

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Quincy Allen, # 6019, )  
 )  
 Appellant, )  
 )  
 vs. )  
 )  
 South Carolina Department of Corrections, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

Docket No. 18-ALJ-04-0243-AP

ORDER GRANTING  
MOTION TO DISMISS

**RECEIVED**

NOV 16 2018

SC Court of Appeals

This matter is before the South Carolina Administrative Law Court (the ALC or the Court) pursuant to an appeal filed by Quincy Allen (Appellant), an inmate incarcerated with the South Carolina Department of Correction (SCDC or Department).

On March 21, 2018, Appellant filed a Step 1 Grievance contesting SCDC's visitation policy because SCDC denied his request for visitation rights with people whom he did not know prior to his incarceration in August 2002. The Warden denied the grievance. After Appellant's Step 2 Grievance was denied, he filed his Notice of Appeal on May 21, 2018. The Notice of Assignment was filed June 1, 2018. The Record on Appel was filed August 10, 2018. Appellant filed his brief on August 29, 2018.

The Department filed a Motion to Dismiss (Motion) on September 19, 2018. In the Motion, the Department asserts that the appeal should be dismissed because Appellant's complaint does not involve a state-created interest. Appellant filed a response to the Motion on October 1, 2018. In his response, Appellant asserts that visitation is a state-created liberty interest because the South Carolina Constitution mandates rehabilitation for inmates and SCDC policy states that one of the primary goals of visitation is to rehabilitate inmates.

**DISCUSSION**

The Court's jurisdiction to hear this matter is derived from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). In *Al-Shabazz*, the Court held that the ALC's jurisdiction in inmate appeals is limited to state-created liberty interests typically involving: (1) cases in which an inmate contends that prison officials

**FILED**

November 1, 2018

SC ADMIN. LAW COURT

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.* at 382; 527 S.E.2d at 757. “The only way for the [ALC] to obtain subject matter jurisdiction over [an inmate’s] claim is if it implicates a state-created liberty interest.” *Sullivan v. S.C. Dep’t of Corr.*, 355 S.C. 437, 443, 586 S.E.2d 124, 127 (2003). Thus, in *Slezak v. S.C. Dep’t of Corr.*, 361 S.C. 327, 331, 605 S.E.2d 506, 508 (2004), the South Carolina Supreme Court explained that while the ALC has jurisdiction over properly filed inmate grievance appeals, summary dismissal is appropriate “where the inmate’s grievance does not implicate a state-created liberty or property interest.” *See also Skipper v. S.C. Dep’t of Corr.*, 370 S.C. 267, 633 S.E.2d 910 (Ct. App. 2006) (finding dismissal of inmate’s appeal appropriate because his grievance did not implicate a state-created liberty interest).

In the present case, Appellant asserts that he has a state created liberty interest in visitation with persons of his choosing because SCDC policy states that one of the primary goals of visitation to inmates is rehabilitation. In determining whether a SCDC regulation creates a protected liberty interest, the courts look to whether the state has imposed “substantive limitations on official discretion.” *Kentucky Dep’t of Corr. v. Thompson*, 490 U.S. 454, 462 (1989). “[T]he most common manner in which a State creates a liberty interest is by establishing ‘substantive predicates’ to govern official decision-making, and, further, by mandating the outcome to be reached upon a finding that the relevant criteria have been met.” *Id.* (citation omitted). Here, Appellant established neither. Moreover, “[t]he denial of prison access to a particular visitor ‘is well within the terms of confinement ordinarily contemplated by a prison sentence.’” *Ky. Dep’t of Corr. v. Thompson*, 490 U.S. at 461, (quoting, in part, *Hewitt v. Helms*, 459 U.S. 460, 468, 103 S.Ct. 864, 74 L.Ed.2d 675 (1983)). Thus, this Court thus finds that there is no state-created liberty interest in visitation, much less visitation with specific persons of his choosing.

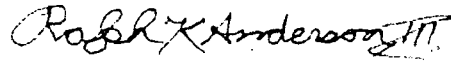
Here, Appellant has not been denied visitation. He has only been denied visitation with persons Appellant did not know prior to his incarceration; however, he may communicate with these persons via telephone or letter. Therefore, a state-created liberty interest has not been implicated in this case, and this Court takes a hands off approach to internal prison matters. *See Al-Shabazz*, 338 S.C. at 382, 527 S.E.2d at 757 (“Courts traditionally have adopted a ‘hands off’ doctrine regarding judicial involvement in prison disciplinary procedures and other internal prison

matters, although they must intercede when infringements complained of by an inmate reach constitutional dimensions.”). Accordingly, summary dismissal is appropriate in this case. See *Slezak*, 361 S.C. at 331, 605 S.E.2d at 508.

**IT IS THEREFORE ORDERED** that the Motion to Dismiss is **GRANTED**.

**IT IS FURTHER ORDERED** that this appeal is **DISMISSED WITH PREJUDICE**.

**AND IT IS SO ORDERED.**



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Ralph King Anderson, III  
Chief Administrative Law Judge

November 1, 2018  
Columbia, South Carolina