

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Gregory Thomas Pencille, 312332,)
)
 Appellant,)
 vs.)
)
 South Carolina Department of Corrections,)
)
 Respondent.)
 _____)

Docket No.: 17-ALJ-04-0145-AP
Grievance No.: LCI 586-16

ORDER OF DISMISSAL

RECEIVED

AUG 16 2017

SC Court of Appeals

This matter is before the South Carolina Administrative Law Court (“the ALC” or “the Court”) pursuant to the Notice of Appeal filed March 28, 2017, by Gregory Thomas Pencille (“Appellant”), an inmate incarcerated with the South Carolina Department of Corrections (“the Department”). Appellant appeals the Department’s decision convicting him of Trafficking, Use, and/or Possession of Narcotics, Marijuana, or Unauthorized Drugs, including prescription drugs, or Inhalants. As a result of the conviction, Appellant lost zero (0) days of accrued good time credits. On July 3, 2017, the Department filed a motion requesting this Court dismiss the appeal pursuant to Howard v. South Carolina Department of Corrections and S.C. Code Ann. § 1-23-600(D). Specifically, the Department argues that no state-created liberty or property interest is implicated in this case. Appellant has not filed a response to the Department’s motion.

The ALC has subject matter jurisdiction when the Department disciplines an inmate and imposes a punishment that deprives the inmate of a constitutionally protected liberty or property interest. Al-Shabazz v. State, 338 S.C. 354, 369, 527 S.E.2d 742, 750 (2000). Slezak v. South Carolina Department of Corrections, 361 S.C. 327, 605 S.E.2d 506 (2004), provided further clarification that this Court has jurisdiction of all inmate grievance appeals that have been properly filed. However, when the grievance appeal does not implicate a state-created liberty or property interest, the ALC may summarily dismiss the appeal at its discretion. Howard v. South Carolina Department of Corrections, 399 S.C. 618, 733 S.E.2d 211 (2012).

In this case, Appellant did not allege in the appeal that he was deprived of a state-created liberty or property interest as a result of his disciplinary conviction. Therefore, the Court finds Howard to be controlling, and Appellant’s appeal is dismissed.


FILED

JUL 18 2017

IT IS HEREBY ORDERED that the Department's Motion to Dismiss is **GRANTED** and this appeal is **DISMISSED**.

AND IT IS SO ORDERED.

July 18th, 2017
Columbia, South Carolina



SHIRLEY C. ROBINSON
Administrative Law Judge

CERTIFICATE OF SERVICE

To be to certify that the undersigned has this date served this order in the above entitled case on each of the parties to this cause by depositing a copy hereof in the United States mail postage paid or in the Emergency Mail Service addressed to the party(ies) or their attorney(s).

This 18 day of July, 2017
By: [Signature]

JUG CAL LAW Clerk