

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Anthony Erving, #220446,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

Docket No. 14-ALJ-04-0444-IJ

Grievance No.: KRCI 1755-13

ORDER OF DISMISSAL

This matter is before the South Carolina Administrative Law Court ("ALC") pursuant to the Notice of Appeal filed May 27, 2014 by Anthony Erving ("Appellant"), who is incarcerated with the South Carolina Department of Corrections ("SCDC"). On August 28, 2014, SCDC filed a Motion to Dismiss asserting that Appellant's Grievance does not implicate a state created liberty or property interest.

Appellant filed his appeal challenging his reassignment from a job with a prison industry to an assignment as a dorm worker. SCDC denied Appellant's Step Two Grievance.

Typically, there is no entitlement to a job in prison and therefore there is no property interest in a job assignment. James v. Quinlan, 866 F.2d 627, 629-30 (3d Cir. 1989); see also Evans v. S.C. Dep't of Corr., Docket No. 00-ALJ-04-0128-AP, 2001 WL 647628 (May 23, 2001); see also Skipper v. S.C. Dep't of Corr., 370 S.C. 267, 276, 633 S.E.2d 910, 915 (Ct. App. 2006) (stating, "[t]his employment program does not meet the test for a state-created liberty interest as outlined in *Sandin* because it does not present an atypical, significant hardship on inmates who are not permitted to participate. Consequently, Skipper, in being terminated from his prison employment, did not suffer an infringement upon his liberty interests.").

Further, the ALC "shall not hear an appeal from an inmate in the custody of the Department of Corrections involving the loss of the opportunity to earn sentence-related credits pursuant to Section 24-13-210(A) or Section 24-13-230(A)." S.C. Code Ann. § 1-23-600(D) (Supp. 2013). S.C. Code Ann. § 24-13-230(A) (Supp. 2013) states:

The Director of the Department of Corrections may allow an inmate sentenced to the custody of the department, except an inmate convicted of a "no parole offense" as defined in Section 24-13-100, who is assigned to a productive duty assignment, including an inmate who is serving time in a local facility pursuant to a designated facility agreement authorized by Section 24-3-20 or Section 24-3-30 or who is regularly enrolled and actively participating in an academic,

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technical, or vocational training program, a reduction from the term of his sentence of zero to one day for every two days he is employed or enrolled. A maximum annual credit for both work credit and education credit is limited to one hundred eighty days.

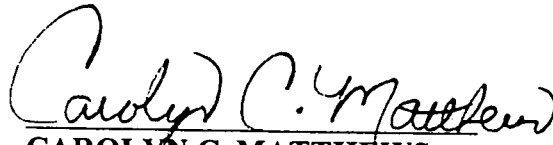
As outlined in S.C. Code Ann. § 24-13-230(A), the ability to earn work credit or education credit is at the discretion of the Director of the Department of Corrections. Therefore, there is not a state created liberty or property interest in a job or the ability to earn work credit or education credit.

Under Slezak v. S.C. Dep't of Corr., 361 S.C. 327, 605 S.E.2d 506 (2004), the ALC is to have jurisdiction of all properly perfected inmate appeals but "[s]ummary dismissal may be appropriate where the inmate's grievance does not implicate a state created liberty or property interest." Id. at 331, 605 S.E.2d at 508. Such is the case present.

It is therefore,

ORDERED that this appeal is **DISMISSED, WITH PREJUDICE.**

AND IT IS SO ORDERED.


CAROLYN C. MATTHEWS
Administrative Law Judge

September 10, 2014
Columbia, South Carolina

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, postage paid, in the United States mail addressed to the party(ies) or their attorney(s).

This 10th day of September
BY Christa White
Judicial Law Clerk