

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
ADMINISTRATIVE LAW JUDGE: S. PHILLIP LENSKI

DOCKET NO: 2013-001963

WILLIE JAMES ROUNDTREE, #267355, APPELLANT/PRO SE
VS.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, RESPONDENT

[BRIEF OF APPELLANT]

Address: WILLIE JAMES ROUNDTREE, #267355, APPELLANT
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INITIAL BRIEF

I, Willie James Roundtree, #267355, Appellant/pro se, bring this matter before the South Carolina Court of Appeals. I've had a bad decision rendered against me. I've been convicted of SCDC violation (898) Possession of any communication device.

Administrative Law Court Judge, S. Phillip, has clearly seen from the paperwork I've filed that SCDC Policy, Procedure, and regulations were not followed in my case. The Constitutional minima was not met in my case.

The minima (#2) states, "fact finders must prepare a written statement of the evidence relied on, and reasons for the disciplinary action" In my case the fact finders evidence relied on was false, and the false statement is a factor in the reason I was found guilty. A cell phone was never turned in, nor a picture of a cell phone.

Yet the narrative of my incident report states I was (seen/caught) using a cell phone, and it would be delivered to Lower-Savannah Pre-Release CTR, and it (never was delivered).

This information has proven to be false. I strongly disagree with the conviction being affirmed when in fact, (I'm not guilty); This is definitely in violation of the Constitution Bare Minima of Due Process.

I've lost good time, work credits, and my custody level changed by being falsely convicted of this offense.

By me being innocent of this (898) violation, there is a direct injustice to my "state created liberty interest". I understand that the A.L.J.'s order must be confined to the record. In my case, the record has been proven to be erroneous, (yet the conviction was affirmed.)

I the Appellant, ask that this Court look over everything I submit pertaining to my case, and correct this error of law.

I've added a copy of the Affirmed Order, and my Reply Principal Brief for your review.

The Appellant therefore contends that the ends of justice would best be served by vacating this conviction.

DATE: 2/11/14

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Sincerely Respectfully Submitted

W. Willie James Roundtree #267355

Willie James Roundtree, # 267355
Appellant,

Reply Principal Brief

VS.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Docket NO: 2013-001963

Respondent

Statement of The Case:

The Appellant was employed at Pepperhill Nursing CTR. I worked there from 7/22/11 until 12/7/12. During that time the Appellant was once suspended & terminated for a defamatory statement made by Mr. Larry Pugh (his supervisor). I was called hired back immediately after Mr. Pugh was found to be wrong. He admitted to being wrong to Capt. Shepherd of LSPRC and to Administrator Scott Jones and (WADE JONES) (OCUNER). Now Mr. Pugh claims to have seen Appellant on a cell phone on 12/6/12 while at work. Yet the incident wasn't reported to LSPRC until 12/7/12 the next day. He was off that day. Mr. Pugh never stated why he didn't confiscate this cell phone I was supposedly using on 12/6/12 at the time he says he observed me using a phone. That isn't by procedure. Why wasn't the Appellant notified that he had been supposedly seen on a cell phone right then, and why wasn't the incident reported to SCDC as soon as it supposedly occurred. The Appellant worked all that day 12/6/12, and all day 12/7/12 the next day. On 12/7/12 when the Appellant got off work he was taken to LSPRC, then transferred to TR.C.I. the same day being accused of Offense 898 possession of any communication device. A hearing was held on 12/20/12, and I was wrongly convicted and punished. I filed a step one grievance on 1/4/13, the grievance was denied with the basic rubber stamp without a real investigation into
(conclusion next page)

My claim being done by T.C.I.. The Appellant filed the step two Grievance on 1/7/13, this was also denied. The Appellant may have had a hearing, but I have not had a fair and impartial investigation done to find out the truth in this matter.

MY ISSUES ARE AS FOLLOWS:

- 1) By Angie Gambell calling cps John Birone stating that I was caught using a cell phone, and she was having the cell phone delivered to LSPARC. I have been accused and convicted. I have lost good time, work credits, and my custody status changed. This has caused my state-created liberty interest to change by BEING wrongly punished. (SEE THE ATTACHED APPENDIX FOR INCIDENT REPORT).
- 2) Mr. Birone has never received a cell phone I was supposedly using, and the Incident Report for this clearly states that he would receive the cell phone. Yet no cell phone has been produced nor turned over to SCOC, and it's been 7 months. (SEE ATTACHED APPENDIX).
- 3) I lost good time, work credits, and my custody status changed when Mrs. Angie Gambell called and said I had been seen on a cell phone that she never witnessed me on, nor did she receive, produce or deliver a cell phone like she stated on Incident Report.
- 4) Mr. Larry Pugh My Supervisor has given false information on me in the past, his actions were reported, and an investigation was done and he was found to be wrong. A straight forward and fair investigation should have been done this time.
- 5) The disciplinary action form from Pepperhill has the date of my infraction as 12/6/12, but the Incident Report form and the Disciplinary Hearing Record, has the incident and offense date as 12/7/12. What makes this possible? The incident time is approx: 2:45 P.M. (SEE ATTACHED APPENDIX).
- 6) I was also told by Otto Glidewell that the employer has 24 hrs to report the incident. If that's true then time for reporting was exhausted, the next day.

My Argument in Support of my issues are:

- 1) Mrs. Angie Gambell NEVER SEEN ME ON A CELL PHONE, NOR DID SHE RECEIVE A CELL PHONE, BUT HER 3rd HAND INFORMATION WAS STILL USED TO WRONGLY CONVICT ME. THE SUPREME COURT HAS RULED INMATES WHO OBSERVE PRISON RULES, HAVE A STATUTORY RIGHT TO GOOD TIME CREDITS AND THE LOSS OF SUCH CREDITS AFFECT A LIBERTY INTEREST PROTECTED BY THE DUE PROCESS CLAUSE OF THE 14th AMENDMENT. THE LOSS OF ~~THESE~~ CREDITS THREATENS APPELLANT'S PROSPECTIVE FREEDOM FROM CONFINEMENT BY EXTENDING THE LENGTH OF IMPRISONMENT. WHEN THE STATEMENT IS MADE THE CELL PHONE WILL BE DELIVERED TO LSPRL, THEY SHOULD BE MADE TO PRODUCE A CELL PHONE.
- 2) BEING THAT CPS JOHN BIRONE NEVER RECEIVED A CELL PHONE AS THE INCIDENT REPORT HE FILLED OUT STATES HE WOULD, THEN WHY DIDN'T HE TRY TO COME UP WITH THE CELL PHONE BEFORE I WAS CONVICTED FOR A CELL PHONE I NEVER HAD, NOR USED. CLEARLY IT CAN BE SEEN THAT I NEVER HAD A CELL PHONE BECAUSE IF I DID MR. LARRY PUGH WOULD HAVE TAKEN IT FROM ME RIGHT THEN AS HE'S SUPPOSE TO DO PER PROCEDURE.
- 3) IF MR. LARRY PUGH OR ANGIE GAMBELL HAD ACTUALLY SEEN ME ON A CELL PHONE OR THEY ACTUALLY HAD A CELL PHONE I WAS SUPPOSEDLY USING, THEN WHY WAS I ALLOWED TO WORK ALL THAT DAY THEN ALL THE NEXT DAY, 12/6/12, AND 12/7/12? HE WOULD HAVE HAD TO TAKE THE CELL PHONE ON THE SPOT, IT ONLY MAKE SENSE TO DO SO IF HE SEEN ME ON A CELL PHONE. THE GOOD TIME CREDITS I'VE LOST BY BEING WRONGLY ACCUSED CONSTITUTE A PROTECTED LIBERTY INTEREST, THE REVOCATION OF SUCH CREDITS WITHOUT JUST CAUSE IS A VIOLATION OF PROCEDURAL DUE PROCESS. (CONTINUE NEXT PAGE)

Continue ^{Page} (3)

I'm AWARE that if I violate any RULE of confinement, my CREDITS may be lost, but in this CASE I VIOLATED NO RULE and PROCEDURE, PLUS PROTOCOL WERE VIOLATED by the RESPONDENT. (SEE APPENDIX).

4) Being that it's A PROVEN FACT that Mr. Larry Pugh has lied on me in the past, why wasn't anything about this situation investigated, After the facts, Times, and dates all were in ACCURATE? If Angie stated on report that A PHONE would be delivered to LSPRC and NEVER did, why should anyone believe that Mr. Larry Pugh ever SEEN ME ON A CELL PHONE? IT WAS NOT TRUE! ONE month prior to this incident November of 2012, Mr. Pugh had me terminated /suspended, Claiming that I loaded 101 pounds of clothing in a 55 pound washing machine. He weighed up wet clothes, not dry clothes. That's what caused the weight to be off. An investigation was done, then he admitted he weighed up wet clothes, He fully understood before hand that he was suppose to weigh up dry clothes. After 1 week I was told to report back to work, THEN Mr. Pugh openly admitted he had made a mistake to the OWNER, THE ADMINISTRATOR, OTHER EMPLOYEES MYSELF and Captain Sy Pherritt of LSPRC. NOW Mr. Pugh has come ONE month later with a different type of false statement, and so far NO-ONE has tried to find out the truth. This significant hardship is not included in ordinary incidents of prison life. Mr. Pugh did tell other employee's that he was going to get rid of me. I do have witnesses for that Statement.

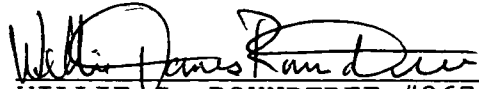
5) By the Incident Report and the Disciplinary Hearing Record All having the date of offense 12/7/12 At Approx: 2:45 P.M. on them. I assumed At first I was being accused of having a cell phone on 12/7/12, because that's what the paperwork I received had on them. (SEE APPENDIX, INCIDENT REPORT).

This shouldn't ~~HAVE~~ been allowed to be incorrect. Truthfully, I worked on 12/6/12, and 12/7/12 without incident. I personally feel this was done to me in retaliation for the November 2012 Plot not working. Mr. Larry Pugh tried different methods to get me terminated, and his plot so far was successful.

CONCLUSION

I NEED THE DECISION TO PROVIDE AN ADEQUATE REMEDY. THE SUBSTANTIAL EVIDENCE THATS SUPPORTS ME BEING WRONGLY CONVICTED IS WHERE THE NARRATIVE STATES A CELL PHONE WOULD BE DELIVERED; YET 7 MONTHS LATER STILL NO CELL PHONE. TR. C. I WAS LED TO BELIEVE LSPRC HAD A CELL PHONE AND THE CELL PHONE WOULD BE DELIVERED BY IT BEING STATED ON THE INCIDENT REPORT. THE CELL PHONE WAS NEVER PRODUCED BECAUSE I NEVER HAD ONE TO BEGIN WITH. NOT EVEN A PICTURE OF A PHONE OR ANYTHING. I NEED THIS CHARGE VACATED FROM MY RECORD. I NEED ALL OF THE GOOD TIME AND CREDITS I HAD TAKEN FROM ME FOR THIS FALSE CHARGE. THE APPELLANT WOULD LIKE HIS CUSTODY, TELEPHONE PRIVILEGES, VISITATION, AND CANTEN PRIVILEGES REINSTATED.

RESPECTFULLY SUBMITTED THIS
11th DAY OF FEBRUARY 2014



WILLIE J. ROUNDTREE #267355 PRO SE
MANNING PRE-RELEASE W-5-13B
502 BECKMAN ROAD
COLUMBIA, S.C. 29203

I WILLIE ROUNDTREE DO ATTEST BY THE ABOVE SIGNATURE THAT THE INFORMATION
CONTAINED IN THIS DOCUMENT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE
AND ABILITIES.