

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Deborah Brooks Durden, Judge

ALC Docket No. 14-ALS-04-0004-15 & 0003-15
Grievance No. MCCI 1129-13, 1123-11, 1109-13 & 1131-13

T. Terrell Bryan, 254638, Appellant,

v.

South Carolina Department of Corrections, Respondent.

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MAR 05 2014

SC Court of Appeals

PARTIAL APPELLANT'S BRIEF

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McCormick, SC 29899
PRO SE APPELLANT

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STATEMENT OF ISSUE ON APPEAL

- I. DID THE CLERK ERR BY HOLDING APPELLANT FILED 3 APPEALS?
- II. WHETHER THE POLICY OF REFUSING TO MAKE ACCESSIBLE EDUCATIONAL PROGRAMS & DENYING ANY EDUCATIONAL MATERIALS THROUGH THE MAIL REASONABLY RELATES TO LEGITIMATE PENOLOGICAL INTERESTS?

LEGAL MAIL

STATEMENT OF THE CASE

This matter is before the South Carolina Court of Appeal pursuant to this PARTIAL BRIEF filed by the pro se Appellant, an Inmate confined and/or incarcerated within the custody, control, supervision and care of the South Carolina Department of Correction (SCDC).

This case involves several step 1 grievances: MCCI 0263-13, step 1 w/EXHIBITS and step 2, see attached EXHIBIT #59 and #58. APPELLANT LOST 9 DAYS ACCUED GOOD TIME. Petitioner filed the step one grievance on 3/18/13 which was denied on 4/17/13. Petitioner filed step two on 4/23/13, which was denied.

The Appellant timely filed one Notice of Appeal citing Grievance No. MCCI 0263-13, 1129-13, 1123-13, 1109-13, and 1131-13, See attached EXHIBIT #54 - 1/02/14 (ALL) Notice of Appeal. The clerk divided the one appeal into three appeals because Appellant "... Can file one appeal form per step 1 or step 2." THIS WAS AN ERROR. See attached EXHIBIT #53 - memo of the clerk. See also EXHIBIT #63 - #65, Appeal information in case number(s) 140002, 140003-1J, and 140004.

The ALL denied relief on 1/22/14, see attached EXHIBIT #60 and #61, Thus is the timely appeal to this court.

ARGUMENT

I. THE CLERK ERRED BY HOLDING APPELLANT FILED 3 APPEALS WHERE HE ONLY FILED ONE NOTICE OF APPEAL.

JUDICIAL NOTICE should be taken that on 12/18/13 I complained to Judge S. Phillip Lenski about "... being denied access to the Court of Appeals where I have submitted numerous appeals to your Court & not receive a reply." I asked Judge Lenski to investigate. see EXHIBIT #71 - letter to Judge Lenski.

On 11/02/14 Appellant timely filed one Notice of Appeal citing grievance No.(s) MCCI 0263-13, 1129-13, 1123-13, 1109-13 & 1131-13, see attached EXHIBIT #54 - (ALC) Notice of Appeal.

I then received a memorandum from the clerk citing three ALC case No.s 14C0002, 14C0003 & 14C0004. see EXHIBIT #53 - Clerk's memorandum. Being I was not told what grievance No.s go with what ALC No.s, I wrote back to Judge Lenski to clarify what I am appealing. see EXHIBIT #73 - 11/15/14 letter to Judge Lenski.

Per the ALC's Rules of Procedure, v. special Appeals § 55 & § 59(B), the clerk erred multiple times.

Rule 55 reads:

Docket Number. The clerk of court shall assign a docket number to each case.

THEREFORE, first, the clerk erred where only one docket number can be assigned to a case. Per EXHIBIT #54, only one appeal form was submitted to the ALC court & only one docket number should have been assigned.

Rule 59(B) reads:

Notice of Appeal. The notice of appeal from the final decision to be heard by the Administrative Law Court shall be filed with the court ... a brief factual ^{basis} for each expressly & specifically asserted constitutional violation.

SECOND, the factual basis stated that "... all cases taken together show a pattern of denial of due process." **NOT SEPARATELY**, but taken together they assert a constitutional violation. see "Denton v. Hernandez, 112 S.Ct. 1729, "a different picture emerges from a reading of all five complaints together... the purported modus operandi is identical in every case." The factual basis of the (ALC) Notice of Appeal shows an intent on my part to file only one appeal. **MY INTENT MUST BE UPHELD.**

MOREOVER, the ALC could have still ruled on whether a party's constitutional rights have been violated. see "Howard v. SCOC, 399 S.C. 618, 733 S.E.2d 211 (S.C. 2012).

ARGUMENT

II. NOT ONLY DOES THE POLICY OF TOTAL DENIAL OF EDUCATIONAL MATERIALS DO NOT MAKE SENSE, IT IS MALICIOUSLY DESIGNED TO ENSURE INMATES DO NOT SUCCEED!! RECIDIVISM!!

JURISDICTION

THE ALC HAD JURISDICTION! under Slezak v. SCOC, 361 S.C. 327, 605

S.E.2d 506 (2004), the ALC is to have jurisdiction of all properly perfected Inmate appeals that implicate a state created liberty or property interest. A liberty interest is implicated if the Inmate (a) was sanctioned with the loss of any good time credits, (b) made contention that his sentence, sentence related credits or custody status has been erroneously calculated.

Appellant & other similiary situated Inmates have a liberty interest in independently rehabilitation & or educating ones own self, helping one's self to "... reintegrate into society as [a] constructive individual..." see Morrissey v. Brewer, 411 S.Ct. 2593 (1972). **NOTING** Appellant is entitled to Earned Education credits.

MOREOVER, the ALC could have still ruled on whether a party's Constitutional rights have been violated. see Howard v. SCOC, 399 S.C. 618, 733 S.E.2d 211 (S.C. 2012).

WHEREFORE, the ALC had jurisdiction.

per SCOC's policy PS-08.06, titled Education Programs (March 1, 2010) §3.2 "SCOC will make available comprehensive & flexible education programs to all Inmates meeting specific criteria. While not all Inmates will be eligible to participate in all educational programs... some type of educational access, outside of mere novels or mystery books, will be accessible to some Inmates." §3.3 "... Independent study..."

SCOC refuses to make accessible to Appellant educational programs or materials because he is an smv Inmate with a G.E.O.

PS-10.08 Inmate Correspondance Policy, an Inmate on smv can not receive

through the mail any educational materials. see EXHIBIT #13 - Appellant's Affidavit, I was working on my Certificate for Drama, see EXHIBIT #28 - Certificate of Completion for Creative Language Course. This is in violation of § 33 Independent study & the 8th Amend. Cruel & Usual punishment. see also S.C. Const. Art. I, § 15.

The above is **UNDISPUTABLE EVIDENCE** that SCOC will not provide Appellant **ANY** educational materials & will not allow him to receive any through the mail. Leaving him no way to independently rehabilitate & or educate himself, helping him own self to "... reintegrate into society as [a] constructive individual..." Morrissey, supra.

TURNER TEST

Pursuant to Turner v. Safley, 482 U.S. 78, 107 S.Ct. 2254 (1987), a Turner test was established to evaluate if a regulation (or action) is "reasonably related" by looking at four factors:

- (1) whether there is a valid connection between the regulation & the government's justification for it;
- (2) whether you still have other ways of exercising your constitutional right despite the regulation;
- (3) whether there will be a "ripple effect" on the right of others if you are allowed to exercise the right; &
- (4) whether there is an easy way to meet the regulation's goal without limiting your constitutional right.

SCOC can not survive the Turner test because SCOC can not explain why prohibiting inmates in SMU from receiving educational materials through the mail is rational (that it makes sense). It does not make sense & it is designed to ensure an inmate does not successfully "... reintegrate into society as [a] constructive individual..." see Morrissey, supra. **RECIDIVISM.**

Being inmates in SMU can not receive educational materials through the mail & SCOC refuses to make accessible to SMU inmates educational programs or materials, Appellant & other similarly situated inmates are being discriminated against, in violation of the 14 Amend. of U.S.

Clerk/U.S. District Court
601 W. Broadway, Rm. 106
Gene Snyder Courthouse
Louisville, Ky 40202

Re: Bryan v. SDC, 3:10-cv-9719-H

Dear Clerk,

Enclosed for your filing is two (2) copies of Petition to Rescind signature.
Please return to me a stamped/mailed copy of same.

8/30/11 sc
dated

Respectfully,
T. T. Bryan
x. T. T. Bryan
T. Terrell Bryan
#254638, 58209, BRCI
4460 Broad River Rd.
Columbia, SC 29210

Const. Equal Protection clause. & we have no other way to exercise the right to independent rehabilitation of self & or independently educate self.

In an article titled "A tired ILM is a good ILM" ~~former~~ ^{former} director of SCOC William R. Byars allege to the world, that "you've got to start with education... You've got to teach people... find jobs for the offenders to help the transition back into a community." Byars cited the SCOC's self-paced In-class Education (SPICE), an ILM education & employment initiative.

A lot of courts are not willing to consider impartially that SCOC is malingering their correctional doings. Compare Moore v. Selsky, 900 F.Supp. 670, 676 (S.D.N.Y. 1995) (finding that a dept. of corrections hearing officer may have a predetermined view that a urinalysis drug testing method is generally reliable, so long as the hearing officer would be willing to consider impartially the possibility of error.)

Education is the key to open doors of opportunity. After an inmate sits in prison 5, 10, 15 years doing nothing but reading mere novels or mystery books & wait on the C.O.s to bring their food or escort them to the shower or rec, having no meaningful job skills or higher education, statistic say that the inmate will relapse to crime. More crime means more money for SCOC so SCOC will not make the change. **THE COURTS HAVE TO MAKE THE CHANGE.**

EARNED EDUCATION CREDITS

per SCOC's policy Ps-10.00, § 9.2, "for those inmates with 'No Parole' sentences, no more than 72 days will be awarded during any 12-month period." Not only is **RECIDIVISM** SCOC's objective but keeping an inmate in prison as long as possible also is! **MONEY!** SCOC do not want inmates on smv to have educational materials cause then SCOC would have to award inmates 72 days Earned Education credits, which will require SCOC to release inmates early.

T. Terrence Bryan 254638 3-19-13

- 1) ✓ US DC. 509 James T. Foley US Cths
✓ 445 Broadway Albany, NY 12201-2936
- 2) ✓ ms Sherry Langley Deputy Clerk of Court Criminal Division
PO Box 583 Aiken SC 29802-0583
- 3) ✓ Clerk of Superior Ct. Henderson Co.
PO Box 965 Henderson NC 28793-0965
- 4) ✓ Superior Ct / Hunterdon Co. 65 Park Ave. 2nd Fl. Flemington, NJ 088.
- 5) ✓ / Buffen F. Shorter Deputy Clerk / McCormick Co.
133 S. mine St. Rm 102. McCormick SC 29835
- 6) ✓ ms Salley D. Coffelt. Clerk of Circuit Court. Lake Co. Cths
✓ 18 N. Co. St. Waukegan, IL 60085-4369
- 7) ✓ ms. Gen Tuma Clerk of Court
✓ PO Box 2510 Casper WY 82602-2510
- 8) ✓ Lee Co. Clerk. PO Box 387 Bishopville, SC 29010
- 9) ✓ Kershaw Co Clerk. PO Box 1557 Camden SC 29021-8557

All of the above 9 correspondences for a
names and addresses have been refused by
debit. 9 letters being returned to you on - 5-3-13-

J. Young

5-3-13

CONCLUSION

In the interest of due process, the clerk erred, Docket No. 14-AJ-04-0003-IJ and 0004-IJ were assigned in error, clearly contrary to my intent and should be dissolved, THEREFORE, Not counting as two of the three administrative appeals an Inmate can file in this Court in a calendar year.

SCOC allow I/MS on SMU to receive educational materials and/or I/MS on SMU be allowed to receive educational materials through mail for independent studies.

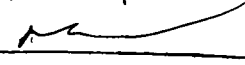
If the court do not grant any of the relief above, the Appellant pray this Court allows Appellant to brief all grievances!

PROOF OF SERVICE

I hereby certify that I have served a copy of this w/attachments and designation of matter to be included in the Record on Appeal on:

2/27/14, SC
dated

Respectfully,

X. 

T. Terrell Bryan

54638, SMU-B/4, MC-L-I

386 Redemption Way

McCormick, SL 29899