

The State Of South Carolina  
In The Court Of Appeals

Shirley C. Robinson, AL Judge  
Case No. 14-ALJ-04-10-11-AP

SCDC

Respondant

vs

DeMarkus Harris

Appellant

SCDC #335735

**RECEIVED**

DEC 30 2014

Notice Of Appeal

**SC Court of Appeals**

I, DeMarkus Harris #335735, appeals the decision of the Honorable Shirley C. Robinson dated November 20<sup>TH</sup>, 2014. Appellant received a copy of this decision on November 24, 2014.

December 20<sup>TH</sup>, 2014

DeMarkus Harris

SCDC #335735

Other Counsel of Record: General Counsel

I, Demarkus Harris SCDC # 335735, feel that the charge of 817-Possession of contraband (financial numbers) was fraudulent. And should be disregarded and all sanctions reinstated because of the following issues!

- ① Accusing Officer was not Mark Betcke, but Daniel Taylor.
- ② SCDC Grievance Coordinator, Pamela Hough here at Kershaw, informed me that SCDC does not acknowledge military time, which is the time used by Mark Betcke.
- ③ Officer Betcke did not specify where alleged financial numbers were found. He stated or should I say wrote "in or on" inmates locker.
- ④ Alleged financial numbers was an international telephone number and was noted in step one grievance and step two grievance to be dialed to prove it was so, but was not done.
- ⑤ Administrative Law Court dismissed my appeal because it was said that I lost no good time, when in reality I lost (6) six days accrued good time.

**RECEIVED**

DEC 30 2014

**SC Court of Appeals**

Dear Appellant:

Below is information regarding your case which has been filed with the ALC. Please refer to the Rules of Procedure (enclosed) for the time frames on filing briefs and other matters.

| Case Number | Appellant Name | Appellee Name | Grievance No. | Respondent | Filing Date | Date Assigned | Judge Last Name |
|-------------|----------------|---------------|---------------|------------|-------------|---------------|-----------------|
| I4C1011     | DEMARKUS       | HARRIS        | KRCI 1056-14  | DOC        | 11/14/2014  | 11/20/2014    | ROBINSON        |

**FILED**

NOV 20 2014

SC ADMIN. LAW COURT

You must file all original documents and correspondence regarding this case directly with the above-named Judge and serve a copy on the Dept. of General Counsel, S.C. Dept. of Corrections, PO Box 21787, Columbia, SC 29221.

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

DeMarkus Harris #335735, )  
 )  
Appellant, )  
 )  
vs. )  
 )  
South Carolina Department of Corrections, )  
 )  
Respondent. )

NOTICE OF APPEAL

DOCKET NO. 14-ALJ-04-1011-AP  
GRIEVANCE NO.: KRCI-1056-14

Notice is hereby given that DeMarkus Harris #335735 does hereby appeal the final decision of the South Carolina Department of Corrections dated 10-24-14 and received on 11-3-14, a copy of which is attached. A general statement of the grounds for appeal is (See S.C. Code Ann. § 1-23-380(A)(6)):

I appeal the final decision of the SCDC on grounds that the decision was prejudiciously made due to a lack of investigation. I specifically requested the evidence to be investigated during the DHO hearing by simply dialing the numbers by telephone of which would have disclosed that the numbers were actually an international telephone number and "NOT" financial numbers. I also made this same request within my step one (1) and step two (2) grievance but to no avail was I assisted with this matter. Therefore, the DHO's decision was an act of assumption due to lack of evidence by failing to examine additional documentary evidence as prescribed in 15.7.2 of SCDC Policy / Procedure OP-22.14.

DeMarkus Harris  
Appellant's Name

DeMarkus Harris  
Signed

4848 Goldmine Hwy.  
Mailing Address

November 13, 2014  
Dated

Kershaw, S.C. 29067  
City, State, Zip Code

**FILED**  
NOV 14 2014  
ADMIN. LAW COUR

CERTIFICATE OF SERVICE

I hereby certify that I, DeMarkus Harris (your name), on the 13 day of November, 20 14, in Kershaw (city), South Carolina, served a copy of the foregoing Notice of Appeal on all parties to this matter by depositing the same in the United States Mail, postage paid, or in the mail room of the undersigned's institution and addressed as follows:

Name of person/Agency served: South Carolina Administrative Law Court

Address: 1205 Pendleton street, Suite 224

City, State, Zip Code: Columbia, S.C. 29201

Print your name: DeMarkus Harris  
(See reverse side for instructions)

Sign your name: DeMarkus Harris



5-9/2/14  
RD: 7/23/17

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

STEP 1 2 2014

INMATE NAME: Demarcus Harris (PH)

SCDC NUMBER: 335735

INSTITUTION: K.C.I.

HOUSING UNIT: Palmetto 42 SEP 12 2014

WORK ASSIGNMENT: Dorm KERSHAW CI

OFFICE USE ONLY

Grievance No. KRC 1056-14

Code: General \_\_\_\_\_

Policy \_\_\_\_\_

Disc. Hear. 817 #32

Class. HD 9/8/14

PREA \_\_\_\_\_

Date Received 9/12/14

IGC Initials PH

RECEIVED

STATEMENT OF GRIEVANCE (Indicate the date of incident, and if the grievance is a challenge to SCDC Policy, specify which policy. Include supporting documentation and attach answered RTSM or Kiosk reference number.)

On 9-8-14, I was found guilty for 817-possession of contraband. At my dho hearing Corporal Beteke admitted that he found the so called financial numbers on the locker, but in the report he said "in or on," the locker. He did not specify the place he found it. Also he was not my accuser. Officer Darrol Taylor was the officer who found the so called contraband (financial numbers). Also Cpl. Beteke did not properly inform me I was being charged nor did he properly identify me. It is not in the report how he identified me. And I was still convicted after informing the dho officer (Cpl. Bettinger) of this. The numbers that were said to be financial numbers, is an international phone numbers, And Cpl. Beteke was asked what other things were found in the box on the locker and he made something up, but in reality none of what he said was there because he didn't know what was in the box. It was only trash.

Demarcus Harris 9-10-14  
Grievant Signature Date

ACTION REQUESTED: That the said financial numbers, which is an international phone number, be called to prove it is not a financial number and the charges and sanctions overturned.

ACTION TAKEN BY IGC:  PROCESSED  UNPROCESSED  OTHER

Disciplinary documentations reviewed. See warden's response.

D. Nough 10/1/14  
IGC Signature Date

(CONTINUE ON REVERSE SIDE)

**WARDEN'S DECISION AND REASON:**

Inmate Harris;

This is in response to KRCI-1056-14. You have appealed the results of your 9/8/14 Disciplinary Hearing where you were found guilty on the charge of 817 Possession of Contraband, case # 32. The issues you stated do not warrant a reversal of the charge. Pertinent documentation has been reviewed and an investigation of the hearing was conducted. No technicalities, procedural errors, or misinterpretations of evidence was noted and the decision of the Disciplinary Hearing Officer was based on the written and verbal testimony of Cpl. Betcher and a picture of the evidence. Based on this information, your appeal is without merit and therefore denied.

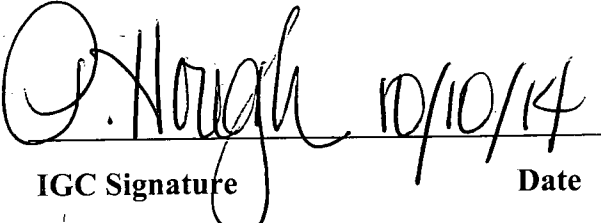
If not satisfied with my response, see Step 5 below.

  
Warden Signature Date

- I accept the Warden's decision and consider the matter closed.
- I do not accept the Warden's decision and wish to appeal.

\_\_\_\_\_  
Grievant Signature

\_\_\_\_\_  
Date

  
IGC Signature Date

**INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM**

1. An informal resolution shall be attempted prior to the filing of Step 1 by sending an Inmate Request to Staff Member (RTSM) form or Kiosk reference number to the appropriate supervisor. A copy of the answered RTSM must be attached to the grievance when the grievance is filed.
2. Complete each section in its entirety writing only in the space provided for inmate use. No additional pages will be permitted.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form by placing it in the Grievance Box at your institution within eight (8) working days of the date on the RTSM response; policy grievances can be filed at any time. Disciplinary and Classification Review appeals must be submitted within five (5) working days of the hearing/review. Do not write in the space provided for the Warden's response.
5. If you are not satisfied with the Warden's decision, you may appeal to the appropriate responsible official within five (5) days of your receipt of the Warden's decision, by placing your Step 2 appeal form in the Grievance Box at your institution.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
INMATE GRIEVANCE FORM

Office Use Only  
10/15/14  
Grievance No. 1001-1050-14  
Code: General  
Policy \_\_\_\_\_  
Disc. Hear. 817 #32  
Class. HD 9/8/14  
Date Received 10/15/14  
IGC Initials OK

RECEIVED  
OCT 15 2014  
OCT 22 2014  
KERSHAW CO  
GRIEVANCE INMATE GRIEVANCE

INMATE NAME: Demarkus Harris  
SCDC NUMBER: 335735  
INSTITUTION: Kershaw  
HOUSING UNIT: Palmetto B  
WORK ASSIGNMENT: N/A

**INMATE'S REASON FOR APPEAL (state specific dissatisfaction):** On 9-8-14, I was found guilty for 817- possession of contraband (financial numbers). At the hearing Cpl. Betcke admitted he found the so called financial numbers on the locker, but in his report he wrote "in or on" the locker. He did not specify the place he found the so called financial numbers. Also he was not the accuser. Officer Daniel Taylor was the officer who found the so called financial numbers. A/so Cpl. Betcke did not inform me, I was being charged, nor did he identify me. Either by SCDC i-d nor card sheet. I was still convicted after bringing this to Cpt. Bettinger attention. Those numbers that are said to be financial numbers, are actually an international telephone number. I would like for this number to be dialed to prove it is not a financial number. That was my action requested on my grievance step 1. Also on the incident report, the date says 25082014 and time of report is 1830 hrs and time of incident is Aprox 0800am. What is this? I have no knowledge of this. Neither did the grievance coordinator who brought this to the attention of Warden Roberts Roberts. She also stated SCDC does Demarkus Harris 10-10-14  
not go by that form of time.  
Grievant Signature Date

**RESPONSIBLE OFFICIAL'S DECISION AND REASON:**

The documentation provided in respect to the violation reported was sufficient to support the conviction of Possession of Contraband (817) case #32, level 3 offense, on September 8, 2014, under SCDC Policy OP-22.14, Inmate Disciplinary System, dated July 1, 2012, and the sanctions 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 received 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. It is noted that this is your 5<sup>th</sup> conviction for this type offense. It is also noted that your sanctions were reduced.

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.

Gregory [Signature] 10/24/14  
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.

Demarkus Harris 11/3/14  
Grievant Signature Date

[Signature] 11/3/14  
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.

9/22  
9/15

Tue 9/2

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
INCIDENT REPORT

|   |                                  |          |          |   |                                 |
|---|----------------------------------|----------|----------|---|---------------------------------|
| Institution/Center: <i>Kershaw</i>                  |                                  |          |          | Date of Report: <i>25082014</i>         |                                 |
| Reporting Official (Full Name): <i>Betche, Mark</i> |                                  |          |          | Time of Report: <i>1830 hrs,</i>        |                                 |
| Employee ID #: <i>052436</i>                        |                                  |          |          | Date of Incident: <i>25082014</i>       |                                 |
| Location of Incident: <i>P. B Rm 42</i>             |                                  |          |          | Time of Incident: <i>Approx 0800 am</i> |                                 |
| Inmate(s)/Resident: SCDC#                           |                                  | Age      | Sex      | Race                                    | Employee(s)/Witnesses Involved: |
| 1.  | <i>Harris, De markus, 335735</i> | <i>M</i> | <i>B</i> | <i>M/B</i>                              | 1. <i>Cpl. Taylor, Daniel</i>   |
| 2.  |                                  |          |          |   | 2.                              |
| 3.  |                                  |          |          |   | 3.                              |
| 4.  |                                  |          |          |   | 4.                              |
| 5.  |                                  |          |          |   | 5.                              |

32

On the above date and approximate time: *I, Cpl Betche while conducting room inspection of Rm 42, discovered several pieces of paper w/ SCDC ID#s and numbers. These said ID#s were found in an on the back of IMA Harris, De markus #335735. IMA Harris admitted to having the locker to which the contraband was found. IMA Harris, De markus #335735 is charged w/ 817 Possession of Contraband (Financial numbers).*

Signature: *Mark Betche* Title: *Cpl*

Evidence: *817 (1) Financial number top of page*

Disposition of Evidence:

Supervisor's Comments: *Ref to DHO*

Printed Name: *Claude Powell* Title: *700A*

Signature: *[Signature]* Title: *[Signature]* Date/Time: *8-25-14*

Major/Responsible Authority: *Refer to DHO for 817*

Printed Name: *T.S. R*

Signature: *T.S. R* Title: *CAPT* Date: *8-26-14*

STG Related - Refer to STG Committee

( ) Yes ( ) No ( ) Unknown

This incident is DRUG related

( ) Yes ( ) No ( ) Unknown

Responsible Authority Action Taken

( ) Informal Resolution

( ) Administrative Resolution

Refer to Disciplinary Hearing

*NMA 9.4 NTV 9/2*

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
DISCIPLINARY REPORT AND HEARING RECORD**

*(APD)*

Case#: 30 Inmate Name: Donackin SCDC#: 335725  
 Living Area: P-42 Job: aka Custody: aka  
 Offense Date: 8/25/14 Offense Time: 8:00 AM/PM Institution: Kershaw

Offense Description: S17 - Possession of Contraband

Charging Officer/Employee: Al Butler (A-1) Title: CI

**INMATE NOTIFICATION: YOU WILL APPEAR BEFORE A HEARING OFFICER 24 HOURS OR MORE AFTER YOUR RECEIPT OF THIS NOTICE. YOU HAVE THE RIGHT TO SUBMIT A WRITTEN STATEMENT AND MAKE A VERBAL STATEMENT.**

**INMATE WAIVERS:**

I GIVE UP MY RIGHT TO 24-HOUR NOTICE AND AUTHORIZE THE HEARING OFFICER TO PROCEED WITH THE HEARING.  
 I DO NOT WANT TO BE PRESENT AT MY HEARING.  
 I DO WANT MY ACCUSER PRESENT AT THE HEARING.  
 I DO NOT WANT MY ACCUSER PRESENT AT THE HEARING.

I WAIVE MY RIGHT TO A HEARING.  
**SMU/SEGREGATION ONLY**  
 I WANT A COUNSEL SUBSTITUTE  
 I DO NOT WANT A COUNSEL SUBSTITUTE

Date & Time Notified: 9/3/14 AM/PM By (Print): Sc + Amy Bowers  
 Inmate Signature: \_\_\_\_\_ SCDC#: 335735 Date: 9/3/14

**HEARING INFORMATION:**

|                             |                                  |       |       |        |      |
|-----------------------------|----------------------------------|-------|-------|--------|------|
| Hearing Date: <u>9/8/14</u> | Hearing Time: <u>11:00</u> am/pm | Tape: | Side: | Start: | End: |
|-----------------------------|----------------------------------|-------|-------|--------|------|

EXPLAIN BELOW BY NUMBER: (1) IF COUNSEL SUBSTITUTE WAS NOT PRESENT DURING PART OF THE HEARING; (2) IF ACCUSED WAS EXCLUDED FROM ANY PART OF THE EVIDENCE STAGE; IF ANY (3) WITNESSES, (4) DOCUMENTATION, OR (5) EVIDENCE WAS EXCLUDED FROM THE HEARING; OR (6) IF INMATE WAS DENIED CONFRONTATION QUESTIONING AND/OR CROSS EXAMINATION OF A WITNESS AT THE HEARING.

None 74 None

|                           |            |  |  |  |
|---------------------------|------------|--|--|--|
| OFFENSE CODES             | <u>817</u> |  |  |  |
| INMATE PLEA (G, NG, None) | <u>NG</u>  |  |  |  |
| FINDINGS (G, NG, DS)      | <u>G</u>   |  |  |  |

IF GUILTY, EVIDENCE PRESENTED CONSIDERED AND REASONS FOR DETERMINATION OF GUILT: (A) ADMISSION OF GUILT; (B) OFFICER'S REPORT; (C) WITNESS TESTIMONY; (D) OTHER. EXPLAIN IN DETAIL: Copy of evidence statement at hearing

HEARING LENGTH: 9 (MINUTES)

**SANCTIONS:**

Loss of Privileges (Days) \_\_\_\_\_ Reprimand: \_\_\_\_\_ Loss of Good Time (days): 6  
 \* Property (Days) \_\_\_\_\_ Extra Duty: \_\_\_\_\_ Restitution: \$ \_\_\_\_\_\*\*  
 \* Canteen (Days) 180+90=270 Visit Suspension Thru 180+90=270  
 \* Other Phone (Days) 180+90=270 Cell Restriction (Days): \_\_\_\_\_  
 \* Disciplinary Detention (Days): 90

SPECIFIC FACTUAL REASON(S) FOR PARTICULAR PUNISHMENT IMPOSED: This is the inmates 5th chance of this nature

CREDIT FOR PHD TIME SERVED? YES/NO IF YES, DAYS \_\_\_\_\_

DATE INMATE PLACED IN PHD \_\_\_\_/\_\_\_\_/\_\_\_\_

INMATE SIGNATURE FOR RECEIPT OF FINAL REPORT: Donackin DATE: 9/5/14

HEARING OFFICER (PRINT NAME): E Bittenger

APPROVED/REVERSE/MODIFY \_\_\_\_\_ REASON \_\_\_\_\_  
 Warden

CONTACT YOUR CLASSIFICATION CASEWORKER OR COUNSEL SUBSTITUTE IF YOU DO NOT UNDERSTAND THIS FORM.

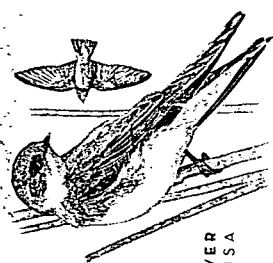
White - Institutional Record      Canary - Inmate (Service of Disciplinary Report)  
 Golden Rod - Inmate (Service of Disciplinary Hearing Disposition)      Pink - Central Record

This is to inform you that a Disciplinary Hearing was held. Your copy of the Disciplinary Report and Hearing Record is attached. If you were found guilty you have the right to appeal the decision of the Hearing Officer with respect to the determination of guilt or penalty imposed. You may appeal the decision by filing an Inmate Grievance using SCDC Form 10-5, "Step I Grievance Form." If you are dissatisfied with the response you receive to your grievance, you may then file an appeal to the next level (see SCDC Procedure GA 01.12, "Inmate Grievance System," for information on filing appeals).

Your Inmate Grievance Coordinator may assist you in the appeal process by sending him/her SCDC Form 19-11 "Request to Staff Member."

Demarkings Hams #335735  
K.C.I. - PB #42  
4848 Goldmine Hwy.  
Kershaw SC 29067

29201972699



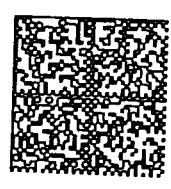
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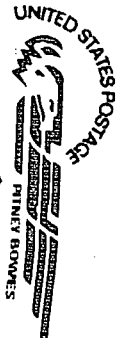
DEC 30 2014

**SC Court of Appeals**

Court of Appeals, S-C  
1015 Sumner Street  
Box 1629  
Columbia SC 29211



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CORRECTIONAL INSTITUTION

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