

MAY 18 2015

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

SC ADMIN. LAW COURT

Shawn J. Burris, 191562, )  
 )  
 Appellant, )  
 vs. )  
 )  
 South Carolina Department of Corrections, )  
 )  
 Respondent. )  
 )  
 \_\_\_\_\_ )

Docket No.: 14-ALJ-04-0796-AP  
Grievance No.: TCI 0591-13

ORDER  
**RECEIVED**

JUN 22 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 September 16, 2014, by Shawn J. Burris (“Appellant”), an inmate incarcerated with the South Carolina Department of Corrections (“Department”). Appellant appeals the Department’s decision convicting him of Trafficking, Use, and/or Possession of Narcotics, Marijuana, or Unauthorized Drugs, including prescription drugs, or Inhalants. As a result of the conviction, Appellant received sanctions that included the loss of ninety (90) days of accrued good time. In this appeal, Appellant asserts he did not receive due process and the Department failed to prove the essential elements of the offense.

Because a state-created liberty interest is involved in this case, it is necessary to determine if Appellant received the due process to which he was entitled. A prison official’s failure to follow the prison’s own policies, procedures or regulations does not constitute a violation of due process, if constitutional minima are nevertheless met. Weatherholt v. Bradley, 316 Fed. Appx. 300, 303 (4th Cir. 2009) (citing Myers v. Klevenhagen, 97 F.3d 91, 94 (5th Cir. 1996)). Therefore, the only issue is whether the Department met the minimum constitutional requirements for procedural due process in this matter where an inmate was disciplined for serious misconduct. Al-Shabazz v. State, 338 S.C. 354, 369, 527 S.E.2d 742, 750 (2000). Minimum due process requirements must be balanced against the need to maintain an orderly and safe prison environment. Id. To that end, the South Carolina Supreme Court has enunciated the following five requirements which, if established, will ensure procedural due process in inmate disciplinary matters:

- (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 the disciplinary action;
- (3) that the inmate should be allowed to call witnesses and present documentary evidence;
- (4) that

counsel substitute . . . 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.

Al-Shabazz, 527 S.E.2d at 751 (citing Wolff v. McDonnell, 418 U.S. 539, 563-72 (1974)).

Further, when reviewing the Department's decisions in inmate grievance matters, the Court sits in an appellate capacity. Consequently, the review in inmate grievance cases is limited to the record presented. An Administrative Law Judge may not substitute their judgment for that of an agency "as to the weight of the evidence on questions of fact." S.C. Code Ann. § 1-23-380(5).

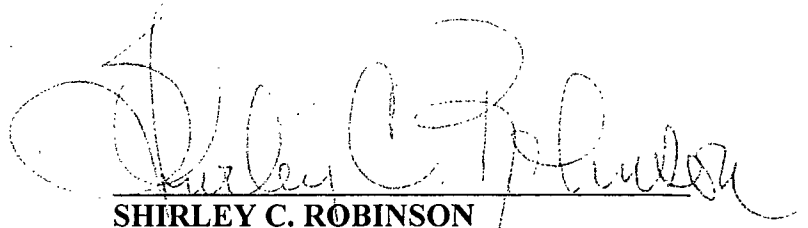
In this matter, Appellant argues he was wrongly convicted of Trafficking, Use, and/or Possession of Narcotics, Marijuana, or Unauthorized Drugs, including prescription drugs, or Inhalants because he did not receive due process and the Department failed to prove the essential elements of the offense. Specifically, Appellant alleges the Department's Hearing Officer was biased and the Department failed to prove the white powdery substance it found was, indeed, a narcotic or other unauthorized drug. Applying the five due process requirements to the Record in this case, the Court finds the following:


Appellant was given notice of the charge on August 22, 2013, and the disciplinary hearing in the matter took place on September 3, 2013, more than twenty-four hours later. The Record reveals Appellant was represented by Counsel Substitute at the disciplinary hearing. Appellant, his accuser, and a witness testified at the hearing. The Disciplinary Report and Hearing Record shows the Hearing Officer's determination of Appellant's guilt was based upon the Incident Report. The sanctions imposed were based upon the Hearing Officer's finding that this was Appellant's first offense of this nature. Finally, there is nothing in the Record indicating the hearing officer was otherwise than neutral or detached. Thus, Appellant has been afforded the minimum due process required in prison disciplinary proceedings under Wolff. 418 U.S. at 563-72.

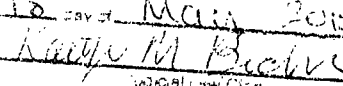
Where an inmate has received the minimal due process required in an inmate disciplinary matter, no further inquiry is needed and the decision of the hearing officer should be affirmed unless the decision is arbitrary, capricious or based on personal bias or prejudice, none of which is evident in the Record before me now. In the case at hand, the Court will not substitute its judgment for that of the agency because there is substantial evidence to support the conviction which is clearly not arbitrary, capricious, or affected by any personal bias or prejudice.

Based upon the foregoing, the decision of the Department is **AFFIRMED**.

AND IT IS SO ORDERED.

  
**SHIRLEY C. ROBINSON**  
Administrative Law Judge

  
May 18, 2015  
Columbia, South Carolina

**CERTIFICATE OF SERVICE**  
I certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, or in the emergency mail service addressed to the party(ies) or their attorney(s).  
The 18 day of May 2015  
By:   
Kaitlyn M. Beebe  
Local Law Clerk