

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

SC ADMIN. LAW COURT

Akeem Abdullah-Malik, 359150,)
)
 Appellant,)
 vs.)
)
 South Carolina Department of Corrections,)
)
 Respondent.)
 _____)

Docket No.: 14-ALJ-04-0938-AP
Grievance No.: KRCI 0432-14

ORDER OF DISMISSAL

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SC Court of Appeals

This matter is before the South Carolina Administrative Law Court (“the ALC” or “the Court”) pursuant to the Notice of Appeal filed October 17, 2014, by Akeem Abdullah-Malik (“Appellant”), an inmate incarcerated with the South Carolina Department of Corrections (“Department”). In this appeal, Appellant challenges the Department’s final decision denying his grievance in which Appellant argues that he has been denied access to the courts. Specifically, Appellant asserts that his legal materials used for drafting correspondence to the courts were wrongfully confiscated and/or that he was not provided legal materials when requested.

The ALC has subject matter jurisdiction when the Department disciplines an inmate and imposes a punishment that deprives the inmate of a constitutionally protected liberty or property interest. Sullivan v. S.C. Dep’t of Corr., 355 S.C. 437, 441-42, 586 S.E.2d 124, 126 (2003); Al-Shabazz v. State, 338 S.C. 354, 369, 527 S.E.2d 742, 750 (2000); Skipper v. S.C. Dep’t of Corr., 370 S.E. 267, 273-74, 633 S.E.2d 910, 914 (Ct. App. 2006). Slezak v. South Carolina Department of Corrections, 361 S.C. 327, 605 S.E.2d 506 (2004), provided further clarification that this Court has jurisdiction of all inmate grievance appeals that have been properly filed. However, when the grievance appeal does not implicate a state-created liberty or property interest, the ALC may summarily dismiss the appeal at its discretion. Furtick v. South Carolina Department of Corrections, 374 S.C. 334, 649 S.E.2d 35 (2007).


For the purpose of establishing jurisdiction, a state-created liberty or property interest exists when (1) an inmate is disciplined and punishment is imposed, or (2) when an inmate alleges prison officials have erroneously calculated his sentence, sentence-related credits, or custody status. Sullivan, 355 S.C. at 441, 586 S.E.2d at 126. Additionally, this Court has

jurisdiction when an inmate contests the Department's decision to permanently deny the inmate's parole eligibility. Id. Finally, under certain circumstances, an inmate may have a state-created liberty interest in "freedom from restraint which, while not exceeding the sentence in such an unexpected manner as to give rise to protection by the Due Process Clause of its own force . . . nonetheless imposes atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life." Sandin v. Conner, 515 U.S. 472, 483-84 (1995); see Sullivan, 355 S.C. at 443, 586 S.E.2d at 127 (applying Sandin to resolve a "condition of confinement claim").

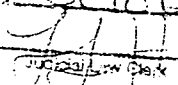
Here, Appellant asserts that the Department has denied him access to the courts by not providing him with legal writing materials. This complaint does not arise from punishment administered for a disciplinary conviction, nor does it relate to Appellant's sentence, sentence-related credits, or custody. Moreover, this is not an "atypical" condition of restraint or a permanent denial of parole eligibility. Furthermore, in Slezak, the South Carolina Supreme Court determined the ALC did not have jurisdiction to an inmate's allegation that several statutes were unconstitutional. Slezak, 361 S.C. at 332, 605 S.E.2d at 508 ("Appellant's counsel acknowledged at oral argument that appellant was challenging the constitutionality of these statutes, and that such a challenge was properly brought as a declaratory judgment action in circuit court rather than through the administrative grievance process."). Accordingly, Appellant has not alleged deprivation of a state-created liberty or property interest in this matter. Therefore, the Court finds Furtick to be controlling, and the case is dismissed for lack of jurisdiction.

IT IS HEREBY ORDERED that this appeal is **DISMISSED, with prejudice.**

AND IT IS SO ORDERED.


SHIRLEY C. ROBINSON
Administrative Law Judge


October 27, 2014
Columbia, South Carolina

CERTIFICATE OF SERVICE
This is to certify that the undersigned has on a date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, in the Interagency Mail Service addressed to the party(-ies) or their attorney(s)
This 27 day of October 2014
By: 
Judicial Law Clerk