

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Van Starling, #226109,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

Docket No. 14-ALJ-04-0173-AP

Grievance No.: PG 1559-13

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ORDER

NOV 10 2014

SC Court of Appeals

This matter is before the South Carolina Administrative Law Court (“ALC”) pursuant to the Notice of Appeal filed February 18, 2014 by Van Starling (“Appellant”), who is incarcerated with the South Carolina Department of Corrections (“SCDC”). Appellant appeals the decision of the SCDC in his Step Two Grievance, in which his conviction for Possession of a Weapon (811), SCDC Policy OP-22.14, Inmate Disciplinary System, was affirmed. Appellant lost thirty (30) days of good time, therefore a liberty interest is involved. Appellant now appeals, claiming 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.

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

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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 15, 2013 and the hearing was held on July 26, 2013. The Disciplinary Report and Hearing Record show reliance on the incident report, testimony of Captain Mattox, and pictures of the evidence. 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, Captain Mattox, reported that during a routine shakedown of Appellant's cell, a homemade weapon was found. Captain Mattox testified that the weapon was found in a hole in the wall, which the Appellant was the only inmate who had access to the hole. Appellant claimed that another inmate placed the weapon in the hole. After hearing all the evidence presented, the Hearing Officer found Appellant guilty based on Captain Mattox's incident report, testimony, and photographs of the evidence. 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.

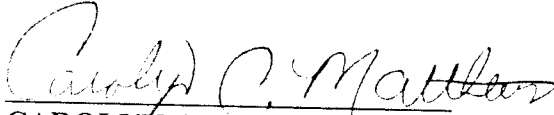
An Administrative Law Judge may not substitute her judgment for that of an agency "as to the weight of the evidence on questions of fact." S.C. Code Ann. § 1-23-380(5) (Supp. 2013). Furthermore, an Administrative Law Judge may not reverse or modify an agency's decision unless substantial rights of the 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

October 14, 2014
Columbia, South Carolina

CERTIFICATE OF MAILING

This is to certify that the enclosed copy of this order served on the parties in the above entitled case. The original parties to the cause by depositing a copy of this, postage paid, in the United States mail directed to the party(ies) or their attorney(s).

This 14th day of October
BY Christina P. Shiver
Clerk of Court