

FILED

FEB 06 2015

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

SC ADMIN. LAW COURT

Heyward Rogers, 278510,)
)
Appellant,)
vs.)
)
South Carolina Department of Corrections,)
)
Respondent.)
_____)

Docket No.: 15-ALJ-04-0053-IJ
Grievance No.: PCI 0009-15

ORDER OF DISMISSAL

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FEB 24 2015

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 January 29, 2015, by Heyward Rogers (“Appellant”), an inmate incarcerated with the South Carolina Department of Corrections (“Department”). Appellant appeals the decision of the Department which determined that his grievance is non-grievable and must be resolved by the courts. In his grievance and appeal to this Court, Appellant argues that his prior conviction of Assault and Battery with Intent to Kill should not be considered a “violent” crime or “most serious” offense causing him to be sentenced to life without the eligibility of parole in subsequent convictions based upon the Ex Post Facto application of S.C. Code 16-1-60.

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).

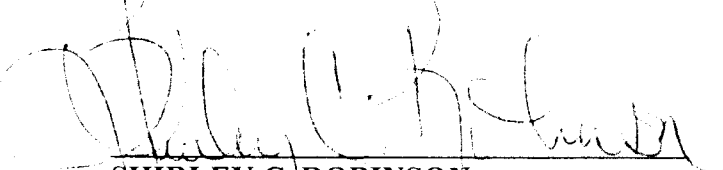
For the purpose of establishing jurisdiction, a state-created liberty or property interest exists when (1) an inmate is disciplined and punishment is imposed, or (2) when an inmate alleges prison officials have erroneously calculated his sentence, sentence-related credits, or

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").

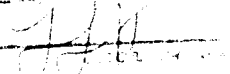
Here, Appellant argues that a South Carolina Circuit Court judge erred in sentencing him to life without the possibility of parole based upon Appellant's previous criminal history. This complaint does not arise from punishment administered for a disciplinary conviction, nor does it relate to the manner in which the Department calculated Appellant's sentence, sentence-related credits, or custody status. Simply put, Appellant is asking this Court to address a matter over which it has no jurisdiction. 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

February 10th, 2015
Columbia, South Carolina

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COLUMBIA, SOUTH CAROLINA
10 February 2015


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	Inmate number	Inmate first name	Inmate last name	Grievance No	Respondent	Filing date	Date Assigned	Judge last name
15C0053-1J	278510	HAYWARD	ROGERS	PCI 009-15	DOC	1/29/2015	2/5/2015	ROBINSON

FILED

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ADMIN. LAW COUP

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.