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NOV 14 2016
SC Court of Appeals

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT
The Honorable Shirley C. Robinson

Appellate Case No.: 2016-001297

Anthony Williams, Jr. #285056,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

RECORD ON APPEAL

TOMMY A. THOMAS, ESQ.
S.C. Bar No.: 5536
P.O. Box 88
Irmo, SC 29063
(803) 732-5507
ATTORNEY FOR APPELLANT

KENSEY COLLINS, ESQ.
South Carolina Department of Corrections
Office of General Counsel
4444 Broad River Road
Columbia, SC 29210
(803) 896-8508
ATTORNEY FOR RESPONDENT

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Anthony Williams, Jr. #285056	)	
	)	
Appellant,	)	NOTICE OF APPEAL
v.	)	
	)	Grievance No.: ECI-0503-15
	)	ECI-0504-15
South Carolina Department of	)	
Corrections,	)	
	)	
Respondent.	)	
	)	

Appellant, Anthony Williams, Jr. #285056, hereby appeals the final decisions of the South Carolina Department of Corrections dated November 23, 2015. These decisions were received on December 3, 2015, copies of which are attached.

Anthony Williams #285056 was charged with 898 The Possession of Any Cell Phone or Other Communication Device. He was given sanctions of 240 days loss of canteen; 2400 days loss of telephone; 60 days of Disciplinary Detention; 240 days loss of visitation and 90 days of good time.

Appellant was also charged with 807 Striking an Employee with/without Weapon. He was given sanctions of 138 days loss of canteen; 138 days loss of telephone; 18 days of Disciplinary Detention; 138 days of visitation; and 6 days loss of good time.

The Appellant is informed and believes that in the interest of Judicial efficiency and economy that the two above cases should be consolidated.

The Appeal is based in part upon the following:

The Appellant was not allowed to call witnesses in his defense nor was he allowed to have his accuser present, either in person or by way of telephone.

FILED
DEC 30 2015
SC ADMIN. LAW COURT

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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

000004

Anthony Williams, Jr. 285056

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

DOCKET NO. 15-ALJ-04-706-AP
GRIEVANCE NO.: ECT 0504-15

Notice is hereby given that Anthony Williams, Jr. does hereby
appeal the final decision of the South Carolina Department of Corrections dated November 23, 2015
received on December 3, 2015, a copy of which is attached. A general statement of the grounds for
appeal is (See S.C. Code Ann. § 1-23-380(A)(6)):

See AttachedAnthony Williams, Jr.
Appellant's Name by Tommy ThomasP.O. Box 88, Irmo, SC 29063
Mailing Address

Signed

Dated

12/30/15

City, State, Zip Code

CERTIFICATE OF SERVICE

I hereby certify that I, Jacqueline Miller (your name), on the 30th day of Dec, 2015, in Irmo (city),
South Carolina, served a copy of the foregoing Notice of Appeal on all parties to this matter by depositing the same in the United States
Mail, postage paid, or in the mail room of the undersigned's institution and addressed as follows:

Name of person/Agency served: Christina Bigelow, Esq.Address: SCDC Office of General Counsel
4444 Broad River Rd 210City, State, Zip Code: Columbia, SC 29203**FILED**

DEC 30 2015

Print your name Sign your name
(See reverse side for instructions)

Jacqueline E. Miller SC ADMIN. LAW COURT
Secretary to Tommy Thomas
Attorney for Appellant

RECEIVED

SEP 28 2015

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

INMATE GRIEVANCE

INMATE NAME: Anthony Williams Jr

SCDC NUMBER: 285056

INSTITUTION: Evans C.I.

HOUSING UNIT: RNU A 137

WORK ASSIGNMENT: N/A

BY: [Signature]

SEP 10 2015

Office Use Only

Grievance No. ECT 684-15

Code: General 807

Policy 807

Disc. Hear. 807

Class. 807

Date Received 9/10/15

IGC Initials ERN

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

Due to facts, I was not allowed to call witnesses in my defense, nor was allowed to have the accuser present by way of speaker, which was the sole purpose of the Re-hearing. I did not have an sufficient Counsel Substitute to gather credible evidence in my defense, nor did C/S gather statements that I requested. I also never received the written disposition, though I am entitled to a written statement by the factfinders as to the evidence relied on & the reasons for disciplinary action. Also I did not consult with mental health personnel to find out the inmates diagnosis upon having inmate removed from hearing. Also I have a right to hear & be heard. See Wolff v. McDonnell, 418 U.S. 539, 566, 74 S. Ct 2963 (1974) I am being treated for mental illnesses

Grievant Signature

Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

The documentation provided indicates that the evidence presented was sufficient to support the conviction of Striking an SCDC Employee or Other Government Employee, Contract Employee, or Volunteer (807), case #107 on June 25, 2015, under SCDC Policy OP-22.14, Inmate Disciplinary System, dated February 2, 2015, and the sanctions imposed, which included the loss of -6- days accrued good time, were appropriate for the rules violation. There was no reason found to warrant a reversal of the Disciplinary Hearing Officer's decision. A review of your appeal revealed that you received forty-eight (48) hour notice prior to the hearing. You were afforded due process rights, as required, and the offense was classified and heard in a timely manner

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.

Wayne C McCall
Signature

12-23-15
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.

Anthony Williams Jr 12-3-15
Grievant Signature Date

Ms Redkam Miller 12-3-15
IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

WARDEN'S DECISION AND REASON:

Inmate Williams:

This is in response to grievance #0504-15.

I have reviewed your grievance and the facts. The points you raised do not substantiate any errors in the disciplinary hearing procedures and do not warrant a reversal. I find no technicalities, misinterpretation of evidence, or disproportionate sentencing on which you may appeal. You were convicted of Striking an SCDC Employee. (807) case 107, Hearing Date 6/25/15, based upon the credible evidence. The sanctions imposed were well within the guidelines for the offense and your grievance is denied.

If you wish to pursue this matter, please contact your grievance coordinator for the appropriate forms. You have five (5) days from receipt of my response to submit a Step 2 grievance form.

Mr. R. P. [Signature] 9-2-15
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.

Anthony Williams Jr 9/9/15
Grievant Signature Date

Ms. Reddick Miller 9/9/15
IGC Signature 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 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 in the Grievance Box within five (5) 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) 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, via placement in the Grievance Box.

RECEIVED

SEP 28 2015

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM

STEP 2

INMATE GRIEVANCE

INMATE NAME: Anthony Williams Jr

SCDC NUMBER: 285056

INSTITUTION: Evans C.I. ☒ **RECEIVED**

HOUSING UNIT: RNU A 137

SEP 10 2015

WORK ASSIGNMENT: N/A

BY: [Signature]

Office Use Only

Grievance No. EST 684-15

Code: General

Policy

Disc. Hear. 807

Class.

Date Received 9/10/15

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Grievant Signature

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INCIDENT REPORTPage 2 of 2

Institution/Center: <u>Evans CI</u>		Date of Report: <u>6/8/15</u>	
Reporting Official (Full Name): <u>Eric S. Hoyer, Sgt.</u>		Time of Report: <u>approx. 2:45 Am</u>	
Employee ID #: <u>038930</u>		Date of Incident: <u>6/8/15</u>	
Location of Incident: <u>Cherokee D Wing Rm. #140</u>		Time of Incident: <u>approx. 1:15 Am</u>	
Inmate(s)/Resident: SCDC# Age Sex Race		Employee(s)/Witnesses Involved:	
1. <u>1144</u> <u>Mr Williams, Jr., Anthony</u> # <u>285056</u> m/B		1. <u>Sgt. F. Ford</u>	
2. <u>1111</u> <u>Mr Williamson, Marquavion</u> # <u>363893</u> m/B		2. <u>Sgt. E. Jackson</u>	
3.		3. <u>Off. J. Bathea</u>	
4.		4. <u>Lt. M. Watson</u>	
5.		5. <u>Capt. F. Ford</u>	
On the above date and approximate time: <u>I'm a die in here, are you ready to? I removed my chemical</u> <u>ammunitions, called for assistance, and dislocated myself from Mr Williams while keeping him in the</u> <u>room and away from the toilet. Sgt. Ford, along with Sgt. Jackson and Off. Bathea arrived to</u> <u>assist. Sgt. Jackson attempted to speak with Mr Williams and get him to give up the phone charger,</u> <u>but Mr Williams continued to refuse. Sgt. Ford searched Mr Williamson and removed him from the wing.</u> <u>Additional assistance was requested, and Capt. Ford, Lt. Watson arrived, along with Sgt. Ford and Mr Williamson.</u> <u>Capt. Ford spoke with Mr Williams and retrieved the cell phone charger. Myself, along with Sgt. Jackson and</u> <u>Off. Bathea finished searching SD 140, and while placing Mr Williamson and Mr Williams back in their cell,</u> <u>Off. Bathea observed (1) white object on the top of the door guide between SD 139 and SD 140. Sgt. Ford retrieved</u> <u>the package and handed it to me, inside the pair of socks was (1) Black LG type Smartphone that accepts the</u> <u>type of charger that was found.</u> <u>Mr Williams is being charged with #898 - Possession of a Cell Phone and/or Communications Equipment, and #899 -</u> <u>Threatening to Inflict Harm on a Staff Member</u> <u>Mr Williamson is being charged with #898 - Possession of a Cell Phone and/or Communications Equipment</u>			
Signature: <u>Eric S. Hoyer</u>		Title: <u>Sergeant</u>	
Evidence: <u>(1) Black Cell Phone Charger & (1) Black LG type Smartphone</u>			
Disposition of Evidence: <u>Contraband Drop Box</u>			

Supervisor's Comments:		STG Related - Refer to STG Committee	
<u>Refer to major for further</u>		☐ Yes ☒ No ☐ Unknown	
<u>Action</u>		This incident is DRUG related	
Printed Name: <u>E. Ford</u>		☐ Yes ☒ No ☐ Unknown	
Signature: <u>[Signature]</u>			
Title: <u>Sgt.</u>			
Date/Time: <u>6-8-15</u>			
Major/Responsible Authority:			
Printed Name:		Responsible Authority	
Signature:		Action Taken	
Title:		☐ Informal Resolution	
Date:		☐ Administrative Resolution	
		☐ Refer to Disciplinary Hearing	

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INCIDENT REPORT

Page 1 of 2

107, 108

06-15-115

Institution/Center: <u>Evans CI</u>	Date of Report: <u>6/8/15</u>
Reporting Official (Full Name): <u>Eric S. Hopper, Sgt.</u>	Time of Report: <u>approx 2:45 AM</u>
Employee ID #: <u>038930</u>	Date of Incident: <u>6/8/15</u>
Location of Incident: <u>Chemkee Dining Rm #140</u>	Time of Incident: <u>approx 1:15 AM</u>
Inmate(s)/Resident: SCD# Age Sex Race	Employee(s)/Witnesses Involved:
1. <u>YH-4</u> <u>Ym Williams, Jr., Anthony</u> # <u>285056</u> m/B	1. <u>Sgt. F. Ford</u>
2. <u>NH-4</u> <u>Ym Williamson, Marquaviou</u> # <u>363893</u> m/B	2. <u>Sgt. F. Jackson</u>
3. <u>MA 137</u> <u>WNE</u>	3. <u>Off. J. Ralton</u>
4. <u>MA 137</u> <u>WNE</u>	4. <u>Lt. M. Watson</u>
5. <u>MA 137</u> <u>WNE</u>	5. <u>Capt. F. Ford</u>
On the above date and approximate time: <u>I, Sgt. E. Hopper, entered SD 140 to conduct a Random Shake-down and directed both of the above inmates to get up to be searched. Ym Williamson, Marquaviou #363893 got down from the top bunk, was searched, then told sit on the benches on the rock. Ym Williams, Jr., Anthony #285056 sat up on the bottom bunk and stated that he was under the influence of medication (Benedryl) and could not get up. Ym Williams was given a few minutes to gather his composure, but when he stood up he stumbled so I allowed him to sit on the toilet as I began to search the room. After searching one legal box, I observed (2) more that contained contraband and personal items. Ym Williams stated that all (3) legal boxes were his, and that he was keeping all (3). While searching the legal box that contained contraband, (1) pair of white socks was found, and in that pair was (1) black cell phone charger. Ym Williams became insubordinate when I asked him where the cell phone was, and accused me of planting the charger in the legal box. Ym Williams left the toilet and rushed to the cell door and passed an object to Ym Williamson who had refused to stay seated on the benches. As I jumped up from the floor, and made my way to the rock to seize the object that was passed, Ym Williams pushed past me and made his way into the room and grabbed the cell phone charger that was on the floor. I directed Ym Williams to hand me the charger, but Ym Williams refused stating: 'I know who sent you down here, I'll think you sick! That's why I beat his ass, and I'm a beat yours you keep f---ing with me! I got life.'</u>	
Signature: <u>Eric S. Hopper</u>	Title: <u>Sergeant</u>
Evidence: <u>(1) Black Cell Phone Charger & (1) Black LG type Smartphone</u>	
Disposition of Evidence: <u>Contraband Drop Box</u>	

Supervisor's Comments:		
<u>Refer to Major for further</u>		
<u>Action</u>		
Printed Name: <u>E. Ford</u>	Title: <u>Sgt III</u>	Date/Time: <u>6-8-15</u>
Signature: <u>E. Ford</u>	Title: <u>Sgt III</u>	Date/Time: <u>7:54 AM</u>
Major/Responsible Authority: <u>#807 + 898 for</u>		
<u>Elm A. Williams #285056</u>		
<u>#805 for Ym Williamson</u>		
Printed Name: <u>C. West</u>		
Signature: <u>C. West</u>	Title: <u>MAJOR</u>	Date: <u>6-10-15</u>

STG Related - Refer to STG Committee

() Yes (☒) No () Unknown

This incident is DRUG related

() Yes (☒) No () Unknown

Responsible Authority

Action Taken

() Informal Resolution

() Administrative Resolution

(☒) Refer to Disciplinary Hearing

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11/14-4

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
DISCIPLINARY REPORT AND HEARING RECORD

Case#: 107128 Inmate Name: Williams, Anthony SCDC#: 195056
Living Area: MA 137 Job: LAB Custody: _____
Offense Date: 6/8/15 Offense Time: 1:15 AM/PM Institution: Elkins

Offense Description:
807-Striking Employee
898- Possession of Cell phone

Charging Officer/Employee: E. Hooper Title: Sgt
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:	
<u>CS Ford</u>	
☐ I GIVE UP MY RIGHT TO 24-HOUR NOTICE AND AUTHORIZE THE HEARING OFFICER TO PROCEED WITH THE HEARING	☐ I WAIVE MY RIGHT TO A HEARING
☐ I DO NOT WANT TO BE PRESENT AT MY HEARING	☐ SEGREGATION ONLY
☐ I DO WANT MY ACCUSER PRESENT AT THE HEARING	☐ I WANT A COUNSEL SUBSTITUTE
☒ I DO NOT WANT MY ACCUSER PRESENT AT THE HEARING	☐ I DO NOT WANT A COUNSEL SUBSTITUTE
Date & Time Notified: <u>6/12/2015 12:52 AM/PM</u> By (Print): <u>Sgt. Lewis</u>	
Inmate Signature: <u>X Anthony Williams Jr</u> SCDC#: <u>X 285056</u> Date: <u>6/12/2015</u>	

HEARING INFORMATION:

Hearing Date: <u>6/25/15</u>	Hearing Time: <u>12:10 am/pm</u>	Type: _____	Side: _____	Start: _____	End: _____
------------------------------	----------------------------------	-------------	-------------	--------------	------------

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.
Unable to contact accuser 6/18/15 @ 12:20pm - Verified with Sgt Lewis that accuser indicated to her that he didn't want his accuser present.
Att: Mental Health Statement, 3 pics of evidence, 19-29a supporting document, written statement 6/19/15. Note: Accused escorted from hearing for refusing to respond to DHO and then acting out inappropriately.

OFFENSE CODES	<u>807</u>	<u>898</u>		
INMATE PLEA (G, NG, None)	<u>NG</u>	<u>NG</u>		
FINDINGS (G, NG, DS)	<u>G</u>	<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. See Above

HEARING LENGTH: 15 (MINUTES)

SANCTIONS:

Loss of Privileges (Days) _____ Reprimand: _____ Loss of Good Time (days): 6/90
• Property (Days) _____ Extra Duty: _____ Restitution: \$ _____
• Canteen (Days) 20+18=38/180+60=240 Visit Suspension Thru 20+18=38/180+60=240
• Other phone (Days) 20+18=38/180+60=240 Cell Restriction (Days): _____
• Disciplinary Detention (Days): 45-18+60=27/60

SPECIFIC FACTS/REASONS FOR PARTICULAR PUNISHMENT IMPOSED: This is the accused 1st 807 and 898 conviction

CREDIT FOR PHD TIME SERVED? ☒ YES NO IF YES, DAYS 18

DATE INMATE PLACED IN PHD: 6/8/15 Mw. J. Ford

INMATE SIGNATURE FOR RECEIPT OF FINAL REPORT: unavailable to sign DATE: 6/25/15

HEARING OFFICER (PRINT NAME): E. Bottingham

APPROVED: REVERSE MODIFY _____ Warden REASON _____

CONTACT YOUR CLASSIFICATION CASEWORKER OR COUNSEL SUBSTITUTE IF YOU DO NOT UNDERSTAND THIS FORM.
White - Institutional Record REVIEWED BY AWW-OPERATIONS
Golden Rod - Inmate (Service of Disciplinary Hearing Disposition) Inmate (Service of Disciplinary Report)
Pink - Central Record
Donnie Sellers

* (Note: When there is restitution, a copy of this form should be forwarded to Financial Accounting.)
© 1999 Rev. 10/07

WARDEN'S DECISION AND REASON:

Inmate Williams:

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Warden Signature Date

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

STEP 1

INMATE NAME: Anthony Williams Jr.SCDC NUMBER: 285056INSTITUTION: Evans C. I.HOUSING UNIT: RHU A 137WORK ASSIGNMENT: N/AGrievance No. ECJ-050415

Code: General

Policy

6/10/15 Disc. Hear. Case 107Class. 6-25-15 207

PREA

Date Received 7/2/15IGC Initials ER

8/24/15

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy) I am appealing the Unknown Conviction on Case 107, infraction 807 date 6/25/15. I stated that it's unknown of the fact that I have not received a written disposition by the fact finders. Initially the date for the hearing was 6/15/15. Due to DHO couldn't get in contact with the accuser Sgt. Hoper. The hearing was re-scheduled for 6/25/15 in which I found out by Warden Eagleton on 6/24/15 (Request Attached) DHO stated before the hearing on 6/25/15 that he would not call the accuser because I checked that I didn't want the accuser present, I stated that I didn't check anything at all & that I did request that the accuser be present because it part of my defense that I question for the accuser if that the reason DHO rescheduled the hearing in the first place. DHO became very timid & violent towards me stating that he would not call the accuser. I tried to speak Counsel Substitute Ms. Ford to ask her if she had gotten the statements from the inmates & Counsel Substitute would not answer me. At this time I felt trapped & I started having an anxiety attack. (In which I am receiving medications & treatment for anxiety). DHO had me removed from the hearing stating that Inmate is failing to comply. DHO did not even try to find out what was wrong with me & did not call my mental health counselor. DHO did not comply with SCDC OP. 22.11 9.2, 9.5 & 14.6. Also DHO violated my right to hear & be heard. Counsel Substitute was ineffective for her failure to investigate & collect statements from inmates that I told her about & also that I informed Counsel Substitute that I did not receive the full notice about the charge. I only received page 1 of 2 twice. Counsel Substitute also failed to answer me before the hearing began.

I have stated that an State Created liberty interest & liberty interest has occurred

ACTION REQUESTED: I request that Conviction 807, Case 107 date 6/25/15 be over-turned. All sanctions upheld. Released from segregation. Good time credits restored

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Anthony Williams Jr. 7/2/15

Grievant Signature

Date

(CONTINUE ON REVERSE SIDE)

706

Due

9-14-15

STEP 12

RECEIVED

SEP 28 2015

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

INMATE GRIEVANCE

INMATE NAME: Anthony Williams JrSCDC NUMBER: 285056INSTITUTION: Evans C.I.HOUSING UNIT: RNU A 137WORK ASSIGNMENT: N/ABY: [Signature]

Office Use Only

Grievance No. EST. 584-15

Code: General

Policy

Disc. Hear. 801

Class.

Date Received 9/10/15IGC Initials ZK n

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

Due to facts, I was not allowed to call witnesses in my defense, nor was allowed to have the accusers present by way of speaker, which was the sole purpose of the Re-hearing. I did not have an sufficient Counsel Substitute to gather credible evidence in my defense, nor did C/S gather statements that I requested. I also never received the written disposition, though I am entitled to a written statement of the factfinders as to the evidence relied on & the reasons for disciplinary action. Also DHO did not consult with mental health personnel to find out the inmate's diagnosis upon having inmate removed from hearing. Also I have a right to hear & be heard. See *Boiff v. McDinnell*, 418 U.S. 539, 566, 14 S.Ct. 2963 (1974) I am being treated for mental illnesses

Grievant Signature Anthony Williams JrDate 9/9/15

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

The documentation provided indicates that the evidence presented was sufficient to support the conviction of Striking an SCDC Employee or Other Government Employee, Contract Employee or Volunteer (807), case #107 on June 25, 2015, under SCDC Policy OP-22.14, Inmate Disciplinary System, dated February 2, 2015, and the sanctions imposed, which included the loss of -6- days accrued good time, were appropriate for the rules violation. There was no reason found to warrant a reversal of the Disciplinary Hearing Officer's decision. A review of your appeal revealed that you received forty-eight (48) hour notice prior to the hearing. You were afforded due process rights, as required, and the offense was classified and heard in a timely manner

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 Wayne C. McCullDate 11-23-15

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)

South Carolina Department of Corrections
Request To Staff member

To: Name:
W. Eagleton

Title:
Warden

WARDEN

JUN 26 2015

Date:
6/25/15

ECI

Inmate:
Anthony Williams Jr.

SCDC#: 285056

Institute:
Evans

Living Quarters:
RHU A 137

Mr. Eagleton, I am writing you in regards to your Disciplinary hearing officer's foul attitude towards me today at the Re-scheduled hearing today on 6/25/15. Upon me entering the hearing office I was asked to have a seat. DHO then asked me my name, I told him, DHO then stated "you do not want your accuser present", I told DHO that I did request for my accuser to be present. DHO said that I checked the box that I didn't want the accuser present. I said that I told Sgt. Lewis that I did want my accuser present. DHO asked Sgt. Lewis did the inmate tell you he wanted his accuser present? Sgt. Lewis said No. which is an lie. I then stated to the DHO that last week on 6/18/15 at my first scheduled hearing I requested that my accuser be present and Counsel substitute called the accuser Sgt. Hoper several times and didn't get an answer. And my hearing was rescheduled for the following Thursday on 6/25/15 which is today. When DHO stated the hearing tape I had an anxiety attack + had problems trying to control my breathing + DHO told me in an threatening manner that I have two (2) seconds to state my name + social number. I stated my name + tried to get my breathing under control. DHO then said that I refused to comply + told me to leave. My question is that how + why was my hearing rescheduled if it was supposed to be held last week? And why did he DHO deny me the right for the accuser to be present?

Staff Disposition:

If Williams, if you received a conviction you must file appeal

000016

000016

South Carolina Department of Corrections
Request To Staff Member

To: Name:
Mr. Eagleton

Title:
Warden

Date: 6/19/15

Inmate:
Anthony Williams Jr

JUN 22 2015

SCID#: 285056

Institute:
Evans

ECI

Living Quarters:
RHU A-137

Mr. Eagleton, On 6/18/2015, I was scheduled to have an Disciplinary Hearing. Upon me entering DHO asked if I wanted my Accuser present. I stated yes. Counsel Substitute Mrs. Ford called my accuser & got no answer & Mrs. Ford left a message. Mrs. Ford called another number to reach the Accuser & still got no answer. I was taken back to the holding cell by Sgt. Lewis. Around 2:00 p.m I was taken back to cell 137 A without being informed about the outcome of the hearing. The Accuser failed to answer the telephone in which the accuser was informed about the hearing date. Policy states that DHO will attempt to make contact with the accuser & the accuser has forfeited to be present. why am I still being held on RHU?

Staff Disposition:

Mr Williams, your hearing was rescheduled for 6.25.2015

6.23.2015

Mark Eagleton

Signature:

RECEIVED

OCT 20 2015

To: Mr. Micheal Tindale INMATE GRIEVANCE

I, inmate Anthony Williams Jr #28505 hereby wish to file an continuance to step grievance on charge 807 date 6/25/15 due to the fact I was allowed to listen to the hearing tape on 9/15/15 after my step 2 was already filed, #1 I was charge with charge 809. Threatning to inflict harm by Sgt. Hooper, not 807 Striking. Mayor West or some changed the charges for unforeseen reasons. It is not clear to whom changed the charge due to there are no initials where the charge was made on the Incident Report, DHO + C/S Ms. Ford both used slander of my character by stating on the hearing tape I use profane language while being removed from the hearing, I feel that this is another reason DHO found me guilty, #2 I was not afforded to have my accuser questioned due to Sgt. Lewis being untruthful to the DHO, The questions that I presented at the hearing were not mentioned on the record. Also Sgt. Hooper states in his report that I jumped up an ran towards the celldoor, & that he himself that he jumped up to get to the door to see what was passed, it's common sense that my back should have been towards him, so therefore Sgt. Hooper used his own body to brush pass me to get to my cell mate, therefore I should have never been charged with 807 nor should have the charge been changed. I was removed from the hearing due to me having an anxiety attack, which I am being treated for by mental health

000018 000018

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
DISCIPLINARY HEARING PROCEDURE**
DOCKET No.: 15-ALJ-04-0705 -AP GRIEVANCE No.: ECI 503-15
DOCKET No.: 15-ALJ-04-0706-AP GRIEVANCE No.: ECI 504-15
INMATE NAME: Anthony Williams SCDC No.: 285056
INSTITUTION: Evans Correctional Institution

DATE: June 25, 2015

CHARGE: 898 - Possession of a Cell Phone and/or Any Other Communication Device
807 - Striking an Employee

DHO: The purpose of this hearing is to treat the matter before us with fundamental fairness and arrive at a just decision. All parties must conduct themselves properly. Failure to do so will result in your removal. State your name and SCDC Number for the Record.

I/M: Anthony Williams.

C/S: And your number.

DHO: You got two seconds to tell me your number, sir. Inmate is failing to cooperate. He is being removed from the Hearing Room. I will conduct his Hearing in his absence, uhm, Ms. Ford will act as his prison rep...act as his representative. (multiple speakers) I'll take a short recess as the inmate is now acting out.

(Recess)

DHO: Alright, uhm, we now have had Inmate Williams escorted back to his RHU cell. Uhm, he continued to act inappropriate while being removed from the Hearing Room after refusing to answer and respond to my questions and statements. As I said, a not guilty plea will be entered on his behalf on both his offenses that he is facing today and Ms. Ford will continue to act as his Counsel Substitute in this Hearing Room. Are you ready to proceed, Ms. Ford?

C/S: Yes sir.

DHO: I will now read into the record Cases 107 and 108: Anthony Williams, 285056; Offense Date: 6/8/15; Offense Time: 1:15 a.m.; Institution: Evans; Offense Description: Case 107, 807 -

DHO: Disciplinary Hearing Officer (Mr. Edward Bittinger)

I/M: Inmate (Anthony Williams)

C/S: Counsel Substitute (Ms. Ford)

OFC: Charging Official/Accuser (Sergeant Hooper)

Striking an Employee; Case 108, 898 - Possession of Any Communication Device; Charging Employee is Sergeant Hooper; Narrative: On the Above Date and Approximate Time: I, Sergeant E. Hooper, entered 5D-140 to conduct a random shakedown. Directed both of the above inmates to get up to be searched. Inmate Williamson, Marquavious, 363893, got down from the top bunk, was searched and told to sit on the benches on the Rock. Inmate Williams, Jr., Anthony, 285056, sat up on the bottom bunk and stated he was under the influence of medication, Benadryl, and could not get up. Inmate Williams was given a few minutes to gather his composure, but when he started...but when he stand up, he stumbled so I allowed him to sit on the toilet as I began to search the room. After searching one legal box, I observed two...

C/S: Two more.

DHO: Two what?

C/S: Two more.

DHO: Two more that contained canteen and personal items. Inmate Williams stated that all three legal boxes were his and that he was keeping all three. While searching the legal box that canteen items, one pair of white socks was found and in that pair was one black cell phone charger. Inmate Williams became irate when I asked him where the cell phone was and accused me of planting the charger in his legal box. Inmate Williams left the toilet and rushed to the cell door and passed an object to Inmate Williamson who had refused to stay seated on the benches. As I jumped up from the floor and made my way to the Rock to secure the object that was passed, Inmate Williams pushed passed me and made his way into the room, grabbed the cell phone charger that was on the floor. I directed Inmate Williams to hand me the charger, but Inmate Williams refused stating, "I know who sent you down here, y'all think your slick. That's why I beat his ass. I'm a beat yours, you keep fuckin' with me. I got life, I'm a die in here in

here. Are you ready to?!" I removed my chemical munitions, called for assistance and distanced myself from Inmate Williams while keeping him in the room and away from the toilet. Sergeant Ford, along with Sergeant Jackson and Officer Bethea arrived to assist. Sergeant Jackson attempted to speak with Inmate Williams and get him to give up the phone charger, but Inmate Williams continued to refuse. Sergeant Ford searched Inmate Williamson and removed him from the wing. Additional assistance was requested and Captain Ford and Lieutenant Watson arrived along with Sergeant Ford and Inmate Williamson. Captain Ford spoke with Inmate Williams and retrieved the cell phone charger. Myself, along with Sergeant Jackson and Officer Bethea finished searching 5D-140 and while placing Inmate Williamson and Inmate Williams back in their cells, Officer Bethea observed one white object on top of the door guide between 5D-139 and 5D-140. Sergeant Ford retrieved the package, handed it to me. Inside the pair of socks was one black LG type Smart Phone that accepts the type of charger that was found. Inmate Williams is being charged with 898 - Possession of a Cell Phone and/or Communication Equipment; and 809 - Threatening to Inflict Harm on a Staff Member. Inmate Williamson is being charged with 898 - Possession of a Cell Phone and/or Communication Equipment. I also have a 19-29a, supporting document, from Captain Ford, 6/8/15, approximately 1:40 a.m.; On the Above Date and Approximate Time: I, Captain Fritz Ford, was called down to the Cherokee D-wing to assist Sergeant E. Hooper and Sergeant E. Jackson who were having problems with Inmate Anthony Williams, SCDC Number 285056, who was refusing to hand over a cell phone charger that he was consuming in his right closed up hand. I, Captain Fritz Ford, entered Cell 140 and observed Inmate Anthony Williams, SCDC Number 285056, sitting on his desk with his arms fold. I asked Inmate Williams what was the problem. He replied, this mother fucker are bothering me about some shit I don't even have. Sergeant E. Hooper then stated he has a cell

phone charger in his hand and will not give it up. I, Captain F. Ford, gave Inmate Williams a directive to hand over the cell phone charger to me. Inmate Williams complied and stated, I want that shit finger-printed because someone's trying to set me up. I then directed Inmate Williams to step out of the cell so Sergeant E. Jackson and Sergeant E. Hooper could continue the cell search. Inmate Williams, Anthony, SCDC Number 285056, is being charged with 898 - Possession of a Cell Phone. I also have three pictures, Ms. Ford, of the Contraband listed that I am showing you at this time. I also have a written statement from Inmate Marquavious Williamson that states I, Marquavious Williamson, was part of the shakedown at 5D-140. The conducting officer Hopper entered the cell and started his search. He went through our things throwing our personal items on the floor. Hooper then stated that he saw Anthony Williams hand me something and rushed passed Williams, pushing him in the process of getting to me. Hooper conducted a search two days before this saying that he saw Williams exchange something with another inmate. Hooper did a strip search on Williams and it turned up empty. Hooper then came back and shook us down once again. I honestly feel that the Officer had it out for Williams. Hooper was very rude every encounter that he had with Williams. I also had the same reaction when he shook down the room. He proceed to throw our things around the floor and talked very rudely to us both. If Inmate Williams is found guilty of these charges, he will not earn good time for June 2015. He may also lose visiting, canteen, phone and property privileges, pay restitution, disciplinary detention and loss of good time. Inmate Williams signed accepting these charges and being notified of these charges on 6/12/15, at 12:52 p.m., by Sergeant Lewis and where he has checked I do not want my Accuser present at the hearing, he indicated he did when arrived at the hearing, but I did confirm with Sergeant Lewis that she did in fact ask him did he want his Accuser and he told her no he did not and that's when he became

upset when I told him his Accuser would not called. We will now receive evidence on behalf of the Accused. Ms. Ford, have you reviewed all the paperwork on this case?

C/S: I did.

DHO: And did you find any errors therein?

C/S: No errors or no technical errors within the reports.

DHO: Alright. Do you have a statement you want to make on Inmate Williams' behalf?

C/S: I do. Inmate Williams stated to me, Ms. Ford just before he left, he did not (inaudible - 10:50) or threaten or assault Sergeant Hunter, I mean, Hooper. When Hooper was shaking down him in his cell he was trying to get his roommate to sit down and Hooper bumped into him trying to get outside of the cell.

DHO: Okay.

C/S: Uhm, he said Hooper had also been giving him problems prior to this incident because he had been shaking his room down...had already shaken his room down prior to him shaking it down this particular night. Uhm, he feels, or he stated to me that he feels that Sergeant Hooper has a vendetta against him and he feels he is harassing him for whatever unknown reason it is.

DHO: Anything else ma'am?

C/S: He also stated to me that Hooper (inaudible - 11:48) in the report, uh, that he cursed at him, Inmate Williams cursed, and he stated to me that he don't curse, so Hooper's report is false because he don't curse.

DHO: According to Inmate Williams. Okay, nothing from nothing, but thought I heard him cursing a minute ago. Did you hear him cursing on his way out the door ma'am?

C/S: I did.

DHO: Okay. Alright. Do you have any witnesses or documentary evidence to present for Inmate Williams?

C/S: Just the statement that you read from the roommate.

DHO: Okay. Nothing else?

C/S: Nothing else.

DHO: We will now receive evidence to support the charges against the Accused. Disciplinary Report 107-108, which was read at the beginning of the hearing, will be considered as evidence against him, along with the 19-29a supporting document from Captain Ford and three pictures of evidence. I have heard the charges and provided an opportunity for the Accused to make a statement, present evidence, call witnesses on their behalf. I have considered the evidence and witnesses against the Accused. I will now recess this hearing to arrive at a decision.

(Recess)

DHO: This is a continuation of the hearing on Inmate Anthony Williams, 285056. I found him guilty of both charges today. The evidence I relied upon was the Sergeant's report, the Captain's supporting document, the three pictures of evidence. His sanctions will be: 120 days, for the...excused me, for Striking an Employee will be: 120 days canteen, phone, and visitation; 45 days disciplinary detention, minus 18 days of PHD credit, that leaves 27; six days loss of good time. For the cell phone and charger it will be: 180 days loss of canteen, phone, and visitation; 60 days disciplinary detention; and 90 days loss of good time. He was given these sanctions because it is his first 807 and fifth 898 conviction, Inmate Williams, and the fact that I do have a Mental Health Form that states that also he is classified as mentally ill he is able to understand the nature and quality of the act that was committed. Inmate Williams will receive a copy of the Hearing Record explaining the results of the appeals process. That concludes this hearing.

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW JUDGE COURT

Anthony Williams, 285056,

Appellant,

-vs-

South Carolina Department of Corrections,

Respondent

CERTIFICATION

Docket No.: 15-ALJ-04-0705-AP

Docket No.: 15-ALJ-04-0706-AP

This is to certify that the following transcript of the recording of this administrative disciplinary hearing is a true, accurate and complete transcript of the proceedings and testimony hereby transcribed.

I do further certify that I was not present at the administrative disciplinary hearing that has been transcribed.

Sandra Lee Avery

Sandra Lee Avery
Transcriptionist
Reporters Transcription Center

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW JUDGE COURT**

Anthony Williams, 285056,

Appellant,

-vs-

South Carolina Department of Corrections,

Respondent

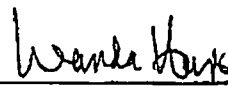
CERTIFIED TRANSCRIPT
Docket No.: 15-ALJ-04-0705-AP
Docket No.: 15-ALJ-04-0706-AP

This is to certify that I am the Disciplinary Hearing Officer who presided at the administrative disciplinary hearing in this matter. I have reviewed the attached transcript of the audio recording of this hearing and hereby certify the transcript as true, accurate, complete and constitutes the entire record of the proceedings.

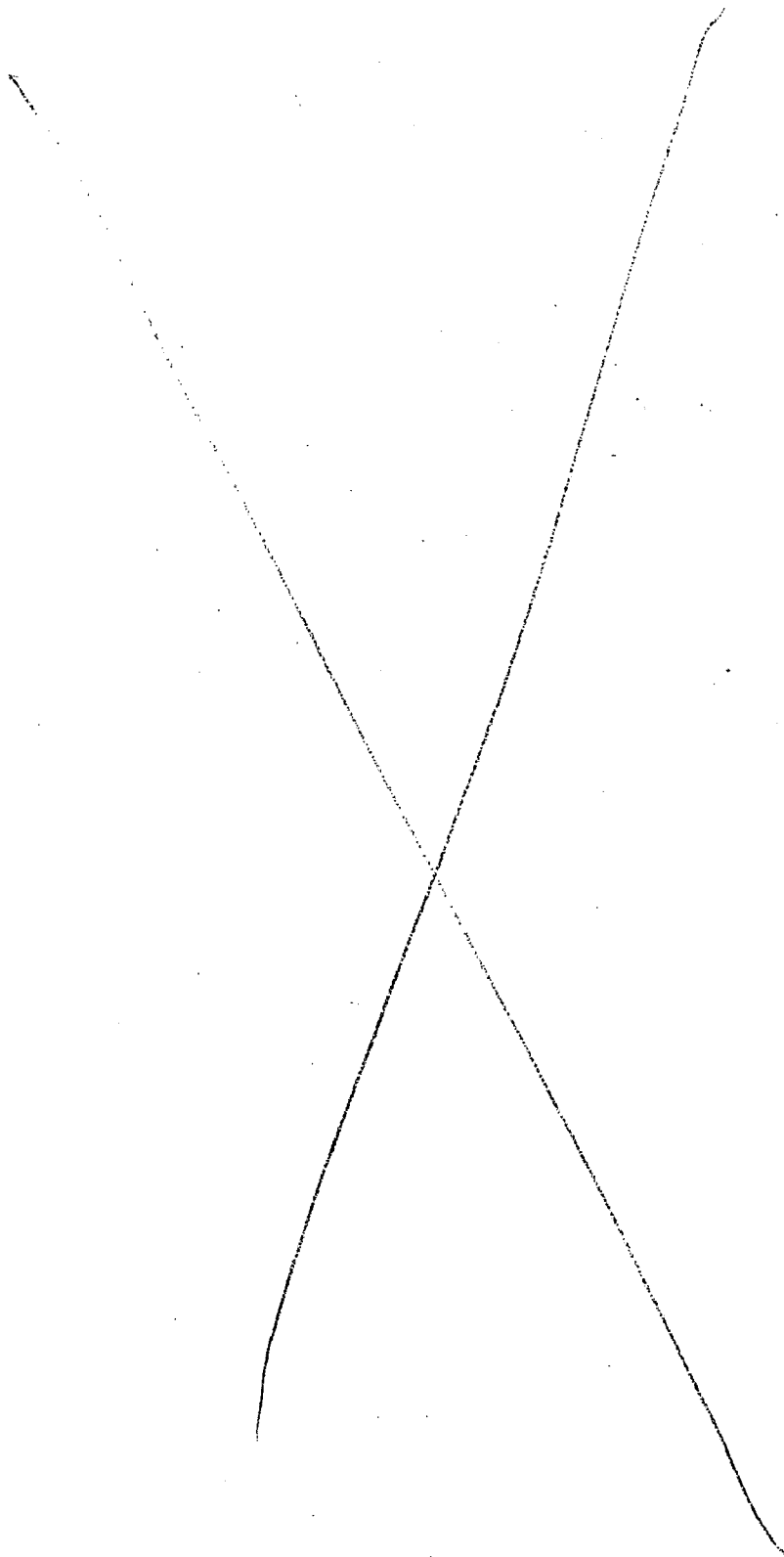


Disciplinary Hearing Officer
South Carolina Department of Corrections

SWORN TO before me this
18th day of March, 2016.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: 02/15/2017

000026



THE STATE OF SOUTH CAROLINA
Administrative Law Court

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT
Docket No.: 15-ALJ-04-0706-AP

Anthony Williams, Jr. #285056,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

BRIEF OF APPELLANT

TOMMY A. THOMAS
P.O. Box 88
Irmo, SC 29063
(803) 732-5507
ATTORNEY FOR APPELLANT

STATEMENT OF THE ISSUES ON APPEAL

1. Appellant's disciplinary conviction should not stand due to lack of evidence and/or failure to follow policy and procedure.
2. Improper enhancement of charge.

STATEMENT OF THE CASE

The incident in question occurred on June 8, 2015, at Evans Correctional Institution. The Appellant was charged with offense 809 Threatening to Inflict Harm on a staff member and 898 Possession of a Cell Phone and/or Communications Equipment.

Sgt. Hooper entered cell 5D-140 belonging to Inmate Williams and searched the cell. The Appellant suffers from a mental illness and informed the Sgt. that he was currently under medication and he was unable to stand and be searched. Sgt. Hooper indicated that Appellant was given a few minutes to gather his composure and when he tried to stand, he stumbled and he was allowed to sit on the toilet in the cell during their search. The Sgt. further indicated that while searching one of the legal boxes, a pair of white socks was found and that in that pair of socks was a black cell phone charger. At this point, the Appellant became agitated and believed that this item had been planted in his cell.

Sgt. Hooper indicated in his report that upon finding the cell phone charger, that the Appellant rushed to the cell door and passed an object to his roommate, inmate Williamson, who was standing outside of the cell. Sgt. Hooper testified that as he was attempting to go out of the cell to retrieve what he believed was being passed to inmate Williamson, that the Appellant rushed passed him on his way back into the room and

grabbed the cell phone charger that was lying on the floor. The Sgt. then asked Inmate Williams to hand the charger to him, which he refused. It was only after other officers arrived that Captain Ford ordered the Appellant to hand him the cell phone charger. The Appellant complied. Captain Ford stated that he retrieved a package from the top of one of the door guides between 5D 139 and 5D 140. In this package was a black LG type Smartphone. That this type of cell phone accepted the type of charger that was found in the Appellant's room. Inmate Williams was charged with 898 Possession of a Cell Phone and/or Communication Equipment and 809 Threatening to Inflict harm on a staff member.

The DHO found the Appellant guilty of 898 Possession of a Cell phone and/or Communication Equipment and 807 Striking an Employee. It appears that at some point the charge of 809 Threatening to Inflict Harm was enhanced to 807 Striking an Employee.

On June 25, 2015, a disciplinary hearing was convened at 12:10 p.m. Evidence was presented. The Appellant was found guilty by the Disciplinary Hearing Officer of Offense 898 and 807 after a plea of not guilty. The following sanctions were imposed:

(898) Possession of a Cell Phone and/or Communication Equipment
LOSS OF GOOD TIME FOR 90 DAYS
LOSS OF CANTEEN PRIVILEGES FOR 240 DAYS
LOSS OF TELEPHONE PRIVILEGES FOR 240 DAYS
LOSS OF VISITATION PRIVILEGES FOR 240 DAYS
DISC. DETENTION FOR 60

(807) STRIKING AN EMPLOYEE WITH/WITHOUT WEAPON
LOSS OF GOOD TIME FOR 6 DAYS
LOSS OF CANTEEN PRIVILEGES FOR 138 DAYS
DISC. DETENTION FOR 27 DAYS
LOSS OF TELEPHONE PRIVILEGES FOR 138 DAYS
LOSS OF VISITATION PRIVILEGES FOR 138 DAY

0000020
Appellant filed a Step 1 grievance on July 2, 2015. This grievance was denied and was received by the Appellant on September 9, 2015. A Step II grievance was filed September 9, 2015, this grievance was also denied and a Notice of Intent to Appeal was filed by the Appellant.

STATEMENT OF THE FACTS

There have been interactions between the Appellant and Sgt. Hooper on previous occasions. That prior to this search, Appellant was shaken down by the Sgt., who believed that he had been passed contraband. After being searched, no items were found on Appellant. This was believed to be the motive by the Appellant for the alleged planting of the evidence.

Inmate Marquavious Williamson, the Appellant's roommate stated "that he was part of the shakedown at 5D-140. The conducting officer Hooper entered the cell and started his search. He went through our things throwing our personal items on the floor. Hooper then stated that he saw Anthony Williams hand me something and rushed passed Williams, pushing him in the process of getting to me. Hooper conducted a search two days before this saying that he saw Williams exchange something with another inmate. Hooper did a strip search on Williams and it turned up empty. Hooper then came back and shook us down once again. I honestly feel that the Officer had it out for Williams. Hooper was very rude every encounter that he had with Williams. I also had the same reaction when he shook down the room. He proceed to throw our things around the floor and talked very rudely to us both."

It appears from the documents in the Record on Appeal that an initial hearing was set for June 18, 2015 and due to the fact that the DHO could not contact the accuser, Sgt.

Hooper, that the hearing was rescheduled for June 25, 2015. A hearing was held on June 25, 2015. Based upon the transcript submitted, it appears that the DHO states the purpose of the hearing and then asks the Appellant to state his name and SCDC number for the record. The Appellant answered, "Anthony Williams." Counsel Substitute states "and your number". DHO then states: "You've got two seconds to tell me what your number is." And then the transcript indicates that the DHO states that the "Inmate is failing to cooperate" and he is removed from the hearing room. The DHO Officer indicates "I will conduct this hearing in his absence."

The hearing was completed in the Appellant's absence and the counsel substitute was allowed to say several things on his behalf. The Counsel Substitute in essence stated that no errors or technical errors were in the reports. She summarized the Appellant's position that he felt the office had been giving him problems prior to the incident because he had been shaking his room down and had not been able to find any contraband. That the Appellant felt like the office had a vendetta against him and had been harassing him.

There is also in the record, a South Carolina Department of Corrections Disciplinary Mental Health Statement regarding the Appellant. It is noted that although the Appellant is classified as mentally ill, that he was able to understand the nature and quality of the act he committed. The Appellant has been diagnosed with a mental illness and is currently being treated for this illness.

ARGUMENT 1

1. **Appellant's disciplinary conviction should not stand due to lack of evidence and/or failure to follow policy and procedure.**

In *Al-Shabazz v. State*, 338 S.C. 354, 525 S.E.2d 742 (S.C. 2000), the South Carolina Supreme Court held that an inmate may seek review of a final decision of the South Carolina Department of Corrections in administrative matters under the South Carolina Administrative Procedures Act. The Court noted that "administrative matters typically arise in two ways: 1) when an inmate is disciplined and punishment is imposed and 2) when an inmate believes prison officials have erroneously calculated his sentence, sentence related credits, or custody status."

Here Williams was given a number of sanctions in his Disciplinary Hearing held on June 25, 2015.

(898) Possession of a Cell Phone and/or Communication Equipment
 LOSS OF GOOD TIME FOR 90 DAYS
 LOSS OF CANTEEN PRIVILEGES FOR 240 DAYS
 LOSS OF TELEPHONE PRIVILEGES FOR 240 DAYS
 LOSS OF VISITATION PRIVILEGES FOR 240 DAYS
 DISC. DETENTION FOR 60

(807) STRIKING AN EMPLOYEE WITH/WITHOUT WEAPON
 LOSS OF GOOD TIME FOR 6 DAYS
 LOSS OF CANTEEN PRIVILEGES FOR 138 DAYS
 DISC. DETENTION FOR 27 DAYS
 LOSS OF TELEPHONE PRIVILEGES FOR 138 DAYS
 LOSS OF VISITATION PRIVILEGES FOR 138 DAY

As a result of these sanctions, Appellant submits that his case falls within the confines of the first category enunciated in *Al-Shabazz*. Appellant's argument is that his convictions should not stand due to a lack of evidence; and failure to follow policy.

The Court may reverse or modify the decision if substantial rights of the Appellant have been prejudiced because the administrative findings, inferences, conclusions or decisions are:

- a) Made upon unlawful procedure,
- b) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- c) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted abuse of discretion.

Appellant would respectfully argue that proper procedure was not followed in two instances:

1. It appears that this matter had been originally been scheduled on June 18, 2015 and was continued due to the inability of the witness to be at the hearing. None of the witnesses were available at the June 25, 2015, however, the DHO decided to go forward with the hearing because the inmate allegedly had waived the presence of the witnesses.

i. The Appellant argues that he did not waive the presence of the witnesses.

If you look at the form submitted into evidence, it does appear that this block is checked. However, this block is immediately below the block that says I do want my witnesses present. There appears to be evidence in support of the fact that he did wish to have his witnesses there in that this matter had been previously continued to allow the witnesses to be present.

ii. The Appellant is currently under Mental Health treatment. He was ejected from the hearing based upon the fact that he was uncooperative. It

appears that given the fact that he is being treated for Mental Health, and the fact that the hearing officer basically stated that you've got two seconds to tell me your inmate number; that this was unreasonable.

Appellant states in his Step 1 and Step 2 grievance that he is claustrophobic and suffered a panic attack. Appellant would argue that DHO should have given him some discretion rather than immediately ejecting him from the hearing.

2. Improper enhancement of charge.

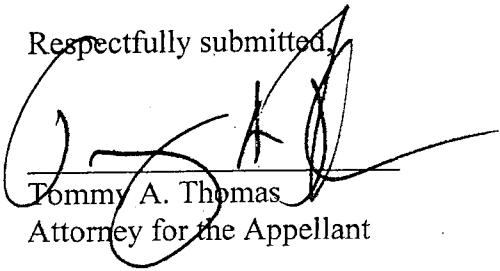
That the original charge of 809 Threatening to Inflict Harm was improperly enhanced to 807 Striking an Employee.

The Appellant argues that there was no basis for the enhancement of this charge. He was never given any notice that the charge was being changed, modified or enhanced. Appellant argues that the facts as stated in the initial Incident Report does not support the enhancement of this charge. That there is no evidence to support the charge of 807 Striking an Employee.

Conclusion

For the foregoing reasons, Appellate respectfully submits that the Court should reverse the final decision of the South Carolina Department of Corrections on the above charge and that all privileges to be reinstated.

Respectfully submitted,


Tommy A. Thomas
Attorney for the Appellant

April __, 2016

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Anthony Williams, Jr., #285056,)
)
Appellant,)
vs.)
)
South Carolina Department of)
Corrections,)
Respondent.)

CERTIFICATE OF SERVICE
(Docket No.: 15-ALJ-04-0706-AP)

I, Jacquelyn E. Miller, secretary to Tommy A. Thomas, hereby certify that I placed in the United States Mail, a copy of the Brief of Appellant, with postage prepaid and the return address clearly shown on said envelope to the following:

South Carolina Department of Corrections
Office of General Counsel
4444 Broad River Road
Columbia, SC 29210

Jacquelyn E. Miller
Secretary to Tommy A. Thomas
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April 6, 2016
Irmo, SC

**STATE OF SOUTH CAROLINA
IN THE ADMINISTRATIVE LAW COURT**

Anthony Williams, Jr., #285056,	)	Docket No.: 15-ALJ-04-0706-AP
	)	[Grievance No.: ECI 504-15]
Appellant,	)	
	)	<i>Hon. Shirley C. Robinson</i>
v.	)	
	)	
South Carolina Department of Corrections,	)	RESPONDENT'S BRIEF
	)	
Respondent.	)	
	)	

STATEMENT OF THE CASE

This matter is before the Administrative Law Court ("ALC" or "Court") pursuant to the appeal of Anthony Williams, Jr. ("Appellant"), an inmate incarcerated with the South Carolina Department of Corrections ("SCDC" or "Department"). Appellant is appealing his June 25, 2015 conviction for offense 807, "Striking an Employee". The appeal of this disciplinary conviction was done through grievance number ECI 504-15.

On July 2, 2015, Appellant filed a Step 1 grievance seeking reversal of his June 25, 2015 conviction for 807 on the basis of insufficient evidence and lack of due process. On September 2, 2015, SCDC denied the Step 1 grievance. Thereafter, on September 9, 2015, Appellant filed a Step 2 grievance alleging, again, insufficient evidence and lack of due process. On November 23, 2015, SCDC denied the Step 2 grievance, and this appeal followed.

STANDARD OF REVIEW

The ALC's jurisdiction to hear this matter is derived entirely from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). When reviewing SCDC's decisions in inmate grievance matters, the ALC sits in an appellate capacity. *Id.* at 377, 527 S.E.2d at 754. Subsequently, the supreme court

clarified the ALC's appellate jurisdiction over inmate appeals in *Sullivan v. S.C. Dep't of Corr.*, 355 S.C. 437, 586 S.E.2d 124 (2003). In affirming, as modified, the ALC's *en banc* decision of *McNeil v. S.C. Dep't of Corr.*, 02-ALJ-04-00336-AP (September 5, 2001), the supreme court held the ALC's jurisdiction was limited to (1) cases in which an inmate contends prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; (2) cases in which SCDC has taken an inmate's *state-created* liberty interest in major disciplinary hearings; and (3) cases in which an inmate's confinement implicates a *state-created* liberty interest. See *Sullivan*, 355 S.C. at 443, 586 S.E.2d at 127 (emphasis added).

Moreover, regarding categories (2) and (3), *supra*, the supreme court has consistently emphasized that the liberty or property interest implicated must be one that is *state created*. See *Wicker v. S.C. Dep't of Corr.*, 360 S.C. 421, 602 S.E.2d 56 (2004) (emphasizing that the ALC's jurisdiction extends only to those cases involving the denial of "state created liberty interests" and that the Court's holding [*i.e.*, in *Wicker*] "is not to be viewed as expanding the jurisdiction of the [ALC] in any other circumstance."); *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 605 S.E.2d 506 (2004) (holding that the ALC "may summarily dismiss those appeals that do not implicate an inmate's *state created* liberty or property interest") (emphasis added).

Furthermore, the ALC should not disturb findings of an administrative agency if those findings are supported by substantial evidence on the record as a whole. *Pearson v. JPS Converter & Ind. Corp.*, 327 S.C. 393, 489 S.E.2d 219 (Ct. App. 1997). Stated differently, an Administrative Law Judge may not substitute his judgment for that of an agency "as to the weight of the evidence on questions of fact." S.C. Code Ann. § 1-23-380(5) (amended by 2008 Act No. 334, § 5, eff. June 16, 2008). Additionally, "an

Administrative Law Judge may not reverse or modify an agency's decision unless substantial rights of the Appellant have been prejudiced because the decision is clearly erroneous in view of the substantial evidence on the whole Record, arbitrary or affected by an error of law." *Matthews v. S.C. Dep't of Corr.*; Case No.: 04-ALJ-04-00248-AP, available at <http://www.scalc.net/decisions.aspx?id=1203&q=4> (filed Dec. 21, 2004) (Anderson, A.L.J.); see S.C. Code Ann. § 1-23-380(5)(e); see also *Marietta Garage, Inc. v. S.C. Dep't. of Pub. Safety*, 337 S.C. 133, 522 S.E.2d 605 (1999); *S.C. Dep't. of Labor, Licensing & Regulation v. Girgis*, 332 S.C. 162, 503 S.E.2d 490 (1998).

"Substantial evidence" is evidence which, considering the record as a whole, would allow a reasonable mind to reach the same conclusion that the administrative agency reached. *Hendley v. S.C. State Budget & Control Bd.*, 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996). The possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's finding from being supported by substantial evidence. *Grant v. S.C. Coastal Council*, 319 S.C. 348, 461 S.E.2d 388 (1995). Administrative agencies are afforded wide latitude in making decisions, as shown in the deferential standard of appellate review. *Heater of Seabrook, Inc. v. Pub. Svc. Comm'n of S.C.*, 332 S.C. 20, 503 S.E.2d 739 (1998).

Finally, in deciding appeals from inmate grievances, the ALC must consider that prisons officials are in the best position to decide inmate disciplinary matters. In *Al-Shabazz*, the supreme court "underscored that since prison officials are in the best position to decide inmate disciplinary matters, the Courts and therefore this tribunal adhere to a 'hands off' approach to internal prison disciplinary policies and procedures when reviewing inmate appeals under the APA." *Matthews v. S.C. Dep't of Corr.*, *supra*, page 3 (citing *Al-Shabazz*, 338 S.C. at 382, 527 S.E.2d at 757 (stating that "[c]ourts

traditionally have adopted a ‘hands off’ doctrine regarding judicial involvement in prison disciplinary procedures and other internal prison matters”)); *see also Pruitt v. State*, 274 S.C. 565, 266 S.E.2d 779 (1980) (referring to the traditional “hands off” approach of South Carolina courts regarding internal prison discipline and policy).

ARGUMENTS

I. BECAUSE SUBSTANTIAL EVIDENCE EXISTED TO SUPPORT THE 807 CHARGE AND CONVICTION, THE COURT SHOULD AFFIRM SCDC’S FINAL AGENCY ACTION.

The evidence presented at the hearing and relied upon by DHO Bittinger satisfies the “substantial evidence” standard of proof to uphold Appellant’s conviction. Here are the salient facts brought forth at the disciplinary hearing:

1. Sergeant Hooper conducted a random search of Appellant’s cell on June 8, 2015 during which he found a cell phone charger hidden in a white sock in one of Appellant’s legal boxes.
2. Upon being asked by Sergeant Hooper where the cell phone was, Appellant rushed from the cell where it appeared to Sergeant Hooper that he passed something to another inmate, Marquavious Williamson.
3. Sergeant Hooper pursued Appellant to the cell door and exited the cell to secure the item he believed had just been passed off.
4. While Sergeant Hooper was outside of the cell, Appellant pushed pass Sergeant Hooper to get back into his cell and gained access to the cell phone charger.
5. SCDC policy OP-22.14, Inmate Disciplinary System, defines offense 807, “Striking an SCDC Employee or other Government Employee, Contract Employee, Volunteer, or Member of the Public” as the willful hitting, striking, spitting, or *unauthorized touching* of an SCDC employee or other government agency employee, contract employee, volunteer, or member of the public with or without a weapon . . . when such hitting, striking, throwing, or unauthorized touching does not cause bodily injury.

DHO Bittinger weighed the evidence based on the facts and testimony presented at the hearing and came to a just and fair decision. DHO Bittinger relied on the reports of

the officers involved and pictures of evidence presented. Appellant has failed to show to the Court that his substantial rights have been prejudiced or that DHO Bitteringer's decision was clearly erroneous, arbitrary, or affected by a legal error. *Cf. Matthews v. S.C. Dep't of Corr.*, Case No.: 04-ALJ-04-00248-AP, available at <http://www.scalc.net/decisions.aspx?id=1203&q=4> (filed Dec. 21, 2004) (Anderson, A.L.J.). Therefore, because Appellant's conviction was supported by substantial evidence, SCDC respectfully requests the Court affirm SCDC's final agency action.

II. BECAUSE APPELLANT RECEIVED THE DUE PROCESS TO WHICH HE WAS ENTITLED, THE COURT SHOULD AFFIRM SCDC'S FINAL AGENCY ACTION.

Prison disciplinary cases are not criminal trials in federal or state courts; they are administrative hearings in an institutional setting. Therefore, due process in prison disciplinary hearings is substantially less than in a trial before a court. Due process, as the United States Supreme Court noted in *Wolff v. McDonnell*, requires the following in prison disciplinary cases:

- a) notice of charges;
- b) disclosure of evidence against defendant (may be limited);
- c) opportunity to be heard;
- d) no right to confront and cross-examine adverse witnesses;
- e) neutral and detached hearing body;
- f) aid of counsel substitute or other substitute aid where inmate is illiterate or complex case (not attorney);
- g) written statement by the fact-finder as to the evidence relied upon.

418 U.S. 539, 566 (1974). SCDC complied with these requirements in the administrative hearing about which Appellant has filed the present appeal.

Here, Appellant had notice of the charges. He was served with the same on June 12, 2105. Appellant argues there was an improper enhancement of the charge. This statement is incorrect. While the accusing officer indicated a charge of 809,

"Threatening to Inflict Harm on/ Assaulting an Employee and/or Members of the Public," the Major actually charged Appellant with 807. Furthermore, Appellant's notification of his charges is for an 807.

Appellant had an opportunity to be heard, and an opportunity to challenge the evidence at his disciplinary hearing. Appellant waived his right to participate in the hearing by refusing to cooperate with the DHO and disrupting the proceedings creating a security concerns to which DHO Bittinger had to respond by removing Appellant from the hearing room. Appellant was also afforded the aide of counsel substitute (Ms. Ford) who presented evidence, including a statement by an inmate witness for Appellant, on his behalf in his absence. Appellant had the presence of a neutral and detached hearing officer (DHO Bittinger), and a written statement of the findings so that Appellant could make an appeal.

Appellant argues that his due process rights were violated because his accuser was not present and did not testify at his hearing. However, under *Wolff*, inmates do not have a right to confront their accusers in prison disciplinary proceedings. *Id.* Therefore, the absence of Appellant's accuser did not violate his due process rights because he did not have the right to confront his accuser. Furthermore, DHO Bittinger verified with the verifying officer that Appellant did indicate he did not want his accuser present.

at 4). There is nothing in the record to indicate that Appellant's due process
d. Accordingly, the Departments' final agency action should be

CONCLUSION

SCDC afforded Appellant all of the due process safeguards to which he was entitled. Moreover, DHO Bittinger relied on substantial evidence when making his decision to find Appellant guilty of the 807 offense. Thus, SCDC respectfully requests that this Court affirm SCDC's final agency action.

Respectfully Submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

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April 29, 2016
Columbia, South Carolina

MAY 19 2016

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

SC ADMIN. LAW COURT

Anthony Williams, Jr., 285056,

Docket No.: 15-ALJ-04-0706-AP

Grievance No.: ECI 504-15

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

ORDER

This matter is before the South Carolina Administrative Law Court ("the ALC" or "the Court") pursuant to the Notice of Appeal filed December 30, 2015, by Anthony Williams, Jr. ("Appellant"), an inmate incarcerated with the South Carolina Department of Corrections ("Department"). Appellant requests review of the Department's decision following Appellant's disciplinary conviction for Striking an SCDC Employee or Other Government Employee, Contract or Employee or Volunteer.¹ As a result of the conviction, Appellant received sanctions that included the loss of six (6) days of accrued good time. In this appeal, Appellant asserts that he was denied procedural due process and that the evidence does not support his conviction.

The Court's jurisdiction to hear this matter is derived from the decision of the South Carolina Supreme Court in Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). The Al-Shabazz decision explained that "procedural due process is guaranteed when an inmate is deprived of an interest encompassed by the Fourteenth Amendment's protection of liberty and property." Wicker v. S.C. Dept. of Corrs., 360 S.C. 421, 424, 602 S.E.2d 56, 58 (2004) (citation omitted). Such a liberty interest is implicated when an inmate has lost accrued good time due to a major disciplinary hearing. See Al-Shabazz, 338 S.C. at 369, 526 S.E.2d at 750; Howard v. S.C. Dep't of Corrs., 399 S.C. 618, 629, 733 S.E.2d 211, 217 (2012).

When reviewing the Department's decisions in inmate grievance matters, the Court sits in an appellate capacity, applying the appellate standard of the Administrative Procedures Act. Al-Shabazz, 338 S.C. at 377-80, 527 S.E.2d at 754-56. Consequently, the Court's review is limited to the record. S.C. Code Ann. § 1-23-380(4) (Supp. 2015). Additionally, the Court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions

¹ Appellant was also convicted of Possession of Any Communication Device. The appeal of that conviction is also before this Court and may be found under docket number 15-ALJ-04-0705-AP.

of fact, but may modify or reverse the decision of the agency when substantial rights of the appellant have been prejudiced. S.C. Code Ann. § 1-23-380(5) (Supp. 2015). Substantial rights of the appellant are prejudiced when the agency's decision, including the agency's findings, inferences, and conclusions, are in violation of constitutional or statutory provisions; in excess of the statutory authority of the agency; made upon unlawful procedure; affected by other error of law; clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. Id.

In this case, Appellant argues that the Department failed to follow policy and procedure. However, a prison official's failure to follow the prison's own policies, procedures or regulations does not constitute a violation of procedural due process, if constitutional minima are nevertheless met. See Weatherholt v. Bradley, 316 Fed. Appx. 300, 303 (4th Cir. 2009) (not selected for publication) (quoting Myers v. Klevenhagen, 97 F.3d 91, 94 (5th Cir. 1996)) ("[F]ailure to follow prison rules or regulations does not, without more, give rise to a constitutional violation . . ."). Thus, the Court must only determine whether Department met the minimum requirements for procedural due process in this matter where an inmate was disciplined for serious misconduct. Al-Shabazz, 338 S.C. at 369-70, 527 S.E.2d at 750. The South Carolina Supreme Court has enunciated the following five requirements which, if established, show the minimum constitutional requirements for procedural due process have been met in inmate disciplinary matters:

- (1) the inmate was given advance written notice of the charge at least twenty-four hours before the hearing;
- (2) the fact finder(s) prepared a written statement of the evidence relied on and reasons for the disciplinary action;
- (3) the inmate was allowed to call witnesses and present documentary evidence;
- (4) counsel substitute was allowed to help the inmate if the inmate was illiterate or if the case was too complex for the inmate to handle alone; and
- (5) the person(s) who heard the matter, who may be prison officials or employees, were impartial.

See id., 338 S.C. at 371, 527 S.E.2d at 751 (citing Wolff v. McDonnell, 418 U.S. 539, 563-72 (1974)). Applying the five due process requirements to the Record in this case, the Court concludes the following:

Appellant was given notice of the charge on June 12, 2015, and the disciplinary hearing in the matter took place on June 25, 2015, more than twenty-four hours later. Appellant alleges that the hearing was continued because the hearing officer could not contact the accusing officer and that this is evidence that Appellant was denied his right to witnesses. However, there is no evidence on the record that Appellant requested any witnesses be present. Indeed, there is substantial evidence on the record that Appellant specifically denied wanting the accusing officer to be present at the hearing. Further, Appellant has not argued any specific prejudice that resulted from the alleged denial of witnesses. See Tall Tower, Inc. v. S.C. Procurement Review Panel, 294 S.C. 225, 233, 363 S.E.2d 683, 687 (1987) (citing Palmetto Alliance v. S.C. Pub. Serv. Auth., 282 S.C. 430, 319 S.E.2d 695 (1984)).

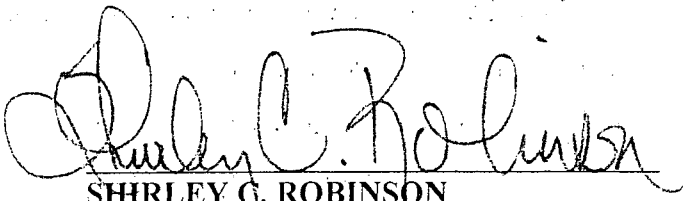
The Record reveals that Appellant was initially present at the disciplinary hearing, but was removed by the hearing officer for refusal to cooperate. Based on the transcript of the case, the Court finds that Appellant was warned that he would be removed if he failed to conduct himself properly. The Court concludes that Appellant's removal from the hearing was justified by the Department's need to maintain an orderly and safe prison environment. See id., 338 S.C. at 370, 527 S.E.2d at 750. In his absence Appellant was represented by his counsel substitute. The counsel substitute provided Appellant's statement regarding the case. The Record further shows the hearing officer's determination of Appellant's guilt was based upon the incident reports read into the record. The sanctions imposed were based upon the Hearing Officer's finding that this was Appellant's first offense of this type. Finally, there is nothing in the Record indicating the hearing officer was otherwise than neutral. Therefore, the Court concludes that Appellant was afforded the minimum due process required in prison disciplinary proceedings.

Appellant also argues that the evidence in this case does not support his conviction. Substantial evidence is "not a mere scintilla of evidence nor the evidence viewed blindly from one side of the case, but is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion that the administrative agency reached" Lark v. Bi-Lo, Inc., 276 S.C. 130, 135, 276 S.E.2d 304, 306 (1981) (citation omitted). Under the substantial evidence rule, an appellate court "will not overturn a finding of fact by an administrative agency 'unless there is no reasonable probability that the facts could be as related by a witness upon whose testimony the finding was based.'" Sea Pines Ass'n for Prot. of Wildlife, Inc. v. S.C. Dep't of Nat. Res., 345 S.C. 594, 603-04, 550 S.E.2d 287, 292 (2001) (quoting Lark

v. Bi-Lo, Inc., 276 S.C. 130, 276 S.E.2d 304 (1981)). When reviewing the available evidence, it is within the discretion of the hearing officer to place greater weight on the evidence he or she deems most credible. See Woodall v. Woodall, 322 S.C. 7, 10, 471 S.E.2d 154, 157 (1996) (citations omitted) (trial judge is in the best position to observe demeanor and veracity of witnesses); see also Al-Shabazz, 338 S.C. at 382, 527 S.E.2d at 757 (establishing a "hands-off" doctrine in reviewing inmate disciplinary convictions). In this case, the hearing officer placed greater weight on the credibility of the incident reports than on Appellant's statement. The report of Officer Hooper, who conducted the search and was pushed and threatened by Appellant, and Captain Ford, who was called to assist, constitute substantial evidence on the record to support Appellant's conviction.

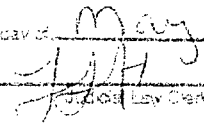
THEREFORE, IT IS HEREBY ORDERED that the decision of the Department is **AFFIRMED**.

AND IT IS SO ORDERED.


SHIRLEY G. ROBINSON
 Administrative Law Judge

May 19, 2016
 Columbia, South Carolina

CERTIFICATE OF SERVICE
 I hereby certify that the undersigned has served a copy of the above-entitled action upon all parties to this cause by depositing a copy thereof in the United States mail, postage paid, or in the emergency mail, to be addressed to the party(ies) or their attorney(s).

Filed 19 day of May 2016

 J. H. Law Clerk

15. INMATES WITH MENTAL HEALTH (MH) CLASSIFICATIONS: 15.1 Mental Health Disciplinary Treatment Team (MHDTT): The MHDTT was established for the review of inmates with a mental health classification, found guilty of a disciplinary offense. 15.2 Once the DHO hears the case and, if the MH Classified Inmate falls into any one of the three categories below, the MHDTT, consisting of the Mental Health Professional along with the MH Regional Manager, Warden, Associate Warden and/or Major will process the nature of the offense and determine a proper resolution for the offender as it relates to sanctions versus treatment. 15.3 For the disposition of GBNA and GWMC, sanctions may be imposed by the MHDTT. Guilty but not accountable (GBNA): The offender has a mental illness which likely contributed to an inability to control his/her behavior. This inmate may not receive sanctions or may receive modified sanctions. Guilty with mitigating circumstances (GWMC): The offender suffers from a mental illness which may have contributed to behaviors due to the offender lacking the capacity to understand the act committed or the inability to control impulsive behaviors). This inmate may receive modified sanctions from the MHDTT. 15.4 For the disposition of guilty, although sanctions will be imposed by the DHO, the MHDTT will review the sanctions and make modifications as needed. Guilty: Although classified as Mentally Ill, was able to understand the nature and quality of the act committed This inmate will be subject to any sanctions imposed by the DHO at the conclusion of their hearing in accordance with SCDC Policy OP 22.14, "Inmate Disciplinary System." 15.5 When an inmate is found GBNA, GWMC, or guilty, the MHDTT will convene and determine an appropriate intervention and treatment plan. If this team cannot agree on the appropriate disciplinary action, the impasse will be brought to the Division of Operations and the Director of Behavioral/Mental Health & Substance Abuse Services to arrive at the most appropriate disciplinary action.

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SCDC POLICY

This policy has been developed in response to and as a portion of the Remedial Plan agreed upon by the parties in the settlement of T.R. V. South Carolina Department of Corrections, No. 2005-CP-40-02925. As agreed by the parties in the Settlement Agreement, it is the understanding and agreement of the parties that implementation and effectuation of the provisions of this policy as a portion of the Remedial Plan shall be phased in over time and all aspects shall not become effective immediately. (See Section 2 - Summary of Agreement and Section 4 (f) - Implementation Phase-In of Settlement Agreement effective May 2, 2016).

NUMBER: HS-19.06**TITLE: MENTAL HEALTH SERVICES - DISCIPLINARY DETENTION FOR INMATES CLASSIFIED AS MENTALLY ILL****ISSUE DATE: August 29, 2016****RESPONSIBLE AUTHORITY: DIVISION OF MENTAL HEALTH SERVICES****OPERATIONS MANUAL: HEALTH SERVICES****SUPERSEDES: SCDC POLICY HS-19.02 (dated July 1, 2008) - NEW POLICY****RELEVANT SCDC FORMS/SUPPLIES: 4-7, 19-29A****ACA/CAC STANDARDS: 4-ACRS-5A-08, 4-ACRS-6A-11, 4-ACRS-7D-07, 4-4095, 4-4098, 4-4099, 4-4256, 4-4277, 4-4285, 4-4286, 4-4305, 4-4351, 4-4368, 4-374, 4-4399, 4-4428, 4-4429, 4-4430, 4-4431, 4-4433, 4-4434, 4-4435, 4-4436, 4-4438, 4-4439, 4-4440, 4-4441, 4-4442, 4-4446****STATE/FEDERAL STATUTES: None****PURPOSE:** To provide additional guidelines for the administration and application of the South Carolina Department of Correction's (SCDC) Inmate Disciplinary Policy (OP-22.14) for inmates who are classified as mentally ill.**POLICY STATEMENT:** SCDC will strive to render the optimum standard of care and services to inmates who are classified as mentally ill and receive disciplinary detention. Every effort will be made by the Agency to ensure that inmates who are classified as mentally ill and are sentenced to disciplinary detention are: 1) granted access to appropriate levels of mental health care as needed; 2) afforded consistent, timely access to mental health staff as required; 3) secured in safe, decent, and sanitary housing units; and 4) considered for alternative sanctions that are conducive to positive therapeutic change.**TABLE OF CONTENTS**

1. PROCEDURAL GUIDELINES
2. DEFINITION(S)
- ADDENDUM A - MENTAL HEALTH SERVICES PROCEDURES
- ADDENDUM B - DISCIPLINARY MENTAL HEALTH STATEMENT

SPECIFIC PROCEDURES:**1. PROCEDURAL GUIDELINES:**

1.1 All inmates classified as Mentally Ill and receiving higher levels of care (Classification L1, L2, L3, LC and/or MR) and any inmate who suffers from or presents with a serious mental illness, regardless of classification, who is presented before a Disciplinary Hearing Officer (DHO) due to an infraction that could lead to level one or two formal charge, will be assessed by a Qualified Mental Health Professional (QMHP) to determine what impact, if any, the inmate's mental health state should carry in regard to disciplinary sanctions. The QMHP completing the disciplinary statement will, whenever possible, not be the primary counselor assigned to the inmate.

1.1.1 Within three (3) business days after receiving SCDC Form 19-29A, "Incident Report," the QMHP will assess the mentally ill inmate who has been charged with the infraction, through an in-person interview and review of pertinent records.

1.1.2 The QMHP will review the inmate's current treatment plan, treatment compliance, historical data, diagnoses, behavior that was occurring at the time of the charge, and recent medical record entries to assist in making the above determination.

1.1.3 The questions to be assessed are whether the inmate's charged disciplinary behavior was related to mental illness; if so, how; and what treatment interventions might be indicated to address the behavior.

1.1.4 All QMHPs involved in these assessments will complete training on conducting this type of assessment.

1.2 After completion of the above noted steps and based upon an evaluation, the QMHP will forward an opinion to the DHO utilizing Addendum A, "Mental Health Services Procedures, and Addendum B, "Disciplinary Mental Health Statement". Possible findings in each case include that:

- the inmate is not guilty of the charged infraction;
- mitigating circumstances have been identified and should be considered: the inmate has a mental illness which contributed to the behavior to a degree that justifies consideration of modified sanctions; or
- no mitigation secondary to mental illness has been identified; inmate has a mental illness but is viewed as being reasonably able to exert self-control and understand the nature and quality of the alleged act.

1.3 The QMHP will complete and sign the Disciplinary Mental Health Statement and get the co-signature of the Mental Health Services Regional/Program Supervisor or Program Manager. Psychologist/Clinical Supervisor for Mental Health will also sign the Disciplinary Mental Health Statement if sections A, B, or C are indicated for inmates with a Mental Health Classification of L1, L2, L3, LC and/or MR or any other inmate with serious mental illness. The QMHP will submit the Disciplinary Mental Health Statement to the appropriate DHO within three (3) business days. If the inmate has a Mental Health Classification of L4 (*Outpatient*) without a serious mental illness, and the DHO determines that a mental health statement is necessary, a mental health statement can be provided upon request.

1.4 The Institution will notify the QMHP of the inmate's disciplinary hearing date and time.

1.5 The DHO will hear the case and determine whether a sanction is appropriate.

1.6 Examples of Modified Sanctions the DHO may consider include, but are not limited to:

- Behavior Modification Contract;
- waive restitution fee for medical cost of self-inflicted injuries or injuries to others;
- extra duty or chores up to 40 hours;
- limit time in segregation with regular visits from QMHP;
- disrespect sanction (72 hours cell time);
- use of informal resolutions;
- limited telephone restriction;
- limited visitation restriction;

- restriction of recreation time;
- restriction of canteen privileges;
- Behavioral Incentive Plan (focused on gaining privileges back).

1.7 All MH classified inmates who fall in one of the second two categories above (B or C - *if the inmate has a Mental Health Classification of L1, L2, L3, LC, and/or MR*), will be reviewed by the Mental Health Disciplinary Treatment Team (MHDTT), which will consist of the QMHP, the Mental Health Services Regional/Program Supervisor or Program Manager, Psychiatrist, Psychologist, Warden, Associate Warden and/or Major. The MHDTT serves two functions on a monthly basis: a) reviews sanctions given to mentally ill inmates to determine if they believe proper resolution for the inmate as it relates to sanctions versus treatment has been made; and b) reviews the status of mentally ill inmates in disciplinary detention to determine if an inmate can be returned to the institution's general population or previous program assignment.

1.8 All inmates classified as mentally ill and placed on lockup status will be offered a confidential mental health assessment by a QMHP monthly or more frequently as clinically indicated, until they are removed from lockup status.

2. DEFINITION(S):

Convicted refers to when an inmate is/was found guilty of, or pled guilty to, the charge infraction.

Disciplinary Hearing refers to a formal proceeding conducted by a Hearing Officer to process serious rules violations.

Disciplinary Hearing Officer (DHO) refers to an individual conducting a disciplinary hearing.

Guilty But Not Accountable refers to when a mentally ill inmate commits a disciplinary infraction and the Qualified Mental Health Professional (QMHP) determines that the inmate was not accountable for his/her action(s), and the Hearing Officer finds the inmate guilty through a preponderance of the credible evidence presented. Therefore, the inmate should be found guilty, but not accountable. This case will be referred back to the QMHP and designated institutional staff for appropriate intervention.

Guilty with Mitigating Circumstances refers to when the inmate suffers from a mental illness which may have contributed to current acting out behaviors. Due to the inmate lacking the capacity to understand the act committed, the case will be referred back to the QMHP and designated institutional staff for appropriate intervention.

Qualified Healthcare Practitioner (QHP) refers to a Physician, Physician's Assistant, or Nurse Practitioner.

Qualified Mental Health Professional (QMHP) refers to a Psychiatrist, licensed Psychologist, licensed Professional Counselor, licensed Professional Counselor-Supervisor, licensed Independent Social Worker, Psychiatric Nurse Practitioner, and also includes a licensed Master Social Worker and licensed Professional Counselor-Intern with appropriate supervision.

SIGNATURE ON FILE

s/Bryan P. Stirling, Director

Date of Signature

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
ADDENDUM A
MENTAL HEALTH SERVICES PROCEDURES

Disciplinary Detention for Offenders Classified as Mentally Ill

Number: 700.33

Related SCDC Policy: HS-19.02, OP-22.14

Date: March 1, 2014

Purpose: To provide additional sentencing guidelines for the administration and application of the South Carolina Department of Corrections' (SCDC) Inmate Disciplinary System for Offenders who are classified as mentally ill.

Procedure Statement: SCDC will strive to render the optimum standard of care and services to inmates who are classified as mentally ill and receive disciplinary detention. Every effort will be made by the Agency to ensure that offenders who are classified as mentally ill and meet the criteria for disciplinary detention are: 1) granted access to higher levels of hospital care as needed; 2) afforded consistent, timely access to a as required; 3) secured in safe, decent and sanitary housing units; and 4) considered for alternative sanctions that are conducive to positive therapeutic change.

Procedural Guidelines:

1. All offenders classified as Mentally Ill (Mental Health Classification L1, L2, L3, LC and/or MR) and presented before a Disciplinary Hearing Officer (DHO) due to an infraction that could lead a formal charge will be assessed by a QMHP at his/her respective institution. The following should occur in order to therapeutically evaluate the mentally ill offender's mental competency:
 - Within three business days after receiving an Incident Report (SCDC Form 19-29A), the QMHP will assess the mentally ill offender who has committed the infraction, and
 - Review the offender's medical compliance, historical data, offender's diagnosis, current medications, recent encounters, and DAP notes.
2. Then after completion of the above noted steps and based upon an evaluation of the offender's history it is determined based on the QMHP's professional opinion that:
 - A. The offender has a mental illness which likely contributed to an inability to control his/her behavior (Definition - Guilty but not accountable); or
 - B. The offender suffers from a mental illness which may have contributed to behaviors (Definition -Guilty with mitigating circumstances due to the offender lacking the capacity to understand the act committed or the inability to control impulsive behaviors). *(See attachment for requested consideration of modified sanctions)*; or
 - C. Although classified as Mentally Ill, was able to understand the nature and quality of the act committed (Definition - Guilty of the charge).
3. Once the DHO hears the case, and if the MH classified inmate falls in any one of the categories above, the QMHP in consultation with the Mental Health Services Regional or Program Manager or Program Supervisor, Warden, Associate Warden and/or Major will process the offense as a Mental Health Disciplinary Treatment Team (MHDTT) to determine a proper resolution for the offender as it relates to sanctions versus treatment. *(This is for all cases and does not*

000052 require the presence of the Mental Health Services Regional or Program Manager or Program Supervisor; however, they should be available for consultation.)

4. The QMHP will complete and sign (Mental Health Services Regional or Program Manager or Program Supervisor will also sign the Disciplinary Mental Health Statement if sections A or B are indicated) the Disciplinary Mental Health Statement and submit their statement to the DHO at the respective institution within three business days.

5. The Institution will notify the QMHP of the offender's disciplinary hearing date and time.

6. If it is determined that an offender has:

- A. A mental illness which likely contributed to an inability to control his/her behavior (Definition - Guilty but not accountable); or
- B. A mental illness which may have contributed to behaviors (Definition -Guilty with mitigating circumstances due to the offender lacking the capacity to understand the act committed or the inability to control impulsive behaviors). (See attachment for requested consideration of modified sanctions)

Then, after the disciplinary hearing has been conducted:

- i. The QMHP along with the Mental Health Services Regional or Program Manager or Program Supervisor, Warden, Associate Warden and/or Major will process the nature of the offense as a team to determine a proper resolution for the offender.
- ii. If an agreement can not be reached, all documentation will be forwarded to the Division Director of Behavioral/Mental Health and Substance Abuse Services and the Division of Operations Regional Director to determine the best course of treatment versus sanctions for the inmate.
- iii. All offenders classified as mentally ill and placed on lock-up status will receive a mental health assessment by a QMHP every 30 days until they are removed from lock-up status.
- iv. Every 30 days, the QMHP, Mental Health Services Regional or Program Manager or Program Supervisor, Warden, Associate Warden and/or Major will review the lock-up status for offenders classified as mentally ill to determine if the offender can return to the institutions general population.

7. Examples of Modified Sanctions include but are not limited to:

- Behavior Modification Contract
- Waive Restitution fee for medical cost of self-inflicted injuries or injuries to others.
- Extra duty or chores up to 40 hours.
- Limit time in segregation with weekly visits from QMHP.
- Disrespect (72 hours cell time).
- Use of informal resolutions
- Limited telephone restriction
- Limited visitation restriction
- Restriction of recreation time
- Restriction of canteen privileges
- Behavioral Incentive Plan (Gaining Privileges Back)

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS (SCDC)

ADDENDUM B

DISCIPLINARY MENTAL HEALTH STATEMENT

INSTITUTION: _____

Today's Date: _____

SCDC Mental Health Services assist in the disciplinary hearing process by providing a statement regarding an offender's mental status at the approximate time the offense occurred. This form must be completed in its entirety and returned to the appropriate disciplinary hearing personnel within 3 business days from the date the incident report is received by the Qualified Mental Health Professional.

Qualified Mental Health Professional: _____ Date: _____
(Print Name of Assigned QMHP) (Date Incident Report Rec. by QMHP)

_____ SCDC#: _____ has been charged with an
(Print Name of Offender)
infraction of rules and/or regulations set forth by the SCDC based on _____
(Disciplinary Code(s))
_____ and SCDC 19-29 "Incident Report" _____ at _____
(Description of Violation) (Date of Incident/Date of Discovery)
_____ by Reporting Official _____
(Time of Incident) (Print name of Reporting Official)

The assigned QMHP completed the following:

(QMHP Initial) _____ (Date) _____ Interview and Clinical Assessment of the inmate's current mental health status.

(QMHP Initial) _____ (Date) _____ Medication Compliance Review (MARS)

(QMHP Initial) _____ (Date) _____ Review of historical data, recent encounters and notes.

After a thorough review of the items listed above it is the professional opinion of this Qualified Mental Health Professional the:

_____ A. Offender has a mental illness which likely contributed to their inability to control his/her behavior. (Definition - Guilty but not accountable); (Follow MH Procedure)

_____ B. Offender suffers from a mental illness which may have contributed to behaviors. (Definition - Guilty with mitigating circumstances due to the offender lacking the capacity to understand the act committed). (See attachment for requested consideration of modified sanctions) (Follow MH Procedure) Request consideration of modified sanctions for the following reasons:

_____ C. Offender, although classified as Mentally III, was able to understand the nature and quality the act committed.

Should you have questions or require additional information please contact me at your convenience.

(Signature) Qualified Mental Health Professional _____ (Signature & Title of MH Services Regional or Program
Manager or Program Supervisor only if A or B indicated)

(Date) (Date)

(Phone # and/or ext.) (Phone # and/or ext.)

This document serves as a Mental Health Procedure under General Provisions # 700

Level 1 Offenses	
List of Offenses	List of Modified Sanctions
801 Assault and/or Battery of an SCDC Employee or other Government Employee, Contract Employee, Volunteer, or Member of the Public with Means/and/or Intent to Kill or Injure	> 0-180 Days No privileges during term of Disciplinary Detention > 0-180 Days Lock up 1 st Offense > 180-360 Days Lock up 2 nd or Subsequent Offense
802 Sexual Assault	> 0-180 Days No privileges during term of Disciplinary Detention > 0-180 Days Lock up 1 st Offense > 180-360 Days Lock up 2 nd or Subsequent Offense
803 Riot	> 0-180 Days No privileges during term of Disciplinary Detention > 0-180 Days Lock up 1 st Offense > 180-360 Days Lock up 2 nd or Subsequent Offense
804 Homicide	> 0-180 Days No privileges during term of Disciplinary Detention > 0-180 Days Lock up 1 st Offense > 180-360 Days Lock up 2 nd or Subsequent Offense
805 Hostage Taking	> 0-180 Days No privileges during term of Disciplinary Detention > 0-180 Days Lock up 1 st Offense > 180-360 Days Lock up 2 nd or Subsequent Offense
806 Any Act Defined as Felony Acts by SC Laws	> 0-180 Days No privileges during term of Disciplinary Detention > 0-180 Days Lock up 1 st Offense > 180-360 Days Lock up 2 nd or Subsequent Offense
857 Assault and/or Battery of an Inmate with Means and/or Intent to Kill or Injure	> 0-180 Days No privileges during term of Disciplinary Detention > 0-180 Days Lock up 1 st Offense > 180-360 Days Lock up 2 nd or Subsequent Offense
896 Unauthorized wearing, possession and/or providing Agency uniform	> 0-180 Days No privileges during term of Disciplinary Detention > 0-180 Days Lock up 1 st Offense > 180-360 Days Lock up 2 nd or Subsequent Offense > Restriction of recreation time
897 Possession of Security Equipment/Property	> 0-180 Days No privileges during term of Disciplinary Detention > 0-180 Days Lock up 1 st Offense > 180-360 Days Lock up 2 nd or Subsequent Offense
	0-180 Days No privileges during term of Disciplinary Detention

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898 Possession of Any Communication Device	0-180 Days Lock up 1 st Offense > 180-360 Days Lock up 2 nd or Subsequent Offense
901 Class I Escape	> 18 months Lock up (DD/SD)
902 Class II Escape	> 12 months Lock up (DD/SD)
903 The trafficking, Use, and/or Possession of Narcotics, Marijuana, or Unauthorized Drugs, including prescription drugs, or Inhalants	> 0-180 Days No privileges during term of Disciplinary Detention > 0-180 Days Lock up 1 st Offense > 180-360 Days Lock up 2 nd or Subsequent Offense
904 Possession of Escape Tools and/ or Paraphernalia	> 0-180 Days No privileges during term of Disciplinary Detention > 0-180 Days Lock up 1 st Offense > 180-360 Days Lock up 2 nd or Subsequent Offense
905 Creating and/or Assisting with a Social Networking Site	> 0-180 Days No privileges during term of Disciplinary Detention > 0-180 Days Lock up 1 st Offense > 180-360 Days Lock up 2 nd or Subsequent Offense

Level 2 Offenses

List of Offenses	List of Modified Sanctions
807 Striking an SCDC Employee or other Government Employee, Contract Employee, Volunteer, or Member of the Public	> 0-90 Days Lock up 1 st Offense > 90-180 Days Lock up 2 nd or Subsequent Offense > 0-90 Days Loss of privileges > 0-90 Disciplinary Detention 1 st Offense > 90-180 Disciplinary Detention 2 nd Offense
808 Fighting with a Weapon	> 0-90 Days Lock up 1 st Offense > 90-180 Days Lock up 2 nd or Subsequent Offense > 0-90 Days Loss of privileges > 0-90 Disciplinary Detention 1 st Offense > 90-180 Disciplinary Detention 2 nd Offense
809 Threatening to Inflict Harm on/Assaulting an Employee and/or Member of the Public	> 0-90 Days Lock up 1 st Offense > 90-180 Days Lock up 2 nd or Subsequent Offense > 0-90 Days Loss of privileges > 0-90 Disciplinary Detention 1 st Offense > 90-180 Disciplinary Detention 2 nd Offense
810 Striking an Inmate with or without a Weapon	> 0-90 Days Lock up 1 st Offense > 90-180 Days Lock up 2 nd or Subsequent Offense > 0-90 Days Loss of privileges > 0-90 Disciplinary Detention 1 st Offense > 90-180 Disciplinary Detention 2 nd Offense
811 Possession of a Weapon	> 0-90 Days Lock up 1 st Offense > 90-180 Days Lock up 2 nd or Subsequent Offense > 0-90 Days Loss of privileges > 0-90 Disciplinary Detention 1 st Offense > 90-180 Disciplinary Detention 2 nd Offense
812 Robbery with Force	> 0-90 Days Lock up 1 st Offense > 90-180 Days Lock up 2 nd or Subsequent Offense > 0-90 Days Loss of privileges > 0-90 Disciplinary Detention 1 st Offense > 90-180 Disciplinary Detention 2 nd Offense
813 Throwing of any Substance or Object on an SCDC Employee or other Government Employee, Contract Employee, or Volunteer	> 0-90 Days Lock up 1 st Offense > 90-180 Days Lock up 2 nd or Subsequent Offense > 0-90 Days Loss of privileges > 0-90 Disciplinary Detention 1 st Offense > 90-180 Disciplinary Detention 2 nd Offense
814 Inciting/Creating a Disturbance	> 0-90 Days Lock up 1 st Offense > 90-180 Days Lock up 2 nd or Subsequent Offense > 0-90 Days Loss of privileges > 0-90 Disciplinary Detention 1 st Offense > 90-180 Disciplinary Detention 2 nd Offense > 24 hours of cell time
820 Damage, Loss, Destruction, or Defacing of Property Valued at 100.00 or more	> 0-90 Days Lock up 1 st Offense > 90-180 Days Lock up 2 nd or Subsequent Offense > 0-90 Days Loss of privileges > 0-90 Disciplinary Detention 1 st Offense

	> 90-180 Disciplinary Detention 2 nd Offense > No financial fees charged to offender > Behavioral Modification Contract
822 Sexual Misconduct	> 0-90 Days Lock up 1 st Offense > 90-180 Days Lock up 2 nd or Subsequent Offense > 0-90 Days Loss of privileges > 0-90 Disciplinary Detention 1 st Offense > 90-180 Disciplinary Detention 2 nd Offense > Behavioral Modification Contract
854 Exhibitionism and Public Masturbation	> 0-90 Days Lock up 1 st Offense > 90-180 Days Lock up 2 nd or Subsequent Offense > 0-90 Days Loss of privileges > 0-90 Disciplinary Detention 1 st Offense > 90-180 Disciplinary Detention 2 nd Offense > Behavioral Modification Contract
855 Smuggling and/or Conspiracy to Smuggle in Contraband	> 0-90 Days Lock up 1 st Offense > 90-180 Days Lock up 2 nd or Subsequent Offense > 0-90 Days Loss of privileges > 0-90 Disciplinary Detention 1 st Offense > 90-180 Disciplinary Detention 2 nd Offense > Behavioral Modification Plan
858 The Use or Possession of Practice GED Cheat Sheet, the Official GED Test or Materials Not Authorized for Use by the Inmate	> 0-90 Days Lock up 1 st Offense > 90-180 Days Lock up 2 nd or Subsequent Offense > 0-90 Days Loss of privileges > 0-90 Disciplinary Detention 1 st Offense > 90-180 Disciplinary Detention 2 nd Offense > Behavioral Modification Plan > Informal Resolutions
895 Inmate ID Card Violations	> 0-90 Days Lock up 1 st Offense > 90-180 Days Lock up 2 nd or Subsequent Offense > 0-90 Days Loss of privileges > 0-90 Disciplinary Detention 1 st Offense > 90-180 Disciplinary Detention 2 nd Offense > Informal Resolutions > Behavior Modification Plan

Level 3 Offenses

List of Offenses	List of Modified Sanctions
815 Evading a Security Device	> 0-30 Days Lock up 1 st Offense > 0-60 Days Lock up 2 nd or Subsequent Offense > 0-60 Days Loss of privileges > 0-30 Disciplinary Detention 1 st Offense > 30-60 Disciplinary Detention 2 nd Offense
816 Trafficking and Trading	> 0-30 Days Lock up 1 st Offense > 30-60 Days Lock up 2 nd or Subsequent Offense > 0-60 Days Loss of privileges > 0-30 Disciplinary Detention 1 st Offense > 30-60 Disciplinary Detention 2 nd Offense
817 Possession of Contraband	> 0-30 Days Lock up 1 st Offense > 30-60 Days Lock up 2 nd or Subsequent Offense > 0-60 Days Loss of privileges > 0-30 Disciplinary Detention 1 st Offense > 30-60 Disciplinary Detention 2 nd Offense > Extra duty up to 25 hours
818 Use of Obscene, Vulgar or Profane Language or Gestures	> 0-30 Days Lock up 1 st Offense > 30-60 Days Lock up 2 nd or Subsequent Offense > 0-60 Days Loss of privileges > 0-30 Disciplinary Detention 1 st Offense > 30-60 Disciplinary Detention 2 nd Offense > 24 hours of cell time > Extra duty up to 20 hours
821 Gambling and Loan Sharking	> 0-30 Days Lock up 1 st Offense > 30-60 Days Lock up 2 nd or Subsequent Offense > 0-60 Days Loss of privileges

	> 0-30 Disciplinary Detention 1st Offense > 30-60 Disciplinary Detention 2nd Offense > 72 hours cell time
823 Fighting Without a Weapon	> 0-30 Days Lock up 1st Offense > 30-60 Days Lock up 2nd or Subsequent Offense > 0-60 Days Loss of privileges > 0-30 Disciplinary Detention 1st Offense > 30-60 Disciplinary Detention 2nd Offense > Extra duty up to 40 hours
824 Threatening to Inflict Harm, Physical or Otherwise/Assault, on Another Inmate	> 0-30 Days Lock up 1st Offense > 30-60 Days Lock up 2nd or Subsequent Offense > 0-60 Days Loss of privileges > 0-30 Disciplinary Detention 1st Offense > 30-60 Disciplinary Detention 2nd Offense > 72 hours cell time
825 Refusing or Failing to Obey Orders	> 0-30 Days Lock up 1st Offense > 30-60 Days Lock up 2nd or Subsequent Offense > 0-60 Days Loss of privileges > 0-30 Disciplinary Detention 1st Offense > 30-60 Disciplinary Detention 2nd Offense > 72 hours of cell time > Extra duty up to 20 hours
826 Refusing to Work	> 0-30 Days Lock up 1st Offense > 30-60 Days Lock up 2nd or Subsequent Offense > 0-60 Days Loss of privileges > 0-30 Disciplinary Detention 1st Offense > 30-60 Disciplinary Detention 2nd Offense > Extra duty up to 20 hours
827 Refusing to Attend the Compulsory (Mandatory) Program	> 0-30 Days Lock up 1st Offense > 30-60 Days Lock up 2nd or Subsequent Offense > 0-60 Days Loss of privileges > 0-30 Disciplinary Detention 1st Offense > 30-60 Disciplinary Detention 2nd Offense
828 Out of Place	> 0-30 Days Lock up 1st Offense > 30-60 Days Lock up 2nd or Subsequent Offense > 0-60 Days Loss of privileges > 0-30 Disciplinary Detention 1st Offense > 30-60 Disciplinary Detention 2nd Offense > 72 hours of cell time
829 Failure to Work	> 0-30 Days Lock up 1st Offense > 30-60 Days Lock up 2nd or Subsequent Offense > 0-60 Days Loss of privileges > 0-30 Disciplinary Detention 1st Offense > 30-60 Disciplinary Detention 2nd Offense > 72 hours of cell time
830 Mutiny	> 0-30 Days Lock up 1st Offense > 30-60 Days Lock up 2nd or Subsequent Offense > 0-60 Days Loss of privileges > 0-30 Disciplinary Detention 1st Offense > 30-60 Disciplinary Detention 2nd Offense > 72 hours cell time
831 Lying to an Employee or Knowingly Making False Statements	> 0-30 Days Lock up 1st Offense > 30-60 Days Lock up 2nd or Subsequent Offense > 0-60 Days Loss of privileges > 0-30 Disciplinary Detention 1st Offense > 30-60 Disciplinary Detention 2nd Offense > 72 hours cell time
832 Unauthorized Inmate Organization Activity or Participation in a Security Threat Group (STG)	> 0-30 Days Lock up 1st Offense > 30-60 Days Lock up 2nd or Subsequent Offense > 0-60 Days Loss of privileges > 0-30 Disciplinary Detention 1st Offense > 30-60 Disciplinary Detention 2nd Offense
833 Abusive Treatment of an Animal, Including Carnal Relations with an Animal	> 0-30 Days Lock up 1st Offense > 30-60 Days Lock up 2nd or Subsequent Offense > 0-60 Days Loss of privileges > 0-30 Disciplinary Detention 1st Offense > 30-60 Disciplinary Detention 2nd Offense
834 Any Act Defined as Misdemeanor by SC Laws	> 0-30 Days Lock up 1st Offense > 30-60 Days Lock up 2nd or Subsequent Offense > 0-60 Days Loss of privileges > 0-30 Disciplinary Detention 1st Offense

	> 30-60 Disciplinary Detention 2 nd Offense > 72 hours cell time
835 Forgery or Possession of Any Forged Document	> 0-30 Days Lock up 1 st Offense > 30-60 Days Lock up 2 nd or Subsequent Offense > 0-60 Days Loss of privileges > 0-30 Disciplinary Detention 1 st Offense > 30-60 Disciplinary Detention 2 nd Offense
836 Disrespect	> 0-30 Days Lock up 1 st Offense > 30-60 Days Lock up 2 nd or Subsequent Offense > 0-60 Days Loss of privileges > 0-30 Disciplinary Detention 1 st Offense > 30-60 Disciplinary Detention 2 nd Offense > Informal Resolutions > 72 hours of cell time
837 Interfering with Count	> 0-30 Days Lock up 1 st Offense > 30-60 Days Lock up 2 nd or Subsequent Offense > 0-60 Days Loss of privileges > 0-30 Disciplinary Detention 1 st Offense > 30-60 Disciplinary Detention 2 nd Offense
838 Soliciting Improper Relationships: Assistance from an Employee or an Inmate to Violate an Agency Rule or an Employee Rule	> 0-30 Days Lock up 1 st Offense > 30-60 Days Lock up 2 nd or Subsequent Offense > 0-60 Days Loss of privileges > 0-30 Disciplinary Detention 1 st Offense > 30-60 Disciplinary Detention 2 nd Offense > 72 hours cell time
853 The unauthorized use of an inmate's telephone personal identification number (PIN)	> 0-30 Days Lock up 1 st Offense > 30-60 Days Lock up 2 nd or Subsequent Offense > 0-60 Days Loss of privileges > 0-30 Disciplinary Detention 1 st Offense > 30-60 Disciplinary Detention 2 nd Offense
856 Damage, Loss, Destruction, or Defacing of Property Valued at Less than \$100.00	> 72 hours cell time > 0-30 Days Lock up 1 st Offense > 30-60 Days Lock up 2 nd or Subsequent Offense > 0-60 Days Loss of privileges > 0-30 Disciplinary Detention 1 st Offense > 30-60 Disciplinary Detention 2 nd Offense
859 Disorderly Conduct	> 0-30 Days Lock up 1 st Offense > 30-60 Days Lock up 2 nd or Subsequent Offense > 0-60 Days Loss of privileges > 0-30 Disciplinary Detention 1 st Offense > 30-60 Disciplinary Detention 2 nd Offense > 48 hours cell time
899 Use, Possession, or Distilling and/or Brewing of any Alcoholic Beverage	> 0-30 Days Lock up 1 st Offense > 30-60 Days Lock up 2 nd or Subsequent Offense > 0-60 Days Loss of privileges > 0-30 Disciplinary Detention 1 st Offense > 30-60 Disciplinary Detention 2 nd Offense

Level 4 Offenses

List of Offenses	List of Modified Sanctions
839 Mutilation	> 0-20 Days Lock up 1 st Offense > 20-45 Days Lock up 2 nd or Subsequent Offense > 0-30 Days Loss of privileges > 0-20 Disciplinary Detention 1 st Offense > 20-45 Disciplinary Detention 2 nd Offense > No Medical Cost > Behavioral Modification Contract > Behavioral Incentive Plan
840 Failing or Refusing to Respond to an Employee's Question	> 0-20 Days Lock up 1 st Offense > 20-45 Days Lock up 2 nd or Subsequent Offense > 0-30 Days Loss of privileges > 0-20 Disciplinary Detention 1 st Offense > 20-45 Disciplinary Detention 2 nd Offense > 72 hours cell time
	> 0-20 Days Lock up 1 st Offense

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841 Malingering	> 20-45 Days Lock up 2nd or Subsequent Offense > 0-30 Days Loss of privileges > 0-20 Disciplinary Detention 1st Offense > 20-45 Disciplinary Detention 2nd Offense > Behavioral Modification Contract
842 Use or Possession of Tattooing Paraphernalia	> 0-20 Days Lock up 1st Offense > 20-45 Days Lock up 2nd or Subsequent Offense > 0-30 Days Loss of privileges > 0-20 Disciplinary Detention 1st Offense > 20-45 Disciplinary Detention 2nd Offense > Behavioral Modification Plan
843 Refusing Medical Treatment for a Communicable Disease	> 0-20 Days Lock up 1st Offense > 20-45 Days Lock up 2nd or Subsequent Offense > 0-30 Days Loss of privileges > 0-20 Disciplinary Detention 1st Offense > 20-45 Disciplinary Detention 2nd Offense > 48 hours cell time
844 Interfering with the Duties of any Person	> 0-20 Days Lock up 1st Offense > 20-45 Days Lock up 2nd or Subsequent Offense > 0-30 Days Loss of privileges > 0-20 Disciplinary Detention 1st Offense > 20-45 Disciplinary Detention 2nd Offense > 48 hours cell time > Informal Resolutions

Level 5 Offenses

List of Offenses	List of Modified Sanctions
601 Court Ordered Credit Loss: Pursuant to 24-27-200	> 0-10 Days Lock up 1st Offense > 10-15 Days Lock up 2nd or Subsequent Offense > 0-15 Days Loss of privileges > 0-10 Disciplinary Detention 1st Offense > 10-15 Disciplinary Detention 2nd Offense > 48 hours cell time
845 Unauthorized Services/Piddling (Handicrafts)	> 0-10 Days Lock up 1st Offense > 10-15 Days Lock up 2nd or Subsequent Offense > 0-15 Days Loss of privileges > 0-10 Disciplinary Detention 1st Offense > 10-15 Disciplinary Detention 2nd Offense > 48 hours cell time > Behavioral Incentive Plan
846 Creating Unnecessary Noise	> 0-10 Days Lock up 1st Offense > 10-15 Days Lock up 2nd or Subsequent Offense > 0-15 Days Loss of privileges > 0-10 Disciplinary Detention 1st Offense > 10-15 Disciplinary Detention 2nd Offense > 48 hours cell time > Behavioral Modification Contract
847 Abuse of Privileges	> 0-10 Days Lock up 1st Offense > 10-15 Days Lock up 2nd or Subsequent Offense > 0-15 Days Loss of privileges > 0-10 Disciplinary Detention 1st Offense > 10-15 Disciplinary Detention 2nd Offense > Behavioral Modification Plan > 48 hours cell time > Informal Resolutions
848 Exerting Any Authority Over Another Inmate	> 0-10 Days Lock up 1st Offense > 10-15 Days Lock up 2nd or Subsequent Offense > 0-15 Days Loss of privileges > 0-10 Disciplinary Detention 1st Offense > 10-15 Disciplinary Detention 2nd Offense > 48 hour cell time > Informal Resolutions
849 Disregarding Safety Regulations	> 0-10 Days Lock up 1st Offense > 10-15 Days Lock up 2nd or Subsequent Offense > 0-15 Days Loss of privileges > 0-10 Disciplinary Detention 1st Offense > 10-15 Disciplinary Detention 2nd Offense > 48 hour cell time > Informal Resolutions
	> 0-10 Days Lock up 1st Offense > 10-15 Days Lock up 2nd or Subsequent Offense

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850 Violation of a Written or Posted Institutional Rule Not Contained in These Rules, But Consistent with these rules:	> 0-15 Days Loss of privileges > 0-10 Disciplinary Detention 1st Offense > 10-15 Disciplinary Detention 2nd Offense > 48 hour cell time > Informal Resolutions
851 Supervised Furlough II Violation	> 0-10 Days Lock up 1st Offense > 10-15 Days Lock up 2nd or Subsequent Offense > 0-15 Days Loss of privileges > 0-10 Disciplinary Detention 1st Offense > 10-15 Disciplinary Detention 2nd Offense

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CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for Appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

_____, 2016

Tommy A. Thomas, Bar No.: 5536
Attorney for Appellant

PO Box 88
Irmo, SC 29063
(803) 732-5507

ATTORNEY FOR APPELLANT

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SC Court of Appeals

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STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT
The Honorable Shirley C. Robinson

RECEIVED

NOV 14 2016

Appellate Case No.: 2016-001297

SC Court of Appeals

Anthony Williams, Jr. #285056,

Appellant,

vs.

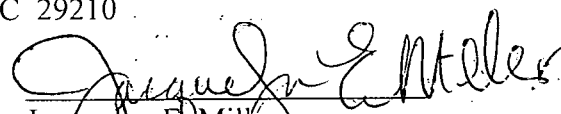
South Carolina Department of Corrections,

Respondent.

CERTIFICATE OF SERVICE

I, Jacquelyn E. Miller, secretary to Tommy A. Thomas, hereby certify that I placed in the United States Mail, a copy of the Record on Appeal, with postage prepaid and the return address clearly shown on said envelope to the following:

Kensy Collins, Esq.
South Carolina Department of Corrections
Office of General Counsel
4444 Broad River Road
Columbia, SC 29210



Jacquelyn E. Miller
Secretary to Tommy A. Thomas
Attorney for Appellant
P.O. Box 88
Irmo, SC 29063
(803) 732-5507

November 14, 2016