

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Shirley C. Robinson, *Administrative Law Judge*

ALC Case No. 2014-ALJ-04-0376-AP

Stephen Beckman.....Appellant,

v.

S. C. Department of Corrections.....Respondent.

FINAL BRIEF OF RESPONDENT

April 9, 2015

SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS

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TABLE OF CONTENTS

TABLE OF AUTHORITIES11

STATEMENT OF THE ISSUE ON APPEAL1

STATEMENT OF THE CASE2

STANDARD OF REVIEW2

ARGUMENT3

**THE ADMINISTRATIVE LAW COURT PROPERLY DISMISSED
APPELLANT’S CASE ON JURISDICTIONAL GROUNDS.....3**

CONCLUSION.....5

CERTIFICATE OF COUNSEL.....6

CERTIFICATE OF SERVICE.....7

TABLE OF AUTHORITIES

I. STATUTES

S.C. Code § 1-23-380(D).3

S.C. Code § 1-23-610(B)3

S.C Code § 17-1-40(A)(1).....4

II. CASES

Slezak v. S.C. Dep't of Corr., 361 S.C. 327, 605 S.E.2d 506 (2004).....3, 4

Compton v. S.C Dep't of Corr., 392 S.C. 361, 709 S.E.2d 639 (2011).....4, 5

STATEMENT OF THE ISSUE ON APPEAL

**WHETHER THE ADMINISTRATIVE LAW COURT PROPERLY
DISMISSED APPELLANT'S CASE ON JURISDICTIONAL GROUNDS.**

STATEMENT OF THE CASE

This matter comes before the Honorable Court pursuant to the appeal of Stephen A. Beckham, number 236548 (Appellant), an inmate in the custody of the Department of Corrections (Department). Appellant's sole contention on appeal is that the Administrative Law Court (ALC) improperly dismissed his case instead of reaching the merits of his claims Br. of Appellant, at 1.

As an initial matter, Respondent notes that it did not contest the ALC's jurisdiction to decide the merits of Appellant's claims. In addition, Respondent agrees with Appellant's articulation of the statement of the case. Moreover, because the only issue on appeal is whether the ALC properly dismissed Appellant's case on jurisdictional grounds, Respondent will accordingly address only the jurisdictional issue, since a ruling by this Court in Appellant's favor likely will cause the case to be remanded so that the ALC can address the merits of Appellant's and Respondent's arguments. To the extent this Court wishes to address the merits of the arguments raised below, Respondent requests additional time to properly brief those arguments.

STANDARD OF REVIEW

S.C. Code Ann. § 1-23-610(B) provides the applicable standard of review:

The review of the administrative law judge's order must be confined to the record. The reviewing tribunal may affirm the decision or remand the case for further proceedings; or it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code Ann. § 1-23-380(5).

In an appeal of a final decision of an administrative agency, the standard of appellate review is whether the ALC's findings are supported by substantial evidence. S.C. Code Ann. § 1-23-610(B). A reviewing court shall not substitute its own judgment for that of the ALC as to findings of fact, but it may reverse or modify decisions that are controlled by errors of law or that are clearly erroneous in view of the substantial evidence on the record as a whole. *Id*

ARGUMENT

THE ADMINISTRATIVE LAW COURT PROPERLY DISMISSED APPELLANT'S CASE ON JURISDICTIONAL GROUNDS

Although it did not raise the issue below, Respondent agrees that the nature of the claim Appellant raised below does not sufficiently implicate a state-created liberty or property interest under applicable case law; accordingly, the ALC did not err by dismissing the case. *See Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 331, 605 S.E.2d

506, 508 (2004) (“While the ALJD has jurisdiction over all inmate grievance appeals that have been properly filed, we emphasize that the Division is not required to hold a hearing in every matter. Summary dismissal may be appropriate where the inmate’s grievance does not implicate a state-created liberty or property interest.”). Instead, as the ALC correctly concludes, the case below involves one in which “Appellant loosely contends in his brief that the record of his internal conviction [at the Department] *could* negatively impact future DPPPS[] decisions regarding parole.” (*R.* at 3) (emphasis added). What the record below did not show was that “Appellant was actually denied parole because of his conviction for aiding and abetting escape.” (*Id.*).

The onus remains on the Appellant to show how, under the facts presented by this case, his claims implicate a state-created liberty or property interest under applicable law. Unfortunately, Appellant’s brief fails to explain to this Court how the Department’s good-faith interpretation of *Compton v. S.C. Department of Corrections* infringed on an existing state-created liberty or property interest belonging to Appellant. In fact, Appellant’s only argument in support of his claim that, contrary to the ALC’s order of dismissal, his claim *does* implicate a state-created liberty or property interest is contained in a conclusory, one-sentence explanation found on page eight of his brief and which reads: “This statutory provision [referring to S.C. Code § 17-1-40(A)(1)] creates a liberty interest in the destruction of the records involved in this appeal.”

But Appellant does not expound on that one sentence, nor does he articulate precisely why the ALC's reasoning is legally flawed. Instead, Appellant conflates the jurisdictional issue (which is the sole issue on appeal, according to Appellant) with the underlying merits of the arguments raised below, including his contention that the Department's interpretation of *Compton, supra*, is arbitrary and capricious. On the jurisdictional issue, the ALC did not err. Therefore, Respondent respectfully requests that the Court affirm the ALC's dismissal of the case below.

CONCLUSION

For the foregoing reasons, the Court should affirm the ALC's decision below.

Respectfully submitted,



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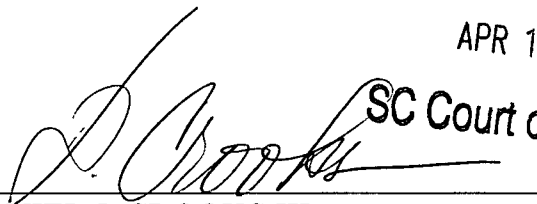
CERTIFICATE OF COUNSEL

I, the undersigned, certify that to the best of my ability, this Final Brief of the Department complies with Rule 211(b), SCACR and the April 15, 2014 Order from this Court entitled “Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings.”

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CERTIFICATE OF SERVICE

I, the undersigned, certify that on today's date I mailed a copy of the foregoing *Final Brief of Respondent* to counsel for Appellant, addressed as follows: E. Charles Grose, Jr., Esquire, 404 Main Street, Greenwood, S. C. 29646.

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