

State of South Carolina
In The Court of Appeals

Appeal from York County
Court of General Sessions

John C. Hayes, III, Circuit Court Judge

Appellate Case No. 2013-000975

Bryan P. Stirling, Acting Director, Willie Eagleton
Warden, Timothy Wheeler, Lt. Wheeler, Evans Correctional
Institution, South Carolina Department of Correction and
State of South Carolina

Respondent

v.

Antonio Gordon

Appellant

Injunction and Temporary
Restraining Order

The Appellant hereby file this injunction and temporary restraining order Pursuant to South Carolina Rules of Civil Procedure Rule 65(a)(b), ordering South Carolina Dept of Correction "Evans Correction Institution" to discontinue violating appellant's first amendment constitutional right to access to the courts, and appellant's fourteenth amendment right to equal protection of the law and due process of law under the fourteenth amendment to the United States Constitution by treating appellant different to those "similarly situated", and furnish appellant with "18" copies of Appellant's motion for new trial based on after discovered evidence "6" Pages, Monta Gordon and Terrance McCreary affidavits, and furnish "18" copies of Judge Hayes order denying motion for new trial "25" Pages. These legal documents are necessary for appellant's appeal, which failure of appellant to file the necessary copies will subject appellant's appeal to dismissal.

Appellant also request this court to order SCDC to furnish appellant the necessary paper and pens to handwrite "18" copies of his final brief and or make the necessary copies due to appellant's "indigent" status. The appellant submit that Evans Correctional Institution have refused to supply these copies and refuse to make copies of appellant's hand written documents which is denial access to the

Courts. Harrington v. Holshouser, 741 F.2d 66, 69 (4th Cir. 1984) (Holding free copying required for indigent). See Exhibit "a" "b".

Appellant also request this Court to order SCDC to discontinue violating his Equal Protection of the law right by denying appellant access to the law library computer and on law books "[e]very" week upon request to staff as those "similarly situated" in violation of Barbier v. Connolly, 113 U.S. 27 (1885) (Holding all persons "similarly situated" shall be treated alike), also violating appellant's first amendment right access to the courts. Bounds v. Smith, 430 U.S. 817, 821 (1977); Lewis v. Casey, 518 U.S. 343 (1996). See Exhibits "c" "d" "2". Appellant assert that he "cannot" adequately prepare a legal brief when SCDC is intentionally refusing access to the law library time and the necessary legal materials.

Appellant assert that he have shown an ongoing constitutional violation of "Evans Correctional Institutional" even from the warden personally himself, this action warrant separation and a restraining order. Appellant also assert he face irreparable harm and may cause appellant injury in the appeal pending before this court. As a matter of law, the continuing deprivation of constitutional rights constitute irreparable harm. Elrod v. Burns, 427 U.S. 347 (1976). See Declaration of Antonio Gordon in conjunction with Exhibits "2" "b" "c".

Relief:

- (1) SCDC to provide appellant with copies of Judge Hayes order dated April 22, 2013, the "18" copies required under Rule 211 (a)(b), copies of motion for new trial, and Monta Gordon and Terrance McCreary affidavits, "18" copies under Rule 211.
- (2) Discontinue treating appellant different to those similarly situated by denying access to the law library computer and on law books "every" week upon request to staff.
- (3) Photocopy appellant's final brief under Rule 211 (A)(b), "18" copies, and or provide the appellant with the necessary material.
- (4) Issue a restraining order due to the ongoing constitutional violation and appellant fear of retaliation from Evans Correctional Guards.

Antonio Gordon

March 10, 2014

State of South Carolina

In The Court of Appeals

Appeal from York County

Court of General Sessions

John C. Hayes, III, Circuit Court Judge

Appellate Case No. 2013-000975

State of South Carolina

Respondent

v.

Antonio Gordon

Appellant

Declaration of Antonio Gordon

I Antonio Gordon declares:

I am incarcerated at Evans Correction Institution, I am housed in disciplinary confinement cell 232, and have been confined thereof since 8-2-2013.

I am the Appellant in the above case and I am challenging my criminal conviction on Appeal in the South Carolina Court of Appeals.

Since I been confined in disciplinary confinement I submit a "inmate Request to staff member every week to use the law library computer and or law books to Timothy Wheeler, Lt. Wheeler."

Lt. Wheeler refuse me access to the law library computer and or law books every week as Requested Pursuant to SCDC Policy GA 101.03.

Lt. Wheeler ONLY give me the law library computer and or law books when I file complaints with the Warden, General Counsel, and or grievance Coordinator.

During the weeks I request the law library computer and or law books and Lt. Wheeler refuse me, he will "not" return my Request to staff.

I have made Warden Willie Eagalton aware of Lt. Wheeler action of denying me Access to the law Library computer and or law books "Every" week upon request to staff. see Exhibit "b" "c" "d"

I have also made General Counsel aware of this unconstitutional action of Lt. Wheeler treating me different to those "similarly situated." see Exhibit "D"

I have wrote the warden and business office and Requested additional Paper to file MY "final brief" with the Appellate clerk of Court and Respondent which is "18" Copies, and I have not recieved A Responst back.

I wrote the Warden Willie Eagallon and asked him why I cannot recieve "18" copies of Judge Hayes order dated April 22, 2013, Monta Gordon and Terrance McCreary Affidavits and motion for new trial, I have not recieved a Response. Previously when I asked about these copies he told me I am attempting to "extort" copies I have no funds for, see Exhibit

The warden refuse me handwritten copies to furnish the Court. See Exhibit

The warden have kept my court deadline and refused me additional law library time Pursuant to SCDc Policy GA. 01.03 in the case of Antonio Gordon V. SCDc, Docket No. 13-ALJ-04-0780-AP was those similarly situated, I did not reach my Feb 26, 2014, deadline, that case involved the taken of good time Credits.

Lt. Wheeler will make copies of other legal documents but refuse to get copies of Judge Hayes order motion for new trial and affidavits of Monta Gordon and Terrance McCreary upon information and belief, because Warden Eagallon and General Counsel told him not to because SCDc does not provide indigent inmates with that many copies.

I declare under Penalty of Perjury the foregoing is true and correct but information based upon information and belief. 28 U.S.C 1746.

Antonio Gordon

March 10, 2014

RECEIVED
661-1270-13
open
JAN 21 2014
INMATE GENERAL COUNSEL
RECEIVED
MAR 11 2014

Antonio Gordon 259798

ECI Smu A 232

610 Hwy 9 west

Bennettsville, South Carolina, 29512

January 18, 2014

RECEIVED

JAN 22 2014

SC Court of Appeals

Exhibit "D"

GENERAL COUNSEL

Dear To whom it may concern:

I am writing about the denial of access to the Law Library here at Evans Correctional Institutional. I request to use the law library computer "every week" but smu Lt. Wheeler refuse to provide me access to the law library computer. The warden Willie Eagleton, have a memo that states Inmates in smu is to submit a request to staff ^{to} the Dorm Lt 24 hour prior to wanting to use the law library computer, and each Inmate is entitled to two (2) hours at a time. Inmates in General population is entitled to use the law library computer every week and the Books that in the law library, however, I am not. I have filed a complaint with the warden and file an Inmate grievance and the ongoing denial of me to the law library have continued. An investigation into this matter need to be convened. I recently recieved a Court deadline from The Administrative Law Court in which this agency recieve a copy and I Am being denied to the law library. This is a action that constitute cruel and unusual punishment, Denial of equal protection and due process on behalf of SCDC, refusing me Access to the law library. Of course

Under Casey 518 U.S. at 354, I cannot bring an action in court on the assumption of denial of access to the courts unless the refusing of the law library (1) my case in court was denied and SCDC refused me access to the law library.

However, under the Fourteenth Amendment to the United States Constitution, mandates that no state shall deny to any person within its jurisdiction the equal protection of the laws. If the warden here issued a memo to general population and SMU population to use the law library computer and law library every week upon request to staff, and the inmates ~~in~~ in SMU are not provided the law library as those in general population whom submit a request to staff, are being denied equal protection.

~~In Williams v. Seberg, a prisoner alleged an equal protection violation arising from prison policy allowing SMU captives inmates access to a typewriter while denying other inmates the same privileges. R.H. v. Warden, 299 F.2d 848 (9th Cir. 1962).~~

But when state officials or state law treats similarly situated person differently, the difference in treatment will be upheld so long as it bears a rational relation to some legitimate end. Romer v. Evans, 517 U.S. 620 (1996). There is no rational relation at all

to deny me the law library as those inmates in general population every week. Lt. Wheeler will give me the law library every other week. It has been a total of 3 weeks to this date that I have

(2)

been allowed access to the law library. The Warden have failed to correct his action. When I was sanction to disciplinary detention, I WAS not sanction to restriction from the law library. This action constitute A Cruel and unusual Punishment. I am requesting that a Investigation be conducted on the above complaint. I enclose 2 request to Staff Concerning this situation And my grievance Are still pending on Step 2 concerning this matter.

Sincerely,

Antonio Jordan 259798

Dated January 18, 2014

Please return me a Stamp Copy back of this Complaint for my file! Thanks

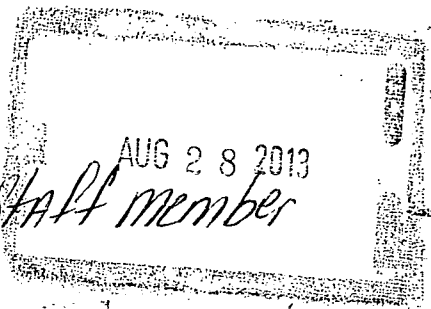
You have ECI. 1270-13 Pending on this issue

2/3/2014 Ann Naleem

ANN HALLMAN
INMATE GRIEVANCE
BRANCH CHIEF

(3)

WARDEN



ECI

Request to Staff member

To: Warden Willie Edgallon

Im Antonio Gordon 259798 S.M. A 227 DATE 8-28-2013

Sir Pursuant to S. C. D. C. Policy and according to Ms. Hooks, Inmates can only receive 100 sheets of legal paper to handle court business. However, Pursuant to SCACR, Rules 208 through 211, I must submit a total of "15" copies of my brief to the Appellate Court. However, this will be very hard of me because I am only issued "100" sheets of papers once a month and Pursuant to S. C. D. C. Policy Inmates are not allowed to have copies made of handwritten documents whether they are legal or not.

Sir, is there any way that Ms. Miller Law library can make these copies for me? My brief are 10 pages, thanks!

Antonio Gordon

Attachment (b)

Im Gordon, in accordance to s.c.d.c. Policy GA-01.03 Access to courts, para (13.2) Materials and documents that will not be copied include: Documents that have been solely originated, generated, written, typed, or created by an inmate (the inmate may copy this information by hand.)

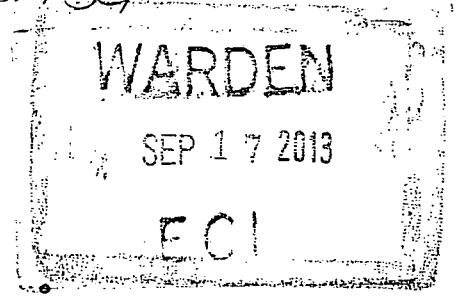
Date:

Sign:

8-28-13

Willie Edgallon

Request to staff member



To: Warden Willie Egalton
I/m Antonio Gordon 259798
9-17-13 smu A 23a

Sir I don't know if you understanding what I'm asking you so I'ma send you one request at a time pertaining to each question I asked you. I am requesting to know the following:

- (1) How long do I/m's in (smu) get to use the law library computer?
- (2) And how often do I/m in (smu) get to use the law computer?

my last request to you wasn't about no court deadline.

Attachment (c)

The Gordon, do you have a court deadline. May not be your question but it's mine

DATE:

9.18.2013

SIGN:

Antonio Gordon

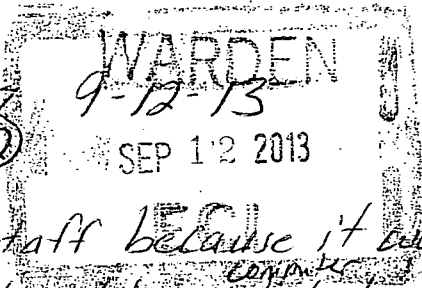
Request to Staff member

To: Warden Willie L. Eagleton

I/M Antonio Gordon 259798 SMD # 227

9-12-13

(23)



Sir You must not read my last request to staff because it was not consist on Lt. Wheeler not providing me the Law Library but to the contract that he only giving me 30 to 40 minutes "every other week" when I sign up every week and that according to Your own memorandum issued to both general population and SMD population inmates will be provided 2 hour on the computer.

Its clear I submit a request to staff every week to use the Law Library computer. I'm requesting to know whether inmates in SMD that sign up to use the law library computer can use it every week or every other week, and for how long sir.

I am asking this because back in July 30, 2013, I had a "Court deadline issued to me from the South Carolina ~~State~~ Court of Appeals", in which I had 10 days to respond. I submitted Lt. Wheeler a request to staff to use the Law Library computer and was not allowed until my deadline was over and I could not respond with the appropriate Law sir.

Attachment (cc)

I/M Gordon, please submit proof of deadline to ensure you have adequate time.

Date:

9.13.2013

Sign:

(Signature)

Request To Staff member

To: Warden Willie Edgerton
 I/m Antonio Gordon 259798 smc A 232-10-13-2013
 Exhibit "a"
 Sir this request is Pertaining to my last legal work.
 On 9-17-2013, I sent the request to staff's that
 you and I were Corresponding back and forth to get
 15 copies, on 9-20-13, I recieved them Copies
 back and sent them in with my Petition for
 rehearing, to show the Court's I Cannot Possible
 handwrite 15 Copies of a 20 Page brief due to
 SCDC Policies. ~~However~~ However, on "9-23-2013," I
 sent to ms. miller, a "Explanation" and a Court
 "order" to recieve "2" Copies of and never
 got back. Ms. miller said she gave these documents
 to Lt. Wheeler. The heated argument me and Lt.
 Wheeler had he's telling he brought me my Copies
 and I was telling him I am "not" talking
 about the 15 Copies of the Request to staff.
 I hate to think like this but if ms. miller gave him
 my legal work it appears he throwed them away
 out of SPIKE because I write you request to
 staff when he refuse to let me use the law
 Librart Computer. I'm not saying he did. Is
 there any way you can call the Attorney General
 ms. satley Elliot and have her to send me a
 copy of the "EXPLANATION" back I really need it
 to furnish the Court a COPY and if I don't my
 Appeal will be dismissed. I need this before
 10-16-2013. The Order Got lost and you'll see I'm no
 playing. How do ms. miller know ~~to~~ how many
 documents I'm talking about? I only send my
 legal documents never made it back to me. See
 request enclosed.

I/m Gordon, Lt Wheeler was never in possession
 of your documentation. There are reasons to believe
 you are attempting to extort copies you know me

Funds over

10.15.2013

Mark P. Johnson

Exhibit " 2 "

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John C. Hayes, III, Circuit Court Judge

Appellate Case No. 2013-000975

state of South Carolina

Respondent,

v.

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Appellant.

certificate of service

I, Antonio Gordon, hereby certifies that I deposit (1) motion requesting leave to file one (1) Final Brief, and (1) copy of Indjunction in the mail to Salley W. Elliot, Assistance Deputy Attorney General P.O. Box 11549, Columbia, SC 29211, and SCDC General Counsel, 4444 Broadriver Rd, Columbia, SC 29211, on March 10, 2014. I declare under the Penalty of Perjury 28 U.S.C 1746

Antonio Gordon
March 10, 2014

RECEIVED

MAR 11 2014

SC Court of Appeals