

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APR 10 2015

SC Court of Appeals

APPEAL FROM THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
BYAN STIRLING, DIRECTOR

SOUTH CAROLINA DEPARTMENT  
OF CORRECTIONS,

RESPONDENT.

V.

JOHN DYKEMAN, 245443,

APPELLANT

CASE # LCI 0164-13

INITIAL BRIEF OF APPELLANT

JOHN DYKEMAN 245443

PRO-SE

PO BOX 205 LCI CA-59

RIDGEVILLE, SC 29472

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# TABLE OF AUTHORITIES

## CASES

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RAMOS V. LAMM 639 F.2d 117, 121 (1980) \_\_\_\_\_ 4

## CONSTITUTIONAL AMENDMENTS

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## STATEMENT OF ISSUES ON APPEAL

### I

S.C.D.C. IS IN VIOLATION OF THE 8<sup>TH</sup> AMENDMENT TO THE U.S. CONST. AND THE SOUTH CAROLINA CONST. ARTICLE I, SEC 15 CRUEL AND UNUSUAL PUNISHMENT, DUE TO S.C.D.C. LOCKING I/MS CELL DOORS, THUS FORCING I/MS TO URINATE OR DEFECATE IN THE SHOWER STALLS OR ON THEMSELVES, DUE TO THE LOCKING OF CELL DOORS THIS ACTION DENIES I/MS READY ACCESS TO BATHROOM FACILITIES.

### II

BY ACCEPTING THIS PRACTICE BY PRISON OFFICIALS WHICH HAVE FULL KNOWLEDGE OF THESE UNSANITARY, DANGEROUS, AND UNSAFE HEALTH CONDITIONS, THEY ARE DELIBERATELY EXPOSING I/MS TO SERIOUS HEALTH HAZARDS.

### III

I/MS ARE DENIED READY ACCESS TO BATHROOM FACILITIES BASED ON PRISON OFFICIALS CLAIMS OF SECURITY CONCERNS QUOTE "THERE WILL BE NO OPEN ROOM OR DESIGNATED REST-ROOM FOR THE DORMS."

## STATEMENT OF THE CASE

THIS ACTION STARTED APPROX. 1YR. PRIOR TO MY FILING OF A STEP I GRIEVANCE ON 1-24-13, THE NATURE OF THIS ACTION CONCERNS THE DENIAL OF READY ACCESS TO BATH ROOM FACILITIES WHEN NEEDED, WHICH FORCES I/MS TO URINATE OR DEFECATE IN SHOWER STALLS, MOP ROOMS, OR ON THEMSELVES. THEREFORE FORCING I/MS TO SHOWER IN SHOWER STALLS THAT ARE CONTAMINATED WITH RAW HUMAN WASTE. THESE CONDITIONS EXPOSE I/MS NOT ONLY TO IMMEDIATE HEALTH RISK BUT FUTURE HEALTH RISK AS WELL. SOME I/MS HAVE DISEASES THAT TRANSFERABLE THROUGH BODY FLUIDS. THE PRISON OFFICIALS HAVE FULL KNOWLEDGE OF THESE UNCONSTITUTIONAL CONDITIONS.

BASED ON WARDENS DECISION AND REASONS THE STEP I GRIEVANCE WAS DENIED ON 2-11-13.

APPELLANT RECEIVED HIS COPY OF THE DECISION ON 2-14-13. WHERE HE PROMPTLY FILED A STEP II GRIEVANCE ON 2-14-13. BASED ON RESPONSIBLE OFFICIALS DECISION AND REASONS THE STEP II GRIEVANCE WAS DENIED 12-02-14. APPELLANT RECEIVED HIS COPY OF THIS DECISION ON 1-2-15. APPELLANT THEN FILED A NOTICE OF APPEAL WITH THE ADMINISTRATIVE LAW COURT ON 2-4-15. THE ALC DISMISSED THE APPEAL ON 2-26-15 CLAIMING THERE IS NO STATE CREATED LIBERTY INTEREST INVOLVED IN THIS ISSUE.

# ARGUMENT

## I

THE S.C.D.C. IS IN VIOLATION OF THE 8<sup>TH</sup> AMENDMENT TO THE U.S. CONST. AND THE SOUTH CAROLINA CONST. ARTICLE 1 SECTION 15, CRUEL AND UNUSUAL PUNISHMENT. DUE TO S.C.D.C. LOCKING I/MS CELL DOORS, THUS FORCING I/MS TO URINATE AND DEFACATE IN THE SHOWER STALLS OR ON THEMSELVES, DUE TO THE LOCKING OF CELL DOORS THIS ACTION DENIES I/MS READY ACCESS TO BATH ROOM FACILITIES.

THE U.S. SUPREME COURT WILL CONSIDER THE CONSTITUTIONAL STANDARD TO BE APPLIED TO THE 8<sup>TH</sup> AMENDMENT.

### A. THE CONSTITUTIONAL STANDARD

"THE SUPREME COURT HAS NOT WAIVED IN ITS HOLDING THAT THE 8<sup>TH</sup> AMENDMENT... IS, INTER ALIA, INTENDED TO PROTECT AND SAFEGUARD A PRISON INMATE FROM ENVIRONMENTS WHERE DEGENERATION IS PROBABLE AND SELF IMPROVEMENT UNLIKELY [SUCH AS THIS INSTANT CASE] BECAUSE OF THE CONDITIONS EXISTING WHICH INFLICT NEEDLESS SUFFERING WHETHER PHYSICAL OR MENTAL."

THE U.S. SUPREME <sup>COURT</sup> HELD "THAT WHILE AN I/MS DOES NOT HAVE A FEDERAL CONSTITUTIONAL RIGHT TO REHABILITATION, HE IS ENTITLED TO BE CONFINED IN AN ENVIRONMENT WHICH DOES NOT RESULT IN HIS DEGENERATION WHICH THREATENS HIS MENTAL AND PHYSICAL WELL BEING."

SEE BATTLE V ANDERSON 564 F.2d 388, 401-03 (10<sup>TH</sup> CIR)

## II

BY ACCEPTING THIS PRACTICE BY PRISON OFFICIALS WHICH HAVE FULL KNOWLEDGE OF THESE UNSANITARY, DANGEROUS AND UNSAFE HEALTH CONDITIONS, THEY ARE DELIBERATELY EXPOSING I/M'S TO SERIOUS HEALTH HAZARDS.

SEE HUTTO V. FINNEY 457 U.S. 678 (1978). APPELLANT CLAIMS IN THIS INSTANT CASE THAT THE CONDITIONS SUCCESSFULLY CHALLENGED IN HUTTO "MIRROR" THE CONDITIONS OF LIFE AT LIEBER CORR. INST. THE CONDITIONS CHALLENGED IN HUTTO WERE DESCRIBED BY THE COURT AS OFFERING NO PRECAUTIONS TO PREVENT THE SPREAD OF INFECTIOUS DISEASES, WHICH COULD IN THIS INSTANT CASE HAVE PROBABLY INFECTED SOME OF THE I/M'S WHICH HAVE HAD TO SHOWER IN STALLS THAT ARE CONTAMINATED WITH RAW HUMAN WASTE.

ALSO INADEQUATE VENTILATION, ESPECIALLY IN THE CELLS AND SHOWER AREAS, RESULTS IN EXCESSIVE ODORS, HEAT, AND HUMIDITY WITH THE EFFECT OF CREATING STAGNANT AIR AS WELL AS EXCESSIVE MOLD AND FUNGUS GROWTH. THEREBY FACILITATING PERSONAL DISCOMFORT ALONG WITH HEALTH AND SANITATION PROBLEMS. SEE, RAMOS V. LAMM 639 F.2d. AT 569 (1980).

ALSO SEE STEP-1 AND STEP-2 GRIEVANCES WHICH CLEARLY SHOWS THAT THE ADMINISTRATION (PRISON OFFICIALS) HERE AT LIEBER CORR. INST. AS WELL AS GRIEVANCE COORDINATOR AT HEADQUARTERS IN COLUMBIA, HAVE BEEN PROPERLY NOTIFIED THROUGH PROPER ADMINISTRATIVE CHANNELS.

### III

I/M'S ARE BEING DENIED READY ACCESS TO BATHROOM FACILITIES BASED ON PRISON OFFICIALS CLAIMS OF SECURITY CONCERNS "THERE WILL BE NO OPEN ROOM OR DESIGNATED RESTROOM FOR THE DORM."

THERE IS NO PENOLOGICAL INTEREST IN DENYING I/M'S READY ACCESS TO THEIR CELLS IN ORDER TO USE THE BATHROOM OR STORE GOODS PURCHASED FROM THE CANTEN. AS IT IS NOW WHEN AN I/M RETURNS TO THE UNIT FROM CANTEN HE HAS TO WAIT OUTSIDE HIS CELL DOOR WITH APPROX. \$125.00 WORTH OF GOODS. FURTHERMORE, IF A UNIT OFFICER JUST MADE AROUND AND I/M JUST RETURNS, I/M HAS TO WAIT OUTSIDE HIS CELL UNTIL SAID OFFICER DOES ANOTHER ROUND. DURING THIS TIME IF THE I/M HAS TO USE THE BATHROOM HE MUST EITHER, (1) HOLD IT, (2) GO ON HIMSELF, (3) USE THE SHOWERS OR MOP CLOSET, NONE OF WHICH ARE ACCEPTABLE CHOICES FROM SOCIETY'S POINT-OF-VIEW.

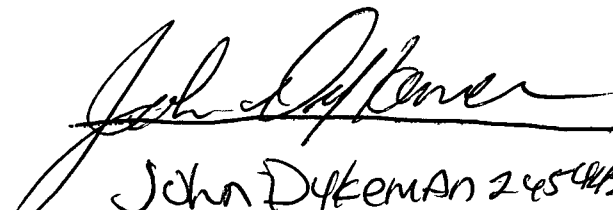
PRISON OFFICIALS CLAIM SECURITY CONCERNS ON BOTH STEP-1 AND STEP-2 GRIEVANCES, OFFICIAL RESPONSE. THIS BEING THE CASE THEN HOW CAN PRISON OFFICIALS JUSTIFY BASED ON FACTS, THAT THERE IS ONE UNIT HERE AT HERBIE COOK INST., THAT THE CELL DOORS ARE NOT LOCKED AND I/M'S HAVE READY ACCESS TO THE BATHROOM FACILITIES AND READY ACCESS IN WHICH TO STORE GOODS PURCHASED FROM THE CANTEN. PRISON OFFICIALS CANNOT CLAIM THAT THESE I/M'S ARE OF DIFFERENT CLASSIFICATION. SINCE THE MAJORITY OF I/M'S AT THIS INSTITUTION ARE MI-3.

Conclusion

APPELLANT ASKS THIS HONORABLE COURT TO GRANT INJUNCTIVE RELIEF IN THE FORM OF A CEASE AND DESIST ORDER TO HAVE CELL DOORS RETURNED TO THEIR ORIGINAL FUNCTION WITH KEYS AND DOOR KNOBS.

ALSO FOR THE UNSANITARY AND UNSAFE LIVING CONDITIONS TO BE RULED UNCONSTITUTIONAL AND A VIOLATION OF HUMAN DIGNITY.

4-6-15  
DATE

  
John Dykeman 245445  
PO Box 205 Let CA-89  
Ripleyville, SC 29472

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM THE SOUTH CAROLINA DEPARTMENT OF CORRS.  
BRYAN STALING - DIRECTOR  
CASE # LCI - 0164 - 13

JOHN DYKEMAN #245443

APPELLANT

YA 2015-000509

V

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OF CORRECTIONS

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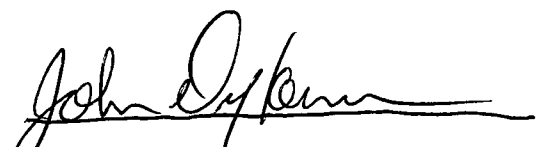
PROOF OF SERVICE

I CERTIFY THAT I HAVE SERVED THE INITIAL BRIEF  
BY DEPOSITING A COPY IN THE U.S. MAIL, POSTAGE PREPAID  
ON APRIL 6 2015 ADDRESSED AS FOLLOWS:

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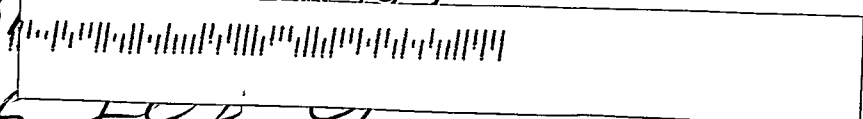
ADMIN. LAW COURT  
EDGAR A. BROWN BUILDING  
1205 PENNINGTON ST. SUITE 224  
COLUMBIA, S.C. 29201

S.C. COURT OF APPEALS  
P.O. BOX 11629  
COLUMBIA, S.C. 29211

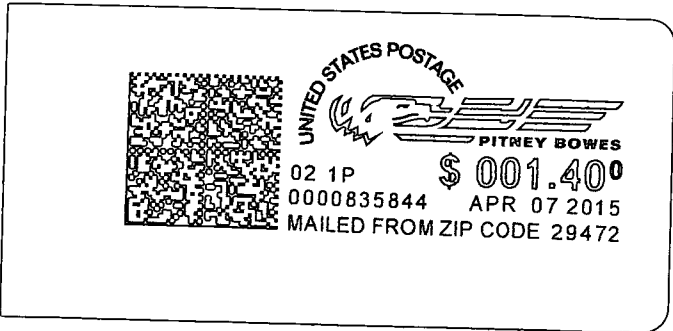
  
JOHN DYKEMAN #245443  
PRO-SE

4-6-15  
DATE

John D. Liebner



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MA. JUM  
LIEBER C.L.

FOR LEGAL

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