

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

Tyrone Perry, #307793

Plaintiff,

vs.

South Carolina Department of Corrections,

Defendant.

COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

Case No.: 2015-CP-40-6789

**DEFENDANT'S PROPOSED  
ORDER TO DISMISS**

JEANETTE W. MCBRIDE  
Clerk  
S.C.P. & G.S.

2016 JUN 13 PM 2:08

RICHLAND COUNTY  
FILED

This matter is before the undersigned pursuant to the complaint of Tyrone Perry, #307793. Both parties having had an opportunity to present their positions in this matter at a hearing on June 9, 2016, I now dismiss this case with prejudice. I specifically conclude that dismissal is appropriate pursuant to SCRPC Rule 12(b) (1).

**12(b)(1)**

The South Carolina Supreme Court in *Al-Shabazz* held that “an inmate may seek review of Department's final decision in an administrative matter under the APA. Placing review of these cases within the ambit of the APA will ensure that an inmate receives due process, which consists of notice, a hearing, and judicial review. It also will provide an orderly and consistent framework for resolving such matters.” *Al-Shabazz v. State*, 338 S.C. 354, 369, 527 S.E.2d 742, 750 (2000). In *Al-Shabazz*, the supreme court stated “[c]ourts traditionally have adopted a ‘hands off’ doctrine regarding judicial involvement in prison disciplinary procedures and other internal prison matters, although they must intercede when infringements complained of by an inmate reach constitutional dimensions.” *Al-Shabazz*, 338 S.C. at 382, 527 S.E.2d at 757

Here, Plaintiff is requesting this Court overturn SCDC’s final agency decision in the form of a Step 2 Grievance. However, Plaintiff did not appeal that final agency decision to the

**SCANNED**

Administrative Law Court. The appropriate court Plaintiff should appeal to is the Administrative Law Court once Plaintiff has exhausted all administrative remedies.

Based on the above determination by this Court, I find the present case should be DISMISSED WITH PREJUDICE.

AND IT IS SO ORDERED.



Hon. D. Craig Brown  
Judge, Fifth Judicial Circuit

6-9, 2016  
Columbia, South Carolina

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