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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM ADMINISTRATIVE LAW COURT

Ralph K. Anderson, III, Administrative Law Judge

Appellate Case No. 2018-001741

Docket No. 17-ALS-04-0572-AP
[Grievance No. ECI 681-17]

Shawndell Monte McFarlin, #200701,
Appellant,

v.

South Carolina Department of Corrections,
Respondent.

[INITIAL] BRIEF OF APPELLANT



Shawndell Monte McFarlin
SCDC Number 200701
610 Hwy. #9, West
Bennettsville, SC 29512

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STATEMENT OF ISSUES ON APPEAL

Can Prisoners serving life sentences have their escrow account wages returned and distributed to the persons or entities of their choice, for their benefit, upon request pursuant to S.C. Code Ann. § 24-3-40 (A)(5), (B)(2)?

STATEMENT OF THE CASE

On 6-7-17 and 7-13-17, both answered on 7-28-17, the Appellant entered the Kiosk system under Inmate Financial requesting the Department of Corrections to return his escrow account wages and distribute it to: Latonya Sims, 154 Warley St. Apt. D, Florence, SC 29501, for the benefit of the prisoner pursuant to S.C. Code Ann. § 24-3-40 (A)(5), (B)(2), and his request was denied. See: 17-585017; 17-585123; and 17-556622.

On 8-2-17, the Appellant filed a timely Step 1 Grievance informing the [Doc] that they were depriving him of his property without due process of law. On 8-16-17, the IGAC responded by "see Warden Response." On 8-17-17, the Warden responded by stating, "according SCDC Policy ADM-15-13 and Section 24-1-275 of the S.C. Code of Laws. The funds deposited into this account can only be distributed to the Appellant upon his release." Thereby, denied the Appellant's grievance. Appellant received the grievance on 8-30-17. On 8-31-17, the Appellant filed a timely Step 2 Grievance.

On 10-25-17, the [Doc] informed the Appellant that "accord SCDC ADM-15, 13 and S.C. Code of Laws Sections 24-3-40 and 24-1-295, the Appellant's grievance was denied. However, a SCDC Form 14-82 Declaration Form was being provided to the Appellant to indicate the primary

beneficiary and/or contingent beneficiary of your choice." The Appellant received the response on 11-2-17.

On 11-8-17, the Appellant filed a timely Notice of Appeal in the South Carolina Administrative Law Court averring: the [DOC] were attempting to convert the Appellant's "BENEFIT" pursuant to S.C. Code Ann. § 24-3-40 (A)(5), into a compelled Beneficiary and make the Appellant include his escrowed wages in his estate. 2. Respondent have knowingly, intelligently, and willfully deprived the Appellant of his "option and choice" pursuant to S.C. Code Ann. § 24-3-40 (B)(2). 3. Respondent made up statutes, and forms, i.e., § 24-1-275 and 24-30-40. 4. Respondent actions demonstrate the crimes of larceny, breach of trust, conversion, or embezzlement. 5. Respondent have knowingly, intelligently, and willfully deprived the Appellant

of his property, without due process of law. 6. Appellant is being denied equal protection of the laws - because former Inmate Thomas Hinson, #192170 was allowed the option of having his escrowed wages returned and distributed, twice for his benefit, years before he was released from prison, serving a life sentence. 7. The ALC has applied the separation of power doctrine, obstructed process, and abused its discretion in failing to conduct an investigation. The Appeal was denied on 4-19-18. Appellant filed his Notice of Appeal in the ALC on 4-24-18, pursuant to ALC, Rule 66.

FACTS

1. Appellant has over \$11,000.00 dollars in his escrowed savings account.
2. Appellant has requested that the South Carolina Department of Corrections return and distribute his wages held in escrow for his benefit, and was denied.
3. Appellant was sentenced to Life plus a consecutive Twenty-five years; has done twenty-six years; and have been up for parole three times. Appellant does not believe he will be released from prison.
4. Appellant was wrongfully terminated from paid employment, and do not have any family, friend, or society financial support.
5. There is NO "BENEFIT FOR THE PRISONER" in the [Doc's] decision.
6. Inmate Thomas Hinson, # 192170, while serving a life sentence, and others not

servicing life sentences were allowed to have their escrow account wages returned to themselves, or distributed to the persons or entities of their choice, for their benefit.

ARGUMENT

Prisoners serving life sentences are allowed to have their escrow account wages returned and distributed to the persons or entities of their choice, upon request, for their benefit pursuant to S.C. Code Ann. § 24-3-40(A)(5), (B)(2).

1. Accord S.C. Code Ann. § 24-3-40(A)(5),

"The Director of the Department of Corrections shall deduct from the gross wages of the prisoner: ... (5) Ten percent must be held in an interest bearing escrow account for the benefit of the prisoner."

2. Accord S.C. Code Ann. § 24-3-40 (B)(2),

"The Department of Corrections shall return a prisoner's wages held in escrow pursuant to subsection (A) as follows: ... (2) A prisoner serving life in prison... shall be given the option of having his escrowed wages included in his estate or distributed to the persons or entities of his choice."

The [Appellant] prisoner has worked for over twenty years to accumulate his escrow account wages. The Director of the Department of Corrections faithfully deducted the Ten percent from the gross wages of the prisoner and held it in an interest bearing escrow savings account as required pursuant to S.C. Code Ann. § 24-3-40 (A)(5); but not for the benefit of the prisoner [apparently] because the Department of Corrections refuse to return the prisoner's wages held in escrow and distribute it to the persons or entities of his choice, for his benefit pursuant to S.C. Code Ann. § 24-3-40 (B)(2), in this case.

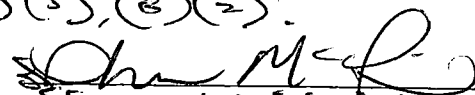
Inmate Thomas Hinson, # 192170, while serving a life sentence, and others not serving a life sentence were allowed to have their escrow account wages returned or distributed, for their benefit.

CONCLUSION

1. The ALC abused its discretion in failing to require the Department of Corrections to return and distribute the Appellant's escrow account wages, for his benefit pursuant to S.C. Code Ann. § 24-3-40.
2. The ALC abused its discretion in failing to conduct an investigation, i.e., pull up the escrow account's deduct-return-distribution information to verify the Appellant's averment concerning inmate Thomas Hinson and the others.
3. The ALC abused its discretion in failing to forward the Appellant's Notice of Appeal to the appropriate reviewing authorities pursuant to ALC, Rule 66.
4. Appellant wants the Department of Corrections to return and distribute his escrow account wages for his benefit in accordance with S.C. Code Ann. § 24-3-40 (A) (5), (B) (2).

November 8, 2018

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PROOF OF SERVICE

I certify that I have served the Designation of Matter to be Included in the Record on Appeal on Jenny Abbott Kitchings, Clerk, and South Carolina Department of Corrections by depositing a copy of it in the United States Mail, postage prepaid, on November 8, 2018, addressed to their attorney of record.

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November 8, 2018.

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