

State of South Carolina

In The Court of Appeals

Appeal From Administrative Law Court

The Honorable Shirley C. Robinson

Appellant Case No.: 2017-000-686

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

vs.

South Carolina Department of Corrections . . . Respondent

"Final Brief of Appellant"



Andra Jamison, #337461

Goodman Correctional Institution  
4556 Broad River Rd.  
Columbia SC 29210

DEC 21, 2017.

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Did the Lower Court err in not setting aside the Appellant's disciplinary conviction for possession of a cell phone and/or communication equipment on the basis of lack of evidence and/or failure to follow policy and procedure?

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“ Table OF Authorities ”

Al-Shabazz v. State, 338 S.C. 354, 505 S.E.2d 742  
(S.C. 2000)

SCDC Policy regarding Inmates Misconduct And  
Disciplinary Hearings Procedures (OP-22.14)

S.C. Code Ann. § 1-23-380 (5) (Supp. 2015)

## “ Statement OF The ISSUE(S) On Appeal ”

Did the Lower Court err in not setting aside the Appellant's disciplinary conviction for possession of a cell phone and/or communication equipment on the basis of lack of evidence and/or failure to follow SCDC Policy and Procedure?

## “ Statement OF The Case ”

The incident in question occurred on September 9, 2016, at Broad River Correctional Institution. The Appellant was charged with offenses (898) Possession of a Cell Phone and/or Communications Equipment and (817) Possession of Contraband.

An Officer Daniels along with the Agency Search Team conducted a search of Monticello left side, cell 120 and found a Samsung cell phone and SD card and charger in the light fixture and brown leafy substance in a shoe. Inmate Andrew Jameson claimed ownership and...

... will be charged with (898) and (817).  
8 pouches of green leafy substance was found  
in the smoke detector. Inmate Roy Jones SCDC  
No. 129886, claimed ownership and will be charged  
with (903). (See, SCDC 19-29, incident report).

The DHO found the Appellant guilty of (898)  
Possession of a cell phone and/or Communication  
Equipment and (817) Possession of contraband.  
It appears that at some point prior to Appellant's  
disciplinary hearing that he wanted his accuser  
present. See, SCDC Form 19-69). Furthermore, it  
also appears that the Respondent failed to hold  
Appellant's disciplinary hearing within the initial  
twenty-one day period and therefore, had to re-  
quest an twenty-one day extension from the  
Assistant Director of Operations (Mr. Dennis Patterson).  
However, the Respondent still failed to hold  
Appellant's hearing within the additional twenty-  
one day period pursuant to SCDC policy and  
procedure. Evidence was presented. The Appellant  
was found guilty by the Disciplinary Hearing...

... officer of offense (898) and (817) after a plea of not guilty. The following sanctions were imposed:

(898) Possession of a cell Phone and/or Communication Equipment

Loss of GOOD TIME FOR 0 DAYS

Loss of CANTEEN PRIVILEGES 120 DAYS

Loss of TELEPHONE PRIVILEGES FOR 120 DAYS

Loss of VISITATION PRIVILEGES FOR 120 DAYS

DISCI. DETENTION FOR (60) DAYS

Appellant filed a step 1 grievance on October 31, 2016. This grievance was denied and was received by the Appellant on November 28, 2016. A Step II grievance was filed October 30, 2016, and no response was noted and a Notice of Intent to Appeal was filed and denied February 13, 2017.

### “ Statement of The Facts ”

A hearing was held on October 18, 2016. Based upon the transcript, it appears that the DHO...

... States the purpose of the hearing and then asks the Appellant to state his name and SCDC number for the record. The Appellant answered, "Andra Jamison." 1.

Appellant contends his disciplinary offense for (898) should have resulted in a finding of not guilty because his substantive and procedural due process rights under "Al-Shabazz v. State", 338 S.C. 354, 527 S.E. 2d 742 (2000), were violated in the three ways listed below:

1. Appellant was denied his procedural right to a counsel substitute;
2. SCDC (agency's) 21 day time frame which to charge Appellant with infractions and hold Disciplinary Hearing lapsed and expired. Although an extension was signed and approved...

#### Ft. n. 1

Appellant requested a counsel substitute to assist with his hearing. However, one was not appointed.

... by a Warden Bush and Director of Operations Dennis Patterson, this extension was not approved until after the lapsed time frame and is therefore null and void in extending the 31 day time frame mandated in SCDC policy and procedure Op-22.14 Section (7.5);

3). And Respondent failed to comply with the the mandates of SCDC policy and procedure Op-22.14 section 3.1 that mandates that the SCDC form 19-29A, include a description of the facts of the offense, to include at a minimum; the name and SCDC number of the inmate. However, Appellant's name is absent from the 19-29A report. (See SCDC form 19-29A report).

Appellant's name is Andra B. Jamison. The 19-29A report alleges an inmate Andrew Jameson, SCDC number 337461, and inmate Roy Jones, SCDC number 129886. (Please note that inmate Andrew Jameson lived three doors away from Appellant at the time of this incident).

## 66 Argument 99

Did the Lower Court err in not setting aside the Appellant's disciplinary conviction for Possession of a Cell Phone and/or communication equipment on the basis of lack of evidence and/or failure to follow policy and procedure?

In "Al-Shabazz v. State," 338 S.C. 354, 525 S.E. 2d 742 (S.C. 2000), the South Carolina Supreme Court held that an inmate may seek review of a final decision of the South Carolina Department of Corrections in administrative matters under the South Carolina Administrative Procedures Act. The Court noted that "administrative matters typically arise in two ways: 1) when an inmate is disciplined and punishment is imposed and 2) when an inmate believes prison officials have erroneously calculated his sentence, sentence related credits, or custody status."

Here the Appellant was given a number of sanctions in his Disciplinary Hearing held on October 18, 2016.

(898) Possession of a cell Phone and/or Communication Equipment

LOSS OF GOOD TIME FOR 0 DAYS

LOSS OF CANTEEN PRIVILEGES 120 DAYS

LOSS OF TELEPHONE PRIVILEGES

LOSS OF VISITATION PRIVILEGES FOR 120 DAYS

As a result of these sanctions, Appellant submits that his case falls within the confines of the first category enunciated in Al-Shabazz. Appellant's argument is that his conviction for (898) should not stand due to a lack of evidence; and/or a failure to follow policy.

The court may reverse or modify the decision if substantial rights of the Appellant have been prejudiced because the administrative findings, inferences, conclusions or decisions are: ...

- ...
- a) Made upon unlawful procedure,
  - b) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
  - c) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted abuse of discretion.

S.C. code Ann. § 1-23-380 (5) (Supp. 2015)

Appellant would respectfully argue that proper procedure was not followed in three instances:

- 1) Appellant argues that he did not waive the presence of a counsel substitute. If you look at the SCDC 19-69 form submitted into evidence, it clearly shows that Appellant did not waive that procedural safeguard. (See Al-Shabazz, Supra). (R.P. 4).

Therefore, Respondent has violated the mandate of "Al-Shabazz v. State", 338 S.C. 354, 507 S.E. 2d 740 (2000). (Emphasis Added).

a). SCDC (agency's) 21 day time frame which to charge Appellant with infractions and hold Disciplinary Hearing lapsed and expired. Although an extension was signed and approved by a warden Bush and Director of operations Dennis Patterson, this extension was not approved until after the lapsed time frame and is therefore null and void in extending the 21 day time frame mandated in SCDC policy and procedure. See OP-22.14 Section (7.5) that states:

only (1), 21 calendar day extension for holding the hearing will be allowed only with the written approval of the Division of Operations for unforeseen circumstances (inmate assault leave, employee extended leave, family medical emergency, etc.) via a memorandum. The extension must be submitted...

• • • to the Division of Operations prior to the expiration of the initial 31 calendar day period. If approved, the 31 calendar day extension will begin after the completion of the initial 31 day hearing period. The expiration date of the initial 31 day period must be noted in the memorandum. Only one (1) such extension will be authorized. If the extension is approved by the Division of Operations, the inmate will be provided with a copy of the approval.

Thus, Respondent did not request an extension prior to the initial 31 day period to hold Appellant's Disciplinary Hearing as mandated by SCDC policy and procedure (OP-23.14 section 7.5). Enclosed in Appellant's Designation of Matter to be included in the record on Appeal is the Respondent's request for an extension.

Respondent signed the Memorandum (Mr. Dennis R. Patterson) on 10/10/16, but the initial 31 days expired on 10/06/16. Therefore, the extension...


... was approved four days past the expiration due date. (Emphasis Added).

3). Respondent further failed to comply with the mandates of SCDC policy and procedure 02-22.14 Section 3.1; that mandates that the SCDC form 19-29A, include a description of the facts of the offense, to include at a minimum; the name and SCDC number of the inmate. However, Appellant's name is absent from the 19-29A report. (See SCDC form 19-29A report).

Appellant's name is Andra B. Jamison. The 19-29A report alleges an inmate Andrew Jameson, SCDC number 337461, and inmate Roy Jones, SCDC number 129886. (Please note that inmate Andrew Jameson lived three doors away from Appellant at the time of this incident). (Emphasis Added).

“ Conclusion ”

For the foregoing reasons, Appellant respectfully submits that the court should reverse the Lower Court's decision.

Respectfully Submitted,  
SI 

Andra B. Jamison

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DNA S.C. 29378

Pro Se Appellant.

21 DEC

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" Certificate OF Service "


I Andra Jamison, pro se, hereby certify that I have placed in the United States Mail a copy of Appellant's Final Brief to be served upon the herein individuals at their last known addresses listed herein with sufficient prepaid postage affixed and the return addresses clearly shown on said envelope.

[Signature Block on Next Page] . . .

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Pro Se Appellant

Sworn To Before Me This  
2<sup>nd</sup> Day of December 2017  
Kathleen Scott

Notary Public For South Carolina  
9/25/2022  
My Commission Expires