

State of South Carolina  
In the Court of Appeals

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Appeal from Administrative Law Court

MAR 25 2016

S. Phillip Lenski, Administrative Law Judge

SC Court of Appeals

Appellate Case No. 2015-002114

William Ford, # 232122 . . . . . Appellant,

V.

South Carolina Department of Corrections . . . . . Respondant.

Final Brief of Appellant

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### Case Law

Lapp v. SCDMV, 387 S.C. 500, 692 S.E.2d 565 (Court of Appeals, 2010.)

## Statement of Issues on Appeal

The Administrative Law Court was in error in dismissing the instant case.

## Statement of the Case

The Appellant was contacted on 10-8-14 by SCDC's Classification personnel and told that he was to be present at an ICC hearing the following day. The ICC hearing was conducted the following day 10-9-14 where the Appellant was present. Several Correspondences were sent to SCDC officials understood to be authoritative issues left open from the ICC hearing. As a result of the decision rendered from the ICC hearing, the Appellant was contacted on 12-3-14 by SCDC staff/personel and informed he was to be transported the next day. On 12-4-14 the Appellant with all his belongings was brought to the transportation area. After several hours of delay, the Appellant, without his belongings was sent back to the dormitory to await further instructions. On 12-5-14 the Appellant was contacted by SCDC staff/personel and was told everything was nullified, at which time he was given back his belongings. On 12-9-14 the Appellant filed a step (1) Grievance attempting a resolution. SCDC staff/personel gave back an unsatisfactory response on 12-29-14 in which the Appellant filed a step (2) Grievance on 12-30-14. The agency (SCDC) responded to the step (2) with their final decision on 5-28-15. The Appellant filed a Notice of Appeal to the Agency's decision on the Administrative Law Court and the respondent on 6-23-15. The Administrative Law Court dismissed the appeal by order on September 25<sup>th</sup> 2015. The Appellant filed a Notice of Appeal on all parties on September 4<sup>th</sup> 2015. The Appellant and the Respondant served responsive pleadings. This Final Brief is being served arguing the following:

## Argument

The Administrative Law Court was in error in dismissing the instant appeal.

SCDC steadily contends that the Administrative Law Court properly dismissed the Appellant's appeal regarding the conduct of the prison staff because the instant case does not implicate any state-created liberty or property interest. As stated in the Appellant's Initial Brief, SCDC is a state-created agency authorized by state law to be self-sustaining by implementing policies to serve that purpose (ROA pp. 5-10). That within itself makes the instant case one that implicates a state-created liberty interest where this instant appeal is one challenging SCDC officials carrying out the same policies by law the agency has implemented to keep it self-sustaining.

Furthermore, this appeal also is challenging constitutionally protected property interests, being the Appellant's attorney-client privileges were violated when the SCDC officials searched his legal material outside his presence, also a violation of SCDC's policy (ROA pp. 5-10). Those reasons enough were reasons the Administrative Law Court should have given full hearing to the Appellant's appeal. It was improper for the Administrative Law Judge to summarily dismiss the Appellant's appeal so that makes this appeal to this Court ripe for hearing, being the ALC had chance to fully adjudicate the claim (Lapp v. SCDCMV, 387 S.C. 500, 692 S.E.2d 565 (Court of Appeals 2010)).

Lastly, SCDC misplaces application of state law to

this appeal in an attempt to thwart the Court. Much of the law cited in the Respondant's Initial Brief concern internal prison "disciplinary" policies and the "hands off approach" of Courts in those matters but this appeal in no way concerns disciplinary policies. This appeal is one concerning a violation of prison interstate compact policies. And SCDC has admitted SCPC officials has violated policies in this instant case but does it think it has reached constitutional rights. From the pleadings of the Appellant it is clear it has reached constitutional rights the agency suppose to protect. Additionally the Appellant's request for compensation is only for actual damages, not for emotional distress and anxiety as SCDC infers.

## Conclusion

For the reasons set forth in the argument above the Appellant asks that this Court be in agreement with what he said and rule this appeal in favor of his requests.

Respectfully Submitted,

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