

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Gregory T. Pencille, #312332,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

Docket No. 17-ALJ-04-0350-AP

Grievance No. LCI 0554-16

ORDER OF DISMISSAL

RECEIVED

AUG 16 2017
SC Court of Appeals

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to a Notice of Appeal filed by Gregory T. Pencille (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (Department or SCDC). Appellant seeks review of the Department's Step 2 Grievance decision in regards to a disciplinary matter. The SCDC decision indicates that Appellant was not sanctioned any accrued good time. Additionally, Appellant has not alleged the infringement of any other state-created liberty or property interest.

This Court reviews Department grievance decisions pursuant to the South Carolina Supreme Court decision in Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). Under the Al-Shabazz line of cases, this Court may only review matters related to a state-created liberty or property interest. See id., 338 S.C. at 368-69, 527 S.E.2d at 749-50 (vesting the ALC with jurisdiction over the loss of state-created liberty interests such as accrued good time credit); Wicker v. S.C. Dept. of Corrs., 360 S.C. 421, 602 S.E.2d 56 (2004) (holding that inmate had a right to procedural due process in matters involving a state-created right to property such as wages). Specifically, the South Carolina Supreme Court has stated that summary dismissal of an otherwise properly perfected inmate appeal "may be appropriate where the inmate's grievance does not implicate a state-created liberty or property interest." Slezak v. S.C. Dept. of Corrs., 361 S.C. 327, 331, 605 S.E.2d 506, 508 (2004) (citation omitted) (emphasis added). The Supreme Court has further stated that "there is a difference between an inmate's *forfeiture of accrued* sentence-related credits versus the *withholding of unearned, potentially available* sentence-related credits." Howard v. S.C. Dept. of Corrs., 399 S.C. 618, 629, 733 S.E.2d 211, 217 (2012) (emphasis in original). An inmate does not acquire a liberty interest in good time until it is earned. Id.

Because Appellant has not been sanctioned with any accrued good time, it is appropriate to dismiss this disciplinary appeal.

FILED

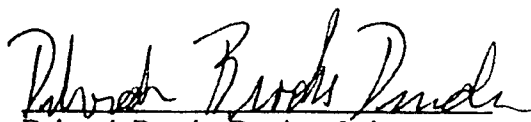
JUL 17 2017

SC ADMIN. LAW COURT

ORDER

THEREFORE, IT IS HEREBY ORDERED that this appeal is **DISMISSED, WITH PREJUDICE.**

AND IT IS SO ORDERED.


Deborah Brooks Durden, Judge
S.C. Administrative Law Court

July 17, 2017
Columbia, South Carolina

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy herewith, in the United States mail, postage paid, or in the Interagency Mail Service, addressed to the party(ies) or their attorney(s).

This 17th day of July 2017
By: R.S. Lee
Judicial Law Clerk