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**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

SC ADMIN. LAW COURT

Matthew B. Fullbright, 349468,)
)
 Appellant,)
)
 v.)
)
 South Carolina Department of Corrections,)
)
 Respondent.)

Docket No.: 13-ALJ-04-0926-AP-A
Grievance No.: LCI 1590-13

ORDER OF DISMISSAL

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SC Court of Appeals

This matter is before the South Carolina Administrative Law Court (“the ALC” or “the Court”) pursuant to an Order of Remand from the South Carolina Court of Appeals instructing this court to issue a Final Order. A Notice of Appeal was originally filed with this Court on December 3, 2013, by Matthew B. Fullbright (“Appellant”), an inmate incarcerated with the South Carolina Department of Corrections (“the Department”). Appellant filed a Step One Grievance with the Department complaining the Department refused to grant him access to all of his discovery materials in violation of his constitutional rights.

Appellant’s case was initially assigned to the Honorable Carolyn C. Matthews on December 18, 2013. Because Appellant had failed to exhaust his administrative remedies by filing a Step Two Grievance, this Court dismissed his appeal on April 8, 2014. On April 17, 2014, Appellant filed a Motion to Reinstate. On April 24, 2014, this Court granted Appellant’s Motion to Reinstate, finding it improperly dismissed Appellant’s case without giving him ten (10) days to respond to the Department’s Motion to Dismiss as required by ALC Rule 63. Thereafter, this Court issued an order on May 21, 2014, remanding Appellant’s grievance to the Department as a Request to Staff to determine what papers and discovery Appellant was entitled to. On May 28, 2014, the Department submitted a letter to the Court in which it “unequivocally deni[ed] withholding anything more than crime scene photographs and bank statements” from Appellant’s discovery materials in compliance with its policy against allowing inmates photographs of crime scenes or financial documents.

Subsequently, Appellant moved or attempted to move this Court to enforce this Court’s Order of Remand. In a letter dated July 7, 2014, the Court informed Appellant that it did not receive his motion to enforce the Order of Remand and that the Court no longer had jurisdiction

over his case; however, the Court also informed Appellant it understood that the Department had complied with its Order of Remand.

On August 1, 2015, Appellant filed an appeal with the South Carolina Court of Appeals. The Court of Appeals initially dismissed Appellant's case, but reinstated the case upon review of Appellant's Petition for Rehearing. On October 15, 2015, the Court of Appeals remanded the case to this Court to issue a Final Order in Appellant's case. On October 22, 2015, this case was re-assigned to the undersigned.

DISCUSSION

Section 1-23-380 of the South Carolina Code (Supp. 2014) provides "[a] party who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision in a contested case is entitled to judicial review." See Al-Shabazz v. State, 338 S.C. 354, 376, 527 S.E.2d 742, 754 (2000) ("An inmate may, however, seek review of the Department's final decision by an ALJ in a non-collateral or administrative matter."); Bennett v. S.C. Dep't of Corr., 305 S.C. 310, 313, 408 S.E.2d 230, 231-32 (1991) (explaining that an administrative agency has the exclusive right to decide issues before it, subject only to appeal for judicial review of its decision following the exhaustion of administrative remedies).

In this case, Appellant filed a Step One Grievance, but never filed a Step Two Grievance. Without a Step Two Grievance, Appellant has failed to obtain a final decision from the Department and exhaust his administrative remedies; accordingly, this Court does not have jurisdiction. See Al-Shabazz, 338 S.C. at 376, 527 S.E.2d at 754.

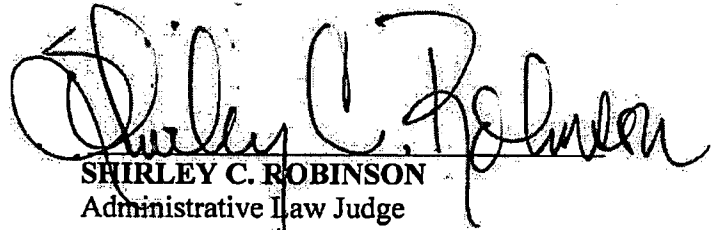
Moreover, I find the property interest Appellant claims in this case does not give this Court subject matter jurisdiction. The ALC has subject matter jurisdiction when the Department disciplines an inmate and imposes a punishment that deprives the inmate of a constitutionally protected liberty or property interest. Sullivan v. S.C. Dep't of Corrs., 355 S.C. 437, 441-42, 586 S.E.2d 124, 126 (2003); Al-Shabazz, 338 S.C. at 369, 527 S.E.2d at 750. Further, the South Carolina Supreme Court has recognized that, except where there is a possible constitutional violation, the courts adhere to a "hands off" approach to internal prison disciplinary policies and procedures when reviewing inmate appeals under the Administrative Procedures Act because prison officials are in the best position to decide inmate disciplinary matters. Al-Shabazz, 338 S.C. at 382, 527 S.E.2d at 757. When the grievance appeal does not implicate a state-created liberty or property interest, the ALC may summarily dismiss the appeal at its discretion. Furtick

v. S.C. Dep't of Corrs., 374 S.C. 334, 649 S.E.2d 35 (2007).

Here, Appellant claims he was not granted access to certain discovery documents; specifically, crime scene photographs and bank statements. The Department's internal policy, Policy Number 10.08, prohibits inmates from having crime scene or autopsy photos and prohibits them from "maintaining possession of any financial statements that show a balance of funds and/or provide information on financial assets." In its May 28, 2014 letter, the Department stated its Correspondence Review Committee ("CRC") reviewed Appellant's discovery submitted on August 20, 2013, and approved all documents on October 21, 2013, with the caveat that personal information was redacted and crime scene photos and bank statements were removed and safely stored in accordance with Department Policy 10.08. Accordingly, the Department did not withhold discovery documents to discipline or punish Appellant. See Sullivan, 355 S.C. at 441-42, 586 S.E.2d at 126; Al-Shabazz, 338 S.C. at 369, 527 S.E.2d at 750. Rather, Appellant is complaining about a Department policy restricting his access to certain discovery documents. This Court takes a "hands off" approach to alleged violations of Department policy; therefore, this Court does not have jurisdiction over this issue. Al-Shabazz, 338 S.C. at 382, 527 S.E.2d at 757.

However, in an abundance of caution, if the Court of Appeals finds this Court has jurisdiction to address Appellant's claims, I find the Department's May 28, 2014 letter and review of its policies shows the Department's removal of crime scene photos and bank statements from Appellant's discovery packet was consistent with its policies and did not constitute punishment in violation of Appellant's constitutional liberty or property rights. See Sullivan, 355 S.C. at 441-42, 586 S.E.2d at 126; Al-Shabazz, 338 S.C. at 369, 527 S.E.2d at 750.

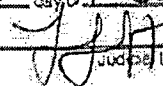
Based upon the foregoing, **IT IS HEREBY ORDERED** that this appeal is **DISMISSED**.
AND IT IS SO ORDERED.


SHIRLEY C. ROBINSON
Administrative Law Judge

November 3, 2015
Columbia, South Carolina

CERTIFICATE OF SERVICE
This is to 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).

This 3 day of November 2015

By: 
Judicial Law Clerk