

The South Carolina Court of Appeals

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NOV 21 2016

SC Court of Appeals

Clarence Miller #2673977

Appellant

VS

South Carolina Department of
Corrections

Declaration
in support of
Motion to
Proceed in
Pauperis

Appellate Case No.
2016-002030

I, Appellant in the above entitled case, in support of my motion to proceed without being required to prepay fee or cost or give security therefor, I state that because of my Poverty I am unable to pay the cost of the cost of the proceeding or to give security

I declare that the responses which I have made below are true.

1. If you presently employed, state the amount of your salary wage per month, and give the name and address of your employer _____

2. If you are not presently employed state the date of the last employment and amount of salary per month that you received and how long the employment lasted.

3. Have you received, within the past twelve months, any money from any of the following sources:

A. Business Profession or form of self employment?

Yes _____ NO

Rent Payments, interest or dividends

Yes _____ NO

c. Pensions, annuities, or life insurance payments?

Yes No ✓

d. Gifts or inheritance?

Yes No ✓

e. Any form of public assistance?

Yes No ✓

f. Any other source?

Yes No ✓

If the answer to any of questions (a) through (f) is Yes, describe each source of money and state the amount received from each during the past month.
None

4. Do you have any cash or money in a checking or saving account? None If the answer is yes, state the total value owned. (C)

5. Do you own any real estate, stocks, bonds, notes, ~~or~~ automobiles or other valuable property (including ordinary household furnishings and clothing)? None
If the answer is Yes, state the total value owned.

6. List the person(s) who are dependent on you for support. State your relationship to those person(s) and indicate how much you contribute toward their support at the present time.

7. If you live in a rented apartment or other rented building, state how much you pay each month for rent. Do not include rent contributed by other people.

8. State any special financial circumstances which the court should consider in their application. None

I understand that a false statement or answer to any questions in this declaration will subject me to the Penalty of Perjury.

I declare under Penalty of Perjury that the foregoing is true and correct.

Signed this 15th day of Nov. 2016

James Miller
your signature

5-12-68

Date of Birth

250-47-5327

Social Security Number

FILED

JUN 27 2016

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

SC ADMIN. LAW COURT

Clarence Miller, 267397,)
)
 Appellant,)
 vs.)
)
 South Carolina Department of Corrections,)
)
 Respondent.)
)

Docket No.: 16-ALJ-04-0496-AP
Grievance No.: ECI 0232-16

ORDER OF DISMISSAL

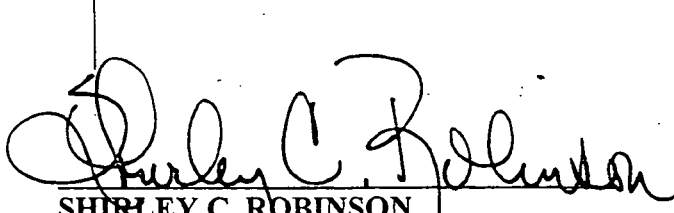
This matter is before the South Carolina Administrative Law Court (“the ALC” or “the Court”) pursuant to the Notice of Appeal filed June 21, 2016, by Clarence Miller (“Appellant”), an inmate incarcerated with the South Carolina Department of Corrections (“the Department”). Appellant appeals the Department’s decision convicting him of Evading a Security Device. As a result of the conviction, Appellant lost zero (0) days of accrued good time credits.

The ALC has subject matter jurisdiction when the Department disciplines an inmate and imposes a punishment that deprives the inmate of a constitutionally protected liberty or property interest. Sullivan v. S.C. Dep’t of Corr., 355 S.C. 437, 441-42, 586 S.E.2d 124, 126 (2003); Al-Shabazz v. State, 338 S.C. 354, 369, 527 S.E.2d 742, 750 (2000); Skipper v. S.C. Dep’t of Corr., 370 S.E. 267, 273-74, 633 S.E.2d 910, 914 (Ct. App. 2006). Slezak v. South Carolina Department of Corrections, 361 S.C. 327, 605 S.E.2d 506 (2004), provided further clarification that this Court has jurisdiction of all inmate grievance appeals that have been properly filed. However, when the grievance appeal does not implicate a state-created liberty or property interest, the ALC may summarily dismiss the appeal at its discretion. Furtick v. South Carolina Department of Corrections, 374 S.C. 334, 649 S.E.2d 35 (2007).

In this case, Appellant did not allege in the appeal that he was deprived of a state-created liberty or property interest as a result of his disciplinary conviction. Therefore, the Court finds Furtick to be controlling, and Appellant’s appeal is dismissed.

IT IS HEREBY ORDERED that this appeal is **DISMISSED, with prejudice.**

AND IT IS SO ORDERED.


SHIRLEY C. ROBINSON
Administrative Law Judge

June 27th, 2016
Columbia, South Carolina

CERTIFICATE OF SERVICE
This is to certify that the undersigned has this date served this order in the above and captioned case on all parties to this cause by depositing copies hereof, in the United States mail, postage paid, or in the Registry Mail Service addressed to the party(ies) or their attorney(s).

This 27 day of June 2016

By: JH
Judicial Clerk

The South Carolina Court of Appeals

Claudio Miller # 267397

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Appellant

NOV 21 2016

SC Court of Appeals

VS

South Carolina Department of Correction

Respondent

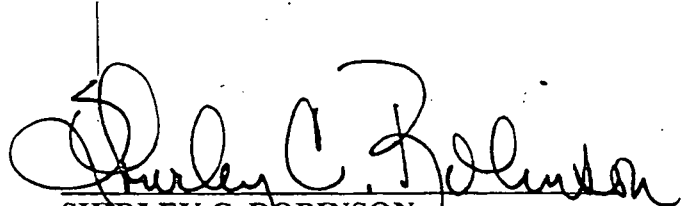
Appeal the decision of the Administrative Law Judge

Appellate Case No. 2016-002030

This matter is before the Clerk of the South Carolina Administrative Law Court. Pursuant to the Notice of Appeal filed June 21, 2016, by Claudio Miller (Appellant) an inmate incarcerated with the S.C. Dept. of Correction. Appellant Claudio Miller appeals the Department of Correction decision concerning conversion of his of Exotic Security Device. As a result of the conversion, the ABC claim it had subject matter jurisdiction where the Department of Correction disciplines an inmate and impose a punishment that deprive the inmate of a constitutionally protected liberty or property interest. Sullivan v S.C. Dept. of Cor 335 S.C. 437, 441-42 S.E. 2d 124, 126 (2003) A. L. Sherry v State 338 S.C. 354, 369, 527 S.E. 2d 742, 750 (2000) Sherry v S.C. Dept of Cor. 370 S.E. 2d 7, 213-14, 633 S.E. 2d 910, 914 (Ct App 2006) Sherry v S.C. Dept. 361 S.C. 327, 605 S.E. 2d 506 (2006)

On August 8th 2016 the (Appellant) Claudio Miller receives an Order of Dismissal from the South Carolina Administrative Law Court. The Administrative Law Judge Shirley C. Robinson Order of Dismissal Filed on August 20th 2016. The (Appellant) Claudio Miller is appealing Judge Shirley C. Robinson order of Dismissal

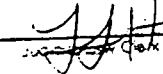
AND IT IS SO ORDERED.


SHIRLEY C. ROBINSON
Administrative Law Judge

June 27th, 2016
Columbia, South Carolina

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

This 27 day of June 2016

By:  Clerk

Administrative Law Judge Shirley C. Robinson erred on the rule Order of Dismissal. The judge erred by assuming Clarence Miller (Appellant) lost zero (0) days of good time credits. Also assuming the (Appellant) wasn't deprived of a state created liberty interest.

The SCDC Disciplinary Report and Hearing Record, show the Administrative Law Judge Shirley C. Robinson erred. The disciplinary report shows that the Appellant Clarence Miller. Lost of Good Time (day) 3 and liberty interest was deprived. This demonstrated in Exhibit (A) From this technicality the court should reverse or modify. This is clearly warranted in view of the reliable probative and substantial evidence on the whole record.

Sincerely

Clarence Miller (#267387)

Certificate of Service

I, Clarence Miller, the undersigned Plaintiff, do hereby
Certify that it caused to be mailed. Pursuant to the Rule
declared in *Houston v Lark*, 487 US 266, 108 S.Ct 2379
(1988) Postage Prepaid. on the date 15 day November 2016

by Clarence Miller #267397)

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Exhibit (A)

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
DISCIPLINARY REPORT AND HEARING RECORD

Case#: 39 Inmate Name: Miller, Clarence SCD#: 267387

Living Area: 5A 168 Job: N/A Custody: _____

Offense Date: 03 / 01 / 16 Offense Time: 11:55 AM/PM Institution: EVANS

Offense Description:

015- Evading Security Device

Charging Officer/Employee: J. Rodgers Title: Co1

INMATE NOTIFICATION: YOU WILL APPEAR BEFORE A HEARING OFFICER 24 HOURS OR MORE AFTER YOUR RECEIPT OF THIS NOTICE. YOU HAVE THE RIGHT TO SUBMIT A WRITTEN STATEMENT AND MAKE A VERBAL STATEMENT.

INMATE WAIVERS:

I GIVE UP MY RIGHT TO 24-HOUR NOTICE AND AUTHORIZE THE HEARING OFFICER TO PROCEED WITH THE HEARING.

I DO NOT WANT TO BE PRESENT AT MY HEARING.

I DO WANT MY ACCUSER PRESENT AT THE HEARING

I DO NOT WANT MY ACCUSER PRESENT AT THE HEARING

I WAIVE MY RIGHT TO A HEARING
SMU/SEGREGATION ONLY

I WANT A COUNSEL SUBSTITUTE

I DO NOT WANT A COUNSEL SUBSTITUTE

Date & Time Notified: 3/1/16 1:31 AM/PM By (Print): _____

Inmate Signature: Clarence Miller SCD#: _____ Date: 3/1/16

HEARING INFORMATION:

Hearing Date: <u>3/22/16</u>	Hearing Time: <u>11:10</u> am/pm	Tape:	Side:	Start:	End:
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EXPLAIN BELOW BY NUMBER: (1) IF COUNSEL SUBSTITUTE WAS NOT PRESENT DURING PART OF THE HEARING; (2) IF ACCUSED WAS EXCLUDED FROM ANY PART OF THE EVIDENCE STAGE; IF ANY (3) WITNESSES, (4) DOCUMENTATION, OR (5) EVIDENCE WAS EXCLUDED FROM THE HEARING; OR (6) IF INMATE WAS DENIED CONFRONTATION QUESTIONING AND/OR CROSS EXAMINATION OF A WITNESS AT THE HEARING.

Auth. Mental Health Statement

OFFENSE CODES	<u>S15</u>			
INMATE PLEA (G, NG, None)	<u>NG</u>			
FINDINGS (G, NG, DS)	<u>G</u>			

IF GUILTY, EVIDENCE PRESENTED CONSIDERED AND REASONS FOR DETERMINATION OF GUILT: (A) ADMISSION OF GUILT; (B) OFFICER'S REPORT; (C) WITNESS TESTIMONY; (D) OTHER. EXPLAIN IN DETAIL: magical statement at hearing

HEARING LENGTH: 10 (MINUTES)

SANCTIONS:

Loss of Privileges (Days) _____ Reprimand: _____ Loss of Good Time (days): 3

* Property (Days) _____ Extra Duty: _____ Restitution: \$ _____ **

* Canteen (Days) 20/30/60 Visit Suspension Thru 3/30/16

* Other (Days) 0 Cell Restriction (Days): _____

* Disciplinary Detention (Days): 30

SPECIFIC FACTUAL REASON(S) FOR PARTICULAR PUNISHMENT IMPOSED: This is the accused 1st S15 conviction

CREDIT FOR PHD TIME SERVED? YES/NO _____ IF YES, DAYS _____

DATE INMATE PLACED IN PHD: 1/1

INMATE SIGNATURE FOR RECEIPT OF FINAL REPORT: Clarence Miller DATE: 3/22/16

HEARING OFFICER (PRINT NAME) E. Buttrick

APPROVED/REVERSE/MODIFY _____ REASON _____
Warden

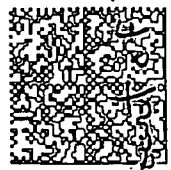
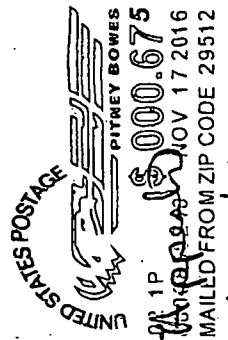
CONTACT YOUR CLASSIFICATION CASEWORKER OR COUNSEL SUBSTITUTE IF YOU DO NOT UNDERSTAND THIS FORM.

- White - Institutional Record
- Golden Rod - Inmate (Service of Disciplinary Hearing Disposition)
- Canary - Inmate (Service of Disciplinary Report)
- Pink - Central Record

(Note: When there is restitution, a copy of this form should be forwarded to Financial Accounting.)

Clarence Scott Miller # (262397)
Evans C.I. Sherbrooke Unit FA168
610 Highway #9 West
Barnettville SC 29512

South Carolina Clerk
Jenny Abbott Kitchings Clerk
Post Office Box 11624
Columbia South Carolina 29211



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