

RECEIVED

MAR 29 2016

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

SC Court of Appeals

George Cleveland, III, #357770,)
)
Appellant,)
vs.)
)
South Carolina Department of Corrections,)
)
Respondent.)
)
)

Docket No. 16-ALJ-04-0103-AP

ORDER OF DISMISSAL

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

Appellant appeals the denial of his grievance complaining about his food.

There is no contention by Appellant that he has lost good time or failed to earn good time or that his sentence, sentence related credits or custody status have been erroneously calculated.

DISCUSSION

The Court's jurisdiction to hear this matter is derived entirely from the decision of the South Carolina Supreme Court in Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). The Court's appellate jurisdiction in inmate appeals is limited to cases involving denial of state created liberty interests¹ typically involving: (1) cases in which an inmate contends that prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; and (2) cases in which an inmate has received punishment in a major disciplinary hearing as a result of a serious rule violation. Id.

Al-Shabazz has recently been underscored by Furtick v. S.C. Dep't of Corr., 374 S.C. 334, 649 S.E. 2d 35 (2007).

S.C. Dep't of Corr. v. Mitchell, 377 S.C. 256, 259, 659 S.E.2d 233, 235 (Ct. App. 2008), cites Furtick, as follows:

Furtick holds that when an inmate's grievance to an ALC does not implicate a state

¹ The Court does have limited jurisdiction in some property matters, the authority for which need not be cited here.

FILED

FEB 22 2016

SC ADMIN. LAW COURT

created liberty or property interest, the ALC **may** (emphasis in original) summarily dismiss the appeal at its discretion. Thus, the ALC clearly had subject matter jurisdiction to hear Mitchell's appeal. Although the ALC could have addressed whether Mitchell's claim implicated a liberty or property interest, and thus could have summarily dismissed the case if it determined Mitchell's claim did not, the ALC chose not to, and heard the appeal. Under Furtick, this was in the ALC's discretion.

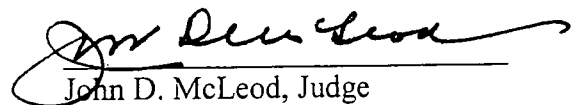
When reviewing the Department's decisions in inmate grievance matters, the Court sits in an appellate capacity. Al-Shabazz at 380, 527 S.E.2d at 756. Consequently, the review in inmate grievance cases is limited to the record presented.

Under Slezak v. S.C. Dep't of Corr., 361 S.C. 327, 605 S.E. 2d 506 (2004), the ALC 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." There is clearly no state created liberty or property interest implicated here.

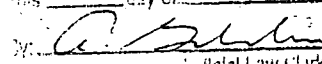
This is clearly a medical case in which this Court must adhere to the traditional "hands off" doctrine regarding judicial involvement in prison disciplinary procedure **and other internal prison matters.** (emphasis supplied) See Pruitt v. State, 274 S.C. 565, 266 S.E. 2d 779 (1980) and Al-Shabazz.

THEREFORE, for the foregoing reasons, the decision appealed from is **AFFIRMED** and this appeal is **DISMISSED WITH PREJUDICE**.

Columbia, S.C.
February 17, 2016


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, by the United States mail, postage paid, or in the Interagency Mail Service addressed to the party(ies) or their attorney(s).

This 22 day of February, 2016

Official Law Clerk