

The State of South Carolina
In The Court of Appeals

Appeal From Administrative Law Court
Administrative Law Judge Shirley C. Robinson

Case NO. 14-ALJ-04-0069-AP

Billy Lee Lisenby JR, #200273 Appellant,

v.

South Carolina Department of Corrections, Respondent

Reply Brief

September 27th 2014

PRO SE

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Facts and Law

In Respondents Initial Brief they argue that Appellant Refused to be stripped searched, and this is why he was denied his Right to be present at his hearing. The Respondents have no evidence to prove this, no incident report or anything. If a inmate refusing to be stripped searched, he will be forced to strip. Then he'll be charged with refusing to obey orders. A inmate cannot refuse a strip search.

The Respondents have violated Appellant and other inmates, by having their hearings in their absences. A inmate must knowingly and intelligently waive their Right to be present at their hearing. They don't give inmates and they didn't give Appellant an actual date that is set in stone that his case will be heard. They notify you that you have a charge, then one day out of the blue they come to your door and say you going to the D.H.O. When they don't come to your door you have no ideal you have been tried in your absentia until you receive a 19-69 form in the mail. In my case I had no ideal of the date my case would be heard, Why didn't my 4s bring my 19-69 form to me? Appellant was never put on notice in writing or verbally when his hearing would commence. They never notify the inmate of date or time their hearing will commence. Appellant was tried in his absentia without a valid waiver of his constitutional right pursuant to Wolff and Battle to be present. The Appellant should be able to enjoy the Right, to be informed of the nature and cause of the accusations, and to be confronted with the witnesses against him.

A person "may" voluntarily waive their Right to be present and their hearing may be heard in their absence upon a finding by the D.H.O that such person has received notice of his or her Right to be present, at the hearing. A valid waiver of an accused's Right to be present at his hearing presupposes notice to the accused. Without notice of the date, and time of the hearing and the inmate

did not check." I waive my right to a hearing" on the SCDC 19-69 Form the accused cannot be deemed to have made a "knowing" and "voluntary" election to be absent.

By Appellant asking to be present that should've been a major concern especially once Appellant had requested in writing to be present. The D.H.O was no more than 30 Feet from Appellant's room, all he had to do was bring the miniature recording to Appellant's room and ask, "Do you want to be present or waive your hearing?"

Now they are giving prison officials to much lead way assuming they all are honest. This is a conflict and violates WOLFF which states:

"Due Process ensures fundamental fairness and protects against arbitrary governmental action."

Conclusion

Appellant ask that his case be overruled, and the D.H.O's be Required to bring the miniature recording to the inmates cell or to the inmate so it can be recorded that they are refusing to be present at the hearing. Especially when the inmate has requested in writing to be present.

Dated: September 27th 2014

Respectfully Submitted

Billy Lee Lysby

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PROOF OF SERVICE

I hereby certify that I have served Respondent a copy Appellant's Reply Brief by depositing a copy of same in the United States Mail, postage prepaid, September 27th, 2014 addressed to the Respondent as follows:

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