

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT  
HONORABLE S. ROBINSON, ALJ

CASE NO: 2014-00273

JONATHAN MATHES, 220561, APPELLANT

V.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, RESPONDENT.

APPELLANT'S INITIAL BRIEF

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**RECEIVED**

DEC 03 2014

**SC Court of Appeals**

# TABLE OF CONTENTS

TABLE OF AUTHORITIES	p. 2
STATEMENT OF ISSUES ON APPEAL	p. 3
STATEMENT OF THE CASE	pp. 3, 4
ARGUMENT	pp. 5, 6

## TABLE OF AUTHORITIES

AL-Shabazz V. State	527 S.E. <sup>2d</sup> 742 (S.C. 2002)
Wright V. SCDL	2002 WL 863896

## STATEMENT OF ISSUES ON APPEAL

- 1) The Administrative Law Judge erred in dismissing Appellant's case based on information that did not apply to the grievances appealed to the ALC.
- 2) The Administrative Law Judge erred in dismissing grievances that were not appealed to the ALC.
- 3) The Administrative Law Judge erred in not ruling on the grievances that were appealed to the ALC.

## STATEMENT OF THE CASE

On September 8, 2014 Appellant filed three Notices of Appeal with the S.C. Administrative Law Court in which he appealed three grievances relating to disciplinary convictions. Two of these grievances were assigned reference numbers which are PCI-1699-13 and PCI-1700-13. One of these grievances was never assigned a number or processed. PCI-1699-13 and PCI-1700-13 are appeals from a contraband conviction and a cell phone conviction. The grievance not assigned a number is an appeal from an escape paraphernalia

conviction. Appellant submitted a copy of a request to staff member addressed to the warden for the purpose of showing that he had attempted to <sup>get</sup> a response to his appeal of the 904 escape paraphernalia charge.

In this July 14, 2014 dated "RTSM" Appellant addressed four grievances that he had received no response to, three of which have nothing to do with his appeal to ALC. Only the second one, mentioned as "appeal of 904 in 2013".

This 'RTSM' was forwarded by the warden to the grievance coordinator, who subsequently addressed only two of the four grievances. The two she addressed were PCI-0272-14, and PCI-2664-11. PCI-0272-14 is a grievance about denial of legal calls, and PCI-2664-11 is a grievance about medication. Even though neither of these unrelated grievances are mentioned in Appellant's Notices of Appeal to the ALC, the ALC erroneously labeled Appellant's ALC case as being with regards to 'PCI-272-14'. Appellant wrote to the ALJ attempting to explain the ALC's error on the day after he received the acknowledgement from the ALC which was on September 29, 2014. The ALJ, however, in her September 29, 2014 Order dismissed Appellant's case basing her order on the disposition of the two unrelated grievances referred to in the above mentioned RTSM which were PCI-0272-14, and PCI-2664-11. Appellant filed the instant appeal on October 27, 2014.

## ARGUMENT

When substantial evidence supports the decision reached by the ALJ, neither the circuit nor appellate courts may substitute their judgment for the ALJ's on..... internal prison matters.

Al-Shabazz v. State 527 SE<sup>2d</sup> 742 (S.C. 2000). In Appellant's case, however, the ALJ clearly based her decision on evidence that was pertinent only to grievances that were not appealed to the ALC. In doing so the ALJ effectively left not only the merits of Appellant's case undecided, but also whether appellant did in fact exhaust his administrative remedies.

Appellant's July 14, 2014 dated 'RTSM' to Warden Cartledge was provided to the ALC in order to show that Appellant's "appeal of 904 in 2013" was not only not processed, but that the Agency refused to address the issue. While the Agency has significant discretion with regards to not following its own policies, its actions must be rationally grounded as opposed to arbitrarily based. See, Wright v. SCDc 2002 WL 863896. While using this RTSM to demonstrate that the Agency arbitrarily offered no explanation for not processing his 904 escape paraphrenalia appeal Appellant must have inadvertently caused confusion as to the record. Never the less, the ALJ's decision is erroneous as it addresses, and is based upon

evidence and disposition of two grievances not  
Appealed to the ALC, e.g. PCI-0272-14 and  
PCI-2664-11.

Further, the remaining two grievances, PCI-1699-13  
and PCI-1700-13 are also left unaddressed by  
the ALJ. In sum, Appellant appealed three  
disciplinary convictions to the ALC, none of  
which were reviewed, and the ALJ instead  
mistakenly ruled on two unrelated grievances.  
Appellant prays this court reverse the  
decision of the ALJ, and instruct the ALC  
in whatever manner would be equitable and just.

November 24, 2014

Respectfully Submitted,

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