

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Dion Taylor, #335089,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

Docket No. 14-ALJ-04-0099-AP
Grievance No.: ACI 631-13

ORDER

This matter is before the South Carolina Administrative Law Court (“ALC”) pursuant to the Notice of Appeal filed February 3, 2014 by Dion Taylor (“Appellant”), who is incarcerated with the South Carolina Department of Corrections (“SCDC”). Appellant appeals the decision of the SCDC in his Step Two Grievance¹, in which his conviction for Threatening to Inflict Harm on an Employee and/or Members of the Public (809) SCDC Policy OP-22.14, Inmate Disciplinary System, was affirmed. Appellant lost nine days of good time, therefore a liberty interest is involved. Appellant appeals on the grounds that his conviction is unsupported by the evidence and violations of his due process rights.

STANDARD OF REVIEW

The ALC’s jurisdiction to hear this matter is derived from the decision of the South Carolina Supreme Court in Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). The ALC’s appellate jurisdiction in inmate appeals is limited to state-created liberty interests typically involving: (1) cases in which an inmate contends that prison officials have erroneously calculated his/her sentence, sentence-related credits, or custody status; and (2) cases in which an inmate has received punishment in a major disciplinary hearing as a result of a serious rule violation. Id.

When reviewing the SCDC’s decisions in inmate grievance matters, the ALC sits in an appellate capacity. Id. at 380, 527 S.E.2d at 756. Consequently, the review in these cases is limited to the record presented.

¹ Appellant’s Step One Grievance was advanced to the Step Two level because the grievance concerned the performance of an Inmate Grievance Coordinator.

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LAW/ANALYSIS

Since a state-created liberty interest is involved, it is necessary to determine if Appellant received due process of the law. Well established precedent determines that SCDC must meet certain minimum constitutional requirements for procedural due process in matters where an inmate is disciplined for serious misconduct. Id. at 369-70, 527 S.E.2d at 750. However, these requirements must be balanced against the need to maintain an orderly and safe prison environment. Id. To that end, the Supreme Court has enunciated the following requirements, which if established, will ensure procedural due process in inmate disciplinary matters:

(1) that advance written notice of the charge be given to the inmate at least twenty-four hours before the hearing; (2) that factfinders must prepare a written statement of the evidence relied on and reasons for the disciplinary action; (3) that inmate should be allowed to call witnesses and present documentary evidence; (4) that counsel substitute...should be allowed to help illiterate inmates or in complex cases an inmate cannot handle alone; and (5) that the persons hearing the matter, who may be prison officials or employees, must be impartial.

Id. at 371, 527 S.E.2d at 751 (citing Wolff v. McDonnell, 418 U.S. 539, 563-72 (1974)).

Applying these requirements to the record in this case I find the following:

Appellant was served with notice of the charge on July 3, 2013 and the hearing was held on July 11, 2013. The Disciplinary Report and Hearing Record show reliance on the incident report, written statements, and testimony of Ms. Smith, the Inmate Grievance Coordinator. Appellant was given the opportunity to call witnesses and give testimony. Appellant had the assistance of counsel substitute. There is nothing in the record to suggest that Hearing Officer was anything other than neutral or detached. Thus, Appellant's due process rights were protected by the process utilized by SCDC in this case.

The charging official, Ms. Smith, reported that she was serving grievances to inmates in the Special Management Unit. After Appellant received the response to his Step One Grievance, he began to question Ms. Smith; during that time, Appellant began cursing and was asked to stop. Ms. Smith told the security staff to take Appellant back to his cell. As Ms. Smith was taking the clipboard back from Appellant, he threw the ink pen at Ms. Smith and stated, "What you gonna do about it, write me up?" Two other employees also submitted statements corroborating Ms. Smith's account of the incident. At the hearing, Ms. Smith testified she felt threatened by the tone of Appellant's words and his body language. Appellant testified that while he did use profanity, his words and actions could not have been viewed as threatening. After

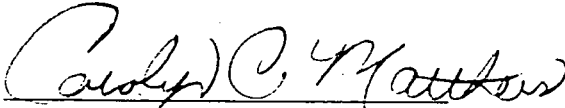
hearing all the evidence presented, the Hearing Officer found Appellant guilty based on Ms. Smith's report and testimony, and the reports from the employees who witnessed the incident. As the Wolff Court acknowledged, the full panoply of due process rights does not apply to prison disciplinary proceedings; there must be mutual accommodation between institutional needs and objectives and the provisions of the Constitution that are of general application. Wolff, 418 U.S. at 556. After a thorough review of the record, there is substantial evidence to uphold the decision of SCDC.

An Administrative Law Judge may not substitute her judgment for that of an agency "as to the weight of the evidence on questions of fact." S.C. Code Ann. § 1-23-380(5) (Supp. 2013). Furthermore, an Administrative Law Judge may not reverse or modify an agency's decision unless substantial rights of the appellant have been prejudiced because the decision is clearly erroneous in view of the substantial evidence on the whole record, arbitrary, or affected by an error of law. See S.C. Code Ann. § 1-23-380(5) (Supp. 2013); see also Marietta Garage, Inc. v. S.C. Dep't of Pub. Safety, 337 S.C. 133, 522 S.E.2d 605 (Ct. App. 1999). In this case, the substantial evidence in the record supports SCDC's decision. The Appellant has been afforded the minimal process due in prison disciplinary proceedings as required by Wolff.

Where an inmate has received the minimal due process due in an inmate disciplinary matter, no further inquiry is required and the decision of the Hearing Officer should be affirmed unless the decision is arbitrary, capricious, or based on personal bias or prejudice, none of which is evident in the record before me now. In the case at hand, I will not substitute my judgment for that of the agency because there is adequate evidence to support the conviction which is clearly not arbitrary, capricious, or affected by any personal bias or prejudice.

Therefore, for the foregoing reasons, the decision of the SCDC is **AFFIRMED**.

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 herent, postage paid, in the United States mail addressed to the party(ies) or their attorney(s).

This 10th day of September

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BY [Signature]
Judicial Law Clerk