

Mikellhia Banadue #327978
Turbeville Correctional Institution
1578 Clarence Coker Hwy.
Turbeville, S.C. 29162

January 14, 2017

THE SOUTH CAROLINA COURT OF APPEALS
Jenny Abbot Kitchings
CLERK
Post Office Box 11629
Columbia, S.C. 29211

Re: SCDC v. Mikellhia Banadue #327978
Appellate Case No. 2017-000007

Dear Mrs. Kitchings,

This is in receipt of your letter dated January 5, 2017. Enclosed with this letter is a copy of the letter you've sent showing that I've received it on January 11, 2017. I should have until January 21, 2017 to perfect my appeal from the date that I have received the letter.

I have also enclosed with this letter:

- 1) NOTICE OF APPEAL
- 2) PROOF OF SERVICE
- 3) LETTER TO THE APPELLATE COURT CLERK FILING THE NOTICE OF APPEAL
- 4) [INITIAL] BRIEF OF APPELLANT, and
- 5) DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL

RECEIVED

JAN 25 2017

SC Court of Appeals

As of this date January 14, 2017, I duly sworn under the penalty of perjury that I've sent Cheron Hess, Administrative Assistant, Office of General Counsel, South Carolina Department of Corrections, 4444 Broad River Road, P.O. Box 21787, Columbia, S.C. 29221, State of South Carolina Administrative Law Court, E. Harvin Belser Fair, Judicial Law Clerk, Edgar A. Brown Building, 1205 Pendleton Street, Suit 224, Columbia, S.C. 29201 and filed it with YOUR office in THE SOUTH CAROLINA COURT OF APPEALS to be clocked stamped.

This is my first time putting something like this together. If I missed anything, please feel free to write me and let me know. Thank you for helping me in this manner. We're locked down and it's very hard to be able to read the South Carolina Rules of Court to take action upon these rules and regulations. It just makes it very difficult to petition the Courts in a timely manner and send it out in a timely manner.

Respectfully submitted,


Mikellhia Banadue
Appellant

01HU0000EX.DMV.XREF.20050422221530.

TO: WCLPD001-00230120 20050422 22:15:30 001EC92AAF

FROM: DMV 20050422 22:15:30

XREF

DL NO 0004039108

SHARPE, DONNA HENSON

915 ROCKWOOD RD

COLUMBIA SC 292092437 RICH CNTY

SEX F HGT 5 04 WGT 170 BIRTH: [REDACTED]

SSN [REDACTED], RACE WHITE

STATUS-DL:NO SUSPENSION CDL:NO DISQUALIFICATION

DRIVER LICENSE CLASS D ISSUED 06/12/2003

NO CURRENT VIOLATIONS, SUSPENSIONS, OR ACCIDENTS

** END OF INQUIRY **

09-22-2009 0237



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

January 05, 2017

Mikellhia Banadue #327978
Turbeville Correctional Institute
1578 Clarence Coker Hwy.
Turbeville SC 29162

Re: SCDC v. Mikellhia Banadue #327978
Appellate Case No. 2017-000007

RECEIVED

JAN 25 2017

SC Court of Appeals

Dear Mr. Banadue:

Upon reviewing your notice of appeal, the following deficiency or deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter:

- The notice of appeal is not accompanied by the order challenged on appeal.
- The required filing fee has not been submitted. The correct filing fee is \$100.00.
- A proof of service showing that a copy has been served on the Administrative Law Court has not been provided as required by Rule 203(b)(6), SCACR.
- We are returning the copy of the "Initial Brief of Appellant." Please see Rules 208 and 209, SCACR, for guidance on when to file the initial brief and designation of matter with the Court.

Very truly yours,

Tommy Abbott Kitching

CLERK

cc: Christina Catoe Bigelow, Esquire
Jana E. Shealy



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11829
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

January 05, 2017

Mikellhia Banadue #327978
Turbeville Correctional Institute
1578 Clarence Coker Hwy.
Turbeville SC 29162

Re: SCDC v. Mikellhia Banadue #327978
Appellate Case No. 2017-000007

RECEIVED

JAN 25 2017

SC Court of Appeals

Dear Mr. Banadue:

This Court has received your notice of appeal, and the case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter.

All parties to this matter are advised that all filings must comply with the requirements of Rule 267 of the South Carolina Appellate Court Rules (SCACR). The SCACR are available online at www.sccourts.org/courtreg. Additionally, any filings submitted by counsel admitted in South Carolina must include counsel's bar number.

The attention of the parties is directed to the order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. The order can be found at www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-04-15-02. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will *not* review

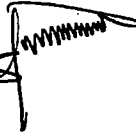
RECEIVED

JAN 17 2017

MAILROOM
TURBEVILLE, IA

filings for redaction or to determine if materials should be sealed.

Very truly yours,

Jonny Abbott Kitching 

CLERK

cc: Christina Catoe Bigelow, Esquire
Jana E. Shealy

6

BRIEF OF APPELLANT*

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph K. Anderson, III, Administrative Law Judge

RECEIVED

JAN 03 2017

SC Court of Appeals

Case No. 16-ALJ-04-0527-AP

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

v.

Mikellhia McKenzie Banadue,.....Appellant.

[INITIAL] BRIEF OF APPELLANT

RECEIVED

JAN 25 2017

SC Court of Appeals

Mikellhia McKenzie Banadue
1578 Clarence Coker Highway
Turbeville, S.C. 29162
Appellant

TABLE OF CONTENTS

Statement of Issues on Appeal.....1
Statement of the Case.....1
Argument.....1
Conclusion.....1

STATEMENT OF THE ISSUES ON APPEAL

1. DID THE ADMINISTRATIVE LAW COURT ERROR BY INDICATING THERE WAS NO STATE-CREATED LIBERTY OR PROPERTY INTEREST INVOLVED IN THIS CASE?
2. DID THE ADMINISTRATIVE LAW COURT ERROR BY INDICATING THAT SINCE NO GOOD TIME CREDITS BEING TAKEN AWAY, THERE WAS NO STATE-CREATED LIBERTY OR PROPERTY INTEREST INVOLVED?

STATEMENT OF THE CASE

This matter is before the South Carolina Court of Appeals on an appeal filed by Mikellhia M. Baradue (Appellant), an inmate incarcerated with the South Carolina Department of Corrections.

Appellant filed his Notice of Appeal to the Administrative Law Court on July 6, 2016, stating that there was insufficient evidence to convict him of the charge of violation of SDC Disciplinary Code 823: Fighting Without a Weapon. The Record on Appeal was filed September 23, 2016, showing that Appellant was sanctioned but did not lose any accrued good time as a result of the conviction. Appellant filed his initial Brief on October 3, 2016. The Department filed a Motion to dismiss on November 3, 2016. The Chief Administrative Law Judge filed an Order of Dismissal on December 12, 2016. Then Appellant filed with the Court of Appeals Appealing the Administrative Law Court's decision on December 24, 2016.

FACTS

Appellant is arguing that he should not have been found guilty of SDC Disciplinary Code: 823 due to the video cam. He was found guilty of 823 where no Loss of Good Time was taken away from him, but he still lost good time for that month. Appellant was classified before being found guilty as an MRIB and once he was found guilty, it busted his custody to M12. The record will clearly show that the only sanctions taken away was 10 days canteen. Due to this incident, Appellant got his belongings stolen by other inmates and was fighting in self defense. By Appellant losing good time for that month, it still qualifies as a state-created liberty interest and when Appellant's belongings got stolen due to the above incident created a property interest as well.

ARGUMENTS

Appellant is arguing that he should not have been found guilty of SDC Disciplinary Code: 823 due to the video cam. He is also arguing that the Administrative Law Court erred by indicating there was no state-created liberty or property interest involved in this case. He's also arguing that the Administrative Law Court erred by indicating that since no good time credits being taken away, there was no state-created liberty or property interest involved.

CONCLUSION

For the foregoing reasons, Appellant respectfully request this Court to grant him his accrued good time for the month he was found guilty of charge 823 and the property that was lost due to inmates stealing it from Appellant should be reimbursed to him.

Respectfully submitted,

Mikellhia M. Baradue

Mikellhia McKenzie Baradue
Turbeville Correctional Institution
1578 Clarence Coker Highway
Turbeville, S.C. 29162

December 24, 2016

NOTICE OF APPEAL FROM ADMINISTRATIVE TRIBUNAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph K. Anderson, III, Administrative Law Judge

RECEIVED

Case No. 2017-000007

JAN 25 2017

SC Court of Appeals

South Carolina Department of Corrections, Respondent,
v.
Mikellhia McKensie Baradue, Appellant.

NOTICE OF APPEAL

Mikellhia McKensie Baradue appeals the decision of the Honorable Ralph K. Anderson, III dated December 12, 2016. Appellate received a copy of this decision on December 14, 2016.

January 14, 2017

/s/ *Mikellhia M. Baradue*
Mikellhia M. Baradue
1578 Clarence Coker Hwy.
Turbeville, S.C. 29162
Appellant

Other Counsel of Record:

Cheron Hess
Administrative Assistant
Office of General Counsel
South Carolina Department of Corrections
4444 Broad River Road
P.O. Box 21787
Columbia, South Carolina 29221
(803) 896-3922
Attorney for Respondent

State of South Carolina
Administrative Law Court
E. Harvin Belser Fair
Judicial Law Clerk
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, S.C. 29201

LETTER TO THE APPELLATE COURT
CLERK FILING THE NOTICE OF APPEAL

January 14, 2017

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

[The Honorable Daniel E. Shearouse]
Clerk, Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211]

RE: SDC v. Mikellhia Baradue #327978
Appellate Case No. 2017-000007

Dear Ms. Kitchings [Mr. Shearouse]:

Enclosed for filing is a notice of appeal in the above case. Also enclosed are the following:

- (1) Proof of service of the notice of appeal on the respondent(s).
- (2) A copy of the Orders [judgment] which is [are] to be challenged on appeal.
- (3) A filing fee of \$100.*

Sincerely,

/s/ Mikellhia M. Baradue
Mikellhia McKensie Baradue
1578 Clarence Coker Hwy.
Turbeville, South Carolina 29162
Appellant

cc: Cheron Hess
Administrative Assistant
Office of General Counsel
4444 Broad River Road
P.O. Box 21787
Columbia, S.C. 29221-1787
(803) 896-3922
Attorney for Respondent

State of South Carolina
Administrative Law Court
E. Harvin Belser Fair
Judicial Law Clerk
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, S.C. 29201

*Under Rule 203(d)(1)(B)(iii) and (d)(2)(B)(iii), SCACR, a filing fee is not required if the appeal is from a criminal case including juvenile delinquency matters, or if the appeal is taken by the State of South Carolina, its departments or agencies. Further, no filing fees are required in post-conviction relief cases. Rule 240(d), SCACR.

DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph K. Anderson, III, Administrative Law Judge

RECEIVED

JAN 25 2017

Case No. 2017-000007

SC Court of Appeals

South Carolina Department of Corrections,.....Respondent,
v.
Mikellhia McKensie Baradue,.....Appellant.

DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL

Appellant proposes the following be included in the Record on Appeal:

1. Appellant's Notice of Appeal of July 6, 2016
2. Notice of Assignment of July 21, 2016
3. Record on Appeal of September 23, 2016
4. Appellant's Brief of October 3, 2016
5. Respondent's Brief of November 7, 2016
6. Respondent's Motion to Dismiss of November 7, 2016
7. ORDER of Dismissal of December 12, 2016
8. ORDER of December 19, 2016
9. ORDER on Motion to Dismiss of December 29, 2016
10. Exhibit 1 INCIDENT REPORT of December 2, 2015
11. Exhibit 2 DISCIPLINARY REPORT AND HEARING RECORD of December 4, 2015
12. Exhibit 3 DISCIPLINARY REPORT AND HEARING RECORD of December 9, 2015
13. Exhibit 4 Appellant's Step 1 Grievance of January 4, 2016
14. Exhibit 5 Appellant's Step 2 Grievance of April 15, 2016

I certify that the designation contains no matter which is irrelevant to this appeal.

January 14, 2017

/s/Mikellhia McKensie Baradue
Mikellhia McKensie Baradue
1578 Clarence Coker Hwy.
Turbeville, S.C. 29162
Appellant

PROOF OF SERVICE OF A NOTICE OF APPEAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph K. Anderson, III, Administrative Law Judge

RECEIVED

Case No. 2017-000007

JAN 25 2017

SC Court of Appeals

South Carolina Department of Corrections, Respondent,
v.
Mikellhia McKensie Baradue, Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on South Carolina Department of Corrections and the Administrative Law Court Clerk by depositing a copy of it in the United States Mail, postage prepaid, on January 14, 2017, addressed to their attorney of record, Cheron Hess, Post Office Box 21787, Columbia, South Carolina 29221 and Administrative Law Court Clerk, E. Harvin Belser Fair, 1205 Pendleton Street, Suite 224, Columbia, South Carolina 29201.

January 14, 2017

/s/ Mikellhia M. Baradue
Mikellhia McKensie Baradue
1578 Clarence Coker Hwy.
Turbeville, S.C. 29162
Appellant

Mikethia Banadue #327978
Turbeville Corr. Inst.
1578 Clarence Coker Hwy.
Turbeville, S.C. 29211



RECEIVED The South Carolina Court of Appeals
Jenny Abbot Kitchings
Clerk

SCDC

JAN 13 2017

FEB 19 2017

M
TURBEVILLE CI

MAIL ROOM

P.O. Box. 11629
Columbia, S.C. 29211

RECEIVED

JAN 25 2017

SC Court of Appeals