

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM ADMINISTRATIVE LAW COURT
Administrative Law Judge DURDEN

SC Court of Appeals

Lower Case No. 2015-ALJ-04-0003-AP

Appellate Case No. 2015-000379

Perry Watford # 289215 Appellate

v.

South Carolina Department of Corrections . . . Respondent

Final BRIEF OF APPELLANT

Perry Watford
Perry Watford # 289215
Manning C.I. W7-A-17B
502 Beckman Drive
Columbia, S.C. 29203
Appellate pro-se

Date Nov. 30, 2015

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1.) STATUTES

S.C.D.C. Policy

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

AGENCY Policy NO. GA.01.12 section 13.3 _____ 6

STATEMENT OF ISSUE ON APPEAL

The ADMINISTRATIVE LAW COURT ERRED IN THE ABOVE CASE and VIOLATED APPELLATE'S CONSTITUTIONAL RIGHTS and VIOLATED S.C. DEPARTMENT OF CORRECTIONS Policy No. GA. 01.12 SECTION 13.3

ARGUMENT

STATEMENT OF FACTS / PROCEDURAL

Appellant is presently Confined in the South Carolina Department of Corrections "SCDC" serving (25) Twenty-five years sentence.

on OCTOBER 30, 2012 around Correct time 10:15 A.M. Appellant was given a Administrative Resolution for (5) Five Sausage for being taken out of the Cafeteria. 1st) Restitution for Canteen, Visitation and Phone privileges for (90) ninety days. 2. Deadlocked in Appellant Cell for (5) five days (10-30-12 Thru 11-4-12) and 3rd) failure to earn good time (20) twenty days! around 3:45 P.M. or 4:00 P.M. Appellant went to BRCI Medical with the Administrative Resolution Sanction paper, work, and showed the sanction paper to a Lt. Bean in Medical. Lt. Bean made a phone call to a Captain stephon. Lt. Bean informed Appellant that the Sanction was a little harsh for the charge that was given to Appellant. Lt. Bean ordered Appellant to Report to BRCI Cafeteria to see Captain stephon. Captain stephon looked over the Sanction paper and stated that Sanction should have been charged of Conturband. Captain stephon went an called acting Captain / Major P. Jones about the sanction Lt. failey gave Appellant that morning. Captain stephon informed Appellant that Captain / Major P. Jones was gone for the day. an stated he (Captain stephon) would talk to Captain / Major P. Jones the next day Oct. 31, 2012.

on OCTOBER 31, 2012 around 2:30 P.M. or 2:45 P.M. Lt. Failey ordered officer Bradley to Come to Appellants Cell to get Appellants original Copy of the Administrative Resolution Sanction Goldenrod Copy that Appellant recieved OCTOBER 30, 2012. officer Bradley informed Appellant that Lt. Failey stated that she (Lt. Failey) needed to add a sanction to Appellants Administrative Resolution Sanction from the day Before, which would be OCTOBER 30, 2012. so Appellant asked officer Bradley what sanction was Lt. Failey talking about.

officer Bradley stated payment of restitution. So Appellant got the Sanction out of his locker. opened the sanction paper and appellant asked officer Bradley Does officer Bradley see any dollar amount in payment of Restitution Block. officer Bradley stated, **NO!!** Appellant asked officer Bradley could Appellant use officer Bradley's personal pen. and officer Bradley gave Appellant his (officer Bradley's) personal pen. and Appellant made a wave line thru the payment of Restitution Block, and then Appellant gave officer Bradley the personal pen back and gave the original Goldenrod scDC form 19-106 Exhibit (A) white photo copy before \$9.76 was added to payment of Restitution Block with only wave line in the payment Block. officer Bradley left with the Goldenrod original copy, Form 19-106 scDC

around 3:45 P.M. OCTOBER 31, 2012. Lt. Failey came to Appellant's cell and gave Appellant the original Goldenrod Administrative Resolution Copy with a dollar amount \$9.76 added to it Exhibit (B) and a white photo copy of the Administrative Resolution original before the \$9.76 was added Exhibit (A). Appellant asked Lt. Failey How can she (Lt. Failey) add to the sanction some (27) twenty-seven hours later. Lt. Failey stated she could do what ever Lt. Failey wanted to do. that's why she (Lt. Failey) made Appellant a photo copy of what she (Lt. Failey) did by adding \$9.76 and made the **NOTE ON THE TOP OF Exhibit (A)** stating and initialed By C.F. (Lt. Failey) stating **(CF) Altered Copy by Inmate Watford (Appellant) Line where Restitution of payment "CF...** so if Appellant wanted to file a grievance on Lt. Failey.

around 4:05 P.M. Appellant went to BRCI Medical. Captain stephon was there in Medical. Appellant showed Captain stephon the Altered Resolution Sanction that Appellant just received back from Lt. Failey before Appellant came to Medical. Captain stephon asked Appellant who put the wave line in the payment Block on the sanction paper. Appellant told Captain Appellant did the wave line. But Lt. Failey added the \$9.76 dollar amount at the beging and the

end of payment of Restitution Block. Captain stephon stated Lt. Failey could not do that after (24) twenty-four hours and that Appellant and Lt. Failey have signed the sanction. Lt. Bean came by medical and Appellant asked Lt. Bean to look at the original Goldenrod Administrative Resolution sanction from the day before. Lt. Bean told Captain stephon that there was no \$ 9.76 dollar amount in the payment of Restitution Block. Lt. Bean stated that there was no waive line or \$ 9.76 dollar amount at all yesterday OCTOBER 30, 2012. Captain stephon stated he knew there was nothing either yesterday OCTOBER 30, 2012. Captain stephon and Lt. Bean, both stated that Lt. Failey had committed fraud and that Lt. Failey could NOT do that at any sanction or any legal documents. Captain stephon said he Captain stephon was going to Captain/major P. Jones. Appellate spoke with Captain/major P. Jones Nov. 1, 2012. Captain/major P. Jones told Appellant that he P. Jones would get with Appellant the next day Nov. 2, 2012. Appellant approached Associate Warden D. Bush on Nov. 7, 2012. Associate Warden D. Bush told Appellate himself (Associate Warden D. Bush) and Captain/major P. Jones would get with Appellant when Captain/major P. Jones would get with Appellant when Captain P. Jones returned from vacation next week. Appellant told Associate Warden D. Bush that Appellant has only a few days before Appellant has to file a STEP 1 Grievance on this matter if the BRCI Administrative could not resolve this matter. Assoc. Warden D. Bush stated ("That you (Appellant) was Just Talking").

on November 13, 2012. Appellant filed a Inmate STEP 1 Grievance Form. See further attached hereto Exhibit (A) and STEP 1 Inmate Grievance Form BRCI 1371-12 wardens Reason:

"This is in response to BRCI 1371-12 you have appealed the results of your 10-30-12 informal Resolution / Administrative Resolution (SCDC Form 19-106). in which you stated Lt. Failey altered the Form to include restitution. Per Captain P. Jones, you signed Resolution Form (SCDC 19-155) and were therefore aware of the \$ 9.76 restitution charge. The Total Cost were based on substantial evidence

Based on this information your appeal is without merit and therefore denied.

As seen in above S.C.D.C has stated that "Per Captain P. Jones" Appellant signed Resolution form SCDC 19-155 and therefore aware of the \$9.76 restitution charge.

Appellant filed a STEP 2 Inmate Grievance Concerning this matter and the Agency's decision in attached hereto as a fortior Exhibit "Inmate STEP 2 Grievance" which states:

"it is noted that you have provided 2 Copies of the Form SCDC 19-106 Informal Resolution / Administrative Resolution Form. However there is no way to prove, which was Altered or by whom. Your signature is on the one with the restitution of \$9.76 written on the Form. you have not provided any evidence and none has been found to support your allegations further action is not warranted!"

As seen in the Above answer to Appellant's STEP 2 Inmate Grievance. SCDC has stated! Appellant's signature is on the one with the restitution of \$9.76 written on none The Form and Appellant has not provided any evidence and none to support and none found to support Appellants allegations and without verifiable evidence. 1st) Appellant did signed the original Goldenrod Resolution Copy Exhibit (A) before any waive Line or any \$9.76 Restitution dollar amount was added by appellant or by Lt. Failey. Exhibit (A) clearly shows only waive Line after Appellant Initially signed Resolution Sanction Paper with Lt. Failey on Oct. 30, 2012. 2nd) Exhibit (B) shows the Goldenrod True Copy of sanction to this Honorable Court with a pen marked waive Line and shows were the original True Copy has a Carbon Copy stinckle \$9.76 in the payment of Restitution Block. The original Goldenrod Copy shows a Dark pen mark and a Carbon Copy light mark (\$9.76). Appellant did not agree to Restitution when Appellant and Lt. Failey signed and on the Administrative Resolution. Form SCDC 19-106 on Oct. 30, 2012 3rd) SCDC state's that Appellant has not showed any evidence that the sanction has been altered by Lt. Failey

Appellant has presented (2) two Copies of Sanction Form 19-106. (1) one with only waive Line in Restitution Block. (2) One with waive Line and a Carbon Copy of \$9.76 dollar amount and Appellants signature is on Both Copies. Appellant Signature would Be on Both Copies if one is the original and then the 2nd Copy is a photo Copy of the Altered Original Copy of SCDC Form 19-106. SCDC STATED Appellant has no Verifiable evidence to support allegations. SCDC Administrative Agency Never called or Spoke with any of Appellants Witnesses to the Altering of the Resolution Sanction By Lt. Failey. Captain Stephen, Lt. Bean or officer Bradley was Never Spoken to by any SCDC Agency about their testimony what the witnesses to the Resolution charge paper. 4th) SCDC Administrative Has violated Appellant's Rights By allowing Lt. Failey and Employee of SCDC To Alter a legal Document (charge) Sanction and perpetrating a Fraud on Inmate Watford (Appellant). it is that SCDC has violated Appellants Constitutional Rights and violated SCDC Policy GA.01-12 section 13.3 "NO EMPLOYEE INVOLVED OR ADDRESSED IN A GRIEVANCE WILL NOT BE ASIGNED TO CONDUCT ANY INVESTIGATION REGRADING SAME".

CONCLUSION

WHEREFORE based on the foregoing. Appellate respectfully request this Honorable Court to review The Arguments and Exhibits Submitted and ask this Court to Correct SCDC's Erroenous Sanctions of Appellates Administrative Resolution Sanctions and declare Appellate's Rights have been violated by SCDC and fashion the relief Just and appropriate and Grant Appellate (Actions Requested) That SCDC Reprimand and Suspend Lt. Failey without pay for (10) ten day and Reprimed Lt. Failey back to a Sgt. DUE to Lt. Failey was a Lt. at the time of this unlawfully altering Sanction paper work and perpetrating a Fraud on Appellate. restore all sanctions and Refund Appellate of all Cost of filing fee's of (\$100.00) one Hundred dollars and Cost of all photo Copies and legal Sluppys from S.C.D.C. Legal office.

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Perry Watford, #289215,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

Docket No. 15-ALJ-04-0003-AP
Grievance No. BRCI 1371-12

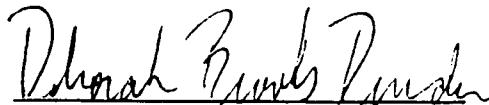
ORDER OF DISMISSAL

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to the Notice of Appeal filed January 6, 2015 by Appellant above named, who is incarcerated with the South Carolina Department of Corrections (SCDC).

Appellant appeals the denial of his grievance alleging misconduct by a prison employee. He was unsuccessful and appealed to this Court. There was no good time lost. There is no state-created liberty interest implicated here, nor is there any loss of good time credits or contention by Appellant that his sentence, sentence related credits or custody status have been erroneously calculated. This is a case in which this Court must adhere to the traditional "hands off" doctrine regarding judicial involvement in prison disciplinary procedure and other internal prison matters. Pruitt v. State, 274 S.C. 565, 266 S.E. 2d 779 (1980); Al-Shabazz v. State, 338 S.C. 354, 527 S.E. 2d 742, (2000).

Under Slezak v. S.C. Department of Corrections, 361 S.C. 327, 605 S.E. 2d 506, (2004) the Administrative Law Court is to have jurisdiction of all properly perfected inmate appeals but "Summary dismissal may be appropriate where the inmate's grievance does not implicate a state created liberty or property interest." Such is the case here. Therefore,

IT IS ORDERED that, for the foregoing reasons, this appeal be and hereby is **DISMISSED, WITH PREJUDICE.**


Deborah Brooks Durden, Judge
S.C. Administrative Law Court

January 28, 2015
Columbia, South Carolina

INTERMEDIATE SERVICE
This is to certify that the undersigned has this date
entered this order in the above entitled action upon all
copies to this cause by depositing a copy heretofore
in the United States mail postage paid, or in the emergency
Mail Service (addressed to the carrier) or their attorney(s).
2015
28 January 2015
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FILED

JAN 28 2015

SC ADMIN. LAW COURT

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APPEAL ADMINISTRATIVE LAW COURT
Administrative LAW Judge DSC DEW 03 2015

Court of Appeals

Appellate Case No. 2015-000379

Perry Watford 289215 Appellate

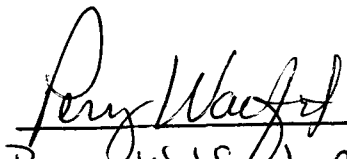
v.

South Carolina Department of Corrections . . . Respondent

CERTIFICATE OF SERVICE

I hereby certify that I have served Respondent a Copy of Appellates Final Brief by depositing a Copy of Same in the United States Mail, postage prepaid Nov. 30, 2015, addressed to the Respondent as follows:

Daniel Crooks, III
General Counsel
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P.O. Box 21787
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Date, Nov. 30, 2015

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South Carolina Department of Corrections . . . Respondent

CERTIFICATE OF COUNSEL

THE undersigned Certified that this Complies
with rule 211 (b) SCACR.

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Nov 30, 2015

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