

THE STATE OF SOUTH CAROLINA
In the Court of Appeals
[In the Supreme Court]

Appeal from Administrative Law Court
Honorable S. Phillip Lenski, Administrative Law Judge

Case No.: 17-ALJ-04-0560-AP

South Carolina Department of Corrections.....Respondent

v.

Alaric Wayne Hunt 151418.....Appellant

REPLY BRIEF OF APPELLANT

Alaric Hunt 151418 F6B 1212
Lee Correctional Institution
990 Wisacky Highway
Bishopville SC 29010
Pro Se Appellant

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JUL 12 2018
SC Court of Appeals

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Statement of the Case

This matter is before the South Carolina Court of Appeals pursuant to the Notice of Appeal filed on March 23, 2018, by Alaric Hunt (“Appellant”), an inmate incarcerated in the South Carolina Department of Corrections (“SCDC”). Appellant appeals the Order of Dismissal of the Honorable S. Phillip Lenski dated March 12, 2018 from the South Carolina Administrative Law Court (“ALC”), that issued from Appellant’s grievance of May 17, 2017, appealing his conviction for an institutional offense.

The original drug test was administered on April 21, 2017, and was followed by a disciplinary hearing on May 15, 2017. The Step 1 grievance was initiated on May 17, 2017 and rejected on June 8, 2017. The Step 2 grievance was initiated on June 19, 2017 and rejected on September 20, 2017. This led to the appeal to the ALC that was served on October 13, 2017. The case was assigned to the Honorable S. Phillip Lenski on November 9, 2017, and SCDC filed the record on December 29, 2017, leading ultimately to the Order of March 12, 2018 that dismissed pursuant to SCALC Rule 62.

This Court granted extension for time for serving and filing Appellant’s Initial Brief and Designation of Matter until June 11, 2018.

Argument

In the Initial Brief of the Respondent, the Respondent erroneously alleges that Judge Lenski summarily dismissed the appeal “because the sanctions for Appellant’s offense did not include a loss of accrued good time credits.” This is a misstatement of fact.

Judge Lenski’s Order of Dismissal actually stated:

“Therefore, pursuant to SCALC Rule 62, the Respondent’s Motion to Dismiss is granted and this matter is hereby dismissed.

However, even if the court were to proceed to consider the merits of this matter, the appeal must be dismissed [. . .]”

In fact, the court dismissed the appeal and never proceeded to consider the merits, since the case contained a liberty interest outside the matter of accrued good time. The Respondent deliberately refuses to recognize that the scope of the ALC’s review is not *limited to cases that involve the loss of good time*. Other matters arising from the disciplinary conviction implicate a state-created liberty interest, and as such should have prevented summary dismissal.

The Respondent treats these matters with a footnote in an attempt to diminish their importance: “Appellant’s other arguments are conclusory, without relevant supporting authority, and/or are not preserved for review because they were not raised in the Step 1 and Step 2 Grievances below.”

First, an SCDC disciplinary hearing is not a court of law and is not subject to the ordinary usages of due process. This is the government's position. As such, the Appellant cannot be expected to raise and preserve issues in the manner ordinarily expected in a court of law, by the usages of due process. No method is provided by the government to do this, and the government entirely controls the process.

If this is a procedural failure, it is entirely due to the limiting actions of the Respondent.

The Respondent's Grievance forms are constructed to limit the presentation of argument by confining the complaint to a very small space and refusing additional space. Again, it is the Respondent's behavior that limits the actions of the Appellant. Consequently, the court cannot hold the Appellant to a standard he is prevented by the Respondent from meeting.

The Respondent's assertion that the Appellant's arguments are conclusory is a subjective response. The Respondent cites case authorities that regulate behavior in a standard trial court merely to obscure the issue. Frankly, the Respondent means to ignore the arguments and hopes they will go away, and relies on the potential assistance of the court. This is an ostrich defense.

And the Appellant is not required to argue and supply authority as if he was a schooled lawyer. Without a legal education and proceeding *pro se* allows him some latitude in brief and argument. In the same manner that no one would suggest that a prisoner would be required to submit 20 copies of briefs and records to the court, a prisoner is not expected to meet every obligation imposed by the court upon a professional lawyer. See *Haines v Kerner*, 404 US 519 (1972): 'however inartfully pleaded [are held] to less stringent standards than formal pleadings drafted by lawyers . . . ' See also *Hooks v Rich*, 2006 WL 565909 (SD Ga, Mar 7, 2006) ("The exhaustion requirement is a gatekeeper, not a 'gotcha' meant to trap unsophisticated prisoners who must navigate the administrative process *pro se*.")

But in general, the Respondent suggests to the court that the ALC properly dismissed the Appellant because no accrued good time was lost as a result of his disciplinary conviction. Again, the Respondent pretends that no other matter than good time can properly be before the court, and this is plainly untrue. The appellant suffered an adverse impact in his custody, and even absent any penalty whatsoever, the Appellant would be entitled to review as a matter of fundamental fairness. The State cannot be allowed to construct, even under the color of law, a set of circumstances that allow process and state action without judicial review. This would be, and is, a violation of the fundamental rights guaranteed by the Constitution of the United States.

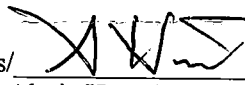
Conclusion

WHEREFORE, the Appellant respectfully prays for the following relief:

1. Expunge the 903 disciplinary conviction from the Appellant's SCDC record.
2. Verbally chastise the various officials, lawyers, and courts that ignored the plain truth in the matter currently before the court.
3. Award the Appellant costs, plus one dollar in damages.
4. And any other relief this Court feels is justified by the circumstances.

Respectfully Submitted,

July 9, 2018.
Bishopville SC

s/ 
Alaric Hunt 151418 F6B 1212
Lee Correctional Institution
990 Wisacky Highway
Bishopville SC 29010

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Certificate of Service

The undersigned hereby certifies that on July 9, 2018, true and correct copies of the Reply Brief of Appellant were served by depositing the same in the prison mail system, postage prepaid, to the following addresses:

Dept of General Counsel
SC Dept of Corrections
PO Box 21787
Columbia SC 29221

Clerk's Office
South Carolina Court of Appeals
PO Box 11629
Columbia SC 29211

July 9, 2018.
Bishopville SC

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