

Upon motion of any party, or on its own motion, an Administrative Law Judge may dismiss an appeal . . . for failure to comply with any of the rules of procedure for appeals, including the failure to comply with any of the time limits provided by this section (V)

SCALC Rule 62. By filing an appeal, the Appellant has an obligation to advance a position. "There is a limit beyond which the court should not allow a litigant to consume the time of the court" *Georganne Apparel, Inc. v. Todd*, 303 S.C. 87, 92, 399 S.E.2d 16, 19 (Ct. App. 1990). Therefore, pursuant to SCALC Rule 62, the Respondent's Motion to Dismiss is granted and this matter is hereby dismissed.

Even if the Appellant's brief had been timely filed, the court cannot entertain it because of a lack of subject matter jurisdiction. The court's jurisdiction in inmate appeals is derived entirely from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). The court's appellate jurisdiction to hear such matters is limited to cases involving denial of state created liberty interests² typically involving: (1) cases in which an inmate contends that prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; and (2) cases in which an inmate has received punishment in a major disciplinary hearing as a result of a serious rule violation. *Al-Shabazz*, 338 S.C. at 369, 527 S.E.2d at 750.

When reviewing the Department's decisions in inmate grievance matters, the court sits in an appellate capacity. *Id.* at 377, 527 S.E.2d at 754 (citation omitted). Consequently, review in inmate grievance cases is limited to the record before the court. Pursuant to *Slezak v. S.C. Dep't of Corr.*, the ALC is to have jurisdiction over all properly perfected inmate appeals but "[s]ummary dismissal may be appropriate where the inmate's grievance does not implicate a state created liberty or property interest." *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 331, 605 S.E.2d 506, 508 (2004). While the court is sympathetic to the Appellant's medical concerns, there is clearly no state created liberty or property interest implicated here.

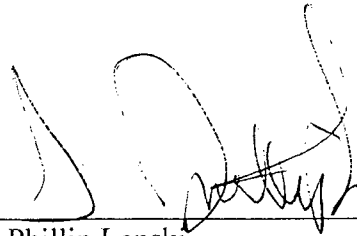
Therefore, irrespective of the timeliness of the Appellant's brief, this is undoubtedly a case in which this court must adhere to the traditional "hands off" doctrine regarding judicial involvement in internal prison matters. *See Pruitt v. State*, 274 S.C. 565, 266 S.E.2d 779 (1980); *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000) (emphasis supplied).

² The court does have limited jurisdiction in some property matters, the authority for which need not be cited here.

ORDER

THEREFORE, the Department's Motion to Dismiss is **GRANTED** and this matter is hereby **DISMISSED**.

AND IT IS SO ORDERED.



S. Phillip Lenski
Administrative Law Judge

February 7, 2018
Columbia, South Carolina

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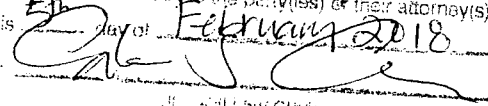
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SC Court of Appeals

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served the 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 Interagency Mail Service addressed to the party(ies) or their attorney(s).

This 7th day of February, 2018


Administrative Law Judge