

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

REC'D
AUG 2 2014

Willie James Roundtree, 267355,)
)
Appellant,)
vs.)
)
South Carolina Department of Corrections,)
)
Respondent.)
_____)

Docket No.: 13-ALJ-04-0192-AP
RECEIVED
ORDERED 20 2014
SC Court of Appeals

This matter is before the South Carolina Administrative Law Court ("ALC" or "court") pursuant to the Notice of Appeal filed March 8, 2013 by Willie James Roundtree ("Appellant"), an inmate incarcerated with the South Carolina Department of Corrections ("Department"). The Appellant appeals the decision of the Department denying his grievance in which the Appellant complains he was wrongfully disciplined for Possession of Attempt to Possess a Cell Phone without sufficient evidence presented against him. As a result of the conviction, the Appellant received sanctions that included the loss of Sixty (60) days of accrued good-time.

Because a state-created liberty interest is involved in this case, it is necessary to determine if the Appellant received the process he was due. A prison official's failure to follow the prison's own policies, procedures or regulations does not constitute a violation of due process, if constitutional minima are nevertheless met. Weatherholt v. Bradley, 316 Fed. Appx. 300, 303 (4th Cir. 2009) (citing Myers v. Klevenhagen, 97 F.3d 91, 94 (5th Cir. 1996)). Therefore, the issue in this appeal is not whether the Department complied with its own policies or regulations, but whether it met the minimum constitutional requirements for procedural due process in matters where an inmate is disciplined for serious misconduct. Al-Shabazz v. State, 338 S.C. 354, 369, 527 S.E.2d 742, 750 (2000). These requirements must be balanced against the need to maintain an orderly and safe prison environment. Id. To that end, the Supreme Court has enunciated the following five requirements which, if established, will ensure procedural due process in inmate disciplinary matters:

- (1) that advance written notice of the charge be given to the inmate at least twenty-four hours before the hearing;
- (2) that fact finders must prepare a written statement of the evidence relied on and reasons for the disciplinary action;
- (3) that inmate should be allowed to call witnesses and present documentary evidence;
- (4)

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that counsel substitute...should be allowed to help illiterate inmates or in complex cases an inmate cannot handle alone; and (5) that the persons hearing the matter, who may be prison officials or employees, must be impartial.

Al-Shabazz, 527 S.E.2d at 751 citing Wolff v. McDonnell, 418 U.S. 539, 563-72, 94 S.Ct. 2963, 2978-82 (1974).

Applying the five due process requirements to the record in this case the court finds that the Appellant was provided with written notice of his charge on December 11, 2012. At the time of notification, the Appellant requested that his accuser be present at the hearing and that he be represented by counsel substitute. These requests were granted in a hearing held before a Disciplinary Hearing Officer on December 20, 2012. The Disciplinary Report and Hearing Record show reliance on the charging officer's report and testimony. Furthermore, the Disciplinary Report and Hearing Record show that the sanctions imposed were a result of the nature and severity of the offense. There is nothing in the record to suggest that the Hearing Officer was not neutral or detached. The record supports a finding that the Appellant was afforded the minimum due process in his disciplinary proceeding, as required by Wolff.

When reviewing the Department's decisions in inmate grievance matters, the court sits in an appellate capacity. Consequently, the review in inmate grievance cases is limited to the Record presented. The court may not substitute its judgment for that of an agency "as to the weight of the evidence on questions of fact." S.C. Code Ann. § 1-23-380(5) (Supp. 2010).

Where an inmate has received the minimal due process due in an inmate disciplinary matter, no further inquiry is required and the decision of the Hearing Officer should be affirmed unless the decision is arbitrary, capricious or based on personal bias or prejudice, none of which is evident in the record before me now. In this case, the court will not substitute its judgment for that of the agency because there is adequate evidence to support the conviction which is clearly not arbitrary, capricious or affected by any personal bias or prejudice.

Based upon the foregoing, the decision of the Department is **AFFIRMED**.

AND IT IS SO ORDERED.



S. Phillip Lenski
Administrative Law Judge

August 23, 2013
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Leah E. Garland, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail to the address provided by the party(ies) and/or their attorney(s).



Leah E. Garland
Judicial Law Clerk

August 23, 2013
Columbia, South Carolina

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SC ADMIN. LAW COURT

FROM
Case

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INCIDENT REPORT

Institution / Center: Lower Savannah Work Release Ctr.	
Date of Report: 12.7.12	Time of Report: 3:40 PM Approx
Reporting Official: John C. Binone 0040098	Date of Incident: 12.7.12
Location of Incident: Job Site	Time of Incident: 2:45 PM Approx
Inmate(s)/Resident: SCDC# Age Race Sex	Employee(s) Involved:
1. Willie J Roundtree 267355 48 B M	1.
2. 3A-7	2.
3. MOLA	3.
4.	4.
5.	5.

On the above date and approximate time: I CPS John Binone received a phone call from Angie Gambell that this inmate was caught using a cell phone by his immediate supervisor Larry Pew. Termination Notice will be faxed from Pepperhill today 12.7.12. Ms. Gambell is also having the cell phone delivered to HSRK

Signature: John C. Binone

Evidence: FAE from Pepper Hill

Supervisor's Comments: Refer to Major for disciplinary actions due to above nature of incident and statement from employee approx 4:00 CH
Signature: Curtis Hartley Title: Sgt. Date/Time: 12/7/12

Major / Responsible Authority: 898

Signature: [Signature] Title: Major Date: 12/11/12

STG Related - Refer to STG Committee
 Yes No Unknown

This Incident is DRUG related
 Yes No Unknown

Action Taken

Informal Resolution
 Administrative Resolution
 Refer to Disciplinary Hearing

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
DISCIPLINARY REPORT AND HEARING RECORD.

Case#: 02 Inmate Name: Ronald Lee Willis SCDC#: 267355
Living Area: 3A-7 Job: NONE Custody: MOIA
Offense Date: 12/17/12 Offense Time: 2:45 AM/PM Institution: Lower Savannah Work Release
Offense Description: 898: Possession of any communication device

Charging Officer/Employee: J. Burice Title: CPS

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 WR

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 WR

I DO NOT WANT A COUNSEL SUBSTITUTE

Date & Time Notified: 12/11/12 12:55 AM/PM By (Print): H. Melvin

Inmate Signature: [Signature] SCDC#: 267355 Date: 12/11/12

HEARING INFORMATION:

Hearing Date: <u>12/20/12</u>	Hearing Time: <u>11:05</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

H.C/S Williams

OFFENSE CODES	<u>898</u>			
INMATE PLEA (G, NG, None)	<u>NG</u>			
FINDINGS (G, NG, DS)	<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: (13) + Statement
notice from perrera!!

HEARING LENGTH: _____ (MINUTES)

ACTIONS:

Loss of Privileges (Days) _____ Reprimand: _____ Loss of Good Time (days): 60

• Property (Days) 360 + 180 = 540 Extra Duty: _____ Restitution: 5

• Canteen (Days) 360 + 180 = 540 Visit Suspension Thru _____

• Other None (Days) 360 + 180 = 540 Cell Restriction (Days): _____

• Disciplinary Detention (Days): 180

PECIFIC FACTUAL REASON(S) FOR PARTICULAR PUNISHMENT IMPOSED: 1st 898 conviction

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

ATE INMATE PLACED IN PHD _____

INMATE SIGNATURE FOR RECEIPT OF FINAL REPORT: [Signature] DATE: 12-20-12

HEARING OFFICER (PRINT NAME): J. Burice

APPROVED/REVERSE/MODIFY: [Signature] Warden DATE: 12/20/12 REASON: _____

CONTACT YOUR CLASSIFICATION CASEWORKER OR COUNSEL SUBSTITUTE IF YOU DO NOT UNDERSTAND THIS FORM.

White - Institutional Record Canary - Inmate (Service of Disciplinary Report)

Green Red - 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.)