

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM ADMINISTRATIVE LAW COURT
SHIRLEY C. ROBINSON, ADMINISTRATIVE LAW JUDGE

Docket Number: 12-ALJ-04-0481-AP

Appellate Case No. 2013-002190

BRIAN DANIELS, 253205

APPELLANT,

VS.

SOUTH CAROLINA DEPARTMENT OF
CORRECTIONS [SCDC],

RESPONDENT.

INITIAL REPLY BRIEF OF APPELLANT

Brian Daniels
RCI, SB-5, POB 2030
Ridgeland, S. C. 29936

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SC Court of Appeals

STATEMENT OF ISSUE(S) ON APPEAL

Has Appellant Been Denied Due Process Of Law Where He Was Not Allowed To Present Witness(es) In His Defense

STATEMENT OF THE CASE

Respondent has composed and generated an (initial) brief of respondent of 12-19-2013; appellant submits the [initial] reply brief herein.

ARGUMENT

APPELLANT HAS BEEN DENIED DUE PROCESS OF LAW WHERE HE WAS NOT ALLOWED TO PRESENT WITNESS(ES) IN HIS DEFENSE

The brief of respondent pointed, "Appellant claims he was denied the right to present witness testimony at the disciplinary hearing. At the disciplinary hearing, counsel substitute presented statements from several inmates, but neither counsel substitute nor appellant attempted to present any additional evidence. (Transcript). Therefore, because appellant made no effort to present additional witness testimony at the hearing, he cannot now claim the testimony was improperly excluded." (p. 6) Daniels contends that it was error when the Administrative Law Court [ALC] issued 9-9-13 Order without properly considering his 9-28-11 request to staff member (RTSM). Therein he requested a "polygraph" test. (R. 3 p.) *Pruitt v. State*, 266 S.E.2d 779, 782 (1980).

Respondent's brief goes on, "Moreover, appellant has not shown the additional evidence could reasonably have affected the outcome of the

disciplinary hearing." Ibid. Where A. Seller responded thereto the RTSM on 10-4-11 stating "we can contact Sgt. Kelley". (R. p.) The 10-14-11 Disciplinary Report And Hearing Record pointed "Left message on 10-5-11 at 10:00 a.m, for Sgt. Kelley" (R. p.) But disciplinary hearing office (DHO) failed to allow presentation of witness. So Daniels was denied right to confront, cross-examine and presented important and material witness(es).

CONCLUSION

Appellant urges this Court to reverse the order of the ALC.

This 12th day of January 2014.

Respectfully submitted,

/s/
Brian Daniels

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he has caused true and correct copies of the Initial Reply Brief and Designation of Matter to be mailed, postage pre-paid, to respondent's attorney Christopher D. Florian, FOB 21787, Columbia, S.C. 29208, this 14th day of January 2014.

Brian Daniels