

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Zachary Smith, #269134,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

Docket No. 14-ALJ-04-0902-AP
Grievance No.: PCI 567-14

ORDER OF DISMISSAL

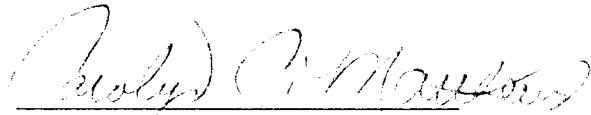
This matter is before the South Carolina Administrative Law Court (“ALC”) pursuant to the Notice of Appeal filed October 9, 2014 by Zachary Smith (“Appellant”), who is incarcerated with the South Carolina Department of Corrections (“SCDC”).

Appellant appeals the decision of SCDC in a prison disciplinary matter. SCDC’s decision indicates he was not sanctioned with the loss of any good-time credits; Appellant made no claim for the loss of any other state-created liberty interest; and made no contention that his sentence, sentence-related credits, or custody status have been erroneously calculated. There is no state-created liberty interest in the loss of opportunity to earn additional good-time credits. Howard v. S.C. Dep’t of Corr., 399 S.C. 618, 733 S.E.2d 211 (2012); see also S.C. Code Ann. § 1-23-600 (D) (2012).

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

October 29, 2014
Columbia, South Carolina

This document is the property of the South Carolina Department of Corrections. It is to be returned to the Department of Corrections by depositing a copy in the mail, in the United States and addressed to the address on their return(s).

FILED

OCT 29 2014

SC ADMIN. LAW COURT

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM

Due: 7/5/14

STEP 2

Office Use Only

INMATE NAME: ZACHARY SMITH
SCDC NUMBER: 269134
INSTITUTION: PERV
HOUSING UNIT: D-X-17
WORK ASSIGNMENT: N/A

Grievance No. PCI 0567-14
Code: General _____
Policy _____
Disc. Hear. case # 53
Class. 4/17/14 901
Date Received 7/8/14
IGC Initials JP

JUL 03 2014

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

I'm Filing BACK on The responses I Receive on 7-1-14 on the STEP 2 grievance Now I DID NOT Agree with the way the responses so AS A RESULT OF the matter I HAVE Filed A AFFIDAVIT Base on that what SAID on the 14-24 report of SPT Cutted on the DATE of 3/21/14 every thing that I SPECIFIC on the STEP 2 grievance on the DATE of 5/19/14 to Be true and Accurate Next this IS what I ASK For on Action request the Following AS LIST I WANT Me AND CONFIDENTIAL IN FORMAL to TAKE A poly-graph test AND Like All My Privilege BACK taken BY DHS I WANT Sled on PERRY IN custody to examine the metal objects as well as the whole IN wall there are no SCHA-SON neither on of them ALSO to ADD to DRUG 90Z 234 CLASS ESCAPE to A Lesser OFFENSE BECAUSE one my CONFIDENTIAL IN FORMAL REVER SAID He Seen me Attempt the ESCAPE and there were not ANY AGGRAVATE CIRCUMSTANCES ZACHARY SMITH 7/2/14 ALSO SCDC POLICY 22.14 SAY IF AN INMATE with pending Grievant Signature Date

disciplinry 105 CE *ADDS* WAS SUPPOSE TO BE HELD (14.5)

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

The documentation provided indicates that the evidence presented was sufficient to support the conviction of Escape or Escape Attempt or Aiding and Abetting Escape with/without Force-Class I (901), case #53 on April 17, 2014, under SCDC OP-22.14, Inmate Disciplinary System, dated July 1, 2012, and the sanction(s) imposed, which included the loss of -0- days accrued good time, were appropriate for the rules violation(s). There was no reason found to warrant a reversal of the Disciplinary Hearing Officer's decision. A review of your appeal revealed that you receive forty-eight (48) hour notice prior to the hearing, you were afforded due process rights, as required, and the offense was classified and heard in a timely manner.

Therefore, your grievance is denied.

You may appeal this decision under the Administrative Procedures Act to the Administrative Law Court. In order to appeal, you must fill out the attached Notice of Appeal Form and submit it as instructed on the form within 30 days of receipt.

[Signature] 8/18/14
Signature Date

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

ZACHARY SMITH 8/19/14 J. Pove 9/18/14
Grievant Signature Date IGC Signature Date

SEE REVERSE SIDE FOR INSTRUCTIONS

INSTRUCTIONS FOR COMPLETING STEP 2 GRIEVANCE FORM

1. Complete form in its entirety, writing only in the space provided for inmate use.
2. State your specific reason for further appeal. Do not submit any new issues for review.
3. Submit this completed form with your original Step 1 attached, to the Institutional Grievance Coordinator within five (5) days of your receipt of the Warden's decision. Do not write in the space provided for the responsible official.
4. The decision rendered by the responsible official exhausts the appeal process of the SCDC Inmate Grievance Procedure.

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INCIDENT REPORT

7/22/14 (4/17)

Institution/Center: <u>Perry Correctional</u>	
Date of Report: <u>3/21/14</u>	Time of Report: <u>11:30 AM</u>
Reporting Official: <u>Sgt. Daniel Cotter #042204</u>	Date of Incident: <u>3/21/14</u>
Location of Incident: <u>CY-4</u>	Time of Incident: <u>APPROX. 9:00 AM</u>
Inmate(s)/Resident: SCDC# Age Race Sex	Employee(s) Involved:
1. <u>Zachary Smith # 269134 B M</u>	1. <u>Lt Root (witness)</u>
2.	2.
3.	3.
4.	4.
5.	5.

On the above date and approximate time: A reliable confidential informant told me that the Inmate in CY-4 was attempting to escape by removing the mortar around the bricks in his cell so he can remove the bricks from the wall. The informant said the Inmate in CY-4 has a piece of the mirror frame that he uses to dig out the mortar.

I went and searched CY-4 and the occupant, Zachary Smith, told me he had a piece of metal in the cell. He told me to look in the corner. I found an "L" shaped piece of metal wrapped in paper. I then noticed the caulking and mortar had been removed from a brick by the window sill. With the mortar removed, you can see into the adjacent cell (CY-2). There was also a chunk of concrete that was removed from a brick behind the left rear leg of the bed.

At the end of the bed was an envelope containing instant coffee and two pieces of paper describing how to get fake credit cards, file false taxes, and how to "Pimp the child molester."

Signature: Sgt. Daniel Cotter (continued to page two...)

Evidence: see above

Witness(es):

Supervisor's Comments: 901 103

Signature: [Signature] Title: Lt. Date/Time: 3-21-14 11:15 AM

Major/Responsible Authority:

Witness - Escape 903 - The Prisoner

STG Related - Refer to STG Committee <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown
This Incident is DRUG related <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown

Action Taken
<input type="checkbox"/> Informal Resolution
<input type="checkbox"/> Administrative Resolution
<input type="checkbox"/> Other (Please Specify)

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: WILLIE, JOHN
 SCDC NUMBER: 397137
 INSTITUTION: FERRY MAY 20 2014
 HOUSING UNIT: B-2-6
 WORK ASSIGNMENT: _____

Office Use Only
 Grievance No. FCI 0507-14
 Code: General _____
 Policy _____
 Disc. Hear. case # 53
 Class. 4/17/14 901
 Date Received 5/19/14
 IGC Initials JP

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

ON THE DATE OF 4-18-14 I WENT BEFORE D.H.O. I WAS FOUND GUILTY BEFORE D.H.O. TURNER ON 1ST CLASS AND ESCAPE UNLAWFUL POSSESSION AND REASON WHY I WAS FOUND GUILTY THEY HAD PROOF OF MULLER IN THE MAIL AND STEEL OBJECT AND PROOF OF PILLS AND ALSO MY LATER TESTIMONY. MY COMPLAINT IS THE CONTAINER WHICH STATED ON TAPE WAS NOT TRUE HE MADE FALSE STATEMENTS PERTAINING TO HIS CONFIDENTIAL INFORMANT AND STEEL OBJECT AND I TRY TO ADVISE HIM ABOUT THIS IN MAIL AND DID IT WITH A SCARC IN IT ALL TIME IT ON TAPE. NEXT ON DATE OF 4/17/14 INVESTIGATION DID NOT BY E.I. AND THAT MY COUNSEL ASKING FOR ME TO BE ON D.I. THAT DAY. RECORDED ON DATE OF 4/17/14 BY THE LEGAL COUNSEL. MY NAME WRITE A MENTAL HEALTH (CONFIDENTIAL)

ACTION REQUESTED:

① I WANT ALL CONFIDENTIAL INFORMANT/OUTSIDE TO TAKE A FOLLOUP WITH ME. ② I WANT ALL MY PRIVILEGES BACK TAKEN BY DHO. ③ I WANT THE A FULL INVESTIGATION TO BE CONDUCTED THE TOOL I ALLEGEDLY HAD. ④ REVIEW OF 3024/145 AND ABUSE BY THE /S. CONFIDENTIAL

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

THIS IS A FORMAL APPEAL OF DISCIPLINARY CHARGE. DHO I WAS ON C.I. 3024 AND WAS AT THE TIME. THE I GO TO THE DISCIPLINARY TALK & I GOT 1 YEAR TO FILE MY APPEAL. AFTER I GOT THE 1 YEAR I GOT OFF D.I. TALKING TO DHO. AS I GOT OFF D.I. I WOULD REPRESENT HIM TO THE BOARD. CONFIDENTIAL 5/19/2014

Grievant Signature

Date

ACTION TAKEN BY IGC:

You have **exceeded all time frames** for filing a grievance on this issue. Per GA-01.12.13.2 "The grievant will complete Form 10-5, Step 1, which is located in common areas, i.e., living areas, libraries, etc. and will place the form in a designated grievance drop box within **five (5) days** of the alleged incident. Your disciplinary hearing was held on 4/17/14 and your grievance was not submitted until 5/20/14. Therefore this grievance is returned **unprocessed/closed**."

GC Signature

Date

Grievant Signature

Date

