

S/ Kevin McCallum #277577

T.C.I. 3A-3

84 Greenhouse rd.

Trenton, S.C. 29847

Date: 12-12-13

cc: Dept. OF General Counsel

A.L.C.

File

This is what was sent as my Notice of Appeal / Petition //

I'm Appealing the decision of this Agency. I've been found guilty of Creating and/or Assisting with a Social Networking Site, A 905 Charge. A simple investigation into this matter will prove the Evidence Presented is not me yet because my reporting Official is Major Donald Jenkins and His supervisor A/W Ann Shawkat both have signed off on this charge. A accurate investigation has not been done nor has the truth been sought by the agency. I'm being accused of Having Pictures posted on Facebook via Cell-phone. My arguement is that the pictures are not me. I was denied a Counsel Substitute, inviolation of S.C.D.C. policy OP-22.14 "Inmate Disciplinary System," 7-1-12. I was denied my right to Examine the Evidence Against Me. I've been told by multiple staff members that whomever is on the Picture has a scar on their Forehead, I have been approached by a few different staff members looking for a scar. I don't have one, never have. I'm told that the Pictures has Charleston Thug life across the top of them. I'm from Myrtle Beach and never been to Charleston. I was denied the right to Present Evidence on my behalf at the DHO Hearing.

Designation OF Matter To Be Included

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Kevin McCollum, #277577

Docket No. 13-ALJ-04-0420-IJ

Appellant,

vs.

ORDER OF DISMISSAL

South Carolina Department of Corrections,

Respondent.

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to the Notice of Appeal filed by Appellant (Inmate) above named, who is incarcerated with the South Carolina Department of Corrections (SCDC).

Appellant has not filed a copy of a final decision from which appeal may be taken. He asserts in his Notice of Appeal/Petition that SCDC has failed to rule on his grievance for more than 180 days. Nevertheless, his administrative remedies have not been exhausted. This court lacks authority to grant the relief which Appellant seeks in this setting.

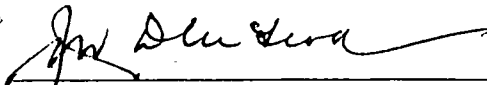
A party who has **exhausted all administrative remedies within the agency** and who is aggrieved by a **final decision** in a contested case is entitled to judicial review pursuant to this article and Article 1. S.C. Code Ann. § 1-23-380 (Supp 2012) (Emphasis supplied).

Inmate's administrative remedies have not been exhausted and thus, this matter is not properly before this Court.

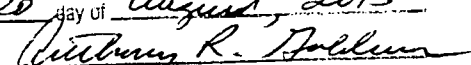
THEREFORE, IT IS ORDERED that the within appeal be and hereby is **DISMISSED, WITH PREJUDICE.**

Columbia, S.C.
August 20, 2013

AUG 22 2013


John D. McLeod, Judge
S.C. Administrative Law Court

This is to certify that the undersigned has this date served this court with the entitled action upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or in the Interagency Mail Service addressed to the party(ies) or their attorney(s).

This 20 day of August, 2013
By: 
Judicial Law Clerk

FILED

AUG 20 2013

SC ADMIN. LAW COURT

Administrative Law Court

Kevin McCollum #277577
Appellant

v.

S.C.D.C.
Respondent

Case No: 13CO420-IJ

Original Brief

RECEIVED

DEC 18 2013

SC Court of Appeals

To: Judge McLeod
Administrative Law Court
Edgar A. Brown Building
1205 Pendleton St., Suite 224
Columbia, S.C. 29201

My Statement OF Issues For Appeal Are:

1. I was denied a Counsel Substitute.
2. I Have Been denied the Right to Examine The Evidence Against me.
3. I was denied the Right to Present Non-Frivolous Evidence on my Behalf at my D.H.O. Hearing.
4. The Picture That's Being used as Evidence Against Me is not me.
5. Lt. Mckie the Contraband Officer Here at Trenton Told me on 2-6-13 That The Picture doesn't look like me.

My Statement Of The Case Is:

On 2-5-13 I was charged with Creating and or Assisting with A Social Network Site. On or about 2-6-13 Lt. Mckie Searched me and my Property looking for a Cell-Phone, He said He had received information that I had a cell-phone. On 2-13-13 at 10:12 A.M. I was notified that

I was Being Charged, I asked for a Counsel Substitute and was denied. On 2-17-13 Major Donald Jenkins asked me what does Charleston Thug Life mean. I explained to Him that I didn't know and I asked Him to Please go through all of my mail and phone records because this is definately a mistake. On 2-19-13 I was found guilty of offense 905 Creating and or Assisting with a Social Network Site. I tried to Present Non-Frivolous Evidence on my Behalf and was denied. I filed step 1 Appeal on 2-21-13 and wrote Warden Bollinger, My Step 1 was denied on 3-18-13. I Filed Step 2 Appeal on 3-22-13. I received the decision on 5-3-13. I filed an appeal with the A.L.C. After the 5-3-13 decision. The Appellant prays for the Help of this Court in finding the Truth and All Fairness in this matter. This is not an ordinary incident of Prison Life.

My Argument That Support my Issues for Appeal Are :

1. On 2-13-13 I requested a Counsel Substitute and was denied. I needed a Counsel Substitute to Help me defend myself on this charge due to the Complexity of the issues that are involved around this 905 charge. My case is very Complex due to the fact I'm being Accused of this by Major Donald Jenkins and A/W Ann Shawkat His Supervisor has signed off on it. S.C.D.C. Inmate Disciplinary System Policy 8.1.3 states "When the inmate, because of the complexity of the issue, will be unlikely to be able to collect and present the Evidence Necessary for an Adequate Comprehension of the case," May Have a Counsel Substitute. As I stated in my issues I was denied the right to Present Non-Frivolous Evidence that will clear me of this charge.
2. I asked repeatedly Before I was found guilty may I please see the Evidence. I'm told that the Evidence is a Picture of some guy with a scar on His head. I've had different Officers that have seen the Picture approach me looking for a scar but I don't Have one. S.C.D.C.

Inmate Disciplinary System Policy 15.1 states in part that "If one or more of the charges involved the possession of Contraband, the item(s) of Contraband, A sample of the Contraband, or a picture of the item should be produced at the Hearing." This clearly did not happen at my Hearing, because I've never been allowed to see this Evidence.

3. Since I was told that the Evidence against me is a Picture, I had a Picture of me on Hand trying to Present it at my D.H.O. Hearing as Evidence. The DHO Hearing Officer denied me the Right to do so. S.C.D.C. Inmate Disciplinary System 15.2 states in part "The Accused inmate, or the inmates Counsel Substitute, may Present documentary Evidence S.C.D.C. Policy 15.7 states in part, "If, on the other hand, the Accused inmate Presents non-frivolous Evidence which, if True, would contradict the facts alleged in the staff member's report, the Hearing Officer must at least take one of the following steps at the Hearing Prior to the Final disposition of the case," By Me not being allowed to Present my non-Frivolous Evidence my right to a Fair Hearing was violated by the DHO Hearing Officer. I had documentary Evidence to Present on My behalf that was in my possession at my Hearing on 2-19-13 but I was denied the right to do so.

4. Whoever the guy is in the Picture is not me. I need for you to take a Real Good and clear look at the Picture. I deserve to be Judged Fairly without being unjustly Accused. I'm told that the Picture Has Charleston Thug Life attached to it. I'm from Myrtle Beach and have never been to Charleston, S.C. There is a list of names and Phone numbers the inmates has been in contact with. I don't know any of them and as Far as I know no one has investigated to see if any of the contacts know me and I have never had a scar anywhere on my Face or forehead.

5. I asked Lt. McKie on 3-22-13 why did He allow me to be charged and found guilty of this 905 Charge? He stated to me that He didn't want to touch it because He didn't want His name on it. Here at Trenton C.I. when Major Donald Jenkins is the Charging Officer there is No Staff Member Here that's going to go against the Charge, especially A Officer with less Rank.

My Conclusion Is:

The Relief I seek is to be judged Fairly at a Fair Hearing where my Rights are not violated and I'm given a Fair Chance to Prove that whoever is on the Picture that's been used to Convict me as Evidence is not me.

Date: 7-29-13

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