

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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

CASE NO 2018-001307

SANYIKA ASKARI #230679

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS

RESPONDENT,

RECORD ON APPEAL

RECEIVED

SEP 21 2018

SC Court of Appeals

SANYIKA ASKARI #230679
AULEDALE C.I., F2B-43
1057 REVOLUTIONARY TRAIL
FAIRFAX, S.C. 29827

ANNIE RUMLER
OFFICE OF GENERAL COUNSEL
S.C. DEPT. OF CORRECTIONS
4444 BROAD RIVER RD.
COLUMBIA, S.C. 29221-1787

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SEP 21 2018
SC Court of Appeals

CERTIFICATE OF COUNSEL

THE UNDERSIGNED HEREBY CERTIFIES THAT THE RECORD ON APPEAL CONTAINS ALL MATERIALS PROPOSED TO BE INCLUDED BY ANY OF THE PARTIES AND NOT ANY OTHER MATERIAL.

SEPT. 19TH, 2018

1/s/ S. A. Akari

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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

CASE NO. 2018-001307

SANYIKA ASKARI APPELLANT,

V.

S.C.D.C. RESPONDENT,

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E. HARVIN BELSER FAIR
JUDICIAL LAW CLERK
S.C. ADMIN. LAW COURT
1205 PENDLETON ST., STE 224
COLUMBIA, S.C. 29201

liberty interests² 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.*

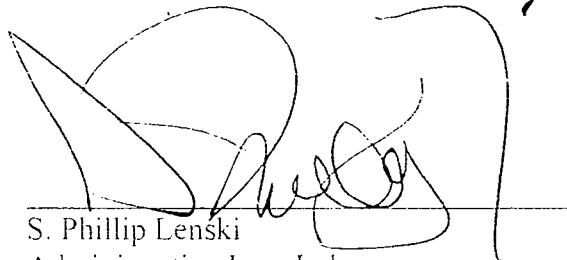
The Supreme Court further explained the court's jurisdiction in Slezak v. South Carolina Department of Corrections, 361 S.C. 327, 605 S.E.2d 506 (2004). Slezak emphasized that, while the court has jurisdiction over all properly filed inmate grievance appeals, the Court is not required to hold a hearing 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**

² 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.



S. Phillip Lenski
Administrative Law Judge

July 2, 2018
Columbia, South Carolina

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



Inmate Request

Today's Date: 8/10/18 15:17

Name: FULLER, HENRY
Booking #: 236679
Permanent #: 236679

Reference #: 17-551352
Date Requested: 05/04/17 17:58
Request Type: Classification
Requested By: Kiosk

Request Details: TO WHOM IT MAY CONCERN; IN FEBRUARY OF 2017 MRS. ARCHIE-CLASSIFICATION INFORMED ME THAT SHE RECEIVED ALL OF MY EXPUNGMENTS PAPERWORK AND MAILED A COPY TO SCDC HEAD QUARTERS TO BE PROCESSED. HOWEVER, AROUND THE BEGINNING OF APRIL 2017...MRS.ARCHIE STATED THAT SCDC INMATE RECORDS HAS NOT REMOVED THIS CLASS-1 ESCAPE STATUS FROM MY RECORDS AND THAT BECAUSE OF THIS I WILL BE PREVENTED FROM RECEIVING AN MO1B IN JANUARY 2018 WHEN I HAVE MY NEXT ANNUAL REVIEW. AROUND APRIL 24, 2017 MRS.BRANDY JAMES-PAROLE EXAMINER DID AN NCIC BACKGROUND CHECK ON ALL MY RECORDS, INCLUDING S.L.E.D. AND INFORMED ME THAT THERE ARE NO CONVICTIONS FOR ANY ESCAPES OR ASSAULT ON OFFICERS ANYWHERE AND THAT SCDC IS THE ONLY AGENCY THAT HAS NOT UPDATED MY RECORDS. I AM SUBMITTING THIS INFORMAL COMPLAINT BECAUSE THIS CLASS-1 ESCAPE HISTORY IS SUBJECTING ME TO PREJUDICE DUE TO THE FACT THAT I AM BEING DEPRIVED FROM RECEIVING FAVORABLE AND/OR LESSER RESTRICTED CLASSIFICATION AND JOB OPPORTUNITIES AT DESIGNATED FACILITIES

Disposition: Complete
Officer:
Disposition Date: 05/23/17 13:52

Request Responses

Date	Author	Note
05/23/17 11:54	c025609	I WILL CHECK ON THIS MATTER FOR YOU.

Inmate Request

Today's Date: 8/10/18 15:18

Name: FULLER, HENRY
Booking #: 236679
Permanent #: 236679

Reference #: 17-599670
Date Requested: 06/21/17 17:56
Request Type: Policy
Requested By: Kiosk

Request Details: mrs. english last week when i was in the wardens area, you instructed me to write to you referencing kiosk number 17-551352 classification. about my escape history being removed from my scdc records. i am respectfully thanking you in advance for your assistance with this time sensitive matter. may god bless you

Disposition: Complete
Officer:
Disposition Date: 06/22/17 15:51

Request Responses

Date	Author	Note
06/22/17 15:53	c011076	Please submit another request like the one you sent to Ms. Archie. With all the details. I can then elevate it. It must be presented as a new kiosk request for me to elevate it. C. English

Inmate Request

Today's Date: 8/10/18 15:19

Name: FULLER, HENRY
Booking #: 236679
Permanent #: 236679

Reference #: 17-605528
Date Requested: 06/27/17 19:15
Request Type: Inmate Records
Requested By: Kiosk

Request Details: mrs. english..around january 2017..mrs. archie stated that she received and mailed a copy of all my expungments paperwork to scdc head quarters to be processed. around april 2017...mrs. archie then informed me that scdc inmate records has not removed this class 1 escape history from my records and that when i go up for my annual review in jan.2018 that this escape history will prevent me from receiving my mo1b status and being reclassified to a lesser restricted facility. also around april 2017...mrs. brandy james did an ncic background check on all my records, including s.i.e.d. and informed me that there are no convictions for any escapes or assaults on officers anywhere and that scdc is the only agency that has not updated my records. im respectfully resubmitting this informal complaint as you instructed and im thanking you in advance for your assistance with this time sensitive matter. please reference kiosk msg 17-551352

Disposition: Complete
Officer:
Disposition Date: 08/10/17 11:37

Request Responses

Date	Author	Note
08/10/17 11:50	c058705	The information Ms. Archie provided is correct based on the escape on 04/09/97 at Evans Correctional Institution. You are a classified as a Class 1 escape. Your expungement was in reference to some other charges. Please note that your Warden's Jacket is 2 volumes.

Inmate Request

Today's Date: 8/10/18 15:19

Name: FULLER, HENRY
Booking #: 236679
Permanent #: 236679

Reference #: 17-665972
Date Requested: 08/25/17 21:51
Request Type: Grievance
Requested By: Kiosk

Request Details: this grievance is submitted in response to my request to inmate records. reference number 17-605528 dated 8/10/17. i do not have any convictions on my inmate records for escape in april 1997 from evans corr. facility that would justify me being classified as an class 1 escapee. im now being deprived of my equal protection and due process rights in violation of the constitution. holding these illegal convictions or falsified records against me is in fact depriving me of an opportunity to be reclassified to a lesser restricted facility and/or favorable job opportunities.

Disposition: Complete
Officer:
Disposition Date: 09/01/17 14:00

Request Responses

Date	Author	Note
09/01/17 14:03	c025638	Inmate Fuller: Please be reminded that you CANNOT file a grievance on the Kiosk system. You must first attempt to resolve your issue with the appropriate supervisor. Once you have received a response, you have eight (8) working days to file a grievance. M. Smart, IGC 09/01/17

Inmate Request

Today's Date: 8/10/18 15:21

Name: FULLER, HENRY
Booking #: 236679
Permanent #: 236679

Reference #: 17-677901
Date Requested: 09/07/17 09:22
Request Type: Classification
Requested By: Kiosk

Request Details: PLEASE CORRECT MY SCDC RECORDS TO REMOVE THE ESCAPE HISTORY THAT IS IN ERROR AND KEEPING ME FROM ADVANCING TO A MO1B CLASSIFICATION IN JAN 2018. I HAVE MADE NUMEROUS ATTEMPTS TO RESOLVE THIS ISSUE WITH CLASSIFICATION, IM RECORDS, GRIEVANCE, AND POLICY PLEASE REFER TO MSG...17-551352 , 17-605528, 17-665972, AND 17-599670. PLEASE MAKE THIS CORRECTION IMMEDIATELY AS THE ESCAPE CHARGE WERE DISMISSED AND SHOULD NOT BE ON MY RECOED

Disposition: Complete
Officer:
Disposition Date: 12/06/17 16:33

Request Responses

Date	Author	Note
12/06/17 16:35	c037463	YOU CAN WRITE THE SOLICITOR'S OFFICE AND ASK FOR AN EXPUNGEMENT APPLICATION AND FILL IT OUT WITH THE ESCAPE INFORMATION AND RETURN IT TO THE SOLICITORS, IF ELIGIBLE YOU WILL RECEIVE NOTIFICATION BACK STATING IT HAS BEEN TAKEN CARE OF

Inmate Request

Today's Date: 8/10/18 15:20

Name: FULLER, HENRY
 Booking #: 236679
 Permanent #: 236679

Reference #: 18-00928659
 Date Requested: 06/03/18 14:14
 Request Type: Inmate Records
 Requested By: Kiosk

Request Details: MRS. ENGLISH, GOOD MORNING. I PRAY YOU ARE WELL. AGAIN, I'M IN DESPERATE NEED OF YOUR ASSISTANCE. I'M STRIVING TO MEET A COURT DEADLINE- CASE NO. 18C0224/ GRIEVANCE NO. ACI-443-27. I'M RESPECTFULLY REQUESTING THE FOLLOWING FROM MY WARDEN'S JACKET TO ADEQUATELY PREPARE MY INITIAL BRIEF; 1. A COPY OF THE ACTUAL CHARGE PAPERS AND THEIR DISPOSITIONS, INCLUDING THE NARRATIVES OF EACH ONE, FROM EVANS CORR. INST. AROUND APRIL 1997; A- ESCAPE WITH FORCE B- POSSESSION OF ESCAPE TOOLS C- DISOBEYING A DIRECT ORDER D- RESISTING ARREST 2. A COPY OF THE TAPE FROM MY DISCIPLINARY HEARING OF THESE CHARGES AROUND APRIL OF 1997 3. A COPY OF KIOSKS REQUESTS; A- 17-551352 B- 17-599670 C- 17-605528 D- 17-665972 E- 17-677901 YOUR PROMPTNESS IN RESPONDING TO THIS REQUEST WILL BE GREATLY APPRECIATED. I'M THANKING YOU IN ADVANCE. GOD BLESS

Disposition: Complete
 Officer:
 Disposition Date: 06/05/18 11:15

Request Responses

Date	Author	Note
07/27/18 13:53	c056368	You do not have any disciplinary convictions for the above mentioned items. Please see your caseworker with additional questions.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

PMOD 8-30-26

STEP 1

INMATE NAME: <u>SANYIKA ASKARI (H. F. # 12345)</u>	RECEIVED DEC 19 2017	OFFICE USE ONLY Grievance No. <u>FCI-043-17</u>
SCDC NUMBER: <u>236679</u>		Code: General _____ Policy _____ Disc. Hear. _____ Class. <u>1/1</u> PREA _____
INSTITUTION: <u>A.C.I.</u>	WARDEN'S OFFICE	Date Received <u>01/02/18</u>
HOUSING UNIT: <u>HAB - 55</u>		IGC Initials <u>MS - 02/16/18</u>
WORK ASSIGNMENT: <u>PRE-RELEASE FACILITATOR ACID</u>	<u>F2B43</u>	

STATEMENT OF GRIEVANCE (Indicate the date of incident, and if the grievance is a challenge to SCDC Policy, specify which policy. Include supporting documentation and attach answered RTSM or Kiosk reference number.)

I submit this grievance due to the on-going prejudice/deliberate indifference I'm being subjected to, by S.C.D.C. Officials holding a Class-1 Escape History against me. Since 1996 to current date, all charges of escape have been dismissed at the DHO Hearing and Legally Expunged by the Courts. All attempts to rectify this matter by removing such info from my I/M Records has been ignored.

A. - See Kiosk Messages: 17-551352; 17-599670; 17-605528; 17-665972; and 17-677901

B. - See the letter dated Sept. 10, 2017, to which S.C.D.C. is now in default for failing to promptly respond. I sent this letter to I/M Records - Mrs. Joette Scarborough, requesting to amend SCDC Record / File to remove Class-1 Escape History under Privacy Act 1974 and 5 USC § 552 A (D)(2) 1988.

[Signature] 12-16-17
Grievant Signature Date

ACTION REQUESTED: REMOVE CLASS-1 ESCAPE HISTORY FROM ALL S.C.D.C. RECORDS BY MY NAME & NUMBER

ACTION TAKEN BY IGC: PROCESSED UNPROCESSED OTHER
Investigation completed by Inmate Grievance Coordinator (IGC). Findings and documentation forwarded to Warden for a response.

[Signature] *[Signature]*
IGC Signature Date

(CONTINUE ON REVERSE SIDE)

RECEIVED

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

02/18/18

FEB 23 2018

INMATE GRIEVANCE FORM

STEP 2

DIVISION OF CLASSIFICATION & INMATE RECORDS

Office Use Only

INMATE GRIEVANCE

Grievance No.

ACT-0443-17

INMATE NAME:

S. ASKARI (H. FULLER) 236679

Code: General

SCDC NUMBER:

236679

Policy

INSTITUTION:

ALENDALE ✓

FEB 16 2018

Disc. Hear.

Class

PREA

Date Received: 02/06/18

HOUSING UNIT:

BARNWELL B-43 WARDEN'S OFFICE

IGC Initials: MS

Date Received: 2/23/18

WORK ASSIGNMENT:

MENTOR/FACILITATOR (YOIS)

IGA Initials: Jm

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

I'M FILING THIS APPEAL IN SUPPORT OF MY STEP 1 GRIEVANCE TO EXHAUST MY ADMINISTRATIVE REMEDIES. THANK YOU.

Grievant Signature

S. Askari (HENRY FULLER)

Date

2-13-18

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

I have reviewed your concern. In your grievance you stated that your SCDC Inmate Record is incorrect as it still shows an Escape (Attempted Escape) of 4/9/1997. You further stated that you have successfully had the escape charge expunged by a court in South Carolina. You would like SCDC Staff to remove the Escape charge from your SCDC Inmate Record. The Warden responded to your concern on SCDC Step 1 Inmate Grievance Form 10-5 dated 2/12/18. The expungement documents that you submitted reflects an expungement from Warrants issued by Greenville County in a matter involving The State of South Carolina vs. Henry Antonio Fuller aka Sanyika Askari. The litigation that appears on the document that you submitted are for dates of arrests in 1996 which occurred before your escape from SCDC on 4/9/1997. You have not shown that SCDC Staff have performed their job duties inappropriately.

Therefore, your grievance is denied.

You may appeal this decision under the South Carolina Administrative Procedures Act to the South Carolina Administrative Law Court. In order to appeal, you must complete the attached Notice of Appeal Form (Form) and submit it as instructed on the Form within thirty (30) days of receipt.

Responsible Official Signature

[Signature]

Date

4/5/18

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

S. Askari (Henry Fuller) #236679 4-11-18

Grievant Signature

Date

IGC Signature

Date

04/11/18

(SEE REVERSE SIDE FOR INSTRUCTIONS)

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

SANYIKA ASKARI (H.FULLER),)

236679)

Appellant,)

vs.)

South Carolina Department of Corrections,)

Respondent.)

NOTICE OF APPEAL

DOCKET NO. ALJ-04-
GRIEVANCE NO.: ACT-0443-17

Notice is hereby given that SANYIKA ASKARI (H.FULLER) #236679 does hereby appeal the final decision of the South Carolina Department of Corrections dated 4/5/18 and received on 4/11/18, a copy of which is attached. A general statement of the grounds for appeal is (See S.C. Code Ann. § 1-23-380(A)(6)): I WAS CHARGED WITH ESCAPE W/FORCE AND POSS. OF ESCAPE TOOLS ON 4/9/97. THE DISC. HEARING OFFICER AT EVANS DETERMINED I WAS NOT ATTEMPTING TO ESCAPE & WAS NOT IN POSS. OF ESCAPE TOOLS AND FOUND ME 'NOT GUILTY' OF BOTH THESE CHARGES. ALL CHARGES OF ESCAPE & ASSAULT FROM GREENVILLE COUNTY WAS ORDERED TO BE EXPUNGED BY THE COURTS. SCDC HAS INAPPROPRIATELY USED THESE ACCUSATIONS COLLECTIVELY FOR OVER 20 YRS TO JUSTIFY HOUSING ME IN A SUPERMAXIMUM FACILITY FOR 6 YRS AND HAS DEPRIVED ME OF AN OPPORTUNITY TO WORK IN THE P.I. PROGRAM AFTER I WAS HIRED AND NOW HINDERING MY RECLASSIFICATION. BY SCDC MAINTAINING THESE CHARGES IN THEIR OFFENDER MANAGEMENT SYSTEM AGAINST ME IS IN VIOLATION OF MY CONSTITUTIONAL RIGHTS TO DUE PROCESS & EQUAL PROTECTION OF THE LAWS. RESOLUTION ATTEMPTED VIA LETTERS & KIOSKS.

SANYIKA ASKARI (H.FULLER) #236679
Appellant's Name ALLENDALE C.I., F2B-43
1057 REVOLUTIONARY TRAIL
FAIRFAX, S.C. 29827
Mailing Address

Signed

S. Askari

Dated

4-28-18

City, State, Zip Code

CERTIFICATE OF SERVICE

I hereby certify that I, S. ASKARI (your name), on the 30TH day of APRIL, 2018, in ALLENDALE (city), South Carolina, served a copy of the foregoing Notice of Appeal on all parties to this matter by depositing the same in the United States Mail, postage paid, or in the mail room of the undersigned's institution and addressed as follows:

Name of person/Agency served:

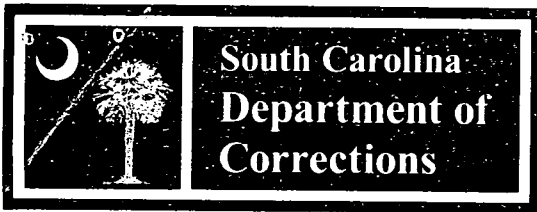
CLERK'S OFFICE

Address:

SOUTH CAROLINA ADMIN LAW COURT
1205 PENDLETON STREET, SUITE 224
COLUMBIA, SC 29201

City, State, Zip Code:

Print your name Sign your name
(See reverse side for instructions)



HENRY McMASTER, Governor
BRYAN P. STIRLING, Director

June 14, 2018

The Honorable S. Phillip Lenski
South Carolina Administrative Law Court
Edgar A. Brown Building, Suite 224
1205 Pendleton Street
Columbia, South Carolina 29201

Reference: Inmate Henry Fuller a.k.a. Sanyika Askari, #236679, vs. SCDC
Docket No. 18-ALJ-04-0224-AP

Dear Judge Lenski:

Find enclosed an original and one copy of the *Respondent's Motion to Dismiss* on the above referenced case. Please file the original in your office and return a clocked-in copy to me in the enclosed self-addressed envelope.

If you have any questions or concerns, please do not hesitate to contact me at (803) 896-3922.

Sincerely,

Cheron Hess
Administrative Assistant
Office of General Counsel

Enclosures


cc: Inmate Henry Fuller a.k.a. Sanyika Askari, #236679
File

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Henry Fuller a.k.a. Sanyika Askari, #236679,)	
)	
Appellant,)	
)	Certificate of Service
vs.)	
)	Docket# 18-ALJ-04-0224-AP
South Carolina Department of Corrections,)	
)	
Respondent.)	

I hereby certify that a copy of the foregoing motion was this date served upon the following individuals by placing a copy of the same via mail to his/her last known address as follows:

Inmate Henry Fuller a.k.a. Sanyika Askari
Inmate Number: 236679
Allendale Correctional Institution
Dorm-Room-Bunk: BWB-0043-A



Cheron Hess
Administrative Assistant
Office of General Counsel
South Carolina Department of Corrections
4444 Broad River Road
P.O. Box 21787
Columbia, South Carolina 29221-1787
(803) 896-3922

June 14, 2018

jurisdiction was limited to (1) cases in which an inmate contends prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; (2) cases in which SCDC has taken an inmate's *state-created* liberty interest in major disciplinary hearings; and (3) cases in which an inmate's confinement implicates a *state-created* liberty interest. See *Sullivan*, 355 S.C. at 443, 586 S.E.2d at 127 (emphasis added).

Moreover, regarding categories (2) and (3), *supra*, the South Carolina Supreme Court has consistently emphasized that the liberty or property interest implicated must be one that is *state created*. See *Wicker v. S.C. Dep't of Corr.*, 360 S.C. 421, 602 S.E.2d 56 (2004) (emphasizing that the ALC's jurisdiction extends only to those cases involving the denial of "state created liberty interests" and that the Court's holding [*i.e.*, in *Wicker*] "is not to be viewed as expanding the jurisdiction of the [ALC] in any other circumstance."); *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 605 S.E.2d 506 (2004) (holding that the ALC "may summarily dismiss those appeals that do not implicate an inmate's *state created* liberty or property interest") (emphasis added).

SCDC interprets *Slezak* as encouraging, for the sake of judicial economy, the ALC to summarily dismiss inmate cases that do not involve a state-created liberty or property interest. Recently, the South Carolina Court of Appeals has interpreted *Slezak* to mean that where a state-created liberty interest is not implicated in a prisoner appeal, a judge of the ALC "should" dismiss the appeal. *Skipper v. S.C. Dep't of Corr.*, 370 S.C. 267, 633 S.E.2d 910 (Ct. App. 2006).

ARGUMENTS

This case is a prime example of a case that should be dismissed under *Slezak* and *Skipper*. Appellant argues that SCDC has improperly considered an old escape charge in order to "justify housing [him] in a supermaxium [*sic*] facility for 6 yrs and has deprived

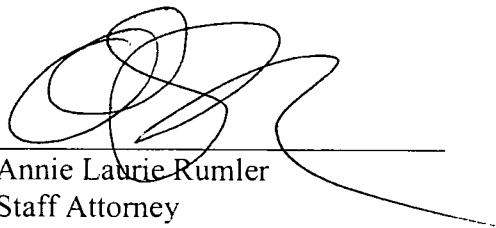
[him] of an opportunity to work in the P.I. Program...[.]” Appellant’s Notice of Appeal. Appellant has no liberty interest in having a particular security or custody status as long as the security or custody status does not implicate a constitutional right or exceed the limits of his sentence. *Brown v. Evatt*, 322 S.C. 189, 194, 470 S.E.2d 848, 851 (1996). Appellant’s classification as an offender who should be housed in a “supermax” institution or one who is not appropriate for participation in the Prison Industries program does neither. Thus, this classification is a matter best left to the discretion of prison officials. *Id* at 194, 470 S.E. 2d at 851. Therefore, because no state-created liberty or property interest is implicated in this case, the Court should dismiss this appeal, with prejudice.

CONCLUSION

No state-created liberty or property interest is implicated in this case. Thus the Court should dismiss this appeal pursuant to *Slezak* and *Skipper*.

Respectfully Submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**



Annie Laurie Rumler
Staff Attorney
S.C. Department of Corrections
4444 Broad River Road
Columbia, South Carolina 29221
(803) 896-1355

Columbia, South Carolina
June 14, 2018

THE STATE OF SOUTH CAROLINA
IN THE ADMINISTRATIVE LAW COURT

APPEAL FROM SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS

THE HONORABLE S. PHILLIP LENSKI
ADMINISTRATIVE LAW JUDGE

CASE NO. 18CO224

GRIEVANCE NO. ACI 443-27

SANYIKA ASKARI APPELLANT,

V.

S.C. DEPT. OF CORR. RESPONDENT,

MOTION TO HOLD APPEAL
IN ABEYANCE

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

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

SANYIKA ASKARI #236679

V.

S.C. DEPT. OF CORRECTIONS

HON. S. PHILLIP LENSKI
ADMINISTRATIVE LAW JUDGE

CASE NO. 18CO224

GRIEVANCE NO. ACI 443-27

MOTION TO HOLD APPEAL
IN ABEYANCE

COMES NOW APPELLANT BEFORE THIS HONORABLE COURT REQUESTING THAT APPEAL BE HELD IN ABEYANCE FOR THE FOLLOWING REASONS.

IT HAS BEEN DISCOVERED THAT THE RECORD ON APPEAL IS NOT IN PROPER FORM OR CORRECT CONCERNING THE DEPARTMENT OF CORRECTIONS'S DOCUMENTATION IN CONNECTION WITH THE APPELLANT'S DISCIPLINARY HISTORY.

THE DEPARTMENT OF CORRECTIONS CONTINUES TO WITH-HOLD THE DISCIPLINARY OFFICER'S HEARING DOCUMENTS AND TAPE RECORDING THAT IS WITHIN THE DEPARTMENT'S POSSESSION.

SUCH DOCUMENTS AND RECORDING(S) ARE IN THE WARDEN'S JACKET IN ITS ORIGINAL FORM AND ARE NECESSARY FOR BOTH PARTIES POSITION.

APPELLANT REQUESTS THAT THIS DOCUMENTATION AND RECORDING(S) BE PUT ON THE RECORD ON APPEAL BECAUSE IT IS THE SUBJECT OF THIS APPEAL. AND THE DEPARTMENT OF,

CORRECTIONS SHOULD NOT BE ALLOWED TO WITH-HOLD THE VERY RECORDS IT INTENDS TO USE AS A DOCTORED PRINT-OUT FORM FROM A COMPUTER, KNOWING THAT THE ORIGINAL DISCIPLINARY HEARING OFFICER'S RECORDS DURING SUCH HEARING EXISTS.

s/ S. Askari
SANYIKA ASKARI #236679

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

SANYIKA ASKARI

V.

S.C.D.C.

IN THE ADMINISTRATIVE LAW COURT
HON. S. PHILLIP LENSKI
ADMINISTRATIVE LAW JUDGE

CASE NO. 18CO224

GRIEVANCE NO. ACI 443-27

DECLARATION IN SUPPORT
OF MOTION TO HOLD APPEAL
IN ABEYANCE

I SANYIKA ASKARI #236679, DECLARE UNDER PENALTY OF PERJURY THAT THE FOLLOWING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE:

1. ON OR AROUND JUNE 20, 2018, ALLENDALE'S HEAD CLASSIFICATION MANAGER, MS. JAMISON STATED SHE CAN NOT PROVIDE ME WITH A COPY OR ALLOW ME TO SEE THE ACTUAL CHARGE PAPERS, INCIDENT REPORTS, AND THEIR DISPOSITIONS, TO INCLUDE LISTENING TO THE ADJUSTMENT COMMITTEE'S HEARING TAPE FROM EVANS CORR. INSTITUTION IN APRIL - MAY 1997, THAT'S IN MY WARDEN'S JACKET WITHOUT PERMISSION FROM S.C.D.C. HEAD QUARTERS.
2. I SENT A LETTER OF REQUEST TO MRS. A. WHITE, SVPA COORDINATOR OF S.C.D.C. EXPUNGEMENT ON MAY 2, 2018, IN WHICH MR. W.W. THOMAS, RA III INMATE RECORDS OFFICE RESPONDED (SEE ATTACHED CORRESPONDENCE AS EXHIBIT A)
3. I SENT A REQUEST TO STAFF TO MR. W.W. THOMAS AND MRS. W. BLANDING, S.C.D.C. EXPUNGEMENT ON JUNE 10, 2018 (SEE ATTACHED REQUEST FORMS AS EXHIBITS B AND C)

4. I SENT THE FOLLOWING KIOSK MSG REQUESTS:

(A) 17-551352 → MAY 4, 2017

(B) 17-599670 → JUNE 21, 2017

(C) 17-605528 → JUNE 27, 2017

(D) 17-665972 → AUG. 25, 2017

(E) 17-677901 → SEPT. 7, 2017

(F) 18-00928659 → JUNE 3, 2018

(SEE ATTACHED KIOSK MSGS AS EXHIBITS D-I)

JUNE 24, 2018

S. Askari

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

SANYIKA ASKARI (H.FULLER) #236679
ALLENDALE C.I., F2B-43
1057 REVOLUTIONARY TRAIL
FAIRFAX, S.C. 29827

MAY 2, 2018

MRS. A. WHITE, SVPA COORDINATOR
S.C.D.C. EXPUNGEMENT
4444 BROAD RIVER RD.
COLUMBIA, S.C. 29221-1787

RE: OFFENDER MANAGEMENT SYSTEM

MRS. WHITE;

THANK YOU FOR TAKING A PERSONAL INTEREST IN MY SITUATION. I PRAY YOU WILL TAKE THIS LETTER IN THE HELPFUL SPIRIT IN WHICH IT IS MEANT... WITH THE BEST INTENTIONS. I AM NOW RESPECTFULLY APPEALING TO YOU FOR HELP. MAYBE YOU'D LIKE TO HEAR MY SIDE OF THE STORY. I AM SURE SOMEONE DECENT LIKE YOURSELF WOULD LIKE TO KNOW WHAT HAS ACTUALLY OCCURRED, SINCE YOU ARE NOT THE PERSON WHO CAUSED THE PROBLEM. HERE ARE THE FACTS:

1996 → WHILE REPRESENTING MYSELF IN A MURDER CASE, GREENVILLE COUNTY HIT ME WITH SEVERAL BOTCHED CHARGES FOR DISCREDITING PURPOSES. I LOST MY TRIAL, BUT WON ON APPEAL.

1997 → WHILE ON S.M.U. AT EVANS C.I., MR. PHILLIP McCLEOD TOLD HIS OFFICERS TO TAKE MY BLOOD AND HAIR SAMPLES BY FORCE WITHOUT A COURT ORDER, WHILE I WAS NAKED. THE NURSE ATTEMPTED

TO STICK ME WITH THE NEEDLE AND I RESISTED AND RECEIVED 4 CHARGES.

- ① RESISTING ARREST
- ② DISOBEYING A DIRECT ORDER
- ③ ESCAPE WITH FORCE
- ④ POSSESSION OF ESCAPE TOOLS

LT. NOLAN CLAIMED HE SEEN SOMETHING SHINY IN MY MOUTH. ALTHOUGH MY MOUTH IS FULL OF SHINY FILLINGS (TOP $\frac{1}{2}$ BOTTOM). THE DISCIPLINARY HEARING OFFICER FOUND ME "NOT GUILTY" AFTER DETERMINING I WAS NOT ATTEMPTING TO ESCAPE, NOR WAS I IN POSSESSION OF A HANDCUFF KEY THAT WAS LATER MYSTERIOUSLY FOUND INSIDE A MOP BUCKET IN THE KITCHEN AREA 25 FEET AWAY IN THE OPPOSITE DIRECTION. HOWEVER, I WAS FOUND GUILTY OF RESISTING AND DISOBEYING.

NOW I MUST APOLOGIZE AT THIS POINT AND ADMIT THAT MY ACTIONS MAY HAVE IN SOME SMALL WAY AGGRAVATED THE SITUATION. BUT THEIR ACTIONS WEREN'T SANCTIONED BY THE COURTS. I WAS VERY YOUNG AND FELT AS IF I WAS BACKED INTO A CORNER.

DESPITE ALL OF THIS, MR. McCLEOD INAPPROPRIATELY INSTRUCTED HIS STAFF

TO INCLUDE THE ATTEMPTED ESCAPE NOTION IN THE NARRATIVE OF THESE CONVICTIONS. AS YOU KNOW, THIS IS VERY DECEPTIVE (AND ILLEGAL). I ASK THAT YOU TAKE A CLOSER LOOK AT YOUR COMPUTER SCREEN AND THAT THIS VERY IMPORTANT SITUATION BE INVESTIGATED, AND THAT EVERY REASONABLE EFFORT BE MADE TO REMOVE THIS SO-CALLED ATTEMPTED ESCAPE HISTORY FROM YOUR OFFENDER MANAGEMENT SYSTEM (OFF MY RECORDS COMPLETELY).

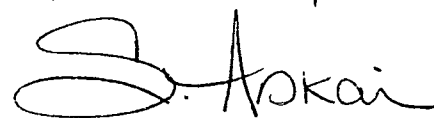
MRS. WHITE, I UNDERSTAND THAT ONE OF THE GREATEST BURDENS OF COMMAND... IS EMBRACING TOUGH DECISIONS. YOU HAVE A MORAL OBLIGATION TO DO WHAT IS RIGHT. THE TRUTH IS ... WHAT M'CLEOD DID TO ME WAS AN ABRITATION OF AUTHORITY. AND IF THAT WASN'T ENOUGH, HE ALSO USED THE EXPUNGED CHARGES FROM GREENVILLE COUNTY TO JUSTIFY HOUSING ME IN KIRKLAND'S SUPERMAXIMUM FACILITY FOR 6 YEARS. AND WHAT I WENT THROUGH BACK THERE I WOULDN'T WISH UPON MY WORST ENEMY. AND THEN HE REVOKED ~~A~~ OF MY IMMEDIATE FAMILY MEMBERS VISITATIONAL RIGHTS WITHOUT CAUSE. I CHALLENGE YOU TO PLEASE FIND A REASON, MRS. WHITE, PLEASE.

I'VE ENDURED INEXCUSABLE TREATMENT FOR THE PAST 20 YEARS BECAUSE OF THIS AND IT HAS CAUSED ME AND MY FAMILY A GREAT DEAL OF DIFFICULTY AND EMBARRASSMENT.

MR. PHILLIP McCLEOD IS NO LONGER EMPLOYED & WITH S.C.D.C. FOR MANY UNPROFESSIONAL AND INCOMPETENT REASONS. HIS DISSERVICE TO THE DEPT. CAUSED HIS TERMINATION HERE, AND HIS VERY OWN INCARCERATION SOMEWHERE OUT-OF-STATE TO MY KNOWLEDGE.

MA'AM ... ANYTHING YOU CAN DO TO RESOLVE / CORRECT THIS PROBLEM WILL BE GREATLY APPRECIATED. HOPING TO HEAR FROM YOU SOON. TAKE CARE.

RESPECTFULLY SUBMITTED,

 #236679

CC: FILE
B. STERLING
M. McCALL
W. BLANDING

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
DIVISION OF CLASSIFICATION AND INMATE RECORDS

INMATE CORRESPONDENCE

INMATE: Fuller, Henry SCDC #236679
INSTITUTION: Allendale Correctional Institution
FROM: W.W. Thomas, RA III
SUBJECT: Offender Management System
DATE: May 11, 2013

I have reviewed your record. If you disagree with any decision(s) please contact the
Grievance Coordinator at your institution.

W.W. Thomas

W.W. Thomas, RA III
Inmate Records Office

cc: Central Record
Warden Jacket

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER

TO: NAME: W.W. THOMAS, RA III	TITLE: INMATE RECORDS OFFICE	DATE: 6-10-18
INMATE'S NAME: SANVIKA ASKARI (HENRY FULLER)		SCDC #: 236679
INSTITUTION: ALLENDALE		LIVING QUARTERS: BARNWELL B-43

I'M STRIVING TO MEET A COURT DEADLINE - CASE NO. 18CO224 / GRIEVANCE NO. ACI 443-27.

I'M RESPECTFULLY REQUESTING A COPY OF THE FOLLOWING IN ORDER TO ADEQUATELY PREPARE MY INITIAL BRIEF:

1. THE ACTUAL INCIDENT REPORTS AND/OR CHARGE PAPERS AND THEIR RESPECTIVE DISPOSITIONS (I.E., THE NARRATIVES OF EACH ONE) FROM EVANS CORRECTIONAL INST. AROUND APRIL-MAY 1997:
 - (A) ESCAPE WITH FORCE
 - (B) POSSESSION OF ESCAPE TOOLS
 - (C) RESISTING ARREST
 - (D) DISOBEYING A DIRECT ORDER.
 2. THE ACTUAL TAPE RECORDING FROM MY ADJUSTMENT COMMITTEE HEARING OF THESE ABOVE-MENTIONED CHARGES ON APRIL - MAY 1997.
- THANK YOU.

DISPOSITION BY STAFF MEMBER:

DATE:

SIGNATURE:

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

SANYIKA ASKARI

V.
S.C.D.C.

IN THE ADMINISTRATIVE LAW COURT
HON. S. PHILLIP LENSKI
ADMINISTRATIVE LAW JUDGE

CASE NO. 18CO224

GRIEVANCE NO. ACI-443-27

MOTION FOR EXTENSION
OF TIME

THE APPELLANT SANYIKA ASKARI, PURSUANT TO RULE 6 (B) OF THE SOUTH CAROLINA RULES OF CIVIL PROCEDURE MOVES THE COURT FOR AN ORDER EXTENDING THE TIME FOR THIRTY (30) DAYS. IN SUPPORT OF THIS MOTION, THE APPELLANT SANYIKA ASKARI SHOWS THE COURT THE FOLLOWING

1. THIS MOTION IS BEING SUBMITTED WITHIN THE APPLICABLE TIME LIMITS FOR FILING, AS THE LAST DAY FOR APPELLANT TO FILE A BRIEF IS AUGUST 17, 2018, FROM THE DATE OF ASSIGNMENT.
2. THE GROUND FOR THE MOTION IS THAT APPELLANT'S DORM HAS BEEN ON MODIFIED LOCKDOWN (DISRUPTIVE MOVEMENT/SCHEDULING) FOR A WEEK. AND BARNWELL UNIT (B-SIDE) IS ONLY AFFORDED LAW LIBRARY ACCESS FOR AN HOUR ON MONDAY AND FRIDAY. THESE EXCEPTIONAL CIRCUMSTANCES IS BEYOND HIS CONTROL, AND THE FACT THAT THE REQUESTED EXTENSION WILL NOT

DELAY THE TRIAL OF THIS MATTER.

3. THE APPELLANT SANYIKA ASKARI REQUESTED THAT THE S.C.D.C. CONSENT TO THE REQUESTED EXTENSION BY LETTER DATED JUNE 13, 2018 A COPY OF WHICH IS ATTACHED AS EXHIBIT **A** AND S.C.D.C. REFUSED / FAILED TO RESPOND.

4. A PROPOSED ORDER GRANTING THE EXTENSION IS ATTACHED TO THIS MOTION AS EXHIBIT **B**

WHEREFORE, THE APPELLANT MOVES THE COURT TO ENTER AN ORDER ALLOWING APPELLANT THROUGH AND INCLUDING SEPTEMBER 17, 2018 TO RESPOND TO MOTION OF EXTENSION AND SUCH OTHER AND FURTHER RELIEF IN FAVOR OF APPELLANT AS THE COURT DEEMS JUST AND APPROPRIATE.

THIS 20TH DAY OF JUNE, 2018

s/ S. Askari

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

SANYIKA ASKARI (H.FULLER) #236679
ALLENDALE C.I. , F2B-43
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JUNE 13, 2018

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JUN 19 2018

GENERAL COUNSEL
06/20/18

S.C. DEPT. OF CORRECTIONS
GENERAL COUNSEL
444 BROAD RIVER ROAD
COLUMBIA, S.C. 29221-1787

RE: REQUESTING CONSENT FOR
EXTENSION OF TIME
CASE NO. 18C0224 / GRIEVANCE NO. ACI 443-27

SIR,

I AM WRITING TO RESPECTFULLY
REQUEST YOUR 'CONSENT' TO AN
EXTENSION OF TIME. I SPECIFICALLY
REQUESTED DOCUMENTS FROM MY
WARDEN'S JACKET THAT'S THE SUBJECT
OF MY APPEAL, AND ALL OF MY PLEAS
HAVE FALLEN ON A DEAF EAR. I'M
THANKING YOU IN ADVANCE, AND
ANYTHING ELSE YOU CAN DO TO SPEED
MATTERS UP / RESOLVE THIS PROBLEM
WILL BE GREATLY APPRECIATED.

I AM HUMBLLY,

s/ S. Askari
SANYIKA ASKARI
#236679

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

/s/ S. Askari

OTHER COUNSEL
OF RECORD

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

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

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JUL 16 2018

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
S. PHILIP LENSKI, ADMINISTRATIVE LAW JUDGE

CASE NO 2018-001307

SANYIKA ASKARI, #230679

APPELLANT,

V

SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS

RESPONDENT,

CERTIFICATE OF COUNSEL

THE UNDERSIGNED CERTIFIES THIS RECORD
ON APPEAL COMPLIES WITH SCACR.

SEPTEMBER 17TH, 2018

S Askari

SANYIKA ASKARI #230679
ALLENDALE C.I., F2B-43
1057 REVOLUTIONARY TRAIL
FAIRFAX, S.C. 29827-1151

SWORN AND SIGNED BEFORE ME
ON THIS 17TH DAY OF SEPT., 2018

Tracy Jane Holt
S.C. NOTARY PUBLIC

MY COMM. EXPIRES: My Commission Expires 6/28/2021.

RECEIVED

SEP 21 2018

SC Court of Appeals