

The State of South Carolina  
In The Court of Appeals  
Appeal From Greenville County  
Court of Common Pleas

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MAY 22 2015

Letitia H. Verdin Circuit Court Judge SC Court of Appeals

Case No. 2015-000978

Benjamin Heyward #165514... Appellant

v.

South Carolina Dept of Corrections... Respondent

Reply Brief

Benjamin Heyward #165514

Lieber Corr Inst

P.O. Box 205

Ridgeville, SC 29472

Pro-se Appellant

Doyle, Tate, & McDade, P.A.

MR. J. Victor McDade

P.O. Box 2125

Anderson, SC 29622

Attorney for Respondent/SCDC

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## Background

Appellant is an state prisoner with the South Carolina Department of Corrections.

Appellant Filed An South Carolina Tort Claim Act pursuant to 15-78-10 et seq upon the basis of gross negligence, and the tort of being placed on control cell "Naked" for 94 hours.

### Standard of Appeals

This court must on appeal consider the evidence and all reasonable inferences which can be drawn therefrom in the light most favorable of the non-moving party.

### Statement of Facts

while at Perry Correctional Institution on March 21, 2013, appellant was placed in the special management unit "Naked" on control cell status for 94 hours in a cold cell. Three days of appellant lying "Naked" on a metal framed bed his back started hurting. Appellant back hurted for nine weeks. Appellant suffered emotional distress; worry, nervousness, headaches, An head cold, and loss of sleep. Per SCDC policy 8P-22.12 special management units 29.2: The only items that the inmate will be allowed to have in the control cell will be: one (2) pair of underwear and one (1) security blanket. Per SCDC policy the warden, duty warden, or major may place an inmate in a control cell up to 72 hours. See Exhibit-A. warden Larry Cartledge admitted in appellant step one grievance that appellant will be "Naked" when placed on control cell. See Exhibit-B.

When An inmate is placed in the special management unit he is only allowed to have one spork, one Bible, one Cup, one Footwear, two Sheets, two pair of Socks, one Towel, two pair of Boxers, one washcloth, and one blanket. See Exhibit - C, the date Appellant was placed in control cell 3-21-13, the date Appellant property was taken 3-21-13, and the date appellant received his property back 3-25-13. Appellant was assaulted on his way to the Special management unit on 3-21-13. He endured neck pain, left shoulder pain, and left Arm pain. Appellant Filed An motion for leave to file An Amended Complaint adding the assault and it was denied.

### Conclusion

Based on the foregoing statements of fact, and material facts, appellant respectfully requests this court to reverse the Circuit Court's decision.

Date May 19, 2015

By: Benjamin Heyward  
Benjamin Heyward #165514  
Lieber Cor Inst  
P.O. Box 205  
Ridgerville SC 29472

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
 )  
COUNTY OF GREENVILLE )

Exhibit - A

Benjamin Heyward, #165514, )

Plaintiff, )

vs. )

Mr. Larry Cartledge, Warden; )  
Mr. Williams, Captain; Mr. Church, Lt; )  
and South Carolina Department of )  
Corrections, )

Defendants. )

DEFENDANT CARTLEDGE'S RESPONSE TO  
PLAINTIFF'S INTERROGATORIES TO MR.  
LARRY CARTLEDGE (WARDEN)

2014-CP-23-04985

- \* 1. State the items that an inmate is allowed to have in a control cell.

**Response: Per SCDC Policy OP-22.12 SPECIAL MANAGEMENT UNIT, 29.2: The only items that the inmate will be allowed to have in the control cell will be: one (1) pair of underwear and one (1) security blanket.**

- \* 2. Is it true pursuant to SCDC policy that the Warden, Duty Warden, and Major may place an inmate in a control cell up to 72 hours.


**Response: Yes.**

3. State the reason why Plaintiff does not have permission to view the video as he was being handcuffed by Lt. Peay and Captain Williams by the mailroom window in the present of other inmates.

**Response: The Use of Force Report states that the force was spontaneous because "Inmate Heyward displayed resistance and non-compliance while Capt. Williams was placing restraints on him," so there was no time to get the Use of Force camera to take video.**

DOYLE, TATE & MCDADE, P.A.

By:

  
\_\_\_\_\_  
J. Victor McDade  
Attorney for the Defendants  
Post Office Box 2125  
Anderson, SC 29622  
(864) 224-7111

Dated: 3/25, 2015

Warden Cartledge Response

WARDEN'S DECISION AND REASON:

Exhibit - B

Inmate Heyward, Benjamin 165514

In regards to PCI 0743-13. All pertinent information has been review.

Your complaint has been investigated and found that you were placed on Control Cell on 03/21/13 due to an 854 charge you received and the fact that you resisted when Officers were cuffing you up. When on CC it is true you will be naked however toilet tissue is issued on an as needed basis and you were not denied tissue. If you were not issued your property at exactly 72 hours after your placement that is unfortunate however, your poor behavior placed you on that status. Therefore your grievance is without merit and denied. If you do not agree with this decision, see Step 5.

*[Signature]*  
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.

*[Signature]* 03 2013  
Grievant Signature Date

*[Signature]* JUN 18 2013  
ICG Signature Date

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM

1. An informal resolution shall be attempted prior to the filing of Step 1.
2. Complete each section in its entirety, writing only in the space provided for inmate use.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form to the Institutional Grievance Coordinator within fifteen (15) days of an alleged incident; policy grievances at any time. Do not write in the space provided for the Warden's response.

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 via the Institutional Grievance Coordinator.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
INMATE GRIEVANCE FORM

STEP 1

INMATE NAME: Benjamin Heyward  
SCDC NUMBER: 165514  
INSTITUTION: Perry Inst  
HOUSING UNIT: DX-7  
WORK ASSIGNMENT: \_\_\_\_\_

Office Use Only  
Grievance No. PCI-0743-13  
Code: General IP-15  
Policy \_\_\_\_\_  
Disc. Hear. \_\_\_\_\_  
Class. \_\_\_\_\_  
Date Received MAR 26 2013  
IGC Initials ats

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

I came here to lock up on 3-21-13 and I was put on cell control for hours, my 72 hours ended on 3-24-13 at 2:00 clock, LT. Church F to give me my property. I came off cell control on 3-25-13 at 12:00 clock, which was 94 hours, of being naked and without tissue, and a blanket.

ACTION REQUESTED:

3 working days off without pay for LT. Church,

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

I told cpt. Miller on 3-25-13 and that's when I got my property around 12 P.M.

Benjamin Heyward 3-25-13  
Grievant Signature Date

ACTION TAKEN BY IGC:

See Warden's Response

[Signature]  
IGC Signature

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
INMATE PROPERTY INVENTORY**

*Exhibit - C*

Seal Number 170138

3/21/13

PCI

Date

Institution/Center

165514

Heyward, Benjamin

SCDC Number

Name (Last)

(First)

(Middle I.)

**Purpose of Inventory (Check One)**

- Arrival at R&E Center
- Property taken prior to institutional transfer
- Other (explain) N/A Placed on C.C.
- Prior to being placed in lockup
- Directed by the Warden/Designee

**Other Property**

- Drivers License# and State \_\_\_\_\_
- Social Security Card \_\_\_\_\_
- Medical Card(s) (list) \_\_\_\_\_
- Credit Card(s) \_\_\_\_\_
- Others (list) \_\_\_\_\_

CONFISCATED CONTRABAND ITEMS (List each) N/A

**PERSONAL/CANTEEN ITEMS (LIST ALL AVAILABLE INFORMATION)**

QUANTITY	CONDITION	MAKE	MODEL	COLOR	SERIAL NUMBER
Television (1)					
Radio (1)					
Typewriter (1)					
Fan (1)					
Ice Chest (1)					
Lamp (1)					
Curling Iron (1)					
Clock (1)					
Electric Shaver (1)					
Coffee Pot (1)					
Hair Dryer (1)					
Single Outlet Dropcord (1)					

**OTHER PROPERTY (LIST QUANTITY OF EACH)**

- |   |   |                                 |
|---|---|---------------------------------|
| <u>/</u> Bathrobe* (1)                    | <u>/</u> Maternity** (4)                      | <u>/</u> Shorts (athletic) (1)  |
| <u>/</u> Spork (3)                        | <u>/</u> Mesh bag (1)                         | <u>/</u> Skirts** (1)           |
| <u>/</u> Books/Magazines/Bible/Koran (10) | <u>/</u> Necklace (1 religious)               | <u>2</u> Socks (white only) (7) |
| <u>/</u> Bras** (7)                       | <u>/</u> Nightshirts** (2)                    | <u>/</u> Sunglasses (1)         |
| <u>/</u> Brush (plastic or rubber) (1)    | <u>/</u> Pants (state issue and personal) (4) | <u>/</u> Thermal underwear (3)  |
| <u>/</u> Cap (1)                          | <u>/</u> Pantyhose**/knee-hi's** (up to 7)    | <u>/</u> Toboggan Hat (1)       |
| <u>/</u> Comb (plastic) (1)               | <u>/</u> Personal Hygiene items               | <u>/</u> Towels (3)             |

5,

Exhibit-D

MDCI880D  
OMINMDCA

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
SCDC HEALTH SERVICES: MEDICAL SUMMARY

08/06/14  
C055948

SCDC# 165514      HEYWARD, BENJAMIN -

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\*\* ENCOUNTER:      260 SICK CALL                      03/28/13    14:56    PERRY                      COMP  
S> I/M C/O SMALL AMOUNT OF BLOOD IN HIS STOOL AND WHEN WIPING AFTER BOWEL MOVEMENT SINCE SATURDAY. I/M STATES HE HAS A HISTORY OF HEMORRHOIDS. I/M ALSO C/O "KNOT" TO LEFT SIDE HEAD, NECK PAIN, LEFT SIDE PAIN, AND LOWER BACK PAIN SINCE USE OF FORCE ON THURSDAY. DENIES DRUG ALLERGIES.

O> TEMP=098.0    PULSE= 78    RESP=18    BP=164/ 82    WEIGHT=149    O2 SAT= 0  
NAD NOTED.    GAIT STEADY.    POSTURE WNL.    NO GUARDING OR FACIAL GRIMACING NOTED.    SKIN WARM AND DRY.    I/M ABLE TO GET UP AND DOWN FROM EXAM TABLE WITHOUT DIFFICULTY.    ABD SOFT AND NON-DISTENDED.    BOWEL SOUNDS ACTIVE X 4.    I/M DENIES CONSTIPATION AND HARD STOOL.    I/M DENIES CHANGE IN BOWEL HABITS.    NO EXTERNAL HEMORRHOIDS VISUALIZED DUE TO RESTRAINTS.    NO BLOOD NOTED ON UNIFORM.    NO NODULE OR MASS NOTED TO LEFT SIDE OF SKULL.    NO ABRASIONS OR LACERATIONS NOTED.    FULL ROM OF NECK.    NO BONEY DEFORMITY OR MUSCLE SPASMS PALPABLE.    I/M ABLE TO BEND AT WAIST WITHOUT DIFFICULTY.    NO PALPABLE MUSCLE SPASMS TO LOWER BACK.    NO BONEY DEFORMITY NOTED.    NO BRUISING OR REDNESS NOTED TO ANY AREA CONCERNING C/O.    LEFT SIDE OF SKULL, NECK, LOW BACK, AND LEFT SIDE ARE NON-TENDER TO PALPATION.    I/M VOICES NO C/O PAIN WHEN AREAS PHYSICALLY EXAMINED.

A> HEMMORRIDS  
MUSCULOSKELETAL DISCOMFORT

P> 1. SEE S.O. #44.  
2. ANUSOL CREAM APPLIED BID X 7 DAYS.  
3. COLACE 100MG. BID PO DAILY X 7 DAYS.  
4. RECOMMEND ADEQUATE HYDRATION WITH PO INTAKE WITH CONSIDERATION TO POSSIBLE CHRONIC MEDICAL ISSUES SUCH AS CHF.

1. SEE S.O. #27.
2. ACETAMINOPHEN 325MG 1 TABLET PO Q8H X 3 DAYS AND IBUPROFEN 400 MG 1 TABLET P.O. Q6H X 3 DAYS. GIVE FROM STANDING ORDER PACKS. DO NOT GIVE TYLENOL TO INMATES WITH HISTORY OF HEPATITIS C. DO NOT GIVE IBUPROFEN TO INMATES WITH HISTORY OF RENAL DISEASE. DOCUMENT MEDICATIONS GIVEN IN AMR.
3. FOR LOWER BACK DISCOMFORT, USE A ROLLED TOWEL UNDER LOW BACK X 5 DAYS.
4. WILLIAM FLEXION EXERCISE (SCDC FORM 24-146) FOR CHRONIC LOW BACK PAIN.
5. RESTRICT STRENUOUS ACTIVITIES OR REST THE INVOLVED AREA.
6. INSTRUCT INMATE TO APPLY HEAT (BY SHOWER, MOIST COMPRESSES OR HOT WATER SOAKS) TO THE INVOLVED AREA QID X 3 DAYS
7. MAY ISSUE 48-72 HOUR NO WORK PASS AS NEEDED. IF AFTER 72 HOURS AND FURTHER EXCUSE IS REQUIRED, NOTIFY MD FOR ORDERS.

I/M INSTRUCTED TO USE CREAM AS NEEDED, INCREASE FLUIDS, AND NOTIFY MEDICAL IF NO IMPROVEMENT OR SYMPTOMS WORSEN. I/M INSTRUCTED TO GET PLENTY OF REST AND AVOID STRENUOUS ACTIVITY UNTIL NECK, BACK, AND SIDE PAIN IMPROVES. I/M VOICED UNDERSTANDING. ANUSOL CREAM, COLACE PILL PACK, AND IBUPROFEN PILL PACK WILL BE ISSUED AT HS PILL LINE. WILL ROUTE TO MD/FNP FOR FURTHER REVIEW AND ORDERS.

SIGNED OFF ON 03/28/13 @ 15:30 BY KATHERINE WATSON BURGESS, REGISTERED NURSE  
RX WRITTEN.

SIGNED OFF ON 03/29/13 @ 6:54 BY AMY R ENLOE, NURSE PRACTITIONER III

\*\* ENCOUNTER:      259 FOLLOW-UP SICK CALL      03/27/13    9:49    PERRY                      COMP  
LATE ENTRY FOR 3/26. SIGNED UP FOR SICK CALL FOR ACHES AND PAINS AFTER A US

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Certificate of Service

I Benjamin Heyward, do Certify that I have served the Appellant's Reply Brief, Exhibits, and proof of service on the Respondent by mailing a copy of the same by United States Mail, postage prepaid, to the following address:

cc: DOYLE DAZE, c/o McDade P.A.  
J. Victor McDade  
P.O. Box 2125  
Anderson, SC 29622

~~Benjamin Heyward~~  
Benjamin Heyward #165574  
Lieber Cor 21st  
P.O. Box 285  
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Date: May 19, 2015