STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Exhibit

Tyrone Roberson, #191327, Appellant, v. South Carolina Department of Corrections, Respondent.	)	Docket No.: 15-ALJ-04-0256-AP RESPONDENT'S BRIEF AND MOTION TO DISMISS Honorable John D. McLeod

STATEMENT OF FACTS

This matter is before the Administrative Law Court ("ALC") pursuant to the appeal of Tyrone Roberson ("appellant"), an inmate incarcerated with the South Carolina Department of Corrections ("SCDC"). Appellant filed a Step One Grievance on February 22, 2015, requesting his custody status be changed from Security Detention. This grievance was investigated and denied. Appellant filed a Step Two Grievance on March 5, 2015. This grievance was also investigated and denied. In his Notice of Appeal, Appellant states he was unjustifiably being held in Security Detention.

ARGUMENT

THE ADMINISTRATIVE LAW COURT SHOULD DISMISS THIS CASE UNDER SLEZAK V. S.C. DEP'T OF CORRECTIONS, 361 S.C. 327, 605 S.E.2D 506 (2004), SKIPPER V. S.C. DEP'T OF CORRECTIONS, 370 S.C. 267; 633 S.E.2D 910 (CT. APP. 2006), AND SLEZAK V. EVATT, 21 F.3d 590 (4TH CIR. 1994).

The ALC's jurisdiction to hear this matter is derived from the decision of the South Carolina Supreme Court in Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). Subsequently, the Supreme Court clarified the ALC's appellate jurisdiction over inmate appeals in Slezak v. SCDC, 361 S.C. 327, 605 S.E.2D 506 (2004). The Supreme Court held that, although the ALC had jurisdiction over all properly perfected inmate

EX 4/16/17

appeals, the ALC may summarily decide those appeals that do not implicate an inmate's state-created liberty or property interest. SCDC reads Slezak as encouraging, for the sake of judicial economy, the ALC to dismiss summarily inmate cases that do not involve a state created liberty or property interest.

Recently, the South Carolina Court of Appeals interpreted Slezak to mean that where a state created liberty interest is not implicated in a prisoner appeal, the "ALJ should" dismiss the appeal. Skipper v. SCDC, 370 S.C. 267; 633 S.E.2d 910 (Ct. App. 2006).

In Slezak v. Evatt, 21 F.3d 590 (4th Cir. 1994), the Fourth Circuit Court of Appeals addressed the issue of an inmate's constitutional interest in his classification level. Slezak brought suit claiming SCDC subjected him to "punitive, high security" classification without notice or hearing. The Slezak court ruled, "The logical first question in assessing such a claim is, therefore, whether the inmate has a protectible liberty interest in the classification he seeks either to retain (against a "demotion") or to receive (by a "promotion"). . . . The federal constitution itself vests no liberty interest in inmates in retaining or receiving any particular security or custody status as long as the [challenged] conditions or degree of confinement . . . is within the sentence imposed . . . and is not otherwise violative of the Constitution." Slezak at 594 (citations omitted). Thus, Appellant has not sustained his burden of proof that a liberty interest is implicated.

Appellant filed his first grievance requesting he be released from Security Detention to general population. However, the SMU Institutional Classification Committee consistently met on its thirty (30) day review and determined that Appellant should remain on security detention due to his previous conduct towards officers. Accordingly, SCDC's decision to keep Appellant in security detention was in compliance

EXHIBIT 5

with SCDC's policy. Also, since the date Appellant filed his grievance, he has been placed on disciplinary detention due to two disciplinary convictions for threatening an employee and throwing feces on an employee.

Notwithstanding that fact, SCDC classifies inmates based on a number of factors, and an inmate has no right to any particular custody level. Inmate classification is a prime example of the type of issue for which courts defer to the professional judgment of correctional authorities. See Sullivan v. SCDC, 355 S.C. 437, 444, 586 S.E.2d 124, 127-28 (2004) (noting the traditional "hands-off approach" the Court has taken toward internal prison matters). Accordingly, SCDC respectfully requests this appeal be dismissed.

CONCLUSION

Based on the foregoing reasons and legal authorities, SCDC respectfully requests that this matter be dismissed pursuant to Slezak v. SCDC, 355 S.C. 437, 586 S.E.2d 124 (2004).

Respectfully submitted,

SHANIKA JOHNSON
Deputy General Counsel

SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS

BY: Shanika Johnson
Post Office Box 21787
4444 Broad River Road
Columbia, South Carolina 29221
(803) 896-1943

September 28, 2015
Columbia, South Carolina

Exhibit

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Tyrone Roberson, #191327, Appellant, vs. South Carolina Department of Corrections, Respondent.	)	**Certificate of Service** Docket# 15-ALJ-04-0256-AP

I hereby certify that a copy of the foregoing brief and motion was this date served upon the following individuals by placing a copy of the same via mail to his/her last known address as follows:

Inmate Tyrone Roberson
Inmate Number: 191327
Perry Correctional Institution
Dorm-Room-Bunk: DX-0022-B

Cheron Hess
Administrative Assistant
Office of General Counsel
South Carolina Department of Corrections
4444 Broad River Road
P.O. Box 21787
Columbia, South Carolina 29221-1787
(803) 896-3922

September 29, 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.

Exhibit

Case number	Inmate number	Inmate first name	Inmate last name	Grievance No	Respondent	Filing date	Date Assigned	Judge last name
15C0256	191327	TYRONE	ROBERSON	MCCI 92-15	DOC	6/1/2015	6/11/2015	MCLEOD

RECEIVED
NOV 04 2015
SC Court of Appeals

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.

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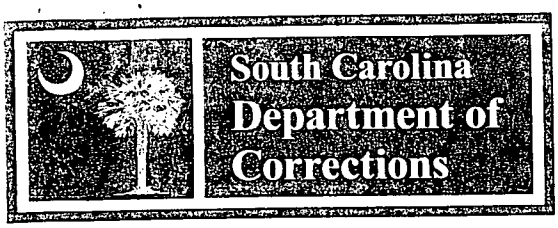
FILED
JUN 11 2015
ADMIN. LAW COURT



Exhibit

NIKKI R. HALEY, Governor
BRYAN P. STIRLING, Director

September 29, 2015

The Honorable John D. McLeod
South Carolina Administrative Law Court
Edgar A. Brown Building, Suite 224
1205 Pendleton Street
Columbia, South Carolina 29201

Reference: Inmate Tyrone Roberson, #191327, vs. SCDC
Docket No. 15-ALJ-04-0256-AP

Dear Judge McLeod:

Find enclosed an original and one copy of the ***Respondent's Brief and Motion to Dismiss*** on the above referenced case. Please file the original in your office and return a clocked-in copy to me in the enclosed self-addressed envelope.

If you have any questions or concerns, please do not hesitate to contact me at (803) 896-3922.

Sincerely,

Cheron Hess
Administrative Assistant
Office of General Counsel

Enclosures

cc: Inmate Tyrone Roberson, #191327
File

Exhibits

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
DEPUTY DIRECTOR FOR PROGRAMS & SERVICES OFFICE

RESPONSE TO INMATE CORRESPONDENCE

DX22

INMATE: Tyrone Roberson, SCDC #191327

INSTITUTION: Perry Correctional Institution

FROM: Deputy Director for Programs & Services Office

SUBJECT: Violation of Policy GA-06.04

DATE: 10/12/15

I am in receipt of your letter dated September 22, 2015. The letter is being rejected in accordance to SCDC Policy, GA-06.04, Request to Staff Member and returned to you for the following reasons:

- X Inmates must use the correct form (Request to Staff Member SCDC 19-11) and attachments will not be accepted. (must be a single sheet)
- o Inmates are only allowed to submit one issue per RTSM, which must be written legibly (to the appropriate area) and must be limited to a single sheet.
- o Inmates are prohibited from sending duplicate or similar RTSM to multiple staff members.
- o The RTSM is intended for use by an individual inmate (An inmate may not send a RTSM form from multiple inmates).
- o You will have to enter your concerns through the KIOSK Automated Request to Staff System.

S/ _____
Reggy Yobs
Administrative Coordinator

/pky

cc: Inmate's institution and various areas as needed

Exhibits

Tyrone Lamar Robertson #191327
Perry Correctional Institution
SMU UX 22
430 Oaklawn Road
Pelzer, South Carolina 29669

Rejected

~~MR. LEE ANN FATE~~, DEPUTY DIRECTOR OF PROGRAM SERVICES
4444 BROAD RIVER ROAD ACCREDITATION PROGRAM, HQ ROOM #204
Columbia, South Carolina 29221-1787

DATE: September 22, 2015

RE: Complaint on Associate Warden, Steven Clayton, MAJOR Early; Senior Chaplain Larry Epps of Perry Correctional Institution.

Dear MR. FATE

For some unjustifiable reason the above identified Prison Administrators insist on denying and discriminating on U-Dorm SMU prisoners (Specifically) by telling Kairo charitable organization volunteer christian members that SMU U-Dorm inmate's are not allow to be given Kairo's holiday cooked meals, cookies, or Hygiene; writing materials, stamps, face rag-wash cloth, or fruits offering during Kairo institution good will visit to help Rehabilitation of all prisoners of SCDC. By the above Perry administrators animus towards SMU U-Dorm inmates (Specifically) is a discrimination in treatment of prisoners unlawful in violation of S.C. Code of Law Title Section Statute § 24-5-90. It shall be unlawful for Sheriffs or Jailers to make any discrimination in the treatment of prisoners placed in their custody.

Exhibit

The penny agency, political subdivision employee's animus offensive behavior was so continuous or systematic that discrimination of SMU D-Dorm inmates from participating in any Kairo Christian sponsored good will feast offering was likely to persist in violation of the equal protection clause of the United States Constitution [redacted] Fourteenth Amendment. "No State shall deny to any person within its Jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, §1. That deprive Me of rights under the First Amendment pursuant to the Religious Land use And institutionalized person Act("RLUIPA"), 42 U.S.C. § 2000 cc, et seq., under The Religious Freedom Restoration Act, 42 U.S.C. § 2000bb. et seq. The Supreme court has upheld the statute against an establishment clause challenge. "The above deprivation was sufficiently serious when the discriminating officials Steven Claytor, Major Early; Senior Chapline Larry Epps, et al act with a sufficiently culpable state of mind" to conspire to discriminate and to deprive Me and other SMU D-Dorm inmates similarly situated of the minimal civilized measures of lifes necessities: Meals, Fruits, Hygiene, clothing, writing supply and religious Spiritual contributions offerings to the down trodden and needy is a basic human need that marks the progress of a mature civilized society. In cases like this involving actual or threatened abuse, neglect, or exploitation of a patient, client, or inmate by the penny agency, political subdivision employees offensive behavior when practice is immoral, unethical, oppressive, unscrupulous, or substantially injurious to inmates when it offends established public policy when penny officials engages in conduct that amounts to inequitable assention of its power or position.

MR. FATE, I write you in hopes that you can help we SMU D-Dorm inmates receive humane treatment, and be given opportunity, encouragement and training in the matter of reformation as outlined in S.C. Code of Law Title Section Statute § 24-1-20. Declaration of policy., as it relates to S.C. Constitution Article XII, § 2. Institutions

Exhibit

for confinement of persons convicted of crimes. The General Assembly shall establish institutions for the confinement of all persons convicted of such crimes as may be designated by law, and shall provide for the custody, maintenance, health, welfare, education, and rehabilitation of the inmates..., As it relates to S.C. Code of law Title Section Statute § 11-9-15. Use of State funds for function at club practicing discrimination prohibited.

SIGNED THIS 22nd DAY OF September 20 15.

RESPECTFULLY SUBMITTED

Tyrone L. Robenson

Tyrone Lamar Robenson #191327
Perry Connections Institution
SMU DX22
430 Oaklawn Road
Pelzer, S.C. 29669

cc.

STATE OF SOUTH CAROLINA
HUMAN AFFAIRS COMMISSION
2611 FOREST DRIVE, SUITE 400
COLUMBIA, SOUTH CAROLINA 29240;

Exhibit

RECEIVED

NOV 04 2015

SC Court of Appeals

LEGAL MAIL

STATE OF SOUTH CAROLENA
ADMINISTRATIVE LAW COURT

Tyrone Lamar Roberson, #191327
Appellant,

Vs.

South Carolina Department of Corrections,
Respondent.

Docket No. #15-ALJ-04-0256-AP
Appellant Motion in opposition to Respondents Brief And Motion to Dismiss
Honorable John D. McLeod

Come now Appellant Tyrone Lamar Roberson with Motion in opposition to Respondents Brief And Motion to Dismiss.

Appellant grounds for Motion in opposition is based on Respondent September 28, 2015 erroneous misapprehension of the facts and failure to dispute the Appellant Roberson version of the facts presented in Motion for Declaratory Judgment for Quantum Meruit in case #15-ALJ-04-0256-AP before the Administrative Law Court.

However, Appellant grounds for Motion in opposition is further based on the following existence of a factual dispute that give rise to a genuine issue of material fact discovered on every element essential to his action for a civil trial by Jury that might affect the outcome of the suit under the governing law will properly preclude the Respondents Brief And Motion to Dismiss... The following is Respondent assertion of the Fact September 28, 2015

: This matter is before the Administrative Law Court ("ALC") pursuant to the appeal of Tyrone Roberson ("appellant"), an inmate incarcerated with the South Carolina Department of Corrections ("SCDC"). Appellant filed a Step one Grievance on February 22, 2015, requesting his custody status be changed from Security Detention. This grievance was investigated and denied. Appellant filed a Step Two Grievance on March 5, 2015. This grievance was also investigated and denied. In his Notice of Appeal, Appellant states he was unjustifiably being held in Security Detention. PAGE 1, Lines 10 Through Lines 16.

The following is Respondent assertion of the Fact September 28, 2015

: Appellant filed his first grievance requesting he be released from

EXHIBIT

LEGAL MAIL

security detention to general population. However, the SMU Institutional Classification Committee consistently met on its thirty(30) day review and determined that Appellant should remain on security detention due to his previous conduct towards officers. Accordingly, SCDC's decision to keep Appellant in security detention was in compliance with SCDC's policy. PAGE 2, Lines 20 Through PAGE 3, Lines 1.

The following is Respondent assertion of the fact September 28, 2015 of which Appellant object to as prejudice matter outside the pleadings : Also, since the date Appellant filed his grievance, he has been placed on disciplinary detention due to two disciplinary convictions for threatening an employee and throwing feces on an employee. PAGE 3, Lines 1 Through Lines 3.

ARGUMENT

The following is Appellant Robenson grounds for Motion in opposition that is further based on the following existence of a factual dispute that give rise to a genuine issue of material fact discovered for a civil trial by Jury.

The relevant constitutional provisions are limitations on the power of the state government to infringe on the liberty of the citizen. I had thought it self-evident that all men were endowed by their creator with liberty as one of the cardinal unalienable rights. I think it clear that even the inmate retains an unalienable interest in liberty which the constitution may never ignore... The touchstone of due process is protection of the individual against arbitrary action of government. S.C. Constitution Article 1, § 12 of The United States Constitution Fifth Amendment. The deprivation of liberty following an adjudication of guilt is partial, not total. It is a radical departure from that tradition to subject a defined class of persons, even criminals, to a regime in which their right

Exhibit

LEGAL MAIL

to liberty is determined by officials wholly unaccountable in the exercise of their power. The distinction between physical confinement and conditional liberty to live at large in society, it requires that due process precede any substantial deprivation of the liberty of persons in custody. *Denying offenders any chance to challenge arbitrary assertions of power by connectional officials, and barring them from legitimate opportunities such as gainful employment or supplemental security income allowance, are inconsistent with the connectional goal of rehabilitation, which emphasizes the need to instill respect for and willingness to cooperate with society and to help the offender assume the role of a normal citizen. [A] persons liberty is equally protected, even when the liberty itself is a statutory creation of the State. S.C. Code of Law title Section Statute § 24-3-40. Disposition of wages of prisoner allowed to work at paid employment.; as it relates to S.C. Code of Law title Section Statute §§ 42-1-10 et seq. South Carolina Workers Compensation Act.; as it relates to S.C. Code of Law title Section Statute §§ 41-27-10 et seq. South Carolina unemployment compensation Act; *The unemployment insurance program collects taxes from employers covered by the law and pays out unemployment benefits to unemployed workers under both state and federal law.; as it relates to SCDC policy ADM-15.13, § INMATE PAY.; as it relates to S.C. Code of Law title Section Statute § 24-3-90. prisoners sentenced by United States authorities.; as it relates to S.C. Code of Law title Section Statute § 24-3-160. Costs of maintaining convicts by state institution.; as it relates to S.C. Constitution Article XII, § 2. Institutions for confinement of persons convicted of crimes. The General Assembly shall establish institutions for the confinement of all persons convicted of such crimes as may be designated by law, and shall provide for the custody, maintenance, health, welfare, education, and rehabilitation of the inmates. (1970 (56) 2683; 1971 (57) 46.).

Exhibit

LEGAL MAIL

"*A liberty interest may originate in the Constitution," or it may have "its roots in state law?" See Boeken V. Herman, cite as 35 F. Supp. 2d 99 (D.D.C. 1999), id. at 100; 9. Constitutional Law 277(1)
*In order to have a property interest protected by the Fifth Amendment due process clause, courts must determine whether an independant source, such as a statute, establishes a legitimate claim of entitlement to compensation. U.S.C.A. Const. Amend. 5.

The United States Constitution Fifth, Eighth, and Fourteenth Amendment protection retained by prisoners include those afforded by the Due process clause against "unlawful restraint and arbitrary deprivation of state created Liberty and property interest entitlement."
*That prisoners are protected against invidious discrimination on the basis of race under the Equal protection clause of the Fourteenth Amendment, See Lee V. Washington, 390 U.S. 333, 88 S.Ct. 994, 19 L.Ed. 2d 1212 [redacted] (1968). A residuum of constitutionally protected rights remains. See S.C. code of Law title section statute § 24-5-90. Discrimination in treatment of prisoners unlawful.

It shall be unlawful for sheriffs or Jailers to make any discrimination in the treatment of prisoners placed in their custody.

See KHAN V. ABERCROMBIE & FITCH, INC., cite as 35 F. Supp. 2d 272 (E.D.N.Y. 1999), id. at 276: GLASSER, District Judge: [2] The relevant section of Title VII, declares it to be an unlawful employment practice for an employer-(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individuals race, color, religion, sex, or national origin.... id. KHAN V. ABERCROMBIE & FITCH, INC., cite as 35 F. Supp. 2d 272 (E.D.N.Y. 1999), id. at 276: GLASSER, District Judge: FOOT NOTE 2. Plaintiff has brought race discrimination claims under

exhibit

Title VII and § 1981 - this court uses the same legal standard to evaluate both. See Choudhury V. Polytechic Institute of New York, 735 F. 2d 38, 44 (2d Cir. 1984) (holding that the "same elements constitute a claim for employment discrimination under § 1981 as under Title VII").

ARGUMENT

*Appellant Tyrone Lamar Roberson assents while confining a given number of people in a given amount of security detention Level II punitive confinement (Lock-down) space in such a manner as to cause them to endure genuine deprivations and handship over an extended period of time might raise serious questions under the Due process clause as to whether those conditions amounted to punishment.

Appellant assents The Respondents implementation and promulgation of SCDC policy: OP-22.12, § 2.2.2, OP-22.12, § 4.1.1, OP-22.12, § 4.2, OP-22.12, § 4.3.1; OP-22.12, § 5.1, OP-22.12, § 5.2, OP-22.12, § 14.1, OP-22.12, § 21.2.1; OP-22.12, § 21.2.2, OP-22.12, § 26.2, OP-22.12, § 26.3, OP-22.12, § 31.1; OP-22.12, § 32 "Special Management Unit," September 1, 2012; and see SCDC policy: OP-22.14, § 17, OP-22.14, 17.5 Displayed a firm purpose to circumvent the law, to frustrate equal enjoyment of legal rights and the adverse regulation or its threatened application interferes with or impains, or threatens to interfere with or impair the civil rights or privileges or immunities of Appellant Tyrone Lamar Roberson. See S.C. Code of Law title section Statute § 1-23-150., as it relates to S.C. Code of Law title section Statute § 45-9-30. Deprivation of right to equal enjoyment of and privileges to public accommodations prohibited., as it relates to S.C. Code of Law title section Statute § 45-9-100. Action for damages by aggrieved party; minimum damages for Violation.

*The detainee's constitutional protection against punishment is nothing more than a prohibition against irrational classifications

Exhibit

or barbaric treatment. Having recognized in theory that the source of that protection is the Due process clause, the court has in practice defined its scope in the far more permissive terms of equal protection and Eighth Amendment analysis. If fundamental rights are withdrawn and severe harms are discriminately inflicted on detainees merely to secure minimal savings in time and effort for administrators, the guarantee of due process is violated. The Due process clause prohibits pre conviction punishment by the administrator or a sanction designed to inflict segregation punishment that is so arbitrary that it would be invalid;* and the significant disparity between the severity of the harm to the individual Appellant Tyrone Lamar Roberson occasioned by the actions of an administrator rather than an Act or Congress. where the sanction involves an affirmative disability or restraint where the behavior to which it applies is excessive in relation to the purpose assigned, courts must be justified in drawing an inference of corporal punishment with cruel and unusual punishment in violation of S.C. Constitution Article I, § 15 or The United States Constitution Eighth Amendment Right thats made applicable to the State and Federal Government by virtue of the United States Constitutional Fourteenth Amendment. The substantiality of the harm to Appellant Tyrone Lamar Roberson cannot be doubted.

The motivation for policies or the punitive arbitrary intent behind an administrator statutory enactment of regulation restriction will frequently not be voted on by the tax paying people on will frequently not be a matter of public record. But under the constitution, the first question to be answered is in what branch of the Government is lodged the authority to initially devise the plan. This does not mean that constitutional rights are not to be scrupulously observed.* The Due process clause focuses on the nature of deprivations, the impact that restrictions may have

Exhibit.

on inmates, and the effect of conditions of confinement, that must be the focal point of constitutional Eighth Amendment analysis.

The deplorable conditions and Draconian restrictions of some of our Nations prisons are two well known to require recounting here, and the federal courts rightly have condemned these sordid aspects of our prison systems. Thus, for example, federal courts have held a variety of security restrictions unconstitutional: BELL V. WOLFISH, supra., cite as 99 S.Ct., at 1899: Mr. Justice STEVENS, with whom Mr. Justice BRENNAN joins, dissenting: Under the test as the court explains it today, prison guards could make regular use of dungeons, chains, and shackles, since such practices would make it possible to maintain security with a smaller number of guards...., Id., at 168-169, 83 S.Ct., at 567-568. Id. "[I]f a restriction or condition is not reasonably related to a legitimate goal — if it is arbitrary or purposeless - a court permissibly may infer that the purpose of the governmental action is punishment that may not constitutionally be inflicted upon detainees qua detainees." For governmental activity that affects even minor interests and is "arbitrary or purposeless" is unconstitutional whether or not it is punishment. See, e.g., Rinaldi V. Yeager, 384 U.S. 305, 86 S.Ct. 1497, 16 L.Ed. 2d 577; Illinois Elections Board V. Socialist Workers Party, 440 U.S. 173, 99 S.Ct. 983, 59 L.Ed. 2d 230.

ARGUMENT

Appellant Tyrone Lamar Roberson has a constitutionally protected life, liberty or property interest to be Rehabilitated with Educational / Vocational Job training, workers compensation, inmate pay incentive, and contact visitation rights with family, wife and friends for development of social behavioral communication skills; *and the Respondents conduct complained of has arbitrarily deprived the Appellant Roberson of that Liberty interest without constitutionally adequate procedure

to be heard at a meaningful time or in a meaningful manner in violation of the Due process clause.

See BOEKEN V. HERMAN, cite as 35 F. supp. 2d 99 (D.D.C. 1999), id., at 104-105: [6,7] In order for a plaintiff to establish an actionable due process claim, facts must be alleged that (1) support a determination that the plaintiff has a constitutionally protected life, liberty, or property interest, See Board of Regents V. Roth, 408 U.S. 569, 92 S. Ct. 2701, 33 L. Ed. 2d 548 (1972); and (2) the conduct complained of has deprived the claimant of that interest without constitutionally adequate procedure. See Logan V. Zimmerman Brush Co., 455 U.S. 422, 428, 102 S. Ct. 1148, 71 L. Ed. 2d 265 (1982).

ARGUMENT

Appellant Tyrone Lamar Roberson asserts Respondents merely denominating a decision a "reclassification" during February 18, 2015 does no insulate it from all scrutiny, however, facially neutral Job classifications can be and are used for improper discriminatory purposes. Appellant Roberson case is essentially a discrimination case, that He were arbitrarily selected for a economic supplemental security income allowance payfreeze and prevented from transferring to general population reclassified pay position as others whites similarly situated in SCDC. See Dept. of Correction V. Gibson, 308 N.C. 131, 301 S.E. 2d 78 (1983) (reasonable grounds for selection necessary); See PORET V. STATE PERSONNEL, COM'N, cite as 328 S.E. 2d 880 (N.C. App. 1985), id. at 883: WELLS, Judge: [7-11] Merely denominating a decision a "reclassification" does not insulate it from all scrutiny, however, facially neutral Job classifications can be and are used for improper discriminatory purposes. See Armstrong V. Index Journal Co., 647 F. 2d 441 (4th Cir. 1981),

Exhibit

Claibonne V. Illinois cent. R.R., 583 F. 2d 143, reh'g denied, 588 F. 2d 828 (5th cir. 1978), cert. denied, 442 U.S. 934, 99 S. Ct. 2869, 61 L. Ed. 2d 303 (1979).

See UNITED STATES V. LORENZETTI, cite as 104 S. Ct. 2284 (1984), Id. 5 U.S.C. § 8131(6) an injured employee or his beneficiary may be required to assign "any right of action" against a third-party whose tortious conduct caused the injury. (emphasis added).

ARGUMENT

Respondent private party who acts under color of law could be characterized as hiding behind the authority of law and as engaging in "joint participation" with the State in the deprivation of Constitutional rights to secure the application of a prison Regulation security detention policy: op-22.12, § ; and disciplinary policy : op-22.14, § that so plainly unconstitutional as to enjoy no presumption of validity... That Violates S.C. Code of Law Title Section Statute § 16-17-735 impersonation of State or local official or employee or law enforcement officer or assenting authority of State law in connection with a sham legal process.

Private Respondents classification personnels conspired with the South Carolina Department or Corrections et al, private contractors to indefinitely "deprive Appellant Tyrone Lamar Roberson of his protected Liberty rights to enjoy equal treatment and services in a place of public accommodation," and apparentlly to cause Appellant Roberson discriminatory and legally baseless arrest under a vagrancy statute... As it relates to Respondents acts or omission with conspiracy against Civil Rights in Violation of S.C. Code of Law title Section Statute § 16-5-10.; as it relates to Respondents acts or omission with Assault or intimidation on account of political opinions or exercise of Civil Rights by Appellant Tyrone Lamar Roberson in Violation

Exhibit

of S.C. Code of Law title Section Statute § 16-17-560., as it relates to Respondents acts on omission in violation of S.C. code of Law title Section Statute § 24-5-90. Discrimination in treatment of prisoners unlawful. It shall be unlawful for Sheriffs or Jailers to make any discrimination in the treatment of prisoners placed in their custody. See KHAN V. ABERCROMBIE & FITCH, INC., cite as 35 F. Supp. 2d 272 (E.D.N.Y. 1999), id. at 277; GLASSER, District Judge: III. Hostile Work Environment [6-8] *A hostile work environment exists "when the workplace is permeated with discriminatory intimidation, ridicule and insult, that is sufficiently severe to alter the conditions of the victim's employment." Torres V. Pisano, 116 F. 3d 625, 630-31 (2d Cir. 1997) (quoting Harris, 510 U.S. at 21, 114 S. Ct. 367).

See KHAN V. ABERCROMBIE & FITCH, INC., cite as 35 F. Supp. 2d 272 (E.D.N.Y. 1999), id. at 277; GLASSER, District Judge: IV. Retaliation [10, 11] Title VII forbids an employer to retaliate against an employee for engaging in protected activity. See 42 U.S.C. § 2000e-3(a). id. To establish a prima facie claim for retaliation, Khan would need to show that she (i) [redacted] participated in a protected activity known to the defendants, (ii) suffered an adverse employment action, and (iii) that there is a causal connection between the protected activity and the adverse employment action. See Tomka V. Seiler Corp., 66 F. 3d 1295, 1308 (2d Cir. 1995). In analyzing her retaliation claim, this court uses the same tripartite McDonnell Douglas analysis discussed, supra, in Section II, A. Garber V. The New York City Police Dep't., 1998 WL 514222, 1998 U.S. App. LEXIS 20181 (2d Cir. June 12, 1998).

Exhibit

It is well settled that once a State creates such a constitutionally protected interest, the constitution forbids it to deprive even a prisoner of such an interest arbitrarily. See Hewitt v. Helms, 459 U.S. 460, 469-472, 103 S.Ct. 864, 870-871, 74 L.Ed.2d 675 (1983); Greenholtz v. Nebraska Penal Inmates, 442 U.S., at 11-12, 99 S.Ct., at 2105-2106; see Wolff v. Mcdonnel, 418 U.S. 539, 94 S.Ct. 2963, 41 L.Ed.2d 935 (1974). "[T]hough his rights may be diminished by the needs and exigencies of the institutional environment, a prisoner is not wholly stripped of constitutional protections when he is imprisoned for crime. There is no iron curtain drawn between the Constitution and the prisons of this country," Id., at 555-556, 94 S.Ct., at 2974-2975.

Furthermore, to ensure that the commands of the Constitution were abided by, the general assembly and the people of South Carolina left no doubt as to their intentions in this regard by placing severe restrictions on the activities of all braches, agencies, departments and political subdivisions of state government thus limiting their authority to that allowed by the Constitution. See S.C. Constitution Article X, § 23. Provisions of Constitution Mandatory. The provisions of Constitution shall be taken, deemed, and construed to be mandatory and prohibatory, and not merely directory, except where expressly made directory or permissory by its own terms.

CONCLUSION

Wherefore, it is prayed the court grant Appellant relief sought in Motion for Declaratory Judgment for Quantum Meruit in case # 15-ALJ-04-0256-AP before the court.

Signed this 5th day of October 20 15.

Respectfully submitted

Tyrone Lamar Robertson

Tyrone Lamar Robertson #191327
Perry Corrections Institution
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