

15

ORIGINAL

The State OF South Carolina
In The Court OF Appeals

Appeal From Administrative Law court
Lower court case No.: 2017-ALJ-04-0080-AP
Appellant Case No.: 2017-000-686

Andra Jamison, #337461, Appellant,
v.
South Carolina Department of Corrections, Respondent.

RECEIVED
"Record ON Appeal"
SEP 21 2017
SC Court of Appeals

Christina Bigelow
4444 Broad River Road
Columbia SC 29210
Attorney for Respondent

Andra B. Jamison, # 337461
[Signature]

Goodman Correctional Institution
4556 Broad River Rd.
Columbia SC 29210

Sept 1ST, 2017

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1165

Exhibit # 1

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
R12.2 INCIDENT REPORT

10/6/16

RECEIVED
9/16/16
SEC 2011

US2 NC12

Page 1 of 1
OFFICE

Institution/Center: Broad River	Date of Report: 9/9/16
Reporting Official (Full Name): Ofc. Daniels	Time of Report: Approx 3:10 PM
Employee ID #: 041141	Date of Incident: 9/9/16
Location of Incident: Monticello Left Cell 120	Time of Incident: Approx 3:00 PM
Inmate(s)/Resident: SCDC # Age: Sex: Race:	Employee(s)/Witnesses Involved:
1. Jameson, Andrew 337461	1. Agency Search Team
2. Jones, Roy 129886	2.
3.	3.
4.	4.
5.	5.

On the above date and approximate time: I, Ofc. Daniels, along with the Agency Search Team, conducted a search of Monticello Left Side, Cell 120 and found a Samsung Cellphone + 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 + 817. 8 pouches of green leafy substance was found in the smoke detector. Inmate Roy Jones 129886 claimed ownership and will be charged with 903.

Signature: [Signature] Title: Ofc

Evidence: 24g of Tobacco, Cell phone, charger, SIM, 8g of Marijuana

Disposition of Evidence: Given to Conkland

Supervisor's Comments: Forward to major for further action.

Printed Name: B. Bracey

Signature: B. Bracey Title: Lt Date/Time: 9/9/16 5:57 PM

Major/Responsible Authority: I/M JAMESON will be charged with (898) Poss Comm Device + (817) Poss CONTRA + I/M Jones will be charged with (403) Poss MARI, + Other

Printed Name: [Signature] Title: MAS Date/Time: 9/2/16

STG Related - Refer to STG Committee
 Yes No Unknown

This incident is DRUG related
 Yes No Unknown

Responsible Authority
 Action Taken
 Informal Resolution
 Administrative Resolution
 Refer to Disciplinary Hearing

EXHIBIT #2

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
DISCIPLINARY REPORT AND HEARING RECORD

Case#: 3 Inmate Name: Andra Jamison SCDC#: 337461
Living Area: MO120 Job: wardkeeper Custody: MI2
Offense Date: 09 / 09 / 16 Offense Time: 3:00 AM PM Institution: Broad River Correctional Institution

Offense Description:

898 The Possession of Any Communication Device: The possession, receipt, use, concealment, storage, purchase, sale or facilitation of cellular phones or other communications equipment and/or any components thereof. This includes, but is not limited to, MP3 players, I-pods, e-readers or any like devices.

Charging Officer/Employee: O. Daniels Title: Ofc

INMATE NOTIFICATION: YOU WILL APPEAR BEFORE A HEARING OFFICER 24 HOURS OR MORE AFTER YOUR RECEIPT OF THIS NOTICE. YOU HAVE THE RIGHT TO SUBMIT A WRITTEN STATEMENT AND MAKE A VERBAL STATEMENT.

INMATE WAIVERS:

- I GIVE UP MY RIGHT TO 24-HOUR NOTICE AND AUTHORIZE THE HEARING OFFICER TO PROCEED WITH THE HEARING
- I DO NOT WANT TO BE PRESENT AT MY HEARING
- I DO WANT MY ACCUSER PRESENT AT THE HEARING
- I DO NOT WANT MY ACCUSER PRESENT AT THE HEARING
- I WAIVE MY RIGHT TO A HEARING SMU/SEGREGATION ONLY
- I WANT A COUNSEL SUBSTITUTE
- I DO NOT WANT A COUNSEL SUBSTITUTE

Date & Time Notified: 9/9/16 1:00 AM/PM By (Print): [Signature]
Inmate Signature: [Signature] SCDC#: 337461 Date: 9/9/16

HEARING INFORMATION:

Hearing Date: <u>9/9/16</u>	Hearing Time: <u>1:00</u> am/pm	Tape: <u>315</u>	Side: <u>315</u>	Start: <u>1:00</u>	End: <u>1:30</u>
-----------------------------	---------------------------------	------------------	------------------	--------------------	------------------

EXPLAIN BELOW BY NUMBER: (1) IF COUNSEL SUBSTITUTE WAS NOT PRESENT DURING PART OF THE HEARING; (2) IF ACCUSED WAS EXCLUDED FROM ANY PART OF THE EVIDENCE STAGE; IF ANY (3) WITNESSES, (4) DOCUMENTATION, OR (5) EVIDENCE WAS EXCLUDED FROM THE HEARING; OR (6) IF INMATE WAS DENIED CONFRONTATION QUESTIONING AND/OR CROSS EXAMINATION OF A WITNESS AT THE HEARING

OFFENSE CODES				
INMATE PLEA (G, NG, None)				
FINDINGS (G, NG, DS)				

IF GUILTY, EVIDENCE PRESENTED CONSIDERED AND REASONS FOR DETERMINATION OF GUILT: (A) ADMISSION OF GUILT; (B) OFFICER'S REPORT; (C) WITNESS TESTIMONY; (D) OTHER. EXPLAIN IN DETAIL: _____

HEARING LENGTH: _____ (MINUTES)

SANCTIONS:

Loss of Privileges (Days) _____

- * Property (Days) _____
- * Canteen (Days) _____
- * Other _____ (Days) _____
- * Disciplinary Detention (Days): _____

Reprimand: _____

Extra Duty: _____

Visit Suspension Thru 9/9/16

Cell Restriction (Days): _____

Loss of Good Time (days): _____

Restitution: \$ _____ **

SPECIFIC FACTUAL REASON(S) FOR PARTICULAR PUNISHMENT IMPOSED: _____

CREDIT FOR PHD TIME SERVED? YES/NO IF YES, DAYS _____

DATE INMATE PLACED IN PHD 9/9/16

EXHIBIT # 2-A

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
DISCIPLINARY REPORT AND HEARING RECORD

Case#: 3 Inmate Name: Andra Jamison SCDC#: 337461
Living Area: MO120 Job: wardkeeper Custody: M12
Offense Date: 09 / 09 / 16 Offense Time: 3:00 AM PM Institution: Broad River Correctional Institution

Offense Description:
898 The Possession of Any Communication Device: The possession, receipt, use, concealment, storage, purchase, sale or facilitation of cellular phones or other communications equipment and/or any components thereof. This includes, but is not limited to, MP3 players, I-pods, e-readers or any like devices.

Charging Officer/Employee: O. Daniels Title: Ofc

INMATE NOTIFICATION: YOU WILL APPEAR BEFORE A HEARING OFFICER 24 HOURS OR MORE AFTER YOUR RECEIPT OF THIS NOTICE. YOU HAVE THE RIGHT TO SUBMIT A WRITTEN STATEMENT AND MAKE A VERBAL STATEMENT.

INMATE WAIVERS:

I GIVE UP MY RIGHT TO 24-HOUR NOTICE AND AUTHORIZE THE HEARING OFFICER TO PROCEED WITH THE HEARING

I DO NOT WANT TO BE PRESENT AT MY HEARING

I DO NOT WANT MY ACCUSER PRESENT AT THE HEARING

I DO NOT WANT MY ACCUSER PRESENT AT THE HEARING

I WAIVE MY RIGHT TO A HEARING SMU/SEGREGATION ONLY

I WANT A COUNSEL SUBSTITUTE

I DO NOT WANT A COUNSEL SUBSTITUTE

Date & Time Notified: 10-13-16 7:26 AM/PM By (Print): A. Steven R 12.2

Inmate Signature: *[Signature]* SCDC#: 337461 Date: 10-13-16

HEARING INFORMATION: *Activities being hearing extenu was appropriate*

Hearing Date: 10-14-16	Hearing Time: 4:35 - 5:00 pm	Tape:	Side:	Start:	End:
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EXPLAIN BELOW BY NUMBER: (1) IF COUNSEL SUBSTITUTE WAS NOT PRESENT DURING PART OF THE HEARING; (2) IF ACCUSED WAS EXCLUDED FROM ANY PART OF THE EVIDENCE STAGE; IF ANY (3) WITNESSES, (4) DOCUMENTATION, OR (5) EVIDENCE WAS EXCLUDED FROM THE HEARING; OR (6) IF INMATE WAS DENIED CONFRONTATION QUESTIONING AND/OR CROSS EXAMINATION OF A WITNESS AT THE HEARING.

10/10/16 by Dennis Pathman, Div. of Operations

OFFENSE CODES	898			
INMATE PLEA (G, NG, None)	NG			
FINDINGS (G, NG, DS)	G			

IF GUILTY, EVIDENCE PRESENTED CONSIDERED AND REASONS FOR DETERMINATION OF GUILT: (A) ADMISSION OF GUILT, (B) OFFICER'S REPORT, (C) WITNESS TESTIMONY, (D) OTHER. EXPLAIN IN DETAIL: *He stated that he had the phone on him and he was not aware of the evidence being taken from him.*

HEARING LENGTH: 8:49 (MINUTES)

SANCTIONS:

Loss of Privileges (Days) _____ Reprimand: _____ Loss of Good Time (days): *0*

* Property (Days) _____ Extra Duty: _____ Restitution: \$ _____ **

* Canteen (Days) *90 + 30 = 120*

* Other (Days) *90 + 30 = 120*

* Disciplinary Detention (Days): *30*

Visit Suspension Thru *9-07-30 = 120*

Cell Restriction (Days): _____

SPECIFIC FACTUAL REASON(S) FOR PARTICULAR PUNISHMENT IMPOSED: *Nature of the offense*

CREDIT FOR PHD TIME SERVED? YES/NO IF YES, DAYS _____

DATE INMATE PLACED IN PHD *1-1*

INMATE SIGNATURE FOR RECEIPT OF FINAL REPORT: _____ DATE: _____

HEARING OFFICER (PRINT NAME) *Ernest Rouse*

APPROVED/REVERSE/MODIFY _____ Warden REASON _____

EXHIBIT # 3

RECEIVED

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
BROAD RIVER CORRECTIONAL INSTITUTION

OCT 10 2016

OPERATIONS

10/10/16 DC

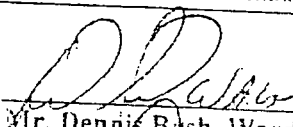
MEMORANDUM

TO: Mr. Dennis Patterson
Assistant Director of Operations
FROM: Mr. Dennis Bush, Warden BRCI
RE: Disciplinary Hearing Extension/Re-Hearing/Late Entry
DATE: October 6, 2016

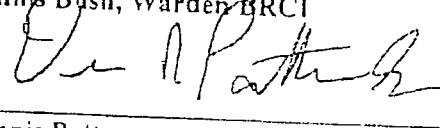
I hereby request a hearing extension/re-hearing/late entry be granted on the following inmate:

Inmate's Name:	Andra Jamison
SCDC#:	337461
Case #:	7
Offense	898
Date of Infraction:	09/09/16
Date Graded:	09/12/16
Date Entered into CRT:	09/16/16
21-day Expiration Date:	10/06/16
Reason for Extension/ Re-Hearing/Late Entry:	Backlog of disciplinary due to institution lock-down September 7, 2016 and shake-down from RRT, BRCI Contraband and Search Team.

Approval/Disapproval


Mr. Dennis Bush, Warden BRCI

Approval/Disapproval


Mr. Dennis Patterson Assist. Dir. of Operations 10/10/16

I, Inmate _____, SCDC# _____, have been notified of this hearing extension/re-hearing/late entry approval and I have received a copy.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Exhibit-4

INMATE GRIEVANCE FORM

STEP 1

INMATE NAME: <u>Andra B. Jamison</u>	OFFICE USE ONLY
SCDC NUMBER: <u>337461</u>	Grievance No. <u>BRCI 0823-14</u>
INSTITUTION: <u>BRCI</u>	Code: General _____
HOUSING UNIT: <u>Monticello</u>	Policy _____
WORK ASSIGNMENT: <u>Dorm</u>	Disc. Hear. <u>10/19/16 #3 878</u>
	Class. _____
	PREA _____
	Date Received <u>OCT 20 2016</u>
	IGC Initials <u>[Signature]</u>

STATEMENT OF GRIEVANCE (Indicate the date of incident, and if the grievance is a challenge to SCDC Policy, specify which policy. Include supporting documentation and attach answered RTSM or Kiosk reference number.) Kiosk #16-336121

- 1) My conviction should be overturned because my substantive and procedural due process rights, and Al-Shabazz rights were violated. I requested a counsel substitute to assist me in this case. The officials said they would appoint one and have counsel substitute present. No counsel substitute appeared to assist me, and i did not waive my right to the procedural safe guard. (see attached).
- 2) My conviction should be overturned because the agency's 21 day time frame within which to charge me with these infractions, and bring me before a DHO hearing, lapsed and expired. Although an extension was signed and approved by Warden Bush and Director of Operations 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 the Disciplinary Policy Op.22.14 to bring me before a DHO hearing for resolution of the disciplinary charges. (see attached).
- 3) My conviction should be overturned because disciplinary policy Op. 22.14, sec. 3.1 mandates that the SCDC form 19-29A include a description of the facts of the offense, to include at a minimum; the name & SCDC number of the inmate. My name is absent from the incident report. (see attached) ATTENTION: ANDREW JAMISON IS A INMATE THAT LIVED IN THE SAME DORM ON THE SAME WING 4 DOORS DOWN FROM ME AT THE TIME OF THE INCIDENT.

[Signature] OCT 20, 2016
 Grievant Signature Date

ACTION REQUESTED: ~~That the conviction be overturned~~
THAT THE CONVICTION IS OVERTURN DUE TO THE ABOVE MENTION
REASONS

ACTION TAKEN BY IGC: PROCESSED UNPROCESSED OTHER

See Warden's Decision
[Signature] 11/15/16
 IGC Signature Date

(CONTINUE ON REVERSE SIDE)

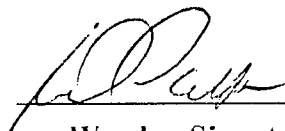
WARDEN'S DECISION AND REASON:

Inmate Jamison Andra 337461;

Case #03

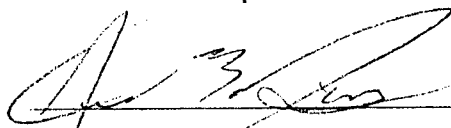
This is in response to BRCI-0803-16. You have appealed the results of your 10/18/16 Disciplinary Hearing where you were found guilty on the charge of 898 Possession of a Cell Phone. The issues you stated do not warrant a reversal of the charge. Pertinent documentation has been reviewed and an investigation of the hearing was conducted. No technicalities, procedural errors, or misinterpretations of evidence was noted and the decision of the Disciplinary Hearing Officer was based on substantial evidence and Ofc. Daniel's Incident Report. The 21 days for an extension did not expire. You also did not qualify for a Counsel Substitute, which is why you were not afforded one. There was no violation of Policy.

Based on this information, your appeal is without merit and therefore denied. If not satisfied with my response, see Step 5 below.

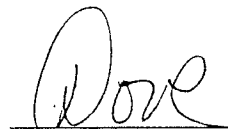


Warden Signature 11/14/16
Date


- I accept the Warden's decision and consider the matter closed.
- I do not accept the Warden's decision and wish to appeal.



Grievant Signature 11/28/16
Date



IGC Signature 11/15/16
Date

Served By: 

11/28/16

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM

1. An informal resolution shall be attempted prior to the filing of Step 1 by sending an Inmate Request to Staff Member (RTSM) form or Kiosk reference number to the appropriate supervisor. A copy of the answered RTSM must be attached to the grievance when the grievance is filed.
2. Complete each section in its entirety writing only in the space provided for inmate use. No additional pages will be permitted.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form by placing it in the Grievance Box at your institution within eight (8) working days of the date on the RTSM response; policy grievances can be filed at any time. Disciplinary and Classification Review appeals must be submitted within five (5) working days of the hearing/review. Do not write in the space provided for the Warden's response.
5. If you are not satisfied with the Warden's decision, you may appeal to the appropriate responsible official within five (5) days of your receipt of the Warden's decision, by placing your Step 2 appeal form in the Grievance Box at your institution.

RECEIVED

EXHIBIT

Step 1 of 3
Dec 16 2016

DEC 16 2016

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

STEP 2

Office Use Only

INMATE GRIEVANCE

INMATE NAME: ANDRA JAMISON

SCDC NUMBER: 337461

INSTITUTION: EVANS

HOUSING UNIT: F-5C RM 208

WORK ASSIGNMENT: DORM KEEPER

Grievance No: BCT 803-16

Code: General

Policy

Disc. Hear. 898 CG 3

Class: 10/18/14

PREA

Date Received: 12/5/16

IGC Initials:

Date Received:

IGA Initials:

RECEIVED
DEC 05 2016
BY: JB

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

PLEASE REFER TO # 1-3 ON THE ATTACHED STEP 1 FORM (STATEMENT OF GRIEVANCE) DUE TO THE LIMITED ALLOTTED SPACE.

THANK YOU

Grievant Signature [Signature] Date 30 OCT 2016

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

The documentation provided indicates that the evidence presented was sufficient to support the conviction of the Possession of Any Cell Phone or Other Type of Communication Device (898), case #3, Level 1 Offense, on October 18, 2016, under SCDC OP-22.14, Inmate Disciplinary System, dated February 2, 2015, and the sanction(s) imposed, which included the loss of -0- days accrued good time, were appropriate for the rules violation(s). There was no reason found to warrant a reversal of the Disciplinary Hearing Officer's decision. A review of your appeal revealed that you received forty-eight (48) hour notice prior to the hearing, you were afforded due process rights, as required, and the offense was classified and heard in a timely manner. You were convicted based upon the preponderance of the evidence/testimony presented at your hearing.

Therefore, your grievance is denied.

You may appeal this decision under the Administrative Procedures Act to the Administrative Law Court. In order to appeal, you must fill out the attached Notice of Appeal Form and submit it as instructed on the form within 30 days of receipt.

Responsible Official Signature [Signature] Date 12/21/16

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

Grievant Signature [Signature] Date 1/10/17

IGC Signature [Signature] Date 1/10/17

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

ANDRA Jamison 337461

EXHIBIT #6

Appellant,

vs.

NOTICE OF APPEAL

South Carolina Department of Corrections,

Respondent.

DOCKET NO. ALJ-04-
GRIEVANCE NO.: BRCZ 803-16

Notice is hereby given that MR. ANDRA JAMISON does hereby appeal the final decision of the South Carolina Department of Corrections dated 01-10-17 and received on 01-10-2017, a copy of which is attached. A general statement of the grounds for appeal is (See S.C. Code Ann. § 1-23-380(A)(6)): The grounds for Appeal ARE MOST CLEARLY SHOWN ON THE SCDC'S OFFICIAL INCIDENT REPORT, WHERE IT STATES: Inmate(s) Resident: JAMESON, ANDREW 337461 and AT BOTTOM AGAIN: I/M JAMESON Will be? My NAME IS ANDRA JAMISON. The other and I lived on the same side of MONTICELLO unit 4-Doors apart, I WAS WRONGLY CHARGED and I WANT THIS CHARGE OVER-TURNED. They had an Alpha ROSTER TO CHECK, THERE WAS NO PLAUSIBLE EXCUSE FOR GETTING MY NUMBER MIXED UP WITH HIS NAME, I HUMBLBY ASK THIS COURT TO GIVE ME JUSTICE. I CAN'T GET THAT WITH THE SCDC AND ITS PEOPLE. THANK YOU IN ADVANCE, Respectfully. Due limited space SEE ATTACHED FOR OTHER (STATEMENT OF) GRIEVANCE

ANDRA Jamison #337461
Appellant's Name
EVANS CD F-50 #209
610 Hwy 9 West
Mailing Address
Kenner, TN 38152

[Signature]
Signed
30 JAN 2017
Dated

City, State, Zip Code

CERTIFICATE OF SERVICE

I hereby certify that I, ANDRA JAMISON (your name), on the 30th day of JAN, 2017, in Kenner, TN (city), South Carolina, served a copy of the foregoing Notice of Appeal on all parties to this matter by depositing the same in the United States Mail, postage paid, or in the mail room of the undersigned's institution and addressed as follows:

Name of person/Agency served: S.C. DEPT. OF CORR. OFFICE OF GENERAL COUNSEL
Address: 4444 Broad River Rd.

City, State, Zip Code: Columbia, S.C. 29210

Print your name: ANDRA B JAMISON
(See reverse side for instructions)

Sign your name: [Signature]

FEB 13 2017

EXHIBIT # 7

STATE OF SOUTH CAROLINA ADMINISTRATIVE LAW COURT SC ADMIN. LAW COURT

Andra Jamison, 337461,)
Appellant,)
vs.)
South Carolina Department of Corrections,)
Respondent.)

Docket No.: 17-ALJ-04-0080-AP
Grievance No.: BRCI 0803-16

ORDER OF DISMISSAL


This matter is before the South Carolina Administrative Law Court ("the ALC" or "the Court") pursuant to the Notice of Appeal filed February 6, 2017, by Andra Jamison ("Appellant"), an inmate incarcerated with the South Carolina Department of Corrections ("the Department"). Appellant appeals the Department's decision convicting him of Possession of Any Cell Phone or Other Type of Communication Device. As a result of the conviction, Appellant lost zero (0) days of accrued good time credits.

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. Sullivan v. S.C. Dep't of Corr., 355 S.C. 437, 441-42, 586 S.E.2d 124, 126 (2003); Al-Shabazz v. State, 338 S.C. 354, 369, 527 S.E.2d 742, 750 (2000); Skipper v. S.C. Dep't of Corr., 370 S.E. 267, 273-74, 633 S.E.2d 910, 914 (Ct. App. 2006). 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. Furtick v. South Carolina Department of Corrections, 374 S.C. 334, 649 S.E.2d 35 (2007).

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 Furtick to be controlling, and Appellant's appeal is dismissed.

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

AND IT IS SO ORDERED.


SHIRLEY C. ROBINSON
Administrative Law Judge

February 13th, 2017
Columbia, South Carolina

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

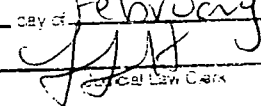
This 13 day of February, 2017
By: 
Administrative Law Clerk

EXHIBIT #8

IN THE STATE OF SOUTH CAROLINA
IN THE STATE COURT OF APPEALS
IN THE OFFICE OF THE HONORABLE CLERK

MR. ANDRA JAMISON	}	SUPPORTING
S.C.D.C. ID. # 337461		MOTION TO DENY
Appellant Pro Se		DESMISSAL
V.	}	
SOUTH CAROLINA DEPT.		
OF CORRECTIONS		
<u>Respondent</u>		

IN RE: Lower Case No. 2017-ALJ-04-0080-AP
Appellate Case No. 2017-000686

COVER LETTER

Exhibit - # 8

IN THE STATE OF SOUTH CAROLINA
IN THE STATE COURT OF APPEALS
IN THE OFFICE OF THE HONORABLE CLERK

MR. ANDRA JAMISON } S.C.D.C. # 337461 } Appellant Pro Se }	SUPPORTING MOTION TO DENY DISMISSAL
v.	
SOUTH CAROLINA DEPT. OF CORRECTIONS } <u>Respondent</u> }	

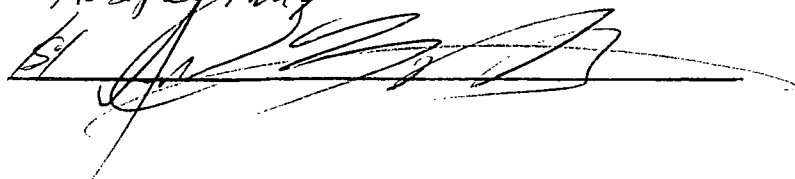
May It Please The Court?

Now comes the humble Appellate making this rebuttal against Ms. Arnold's Brief arguing for dismissal. Let me first start off by saying that in America's Juris Prudence, no case can be dismissed without the parties being heard, (Powell v. Alabama 287 U.S. 45 (1932)) According to the opinion by CHIEF JUSTICE ANDERSON

of the Alabama Supreme Court contained in Powell. A close review of Appellant's Brief on Page #2 will clarify the issue that he IS arguing, and has been arguing from the START.

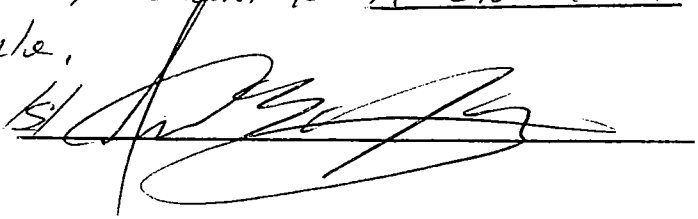
The Evidence to be put on Record Before the Court, is The Brief itself. On Page 9, it most Clearly states in plain language Appellant's whole argument, BUT the SCDC, would cloud the issue and try to side-track the Honorable Court's attention, by only stating the second half of the criteria of the South Carolina Administrative Procedures Act. Appellant is only arguing the First part of the ACT, NOT the second, and the Honorable Judge Robinson violated my DUE PROCESS and EQUAL PROTECTION of the LAW rights by NOT addressing MY (NOT the SCDC) issues, effectively and obviously ignoring them all together. Again Appellant would draw attention to Page 9 of Brief for the correct issue before the court, My case has not been adjudicated.

Respectfully



CERTIFICATE OF SERVICE

I hereby certify that on this day I have served a copy of the foregoing Motion to DENY DISMISSAL upon the HONORABLE CLERK'S OFFICE by depositing same in the U.S. Mail with properly addressed and supplied envelope, postage is pre-paid in accordance with and pursuant to "Houston v. Lack" and the "Mail Box" Rule.



Sworn to Before Me

This 31st Day of May 2027.

Louella
NOTARY Public of SOUTH CAROLINA

MY COMMISSION ENDS: 2 / 17 / 24

South Carolina Court of Appeals
Jenny Abbott Kitchings, Clerk
Post Office Box 11629
Columbia, South Carolina 29211

SCDC Office of Gen. Counsel
Christina Catoe Bigelow
P.O. Box 21787
Columbia, S.C. 29227-1787
Attorney For Respondents

Exhibit # 9

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Shirley C. Robinson, *Administrative Law Judge*

Lower Case No. 2017-ALJ-04-0080-AP

Appellate Case No. 2017-000686

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

v.

South Carolina Department of Corrections.....Respondent.

**MOTION TO DISMISS APPEAL OR, ALTERNATIVELY, TO SUMMARILY
AFFIRM PURSUANT TO RULE 220(C), SCACR**

COMES NOW, Respondent, South Carolina Department of Corrections (SCDC or Department) and, pursuant to Rule 240, SCACR, moves this Honorable Court for an order dismissing this appeal or, alternatively, summarily affirming the decision below pursuant to Rule 220(c).

This is an appeal from the Administrative Law Court's (ALC) dismissal of an inmate appeal of a disciplinary conviction where no sentence-related credits were taken away. Therefore, the sole issue before this Court is whether, as a matter of law, the ALC properly dismissed the appeal in light of S.C. Code § 1-23-600(D), which provides that "[a]n administrative law judge shall not hear an appeal from an inmate in the custody of

the Department of Corrections involving the loss of the opportunity to earn sentence-related credits pursuant to Section 24-13-210(A) or Section 24-13-230(A)” Since § 1-23-600(D)’s addition to the Code of Laws, the South Carolina Supreme Court has held that provision to be constitutional. *See Howard v. S.C. Dep’t of Corr.*, 399 S.C. 618, 629, 733 S.E.2d 211, 217 (2012) (holding that “an inmate’s loss of the opportunity to earn sentence-related credits does not implicate a state-created liberty interest”).

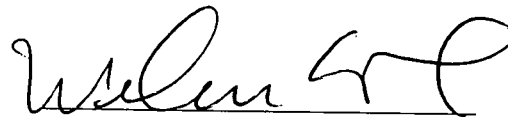
In appeals such as this one, where Appellant is challenging only his loss of the opportunity to earn sentence-related credits—not a loss of accrued credits—the ALC does not err as a matter of law when it dismisses the appeal. To be sure, as the *Howard* court noted, there may be cases in which an inmate’s failure to earn credits is coupled with another allegation of the deprivation of a state-created liberty or property interest; in such cases, the ALC is precluded from simply summarily dismissing the appeal just because present within the case is the inmate’s failure to earn credits. But the appeal before this Court is not such a case.

Instead, this appeal seeks review of the ALC’s proper dismissal of the appeal below. If the purpose of, and legislative intent behind, § 1-23-600(D) means anything at all, surely that provision—coupled with the supreme court’s opinion in *Howard*—was added to lessen the administrative burden on the ALC and appellate courts of this State by attempting to clarify the scope of the liberty or property interest implicated in prison disciplinary matters. Therefore, Respondent submits that this Court may, consistent with due process and in the interest of judicial economy, dismiss appeals of this kind prior to full briefing.

To be sure, the text of *Howard* makes clear that the ALC's dismissal of these types of appeals is an exception to the general rule of *Al-Shabazz* that grants to the ALC subject matter jurisdiction over all inmate appeals. Respondent therefore argues that *Howard* itself contains within it the necessary protections to ensure that inmates whose appeals involve general grievances (usually of policies) or disciplinary appeals (where credit is lost) are not without a forum to raise their concerns.

WHEREFORE the Department respectfully requests that the Court dismiss this appeal or, alternatively, dispense with further briefing and summarily affirm Judge Robinson's February 13, 2017 order dismissing the appeal below.

Respectfully submitted,



Melissa J. Arnold
Staff Attorney
S.C. Department of Corrections
P.O. Box 21787
Columbia, South Carolina 29221
(803) 896-1278 [direct]

Counsel for Respondent

Columbia, South Carolina

May 20, 2017

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Shirley C. Robinson, *Administrative Law Judge*

Lower Case No. 2017-ALJ-04-0080-AP

Appellate Case No. 2017-000686

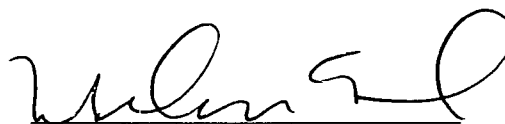
Andra Jamison, # 337461,.....Appellant,

v.

South Carolina Department of Corrections.....Respondent.

CERTIFICATE OF SERVICE

I hereby certify that on this day I have served a copy of the foregoing ***MOTION TO DISMISS APPEAL OR, ALTERNATIVELY, TO SUMMARILY AFFIRM PURSUANT TO RULE 220(C), SCACR*** upon Appellant by depositing a copy of same in the United States Mail, addressed to: Andra Jamison, SCDC #337461, Evans Correctional Institution, 610 Highway 9 West, Bennettsville, S.C. 29512.



Melissa J. Arnold
Staff Attorney
S.C. Department of Corrections
P.O. Box 21787
Columbia, South Carolina 29221
(803) 896-1278 [direct]

May 20, 2017

EXhibit-#10



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
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July 13, 2017

Ms. Christina Catoe Bigelow, Esquire
4444 Broad River Road
Columbia SC 29210

Ms. Melissa Jill Arnold, Esquire
4444 Broad River Road
Columbia SC 29210

Re: Andra Jamison #337461 v. SCDC
Appellate Case No. 2017-000686

Dear Counsel:

Enclosed is the order of the Court.

The respondent's initial brief and designation of matter must be served and filed within thirty (30) days of the date of this letter.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Andra Jamison #337461

20.

EXhibit # 10

The South Carolina Court of Appeals

Andra Jamison #337461, Appellant,

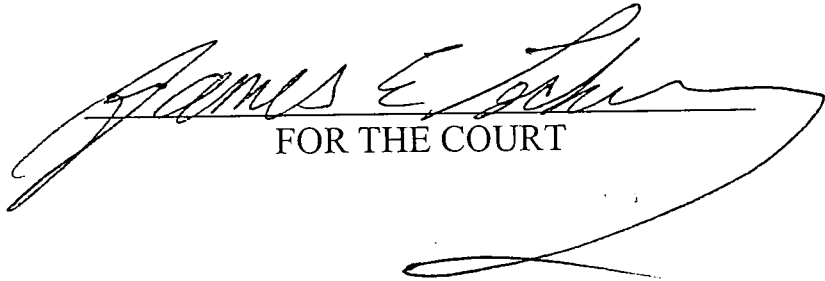
v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2017-000686

ORDER

After careful consideration, Respondent's motion to dismiss or summarily affirm this appeal is denied. The merits of the appeal shall be decided after final briefing is complete.


FOR THE COURT

Columbia, South Carolina

cc:

Andra Jamison #337461

Christina Catoe Bigelow, Esquire

Melissa Jill Arnold, Esquire

FILED

July 13, 2017

Certificate
Of
Service

I, Andra Byron Jamison, declares under the penalty of perjury, that I have mailed a true and correct copy of my "Record On Appeal" for consideration in my pending appeal, to the addressees at the below listed addresses, by placing it in the hands of Evans mailroom personel, with adequate postage attached there to, and a copy sent to the clerk of court, as listed below.

Addressees:

Christina Catoe Bigelow
Melissa Jill Arnold
4444 Broad River Road
Columbia, S.C. 29210

Jenny Abbott Kitchings
PO Box 11629
Columbia, S.C. 29211



ANDRA JAMISON 337461

Sworn To Before Me This 1st Day Of Sept. 2017
S. Ollow

Notary Public For South Carolina

My Commission Expires 2-17-24

RECEIVED

SEP 21 2017

SC Court of Appeals