

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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MAY 17 2017

APPEAL FROM THE ADMINISTRATIVE LAW COURT

SC Court of Appeals

Shirley C. Robinson, *Administrative Law Judge*

Lower Case No. 2017-ALJ-04-0080-AP

Appellate Case No. 2017-000686

Andra Jamison, # 337461,.....Appellant,

v.

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

**MOTION TO DISMISS APPEAL OR, ALTERNATIVELY, TO SUMMARILY
AFFIRM PURSUANT TO RULE 220(C), SCACR**

COMES NOW, Respondent, South Carolina Department of Corrections (SCDC or Department) and, pursuant to Rule 240, SCACR, moves this Honorable Court for an order dismissing this appeal or, alternatively, summarily affirming the decision below pursuant to Rule 220(c).

This is an appeal from the Administrative Law Court's (ALC) dismissal of an inmate appeal of a disciplinary conviction where no sentence-related credits were taken away. Therefore, the sole issue before this Court is whether, as a matter of law, the ALC properly dismissed the appeal in light of S.C. Code § 1-23-600(D), which provides that "[a]n administrative law judge shall not hear an appeal from an inmate in the custody of

the Department of Corrections involving the loss of the opportunity to earn sentence-related credits pursuant to Section 24-13-210(A) or Section 24-13-230(A)” Since § 1-23-600(D)’s addition to the Code of Laws, the South Carolina Supreme Court has held that provision to be constitutional. *See Howard v. S.C. Dep’t of Corr.*, 399 S.C. 618, 629, 733 S.E.2d 211, 217 (2012) (holding that “an inmate’s loss of the opportunity to earn sentence-related credits does not implicate a state-created liberty interest”).

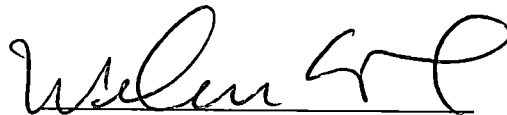
In appeals such as this one, where Appellant is challenging only his loss of the opportunity to earn sentence-related credits—not a loss of accrued credits—the ALC does not err as a matter of law when it dismisses the appeal. To be sure, as the *Howard* court noted, there may be cases in which an inmate’s failure to earn credits is coupled with another allegation of the deprivation of a state-created liberty or property interest; in such cases, the ALC is precluded from simply summarily dismissing the appeal just because present within the case is the inmate’s failure to earn credits. But the appeal before this Court is not such a case.

Instead, this appeal seeks review of the ALC’s proper dismissal of the appeal below. If the purpose of, and legislative intent behind, § 1-23-600(D) means anything at all, surely that provision—coupled with the supreme court’s opinion in *Howard*—was added to lessen the administrative burden on the ALC and appellate courts of this State by attempting to clarify the scope of the liberty or property interest implicated in prison disciplinary matters. Therefore, Respondent submits that this Court may, consistent with due process and in the interest of judicial economy, dismiss appeals of this kind prior to full briefing.

To be sure, the text of *Howard* makes clear that the ALC's dismissal of these types of appeals is an exception to the general rule of *Al-Shabazz* that grants to the ALC subject matter jurisdiction over all inmate appeals. Respondent therefore argues that *Howard* itself contains within it the necessary protections to ensure that inmates whose appeals involve general grievances (usually of policies) or disciplinary appeals (where credit is lost) are not without a forum to raise their concerns.

WHEREFORE the Department respectfully requests that the Court dismiss this appeal or, alternatively, dispense with further briefing and summarily affirm Judge Robinson's February 13, 2017 order dismissing the appeal below.

Respectfully submitted,



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May 20, 2017

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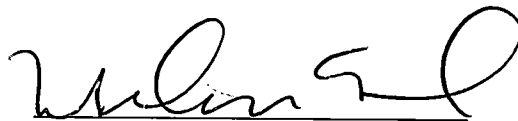
Andra Jamison, # 337461,.....Appellant,

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

CERTIFICATE OF SERVICE

I hereby certify that on this day I have served a copy of the foregoing ***MOTION TO DISMISS APPEAL OR, ALTERNATIVELY, TO SUMMARILY AFFIRM PURSUANT TO RULE 220(C), SCACR*** upon Appellant by depositing a copy of same in the United States Mail, addressed to: Andra Jamison, SCDC #337461, Evans Correctional Institution, 610 Highway 9 West, Bennettsville, S.C. 29512.



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May 20, 2017