

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS  
Appeal from Administrative Law Court  
Honorable Judge J. McLeod, Presiding

RECEIVED

MAY 27 2014

SC Court of Appeals

Appellant's case NO: 2014-000317

Steve W. Menning SCDC # 298607

Appellant

v.

SCDC

Respondent

Motion For reconsideration  
for forma Pauperis

I, Inmate, Steve W. Menning, do hereby motion  
the South Carolina Court of Appeals for reconsideration  
to allow Appellant to present to the court my case  
in Forma Pauperis. Thank you. Regardless.

I am,



Steve W. Menning #298607

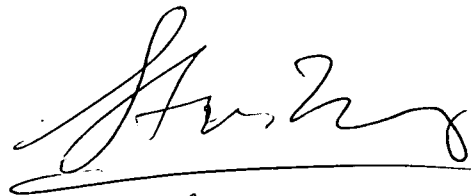
L.C.#. / (AA) #37

P.O. Box 208  
Ridgeway, SC 29942

cc: Christopher D. Floran

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Steve W. Manning #298607  
U.C.T. / (AA) #37  
P.O. Box 205  
Kiddville Se TN 37072

JAN 9 7 2008

On 6/14/11 I inmate Menuis #298627 was on lockup at Broad River for (903) drug charge. During a routine shake-down a small paper clip was found in my cell in lock-up. I was charged for Escape Tool for said paper clip. Officers said that even a small paper clip could be used to jimmy the hand cuffs in lock-up. I appealed this decision b/c I only had a 6 mths charge (903) in which I would only be doing 45 days lock-up time for. I was on day 35 when I got charged for Escape tool. I was outraged that they didn't have the common sense to understand that a man with less than 45 days lock-up time would be considering escaping. Besides that, why would I of all people be plotting any kind of escape from lock-up? How can any inmate escape from lockup? It's ridiculous! Still, I was convicted of Escape tool for a paper clip (small variety), given 6 mths (DD) time, and then later released from lock-up back to Broad River Yard. I had a grievance still running set to go to the Administrative law courts when I was released from lock-up. So I dropped the issue because I was released after 9 mths lock-up time. However, about 6 or 7 mths later I was force back to lockup at Broad River with a new charge but re-locked up due to the same (904) Charge I received back on June 14th 2011. I was re-locked up on the same charge on 10/23/12. That is 17 months later after originally being charged for the charge. I had already dropped my grievances because I was released from (SMU). I was given the impression that all was well. I mean, it was a stinkin paper clip for gods sake people. Let here I am at Lieber in Ashky unit (ME) custody b/c Broad River chose to re-lock me up on the same charge, make me do two months (SD), Back dated old paper work to cover their error, and bust my custody that led to me being ship to Lieber. I am now over (4) hours away from my home of Hartsville. This is a form of Double Jeopardy. Besides, it is unfair dealings due to the fact that Broad River released me from lock-up which created the impression of dropping the issue of my grievances against DHO decision on direct appeal. I dropped it due to release. I cannot recover from said double jeopardy.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
INMATE GRIEVANCE FORM

Due!  
6/17/13

RECEIVED STEP 2

INMATE NAME: Steve Menius  
SCDC NUMBER: 298627  
INSTITUTION: Lieber  
HOUSING UNIT: (AA) #45  
WORK ASSIGNMENT: N/A Closed custody unit

JUN 20 2013

JUN 11 2013

Office Use Only  
Grievance No. LCF-31-13  
Code: General \_\_\_\_\_  
Policy \_\_\_\_\_  
Disc. Hear. \_\_\_\_\_  
Class. CL/CL  
Date Received 6-14-13  
IGC Initials BT

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): *The warden's response is unsatisfactory due to the fact that what he calls "human error" is a violation of policy and procedure that directly prejudiced me (inmate, Steve Menius). Furthermore, the warden states that I am (ME) custody due to my "disciplinary history" yet I am (ME) for ~~the~~ Escape Tool (904) and nothing else, Escape Tool (904) carries (SD) time and subsequent custody reduction to (ME), that is why I am here at Lieber. Not my disciplinary history. He is trying to have it both ways. It's not and/or it's one reason and that is (904) Escape Tool (SD) custody reduction. That is why I got shipped. Period, I was made to do 6 months time and 18 months (SD) time for a "paper clip." A paper clip (small variety)!!! I had a grievance on file in process yet I was released from lock-up. They gave me the impression that I had served my time. Yet they re-arrested me, made me do two months lock-up (as if I'd been doing 18 months SD the whole time), and busted my custody. They cut me a break then turned around and hammered me, messed my grievance up!*

*JMS*  
Grievant Signature \_\_\_\_\_ Date 6/13/13

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

Your concerns have been reviewed. It is noted you were convicted of 904 Possession of Escape Tools on 6/14/11. By classification policy, this is considered an attempted Class I Escape. The definition of Class I escape per OP-21.04 "Inmate Classification Plan" includes the actual or constructive possession of tools or items which are intended to be used to facilitate an escape. Possession of Escape Tools does meet this definition and is properly classified as a Class I Escape for classification purposes. This is not a disciplinary sanction and would not be part of your prior disciplinary appeal. In accordance with OP-21.04 "Inmate Classification Plan", you will not be eligible for MI custody based on your escape history until the Class I escape is 2 1/2 years old and your remaining disciplinary history meets all required criteria.

Therefore, your grievance is denied.

You may appeal this decision under the Administrative Procedures Act to the Administrative Law Court. In order to appeal, you must fill out the attached Notice of Appeal Form and submit it as instructed on the form within 30 days of receipt.

*JG Gaster*  
Signature \_\_\_\_\_ Date 12-12-13

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

*JMS*  
Grievant Signature \_\_\_\_\_ Date 12-20-13

*R. Thomas*  
IGC Signature \_\_\_\_\_ Date 12-20-13

(SEE REVERSE SIDE FOR INSTRUCTIONS)

## INSTRUCTIONS FOR COMPLETING STEP 2 GRIEVANCE FORM

1. Complete form in its entirety, writing only in the space provided for inmate use.
2. State your specific reason for further appeal. Do not submit any new issues for review.
3. Submit this completed form with your original Step 1 attached, to the Institutional Grievance Coordinator within five (5) days of your receipt of the Warden's decision. Do not write in the space provided for the responsible official.
4. The decision rendered by the responsible official exhausts the appeal process of the SCDC Inmate Grievance Procedure.

①

## Statement of facts

1. I got convicted of a class (1) Escape (904) charge for a paper clip. in lock up at Broad River Prison
2. SCDC (at Broad River Prison) Arbitrarily changed their policy, took me back out of general population after releasing me from lock up, and without Due process. took my custody and shipped me.
3. I lost my custody and have been for the last year and a half been in a (ME) closed custody unit over 3 hours drive from my family for a paper clip.
4. I was given said paper clip from SCDC officer in my legal mail, in lock up at Broad River Prison.
5. I'm protected from this under the 14<sup>th</sup> Amendment of the Constitution and this is a State created Liberty interest.

Stewart Mendez #298607  
L.C.I. / (AA) #37  
P.O. Box 205  
Ridgelyville SC 29822

## Argument

1) Though his rights may be diminished by the needs and exigencies of the inst. environment, a prisoner is not wholly stripped of constitutional protections when he is imprisoned for crime; there is no iron curtain drawn between the constitution and the prisons of this Country.

U.S.C.A. Amend 14

2)

Due process liberty interest created by prison regulations will be generally limited to freedom of restraint which, while not exceeding sentence in such unexpected manner as to give rise to protection by due process clause of its own force, none the less imposes atypical and significant hardship on inmate in relation to ordinary incidents of prison life.

U.S.C.A. Amend 14

a) I got convicted of a (904) escape tool charge for a paper clip.

i) How can a person escape from lock up and the entire prison at the same time by utilizing a paper clip to facilitate such action?

b) 904 Escape tool charge and/or paraphernalia int'l's:

## Argument (cont)

- 1) SCDC Policy "Inmate Disciplinary System" OP-22.14 904 Possession of Escape Tools and/or Paraphernalia: The actual or constructive Possession of any tool, device, document, drawing, or any other item that could be used to plan or execute an escape from a correctional institution.
- C) I got wrote up for the escape tool as stated in the original Incident Report for, "what appears to be a homemade handcuff key" by Sgt. Esterline at Broad River Prison in SMU at the time.
  - 1) They were sayin I could utilize the paper clip to "jimmy" my cuffs.
  - 2) How is that related to the "escape from a correctional institution" as stated and stipulated in SCDC Policy Inmate Disciplinary System OP-22.14 level 1 offenses?
  - 3) go by their reasoning I was to escape my cuffs, somehow escape lock up within Broad River Prison, and then ultimately escape the correction facility itself. with a paper clip.

## Argument (cont.)

### 3) Boddie v. Connecticut

401 U.S. 371

Due process at minimum, that absent countervailing state interest of overriding significance, persons forced to settle their claims of right and duty through the judicial process must be given meaningful opportunity to be heard.

US CA Const Amend 14

a) I'm indigent and I can't pay the filing fee.

1) I have a constitutional issue but I am not a lawyer.

2) My language in my original grievance and argument (or statements) did not specifically state law and relate it to my specific issues in my case.

3) 6 mths DD, 18 mths (SD), 1 year loss of all privileges, Custody reduction to (ME), Shipped to (ME) custody level III facility away from family and home area, and 40 total months in a (ME) closed custody (lockdown) unit. It's a significant and atypical situation even in prison environment especially for a simple paper clip (small variety) being found in my cell in Brad River lock up during a routine shack down. It was not hidden.

# Argument (cont'd)

4) Prisoners retain protection from arbitrary State action even within expected conditions, other than due process protections; prisoners may invoke first and 8<sup>th</sup> Amendment and equal protection clause of 14<sup>th</sup> Amendment where appropriate, and may draw upon internal prison grievance procedures and State judicial review where available.

US CA. Const Amend  
1, 8, 14

a) How can I do this if I can't get past a filing fee that I don't have and can't possibly pay?

1) If my case isn't covered under the Equal Protection Clause of the 14<sup>th</sup> Amendment then SCDC has the right to arbitrarily punish inmates which also breaks the 14<sup>th</sup> Amendment.

Watson v. Hortman 844 F. Supp 2d 795  
(2012)

Patterson v. Warner 321 F. Supp 1362 (1972)

Baccus v. Florian, (2012) WL 4985273 D.S.C.  
sept 21 2012

*[Signature]*  
Steve in Mary S  
LCE / AP 37  
P.O. Box 205  
Ridgen SC 29472

## CONCLUSION

Your honor you can plainly see that even though I did not sight any Constitution violations, specifically, I did state an atypical and significant hardship. Also, how I was released from lock up then put back in just out-of-the-blue kind of fashion was an arbitrary policy change. The warden has to approve of me being released from lock up. So originally (904) didn't carry (SD) 18 mths or custody reduction. Yet 7 mths later it does after ones been given an expectation of finality and security. Besides the fact that now I've lost all this time. I dropped my Direct Appeal from the (D10) decision because I was given the impression of finality. Then they changed policy with no warning. No memorandum, Nothing. Is that not a Constitutional violation of Arbitrary State action? All this, besides it's over a paper clip that doesn't remotely fit the charge or the punishment. If an inmate can escape from a level 3 prison facility from inside smu to boot, then what is that saying about SEDC. If all it takes to do that is a paper clip?

## Conclusion (Conti)

In closing I'd like to ask the court to please allow me to submit a brief so that I can be allowed my one bit of the apple. This is unusual and there is a problem when an inmate can be convicted for escape tool for a paper clip when the incident report refers to a hand cut key. Yet SDC Disciplinary System at Broad River allows DHO's to convict inmates of charges that obviously don't relate to the incident. How is a paper clip in lock up accused of being a homemade handcuff key related to getting over the outside fence of a level 3 prison facility? They don't pertain to one another. One is a security device and the other is a prison break tool that can get one through razor wire and fence. How can a paper clip do that? From within (SMU). So how can a paper clip in that situation be an escape tool and or paraphernalia when the escape tool charge strictly applies and only applies to escape from a facility as in the prison, not lock up in the prison. Lock is part of the prison. Regardless the primus is retarded.

## Conclusion (Conti)

No one escapes or attempts to escape from prison from within prison in its Maximum security unit with the sole aid of a paper clip. In all Lockups within SCDC there is a problem with inmates escaping from their cuffs from time to time to attack other inmates or to possibly attack a guard or staff member. However that doesn't give SCDC the right to charge inmates with Escape tool (908) charge that pertains to Escape from a facility. Handcuffs are not a facility. They are a security Device. The incident report stipulates "what appears to be a homemade handcuff key. The major "Sutton" stated "Yes, little pieces of metal could be utilized to make a handcuff key". The charging officer and the major were talking about two different things. Regardless, it goes to show that they are breaking policy by stretching it into whatever they want because there is no alternative.

Thank you.

I am,

J. J. E. E.

LLI 1/87

P.O. Box 205

Ridgeway SC 29472

The State of South Carolina  
In the Court of Appeals

Steve Menius

Appellant

Appellant case No.:

v.

2014-000317

SCDC

Respondent.

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MAY 27 2014

SC Court of Appeals

Certificate of Service

I, Steve Menius, do hereby claim that I am filing this motion for Forms, Papers and for reconsideration with the South Carolina Court of Appeals and swear that everything I've stated is true and correct to the best of my knowledge.

I am,

Steve Menius

Steve Menius  
C.C.I. / (AA) #87

P.O. Box 205

Ridgewood 29872

cc. Christopher Di Florio

Steve W. Munn # 298697

L.C.F. / Ashley/AJ unit #37

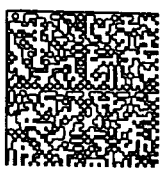
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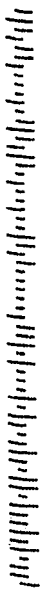
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