

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Cavanaugh Alvin # 141090,)
Cavanaugh Alvin Appellant,)
vs.)
South Carolina Department of Corrections,)
Respondent.)

NOTICE OF APPEAL

DOCKET NO. ALJ-04-
GRIEVANCE NO.: LCI 979-13

Notice is hereby given that Cavanaugh Alvin does hereby appeal the final decision of the South Carolina Department of Corrections dated 7-3-13 and received on 7-16-13, a copy of which is attached. A general statement of the grounds for appeal is (See S.C. Code Ann. § 1-23-380(A)(6)):

Appellant was brought before a disciplinary hearing and found guilty of Possession of any Communication device and Smuggling Contraband. During this hearing there was no evidence that Appellant possessed any communication device nor any evidence that Appellant conspired to smuggle any contraband into the prison. This incident in question was that Ms. Evone Grant of 15400 N.W. 28th Dr Lakeland, Fla. 33094 unknowingly sent a pre-paid phone card in the mail in Appellant name. This matter falls under SCDC Policy PS-10.08 section 6.1 Unauthorized Correspondence and should have been sent back to the sender after there was no attempt to commit the above offenses. Thus, Appellant due process right was violated pursuant to SCDC Policy PS-10.08

Cavanaugh Alvin
Appellant's Name

X Cam Alvin
Signed

P.O. Box 205
Mailing Address

December 5, 2013
Dated

City, State, Zip Code

CERTIFICATE OF SERVICE

I hereby certify that I, C.A. (your name), on the 5 day of December, 2013, in Ridgewille (city), South Carolina, served a copy of the foregoing Notice of Appeal on all parties to this matter by depositing the same in the United States Mail, postage paid, or in the mail room of the undersigned's institution and addressed as follows:

Name of person/Agency served: _____

Address: _____

City, State, Zip Code _____

Instructions for filing an appeal of the final agency decision from the South Carolina Department of Corrections:

- 1) You must complete the **Notice of Appeal** on the reverse side of these instructions and mail it to the Administrative Law Court at the following address:

Clerk's Office
South Carolina Administrative Law Court
1205 Pendleton Street, Suite 224
Columbia, SC 29201

A copy of the Notice of Appeal must also be forwarded to the Office of General Counsel at the Department of Corrections.

- 2) In order for your case to be processed by the ALC, a copy of the final decision from the Department of Corrections must be attached to the Notice of Appeal.

A PRUFF of Service

~~4444 Broad River B~~

Its place where order of Dismissal
is at Put this below in
Appeal Pursuant to order
of Dismissal

UP TOP
STATE OF SOUTH CAROLINA
COURT OF APPEALS

Dept. of General Counsel,
SC Dept. of Corre

The South Carolina Court of Appeals

Kenneth A. Richstad, Clerk

P. O. Box 11629

Columbia S.C. 29211

CA41

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

Refile LCI-0943-1:
INMATE COPY
Case #53

Due: 07-02-13
Office Use Only

INMATE NAME: CAVANAUGH Alvin
SCDC NUMBER: 141090
INSTITUTION: LIEBER CORR. INST.
HOUSING UNIT: C-A 40
WORK ASSIGNMENT: unit / volunteer work, SMU

JUL 03 2013

Grievance No. LCI 0979-13
Code: General _____
Policy _____
Disc. Hear. 855 #586/05
Class. _____
Date Received 7-03-13
IGC Initials MM

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

ON THE ABOVE DATE AND TIME (6-25-13) AT APPROXIMATELY 10:40 AM. THE DHO HEARING OFFICER (LINDA) FOUND ME GU OF THE CHARGE OF (855). THE DHO WAS UNFAIR AS SHE WENT ABOUT THE HEARING. OFFICER ADAMS STATED: OF WHILE INSPECTING THE CONTENT INSIDE, OF A ENVELOPE THAT ARRIVE IN MY NAME ALVIN, CAVANAUGH. SHE NOT A PREPAID PHONE CARD. OFC. ADAMS, WAS ASSIGN TO A AREA WHERE PEOPLE HAVE THE FREEDOM TO USE ANY KIL OF INFORMATION THEY CHOOSES. SO WHEN SHE NOTICE THIS BLUNTLY PIECE OF UNPROPER MAIL, IN THE MAIL ROOM. WITH OUT A DOUBT ITS CONTRABAN. THEREFORE WHY WOULD SHE MAKE THE DECISION TO CHARGE ME WITH OUT CONTACTING AUTHORITY TO LOOK INTO THE MATTER AT HAND. THE INVESTIGATOR, MAJOR, OR WARDEN. YOU MUST ALLOWED ONE OF THESE PEOPLE'S TO BRING SINCE INTO THE CASE. FACT-FINDING - CLOSELY - BEFORE BRINGING A CHARGE. THE DHO STATED, AND DISCRIMINATELY LOST THE WAY SHE HANDLE THIS MATTER. SHE DIDNT ADEQUATE LISTEN TO MY STATEME NOR DID SHE ACTUALLY LOOK AT THE INCIDENT REPORT, BECAUSE IF SHE HAD - SHE WOULD HAVE MAID A LOGICAL DECISION. I DO POSITONE TO ALLOWED THE WARDEN A LOOK. WHERE'S MY DUE PROCEES IN THIS STRANGE AND DELICATED CASE. THE INFORMAN IN THE LETTER SHOULD HAVE BEEN SEARCH OUT OR THE PERSON CONTACTED. THE POINT - HOW COULD ANY OF US KNOW W THIS MATTER COME ABOUT.

ACTION REQUESTED:

ON THE CHARGE OF (855) IN WHICH I WAS CONVICTED ON. I DO NOT KNOW OF THE PERSON NOR DID I CONSPIRED WITH ANY ONE OR I, NEITHER DID I TOOK PART IN SMUGLING ANYTHING WITH A NOTHERE PERSON. I ASK OF THAT THIS CHARGE BE DISMISS OFF OF MY RECORD.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

I TALK WITH LT. BROWN STONO UNIT - I TALK WITH CAPT. MCBRIDE - I SENT A REQUEST FOR TOOK HSSOCIATE WARDEN MR. BLACKWELL ON THE MATTER, (6-12-13) I ALSO SAW HIM JUS BEFORE THE HEARING - IN WHICH HE STATED, HE DIDNT CHECK MAIL YET. BUT TO LET THE DHO KNOW WHY WOULD YOU HAVE SOMEONE TO SEND A PRE PHONE CARD IN THE MAIL, KNOW WE CHECK ALL MAIL.

CAVANAUGH Alvin (6-28-13)
Grievant Signature Date

ACTION TAKEN BY IGC:

Reviewed all pertinent information and disciplinary documentation.
See Warden's Response for decision.

MM
IGC Signature Date

- I accept the action taken by the IGC and consider the matter closed.
- I do not accept the action taken and wish to appeal.

WARDEN'S DECISION AND REASON:

Inmate Alvin;

This is in response to LCI-0979-13. You have appealed the results of your 06/25/13 Disciplinary Hearing where you were found guilty on the charge of 855 Smuggling and/or Conspiracy to Smuggle in Contraband, case #53. The issues you stated do not warrant a reversal of the charge. Pertinent documentation has been reviewed and an investigation of the hearing was conducted. No technicalities, procedural errors, or misinterpretations of evidence were noted and the decision of the Disciplinary Hearing Officer was based on substantial evidence.

Based on this information, your appeal is without merit and therefore denied.

If not satisfied with my response, see Step 5 below.

- I accept the Warden's decision and consider the matter closed.
 I do not accept the Warden's decision and wish to appeal.

Car Alvin 7-12-13
Grievant Signature Date

[Signature] 7/10/13
Warden Signature Date

[Signature] 7/11/13
IGC Signature Date

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM

1. An informal resolution shall be attempted prior to the filing of Step 1.
2. Complete each section in its entirety, writing only in the space provided for inmate use.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form to the Institutional Grievance Coordinator within fifteen (15) days of an alleged incident; policy grievances at any time. Do not write in the space provided for the Warden's response.
5. If you are not satisfied with the Warden's decision, you may appeal to the appropriate responsible official within five (5) days of your receipt of the Warden's decision, via the Institutional Grievance Coordinator.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE COMPLAINT 2013
JUL 19 2013

INMATE GRIEVANCE FORM

RECEIVED
STEP 2

INMATE NAME: CAVANAUGH Alvin JUL 19 2013
SCDC NUMBER: 141090
INSTITUTION: LIEBER Correctional Inst.
HOUSING UNIT: C-A 41
WORK ASSIGNMENT: unit / VOLUNTEER WORK-SMU max-

Office Use Only
Grievance No. LCI 979-13
Code: General _____
Policy _____
Disc. Hear. 855#536/231
Class. _____
Date Received 7/15/13
IGC Initials MD

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

On The above date (7-10-13) The WARDEN MR. MC.FADDEN decision to allowed the charge of (855) to remain on me Based on my appeal having no merit. Is why he denied the grievence. It Show me the warden continue to be biased in viewing the Essential of the way this charge came about. It was put on me in a fabricated manner. This bogus charge in which Lieber Correctional Institution threw on me by saying a Enveloped arrive in my name with a prepaid phone card inside, in which the incident report stated the Evidents was nothing more than an Enveloped and a phone card. For the record, I never possess none of these items. I never conspired with the sender, nor do I know of this person. Therefore I can't possibly smuggle anything to myself. Ofc. Adams, state in the incident report that she notice, when inspecting the contents inside a prepaid phone card. Ofc. Adams the decided to charge me on the same day of the incident (6-5-13). Therefore Ofc. Adams violated O-P-Policy 22-14 A10-08-6.1.2 and 7.3 as well. Because if this person attention was to think the mailroom would slamed the card to take money off to put on my institutional new phone system they just installed. The how will any of us know. But if this person attentions was to being problems to me, then they hit home - so where the rest of the contents inside the enveloped: The warden and Lieber Correctional Institution, if they're going to allow people in society that have free excess to inmates information to feel they can freely bring problems to the inside world of SCDC facility. This can cause a epidemic, and hurt a lot innocent inmates. Like myself.

CAVANAUGH Alvin (7-14-13)
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

The documentation provided indicates that the evidence presented was sufficient to support the conviction of Smuggling and/or Conspiracy to Smuggle in Contraband (855), case #53 on June 25, 2013, under SCDC Policy OP-22.14, Inmate Disciplinary System, dated July 1, 2012, and the sanctions imposed, which included the loss of -0- days accrued good time, were appropriate for the rules violation. There was no reason found to warrant a reversal of the Disciplinary Hearing Officer's decision. A review of your appeal revealed that you received forty-eight (48) hour notice prior to the hearing, you were afforded due process rights, as required, and the offense was classified and heard in a timely manner.

Therefore, your grievance is denied.

You may appeal this decision under the Administrative Procedures Act to the Administrative Law Court. In order to appeal, you must fill out the attached Notice of Appeal Form and submit it as instructed on the form within 30 days of receipt.

[Signature] 11/15/2013
Signature Date

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

X Cavanaugh Alvin 11-22-13
Grievant Signature Date

[Signature] 11/22/13
IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

INSTRUCTIONS FOR COMPLETING STEP 2 GRIEVANCE FORM

1. Complete form in its entirety, writing only in the space provided for inmate use.
2. State your specific reason for further appeal. Do not submit any new issues for review.
3. Submit this completed form with your original Step 1 attached, to the Institutional Grievance Coordinator within five (5) days of your receipt of the Warden's decision. Do not write in the space provided for the responsible official.
4. The decision rendered by the responsible official exhausts the appeal process of the SCDC Inmate Grievance Procedure.

S.C. Office of

APPELLATE

DEFENSE

1130 LADY STREET, SUITE 401

P.O. BOX 11589

COLUMBIA, S.C. 29211-1589

Administrative Law Court

1205 Pendleton Street

Columbia, S.C. 29201-3754

United States

COURT OF APPEALS

FOR THE FOURTH

CIRCUIT

United States

COURT HOUSE

1100 EAST MAIN

STREET 5TH FLOOR

Richmond

Virginia 23219

804-916-2700

CAVANAUGH Alvin #14090

INMATE COPY

I hoped that's not the case. HOWEVER OFC. Adams, violated O-P-22-14 10.08-6.1.2 Policy of CASH, provided there's is no contempt to conceal the cash. The Phone CARD is nothing more than cash. Its nothing other than Plastic money. To point out it doesn't take a rocket science to no I can't do anything with a money card. BUT if OFC. Adams ~~to~~ Fei a rocket science to no I can't do anything with the Institution, in which she did. Then material inside mail contain interferes with the Institution, in which she did. Then she violated O-P 22-14 AS-10.08-7.3 Any non privileged mail or non legal maybe read/scanned when the warden / Designee or higher operational authority or the inspe General has reason to believe that the Correspondence may contain material that in- terfers with legitimate penological objectives I.e. the safety security or order OF the Institution. (4-ACRS-6A-08, 4-4491, 4-4492-4493, 4-4494) OFC. Adams did this by not following change of commend. THEREFORE the warden showed lacking and slacking in his viewing of this grievance. The saw these violations OFC. Adams created but choose to turn away from doing the right thing. By taking someone ELSE mistake OFF OF my head, along with the possibility of a Epidemic that could follow. In Closing, I never constructively possess this mindless of thought person unexplain ~~item~~ item. THEREFORE It will be criminally unfair if this charge is not taking off OF my record. My liberty is highl Important to ME.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INCIDENT REPORT

Institution/Center: <u>Lieber Correctional Institution</u>				
Date of Report: <u>6/6/13</u>			Time of Report: <u>11:00 a.m.</u>	
Reporting Official: <u>Officer Adams</u>			Date of Incident: <u>6/5/13</u>	
Location of Incident: <u>Mailroom</u>			Time of Incident: <u>Apr. 12:00 pm</u>	
Inmate(s)/Resident:	SCDC#	Age	Race	Sex
1. <u>Alvin Cavanaugh</u>	<u>141090</u>			
2.				
3.				
4.				
5.				
Employee(s) Involved:			1. <u>Officer Adams</u>	

On the above date and approximate time:

I, Officer Adams, opened an envelope from Evone Grant: 15400 N.W. 28 Pl. Opal-Locka Fla. 33054. Address to I/m Alvin Cavanaugh 141090, while inspecting the contents inside. I noticed a Verizon Pre-Paid Phone Card. I/m Alvin Cavanaugh was sent a copy of a 10-7 Notice of Rejected Incoming/Outgoing Correspondence. I/m Alvin Cavanaugh is being charged with a 898/855. End of Report.

INMATE COPY

Signature: Alvin Adams

Evidence: Envelope and Phone Card forwarded to Contraband

Witness(es):

Supervisor's Comments: I/m will be charged on state above

Signature: [Signature] Title: LT Date/Time: 6/6/13 11:30 am

Major / Responsible Authority: Refer to JHO charged with both 898/855

STG Related - Refer to STG Committee		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Unknown
This Incident is DRUG related		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Unknown

Action Taken <u>898/855</u>	
<input type="checkbox"/> Informal Resolution	
<input type="checkbox"/> Administrative Resolution	
<input checked="" type="checkbox"/> Refer to Disciplinary Hearing	

Title: [Signature] Date: 6/6/13

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
DISCIPLINARY REPORT AND HEARING RECORD**

Case# 52 & 53 Inmate Name: Alvin, Cavanaugh SCDC#: 141090

Living Area: 53-39 Job: _____ Custody: M13

Offense Date: 06 / 05 / 13 Offense Time: 12:00 AM/PM Institution: Litbar - Mailroom

Offense Description: **(898) THE POSSESSION OF ANY COMMUNICATION DEVICE:** The possession, receipt, use, concealment, storage, purchase, sale or facilitation of cellular phones or other communications equipment and/or any components thereof. This includes, but is not limited to, MP3 players, I-pods, e-readers or any like devices.
(855) SMUGGLING AND/OR CONSPIRACY TO SMUGGLE IN CONTRABAND: Any inmate found to have conspired, aided, or acted in collusion with any person, or acting alone with the intent

Charging Officer/Employee: Alicia Adams Title: OFC (Echo)
INMATE NOTIFICATION: YOU WILL APPEAR BEFORE A HEARING OFFICER 24 HOURS OR MORE AFTER YOUR RECEIPT OF THIS NOTICE. YOU HAVE THE RIGHT TO SUBMIT A WRITTEN STATEMENT AND MAKE A VERBAL STATEMENT.

INMATE WAIVERS:

- I GIVE UP MY RIGHT TO 24-HOUR NOTICE AND AUTHORIZE THE HEARING OFFICER TO PROCEED WITH THE HEARING.
- I DO NOT WANT TO BE PRESENT AT MY HEARING
- I DO WANT MY ACCUSER PRESENT AT THE HEARING
- I DO NOT WANT MY ACCUSER PRESENT AT THE HEARING
- I WAIVE MY RIGHT TO A HEARING
- SMU/SEGREGATION ONLY**
- I WANT A COUNSEL SUBSTITUTE
- I DO NOT WANT A COUNSEL SUBSTITUTE

Date & Time Notified: 6/11/2013 7:59 AM/PM By (Print): Sgt L. Garrison
 Inmate Signature: Cavanaugh Alvin SCDC#: 141090 Date: 6/11/2013

HEARING INFORMATION:

Hearing Date: <u>6/25/13</u>	Hearing Time: <u>10:30</u> am/pm	Tape:	Side:	Start:	End:
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EXPLAIN BELOW BY NUMBER: (1) IF COUNSEL SUBSTITUTE WAS NOT PRESENT DURING PART OF THE HEARING; (2) IF ACCUSED WAS EXCLUDED FROM ANY PART OF THE EVIDENCE STAGE; IF ANY (3) WITNESSES, (4) DOCUMENTATION, OR (5) EVIDENCE WAS EXCLUDED FROM THE HEARING; OR (6) IF INMATE WAS DENIED CONFRONTATION QUESTIONING AND/OR CROSS EXAMINATION OF A WITNESS AT THE HEARING

OFFENSE CODES	898	855		
INMATE PLEA (G, NG, None)	<u>NG</u>	<u>NG</u>		
FINDINGS (G, NG, DS)	<u>G</u>	<u>G</u>		

IF GUILTY, EVIDENCE PRESENTED CONSIDERED AND REASONS FOR DETERMINATION OF GUILT: (A) ADMISSION OF GUILT; (B) OFFICER'S REPORT; (C) WITNESS TESTIMONY; (D) OTHER. EXPLAIN IN DETAIL: attached evidence
accuser Testimony

HEARING LENGTH: _____ (MINUTES) 85:180 + 90 = 210 5 hrs TV
C, TV 03 1-7-5

SANCTIONS:

Loss of Privileges (Days) _____ Reprimand: _____ Loss of Good Time (days): _____
 * Property (Days) TV 5 hrs Extra Duty: _____ Restitution: \$ _____ **
 * Canteen (Days) 360 + 180 = 540 Visit Suspension Thru 360 + 180 = 540
 * Other (Days) 360 + 180 = 540 Cell Restriction (Days): _____
 * Disciplinary Detention (Days): 180

SPECIFIC FACTUAL REASON(S) FOR PARTICULAR PUNISHMENT IMPOSED: Nature of offense / 1ST offense of this nature.

CREDIT FOR PHD TIME SERVED? YES/NO _____ IF YES, DAYS _____

DATE INMATE PLACED IN PHD _____

INMATE SIGNATURE FOR RECEIPT OF FINAL REPORT: Alvin DATE: 6/25/13

HEARING OFFICER (PRINT NAME) Leticia Buchanan

APPROVED/REVERSE/MODIFY _____ WARDEN REASON _____

CONTACT YOUR CLASSIFICATION CASEWORKER OR COUNSEL SUBSTITUTE IF YOU DO NOT UNDERSTAND THIS FORM.
 White - Institutional Record Canary - Inmate (Service of Disciplinary Report)
 Golden Rod - Inmate (Service of Disciplinary Hearing Disposition) Pink - Central Record

** (Note: When there is restitution, a copy of this form should be forwarded to Financial Accounting.)

This is to inform you that a Disciplinary Hearing was held. Your copy of the Disciplinary Report and Hearing Record is attached. If you were found guilty you have the right to appeal the decision of the Hearing Officer with respect to the determination of guilt or penalty imposed. You may appeal the decision by filing an Inmate Grievance using SCDC Form 10-5, "Step I Grievance Form." If you are dissatisfied with the response you receive to your grievance, you may then file an appeal to the next level (see SCDC Procedure GA 01.12, "Inmate Grievance System," for information on filing appeals).

Your Inmate Grievance Coordinator may assist you in the appeal process by sending him/her SCDC Form 19-11 "Request to Staff Member."