

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ANDREW PLUMMER, APPELLANT,

V.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, RESPONDENT
APPELLANT CASE NO. 2012-213475

APPEAL FROM THE ADMINISTRATIVE LAW COURT
SHIRLEY C. ROBINSON, ADMINISTRATIVE LAW JUDGE

RECEIVED

JAN 26 2015

SC Court of Appeals

UNPUBLISHED OPINION No. 2015-UP-004
SUBMITTED NOVEMBER 1, 2014 - FILED JANUARY 7, 2015

APPELLANT'S PETITION FOR REHEARING

ANDREW PLUMMER Pro se

CHRISTOPHER D. FLORIAN AND DANIEL JOHN CROOKS, III OF
THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, OF COLUMBIA,
FOR RESPONDENTS.

THE ABOVE NAMED APPELLANT HEREBY MOVES BEFORE THE HONORABLE COURT OF APPEALS
FOR REHEARING PURSUANT TO THE FOLLOWING GROUNDS:

1) AL-SHABAZZ V. STATE, 338 S.C. 354, 371, 527 S.E. 2D 742, 751 (2000) - THE UNITED STATES SUPREME COURT HELD THAT DUE PROCESS IN A PRISON DISCIPLINARY PROCEEDING INVOLVING SERIOUS MISCONDUCT REQUIRES: (1) THAT ADVANCE WRITTEN NOTICE OF THE CHARGE BE GIVEN TO THE INMATE AT LEAST TWENTY-FOUR HOURS BEFORE THE HEARING; (2) THAT FACT-FINDERS MUST PREPARE A WRITTEN STATEMENT OF THE EVIDENCE RELIED ON AND REASONS FOR DISCIPLINARY ACTION; (3) THAT THE INMATE SHOULD BE ALLOWED TO CALL WITNESSES AND PRESENT DOCUMENTARY EVIDENCE, PROVIDED THERE IS NO UNDUE HAZARD TO INSTITUTIONAL SAFETY OR CONSTITUTIONAL GOALS; (4) THAT COUNSEL SUBSTITUTE (A FELLOW INMATE OR A PRISON EMPLOYEE) 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," CITING WOLFF V. McDONNELL, 418 U.S. 539, 563-72 (1974)

2) THE SOUTH CAROLINA COURT OF APPEALS FAILED TO ENFORCE AND COMPLY WITH THE THIRD PRONG IN AL-SHABAZZ 338 S.C. 354, AS APPELLANT CLEARLY POINTED THE COURT TO ALL BRIEFS AND RECORD ON APPEAL THAT WITNESSES WERE NOT CALLED NOR WAS STATEMENTS PREPARED BEFORE OR DURING THE DISCIPLINARY HEARING. APPELLANT SUBMITTED COPIES OF INSTITUTIONAL REQUEST TO STAFF MEMBER TO COURT OF APPEALS WITHIN DESIGNATION OF MATTER AND RECORD ON APPEAL AND SUCH WAS CLEARLY IGNORED AND NOT ADDRESSED IN THE UNPUBLISHED OPINION.

3) THE RESPONDENTS FAILED IN THEIR FINAL BRIEF TO ADDRESS APPELLANTS CLAIMS ADEQUATELY OF DENIAL OF INMATE WITNESSES AS THEY PROVIDED THE COURTS WITH NO DEFENSE AS TO WHY WITNESSES WERE UNCONSTITUTIONALLY DENIED.

4) THE APPELLANTS CONSTITUTIONAL QUESTIONS RAISED WITHIN INITIAL BRIEF ETC WERE NOT ADDRESSED BY THE APPEALS COURT.

5) THE RESPONDENTS DID NOT PRESENT NO EVIDENCE THAT WITNESSES AND DOCUMENTARY EVIDENCE REQUESTED BY APPELLANT WAS HAZARDOUS TO THE SAFETY AND SECURITY OF THE INSTITUTION,

PRAYER FOR RELIEF

THE ABOVE NAMED APPELLANT HEREBY HUMBLLY PRAYS THAT PETITION FOR REHEARING BE GRANTED BY THE HONORABLE COURTS.

15/ Andrew Plummer

ANDREW PLUMMER
TYGER RIVER C.I.
SPECIAL MANAGEMENT UNIT
ROOM 5
200 PRISON RD
ENOREE SC 29335

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Andrew Plummer, Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2012-213475

Appeal From The Administrative Law Court
Shirley C. Robinson, Administrative Law Judge

Unpublished Opinion No. 2015-UP-004
Submitted November 1, 2014 – Filed January 7, 2015

AFFIRMED

Andrew Plummer, pro se.

Christopher D. Florian and Daniel John Crooks, III, of
the South Carolina Department of Corrections, of
Columbia, for Respondent.

PER CURIAM: Affirmed pursuant to Rule 220(b), SCACR, and the following
authorities: *Sanders v. S.C. Dep't of Corr.*, 379 S.C. 411, 417, 665 S.E.2d 231, 234
(Ct. App. 2008) ("In an appeal of the final decision of an administrative agency,
the standard of appellate review is whether the AL[C]'s findings are supported by

substantial evidence."); *id.* ("Although this court shall not substitute its judgment for that of the AL[C] as to findings of fact, we may reverse or modify decisions which are controlled by error of law or are clearly erroneous in view of the substantial evidence on the record as a whole."); *id.* ("In determining whether the AL[C]'s decision was supported by substantial evidence, this court need only find, considering the record as a whole, evidence from which reasonable minds could reach the same conclusion that the AL[C] reached."); *Al-Shabazz v. State*, 338 S.C. 354, 371, 527 S.E.2d 742, 751 (2000) ("[T]he [United States] Supreme Court held that due process in a prison disciplinary proceeding involving serious misconduct requires: (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 the inmate should be allowed to call witnesses and present documentary evidence, provided there is no undue hazard to institutional safety or correctional goals; (4) that counsel substitute (a fellow inmate or a prison employee) 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." (citing *Wolff v. McDonnell*, 418 U.S. 539, 563-72 (1974))).

AFFIRMED.¹

HUFF, SHORT, and KONDUROS, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
SHERLEY C. ROBINSON, ADMINISTRATIVE LAW JUDGE

ALC CASE NO. 2012-ALC-04-0377-AP

ANDREW PLUMMER

APPELLANT

S.C. DEPARTMENT OF CORRECTIONS

RESPONDENT

CERTIFICATE OF COUNSEL

I CERTIFY THAT ON TODAY'S DATE, I SERVED THE FOREGOING PETITION FOR REHEARING
BY DEPOSITING A COPY OF SAME IN INTRA-AGENCY MAIL ADDRESSED TO RESPONDENT AS
FOLLOWS:

CHRISTOPHER D. FLORIAN AND DANIEL JOHN CROOKS III
S.C. DEPARTMENT OF CORRECTIONS
P.O. BOX 21787
COLUMBIA SC. 29221

Andrew Plummer
ANDREW PLUMMER
TYGER RIVER C.I.
SPECIAL MANAGEMENT UNIT
Room 5
200 PRISON RD
ENOREE SC 29335

COLUMBIA S.C.

JANUARY 16, 2015

RECEIVED

JAN 26 2015

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM ADMINISTRATIVE LAW COURT
SHARLEY C. ROBINSON, JUDGE
CASE No. : 12-ALJ-04-0377-AP

ANDREW PLUMMER

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

PETITION FOR REHEARING

ANDREW PLUMMER
TYGER RIVER C.I.
SPECIAL MANAGEMENT UNIT
Room 5
200 PRISON RD
ENOREE SC 29335
APPELLANT ON RECORD

CHRISTOPHER D. FLORIAN AND
DANIEL JOHN CROOKS III
4444 BROAD RIVER ROAD
COLUMBIA SC 29221
RESPONDENT ON RECORD

RECEIVED

JAN 26 2015

SC Court of Appeals

Andrew Plummer 299 191

TYGER RIVER C.I.

SPECIAL MANAGEMENT UNIT

Room 5

200 PRISON Rd

ENOREE SC 29335

RECEIVED

JAN 20 2015

TYRCI
Mailroom

SCDC

FEB 01

MAIL ROOM

POSTAGE WILL BE PAID BY ADDRESSEE
FIRST CLASS PERMIT NO. 15
ENOREE SC



PITNEY BOWES

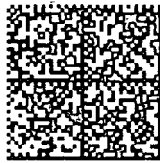
\$ 000.690

02 1P

0000835848

JAN 21 2015

MAILED FROM ZIP CODE 29335



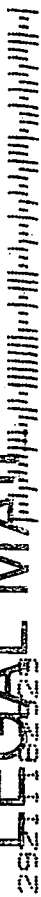
RECEIVED

JAN 26 2015

SC Court of Appeals

South Carolina Court of Appeals
Jenny Abbott Kitchings, Clerk
P.O. Box 11629
Columbia, S. C. 29211

LEGAL MAIL



THE DEPARTMENT OF CORRECTIONS HAS
NOT INSPECTED OR CENSORED THIS ITEM.
THEREFORE, THE DEPARTMENT DOES NOT ASSUME
RESPONSIBILITY FOR ITS CONTENT.
TYGER RIVER CORRECTIONAL INSTITUTION,
S.C.

THE DEPARTMENT OF CORRECTIONS HAS
NOT INSPECTED OR CENSORED THIS ITEM.
THEREFORE, THE DEPARTMENT DOES NOT ASSUME
RESPONSIBILITY FOR ITS CONTENT.
TYGER RIVER CORRECTIONAL INSTITUTION,
S.C.