

STATE OF SOUTH CAROLINA  
COURT OF APPEALS

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JAN 14 2014

SC Court of Appeals

Cavanaugh Alvin, #141090,  
Appellant,

VS.

South Carolina Department of  
Corrections,  
Respondent.

Docket No. 13-ALJ-04-0935-AP  
NOTICE OF APPEAL, Pursuant to  
Order of Dismissal: Grievance No:  
LCI 979-13

This matter Comes before the South Carolina Court of Appeals pursuant to the Notice of appeal filed by Appellant (Inmate) above named, who is incarcerated with the South Carolina Department of Corrections (SCDC).

Inmate appeals from the decision of the Administrative Law Judge (ALJ) which affirms Appellant's Convictions for Smuggling and/or Conspiracy to Smuggle in Contraband (855), SCDC Policy OP-22.14, Inmate Disciplinary System.

He (a) was not Sanctioned with the Loss of any good time Credits; (b) made no claim for the Loss of any other State Created Liberty or property interest; and (c) made no contention that his Sentence, Sentence related Credits or Custody Status has been erroneously Calculated. There is clearly no State Created Liberty interest implicated here.

Under Slezak v. S.C. Department of Corrections, 361 S.C. 327, 605 S.E.2d 506 (2004), the Administrative Law Court is to have jurisdiction of all properly perfected inmate appeals but "Summary dismissal may be appropriate where the inmate's grievance does not implicate a State Created Liberty or property interest." Such is the case here.

Therefore, for the foregoing reasons this appeal is hereby Dismissed, with prejudice. Therefore this is clearly an erroneous ruling by the administrative Courts (ALJ). The Appellant would like to direct the Courts attention to South Carolina Department of Corrections v. Mitchell, 377 S.C. 256, 659 S.E.2d 233 (App. 2008).

Which States on page no. (260). The ALC Order is devoid of any finding of evidence adduced by Mitchell warranting the ALC's reversal of the Department. Undeniably, Mitchell's request for medically recommended Support Shoes implicates no state-created Liberty interest. Therefore, the ALC's decision must be based on the evidence in the record. We can find no evidence indicating the Department's decision was either clearly erroneous, or arbitrary, capricious, or characterized by an abuse of discretion.

### CONCLUSION

Instead in this above stated case, The ALC's order appears to be based on the Department's assertion, that the Appellant didn't have a created Liberty or property interest.

The Appellant would also like to direct the Courts attention to page no. 258 of South Carolina Department of Corrections v. Mitchell. Standard of Review: Section 1-23-610 of the South Carolina Code (Supp. 2006) sets forth the standard of review when the Court of appeals is sitting in review of a decision by the ALC on an appeal from an administrative agency. The review of the administrative Law Judge's order must be confined to the record." *Id.* The Court of appeals may reverse or modify the decision only if substantive rights of the appellant [have] been prejudiced because the decision is clearly erroneous in light of the reliable and substantial evidence on the whole record, arbitrary or otherwise characterized by an abuse of discretion, or affected by other error of law.

Wherefore Appellant prays this Court will reverse the Administrative Law Judge's ruling.

January 9, 2014...

Sincerely,  
1st Cavanaugh Alvin  
Cavanaugh Alvin #141090  
Lieber Correctional Institution  
Post Office Box 205... Cooper A-41  
Ridgeville, South Carolina 29472

THE STATE OF SOUTH CAROLINA  
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SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE  
LAW COURTS  
John D. McLeod, Judge

Docket No. 13-ALS-04-0935-AP

Cavanaugh Alvin..... Appellant,

VS.

South Carolina Department of Corrections..... Respondent.

Proof of Service

I Certify that I have served the Notice of Appeal on Kenneth A. Richstad, Clerk of the Court of Appeals, by depositing a copy of it in the United States mail, Postage Prepaid, on January 9, 2014. I Certify that I have also served a copy of the same on the office of General Counsel at the Department of Corrections, Post Office Box 21787, Columbia, South Carolina, 29221, on January 9, 2014.

Sincerely,

January 9, 2014...

151 Cavanaugh Alvin  
Cavanaugh Alvin #141090  
Lieber Correctional Institution  
Post Office Box 205.... Cooper A-41  
Ridgeville, South Carolina, 29472

Lavanaugh Alvin "141090"  
Lieber Correctional Institution  
Post office 205 Cooper A-41  
Bridgeville, South Carolina 29472

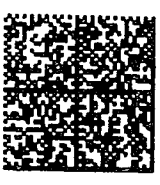
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The South Carolina Court of Appeals  
Kenneth A. Richstard, Clerk  
Post office Box 11629  
Columbia, South Carolina 29211

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