

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from South Carolina Department of Corrections
Bryan P. Stirling, Director
Case No. : 63

Perry Gilmore, #344879,

Appellant,

v.

South Carolina Department of Corrections,

Respondent,

MOTION AND AFFIDAVIT TO PROCEED IN FORMA PAUPERIS

I move to proceed in forma pauperis because I am unable to pay the filing fee.
I am over the age of 18 and am of sound mind.

I, Perry Drake Gilmore Jr., swear under the penalty of perjury the above is true and correct to the best of my knowledge and belief.

Sworn before me this 18 day
of October, 2018

[Signature] (Seal)
Notary Public for South Carolina
My Commission Expires: 2/17/24

RECEIVED
OCT 24 2018
SC Court of Appeals

October 18, 2018
Bennettsville, SC

SCDC Office of General Counsel
P.O. Box 21787
Columbia, SC 29221
(COUNSEL FOR RESPONDENT)

[Signature]
Perry Gilmore 344879
610 Hwy 9 West
Bennettsville, SC 29512
(APPELLANT) (PRO SE)

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from South Carolina Department of Corrections
Bryan P. Stirling, Director
Case No.: 62

Perry Gilmore, #344879,

Appellant,

v.

South Carolina Department Corrections

Respondent.

PROOF OF SERVICE

I certify I this day served copies of: (1) Notice of Appeal; and (2) Motion and Affidavit to Proceed In Forma Pauperis on all parties of this case at their last known address.

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SC Court of Appeals

October 17, 2018
Bennettsville, SC

SCDC Office of General Counsel
P.O. Box 21787
Columbia, SC 29221
(COUNSEL FOR RESPONDENT)

15/ P → Kilmer
Perry Gilmore 344879
610 Hwy 9 West
Bennettsville, SC 29512
(APPELLANT) (PRO SE)

Memorandum

TO: Appellant
From: Clerk's Office, Administrative Law Court
Re: Filing Fee

If you file more than 3 administrative appeals during a calendar year, you are required to pay a \$25 filing fee pursuant to S.C. Code Ann. §1-23-670, which states in part:

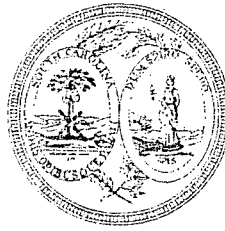
"No filing fee is required in administrative appeals by inmates from final decisions of the Department of Corrections or the Department of Probation, Parole and Pardon Services. However, **if an inmate files three administrative appeals during a calendar year, then each subsequent filing during that year must be accompanied by a twenty-five dollar filing fee.**"

Our records indicate you have filed 3 appeals in this calendar year and therefore the appeal attached is being returned and will not be processed unless it is accompanied by the appropriate fee.

STATE OF SOUTH CAROLINA
Administrative Law Court

RALPH K. "TRIPP" ANDERSON, III
Chief Judge

JANA E. SHEALY
Clerk



(803) 734-0550
FAX: (803) 734-6400
WEB: WWW.SCALC.NET

Memorandum

To: Appellant
From: Clerk's Office, Administrative Law Court
Date: 9/29/18
Re: Compliance with ALC Special Appeals Rule

The Administrative Law Court received your information on 9/29/18
According to ALC Rule 59:

Any notice of appeal which is incomplete or not in compliance with this rule or Rule 71 will not be assigned to an administrative law judge until all required information is received and any applicable filing fee is processed.

Accordingly, your case will not be assigned until the following information is received:

- You must use the attached Notice of Appeal form to submit your appeal (See ALC Rule 57 and 59).
- A copy of the final decision which is the subject of the appeal (i.e., Step 2 Grievance Form from the DOC or the final decision from PPPS) pursuant to ALC Rule 59(C).
- A brief factual basis for each expressly and specifically asserted constitutional violation in accordance with ALC Rule 59(B).
- The Notice of Appeal form you submitted must be signed and dated.
- Filing Fee of \$25 in accordance with ALC Rule 71 for your 4th and subsequent appeal this calendar year.
- Other: There are no waiver forms for DOC Appeals to the ALC. (Special Appeals Rules attached)

Please return the appropriate information within 10 days of the date of this Memorandum or your case will be returned to you unprocessed.

INMATE TRUST FUND ACCOUNT REPORT
for SOUTH CAROLINA COURT FILING FEES

INSTRUCTIONS TO INMATE: Complete top portion then give to your mailroom. When returned from Accounting, you must mail this form with any payment to the Court.

By signing my name below, I am asking the Financial Accounting Office of the South Carolina Department of Corrections to complete this report. In accordance with SC Code of Laws §24-27-100 and 150, I authorize payment of the full filing fee. If I have insufficient funds in my account at this time to pay the court's full filing fee, I authorize SCDC to deduct the initial and subsequent payments until payment is completed.

INMATE NAME (print): Perry Gilmore

SCDC # 344879

INMATE SIGNATURE: [Signature]

I plan to file this action in the SC County of Richland

The section below is for SCDC - Financial Accounting Branch's use ONLY.

- (1) Total deposits to inmate's account for preceding six months' period * \$ 26.43
- (2) Twenty percent (20%) of line 1 \$ 5.24
- (3) Account balance - current date \$ 0
- (4) PAYMENT AMOUNT **
(lesser of line 2 or line 3)
Enclosed check # \$ 0

****NOTE to COURT:** If payment is for partial fee, Court must notify SCDC once case is accepted and filed. Send notice with case # and balance owed to address below. SCDC will NOT process any additional payments until notification is received from Court.

South Carolina Department of Corrections
Financial Accounting - Room 234
PO Box 21787
Columbia, SC 29221-1787

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* Admission date is noted here if inmate incarcerated less than six months

[Signature]
Prepared by Financial Accounting Branch - SCDC

10/17/18
Date

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
DISCIPLINARY REPORT AND HEARING RECORD

Case#: 10/3/18 Inmate Name: Perry Gilmore SCDC#: _____
Living Area: 3A Job: _____ Custody: _____
Offense Date: ____/____/____ Offense Time: ____ AM/PM Institution: _____

Offense Description:

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Charging Officer/Employee: N. [unclear] Title: _____

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 WAIVE MY RIGHT TO A HEARING

I DO WANT MY ACCUSER PRESENT AT THE HEARING **SMU/SEGREGATION ONLY**

I DO NOT WANT MY ACCUSER PRESENT AT THE HEARING I WANT A COUNSEL SUBSTITUTE

I DO NOT WANT A COUNSEL SUBSTITUTE

Date & Time Notified: 10/24/18 4:11 AM/PM By (Print): _____

Inmate Signature: _____ SCDC#: _____ Date: ____/____/____

HEARING INFORMATION:

Hearing Date: <u>10/24/18</u>	Hearing Time: <u>3:40</u> am/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.

accused notified by mail a copy of 19.69 and given additional 45 min with approved extension
accused failed to report for his hearing

OFFENSE CODES	<u>520</u>			
INMATE PLEA (G, NG, None)	<u>NG</u>			
FINDINGS (G, NG, DS)	<u>G</u>			

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: 4 (MINUTES)

SANCTIONS:

Loss of Privileges (Days) _____ Reprimand: _____ Loss of Good Time (days): 60

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

* Canteen (Days) 20146-165 Visit Suspension Thru 20146-165

* Other: 100 (Days) 20146-165 Cell Restriction (Days): _____

* Disciplinary Detention (Days): 45

SPECIFIC FACTUAL REASON(S) FOR PARTICULAR PUNISHMENT IMPOSED: 2nd SSA completion

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

DATE INMATE PLACED IN PHD ____/____/____

INMATE SIGNATURE FOR RECEIPT OF FINAL REPORT: [Signature] DATE: 10/24/18

HEARING OFFICER (PRINT NAME) [Signature]

APPROVED/REVERSE/MODIFY _____ WARDEN REASON _____

CONTACT YOUR CLASSIFICATION CASEWORKER OR COUNSEL SUBSTITUTE IF YOU DO NOT UNDERSTAND THIS FORM.

- White - Institutional Record
- Golden Rod - Inmate (Service of Disciplinary Hearing Disposition)
- Canary - Inmate (Service of Disciplinary Report)
- Pink - Central Record

** (Note: When there is restitution, a copy of this form should be forwarded to Financial Accounting.)

This is to inform you that a Disciplinary Hearing was held. Your copy of the Disciplinary Report and Hearing Record is attached. If you were found guilty you have the right to appeal the decision of the Hearing Officer with respect to the determination of guilt or penalty imposed. You may appeal the decision by filing an Inmate Grievance using SCDC Form 10-5, "Step I Grievance Form." If you are dissatisfied with the response you receive to your grievance, you may then file an appeal to the next level (see SCDC Procedure GA 01.12, "Inmate Grievance System," for information on filing appeals).

Your Inmate Grievance Coordinator may assist you in the appeal process by sending him/her SCDC Form 19-11 "Request to Staff Member."

10/20/18

NMH

8.2

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
DISCIPLINARY REPORT AND HEARING RECORD

Case#: 63 Inmate Name: Perry Gilmore SCDC#: 344879
Living Area: 3A0253 Job: B/D Custody: _____
Offense Date: 9/29/18 Offense Time: 4:45 AM/PM Institution: EVANS

Offense Description: #854 - EXHIBITIONISM AND PUBLIC MASTURBATION

Charging Officer/Employee: T. ROGERS Title: C/O

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: 10/14/18 3:09 AM/PM By (Print): Off. J. Bennett

Inmate Signature: Perry Gilmore SCDC#: 344879 Date: 10/14/18

HEARING INFORMATION:

Hearing Date: <u>10/16/18</u>	Hearing Time: <u>11:10</u> AM/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.

10/9/18 - Out to court. Evidence requested testified by CS Ford
Att: 2 lists of questions and answers

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OFFENSE CODES *	<u>854</u>			
INMATE PLEA (G, NG, None)	<u>NG</u>			
FINDINGS (G, NG, DS)	<u>G</u>			

SC Court of Appeals

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: statements @ hearing

HEARING LENGTH: 18 (MINUTES)

SANCTIONS:

Loss of Privileges (Days) _____ Reprimand: _____ Loss of Good Time (days): 60

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

* Canteen (Days) 150+30=180 Visit Suspension Thru 150+30=180

* Other shower (Days) 150+30=180 Cell Restriction (Days): _____

* Disciplinary Detention (Days): 30

SPECIFIC FACTUAL REASON(S) FOR PARTICULAR PUNISHMENT IMPOSED: 3rd 854 convictions

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

DATE INMATE PLACED IN PHD / /

INMATE SIGNATURE FOR RECEIPT OF FINAL REPORT: [Signature] DATE: 10/16/18

HEARING OFFICER (PRINT NAME) Bottinger

APPROVED/REVERSE/MODIFY _____ REASON _____

Warden

CONTACT YOUR CLASSIFICATION CASEWORKER OR COUNSEL SUBSTITUTE IF YOU DO NOT UNDERSTAND THIS FORM.

White - Institutional Record Canary - Inmate (Service of Disciplinary Report)

Golden Rod - Inmate (Service of Disciplinary Hearing Disposition) Pink - Central Record

** (Note: When there is restitution, a copy of this form should be forwarded to Financial Accounting.)

SCDC 19-69 (Rev., May 2007)

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Your Inmate Grievance Coordinator may assist you in the appeal process by sending him/her SCDC Form 19-11 "Request to Staff Member."

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NOV 19 700

SC Court of Appeals

Perry Gilmore 344879
610 Hwy 9 West
Bennettsville, SC 29512

Clerk of Court
S.C. Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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