

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
APPEAL FROM ADMINISTRATIVE LAW COURT
ADMINISTRATIVE LAW COURT JOHN D. MCLEOD

CASE NO.: 2013-002278

Michael Goins # 302385 ----- Appellant,

v.

South Carolina Department of Corrections ----- Respondents.

APPELLANT'S REPLY BRIEF

December 13, 2013

Mr. Michael Goins # 302385
Pro Se litigant
430 Oaktown Rd.
Pelzer, S.C. 29669

TABLE OF CONTENTS

Table of Authorities	ii
Issues	1
Conclusion	3
Certificate of service	4

TABLE OF AUTHORITIES

I. STATUTES

S.C. Code Ann. § 1-23-610 ----- 1

II. CASES

State v. McLeod 606 S.E. 2d 215 (S.C. App. 2004) ----- 2

Londry v. F.D.I.C. 204 F.3d 1125, 1141 (D.C. 2000) ----- 1

State v. Lyles 665 S.E. 2d 201 (S.C. App. 2008) ----- 2

State v. Wiley 692 S.E. 2d 560 (S.C. App. 2010) ----- 1

III. COURT RULES

Rule 6D, SCALC Rules ----- 2

ISSUES

The Respondents responded to the Appellant's Initial Brief on December 6, 2013 with their Respondent's Initial Brief. The Respondents assert that appellant was not prejudiced by the decision of the Disciplinary Hearing officer's finding the Appellant guilty with erroneous evidence nor was the Appellant prejudiced by the Administrative agencies dismissal of his case with abuse of discretion. The Appellant begs to differ.

The appellant has submitted evidence and exhibits to solidify and substantiate his defense. Undisputable evidence. Substantial evidence. The appellant has submitted to the Honorable court an signed and dated Request to Staff Member addressed to The Health Care Administrator (HCA) Mr. Matthew Harper who did name all of the appellant's Keep on Person (KOP) medications in which he enlisted all four (4) of the medications that the appellant was charged for. It is only common sense to know that if an medicine is described as "KOP" it can not be also "dose by dose" as Registered Nurse Jennifer Nations has erroneously described. The fact that the appellants counsel substitute, Ms. Danikia Gray, stated in the hearing that when she interviewed the appellant he showed her the KOP medications in his windowsill (see ~~the~~ Record on Appeal, transcript page #4, line #5) and the SCRC Form 19-11 from the HCA Mr. Harper enlisting all of the appellants "KOP" medications (see Record on Appeal, Exhibits), it is clearly shown that Nurse Jennifer Nations erred by stating that the medication was dose by dose instead of KOP which was an error that completely harmed the Appellant's defense because he was convicted upon erroneous evidence. See S.C. Code Ann. § 1-23-610(e). See also Laundry v. F.D.I.C. 204 F.3d. 1125 (D.C. 2000) (it is well established that the substantial evidence rule requires consideration of the evidence on both sides, Evidence that is substantially viewed in isolation may become insubstantial when contradictory evidence is taken into account. Id. 1141.) State v. Wiley 692 S.E.2d 560 (S.C. App. 2010) (when defendants shows error and resulting prejudice in grievous and that prejudicial effects can not be removed, error is not harmless. Id. 563.)

▣ If guilt has been conclusively proven by an incompetent evidence such that another rational conclusion can be reached, [An appellant] court should set aside conviction because of errors affecting the results. State v. Lyles 645 S.E.2d 201, 204-05 (S.C. App. 2008). Evidence is incompetent if it could create dangers such as prejudice, confusion of the issues, or have the tendency to mislead. Id. 206.

The Appellant has substantially, undisputably proven the error in the evidence used to convict him. The Administrative agency's decision should be overruled on that accord alone.

Furthermore, the appellant has submitted an signed and dated copy of an SCRC Form 10-14 "Agreement to debit E.H. Cooper" which is signed and dated by both, the appellant and the Mailroom supervisor, Ms. Nancy Merchant, proving that the appellant did agree to have two (2) letters sent out-agency mail- to the ALC and SCRC office of General Counsel. The 10-14 form states that this mail was sent out on September 16, 2013. The Appellant also submitted an signed, dated and notarized Proof of Service which clearly proves that the appellant served on the ALC & respondents a copy of his appellant's Brief on September 12, 2013 to their addresses.

The Appellant has submitted substantial, undeniable evidence to prove that the Administrative agency abused their discretion by dismissing his case on erroneous, misleading testimony that the appellant didn't comply with Rule 60 of the SCALC Rules and sent his brief. The appellant had 65 days from the date of assignment to file his Appellants brief. See Rule 60 of the SCALC Rules. Being that this was complied with and is substantially proven, the administrative agency abused its discretion by dismissing the Appellant's case with false pretences. See State v. McLeod 606 S.E.2d 215 (S.C. App. 2004) (Abuse of discretion occurs when the trial court rulings is based on error of law resulting in prejudice to the appellant.) Id. 218-19.

CONCLUSION

THEREFORE, the appellant has clearly, precisely, substantially, undisputably proven his defense from all sides of the case. The appellant wishes that this Honorable Court overrule his conviction and uplifts all sanctions imposed on him.

Respectfully Submitted,
Michael Laine

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
APPEAL FROM ADMINISTRATIVE LAW COURT
ADMINISTRATIVE LAW JUDGE JOHN D. MCLEDD

CASE NO.: 2013-DD2278

Michael Goins # 302385 ----- Appellant,

v.

South Carolina Department of Corrections ----- Respondents.

CERTIFICATE OF SERVICE

I, Michael Goins # 302385, do hereby certify that on December 13, 2013 I did serve on the following agencies a copy of Appellant's Reply Brief by depositing the same into the U.S. Mail postage prepaid, to the following addresses:

- 1.) S.C. Court of Appeals P.O. Box 11629 Columbia, S.C. 29211
- 2.) SCOC Office of General Counsel P.O. Box 21787 Columbia, S.C. 29221

SWORN to and subscribed before me
this 19 day of December, 2013.

Tamara Conner (L.S.)
Notary Public For South Carolina

My Commission Expires
My commission expires: September 25, 2023

By Michael Goins

Mr. Michael Goins # 302385
430 Oaklawn Road
Pelzer, S.C. 29669