

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Sterling Maybin, 302360. )  
 )  
 Appellant, )  
 vs. )  
 )  
 South Carolina Department of Corrections, )  
 )  
 Respondent. )  
 )

Docket No.: 17-ALJ-04-0471-AP  
Grievance No.: GCI 49-17

ORDER OF DISMISSAL

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SC Court of Appeals

This matter is before the South Carolina Administrative Law Court (the ALC of the Court") pursuant to the Notice of Appeal filed September 5, 2017, by Sterling Maybin ("Appellant"), an inmate incarcerated with the South Carolina Department of Corrections ("Department"). Appellant appeals the decision of the Department denying his grievance regarding a Designated Facility Inmate Assignment and Transfer.

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).

For the purpose of establishing jurisdiction, a state-created liberty or property interest exists when (1) an inmate is disciplined and punishment is imposed, or (2) when an inmate alleges prison officials have erroneously calculated his sentence, sentence-related credits, or custody status. Sullivan v. S.C. Dep't of Corr., 355 S.C. 437, 441, 586 S.E.2d 124, 126 (2003). Additionally, this Court has jurisdiction when an inmate contests the Department's decision to permanently deny the inmate's parole eligibility. Id. Finally, under certain circumstances, an inmate may have a state-created liberty interest in "freedom from restraint which, while not exceeding the sentence in such an unexpected manner as to give rise to protection by the Due Process Clause of its own force . . . nonetheless imposes atypical and significant hardship on the inmate . . . in relation to the

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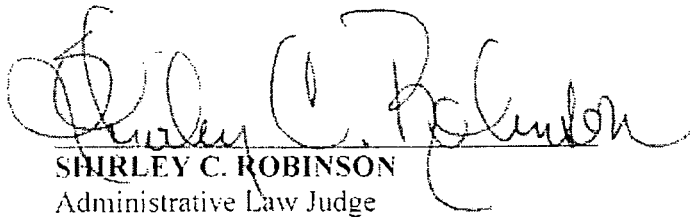
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ordinary incidents of prison life.” Sandin v. Conner, 515 U.S. 472, 483-84 (1995); see Sullivan, 355 S.C. at 443, 586 S.E.2d at 127 (applying Sandin to resolve a “condition of confinement claim”).

Here, Appellant complains that the Department is subjecting him to an ex post facto policy regarding the Designated Facility Inmate Assignment and Transfer. Also, Appellant complains that the Department’s decision denies him due process and is arbitrary as he was not involved in any criminal or disciplinary actions when he was returned to the Department. In response to Appellant’s Step 2 Grievance Form, the Department explained that pursuant to OP-21.05, Designated Facility Assignments and Transfers, each inmate desiring a transfer to a Designated Facility must read and sign a Request for Transfer to Designated Facility form. The Department further explained that this form states that if an inmate returns to the Department, the Department may determine, even without the inmate being charged or convicted of a disciplinary offense, that the inmate is ineligible to be considered for placement at a Designated Facility. This complaint does not arise from punishment administered for a disciplinary conviction, nor does it allege that prison officials erroneously calculated Appellant’s sentence, sentence-related credits, or custody. Moreover, this is not an “atypical” condition of restraint. Accordingly, Appellant has not alleged deprivation of a state-created liberty or property interest, or a due process violation that can be addressed by this Court. Therefore, the Court finds Howard to be controlling, and the case is dismissed for lack of jurisdiction.

**IT IS HEREBY ORDERED** that this appeal is **DISMISSED, with prejudice.**

**AND IT IS SO ORDERED.**

  
**SHIRLEY C. ROBINSON**  
Administrative Law Judge

November 2nd 2017  
Columbia, South Carolina

CERTIFICATE OF SERVICE  
I, the undersigned, hereby certify that a true and correct copy of the foregoing has been filed with the Clerk of the Court and served on the parties to this proceeding by depositing the same in the United States mail postage paid at the Post Office at Columbia, South Carolina, on the date hereinafter specified.  
This 2 day of November 2017  
SR  
Administrative Law Judge