

ORIGINAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

APPEAL FROM ADMINISTRATIVE LAW COURT

FEB 18 2016

Administrative Law Judge Deborah Brooks Durden SC Court of Appeals

Case No. 15-ALJ-04-0003-AP
Appellate Case No. 2015-000379

Perry Watford, #289215.....Appellant,

v.

South Carolina Department of Corrections.....Respondent.

FINAL BRIEF OF RESPONDENT

February 18, 2016

South Carolina Department of Corrections

Shanika K. Johnson

Christina Catoe Bigelow
Deputy General Counsel
S.C. Dept. of Corrections
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(803) 896-8508

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE DISCIPLINARY SYSTEM
INFORMAL RESOLUTION/ADMINISTRATIVE RESOLUTION**

Inmate Name: <u>Perry Watford</u>	Inmate SCDC Number: <u>281215</u>
Number/Type of Violation: (SCDC Form 19-29, "Incident Report" attached) <u>819 Stealing</u>	
Date of Violation: <u>Oct 24, 2012</u>	Institution: <u>BRC7</u>

I find the inmate committed the charge(s) specified, offer the inmate the option to resolve the violation (place check in appropriate box)

☐ INFORMALLY ☒ **ADMINISTRATIVELY**

and impose the following sanction(s):

Sanction	Number of hours/days of sanction or amount of restitution
Counseling (Check box if imposing this sanction)	☐
Instructions or directives (Check box if imposing this sanction)	☐
Verbal reprimand (Check box if imposing this sanction)	☐
Extra duty or chores up to 40 hours	_____ Hours
Restriction of recreation time (general population only) up to 30 days	_____ Days
Restriction of canteen, visitation, or other privileges up to 90 days <u>telephone (90 days)</u>	<u>90</u> Days
Restriction of television viewing and/or radio up to 90 days for Informal Resolution or up to 120 days for Administrative Resolution	_____ Days
Payment of restitution <u>Wavy line</u>	\$ _____
Cell restriction up to 30 days for Informal Resolution or up to 60 days for Administrative Resolution <u>10-30-12 (IDA) then 10-04-12 (IDA)</u>	<u>5</u> Days
ADMINISTRATIVE RESOLUTION ONLY: Disciplinary detention up to seven (7) days time in an institutional Special Management Unit.	_____ Days
ADMINISTRATIVE RESOLUTION ONLY: Failure to earn good time	<u>20</u> Days

☐ The above sanctions are suspended for (UP TO 90 DAYS) _____ days. If the inmate commits no additional disciplinary infractions during that time period, the sanctions will be lifted and the inmate will not have to serve them. If the inmate commits an additional disciplinary infraction, s/he will have to serve the above sanctions and may be subject to additional disciplinary action.

H. C. Finley BRC7 H. C. Finley 10/30/12
Major/Responsible Authority Institution Signature Date

INMATE'S ACCEPTANCE OF INFORMAL OR ADMINISTRATIVE RESOLUTION:

This is to certify that I, Perry Watford, understand that as a result of the above incident, I have been offered the option to resolve the violation (place check in appropriate box)

☐ INFORMALLY ☒ **ADMINISTRATIVELY**

☒ **Yes**, I accept the sanctions listed above. I understand that I have the privilege of requesting this case be referred to a disciplinary hearing, and I waive that privilege. I further agree that by accepting this informal or administrative resolution, I waive all appeals, including those pursuant to Al-Shabazz v. State.

☐ **No**, I do not want to accept the sanctions listed above and request that this case be referred to a disciplinary hearing.

10/30/12
Date

S/ [Signature]
Inmate's Signature

White: Central Records
restitution is to be paid)

Green: Institutional Records

Goldenrod: Inmate

cc: **Financial Accounting (forward copy only when

Original Photo Copied

Exhibit (A)

white photo copy with NOTE
At Top with wave-line only. NO
Dollar Amount.

My Court's Copy

On Oct. 31, 2012 officer Bradley came to my Room
Wanting the Copy that Lt. Fairley gave me on Oct. 30, 2012
around 1:15pm ~~at 2:00pm~~ I took the charge paper
and scribble line threw where it said any payment of
Restitution on it. Their wasn't any Restitution wrote on
it when I signed it ^{on 10-30-12} at 2:00pm Oct. 31, 2012 Lt. Fairley
returned with the charge paper with a white copy
stating Altered Copy By Inmate Watford Line where
Restitution Payment. officer Bradley watch when I
Drew the line in it. and I also showed Lt. Bean on
10-30-12 in medical and Captain Stephen also seen
it in the kitchen on 10-30-12. with no Restitution on it.
Lt. Fairley False side information charging Document.
By Adding Restitution a day later, after Turned in to operation?
27 hours later!

~~Bradley~~ at 4:30pm I went To Medical for Insulin, spoke with
Captain Stephen about the sanction paper. I showed him on 10-30-12
and Lt Bean and Both stated that their wasn't any Dollar
figures in the "payment of Restitution" Box at all.
She's lied and forged Inmate charge papers.
on Oct. 31, 2012

On Nov. 1, 2012 spoke with Captain/Major Jones around 3:45pm about
this Matter. He stated he would get with me on "Nov 2, 2012" About the paper
work. at 4:00pm I still haven't Talked to Captain/Major Jones.

Asked twice for A shower! Never got one until I Came off Deadlock 11-4-12

my copy

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE DISCIPLINARY SYSTEM
INFORMAL RESOLUTION/ADMINISTRATIVE RESOLUTION**

Inmate Name: <u>Perry Wafford</u>	Inmate SCDC Number: <u>289215</u>
Number/Type of Violation: (SCDC Form 19-29, "Incident Report" attached) <u>819 Stealing</u>	
Date of Violation: <u>Oct 24, 2012</u>	Institution: <u>BRC7</u>

I find the inmate committed the charge(s) specified, offer the inmate the option to resolve the violation (place check in appropriate box)

☐ INFORMALLY - ☒ ADMINISTRATIVELY

and impose the following sanction(s):

Sanction	Number of hours/days of sanction or amount of restitution
Counseling (Check box if imposing this sanction)	☐
Instructions or directives (Check box if imposing this sanction)	☐
Verbal reprimand (Check box if imposing this sanction)	☐
Extra duty or chores up to 40 hours	_____ Hours
Restriction of recreation time (general population only) up to 30 days	_____ Days
Restriction of canteen, visitation, or other privileges up to 90 days <u>reinstated 90 days</u>	<u>90</u> Days
Restriction of television viewing and/or radio up to 90 days for Informal Resolution or up to 120 days for Administrative Resolution	_____ Days
Payment of restitution <u>\$9,716</u>	<u>\$9,716</u>
Cell restriction up to 30 days for Informal Resolution or up to 60 days for Administrative Resolution <u>10-12-12 (IDA) then 10-04-12 (IDA)</u>	_____ Days
ADMINISTRATIVE RESOLUTION ONLY: Disciplinary detention up to seven (7) days time in an institutional Special Management Unit.	_____ Days
ADMINISTRATIVE RESOLUTION ONLY: Failure to earn good time	<u>212</u> Days

☐ The above sanctions are suspended for (UP TO 90 DAYS) _____ days. If the inmate commits no additional disciplinary infractions during that time period, the sanctions will be lifted and the inmate will not have to serve them. If the inmate commits an additional disciplinary infraction, s/he will have to serve the above sanctions and may be subject to additional disciplinary action.

<u>L. C. Friley</u>	<u>BRC7</u>	<u>L. C. Friley</u>	<u>10, 30, 12</u>
Major/Responsible Authority (Print Name)	Institution	Signature	Date

INMATE'S ACCEPTANCE OF INFORMAL OR ADMINISTRATIVE RESOLUTION:

This is to certify that I, Perry Wafford, understand that as a result of the above incident, I have been offered the option to resolve the violation (place check in appropriate box)

☐ INFORMALLY - ☒ ADMINISTRATIVELY

☒ Yes, I accept the sanctions listed above. I understand that I have the privilege of requesting this case be referred to a disciplinary hearing, and I waive that privilege. I further agree that by accepting this informal or administrative resolution, I waive all appeals, including those pursuant to Al-Shabazz v. State.

☐ No, I do not want to accept the sanctions listed above and request that this case be referred to a disciplinary hearing.

<u>10, 30, 12</u>	<u>Perry Wafford</u> <u>289215</u>
Date	Inmate's Signature

White: Central Records Green: Institutional Records (Jidenrod: Inmate) **Financial Accounting (forward copy only when restitution is to be paid)

Exhibit (B)
The original 19-106 After Altered with whole line and dollar amount

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

STEP 1

INMATE NAME: Perry WatfordSCDC NUMBER: 289215INSTITUTION: BRCIHOUSING UNIT: Murray 266WORK ASSIGNMENT: Dorm

Office Use Only

Grievance No. BRCI-1371-12Code: General DS/IS

Policy _____

Disc. Hear. _____

Class. _____

Date Received 11-15-12IGC Initials Trn

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

This grievance is being brought, complaining that Lt. Failey fraudgeuntly altered my sanction paper work after the agreeing and initially signing of the paper work 27 hours after the fact. See attached Original Gold & photo copy of sanction paper work.

On October 30, 2012, I was given a Administrative Resolution for 5-sausages, for being taken out of the cafeteria. (1st) Restriction for canteen, visitation, and phone for 90-days. (2nd) deadlocked in my room for 5-days (10-30-12 thru 11-4-12), and (3rd) failure to earn good time, 20-days.

On October 31, 2012 Lt. Failey sent officer Braddly to my room at 1:30pm to get my copy of the Administrative Resolution sanction paper. Officer Braddly witnessed Inmate Perry Watford (grievant), draw "wavie" line through where [payment] of Resolution Block is. Due to the fact there was nothing at the time sanctions were

ACTION REQUESTED:

Reprimand and suspend Lt. Failey for unlawfully altering sanction paper work and perpetrating a fraud on inmate Watford. And restore [all] sanctions imposed based on technicalities of Lt. Failey's inappropriate actions in altering paper work on inmate

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

On Wednesday November 7, 2012 I spoke with Acc. Warden Busch, and I inquired whether he had spoke with anyone regarding Lt. Failey altering/forging the sanction paper work. He stated [No], that he and Captain Jones would talk next week. I advised him that the time to file a grievance was running out. He stated that I was just talking.

Grievant Signature Perry WatfordDate Nov. 13, 2012

ACTION TAKEN BY IGC:

Your case has been reviewed and investigated. See Warden's Decision on the reverse side of this form.

IGC Signature T. Smith

Date _____

Grievant Signature na

Date _____

☒ I accept the action taken by the IGC and consider the matter closed.
☐ I do not accept the action taken and wish to appeal.

~~APPEAL TO THE WARDEN'S DECISION~~
WARDEN'S DECISION AND REASON:

Inmate Watford;

This is in response to BRCI-1371-12. You have appealed the results of your 10/30/12 Informal Resolution/Administrative Resolution (SCDC Form 19-106) in which you state Lt. Failey altered the form to include restitution.

Per Captain Jones, you signed Restitution Form (SCDC Form 19-155) and were therefore aware of the \$9.76 restitution charge. The total costs were based on substantial evidence. Based on this information, your appeal is without merit and therefore denied.

If not satisfied with my response, see Step 5 below.

S. Sutter 12/2/12
Warden Signature Date

- ☐ I accept the Warden's decision and consider the matter closed.
☒ I do not accept the Warden's decision and wish to appeal.

Perry Watford 12-17-12
Grievant Signature Date

[Signature] 12-17-12
IGC Signature Date

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM

1. An informal resolution shall be attempted prior to the filing of Step 1.
2. Complete each section in its entirety, writing only in the space provided for inmate use.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form to the Institutional Grievance Coordinator within fifteen (15) days of an alleged incident; policy grievances at any time. 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, via the Institutional Grievance Coordinator.

Inmate Copy

2 of 2

NOV 14 2012

imposed. Nothing was written in the payment resolution block, when I signed and agreed to the Administrative Resolution, as well as Lt. Failey's signature. At 2:00pm, Lt. Failey returned to my cell and handed me the original Gold copy, plus and additional white photo copy, whereupon Failey had written "altered copy by inmate Watford, line waive, Restitution of payment with Failey's initials (CF) on it.

On the original Gold copy Failey [added] \$9.76 at the beginning of the waive line and again at the end in the Block space of Restitution payment, thus Lt. Failey altered the original paper work.

I went to medical at approximately 3:45pm - 4:00pm on 10-30-12. Lt. Bean was there and I spoke to him and showed him the Gold paper work. I then went to the kitchen and spoke to Captain Stephon and showed him the sanction. Captain Stephon stated that it was kind of harsh sanctions; and that it should have atleast been Possession of Contraband. Captain left to go call Captain/Major Jones. On October 31, 2012 I went to medical at approximately 3:45pm and showed Captain Stephon the Original Gold paper work again, and asked him did he see anything different and he stated "yes", now there is a dollar amount written in the Restitution Block. Lt. Bean came by and I asked him in front of Captain Stephon to look at the Gold paper work again and tell me if it looks the same as it (10/30/12) yesterday. Lt. Bean told Captain Stephon that there was [no] dollar amount on it yesterday (10/30/12).

At that time I told Captain Stephon and Lt. Bean that Lt. Failey sent Officer Braddy to my cell to get my copy of the Gold paper work at 1:30pm (10/31/12) and then Lt. Failey returned at 2:00pm with the Gold & a photo copy of the paper work after she, Lt. Failey had "altered" it. Captain Stephon and Lt. Bean advised me that she, (Lt. Failey) could not do that. Especially not 27-hours after the initial Administrative Resolution was signed by myself and Lt. Failey. I spoke with Captain/Major Jones on November 1, 2012 about the matter at 3:45pm. Jones stated he would get with me on November 2, 2012 at 4:00pm. To date no one from the Administration has addressed Lt. Failey's actions regarding this matter. Lt. Failey does not have unbridled discretions to [add] to an Administrative Resolution after myself and Lt. Failey had agreed to something totally different than what she has done.

1/s/ Perry Watford Nov. 13, 2012
Grievant Date

page 2 of 2 grievance

(STEP 1 Grievance pg 2)

DUE 12-22-12

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2**

INMATE NAME: Perry Watford
 SCDC NUMBER: 289215
 INSTITUTION: ACI - BRCI JAN 07 2013
 HOUSING UNIT: Murray 266
 WORK ASSIGNMENT: Dorm

Office Use Only
 Grievance No. BRCI-1371-12
 Code: General DS/JS
 Policy _____
 Disc. Hear. _____
 Class. _____
 Date Received 1-2-13
 IGC Initials TM

INMATE GRIEVANCE

FHA40

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

This is an appeal from the Warden's decision to BRCI-1371-12 denying my step-1 grievance. My grievance was denied Per Captain Jones saying I signed the restitution form as the reason for denying my grievance. To the contrary Captain Jones was privy to Lt. Failey's actions prior to me filing my grievance (See Step 1 & attached statement of facts), as my informal resolution. The Administrative Resolution form I initially signed did not have restitution on it (see attached Resolution Form/Exhibit (A)). Review exhibit (A) as is clearly seen there is no restitution on the administrative resolution. As I complained of, approximately 27-hours [after] I signed the exhibit (A), Officer Braddy came to my room to retrieve exhibit (A) and later returned with attached exhibit (B) where Lt. Failey altered the form and added

page 1 of 2. page 2 attached

Grievant Signature

Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

Your concern has been investigated. Due to a shortage of staff a back log occurred and there has been a delay in responses to grievances. It is noted that you have provided 2 copies of the 19-106, Informal Resolution/Administrative Resolution form. However, there is no way to prove which was altered or by whom. Based upon the copy provided by the Recorder, your signature is on the one with the restitution of \$9.76 written on the form. You have not provided any evidence and none has been found to support your allegations. Without verifiable evidence to support your allegations further action is not warranted.

Therefore, your grievance is denied.

You may appeal this decision under the Administrative Procedures Act to the Administrative Law Court. 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.

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.

Grievant Signature

Date

IGC Signature

Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

restitution, thus altering and voiding the administrative resolution because I initially did not agree to restitution when Lt. Failey and myself agreed on an administrative resolution. (emphasis supplied).

Clearly when reviewing my step-1 grievance with attached statement of facts, and then reviewing attached exhibit (A) in contrast to exhibit (B), There can be no doubt Lt. Failey altered the Administrative Resolution Form after I initially signed exhibit (A). The Warden's decision should be reversed based on the preponderance of the evidence I have submitted.

Respectfully Submitted

/s/ Perry Watford
Perry Watford

SCDC# 282915

Submitted December 27, 2012

(STEP 2 Grievance pg.2)

THE STATE OF SOUTH CAROLINA **RECEIVED**
In The Court of Appeals

OCT 29 2015

APPEAL ADMINISTRATIVE LAW COURT
Administrative Law Judge DURDEN

SC Court of Appeals

Appellate Case No.: 2015-000379

Perry Watford 289215 • • • • • Appellate
vs.

S.C. Dept. of Corrections • • • • • Respondent

CERTIFICATE OF COUNSEL

The undersigned certified that this complies
with rule 211(b), SCACR.

cc: Daniel Crooks, III
General Counsel SCDC
P.O. Box 21787
Columbia, S.C. 29221
ATTORNEY FOR Respondent

Perry Watford 289215
Perry Watford 289215
Manning C.I. W-7-A17B
502 Beckman Drive
Columbia, S.C. 29203
Appellate pro-se

Dated: OCT. 25, 2015