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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

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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

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JAN 25 2017

SC Court of Appeals

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

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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 MR1B and once he was found guilty, it busted his custody to MI2. 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.