

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Louis Gainey, #185519,)
)
Appellant,)
)
vs.)
)
South Carolina Department of Corrections,)
)
Respondent.)
_____)

Docket No. 17-ALJ-04-0438-AP
Grievance No.: MCCI 173-17

RECEIVED
ORDER OF DISMISSAL

JAN 16 2018

SC Court of Appeals

This matter is before the South Carolina Administrative Law Court (“ALC”) pursuant to the Notice of Appeal filed August 15, 2017, by Louis Gainey (“Appellant”), an inmate in the custody of the South Carolina Department of Corrections (“SCDC”). Appellant has notified the Court that he is currently appealing a denial of post-conviction relief. Appellant claims that medical records held by SCDC are necessary to establish his mental health at the time of the crime for which he was given a life sentence in September 2000.

On December 6, 2017, Respondent moved to supplement the record with a statement dated September 4, 2013; informing Mr. Gainey that his medical records (including his mental health records) from 1993-2003 could not be located. Respondent also included an order of the Honorable Deborah Brooks Durden, dated July 8, 2014, dismissing a previous appeal from Mr. Gainey concerning his medical records. The Court grants the Motion to Supplement the Record in part and denies it in part. The statement dated September 4, 2013, informing Mr. Gainey of the status of his medical and mental health records from 1993-2003 will become part of the record. Judge Durden’s Order of July 8, 2014, will not.

Respondent, also on December 6, 2017, moved to dismiss Mr. Gainey’s appeal on the grounds that he has no state-created interest in the mental health records which he seeks. Respondent also states that it has provided to Mr. Gainey all such records in its possession. This Court grants Respondent’s Motion to Dismiss based on mootness.

This Court is not convinced by Respondent’s motion that Appellant’s medical and mental health records, in so far as they were created and maintained by and for an inmate in the custody of a law

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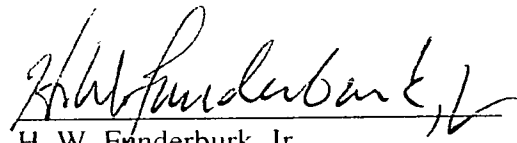
SC ADMIN. LAW COURT

proceeding or while the inmate continues in Respondent's custody, are not within the category of a state-created property interest. Appellant is entitled to ask Respondent to produce those records pursuant to SCDC policy policies HS-18.07 and HS-19.14¹. However, once Respondent has done so or has determined, after a good faith search, that the records no longer exist or are no longer available, it has no further obligation to produce them.

Because this appeal seeks documents that the Department is no longer able to provide, this matter is moot. *See McDill v. Nationwide Mut. Ins. Co.*, 368 S.C. 29, 31, 629 S.E.2d 749, 750 (Ct. App. 2006) (explaining that "a case becomes moot when judgment, if rendered, will have no practical legal effect upon the existing controversy."). This is true when some event occurs making it impossible for [the] reviewing Court to grant effectual relief.' *Curtis v. State*, 345 S.C. at 567-68, 549 S.E.2d at 596 (2001) (quoting *Mathis v. S.C. State Highway Dep't*, 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973)). Therefore, Respondent's Motion to Dismiss is granted for the reasons stated herein.

IT IS HEREBY ORDERED that the inmate's appeal is **DISMISSED**.
AND IT IS SO ORDERED.

Columbia, South Carolina
December 21, 2017


H. W. Funderburk, Jr.
Administrative Law Judge

CERTIFICATE OF SERVICE

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 hereof, in the United States mail, postage paid, or in the United States Mail Service addressed to the party(ies) or their attorney(s).

This 21st day of December 2017
By: AMC
Judicial Law Clerk

¹ SCDC Policy HS-19.14 "Mental Health Services – Inmate Health Records General Guidelines" provides in § 6.1 "An Inmate's Access to His/Her Own Medical Record" that an inmate's medical record belongs to SCDC, but that the information contained in the record may be made available to that inmate. Likewise, SCDC Policy HS-18.07 "Inmate Health Information" provides in §4.4, "An Inmate's Access to His/Her Own Medical Record," that an inmate may request copies of his/her health record or portions thereof using SCDC Form 19-11.