

STATE OF SOUTH CAROLINA

In The Court of Appeals

RECEIVED

APPEAL FROM THE ADMINISTRATIVE LAW COURT JUN 10 2016

S. Phillip Lenski, Administrative Law Judge SC Court of Appeals

Case No: 16-ALJ-04-0022-AP

Grievance No: Lee C.I. 0544-15

DONALD EUGENE GRIFFIN, #175349,

Appellant,

- - VS - -

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

Respondent.

BRIEF OF APPELLANT

This matter is before the Court pursuant to a "Notice of Appeal" filed on May 3, 2016, by appellant pro se from a final decision of the South Carolina Department of Corrections (SCDC) through the Administrative Law Court (ALC).

REVIEW: APPENDIX:

EXHIBIT [A]:.. STEP-ONE GRIEVANCE (8/12/15)

EXHIBIT [B]:.. STEP-TWO GRIEVANCE 11/23/15

EXHIBIT [C]:.. ORDER OF DISMISSAL 4/4/16

JUDICIAL NOTICE

That at the time of this incident (summer of 2013) it is a known fact between the inmate at the Lee Correctional Institution (LeeCI) and the security staff, that some inmates (gang members) housed in the same unit (FlA Mental Health Unit - aka - Kershaw Unit) were making homemade keys which would allow those inmates access to the outside at night, to obtain contraband "drugs and "cellphones" and into inmates room while they were out of the unit to either "rob" or "steal" an inmates belongings.

ISSUES ON APPEAL

- 1.].. WHETHER SCDC BARES ANY RESPONSIBILITY OF SECURING AN INMATE'S ASSIGNED LIVING AREA AND PERSONAL PROPERTY WITHIN SAID ROOM WHILE THE INMATE IS OUT OF HIS ASSIGNED UNIT. (e.g. meals, institutional work assignment, church, rec. fields, library, etc.)

- 2.].. WHETHER APPELLANT HAS ANY RESONABLE EXSPECTATION IN THAT WHEN APPELLANT LEAVES HIS ASSIGNED ROOM THE OFFICER ON DUTY WILL NOT LEAVE THE AREA UNTIL APPELLANT'S ROOM DOOR IS SECURED (locked)

STATEMENT OF FACTS

Griffin is an inmate currently housed at the LeeC.I., a facility within SCDC, in Bishopville, SC.

While housed at said facility, Griffin in February of 2008 purchased a LED Digital TV for Two-Hundred and sixty-four dollars and twenty-nine cents (\$264.29) plus a fifteen dollar (\$15.00) deposit from the institutional canteen.

REVIEW: APPENDIX:

EXHIBIT [D]:.. TV Purchase Agreement

EXHIBIT [E]:.. SCDC Personal Equipment Order Form

EXHIBIT [F]:.. Institutional Canteen Receipt

During the summer of 2013 appellant returned from his institutional work assignment and found his room door unsecured. Appellant located his roommate and informed him to this matter. The roommate was unaware of the unlocked door. No officer at the time was on the wing on the unit. Appellant finally located the officer on duty in the sally-port of the unit and reported the incident. Officer Rien-Smith informed appellant she would notify the Unit Lieutenant (Ms. Kirkland).

To appellant's belief and understanding "no" investigation was ever conducted by the unit staff; nor by the institutional contraband office to locate appellant's missing property.

Appellant after receiving no assistance from the institutional staff submitted a Request To Staff Form (RTS) to the Contraband Office explaining the incident and events which occurred shortly after his property was stolen.

REVIEW: APPENDIX:

EXHIBIT [G]:.. Request To Staff Form, 2/09/15

Appellant was still denied any assistance from contraband to locate his missing property.

Appellant filed a STEP-ONE GRIEVANCE which was denied by Warden Reynolds.

REVISIT APPENDIX:

EXHIBIT [A] Warden's Reasons

Appellant filed a STEP-TWO GRIEVANCE which met with the same results

REVISIT APPENDIX:

EXHIBIT [B], Agency's Decision.

Appellant then filed an appeal in the ALC from the denial of his STEP-TWO GRIEVANCE. By Order dated April 4, 2016 the ALC

dismissed appellant's appeal stating:

"Appellant grieved issue is clearly not a state-created liberty or property interest. As such, 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"

REVISIT APPENDIX:

EXHIBIT:.. [C] ALC's ORDER OF DISMISSAL dated 4/4/16.

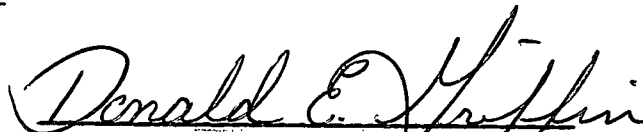
RELIEF

Appellant prays this court enter a decision that SCDC failed appellant by having a closed eye approach to the crimes within their jurisdiction and direct SCDC to "REPLACE" - not refund - appellant's stolen property (LED DIGITAL TV, POWER CORD, EXTENTION CORD and SURGE PROTECTOR), and to any further relief this court deems just in this matter.

APPELLANT FOREVER PRAYS

DATE: _____

6.7.16



Donald E. Griffin, #175349
Lee Correctional Institution
990 Wisacky Highway
Bishopville, SC. 29010

APPELLANT, Pro Se

Appendix

<u>Exhibit A</u>	STEP-ONE GRIEVANCE	8.12.15
<u>Exhibit B</u>	STEP-TWO GRIEVANCE	11.23.15
<u>Exhibit C</u>	ORDER OF DISMISSAL	4.4.16
<u>Exhibit D</u>	TV PURCHASE AGREEMENT	
<u>Exhibit E</u>	SCDC PERSONAL EQU. ORDER FORM	
<u>Exhibit F</u>	INSTITUTIONAL CANTEEN RECEIPT	
<u>Exhibit G</u>	REQUEST TO STAFF FORM	2.09.15

Exhibit A

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM

AUG 20 2015

STEP 2

INMATE NAME: Donald Guff
SCDC NUMBER: 175349
INSTITUTION: Lee Ct
HOUSING UNIT: F-1-A, Room No: 1158
WORK ASSIGNMENT: Prison Industries - East

AUG 17 2015

Office Use Only
INMATE GRIEVANCE
Grievance No. 10029-0544-15
Code: General pr/is
Policy _____
Disc. Hear. _____
Class. _____
Date Received 8/18/15
IGC Initials KGH

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

GRIEVANT REINSTATES HIS GRIEVANCE AS IF STATED HERETO VERBATIM

In addition, grievant asserts the agency (SCDC) has a duty to ensure a prisoner's assigned room is secured (locked - and - prohibit anyone unauthorized from entering the room). This did not happen. Grievant did inform the officer on duty, as well as, the Unit's Lieutenant to this matter. The agency took no action to locate grievant's stolen property.

Donald E. Guff
Grievant Signature 8/17/15
Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

I have reviewed your complaint. You stated that your property was stolen in the summer of 2013. There is no credible evidence of negligence on the part of an SCDC employee in the alleged loss of your property. Personal property is not the responsibility of SCDC unless it is in our control.

Therefore, your grievance is denied.

You may appeal this decision under the Administrative Procedures Act. 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.

Wanda C. McClell 11-23-15
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.

Donald Guff 12/22/15
Grievant Signature Date

K. [Signature] 12/22/15
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.

Exhibit B

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS *Due 8/19/15*

INMATE GRIEVANCE FORM

STEP 1

INMATE NAME: <u>Donald E. Griffin, Jr.</u>	OFFICE USE ONLY
SCDC NUMBER: <u>175349</u>	Grievance No. <u>Lee CI 0544-15</u>
INSTITUTION: <u>LEE CORRECTIONAL INSTITUTION</u>	Code: General <u>pr/ps</u>
HOUSING UNIT: <u>F-1-A Unit, # 1158</u>	Policy _____
WORK ASSIGNMENT: <u>PRISON INDUSTRIES</u>	Disc. Hear. _____
	Class. _____
	PREA _____
	Date Received <u>8/2/15</u>
	IGC Initials <u>DKH</u>

STATEMENT OF GRIEVANCE (Indicate the date of incident, and if the grievance is a challenge to SCDC Policy, specify which policy. Include supporting documentation and attach answered RTSM or Kiosk reference number.)

When I returned from my institutional work assignment (prison industries - East) I found my assigned room unsecured and my television, power cord, surge protector, and canteen purchased antenna was missing. I informed the officer on duty, and she said she would inform the Unit Lieutenant. No investigation into this matter was ever conducted by prison officials.

This incident occurred during the summer of 2013, while Lt. Kirkland was assigned as Unit Supervisor of the F-1 Unit (Kershaw), I was assigned to room no: 2145. It was evident my room was broken into by someone having a homemade key, or the officer on duty left my room unsecured while tending to some other matter.

Several times during the following weeks I tried to speak with Lt. Kirkland about this; however, I was put off or she was not in the Unit.

NOTE: for additional details please refer to the attached (RTSM).

ALSO ATTACHED: Proof of Purchase, SCDC 20-18) form
 Receipt of Purchase, (#402239) dated 2/14/08
 Television Stand Approval, dated 2/12/10
 Television Purchase Agreement, dated 11/14/07

ADDITIONALLY: My inmate account will reflect the \$15.00 deposit still in effect.

Donald E. Griffin, Jr.
 Grievant Signature Date

JUNE 29, 2015

ACTION REQUESTED: The agency has a duty to ensure a prisoner's assigned room is secure. This did not happen. Grievant request the agency replace his television, power cord, surge protector, and canteen purchased antenna.

ACTION TAKEN BY IGC: PROCESSED UNPROCESSED OTHER

L. Linn
 IGC Signature Date 8/6/15

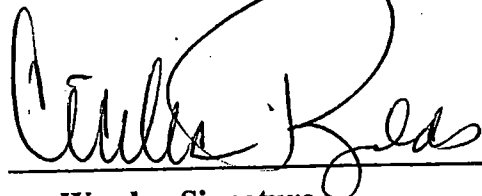
(CONTINUE ON REVERSE SIDE)

WARDEN'S DECISION AND REASON:

Inmate Griffin:

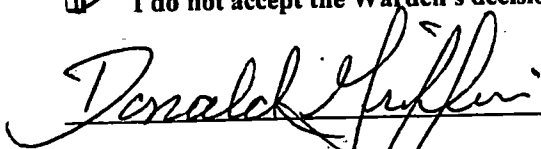
This is in response to LEECI-0544-15. All pertinent information and documentation has been reviewed. Although agency records show that you had a TV on 4/20/11, your inventory sheet dated 10/23/14 which had your signature did not show a TV listed. Per your grievance statement, your room was broken into and your TV was stolen in 2013 while Lt. Kirkland was Unit Lieutenant. You stated you informed the officer on duty, but you gave no name. Lt. Durant was contacted but he could not substantiate this incident. Lt. Kirkland is no longer with SCDC. Personal property is not the responsibility of SCDC unless it is in our control. Reimbursement for personal property will only be given if the item(s) were deliberately lost or damaged by SCDC staff while in SCDC control. Nothing has been found to support your allegations that staff are responsible for the loss of any of your property.


Based on this information, I cannot grant any action on this issue. If not satisfied with my response, see Step 5 below.


Warden Signature 8-7-15
Date

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 8/12/15
Date


IGC Signature 8/12/15
Date

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM


1. An informal resolution shall be attempted prior to the filing of Step 1 by sending an Inmate Request to Staff Member (RTSM) form or Kiosk reference number to the appropriate supervisor. A copy of the answered RTSM must be attached to the grievance when the grievance is filed.
2. Complete each section in its entirety writing only in the space provided for inmate use. No additional pages will be permitted.
3. Only one (1) issue is to be addressed on each form.
4. ~~Submit the completed form by placing it in the Grievance Box at your institution within eight (8) working days of the date on the RTSM response; policy grievances can be filed at any time. Disciplinary and Classification Review appeals must be submitted within five (5) working days of the hearing/review. 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, by placing your Step 2 appeal form in the Grievance Box at your institution.

Exhibit C

grievance does not implicate a state-created liberty or property interest." *Id. citing Sandin v. Conner*, 515 U.S. 472, 115 S.Ct. 2293 (1995).

When reviewing the Department's decisions in inmate grievance matters, the court sits in an appellate capacity. *South Carolina Dept. of Corr. v. Mitchell*, 377 S.C. 256, 659 S.E.2d 233 (Ct. App. 2008). Consequently, the review in these inmate grievance cases is limited to the Record presented. In this case, the Appellant's grieved issue is clearly not a state-created liberty or property interest. As such, 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. *See Pruitt v. State*, 274 S.C. 565, 266 S.E.2d 779 (1980) and *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000).

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


S. Phillip Lenski
Administrative Law Judge

April 4, 2016
Columbia, South Carolina

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date
caused the within and above entitled action upon all
parties to this case to be served by first class mail, return receipt requested, postage paid, by the undersigned or a duly authorized agent, at the address(es) listed below.
4/1/16

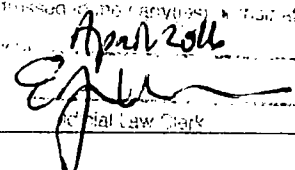
April 2016

Official Law Clerk

Exhibit - D

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

TELEVISION PURCHASE AGREEMENT

Donald E. Griffin Jr
INMATE NAME

175349
SCDC #

LEF- C.I.
INSTITUTION

THIS DOCUMENT IS SUBMITTED AS A REQUEST TO PURCHASE A TELEVISION SET FROM THE SCDC CANTEEN. BY SIGNING BELOW, I AGREE TO THE FOLLOWING CONDITIONS IN ORDER TO PURCHASE THE TELEVISION AND IN ORDER TO MAINTAIN THE TELEVISION. VIOLATION OF ANY OF THE FOLLOWING CONDITIONS WILL RESULT IN THE FORFEITURE OF THE TELEVISION OR A SUSPENSION OF THE PRIVILEGE OF MAINTAINING THE TELEVISION.

My behavior will directly affect the privilege of maintaining the television set. Specific guidelines are as follows:
-Conviction of a level 1 disciplinary offense- loss of television set (must be mailed out).
-Conviction of a level 2 disciplinary offense- loss of television set (must be mailed out).
-Conviction of a level 3 disciplinary offense- loss of television privilege for 90 days.
-Conviction of a level 4 disciplinary offense- loss of television privilege for 60 days.
-Conviction of a level 5 disciplinary offense- loss of television privilege for 30 days.
-Any combination of three (3) level 3, 4, or 5 offenses- loss of television set (must be mailed out).

NOTE: If I appeal the conviction that would result in the loss of my television (level 1 or 2 conviction or three others), the television will be stored by SCDC until the Step 2 appeal response is served upon me. If my grievance is upheld, my television will be returned to me. If my grievance is denied, the television will be mailed out at my expense. If my appeal is subsequently upheld, I will not be allowed to have this television sent back in to me. I will be allowed to purchase another television set.

-If I have any pending disciplinary charges, I will not be eligible to initiate the purchase of a television set. If I initiate the purchase of a television set and receive a disciplinary charge prior to taking possession of the television, the transaction will be voided.

-If I lose my television due to disciplinary issues, I must maintain a clear disciplinary record for five (5) years in order to be eligible to repurchase one.

-There is a limited 60-day warranty from the date of receipt of the television. If a television stops working or is not working properly within the first 60 days of receipt, SCDC will replace that television "free of charge" provided that; 1) there is no evidence of tampering or attempting to open the case; 2) there is no evidence of misuse or abuse; and 3) there is no evidence that the television has been dropped or damaged whether intentionally or unintentionally. Evidence of any of the above will nullify any claims for a replacement television. Poor reception is not a valid reason to request a replacement television whether "rabbit ears" or a central antenna system is being used. To initiate a claim under the warranty, I will bring my television and my SCDC Form 20-18, "Personal Equipment Order Form" to the Canteen Manager for inspection and review.

-ALL IMPLIED WARRANTIES ARE DISCLAIMED BY SCDC, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTY OF MERCHANTABILITY.

-SCDC agrees to sell the television to me. In consideration, I agree to protect, defend, and hold harmless SCDC against any and all claims, actions, liabilities, losses, costs, and expenses, including attorneys fees, arising out of any actual or alleged injury or death to any person, damage to any property or any other damage or loss, by whomever suffered, resulting or claimed to result in whole or in part from any usage or defect, or failure, actual or alleged, of this television. I understand that this television is not to be modified in any way.

-Televisions will not be sent out for repair. If the television breaks or becomes inoperable, the television must be mailed out. This includes situations beyond the control of SCDC (acts of nature, etc.). If there is no disciplinary issue related to these matters, I will be authorized to purchase a new television.

-If a television is found to have been tampered with, to include any attempt by anyone to repair a television set, the television will be mailed out.

-I acknowledge that in addition to the purchase price of the television a deposit of \$15.00 will be frozen in my E. H. Cooper Account to cover the cost of mailing the television set out. If I am released without the need to mail a television set out, the deposit will be refunded. If I have a television on my property list and cannot produce it at the time of release, the deposit will be forfeited.

-As with any personal property, I am prohibited from selling or trading televisions with other inmates.

-If I currently have a grandfathered television and wish to purchase a new one, the grandfathered television must be mailed out prior to purchase at my expense.

I AGREE TO ALL CONDITIONS AS SET FORTH IN THIS DOCUMENT.

Donald E. Huffin, Jr.
INMATE

115349
SCDC #

11-14-07
DATE

L. D. Stewart
EMPLOYEE WITNESS

11-14-07
DATE

Original- Property Control
Copy- Inmate
Copy- Institutional Record

Exhibit - E

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Personal Equipment Order Form

Kershaw 1113

SECTION - A REQUEST TO PURCHASE PERSONAL EQUIPMENT

TO: PROPERTY CONTROL OFFICER _____ DATE: _____
 _____ Inmate No. 1113 Institution/Ctr _____
 (Print Inmate Name)

request approval to purchase the following merchandise from the SCDC Canteen:
 (Fill in item # and description only. Property Control Officer will fill in all other columns.)

ITEM #	DESCRIPTION	MAKE	MODEL	COLOR	SERIAL #	PRICE

APPROVED/DISAPPROVED _____ PROPERTY CONTROL OFFICER _____
 REASON DISAPPROVED: _____

SECTION - B MONEY WITHDRAWAL

TO: E. H. COOPER TRUST FUND _____ DATE: _____

I request that \$ 200.00 be withdrawn from my account and issued to **SCDC CANTEEN** for the purchase of personal equipment.

Identification (Thumb & Index Fingerprints must be affixed.)

Inmate's Signature: _____
 Approved By (Signature): _____

Check # _____

SECTION - C RECEIPT OF PERSONAL EQUIPMENT FROM THE CANTEEN

RECEIPT — I certify that I have received the item listed on this order form and that it was tested in my presence and was operational and in good condition:

DATE _____ INMATE'S SIGNATURE _____

PROPERTY CONTROL OFFICER'S SIGNATURE _____

- White: Financial Accounting
- Green: Canteen Manager
- Canary: Canteen Manager
- Pink: Institutional Mail Room
- Goldenrod: Inmate

REC. No: 402239

2/14/08

+ 15.00 DEPOSIT

#04

0551

#04

Exhibit - F

Receipt of Purchase

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
L... COUNTY #04 - EAST MAIN CANTEEN
LOCATION: 0551 CANTEEN # 04

RECEIPT # 102239

SCDC ID: 00175349
WEEKLY SPENDING LIMIT: 42.19
LIVING AREA: KER11138

TV 8.5 LCD DIGITAL A 1 @264.29 = 264.29

TOTAL: 264.29

02/14/08

08:37:47

+ 15.00 Deposit.

Exhibit - G

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER

TO: NAME: <i>Lt. DURANT</i>	TITLE: <i>Contraband</i>	DATE: <i>02/09/15</i>
INMATE'S NAME: <i>DONALD E. GRIFFIN, JR</i>	SCDC #: <i>175349</i>	
INSTITUTION: <i>LEW CI</i>	LIVING QUARTERS: <i>KER-1161-South</i>	

Lieutenant Durant - Contraband:

During the summer of 2013, while Lieutenant Kirkland was assigned to the Kershaw Unit, I was assigned to Room No 2145 on the Southside of the Unit. During this time my room was broken into by someone having a homemade key, or the officer on duty left my room door unsecure while tending to some other matter. When I returned from work (Prison Industries - East Yard), my room was not secured and my television was missing. I informed the officer on duty of this, and she said she would inform the Lieutenant. Several times during the following weeks, I tried to speak with Lieutenant Kirkland about this; however, I was put off or she was not in the Unit. She did say in front of another inmate, she did an incident report, but I've never seen one.

A month or so after this happen, I was approached by a gang member (inmate) and told if I want my television back it

DISPOSITION BY STAFF MEMBER:

DATE:	SIGNATURE:
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would cost me \$100.00 in canteen. I did not report this due to Lieutenant Kirkland has been known to have very loose lips, and will drop an inmate's names to certain people. I just did not trust her confidence, and I could not fight all of them. So I just keep quite.

Now that all of them have been shipped out of the dorm or transferred, I'm coming to you about getting my television replaced.

I have all the receipts showing where I purchased my television. My inmate account still retains the \$15.00 deposit.

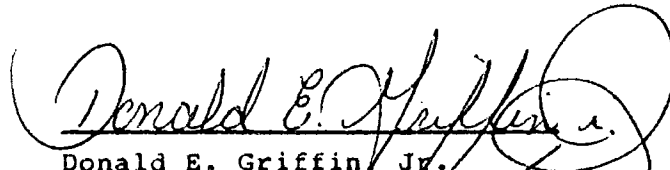
When last years inventory took place, I informed the officers (Lieutenant Fring and Ms. Reams), about my missing television. They stated, they could not do anything about it, that they were there to inventory my personal property.

Lieutenant, I believe I have waited long enough for something to be done. What do I need to do to get my television replaced.

I Look forward in hearing from you on this, and if necessary, please call me to your office and we may further discuss this matter.

Thanking you in advance for your time and assistance to me in this matter.

Respectfully Entrusted


Donald E. Griffin, Jr.

SCDC No: 175349

