

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT  
ADMINISTRATIVE LAW JUDGE S. PHILLIP LENSKI

DOCKET NO. 18-ALJ-04-0224-AP

SANYIKA ASKARI ..... APPELLANT,  
V.

SOUTH CAROLINA DEPT. OF CORRECTIONS .. RESPONDENT,

NOTICE OF APPEAL

SANYIKA ASKARI, THE APPELLANT HEREIN, APPEALS FROM THE ORDER OF DISMISSAL OF THE HONORABLE S. PHILLIP LENSKI, DATED JULY 2, 2018, FILED OF RECORD IN THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT ON JULY 2, 2018 AND RECEIVED BY THE UNDERSIGNED APPELLANT ON JULY 6, 2018 WHICH ORDER DENIED MOTIONS FOR EXTENSION OF TIME AND TO HOLD APPEAL IN ABEYANCE AND GRANTING RESPONDENT'S DISMISSAL. A COPY OF THE ORDER OF DISMISSAL IS ATTACHED HERETO.

JULY 10, 2018

OTHER COUNSEL  
OF RECORD

MRS. ANNIE RUMLER  
STAFF ATTORNEY  
OFFICE OF GENERAL COUNSEL  
4444 BROAD RIVER ROAD  
COLUMBIA, S.C. 29221

S. Askari

SANYIKA ASKARI #236679  
ALLENDALE C.I., F2B-43  
1057 REVOLUTIONARY TRAIL  
FAIRFAX, S.C. 29827-1151

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STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Sanyika Askari, #236679. )  
)  
Appellant. )  
)  
v. )  
)  
South Carolina Department of Corrections. )  
)  
Respondent. )  
)  
)  
\_\_\_\_\_ )

Docket No. 18-ALJ-04-0224-AP

**ORDER DENYING APPELLANT'S  
MOTIONS FOR EXTENSION OF  
TIME AND TO HOLD APPEAL IN  
ABEYANCE AND GRANTING  
RESPONDENT'S MOTION TO  
DISMISS**

This matter is before the South Carolina Administrative Law Court (ALC or court) pursuant to the Notice of Appeal filed by the Appellant, Sanyika Askari, who is incarcerated with the South Carolina Department of Corrections (Department). After the Appellant's Step 1 and Step 2 grievances were filed and denied, he filed his Notice of Appeal with the court on May 11, 2018. The Appellant does not appeal a disciplinary matter but contends that the Department has failed to remove a 1997 attempted escape charge from his Inmate Record and that the Department is maintaining these charges in their Offender Management System in violation of his constitutional rights to due process and equal protection of the laws.

On June 14, 2018 the Department filed a motion to dismiss pursuant to *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 605 S.E.2d 506 (2004).<sup>1</sup> On June 22, 2018 the Appellant filed a Motion for Extension of Time requesting a thirty (30) day extension until September 17, 2018 to file his brief. On June 25, 2018 the Appellant also filed a Motion to Hold Appeal in Abeyance because the Record on Appeal (ROA) is not in proper form and does not contain all of the correct documents pertaining to the Appellant's disciplinary history. For the reasons set forth below, the court grants the Department's motion and denies both of the Appellant's motions.

**DISCUSSION**

The court's jurisdiction to hear this matter 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 in inmate appeals is limited to cases involving denial of state created

**FILED**

<sup>1</sup> As of the date of this order, the Appellant has not yet responded to the Department's motion to dismiss. JUL 02 2018

liberty interests<sup>2</sup> 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. *Id.*

The Supreme Court further explained the court's jurisdiction in Slezak v. South Carolina Department of Corrections, 361 S.C. 327, 605 S.E.2d 506 (2004). Slezak emphasized that, while the court has jurisdiction over all properly filed inmate grievance appeals, the Court is not required to hold a hearing on every matter. *Id.* "Summary dismissal may be appropriate where the inmate's grievance does not implicate a state-created liberty or property interest." *Id.* citing Sandin v. Conner, 515 U.S. 472, 115 S.Ct. 2293 (1995). Additionally, the South Carolina Court of Appeals has opined that where a state-created liberty interest is not implicated in a prisoner appeal, this court should dismiss the appeal. Skipper v. S.C. Department of Corrections, 370 S.C. 267, 633 S.E. 2d 910 (Ct. App. 2006). Under Slezak, the ALC is to have jurisdiction of 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." In this case, this appears to be the case. Because the Appellant's grievance does not implicate any state-created liberty or property interest, the court dismisses his appeal.

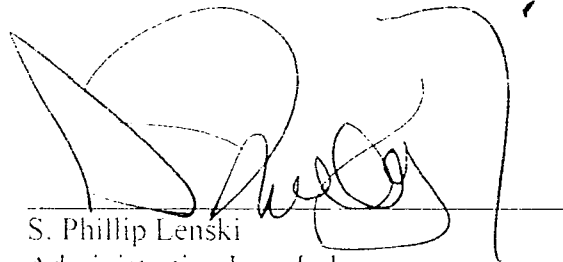
While dismissal negates the need to address the Appellant's two motions, the court notes that in his abeyance motion the Appellant asserts that he had his escape charge expunged. However, he fails to provide any documents to corroborate this claim. The exhibits included in the Appellant's abeyance motion refer to other charges against the Appellant, but not the escape charge. Additionally, the ROA in this case has not been filed and is not due until July 26, 2018. Therefore, even if this court were to deny the Department's motion to dismiss, there is no evidence to support the Appellant's assertion that the Department's record is incomplete, and therefore, no good cause to hold the Appellant's appeal in abeyance. As to the Appellant's motion for an extension of time to file his brief, because the court finds that the underlying grievance of the Appellant does not implicate a state created liberty or property interest, then there is no cause to grant the Appellant an extension of time to file a brief.

**THEREFORE**, for the foregoing reasons, the Appellant's Motion for Extension of Time to file the Appellant brief and the Appellant's Motion to Hold Appeal in Abeyance are **DENIED**

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<sup>2</sup> The Court does have limited jurisdiction in some property matters, the authority for which need not be cited here.

and that the Respondent's Motion to Dismiss is **GRANTED** and this appeal is **DISMISSED**.  
**AND IT IS SO ORDERED.**



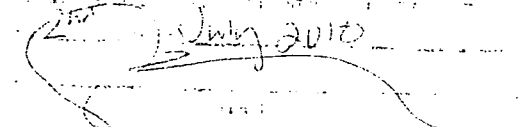
A handwritten signature in black ink, appearing to read 'S. Phillip Lenski', is written over a horizontal line.

S. Phillip Lenski  
Administrative Law Judge

July 2, 2018  
Columbia, South Carolina

*[Faint, illegible text, possibly a stamp or administrative note]*

2018 July 2018



A handwritten scribble or signature in black ink, possibly including the date '2018 July 2018', is written over the faint text.

ANNIE LAURIE RUMER, ESQUIRE  
SCDC OFFICE OF GENERAL COUNSEL  
444 BROAD RIVER ROAD  
COLUMBIA, S.C. 29221-1787



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E. HARVIN BELSER FAIR, JUDICIAL LAW CLERK  
S.C. ADMINISTRATIVE LAW COURT  
1205 PENDLETON STREET, SUITE 224  
COLUMBIA, S.C. 29201

STATE OF SOUTH CAROLINA  
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APPEAL FROM THE ADMINISTRATIVE LAW COURT  
ADMINISTRATIVE LAW JUDGE S. PHILLIP LENSKI

DOCKET NO. 18-ALJ-04-0224-AP

SANYIKA ASKARI ..... APPELLANT,  
V.

SOUTH CAROLINA DEPT. OF CORRECTIONS ... RESPONDENT,

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CERTIFICATE OF SERVICE

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SC Court of Appeals

UNDERSIGNED APPELLANT HEREBY CERTIFIES  
THAT ON THIS 25TH DAY OF JULY, THAT A COPY  
OF THE FOREGOING APPEAL WAS SERVED UPON  
THE ATTORNEY OF RECORD BY PLACING COPIES OF  
THE SAME VIA MAIL TO THE ADDRESS AS FOLLOWS:

- 1) E. HARVIN BELSER FAIR, JUDICIAL LAW CLERK,  
S. CAROLINA ADMINISTRATIVE LAW COURT  
1205 PENDLETON ST., STE 224, COLUMBIA, S.C. 29201
- 2) ANNIE RUMLER, STAFF ATTORNEY, SCDC GENERAL COUNSEL,  
4444 BROAD RIVER RD., COLUMBIA, S.C. 29221-1787

SWORN AND SIGNED BEFORE ME  
ON THIS 25TH DAY OF JULY, 2018

Virginia Shubbs  
S.C. NOTARY PUBLIC

MY COMM. EXPIRES: 12/12/22

Sanyika Askari  
S. Askari

SANYIKA ASKARI #236679  
ALLENDALE C.I., 43-F2B  
1057 REVOLUTIONARY TRAIL  
FAIRFAX, S.C. 29827-1151

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT  
ADMINISTRATIVE LAW JUDGE S. PHILLIP LENSKI

DOCKET NO. 18-ALJ-04-0224-AP

SANYIKA ASKARI ..... APPELLANT,  
SOUTH CAROLINA DEPT. OF CORRECTIONS... RESPONDENT,

PROOF OF SERVICE

UNDERSIGNED APPELLANT HEREBY CERTIFIES THAT  
ON JULY 25, 2018, I MAILED A COPY OF THE  
NOTICE OF APPEAL TO E. HARVIN BELSER FAIR,  
JUDICIAL LAW CLERK, S-CAROLINA ADMINISTRATIVE  
LAW COURT, 1205 PENDLETON ST., STE 224, COLUMBIA,  
S.C. 29201, AND ANNIE RUMLER, STAFF ATTORNEY,  
SCDC GENERAL COUNSEL, 4444 BROAD RIVER RD.,  
COLUMBIA, S.C. 29221-1787

SWORN AND SIGNED BEFORE ME  
ON THIS 25<sup>TH</sup> DAY OF JULY, 2018

Virginia Shubert  
S.C. NOTARY PUBLIC

MY COMMISSION EXPIRES: 12/12/22

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SC Court of Appeals

S. Askari  
S. Askari

SANYIKA ASKARI # 234679  
AUGUNDALE C.I., F2B-43  
1057 REVOLUTIONARY TRAIL  
FAIRFAX, S.C. 29827-1151

THE HONORABLE JENNY ABBOTT KITCHINGS  
CLERK OF THE SOUTH CAROLINA COURT OF APPEALS  
P.O. BOX 11629, COLUMBIA, S.C. 29211

JULY 25, 2018

RE: SANYIKA ASKARI #236679 V. S.C.D.C.  
APPELLATE CASE NO. 2018-001307

DEAR MRS. ABBOTT KITCHINGS:

THANK YOU FOR YOUR LETTER DATED  
JULY 20, 2018. I WAS NOT AWARE OF THE FACT  
THAT I HAD TO SERVE A COPY OF MY NOTICE OF  
APPEAL TO THE ALJ COURT. HOWEVER, I DID  
MAIL A COPY TO SCDC GENERAL COUNSEL.

PLEASE FIND ENCLOSED NOTARIZED COPIES OF  
MY PROOF OF SERVICE AND CERTIFICATE OF  
SERVICE THAT I'VE SENT ATTACHED TO A COPY  
OF THE NOTICE OF APPEAL AND THE ORDER  
WHICH IS TO BE CHALLENGED ON APPEAL, VIA  
U.S. MAIL ADDRESSED AS FOLLOWS:

- 1) E. HARVIN BELSER FAIR, JUDICIAL LAW CLERK  
S.C. ADMINISTRATIVE LAW COURT  
1205 PENDLETON STREET, SUITE 224  
COLUMBIA, S.C. 29201
- 2) ANNIE LAURIE RUMLER, ESQUIRE  
SCDC OFFICE OF GENERAL COUNSEL  
4444 BROAD RIVER ROAD  
COLUMBIA, S.C. 29221-1787

CC: ALJC  
SCDC

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SC Court of Appeals

VERY TRULY YOURS,

S. Askari

SANYIKA ASKARI #236679  
ALLENDALE C.I., F2B-43  
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FAIRFAX, S.C. 29827-1151