

Darian Bluman - Plaintiff

v. South Carolina Dept of Corr.

Case No. 2017-000021
Motion for Enforcement of Fine

RECEIVED

JAN 24 2017

SC Court of Appeals

Re: Respondents

The Plaintiff is before the Court asking for a 30 thirty day Enforcement of Fine due to the fact that the State Financial Statement has to be forwarded to the South Carolina Dept of Corr. Headquarters. The Plaintiff will take the time requested therefore, Bluman advises the Court to add this to the record."

TAKE NOTICE: state financial certificate for indirect inmates needed

Particulars of service and course

Plaintiff certifies that on this 18th day of January 2017, Bluman mailed a letter of his motion for enforcement of fine to the Court of Appeals P.O. Box 11629, Columbia, S.C. 29211. South Carolina Dept of Corr. Office of General Counsel P.O. Box 1184, 1401 Broad River Rd., Columbia, S.C. 29211-1184 in the Administrative Law Court Room 501 or Suite 504, Columbia, S.C. 29201. United States Postal Service

Signed before me on this 18th day of January 2017
Paul [Signature]

Notary for South Carolina:

Dec. 10, 2014

My Commission Expires:

Darian Bluman
Darian Bluman #331051
Yorkland Cor. Inst. #11131
1314 Broad River Rd.
Columbia, S.C. 29210

Dorian Coleman - McPhail
N. Carolina Dept of Cor.

notice of appeal

Cause no. NACR-1119-15

ALC Docket no. 16-018-17-11144

Submitted for hearing / transcripts

RECEIVED

JAN 24 2017

Case No. 2017-00002

Asst. Clerk

SC Court of Appeals

This notice of appeal is hereby given that Coleman filed a Rule 59(a) motion in the Administrative Law Court to preserve the issues for appellate review. Where the issue have to be preserved in order for the appellate court to hear the issues upon appeal through the exercise of due diligence Coleman am filing this notice of appeal.

1) The ALJ erred in the Law of McPhail v. McPhail, 418 U.S. 539 (1974) that the five requirements is not the only requirements to be met in a prison hearing. That if the accused inmate is removed from any part of the disciplinary hearing the Counsel Substitute must stand on behalf of the inmate and present the evidence." "AL-22.14 inmate disciplinary system."

2) The ALJ erred where CO hearing was held at Marshaw Correctional Institution on 11/20/16 and the other at 2nd DPJ which Coleman was allowed to participate. Counsel Substitute acted and present this evidence on behalf of Coleman."

3) The ALJ incorrectly weighed the evidence in Coleman's case and allowed the North Carolina Dept of Corrections to apply the wrong standards."

4) The ALJ erred in the Law in Armstrong v. State, 338 S.W.2d 351 which states the Counsel Substitute Mr. Armstrong informed the hearing officer that Coleman had refused no witnesses or evidence when he had previously stated five times refused testimony.

15#-216767 15-213518 15-216799 15#-796291

Holmes v. L. Williams, L. Williams, and Dr. Sturck. The Hill Security Bill Check for Streets, SA's office, LabBombs, and the Main Control Room Log Book."

5) That D.A. E. Billinger and N's actions violated Coleman's amended procedural due process rights for failure to allow Coleman his right to confront his accuser, present evidence, and call witnesses.

2) The ALJ incorrectly weighed the evidence because the transcript does not state Coleman was allowed to participate in the hearing held at 2nd DPJ to be removed."

7) ALJ erred for failure to enforce the ALC special rules (58) (Section F) and transcripts taken at the testimony during the proceeding. The ALJ made a mistake without reviewing and evidence which was the transcripts around the copy to release the transcripts which leaves the judgment in error.

Attachment

Entry of Judgment by the NY was June 2, 2016. Therefore after the month of July and August 2016, Latorras was on Crisis Intervention and South Carolina Dept of Corrections does not allow inmates to obtain witnesses, Material. There after Latorras filed a Rule 59(e) which the S.C. prohibits her husband. The propriety of all legal and personal products in the matter of Latorras was analyzed Latorras his rights to file any notice of appeal with attached Exhibits. "Corrections should be. 2/3 highlighted sections." Exhibits Circumstance are: WACY-2111915 Exhibit (b) L.P. Huntors Affidavit

1) that due to the error in the Law and regulations that rise to a constitutional violation that the instruction be overturned and all conditions restored."

2) that the Court of Appeals exercise the power and allow Latorras file this Notice of appeal and Affidavits Resurgence Law diligence where he was robbed at Highland Farm. Inst. See WAC 8-16-11-23151 of all legal and personal products."

RECEIVED

JAN 24 2017

SC Court of Appeals

I hereby Certify that on this 18th day of January 2017, I filed a copy of this notice of appeal with the Administrative Law Court 1205 Pendleton St., Suite 202, Columbia, S.C. 29201. South Carolina Dept of Correction Office of General Counsel P.O. Box 21787, 1401 Broad River Rd., Columbia, S.C. 29221-1787. In witness whereof I have hereunto set my hand and seal of office this 18th day of January 2017. Daniel Blumstein, Esq. P.O. Box 11629, Columbia, S.C. 29211. Expect a change of address notice United States Postal Service

Sworn to before me on this 18th day of JAN. 2017
Paul [Signature]

Notary for South Carolina
Dec. 10, 2014
NY Commission Expires

Daniel Blumstein
Daniel Blumstein #5-31251
Highland Farm Inst. 1601/31
1401 Broad River Rd.
Columbia, S.C. 29211

INMATE SEARCH DETAIL REPORT

COLEMAN, DARIANE (00334551)

DISCIPLINARIES

SANCTIONS NOT AVAILABLE IN THE AUTOMATED SYSTEM PRIOR TO JANUARY 2009

DATE	DESCRIPTION
07/21/2012	EXHIBITIONISM AND PUBLIC MASTURBATION LOSS OF GOOD TIME 90 DAYS DISC DETENTION FOR 90 DAYS JUMPSUIT FOR 360 DAYS
05/29/2012	THREATENING TO INFLECT HARM ON EMPLOYEE LOSS OF GOOD TIME 20 DAYS DISC DETENTION FOR 60 DAYS LOSS OF PROPERTY PRIVILEGES FOR 960 DAYS
03/27/2012	EXHIBITIONISM AND PUBLIC MASTURBATION LOSS OF GOOD TIME 50 DAYS LOSS OF CANTEEN PRIVILEGES FOR 208 DAYS DISC DETENTION FOR 60 DAYS JUMPSUIT FOR 360 DAYS LOSS OF TELEPHONE PRIVILEGES FOR 208 DAYS LOSS OF VISITATION PRIVILEGES FOR 23 DAYS
09/28/2011	STRIKING AN EMPLOYEE WITH/WTHOUT WEAPON LOSS OF GOOD TIME 60 DAYS LOSS OF CANTEEN PRIVILEGES FOR 360 DAYS DISC DETENTION FOR 180 DAYS LOSS OF TELEPHONE PRIVILEGES FOR 360 DAYS LOSS OF VISITATION PRIVILEGES FOR 360 DAYS
08/20/2011	UNAUTHORIZED AGENCY UNIFORMS LOSS OF GOOD TIME 90 DAYS LOSS OF CANTEEN PRIVILEGES FOR 540 DAYS DISC DETENTION FOR 180 DAYS LOSS OF TELEPHONE PRIVILEGES FOR 540 DAYS LOSS OF VISITATION PRIVILEGES FOR 540 DAYS
07/08/2011	EXHIBITIONISM AND PUBLIC MASTURBATION LOSS OF GOOD TIME 30 DAYS LOSS OF CANTEEN PRIVILEGES FOR 180 DAYS JUMPSUIT FOR 365 DAYS LOSS OF TELEPHONE PRIVILEGES FOR 180 DAYS LOSS OF VISITATION PRIVILEGES FOR 365 DAYS

MOVEMENT

MOVEMENT DATE	TO LOCATION	STATUS	REASON
08/19/2016	KIRKLAND	INCARCERATED	ADMINISTRATIVE
08/08/2016	RIDGELAND	INCARCERATED	ADMINISTRATIVE
07/31/2016	ALLENDALE	INCARCERATED	ADMINISTRATIVE
07/14/2016	RIDGELAND	INCARCERATED	MEDICAL
*07/08/2016	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
04/25/2016	RIDGELAND	INCARCERATED	ADMINISTRATIVE
04/25/2016	PERK CO	INCARCERATED	RETURN FROM COURT
04/14/2016	RIDGELAND	INCARCERATED	TO COURT
04/14/2016	RICHLAND CO	INCARCERATED	RETURN FROM COURT
02/19/2016	RIDGELAND	INCARCERATED	TO COURT
02/19/2016	PERK CO	INCARCERATED	RETURN FROM COURT
02/18/2016	RIDGELAND	INCARCERATED	TO COURT
01/11/2016	HERSHAW	INCARCERATED	ADMINISTRATIVE
		INCARCERATED	RETURN FROM COURT

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, or a mistaken case number, 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 the 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)).¹ Applying the five due process requirements to the Record in this case, this Court concludes the following:

¹ The Court notes that the Department has incorrectly stated and cited these factors in its brief.

Appellant was given notice of the charge on September 3, 2015, and the disciplinary hearing in the matter took place on September 21, 2015, more than twenty-four hours later. Based on the transcript of the case, this Court finds that Appellant was represented by counsel substitute and that Appellant's accuser was present as requested by the Appellant. The Record reveals that Appellant was not present during the disciplinary hearing. However, the transcript reflects that the Appellant was brought up for the hearing but began to act in a disruptive manner and chose to leave on his own before the hearing began. The Appellant then returned and the hearing officer instructed him that he had acted inappropriately and that he had already chosen to leave. When the Appellant began to behave in a disruptive manner again, the hearing officer called First Responders to have him removed. (While Appellant argues that he was not afforded due process because his counsel substitute did not present evidence and witnesses in his absence, it was because of his own behavior that Appellant was removed and not present at the hearing. In his absence, Appellant was represented by his counsel substitute who did not give a statement or present any witnesses for Appellant. Appellant's counsel substitute stated on the record that Appellant left no voluntary statement or witness statements in response to the charge.)

In normal circumstances, the Appellant should be afforded the opportunity to provide a statement, call witnesses, and present evidence at his disciplinary hearing. However, *Wolff* requires that Appellant be afforded the opportunity to be heard "when permitting him to do so will not be unduly hazardous to institutional safety or correctional goals." *Wolf v McDonnell*, 418 U.S. 539, 566, 94 S. Ct. 2963, 2979, 41 L. Ed. 2d 935 (1974). The Appellant in this case first refused to attend the hearing and then was disruptive to the point that he had to be removed by First Responders. (This Court concludes that Appellant's due process rights were not violated and his 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. (The transcript and report show the hearing officer's determination of Appellant's guilt was based upon the officer's report and the testimony of Officer Crowe.) There is nothing in the Record indicating the hearing officer was otherwise than neutral.) The sanctions imposed were based upon the Hearing Officer's finding that this was Appellant's fourth offense of this type. Therefore, this 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 written reports and the officer’s statements than on (Appellant’s statements in his grievance. The Appellant forfeited his right to make a statement and present evidence at the hearing when he initially chose not to participate in the hearing and then subsequently behaving in a way which caused him to have to be removed) The report of Officer Crowe and her testimony at the hearing 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.

June *Jnc* 16, 2016
Columbia, South Carolina


SHIRLEY C. ROBINSON
Administrative Law Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Darian Antonio Coleman, #334551,)

Plaintiff,)

vs.)

C/A No.: 8:15-cv-5103-DCN-JDA

Warden David Dunlap, Asst. Warden)

Donnie Stonebreaker, Cpt. Tony Smith,)

Lt. Williams, Pamela Hough, *Grievance*)

Coordinator, Sgt. Boloach,)

Each Defendant sued in their individual)

Capacities at all times herein;)

Lt. Hunter; Lt. Rollings; Lt. Salmon;)

Sonya Adams, Warden Secretary; DHO)

E. Bittinger; Jerome Armstrong, Counsel)

Substitute; Major Kevin Ford; Sgt. Sally)

Crowe; Ms. Gardner, psych counselor;)

Ann Hallman, grievance branch chief;)

Sgt. Deakins; Lt. Rennick; Sgt. Hunt;)

Sgt. Terry William; Officer Stewart,)

Defendants.)

AFFIDAVIT OF JEROME K. ARMSTRONG

1. I am Jerome K. Armstrong and am employed as the Counsel Substitute at Kershaw Correctional Institution. I have been employed by the South Carolina Department of Corrections for 19 years.

2. As part of my duties, I have appeared as a Counsel Substitute for inmates. I have never been served with process in this case and preserve this defense and my right to dismissal for lack of service and expiration of the Statute of Limitations.

3. I have been asked to review the allegations of Inmate Darlen Antonio

(Coleman in this action to provide a true and accurate statement as to his complaint that he failed to receive due process in his disciplinary hearing.)

4. Inmate Disciplinary Systems, Policy OP-22.14 Section 8, attached as Exhibit A, covers the role of Counsel Substitutes. Each institution will assign certain non-uniformed employees to act as a Counsel Substitute. A Counsel Substitute is an SCDC non-uniformed employee who is assigned to assist inmates with a disciplinary hearing. In other words, they are administrative personnel and not Corrections Officers.

(5. Inmates will be assigned a Counsel Substitute at least 48 hours prior to a hearing in certain cases, unless the Inmate waives that right.) Following the Notice of his hearing on the charge of Public Masturbation on September 3, 2015, Inmate Coleman requested a Counsel substitute and I was appointed on that date to assist with the September 21, 2105 hearing.) The Hearing Record is attached as Exhibit B.

(6. Inmate Coleman was able to request a Counsel Substitute because at the time of the hearing, he was confined to a segregation status ("lockup") status.)

(7. Prior to the disciplinary hearing as Counsel Substitute, I met with the inmate to assist in preparing for the hearing and obtained Inmate Coleman's account as to exactly what took place and we discussed that he wanted his accuser present. (I was also available to interview relevant witnesses prior to the hearing. He had no witnesses that he requested I interview.)

8. (As Counsel Substitute, I can obtain written statements that can be given to the Hearing Officer for those witnesses who are not able to appear at the hearing.) He requested no attempt to obtain statements and had only his testimony to contradict the officers' report and testimony. Contrary to allegations

Handwritten notes:
BIA signature
Scheduled to report to work from 7pm to 7am
Therefore it was required to collect the evidence.

Perjury

that he wanted me to present or interview other inmates, Inmate Coleman made no such request to me.

9. Inmate Coleman is required to use SCDC Form 19-11, "Request to Staff Member," listing the names of all witnesses he may wish to be made available at their hearing. The form must be addressed to the inmate's Counsel Substitute or to the Hearing Officer if no Counsel Substitute has been assigned and must be received no later than 24 hours prior to the hearing. Inmate Coleman did not utilize this option and I received no Request to Staff Member to interview other individuals or to have any inmate witnesses present.

10. (I attended the September 21, 2105 hearing and assisted the inmate to the best of my abilities.) As requested by the inmate, I made the Hearing Officer aware that Inmate Coleman requested the accusing officer be present. The accusing officer was present and presented testimony that was able to be challenged by Inmate Coleman.


11. (Coleman was brought up for the disciplinary hearing but began to act in a disruptive manner.) He left walking out on the yard for a purpose he explained as looking for another Officer. He walked out just as the hearing was about to begin in an agitated state.) *He tried to go!*

12. Inmate Coleman returned and was able to reenter the hearing that had just commenced. He was instructed by the Hearing Officer that he was to act appropriately. Coleman was disruptive and was not obeying the order of the Hearing Officer. Coleman began to behave in a disruptive manner again and First Responders were called to remove him from the hearing.

*(Conclusory
Allegations &
devising material
Several documents
prior does not state
This)*

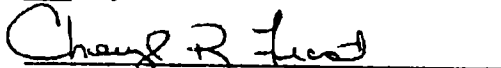
13. I presented Inmate Coleman's position as best I could explaining that he disputed the Officers testimony of public masturbation. The Hearing Officer found him guilty on the charge of Exhibitionism and Public Masturbation. At that time, my role as Counsel Substitute was complete.

14. At all times I acted in the best interests of the Inmate Coleman and in the furtherance of my duties as counsel substitute and did so without ill will or evil intent in the conduct of my duties and within the bounds of applicable law, regulations, and Agency Policies.


Jerome K. Armstrong

SWORN TO BEFORE ME THIS

30 day of November 2016



Notary Public for South Carolina

My Commission Expires: Jan 27, 2025

130
 SOUTHERN CAROLINA DEPARTMENT OF CORRECTIONS
 DISCIPLINARY REPORT AND HEARING RECORD
 Case: 10-334 Inmate Name: Dariano Coleman SCDC#: 334551
 Living Area: Sub 554 Job: B's Custody: B's

Offense Date: 8/25/15 Offense Time: 7:31 AM PM Institution: Kershaw
 Offense Description:
 854 Exhibitionism and Public Masturbation: (1) Engaging in acts of indecent and/or unnecessary exposure of genitals or other private body parts to a staff member or other person; or (2) engaging in acts of masturbation or any manual stimulation of one's exposed or unexposed genitals in a public setting, or in the view of a staff member or other person. A conviction of this charge will result in a loss of the inmate's visitation privileges for one (1) year.

Charging Officer/Employee: S Crowe 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:

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

I DO NOT WANT TO BE PRESENT AT MY HEARING

I DO NOT WANT MY ACCUSER PRESENT AT THE HEARING

I DO NOT WANT MY ACCUSER PRESENT AT THE HEARING

I WAIVE MY RIGHT TO A HEARING

I WANT A COUNSEL SUBSTITUTE

I DO NOT WANT A COUNSEL SUBSTITUTE

Date & Time Notified: 9/11/15 9:30 AM By (Print): CS Armstrongs
 Inmate Signature: DARIANO COLEMAN Date: 9/11/15

HEARING INFORMATION:
 Hearing Date: 9/21/15 Hearing Time: 7:40 am 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.
 Note: Accused behaved inappropriately and had to be removed by 1st responder

OFFENSE CODES	854			
INMATE PLEA (G, NG, None)	NG			
FINDINGS (G, NG, DS)	G			

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:

HEARING LENGTH: 6 (MINUTES)

SANCTIONS:

Loss of Privileges (Days):
 • Property (Days)
 • Canteen (Days)
 • Other (Days)
 • Disciplinary Detention (Days): 15

Reprimand:
 Extra Duty:
 Visit Suspension Thru:
 Cell Restriction (Days):

Loss of Good Time (days): 46
 Restitution: \$

SPECIFIC FACTUAL REASON(S) FOR PARTICULAR PUNISHMENT IMPOSED: This is by accused conviction

CREDIT FOR PHO TIME SERVED? YES/NO IF YES, DAYS

DATE INMATE PLACED IN PHO

INMATE SIGNATURE FOR RECEIPT OF FINAL REPORT DATE: 9/21/15

HEARING OFFICER (PRINT NAME): E. Armstrongs

APPROVED/REVERSE/MODIFY REASON: Change Date for

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

EXHIBIT B2

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
DISCIPLINARY REPORT AND HEARING RECORD**

Case: 20 Inmate Name: Darlene Coleman SDC#: 334551
 Living Area: SMV 1A Job: 58 Custody: 2/B
 Offense Date: 08/26/15 Offense Time: 8:15 AM / PM Institution: Kershaw

Offense Description: 154 Exhibition and Public Masturbation: (1) Engaging in acts of indecent and/or unnecessary exposure of genitals or other private body parts to a staff member or other person; or (2) engaging in acts of masturbation or any manual stimulation of one's exposed or uncensored genitals to a public setting, or in the view of a staff member or other person. A conviction of this charge will result in a loss of the inmate's visitation privileges for one (1) year.

Charge: Officer/Employee: 3 Crow Title: SG

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

INMATE WAIVERS

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

I DO NOT WANT TO BE PRESENT AT MY HEARING

I DO WANT MY ACCUSER PRESENT AT THE HEARING

I DO NOT WANT MY ACCUSER PRESENT AT THE HEARING

I WANT A COUNSEL SUBSTITUTE

I DO NOT WANT A COUNSEL SUBSTITUTE

Date & Time Notified: 9/15/15 9:20 AM/PM BY (Print): Sgt. Amy Lewis

Inmate Signature: _____ SDC#: 334551 Date: 9/15/15

HEARING INFORMATION:

Hearing Date: <u>9/15/15</u>	Hearing Time: <u>7:40</u>	Room: _____	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.

Note: Accused had and inappropriately and had to be removed by the officers.

OFFENSE CODES	INMATE PLEA (Q, NQ, None)	FINDINGS (Q, NQ, DS)
<u>354</u>	<u>NG</u>	<u>NG</u>

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

HEARING LENGTH: 60 (MINUTES)

SANCTIONS:

Loss of Privileges (Days): _____ Reprimand: _____ Loss of Good Time (days): 60

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

• Canteen (Days): 50 - 30 - 150 Visit Suspension Thru: 10/20/15

• Other (Days): 50 - 30 - 150 Cell Restriction (Days): _____

• Disciplinary Detention (Days): 30

SPECIFIC FACTUAL REASON(S) FOR PARTICULAR PUNISHMENT IMPOSED: This is the accused's conviction (354)

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

DATE INMATE PLACED IN PHD: _____

INMATE SIGNATURE FOR RECEIPT OF FINAL REPORT: Darlene Coleman C.S. DATE: 9/24/15

HEARING OFFICER (PRINT NAME): E. Patterson

APPROVED/REVERSE/MODIFY: D. Patterson REASON: _____

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

White - Last Annual Record Canary - Inmate (Service of Disciplinary Report)
 Yellow - Inmate (Service of Disciplinary Hearing/D. Opposition) Pink - Control Record

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

EXHIBIT B 65

WARDEN'S DECISION AND REASON:
Inmate Coleman;

This is in response to KRCI-1119-15. You have appealed the results of your 9/21/15 Disciplinary Hearing where you were found guilty on the charge of 854 Exhibitionism and Public Masturbation, case # 20. The issues you stated do not warrant a reversal of the charge. Pertinent documentation has been reviewed and an investigation of the hearing was conducted. No technicalities, procedural errors, or misinterpretations of evidence was noted and the decision of the Disciplinary Hearing Officer was based on the written and verbal testimony of Sgt. Crowe. Based on this information, your appeal is without merit and therefore denied.

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

David Willey 10/15/15
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.
I accept full consideration and settlement of account

BY NEP DARTAN 11/6/15
Grievant Signature Date
COLEMAN 2512
Auto-File

D. Hough 11/6/15
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 or Kiosk reference number to the appropriate supervisor. A copy of the answered RTSM must be attached to the grievance when the grievance is filed.
2. Complete each section in its entirety writing only in the space provided for inmate use. No additional pages will be permitted.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form by placing it in the Grievances Box at your institution within eight (8) working days of the date on the RTSM response; policy grievances can be filed at any time. Disciplinary and Classification Review appeals must be submitted within five (5) working days of the hearing/review. Do not write in the space provided for the Warden's response.
5. If you are not satisfied with the Warden's decision, you may appeal to the appropriate responsible official within five (5) days of your receipt of the Warden's decision, by placing your Step 2 appeal form in the Grievance Box at your institution.

EXHIBIT "5b"

Exhibits

Destruction of Document
~~11/11/15~~

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2
NOV 12 2015

UUC
11/11/15
Office Use Only

INMATE NAME: Dorian Williams
SCDC NUMBER: 54551
INSTITUTION: Kirkland
HOUSING UNIT: Blasania A-33
WORK ASSIGNMENT: Crane

Grievance No. 1001-119-15
Code: General
Policy: 554.1720
Disc. Hear. 11/11/15
Class: PREA
Date Received: 11/11/15
IGC Initials: DN
Date Received: 11/11/15
IGA Initials: DN

RECEIVED
NOV 24 2015

INMATE GRIEVANCE

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): This grievance is a result of the court decision for 11/20, that SCDC's disciplinary hearing was a reversal of the institutional disciplinary violation. That the D.H.E. B. Hines asked Council Submitter Jerome Armstrong did the inmate request any witness and have any statements from any witnesses, and did SCDC's have any evidence to present on the behalf of Grievant Williams. This is a technical and a procedural error due to Grievant having submitted (5) five month requests Lt. Hunter, Lt. Hollins, C.E. Strickland, SPS's office LaSbeck, William Contreras, LaSbeck, and Lt. J. H. Hines from 9/26/15 and US Jerome Armstrong falsified and committed perjury as Grievant did not have any contact. (See Xerox 15-799129, 15-806767, 15-813508, 15-206799, 15-796270. That Sec 3.1.3 when the inmate because of the complexity of the case, will be unlikely to be able to collect and present the evidence necessary for an appeal. Grievant Signature Dorian Williams Date 11/11/15

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

The documentation provided indicates that the evidence presented was sufficient to support the conviction of Exhibitionism and Public Masturbation (854), case #20 on September 21, 2015, under SCDC Policy OP-22.14, Inmate Disciplinary System, dated February 2, 2015, and the sanctions imposed, which included the loss of 60 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.

Responsible Official Signature [Signature] Date 12/13/15

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.

Grievance closed due to inmate's refusal to participate by returning to original Step 2 form.
Grievant Signature [Signature]

IGC Signature [Signature] Date 1/8/16

PLEASE REVERSE SIDE FOR INSTRUCTIONS

EXHIBIT "6"

Destruction of Document

11/17/2016

16-36916b

REQUEST TO STAFF MEMBER

TO: NAME:	TITLE:	DATE:
Office of General Counsel		11/14/16
INMATE'S NAME:	NOV 1	SCDC #:
D. Coleman		332155/
INSTITUTION:	GENERAL COUNSEL	LIVING QUARTERS:
Kirkland		GH131

RECEIVED

that I am writing this request include records with the case that I was litigating during the time I was robbed. That being so, it was Coleman v. SCDC and Sally Crowe was brought along with counsel substitute and Jerome Armstrongs, and DDE E. Bittinger." That Sally Crowe violated Coleman's constitutional rights for falsifying her incident report. That C/O Armstrongs violated Coleman's rights for failure to collect evidence and to present it on behalf of Coleman. That Coleman was held in prison heartless and DDE E. Bittinger refused to allow Coleman to write in his prison heartless. That DDE Bittinger and Jerome Armstrongs acted arbitrarily and capriciously, that each employee violated life and liberty. That numerous other claims but at this time I am requesting to collect or remember such claims in full. I am requesting a copy of the case. In the ALJ ruling, I was also asking for a copy of the action that was filed in which I was named as a defendant in the York County Family Courts. That this assistance will be greatly appreciated.

DISPOSITION BY STAFF MEMBER:

I am attaching the Order from the Administrative Law Court on the case that you are referencing, Coleman vs. SCDC (Docket # 16-ALJ-04-0114-AP/Grievance # KRCI 1119-15). If you need further documentation on this issue, please submit a FOIA request. I'm processing a FOIA request, you will be notified how much your account will be debited for the requested copies.

In reference to the action that is in the York Family Courts, you would have to contact them for assistance with that issue.

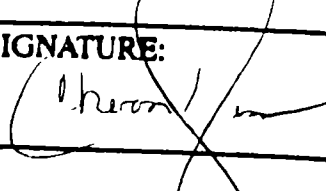
DATE:	SIGNATURE:
11-30-2016	

Exhibit (LB)

Darian Antonio Coleman, #334551,)
)
 Plaintiff,)
)
 vs.)
)
 Warden David Dunlap, Asst. Warden)
 Donnie Stonebreaker, Cpt. Tony Smith,)
 Lt. Williams, Pamela Hough, *Grievance*)
Coordinator, Sgt. Boloach,)
Each Defendant sued in their individual)
Capacities at all times herein;)
 Lt. Hunter; Lt. Rollings; Lt. Salmon;)
 Sonya Adams, Warden Secretary; DHO)
 E. Bittinger; Jerome Armstrong, Counsel)
 Substitute; Major Kevin Ford; Sgt. Sally)
 Crowe; Ms. Gardner, psych counselor;)
 Ann Hallman, grievance branch chief;)
 Sgt. Deakins; Lt. Rennick; Sgt. Hunt;)
 Sgt. Terry William; Officer Stewart,)
)
 Defendants.)
)

C/A No.: 8:15-cv-5103-DCN-JDA

AFFIDAVIT OF LT. EDWARD C. HUNTER

1. I am Edward C. Hunter and am employed by the South Carolina Department of Corrections as a lieutenant at Kershaw Correctional Institution (KerCI). I have been employed with SCDC for a total of 15 years. My duties include being the Lead Supervisor for the E2 (night) shift for the entire institution.
2. I am a named Defendant in this action and I have been asked to review the allegations of Inmate Darien Antonio Coleman in this action to provide a true and accurate statement as to my knowledge of events he outlines in his complaint.

to Lt. Rollings, Officer Sturkey, and I to act as witnesses in the charges he had against him for masturbation and public exhibitionism brought by Officer Sally Crowe.

4. Inmate Coleman had a mechanism for designating witnesses that he wanted to present in the case. If inmate Coleman would have provided a request to staff within the appropriate time frame through the kiosk, to his counsel substitute or to the hearing officer, officer witnesses as well as inmate witnesses would have been procured for his trial. I was not listed as a witness and was not called as a witness at the trial. I, however, had no information from which I could testify as I was not in that part of the unit when he received the charge from Officer Crowe. Officer Crowe is a good officer, who has served on my shift.
5. He next mentions me in paragraph 19. In paragraph 19 he alleges that Sgt. Terry Williams was providing communication to alleged gang members that would indicate that the Plaintiff was a snitch. I have never heard any information about this in any regard. He alleges that on 12/9/2015 I called Sgt. Williams up front to operations and that upon Sgt. William's return, he informed gang members of the event.
6. The inmate alleges that on or about 1/3/16, he personally gave me a request form to be turned in to investigator Cato. In the Restricted Housing Unit inmate Coleman would have to place his request in the lockbox during the hours inmates were out between 8 and 4 PM. Unless a request to staff is emergent, such as under the PRIA, they are turned in directly by the inmate.
7. One officer is assigned for the entire institution to transport requests to

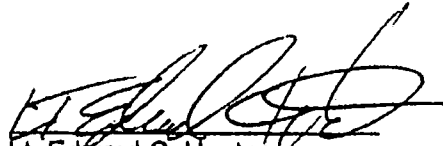
was I given anything to turn over to investigator Cato.

8. While this inmate makes a lot of allegations of threats of harm, I know of no harm that came to this inmate during the time frame of his allegations. The problems the individual inmates had with inmate Coleman came from his constant complaints and his poor attitude.

9. Attached as **Exhibit A** is a copy of an officer's incident report charging inmate Coleman with being out of place. While inmate Coleman alleges to be fearful of other inmates on other housing units, this inmate was observed entering the Hickory unit and was charged with being out of place. As her superior officer, I approved this charge and recommended referral for disciplinary action. They were referred to the Major for further action.

10. All of my actions in this matter were taken in the course and scope of my duties as a corrections officer assigned to the area where Coleman was housed through my duties as supervisor and making sure the inmate's charge went through appropriate channels.

11. At all times I acted in the best interests of all inmates and security staff and fully within policy. My reports were truthful reports of this Inmate's conduct prepared in the furtherance of my duties and did so without ill will or evil intent in the conduct of my duties and within the bounds of applicable law, regulations, and Agency Policies.



Lt. Edward C. Hunter

SWORN TO BEFORE ME THIS

30th day of November 2016
Amy A. Faulkenberry
Notary Public for South Carolina
My Commission Expires: 2-5-24

AMY A. FAULKENBERRY
Notary Public, State of South Carolina
My Commission Expires
August 05, 2024

Case
JK

DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
HEARING OFFICE

This case
Dismissed
overturned
by Assessor
Sternbraker

RECEIVED

SEP 25 1951

CLASSIFICATION
IMMIGRATION AND NATURALIZATION SERVICE
HEARING OFFICE

1. I AM THE APPLICANT FOR A VISA OR PASSPORT FOR THE UNITED STATES OF AMERICA.
2. I AM THE APPLICANT FOR A VISA OR PASSPORT FOR THE UNITED STATES OF AMERICA.
3. I AM THE APPLICANT FOR A VISA OR PASSPORT FOR THE UNITED STATES OF AMERICA.
4. I AM THE APPLICANT FOR A VISA OR PASSPORT FOR THE UNITED STATES OF AMERICA.
5. I AM THE APPLICANT FOR A VISA OR PASSPORT FOR THE UNITED STATES OF AMERICA.

Date of hearing: 9 11 51 9:30 AM
Name: DAVID...
No. 381551

Information
Date: 9 21 51
Time: 11:30 AM

Accused behaved inappropriately and had to be removed by his sponsors

EXHIBIT "C"

Davian Newman-Mallant

S. South Carolina

~~XXXXXXXXXXXX~~

Doc # 16-AC 55-
0114-A D
Case # 1119-15
(Rule 89(e))

Re: Re: [unclear]

This matter is before the South Carolina Administrative Law Court ("the ALJ" or "the Court") pursuant to the notice of Appeal filed February 5, 2016, by Davian Newman ("Mallant"), an inmate incarcerated with the South Carolina Department of Corrections ("DOC"). Mallant requests a review of the ALJ's decision regarding Mallant's disciplinary sanctions for exhibitionism and verbal abuse. As a result of the sanctions, Mallant received a 90-day suspension that included the loss of (a) duties of assigned good time, (b) the ALJ's decision was an abuse of discretion due to the fact that Mallant was allowed to participate in the prison disciplinary hearing due to failure to call him in the hearing, (c) failure to collect requested evidence, (d) failure to collect witness statements, (e) inmate false testimony, (f) DWI E. Billwater stated asked witness and witnesses, (g) false incident reports (h) failure to collect evidence.

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, 597 S.E.2d 742 (2003). The Al-Shabazz decision explained that "procedural due process is guaranteed when an inmate is deprived of an interest enumerated by the fourteenth amendment's protection of liberty and property." Wilkinson v. Dotson, 360 S.C. 421, 424, 602 S.E.2d 516, 581 (2004) (citation omitted). Such a liberty interest is implicated when an inmate has lost assigned good time due to a major disciplinary hearing. See Al-Shabazz, 338 S.C. at 369, 597 S.E.2d at 759. Howard v. State, 399 S.C. 618, 621, 733 S.E.2d 21, 217 (2012) (citing Wilkinson v. Dotson). Therefore, the Court has jurisdiction to hear "Mallant's" case.

When reviewing the Department's decision in disciplinary proceedings, the Court will apply the "substantial evidence" standard. Al-Shabazz, 338 S.C. at 377. The Court will not substitute its judgment for the judgment of the agency as to the weight of the evidence or the propriety of the discipline, but will review the evidence to determine if there is substantial evidence to support the discipline. Al-Shabazz, 338 S.C. at 377. The Court will also review the evidence to determine if there is substantial evidence to support the discipline. Al-Shabazz, 338 S.C. at 377.

From all witnesses, that the evidence being the transcript 16-34 7935 or work
being addressed here too. That the hearing Law's work Case no. 8-18-20-4747
will disclose evidence that the Bureau substitute instructions
neglected to collect evidence being the FBI Security Bill Check log sheets, the
SAC (Log sheets) and the mass control form Log sheets. That the security
Bill Check log sheets would have set forth that SN. Log's have been on the system
for or the 4th year therefore the transcripts have ~~not~~ set forth partial records
being the transcripts and the court's (ALL) neglected to collect and give
a natural review of the evidence."

(14) 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
Complex for the inmate to handle alone, and (white inmate Clemens
not illiterate and the case was not complex the defendant being
DOLL E. Bittinger and C/S Jerome Armstrong asked arbitrary and
capricious by knowingly neglecting to allow Coleman participate in the
hearing. That C/S Armstrong knowingly stated when asked did the inmate leave
any evidence or witness statements. C/S Substitute stated no. That the transcript
verifies that all evidence was never requested while the transcript verifies the same.
That by C/S acting arbitrary and capricious he knowingly violated of 12.14
the same policy in which he was trained from."

(15) While DOLL E. Bittinger failed to blow the whistle and intentionally acted arbitrary
and capricious while Coleman sat in the holding cell in Hersheyville and
these transcripts when to call next door and conducted the hearing. That the
transcripts set before the court provide clear evidence that
the witness was in error of clearly established law."

(16) The person who heard the matter, who may be prison officials or employees
were impartial. These transcripts DOLL Bittinger, and C/S Armstrong
knowingly conducted the hearing and neglected to foretell adults that
were clearly established (the transcripts statements that I was removed
from the hearing while I was never allowed to participate in
the hearing. That the transcript report and hearing here
also provide evidence here too. That DOLL E. Bittinger stated
that the hearing at 9:45 AM being that the correct hearing
that the hearing attempted to be held at 9:30 AM February 15, 2016 was
not the correct hearing. Therefore the question for the CAC is that
did the CAC Judge Mrs. Robinson violate clearly established law?"

and agency will lead rise to a Constitutional violation."
see id. 338 S.O. 04 371, 327 S. E. 2d at 751 (1974) in which
118 U.S. 509, 1563-2 (1974) applying the due process
requirement to the fact in this case. The court permitted
the following:

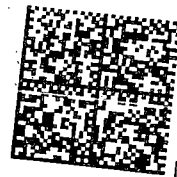
Case Plaintiff was given notice of the charge within 24 hours is not the issues before the
[L.C.] the hearing that transpired on September 21, 2015 at 2:45 PM in the Bill office
and the defendant's intentional denial Coleman his rights to come before
and in the hearing, the collection of evidence, intentional acts of arbitrary
and capriciousness is the issues as address on page 1 section 1-7." "
The record reveals that the respondents alleged that Coleman was
removed from the hearing while the full transcript has clearly established that
Coleman was never in the hearing at all."

Therefore - Even where the first responders was called there has not any dispute as
was there a incident report written." However, in will relates the statements, call
witnesses and present evidence in a prison hearing. This is where the respondents
failed to get forth this evidence of witnesses statements of "Dr. Stuckey"
"The Bill Security All Check Log Sheet" and the evidence will clearly establish
that there was ~~substantial~~ evidence required to rebut the Bill's report and
for the decision of D/O E. Billinger. Therefore, the court has not decided
Coleman's case in a clear manner." 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 process reached..." [Larkin v. L.O.
interchangeable, 276 So. 130, 135, 276 So. 2d 304, 306 (1981) (citation omitted)]
Therefore, in Coleman the substantial evidence does not rely upon any evidence
set before the court by the respondents. Therefore, the question for the [L.C.]
for the arbitrary and capricious conduct by D/O E. Billinger and C/O Jerome Armstrong did
the respondents violate Coleman's 14th Amendment procedural due process rights
and FOIA b(7) D of 22.14 See 19.1 section 1-7, See 19.4 part-3."

The fact that defendant's respondents allege that plaintiff has not been provided
with a clear and definite is due to the fact that plaintiff's personal and
legal rights that this provides evidence that the plaintiff must be allowed to litigate
nature of appeal."

[Charles Adams]
[12/03/16]

Dorian Coleman # 334851/20131



UNITED STATES POSTAGE
PITNEY BOWES
02 1P
0000835848
MAILED FROM ZIP CODE 29335
\$ 001.78⁰
JAN 20 2017

Mailroom

Kirkland Consulting Institute
4944 Broadway
Columbia, S.C. 29210

RECEIVED
JAN 20 2017
TYRRE MAILROOM

South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RECEIVED

JAN 24 2017

SC Court of Appeals

LEGAL
MAIL
ONLY