

The South Carolina Court of Appeals

Francis Ackerman, #266928, Malik Aljalil, #219551,
Linso Allen, #269378, Michael Benninger, #264212,
Fredrick Brown, #289602, Timothy Brown, #238461,
Terrell Buchanon, #277262, Christopher Buch, #200690,
Rudy Cassady, #238732, Sheldon Clark, #264772,
Zawaski Cobb, #187136, Kamathene Cooper, #145333,
Gladstone Cummings, #267450, Patrick Curtis, #175139,
Quintin Daniels, #196284, Curtis Davis, #238776,
Heyward Dempsey, #134171, Phillip Denney, #240678,
Paul Durham, #219573, Jerome Durham, #270393, Keith
Eigner, #299153, Bernard Felder, #122099, Jermaine
Garriett, #191274, Fred Gatewood, #289775, Dennis
Goff, #177506, Gregory Grant, #109656, Nelson
Hampton, #286427, James Hartmant, #219770, Gary
Hayes, #263985, Michael Hood, #279897, Nikia Law,
#260855, Stephen Lease, #137016, Harry Leonard,
#249996, Herbert McFadden, #184297, Michael
McFarland, #266870, Earl Mack, #216237, John Moultri,
#276527. Matin Muntaqim, #266870, Tony Pitts,
#280597, Germaine Pringle, #250390, Gene Richardson,
#93614, Dennis Richey, #233472, Ignacio Rivera,
#300424, Vondell Sanders, #241308, James Sattler,
#235043, Joseph Schmitz, #173987, Arthur Scott,
#251957, Jerome Scott, #153381, Roosevelt Scott,
#275631, Archie Simmons, #161419, Robert Smith,
#199324, James Williams, #282929, Gary Bryant,
#258972, Harlon Edger, #261866, Johnny Holden,
#245199, Don Hughes, #256862, Michael Key, #266890,
Archie Lee, #226354, Isaace Richardson, #232574,
Larkland Richards, #281768, John Wojcik, #219463,
James Bogan, #288111, Larry Burke, #281911, Jammie
Gaymon, #208922, David Harrell, #260004, Jeff Stinson,
#260047, Ricky Libby, #274681, Alain Lareua, #128014,
Quentin Baker, #297868, Frank Corley, #292975, James
Jackson, #267718, Quintin Linen, #238553, Thomas
Miles, #246763, Chauncy Orr, #177069, Isaiah Scott,

#228008, Eric Youmous, #281091, Derek Carter,
#275938, Willie Hare, #256641, Ernest Miller, #235474,
Robert Norris, #266101, Ronald Simmons, #267937,
Samuel Simmons, #302393, William Thomas, #272501,
Anthony Murphy, #295893, Anthony Murray, #237867,
Johnny Hayes, #267910, Roy Morris, #288777, Daneil
Dewey, #276678, Nehemiah Greene, #243339, Leroy
Choice, #113990, James McFadden, #235419, Francis
Prioleau, #268813, Darrell Rochester, #146731, Wilbur
Jordan #292264, Alvin Stewart, #278595, Kevin Poston,
#266083, Kevin Smith, #272440, Donald Robinson,
#277520, Douglas Bude, #263537, Willie Elder,
#246208, Rogelio Zavala, #245106, Dennis Knight,
#286981, Jacob Beach, #301270, Francis Ackerman,
#266928, Darrin Miller, #259593, Edward Bryant,
#255998, Sherman Austin, #20028, Michael Baylor,
#265682, Taurus Bowman, #252745, Kenneth Carter,
#243538, Calvin Drummond, #236322, David Feggins,
#287157, Terry Ferguson, #299080, Willie House,
#257820, Peter Jenkins, #257321, Percy Martin,
#270035, James Murray, #165487, Stephone Simmons,
#300422, Larry McCam, #282972, Tyrone Aiken,
#244428, Tyrone Aiken, #248367, Frank Anderson,
#282800, Ronald Brewer, #285756, Keith Brown,
#295762, Pete Bryant, #242370, Michael Busques,
#191961, Richard Butler, #162467, Gary Davis,
#106144, Anthony English, #238474, Kerlan Etheredge,
#236635, James Evans, #267837, Jose Flores, #240563,
Robert Garrett, #291096, Reginald Geddis, #183851,
Richard Graham, #228235, Gary Grooms, #283860,
Wayne Harlan, #245705, Johnny Hayes, #267910,
Steven Hickenbottom, #196263, Alfred Joyner, #260442,
Donald Lyles, #296135, Henry Baker, #263398, Thomas
Carter, #249362, Thomas Butler, #257552, Bobby
Williams, #261486, Ray Wells, #173651, Rodney
Pressley, #177947, Keith Kelly, #257556, Maxie
Gamble, #254413, James Enriquez, #215539, Perry
Deveaux, #109601, James Wells, #180458, Cedric
Martino, #291396, Donald McAteer, #292961, Robert
Wydman, #260331, Anthony Wright, #214007, Derrick

Williams, #272958, Kenneth White, #228409, James Trumper, #247429, Jeffrey Spears, #281697, Timothy Smith, #296539, David Sims, #278067, Virgil Simpson, #281888, Edward Simpson, #220017, Kenneth Simmons, #278911, George Shine, #292391, Ralph Sellers, #164295, Laron Richardson, #258786, Frank Patterson, #283098, Tony McNeil, #235846, Larry McClam, #282972, Lavanza Mack, #189340, Raymond Livingston, #277133, Nicholas Lambrose, #215080, Joseph Kelsey, #217218, Keith Eugene, no number, Chuck Jackson, #266425, James Foye, #211523, Timothy Inman, #151123, Marvin Gilbert, #273934, Demetrius Wheeling, #264976, Leon Wilson, #155867, Jeffrey Tevis, #216442, Darryel Beasley, #222388, Curtis Thompson, #266448, Baron Cobbs, #280479, James Tino, #145030, Harold Roberson, #117001, Ray Gadsen, #187527, Tony Witt, #242918, Jonathan Singleton, #287670, Joe Pannell, #89592, Charlse Graham, #294453, Lazarus Brannon, #227847, Darrell Williams, #219730, Wilbert Mills, #244004, Howard Grant, #255473, Timothy Wilson, #261971, Rodney Elliott, #251337, Henry Rivers, #219118, Appellants,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2012-210588

ORDER

Respondent South Carolina Department of Corrections (SCDC) has filed a petition for rehearing in this appeal. After careful consideration of the petition, the Court is unable to discover any material fact or principle of law that has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing.

Accordingly, the petition for rehearing is denied. However, we take this opportunity to address SCDC's misapprehension of our February 10, 2016 opinion.

As stated in our opinion, the exception for "policies/procedures" in section 13.9 of SCDC Policy GA-01.12 serves as shorthand for the language in section 7.1, which lists one of the issues considered by SCDC to be grievable as "Department policies/procedures, directives, or conditions [that] directly affect an inmate." Therefore, even if SCDC's implementation, or lack thereof, of the legislature's policies on inmate wages *also* constitutes a condition of imprisonment, such a condition is encompassed by the policies/procedures exception in section 13.9.

Further, the plain language of section 13.9 states in mandatory terms, "Exceptions to the [fifteen] day time limit requirement *will* be made for grievances concerning policies/procedures." (emphasis added). The remainder of the section is permissive:

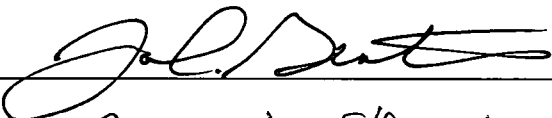
Exceptions *may* also be made for incident grievances by the Chief/designee, Inmate Grievance Branch, provided that documented reasonable cause can be demonstrated as to why the original time frame was not met, e.g., inmate physically unable to initiate grievance due to hospitalization, court appearance, etc. The waiver must be requested by the grievant.

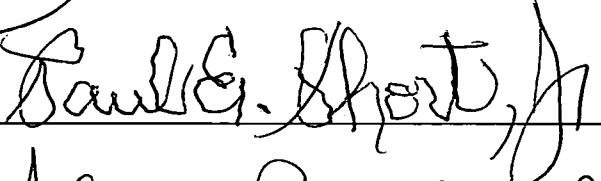
(emphasis added). The final statement requiring the grievant to request a waiver pertains only to the exceptions permitted for incident grievances. Without such a request, SCDC would not be aware of a particular grievant's reason for seeking a time extension.

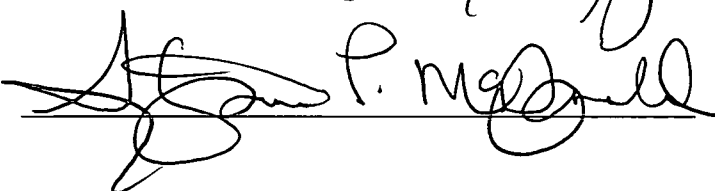
In contrast, the mandatory exception for policies/procedures is automatic for every grievance complaining of an SCDC policy, procedure, directive, or condition that directly affects the grievant. Such a complaint within the grievance form should be readily recognized by SCDC as a policy, procedure, directive, or condition that directly affects the grievant. Upon such recognition, SCDC is required by section 13.9 to accept the grievance as timely. It makes no sense to require the grievant to submit a request for an exception to the fifteen-day deadline when SCDC is already required to accept the grievance as timely. Therefore, in the present case, Inmates were not required to submit a request for a waiver from the fifteen-day deadline. *See State v. Sweat*, 386 S.C. 339, 350, 688 S.E.2d 569, 575 (2010) ("A statute as a whole must receive a practical, *reasonable*, and fair

interpretation consonant with the purpose, design, and policy of the lawmakers." (emphasis added) (quoting *Browning v. Hartvigsen*, 307 S.C. 122, 125, 414 S.E.2d 115, 117 (1992)); see also *Murphy v. S.C. Dep't of Health & Envtl. Control*, 396 S.C. 633, 639, 723 S.E.2d 191, 195 (2012) (holding regulations are interpreted using the rules of statutory construction); *Home Health Serv., Inc. v. S.C. Tax Comm'n*, 312 S.C. 324, 328, 440 S.E.2d 375, 378 (1994) ("Whether a particular agency proceeding announces a rule or a general policy statement depends upon whether the agency action establishes a binding norm.").

Finally, the word "property" in section 7.4, which lists one of the issues considered by SCDC to be grievable as "Inmate property complaints," contemplates any chattels belonging to the grievant, rather than an intangible *right* to the payment of wages for work in the Prison Industries program. SCDC's actions concerning the amount of wages it pays to inmates are directly controlled by its policies and the legislature's policies concerning the amount inmates should be paid. Therefore, the subject of Inmates' grievances in the present case clearly falls under "Department policies/procedures, directives, or conditions [that] directly affect an inmate" rather than "Inmate property complaints."



J.


J.


J.

Columbia, South Carolina

cc:
Douglas H. Westbrook, Esquire
Lake Eric Summers, Esquire

FILED

March 24, 2016