

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Shirley C. Robinson, Administrative Law Judge

Case No. 14-ALJ-04-0376-AP
Appellate Case Number: 2014-002068

Stephen A. Beckham, #236548

Appellant.

v.

South Carolina Department of Corrections,

Respondent

Record on Appeal

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FILED

SEP 05 2014

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

SC ADMIN. LAW COURT

Stephen A. Beckham, 236548,)	Docket No.: 14-ALJ-04-0376-AP
)	Grievance No.: MCCI 1046-13
Appellant,)	
vs.)	ORDER OF DISMISSAL
)	
South Carolina Department of Corrections,)	
)	
Respondent.)	
)	

This matter is before the South Carolina Administrative Law Court (“the ALC” or “the Court”) pursuant to the Notice of Appeal filed April 17, 2014, by Stephen Beckham (“Appellant”), an inmate incarcerated with the South Carolina Department of Corrections (“the Department” or “SCDC”). Appellant appeals the decision of the Department denying his grievance in which Appellant complains the Department has failed to apply a court-ordered expungement for an external charge to his internal disciplinary conviction for the same offense. The internal conviction against which Appellant seeks to enforce the expungement order did not result in the loss of any accrued good time credits. However, Appellant contends the internal record of his disciplinary conviction violates 17-1-40 of the South Carolina Code and negatively impacts the parole board’s consideration of his parole.

The facts of this case are unique and require some discussion. A warrant was originally issued for Appellant in 2006 for Escape/Aiding Escapes From Prison. A sealed indictment was thereafter issued. An internal memorandum from the SCDC Inspector General dated February 8, 2007, discussed the internal disciplinary action to be taken against Appellant as a result of the indictment. The memorandum explained that disciplinary action against Appellant for aiding and abetting an escape could not take place in a timely manner because “any disciplinary action taken against him would have relied solely on the contents of the sealed SLED Investigative report which was a principal factor in the grand jury returning a true bill of indictment against him for aiding and abetting.” The memorandum further commented that the seal on the indictment had been lifted and the disciplinary action could commence.

Subsequently, the Department held a hearing on March 19, 2007, and Appellant was convicted of Aiding and Abetting an Escape from a Level II or Level III Institution. The

Disciplinary Report and Hearing Record indicates the conviction was based on the report of Lieutenant Brice, attached evidence, and Appellant's own statement.¹ However, the external charge was dismissed on September 10, 2009, and, on July 11, 2013, Appellant received a court-ordered expungement of the charge.

In his Step 1 and Step 2 grievances, Appellant complained the expungement should be extended to his internal disciplinary conviction. He also argued his classification should be lowered. The Department denied both grievances, arguing the expungement order did not require the Class 1 Escape conviction or classification to be removed from Appellant's record.

Appellant alleges SCDC's record of his internal conviction for aiding and abetting escape violates the court-ordered expungement pursuant to section 17-1-40 of the South Carolina Code and Compton v. South Carolina Department of Corrections, 392 S.C. 361, 709 S.E.2d 639 (2011). Appellant also alleges this internal record could negatively impact his ability to receive parole. The Department contends section 17-1-40 does not affect internal disciplinary convictions and also cites to Compton in support of its position.

This case presents an interesting factual issue as there is no evidence to support Appellant's internal conviction without the indictment from the external charge, which has been expunged. Unfortunately, because the expungement occurred years after the internal disciplinary conviction, Appellant could not attack the sufficiency of the evidence on which the conviction relied at the time. However, once the expungement was issued, it undermined Appellant's internal conviction because, according to the Department's own internal memorandum, the conviction relied solely on the indictment for the external charge. Whether Appellant's internal conviction should stand under these facts is a novel issue. However, while the Court has sympathy for Appellant's situation, I ultimately determine the Court does not have jurisdiction to reach Appellant's issues.

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 Corr., 355 S.C. 437, 441-42, 586 S.E.2d 124, 126 (2003); Al-Shabazz v. State, 338 S.C. 354, 369, 527 S.E.2d 742, 750 (2000); Skipper v. S.C. Dep't of Corr., 370 S.E. 267, 273-74, 633 S.E.2d 910, 914 (Ct. App. 2006). Slezak v. South Carolina Department of Corrections, 361 S.C. 327, 605 S.E.2d 506 (2004), provided further clarification

¹ A transcript of the hearing, the attached evidence, and statements were not included in the Record.

that this Court has jurisdiction of all inmate grievance appeals that have been properly filed. However, 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).

As applied to parole decisions, an inmate “has a right of review by the [ALC] after a *final* decision that he is *ineligible* for parole, [but] a parole-eligible inmate does not have the same right of review after a decision denying parole; the parole board is, however, required to review an inmate's case every twelve months after a negative parole determination.” Cooper v. S.C. Dep't of Prob., Parole & Pardon Servs., 377 S.C. 489, 497-98, 661 S.E.2d 106, 111 (2008) (citing S.C. Code Ann. § 24-21-620 (Supp.2002)); see also Sullivan v. S.C. Dep't of Corrs., 355 S.C. 437, 443, 586 S.E.2d 124, 127 (2003) (“Although the Court found S.C. Code Ann. § 24-21-620 created a liberty interest in the one-time determination of parole *eligibility*, it was quick to note that the statute did not create a liberty interest in parole.”). “This distinction stems from the fact that parole is a privilege, not a right.” Cooper, 377 S.C. at 498, 661 S.E.2d at 111. However, in Cooper the court qualified its statement, stating a permanent denial of parole eligibility is not required before a sufficient liberty interest is involved for review; rather, “[i]t is merely one of the ways that a sufficient liberty interest may be involved.” Id.

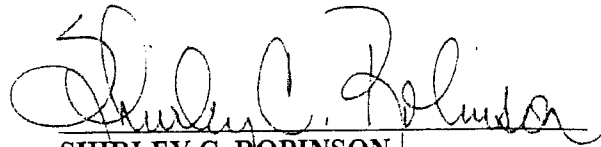
The record shows Appellant did not lose any accrued good time credits as a result of his conviction; therefore, he cannot show a liberty interest in the loss of good time. Instead, Appellant loosely contends in his brief that the record of his internal conviction could negatively impact future DPPPS's decisions regarding parole. While the permanent denial of parole eligibility implicates a liberty interest, it is less clear whether a one-time denial of parole under certain circumstances could implicate a liberty interest. See Cooper, 377 S.C. at 497-98, 661 S.E.2d at 111. Regardless, the record does not show Appellant was actually denied parole because of his conviction for aiding and abetting escape. Therefore, any possible impact on Appellant's parole is purely hypothetical at this point. Accordingly, I find Appellant has failed to show the Department's actions have deprived him of a liberty or property interest such that this Court has jurisdiction.

Because Appellant has not alleged deprivation of a state-created liberty or property interest in this matter, the Court finds Furtick to be controlling. 374 S.C. at 334, 649 S.E.2d at 35 (holding when the grievance appeal does not implicate a state-created liberty or property

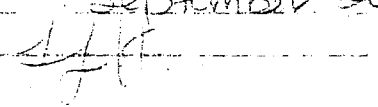
interest, the ALC may summarily dismiss the appeal at its discretion).

IT IS HEREBY ORDERED that this appeal is **DISMISSED**.

AND IT IS SO ORDERED.


SHIRLEY C. ROBINSON
Administrative Law Judge

September 5th, 2014
Columbia, South Carolina

5 September 2014


THE STATE OF SOUTH CAROLINA
IN THE ADMINISTRATIVE LAW JUDGE DIVISION

Appeal from the Final Agency Decision of
The South Carolina Department of Corrections

Case Number: 14C0376
Grievance Number: MCCI 1046-13

STEPHEN A. BECKHAM, SCDC# 236548,

PETITIONER,

V.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

Brief of Appellant with Appendix

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Statement of Issue on Appeal

According to the South Carolina Department of Corrections own records, Mr. Beckham's administrative charge for escape was based solely on a criminal charge, which was dismissed and ordered to be expunged. Under these circumstances and S.C. Code Ann. § 17-1-40, is the Department required to delete and expunge all public reference to this administrative charge of escape?

Statement of Case

On November 1, 2005, inmates Johnny Brewer and Jimmy Causey escaped from the Broad River Correctional Institution. On February 7, 2007, the South Carolina Law Enforcement Division served an arrest warrant on the appellant, Stephen A. Beckham, alleging his aiding and abetting the escape of Brewer and Causey. On September 10, 2009, the Fifth Circuit Solicitor's Office dismissed this charge. By order dated July 11, 2013, the Honorable DeAndrea G. Benjamin ordered the records pertaining to this charge expunged.

On October 29, 2013, the appellant, Stephen A. Beckham, filed a grievance with the South Carolina Department of Corrections (hereinafter "SCDC" or "the Department") requesting the Department remove the administrative charge of escape and remove all references to this charge from his record. On November 7, 2013, SCDC denied Mr. Beckham's grievance.

On November 7, 2013, Mr. Beckham appealed the Department's denial of his grievance. On March 17, 2014, SCDC again denied Mr. Beckham's grievance. The final agency decision is dated April 3, 2014.

Mr. Beckham timely filed a notice of appeal. This brief follows.

Argument

According to the South Carolina Department of Corrections own records, Mr. Beckham's administrative charge for escape was based solely on a criminal charge, which was dismissed and ordered to be expunged. Under these circumstances and S.C. Code Ann. § 17-1-40, the Department is required to delete and expunge all public reference to this administrative charge of escape.

A. Facts.

On November 1, 2005, inmates Johnny Brewer and Jimmy Causey escaped from the Broad River Correctional Institution. Both Brewer and Causey were apprehended outside of the institution. Appendix (hereinafter "A.") 1.

The South Carolina Law Enforcement Division (hereinafter "SLED") investigated. The Fifth Circuit Solicitor's Office obtained sealed indictments against Brewer and Causey for escape. The Solicitor's Office also obtained a sealed indictment against Mr. Beckham for aiding and abetting the escape. A. 1.

On February 7, 2007, SLED served an arrest warrant on Mr. Beckham, alleging his aiding and abetting the escape of Brewer and Causey. A. 1.

Immediately following Brewer's and Causey's capture, the Department initiated disciplinary action against the two. At the time, SCDC *did not* take similar action against Mr. Beckham. An internal memorandum from SCDC's Inspector General explains:

Since both Causey and Brewer were apprehended outside of the institution, their inmate disciplinary actions took place in a timely manner. This was possible because no use of the information contained in the SLED investigative reports, which led to the recent indictments, was necessary to sustain their disciplinary convictions. However, the same circumstances did not apply to Inmate Beckham. Any disciplinary action taken against him would have relied solely on the contents of the sealed SLED Investigative report which was a principle factor in the grand jury returning a true bill indictment against him for aiding and abetting. Because of this no disciplinary action

has been taken against him in regard to the aforementioned escape.

The Inspector General then requested the Department waive “the time requirements of the inmate disciplinary policy.” A. 1.

On September 10, 2009, the Fifth Circuit Solicitor’s Office dismissed Mr. Beckham’s charge for aiding and abetting escape. A. 1. By order dated July 11, 2013, the Honorable DeAndrea G. Benjamin “ordered that all records relating to such arrest and subsequent discharge . . . be dismissed, expunged, and immediately destroyed and that no evidence of such records pertaining to such charge shall be retained by any municipal, county or state agency except nonpublic information.” A. 2.

SCDC continues to maintain a public record of the escape charge, which can be viewed on the Department’s website.

On October 29, 2013, Mr. Beckham filed a grievance with the Department stating, “I received a court ordered expungement of Escape/Aiding and Escape.” He contended:

SCDC has not cleared my record. State law allows no exception for SCDC to even keep an “Administrative Charge” on my record. SCDC is violating the law and my rights.

Mr. Beckham then requested “[t]hat the administrative charge and all other references to this incident be immediately removed from my record.” A. 3 (emphasis original).¹

¹ Mr. Beckham’s October 29, 2013 grievance also states, “My attorney has also contacted General Counsel of SCDC.” A. 3. On September 9, 2013, counsel provided General Counsel with a copy of the expungement order and requested the Department remove the escape from Mr. Beckham’s record. In an email exchange on January 22, 2014, General Counsel informed Mr. Beckham’s counsel the Department relies on *Compton* as authority for not removing the administrative charge from Mr. Beckham’s record.

On November 7, 2013, SCDC denied Mr. Beckham's grievance. A. 4. The same day, Mr. Beckham appealed, pointing out that SCDC should comply with the court order.

A. 5. On March 17, 2014, the Department denied the appeal, stating:

[T]he expungement order regarding arrest charges does not require the Class I Escape disciplinary to be removed from your record. This disciplinary conviction remains as does the Class I escape on your classification history based on the disciplinary conviction.

The Department's decision became final on April 3, 2014. A. 5.

Mr. Beckham appealed, contending the Department's decision was contrary to *Compton v. S. Carolina Dep't of Corr.*, 392 S.C. 361, 709 S.E.2d 639 (2011).

B. Standard of Review.

This is an appeal of SCDC's final agency decision pursuant to *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). S.C. Code Ann. § 1-23-380(5) provides:

The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

C. Discussion.

In Mr. Beckham's case, SCDC's own records show the administrative charge for escape was based solely on a on a criminal charge. A. 1. The underlying facts, therefore, are not in dispute, and the reliable evidence would not support any factual finding to the contrary.

SCDC's decision is controlled by an error of law. S.C. Code Ann. § 17-1-40(A)(1) provides:

A person who after being charged with a criminal offense and the charge is discharged, proceedings against the person are dismissed, or the person is found not guilty of the charge, the arrest and booking record, files, mug shots, and fingerprints of the person must be destroyed and no evidence of the record pertaining to the charge may be retained by any municipal, county, or state law enforcement agency. Provided, however, that local and state detention and correctional facilities may retain booking records, identifying documentation and materials, and other institutional reports and files under seal, on all persons who have been processed, detained, or incarcerated, for a period not to exceed three years from the date of the expungement order to manage their statistical and professional information needs and, where necessary, to defend such facilities during litigation proceedings except when an action, complaint, or inquiry has been initiated. Information retained by a local or state detention or correctional facility as permitted under this section after an expungement order has been issued is not a public document and is exempt from disclosure. Such information only may be disclosed by judicial order, pursuant to a subpoena filed in a civil action, or as needed during litigation proceedings. A person who otherwise intentionally retains the arrest and booking record, files, mug shots, fingerprints, or any evidence of the record pertaining to a charge discharged or dismissed pursuant to this section is guilty of contempt of court.

The only case applying §17-1-40 to SCDC is *Compton, supra*, where our Supreme Court reaffirmed that §17-1-40 applies to SCDC and upheld a preliminary

injunction prohibiting the Department from forwarding information to the Department of Probation, Parole, and Pardon Services (hereinafter “DPPPS”) about charges that had been dismissed and expunged. The Court, however, noted limitations on the application of the section. Section 17-1-40

does not apply to any recordation of historical events beyond the charge itself. For example, the facts precipitating the charge are not covered by this statute because they are mere events that exist irrespective of any criminal proceedings. As applied to the instant case, the distinction drawn under section 17-1-40(A) is the distinction between “capital-e Escape”—a criminal charge—and “lower-case-e escape”—a mere fact that a person was AWOL. Section 17-1-40(A) prohibits the retention, and by extension the dissemination, of the former; it contains no restrictions with respect to the latter.

Compton, 392 S.C. at 369, 709 S.E.2d at 643.

In *Compton*, the inmate was AWOL from his SCDC institution, and our Supreme Court held the Department should not be “enjoined from forwarding any notations of historical events to DPPPS, such as the fact that Compton was AWOL, found under Compton's ‘History of Movements’ and ‘History of Earned Work Credit Assignments.’” *Id.* 392 S.C. at 369, 709 S.E.2d at 643.

Here, Mr. Beckham was *never absent* from the Department without leave. By its own admission, the Department did not record any historical events that exist irrespective of the criminal proceedings. According to SCDC’s Inspector General, “Any disciplinary action taken against [Mr. Beckham] would have relied *solely* on the contents of the SLED Investigative report.” A. 1 (emphasis added). In short, SCDC would not be aware of these allegations absent the criminal charges.

Mr. Beckham is prejudiced by the Department’s decision. In addition to the public dissemination of the charge, Mr. Beckham faces possible parole consequences. If

SCDC is allowed to maintain a public record of the administrative charge and forward that information to DPPPS for parole consideration, then it is maintaining a public record of and sharing information that resulted “solely” from the SLED investigation. DPPPS could deny Mr. Beckham parole based on information the Circuit Court ordered destroyed. *Compton*, 392 S.C. at 365, 709 S.E.2d at 641 (“DPPPS has questioned Compton specifically about his escape history. To date, DPPPS has not granted Compton parole.”).

The Department’s decision is not supported by the facts and is controlled by an error of law. This Court should reverse.

Conclusion

SCDC does not have any record of Mr. Beckham aiding and abetting the escape of two other inmates independent of the criminal charge. The Solicitor's office dismissed this charge, and the Circuit Court ordered the Department to expunge its records pursuant to S.C. Code Ann. § 17-1-40. Because Mr. Beckham was never absent from the institution without permission and the Department is not aware of any allegations of Mr. Beckham aiding and abetting the escape absent the criminal charges, the Department erred by not deleting and expunging all public reference to an administrative charge of escape.

This Court should reverse SCDC's final agency decision and order the department to delete and expunge all public reference to an administrative charge of escape.

Respectfully Submitted,

By 

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June 24, 2014
Greenwood, South Carolina

THE STATE OF SOUTH CAROLINA
IN THE ADMINISTRATIVE LAW JUDGE DIVISION

Appeal from the Final Agency Decision of
The South Carolina Department of Corrections

Case Number: 14C0376
Grievance Number: MCCI 1046-13

STEPHEN A. BECKHAM, SCDC# 236548,

PETITIONER,

V.

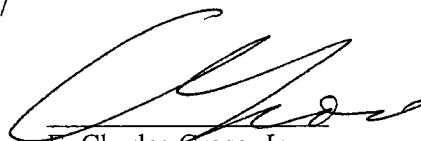
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

Certificate of Service

I certify that I have served a copy of this brief with appendix on the State of South Carolina by placing a copy in the United States Mail, postage prepaid, on date reflected below, addressed as follows:

General Counsel
S.C. Department of Corrections
PO Box 21787
Columbia, SC 29221-1787



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(864) 538-4466

June 24, 2014
Greenwood, South Carolina

MEMORANDUM

Appendix, p. 1

TO: Mr. Robert E. Ward, Director of Operations

THROUGH: Mr. Carl Frederick, Division of Operations

FROM: Daniel J. Murphy, Inspector General

SUBJECT: Inmate Stephen Beckham, SCDC#236548
Lee Correctional Institution (Disciplinary Waiver)

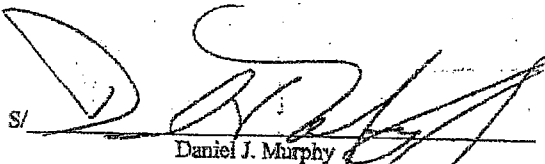
DATE: February 3, 2007


On 02/07/2007, Inmate Stephen Beckham (SCDC#236548) was served a warrant by SLED for his aiding and abetting the escape of Inmates Johnny Brewer and Jimmy Causey from the Broad River Correctional Institution on 11/01/2005. Previously, the entire matter had been presented to a grand jury, but at the request of the Fifth Circuit Solicitor, the resulting indictment of all three inmates had been sealed. With the service of the warrants on Causey and Brewer on 02/06/2007, and on Beckham on 02/07/2007 the requirement for SCDC to follow the court's sealed order has been removed.

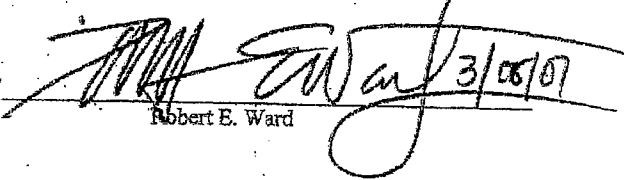
Since both Causey and Brewer were apprehended outside of the institution, their inmate disciplinary actions took place in a timely manner. This was possible because no use of the information contained in the SLED investigative reports, which lead to the recent indictments, was necessary to sustain their disciplinary convictions. However, the same circumstances did not apply to Inmate Beckham. Any disciplinary action taken against him would have relied solely on the contents of the sealed SLED Investigative report which was a principal factor in the grand jury returning a true bill indictment against him for aiding and abetting. Because of this no disciplinary action has been taken against him in regard to the aforementioned escape.

The delay in initiating any disciplinary action against Beckham was a direct result of the court order sealing the indictment. That seal has now been lifted; therefore, I respectfully request that the time requirements of the inmate disciplinary policy be waived so that the appropriate internal disciplinary action can be initiated against Inmate Beckham.

Attached, please find the relevant documentation from the SLED investigative file to charge Inmate Stephen Beckham internally for aiding and abetting an escape. If you require any additional information in order to authorize this action, do not hesitate to contact me.

S/ 
Daniel J. Murphy

APPROVED/DISAPPROVED: S/  2/9/07
Carl Frederick

APPROVED/DISAPPROVED: S/  3/06/07
Robert E. Ward

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF GENERAL SESSIONS
ORDER FOR DESTRUCTION OF ARREST RECORDS

THE STATE OF SOUTH CAROLINA

Race WHITE Sex MALE Age 33
DOB JULY 7, 1959 SSN 247-19-7374

vs.

SID # SC 00200920

STEPHEN BECKHAM
Defendant

Charges were disposed of in the court indicated below:

Magistrate Municipal General Sessions

AKA

IT APPEARS that the defendant is entitled to have all records relating to this offense expunged and destroyed according to the applicable section of the South Carolina Code of Laws indicated below:

Warrant/GS No. 2006 GS 400196L Date of Arrest 3/15/06 Place of Arrest RICHLAND County, S.C.

Arrest Charge ESCAPE / ALIEN ESCAPES FROM PRISON

- § 17-1-40. The charge was dismissed, *not pressed* or the defendant was found not guilty on 9/10/09.
- § 17-22-150(a). The charge was *not pressed* by the Solicitor because the defendant successfully completed the Pre-Trial Intervention Program. (PTI Director must attest to eligibility for expungement).
- § 17-22-530(A). The charge was *not pressed* by the Solicitor because the defendant successfully completed the Alcohol Education Program Program. (AEP Director must attest to eligibility for expungement).
- § 34-11-90(e). The defendant was convicted of a first offense misdemeanor under the Fraudulent Check Law and no additional criminal conviction as defined by § 34-11-90(e) has taken place in one year from date of conviction.
- § 44-53-450(b). The defendant was charged with first offense simple possession of marijuana or hashish on , received a conditional discharge and successfully complied with the terms as set forth by the court.
- § 22-5-910. The defendant was convicted of a first offense for a crime carrying a penalty of not more than 30 days on , that offense did not involve the exceptions enumerated in § 22-5-910, and no additional criminal conviction as defined by § 22-5-910 has taken place within three years from date of conviction or five years from the date of conviction for criminal domestic violence. (Summary Court Judge must attest to eligibility).
- § 22-5-920. The defendant was convicted of a first offense as a youthful offender on , that offense did not involve the exceptions enumerated in § 22-5-920, and no additional criminal conviction as defined by § 22-5-920 has taken place during a five-year period following completion of his sentence, including probation and parole as a youthful offender.
- § 56-5-750(F). The defendant was convicted of a misdemeanor first offense failure to stop motor vehicle on and no additional criminal conviction has taken place for three years after completion of the sentence.

JENNETTE W. BERNHEIM
C.O.P. & G.S.
2013 JUL 16 AM 10:30
FILED
RICHLAND COUNTY

SLED verifies the offense listed above is eligible for expungement: Yes No SLED Date

IT IS ORDERED that all records relating to such arrest and subsequent discharge pursuant to the above-referenced section be dismissed, expunged and immediately destroyed and that no evidence of such records pertaining to such charge shall be retained by any municipal, county or state agency except nonpublic information retained on each person accepted for Pre-Trial Intervention pursuant to § 17-22-130, nonpublic information retained by SC Law Enforcement Division (SLED) pursuant to § 34-11-90(e), nonpublic information retained by the Department of Narcotic and Dangerous Drugs Under SLED pursuant to § 44-53-450, nonpublic information retained by SLED pursuant to § 22-5-910 and § 22-5-920, and nonpublic information retained by SLED and Department of Public Safety pursuant to § 56-5-750 (F).

Solicitor: Consents

Declines to Consent

Determined ineligible for expungement

Circuit Solicitor

Signed this JUL 11 2013 day of

Circuit Court Judge

CERTIFIED TRUE COPY
OF ORIGINAL FILED
Atty Gen Office
C.O.P & G.S.
RICHLAND COUNTY
SOUTH CAROLINA

I attest that the defendant is eligible for expungement pursuant to S.C. Code §17-22-150(a) (successful completion of PTI), §17-22-530(A) (successful completion of AEP), § 22-5-910 (summary court conviction) or § 44-53-450(b) (conditional discharge).

Date 11-12-13

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: STEPHEN BECKHAM
SCDC NUMBER: 236548
INSTITUTION: MCCORMICK C.I.
HOUSING UNIT: F2A-265
WORK ASSIGNMENT: N/A OCT 31 2013

Office Use Only
Grievance No. MCC1046-13
Code: General _____
Policy _____
Disc. Hear. _____
Class. ✓
Date Received 10-31-13
IGC Initials PT

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

I RECEIVED A COURT ORDERED EXPUNGEMENT OF ESCAPE/ADDING AN ESCAPE FOR WHICH I WAS HELD ON LOCK-UP FOR 8 YEARS. YET, I WAS STILL PLACED IN M.E. CUSTODY AND S.C.D.C. HAS NOT CLEARED MY RECORD. STATE LAW ALLOWS NO EXCEPTION FOR S.C.D.C. TO EVEN KEEP AN "ADMINISTRATIVE CHARGE" ON MY RECORD. S.C.D.C. IS VIOLATING THE LAW AND MY RIGHTS.

ACTION REQUESTED: THAT THE ADMINISTRATIVE CHARGE AND ALL OTHER REFERENCES TO THIS INCIDENT BE IMMEDIATELY REMOVED FROM MY RECORD. THAT MY MINIMUM IN CUSTODY BE RESTORED IMMEDIATELY. THAT MY STATE PAY BE RESTORED IMMEDIATELY AND ALL BACK STATE PAY FROM THE PAST 8 YEARS BE PLACED IN MY ACCOUNT. AND THAT I RECEIVE COMPENSATION FOR CRUEL AND UNUSUAL PUNISHMENT AND FALSE PUNISHMENT SINCE NOV. 1 2005.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

SEE ATTACHED REQUEST FORM AND EXPUNGEMENT ORDER. MY ATTORNEY HAS ALSO CONTACTED THE GENERAL COUNSEL OF S.C.D.C.

[Signature] 10-29-13
Grievant Signature Date

COPY - CHARLES GROSE ATTY.

ACTION TAKEN BY IGC:

Reviewed Grievance
See Warden's Response

[Signature] 11-07-13
IGC Signature Date
[Signature]
Grievant Signature Date

- I accept the action taken by the IGC and consider the matter closed.
- I do not accept the action taken and wish to appeal.

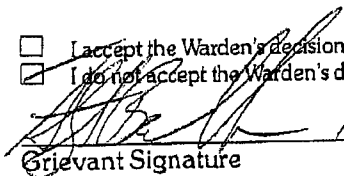
WARDEN'S DECISION AND REASON:

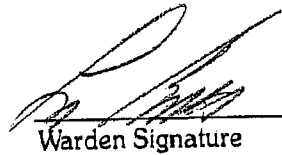
**I/M Stephen Beckham, 236548
MCCI 1046-13**

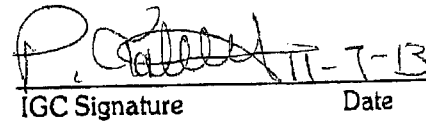
I/M Beckham,
Your grievance has been reviewed. Per Ms. Lee, Classification Case Manager, all documentation pertaining to your "expungement" has been forwarded to Inmate Records for review and or possessing as required by policy OP-21.09 11.10. You will be notified of the decision when the process is complete. Your grievance is denied.

If you are not satisfied with my decision, you may appeal to the appropriate responsible official within, (5) days of receipt, via the Institutional Grievance Coordinator.

- I accept the Warden's decision and consider the matter closed.
- I do not accept the Warden's decision and wish to appeal.


Grievant Signature 11-7-13
Date


Warden Signature 11-7-13
Date


IGC Signature 11-7-13
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.
5. 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 2

INMATE NAME: STEPHEN BECKHAM
SCDC NUMBER: 236548
INSTITUTION: MCCI
HOUSING UNIT: _____
WORK ASSIGNMENT: _____

Office Use Only
Grievance No. MCI-1046-13
Code: General _____
Policy _____
Disc. Hear. _____
Class. _____
Date Received 10-12-13
IGC Initials PT

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

THE WARDEN STATES "... ALL DOCUMENTATION PERTAINING TO YOUR "EXPUNGEMENT" HAS BEEN FORWARDED TO INMATE RECORDS..." "YOU WILL BE NOTIFIED OF THE DECISION WHEN THE PROCESS IS COMPLETE", THERE IS NO "DECISION" FOR S.C.D.C. TO MAKE. THIS IS A COURT ORDER AND COMPLIANCE OR CONTEMPT OF COURT ARE THE ONLY TWO OPTIONS. I WANT S.C.D.C. TO COMPLY OR I WILL ASK THE JUDGE FOR INJUNCTIVE RELIEF.

COPY C. CRUSE ATTY.

[Signature] 11-7-13
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

Your concerns have been reviewed. In accordance with OP-21.09 "Inmate Records Plan", "11.10.2 A cover letter, along with the original order received, will be forwarded to SLED for disposition. A copy of all documents sent to SLED will be kept until a disposition is received. No action will be taken if the order was rescinded or no disposition is received from SLED." The expungement order regarding your arrest was sent to SLED on 9/18/13 requesting a disposition. However, the expungement order regarding arrest charges does not require the Class I Escape disciplinary to be removed from your record. This disciplinary conviction remains as does the Class I escape on your classification history based on the disciplinary conviction.

Therefore, your grievance is denied.

You may appeal this decision under the Administrative Procedures Act to the Administrative Law Court. In order to appeal, you must fill out the attached Notice of Appeal Form and submit it as instructed on the form within 30 days of receipt.

[Signature] 3-17-14
Signature Date

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

Grievant Signature Date

[Signature] 04-03-14
IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

INSTRUCTIONS FOR COMPLETING STEP 2 GRIEVANCE FORM

1. Complete form in its entirety, writing only in the space provided for inmate use.
2. State your specific reason for further appeal. Do not submit any new issues for review.
3. Submit this completed form with your original Step 1 attached, to the Institutional Grievance Coordinator within five (5) days of your receipt of the Warden's decision. Do not write in the space provided for the responsible official.
4. The decision rendered by the responsible official exhausts the appeal process of the SCDC Inmate Grievance Procedure.

**STATE OF SOUTH CAROLINA
IN THE ADMINISTRATIVE LAW COURT**

Stephen A. Beckham, # 236548,

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

) Docket No.: 14-ALJ-04-0376-AP
) [Grievance No.: MCCI 1046-13]

) *Honorable Shirley C. Robinson*

) **RESPONDENT'S BRIEF**

STATEMENT OF THE CASE

This matter is before the Administrative Law Court ("ALC" or "Court") pursuant to the appeal of Stephen A. Beckham ("Appellant"), an inmate incarcerated with the South Carolina Department of Corrections ("SCDC" or "Department"). In this appeal, appellant claims a criminal expungement order requires the Department to remove all public records of appellant's disciplinary conviction for escape from appellant's record.

On March 15, 2006, appellant was indicted for escape in connection with an incident that occurred on or about November 1, 2005. According to a memorandum from former SCDC Inspector General Daniel Murphy, the indictment was sealed when it was issued. Mr. Murphy's memorandum explains that inmate disciplinary proceedings against appellant were delayed as a result of the court order sealing the indictment.

In February 2007, warrants were served on the inmates involved, including appellant. As a result the seal on the indictments was lifted, and appellant was also charged with an inmate disciplinary offense for Class I escape for aiding and abetting an escape from a Level II or Level III institution. After a March 19, 2007 disciplinary hearing, appellant was convicted by disciplinary hearing officer Linda Sanders. Appellant lost property, canteen, visitation, and

telephone privileges for 365 days as a result of the disciplinary conviction and was also sanctioned with 504 days' time served on disciplinary detention. (Disciplinary Report and Hearing Record completed March 19, 2007).

Appellant filed a Step One Inmate Grievance on March 21, 2007 challenging the disciplinary conviction. In response, on May 4, 2007 the Warden issued a decision upholding the disciplinary conviction. Appellant filed a Step Two Grievance on May 8, 2007. On May 23, 2007, the responsible official signed a final agency decision denying appellant's grievance and upholding the disciplinary conviction. (Inmate Grievance MCCI 0188-07).

On June 1, 2007, appellant filed a Notice of Appeal in this Court challenging his disciplinary conviction. By way of an order dated July 10, 2007, Administrative Law Judge John D. McLeod dismissed the appeal pursuant to Slezak v. SCDC, 361 S.C. 327, 605 S.E.2d 506 (2004) because the grievance did not implicate a state-created liberty or property interest. Beckham v. SCDC, Docket No. 07-ALJ-04-00584-AP (copy attached).

On September 10, 2009, the criminal charges against Mr. Beckham were dismissed. Subsequently, on July 11, 2013, the court of general sessions issued an order expunging the charge pursuant to S.C. Code Ann. 17-1-40.

On October 31, 2013, appellant filed a Step One Grievance claiming SCDC was obligated to remove his inmate disciplinary conviction for Class I escape from his record due to the expungement order. The Warden denied the Step One Grievance on November 7, 2013. Appellant filed a Step Two Grievance on November 12, 2013 stating "This is a court order and compliance or contempt of court are the only two options." The Responsible Official denied the grievance on March 17, 2014, explaining that "The expungement order does not require the

Class I Escape disciplinary to be removed from [appellant's] record.” (Inmate Grievance MCCI 1046-13).

Appellant has now appealed the Department's March 17, 2014 decision. For the reasons that follow, the final decision should be affirmed.

STANDARD OF REVIEW

The ALC should not disturb findings of an administrative agency if those findings are supported by substantial evidence on the record as a whole. Pearson v. JPS Converter & Ind. Corp., 327 S.C. 393, 489 S.E.2d 219 (Ct. App. 1997). Stated differently, an Administrative Law Judge may not substitute his 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) (amended by 2008 Act No. 334, § 5, eff. June 16, 2008). Additionally, “an Administrative Law Judge may not reverse or modify an agency’s decision unless substantial rights of the Appellant have been prejudiced because the decision is clearly erroneous in view of the substantial evidence on the whole Record, arbitrary or affected by an error of law.” Matthews v. S.C. Dep’t of Corr., Case No.: 04-ALJ-04-00248-AP, available at <http://www.scalc.net/decisions.aspx?id=1203&q=4> (filed Dec. 21, 2004) (Anderson, A.L.J.); see S.C. Code Ann. § 1-23-380(5)(e); see also Marietta Garage, Inc. v. S.C. Dep’t. of Pub. Safety, 337 S.C. 133, 522 S.E.2d 605 (1999); S.C. Dep’t. of Labor, Licensing & Regulation v. Girgis, 332 S.C. 162, 503 S.E.2d 490 (1998).

“Substantial evidence” is evidence which, considering the record as a whole, would allow a reasonable mind to reach the same conclusion that the administrative agency reached. Hendley v. S.C. State Budget & Control Bd., 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996). The possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency’s finding from being supported by substantial evidence. Grant v. S.C.

Coastal Council, 319 S.C. 348, 461 S.E.2d 388 (1995). Administrative agencies are afforded wide latitude in making decisions, as shown in the deferential standard of appellate review.

Heater of Seabrook, Inc. v. Pub. Svc. Comm'n of S.C., 332 S.C. 20, 503 S.E.2d 739 (1998).

ARGUMENT

I. **RECORDS OF APPELLANT'S INMATE DISCIPLINARY CONVICTION FOR CLASS I ESCAPE WERE NOT REQUIRED TO BE REMOVED PURSUANT TO THE EXPUNGEMENT ORDER.**

The expungement order had no effect on SCDC's records of appellant's disciplinary conviction for Class I escape.

S.C. Code Ann. § 17-1-40(A)(1) explains that if an expungement is ordered, "the arrest and booking record, files, mug shots, and fingerprints of the person must be destroyed and no evidence of the record pertaining to the charge may be retained." The scope of an expungement does not extend to any recordation of historical events beyond the charge itself. See Compton v. SCDC, 392 S.C. 361, 369, 709 S.E.2d 639, 643 (2011).

In Compton, an offender sought a preliminary injunction to compel SCDC to remove references in his record to two escapes that occurred while he was in SCDC custody. In upholding the issuance of an injunction, the Supreme Court explained the limited scope of information that was required to be removed:

Because the sole authority for Compton's complaint is section 17-1-40(A), the injunction granted by the circuit court will extend only as far as that section does. Section 17-1-40(A) applies only to "evidence of the record pertaining to the *charge*," including but not limited to the arrest and booking records, files, mug shots, and fingerprints. (emphasis added). It therefore does not apply to any recordation of historical events beyond the charge itself. For example, the facts precipitating the charge are not covered by this statute because they are mere events that exist irrespective of any criminal proceedings. As applied to the instant case, the distinction drawn under section 17-1-40(A) is the distinction between "capital-e Escape"—a criminal charge—and "lower-case-e escape"—a mere fact that a person was AWOL. Section 17-1-40(A) prohibits the retention, and by extension the dissemination, of the former; it contains no restrictions with

respect to the latter. Based on our conclusion above that Compton has stated a prima facie case that the notions on his Escape Screen are related to the charges filed against him in 1977 and 2002, Appellants are enjoined from forwarding this information to DPPPS. However, Appellants are not enjoined from forwarding any notations of historical events to DPPPS, such as the fact that Compton was AWOL, found under Compton's "History of Movements" and "History of Earned Work Credit Assignments." We express no opinion as to whether the information on Compton's Escape Screen actually is evidence pertaining to the criminal charges filed in connection with those incidents under section 17-1-40(A). We merely hold that because Compton has stated a prima facie case that it is, the preliminary injunction will cover this information.

As explained by the Court in Compton, S.C. Code Ann. § 17-1-40(A) does not require the removal of references to facts or events that exist irrespective of any criminal proceedings.

In the case at hand, the expungement order does not require the removal of public records of appellant's disciplinary conviction for Class I escape. Even though the factual basis for the inmate disciplinary offense may have been similar to the factual basis for the criminal charge, the inmate disciplinary conviction is the result of an entirely separate process. See Lucero v. Gunter, 17 F.3d 1347, 1351 (10th Cir. 1994) (rejecting an inmate's double jeopardy argument because "prison disciplinary hearings are not part of a criminal prosecution and therefore do not implicate double jeopardy concerns") (citing Wolff v. McDonnell, 418 U.S. 539, 556 (1974) and Breed v. Jones, 421 U.S. 539, 556 (1974)). Appellant's disciplinary conviction exists independently and irrespective of the criminal proceedings against appellant, and it remains legally viable. Therefore, pursuant to the Court's decision in Compton, the expungement imposes no restrictions on the records of the disciplinary conviction.

CONCLUSION

For the foregoing reasons, the Department's final agency decision should be affirmed.

Respectfully Submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

BY: 

Christopher Florian
Deputy General Counsel
S.C. Department of Corrections
4444 Broad River Road
Columbia, South Carolina 29221
(803) 896-8508

Columbia, South Carolina
July 16, 2014

JUL 11 2007

GENERAL COUNSEL

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

8/17

MT

Stephen Beckham, #236548,
Appellant,

vs.

South Carolina Department of Corrections,
Respondent.

Docket No. 07-ALJ-04-00584-AP

ORDER OF DISMISSAL
FILED

JUL 10 2007

SC ADMIN. LAW COURT

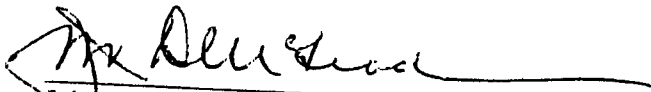
This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to the Notice of Appeal filed by Appellant (Inmate) above named, who is incarcerated with the South Carolina Department of Corrections (SCDC).

Inmate appeals the denial of his Step 2 Grievance which upheld his conviction of Escape or Escape Attempt or Aiding and Abetting Escape with/without Force-Class-I (9.01) SCDC OP-22.14, Inmate Disciplinary System. He did not lose any good time credits nor is there any contention by Appellant that his sentence, sentence related credits or custody status have been erroneously calculated. There is clearly no liberty interest implicated here.

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.

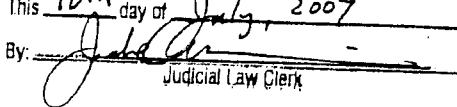
Therefore, for the foregoing reasons this appeal is hereby **DISMISSED WITH PREJUDICE.**

Columbia, S.C.
July 10, 2007


John D. McLeod, Judge

S.C. Administrative Law Court

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 Interagency Mail Service addressed to the party(ies) or their attorney(s).

This 10th day of July, 2007
By: 
Judicial Law Clerk

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

584

901

INMATE NAME: STEPHEN BECKHAM
SCDC NUMBER: 236548
INSTITUTION: M^o Cormick CI
HOUSING UNIT: SMU A-111
WORK ASSIGNMENT: _____

Office Use Only
Grievance No. MCCF-0188-07
Code: General _____
Policy _____
Disc. Hear.
Class. _____
Date Received 5-8-07
IGC Initials JH#

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

SCDC policy was not followed and policy was actually subverted in order to pursue this charge. Policies OP 22.12, OP 22.14 and GA 01.09 were ignored and circumvented. I did not receive an impartial hearing and the outcome, I believe, was predetermined. My statement was misstated and since the agents that took it were not present, it was inadmissible hearsay. There was no evidence of guilt and using an indictment or an officers report written 16 months after the fact was an error. My constitutional rights have been violated, s.c.d.c. has abused their discretion and the arbitrary application of charges against me were unwarranted. My Equal Protection, DUE PROCESS, and other rights under the Constitution of the United States and the State of South Carolina have been violated. By applying this charge against me, the South Carolina DEPT. OF CORRECTIONS officials exceeded their authority and changed regulatory statutes without legislative approval. (continued on back) Steph Beckham 5-9-07
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

The documentation provided indicates that the evidence presented was sufficient to support the conviction of Escape or Escape Attempt or Aiding and Abetting Escape with/without Force-Class I (9.01) on March 19, 2007, under SCDC OP-22.14, Inmate Disciplinary System, dated May 14, 2004, and the sanction(s) imposed, which included the loss of -0-days accrued good time, were appropriate for the rules violation(s). There was no reason found to warrant a reversal of the Disciplinary Hearing Officer's decision. A review of your appeal revealed that you received twenty-four (24) hour notice prior to the hearing, you were afforded due process rights, as required, and the offense was classified and heard in a timely manner.

Therefore, your grievance is denied.

You may appeal this decision under the Administrative Procedures Act to the Administrative Law Court. In order to appeal, you must fill out the attached Notice of Appeal Form and submit it as instructed on the form within 30 days of receipt.

[Signature] 5/23/07
Signature Date

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

Grievant Signature _____ Date _____
IGC Signature _____ Date _____

(SEE REVERSE SIDE FOR INSTRUCTIONS)

INSTRUCTIONS FOR COMPLETING STEP 2 GRIEVANCE FORM

1. Complete form in its entirety, writing only in the space provided for inmate use.
2. State your specific reason for further appeal. Do not submit any new issues for review.
3. Submit this completed form with your original Step 1 attached, to the Institutional Grievance Coordinator within five (5) days of your receipt of the Warden's decision. Do not write in the space provided for the responsible official.
4. The decision rendered by the responsible official exhausts the appeal process of the SCD C Inmate Grievance Procedure.

(CONT.) THE MULTIPLE TIME DELAYS ARE INEXCUSABLE AND IN DIRECT VIOLATION OF S.C.D.C. POLICY. THESE POLICIES ARE IN PLACE TO GUIDE AND REGULATE NOT ONLY THE INMATE POPULATION, BUT THE STAFF, OFFICERS AND ADMINISTRATION AS WELL. S.C.D.C. CANNOT BE ALLOWED TO PICK AND CHOOSE WHEN TO ENFORCE POLICY AND WHEN TO IGNORE POLICY UNLESS THEIR DESIRE IS FOR CHAOS TO ENSUE. ADDITIONALLY S.C.D.C. CANNOT AND MUST NOT BE ALLOWED TO IGNORE THE LAWS, RULES, AND REGULATIONS OF THE STATE OF SOUTH CAROLINA AND THE UNITED STATES OF AMERICA. THE CAPRICIOUS AND ARBITRARY ENFORCEMENT IS WITHOUT STANDING AND PRECEDENT. ON THE CONTRARY, THESE SPECIFIC ISSUES HAVE PREVIOUSLY BEEN ADDRESSED AND RULED IN FAVOR OF GRIEVANTS WITH SIMILAR CLAIMS.

COPY: MR. JOHN SHUPPER ESQ.
ATTORNEY AT LAW



SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM

STEP 1

INMATE NAME: Stephen Beckham
SCDC NUMBER: 236548
INSTITUTION: MCCI
HOUSING UNIT: SMU A-111
WORK ASSIGNMENT: N/A

Office Use Only
Grievance No. MCCI-0188-0
Code: General _____
Policy _____
Disc. Hear. ✓
Class. _____
Date Received 3-21-07
IGC Initials JHH

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

I WAS TAKEN TO A DISCIPLINARY HEARING ON MARCH 19th, 2007 to face a charge on an incident that happened on NOVEMBER 1, 2005. I PROTESTED THE DELAY AND I PLED NOT GUILTY I WAS CONVICTED AND THE TIME LIMIT WAS IGNORED BECAUSE OF A MEMO FROM DANIEL MURPHY THRU ROBERT WARD.

IN POLICY I CAN FIND NO PROVISION FOR A WAIVER AND BLATANT DISREGARD FOR POLICY to allow this conviction to occur or stand. I do, however, know that S.C.D.C. Policy OP 22.12 and POLICY OP 22.14 were not followed. I never received notice of extension or any other paperwork to explain my lock-up. S.C.D.C. cannot push this off on the 5th CIRCUIT SOLICITOR'S OFFICE, "SEALED INDICTMENT". S.C.D.C. WAS IN POSSESION

ACTION REQUESTED: THAT MY CONVICTION OF THE 901 CHARGE FROM 3-19-07 be immediately reversed and my privileges restored.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

DISCIPLINARY HEARING OFFICER LINDA SANDERS WAS ADVISED THAT THIS WAS AGAINST POLICY AND OUR OBJECTION IS ON THE RECORD. I WAS TOLD TO "GRIEVE IT."

Stephen Beckham 3-19-07
Grievant Signature Date

ACTION TAKEN BY IGC:

REVIEWED GRIEVANCE AND DISCIPLINARY PAPERWORK
SEE WARDENS DECISION

L. Holmes 5-1-07
IGC Signature Date
N/A
Grievant Signature Date

- I accept the action taken by the IGC and consider the matter closed.
- I do not accept the action taken and wish to appeal.

WARDEN'S DECISION AND REASON:

YOUR GRIEVANCE, THE DISCIPLINARY TAPE AND DOCUMENTATION PERTAINING TO YOUR DISCIPLINARY HEARING HAS BEEN REVIEWED. A DISCIPLINARY WAIVER WAS REQUESTED AND APPROVED TO GO FORWARD WITH DISCIPLINARY ACTION AGAINST YOU. THE DHO'S DECISION WAS BASED ON LT. BRICE'S AND YOUR OWN STATEMENT. YOUR GRIEVANCE IS DENIED.

[Signature] 5-4-07
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] 5-4-07
Grievant Signature Date

[Signature] 5-1-07
IGC 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.
5. 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.

of the knowledge that they the hearing officer used to convict me and chose to not pursue it for 17 months.

THEREFORE, DUE TO THE BLATANT DISREGARD OF S.C.D.C. POLICY GA 01.09, WHICH SPECIFICALLY ADDRESSES THIS VERY SITUATION, THIS CONVICTION SHOULD BE REVERSED.

THE POLICY STATES in paragraph 2:

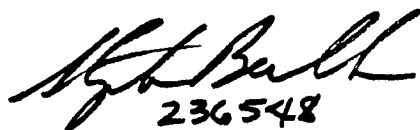
TO PROMOTE ACCOUNTABILITY AND RESPONSIBILITY AMONG INMATES, MATTERS INVOLVING ALLEGATIONS OF INMATES VIOLATING A CRIMINAL LAW(S) MAY ALSO RECEIVE AN APPROPRIATE DISPOSITION IN ACCORDANCE WITH S.C.D.C. POLICY/PROCEDURE OF 22.14, "INMATE DISCIPLINARY SYSTEM". (NOTE: THE WARDEN SHOULD NOT wait to refer the matter to the DISCIPLINARY HEARING OFFICER(S) pending a decision as to whether or not the Agency will receive a warrant/INDICTMENT IN ORDER TO PROSECUTE THE INMATE. THE WARDEN WILL INSTEAD IMMEDIATELY refer the matter to the appropriate DISCIPLINARY HEARING OFFICER(S) so that s/he may begin the inmate disciplinary process).

THIS SPECIFIC DEFINITION OF THE POLICY IN MY CASE HAS BEEN VIOLATED AND THE CONVICTION AND SANCTIONS ARE NOT VALID. THERE WAS ALSO NO EVIDENCE OF GUILT PRESENTED. THE DHO SAID SHE RELIED ON AN INDICTMENT AND A MEMO FROM DANIEL MURPHY - THIS IS NOT EVIDENCE AND SHOULD NOT HAVE BEEN CONSIDERED.

CHRONOLOGY

- NOV. 15th 2005 - DATE OF INCIDENT / DATE PLACED ON LOCK-UP.
- FEB 7th 2007 - SEIZED WITH AN INDICTMENT IN THE PRESENCE OF A/W CARLEDGE / MAJOR LEWIS, CAPT. AND LT GILCHRIST AS WELL AS OTHER SCDP OFFICERS.
- FEB - 8, 2007 - DANIEL MURPHY FORWARDS HIS MEMO TO CALL FREDERICK.
- FEB 28, 2007 - LT H. BRICE FILES HIS INCIDENT REPORT
- MARCH 8, 2007 ROBERT WARD SIGNS OFF ON THE MEMO.
- MARCH 13, 2007 CHARGE PAPERS SEIZED
- MARCH 19, 2007 DISCIPLINARY HEARING.
- MARCH 19, 2007 GRIEVANCE FILED.

RESPECTFULLY SUBMITTED,

 3-19-07
236548

DEPARTMENT OF CORRECTIONS
DISCIPLINARY REPORT AND HEARING RECORD

Case#: _____ Inmate Name: Stephen Beckham SCDC#: 236548
 Living Area: McCormick A0111A Job: Locked Up Custody: ST3
 Offense Date: 2 28 07 Offense Time: 9:30 AM Offense Location: BRCI
 Offense Description: Major Disciplinary

101/Aiding and Abetting an Escape from a Level II or Level III institution
 Charging Officer/Employee: Lt. N. Brice

INMATE NOTIFICATION: YOU WILL APPEAR BEFORE A HEARING OFFICER 24 HOURS OR MORE AFTER YOUR RECEIPT OF THIS NOTICE. YOU HAVE THE RIGHT TO SUBMIT A WRITTEN STATEMENT AND MAKE A VERBAL STATEMENT.

- INMATE WAIVERS:
- I GIVE UP MY RIGHT TO 24-HOUR NOTICE AND AUTHORIZE THE HEARING OFFICER TO PROCEED WITH THE HEARING
 - I DO NOT WANT TO BE PRESENT AT MY HEARING
 - I DO WANT MY ACCUSER PRESENT AT THE HEARING
 - I DO NOT WANT MY ACCUSER PRESENT AT THE HEARING
 - I WAIVE MY RIGHT TO A HEARING
 - I WANT A COUNSEL SUBSTITUTE Davis
 - I DO NOT WANT A COUNSEL SUBSTITUTE

Date & Time Notified: 3/13/07 7:41 AM By (Print): Ofc. H. Norman
 Inmate Signature: _____ Date: 3/13/07

HEARING INFORMATION:

Hearing Date: <u>03/19/07</u>	Hearing Time: <u>12:00pm</u>	Tape: <u>010-2007</u>	Side: <u>B</u>	Start: <u>001</u>	End: <u>485</u>
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EXPLAIN BELOW BY NUMBER: (1) IF COUNSEL SUBSTITUTE WAS NOT PRESENT DURING PART OF THE HEARING; (2) IF ACCUSED WAS EXCLUDED FROM ANY PART OF THE EVIDENCE STAGE; IF ANY (3) WITNESSES, (4) DOCUMENTATION, OR (5) EVIDENCE WAS EXCLUDED FROM THE HEARING; OR (6) IF INMATE WAS DENIED CONFRONTATION QUESTIONING AND/OR CROSS EXAMINATION OF A WITNESS AT THE HEARING

1) Mr. Davis present
2) and Lt. N. Brice present
3) and statements

OFFENSE CODES				
INMATE PLEA (G, NG, None)	<u>901</u>			
FINDINGS (G, NG, DS)	<u>NG</u>			
	<u>G</u>			

* GUILTY, EVIDENCE PRESENTED CONSIDERED AND REASONS FOR DETERMINATION OF GUILT: (A) ADMISSION OF GUILT; (B) OFFICER'S REPORT; (C) WITNESS TESTIMONY; (D) OTHER EXPLAIN IN DETAIL: statements and evidence attached w/ own statement

HEARING LENGTH: 40 (MINUTES)

ACTIONS:

Loss of Privileges (Days): _____
 - Property (Days): 365
 - Canteen (Days): 365
 - Other TEB (Days): 365
 - Disciplinary Detention (Days): TIME SERVED ON DD

Reprimand: _____
 Extra Duty: _____
 Contact Visit Suspension Thru: _____
 Cell Restriction (Days): _____

Loss of Good Time (days): ONE
 Restitution: \$* _____
* to be determined 365 w/ hearing w/ suspension

FACTUAL REASON(S) FOR PARTICULAR PUNISHMENT IMPOSED: seriousness of charge

IF TIME SERVED YES/NO IF YES, DAYS 504 504 already served

INMATE PLACED IN PHD _____
 DATE SIGNATURE FOR RECEIPT OF FINAL REPORT: _____ DATE: 3-19-07

HEARING OFFICER (PRINT NAME) Lt. N. Brice
 APPROVED/REVERSE/MODIFY Lt. N. Brice REASON _____
 Warden

ACT YOUR CLASSIFICATION CASEWORKER OR COUNSEL SUBSTITUTE IF YOU DO NOT UNDERSTAND THIS FORM.

Institutional Record
 Red - Inmate (Service of Disciplinary Hearing Disposition)
 Canary - Inmate (Service of Disciplinary Report)
 Pink - Central Record

When there is restitution, a copy of this form should be forwarded to Financial Accounting.)

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

MAR 25 2015

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Shirley C. Robinson, Administrative Law Judge

SC Court of Appeals

Case No. 14-ALJ-04-0376-AP
Appellate Case Number: 2014-002068

Stephen A. Beckham, #236548

Appellant.

v.

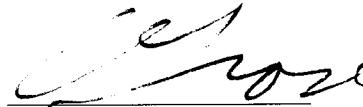
South Carolina Department of Corrections,

Respondent

Certificate of Service

I certify that I have served a copy of the Final Brief of Appellant and the Record on Appeal on the State of South Carolina by placing a copy in the United States Mail, postage prepaid, on date reflected below, addressed as follows:

Daniel J. Crooks, III, Esquire
S.C. Department of Corrections
PO Box 21787
Columbia, SC 29221-1787



E. Charles Grose, Jr.
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466

March 23, 2015
Greenwood, South Carolina

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Shirley C. Robinson, Administrative Law Judge

Case No. 14-ALJ-04-0376-AP
Appellate Case Number: 2014-002068

Stephen A. Beckham, #236548

Appellant.

v.

South Carolina Department of Corrections,

Respondent

Rule 210(g), SCACR Certification

The Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

By



E. Charles Grose, Jr.
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466

Attorney for Appellant

March 19, 2015
Greenwood, South Carolina