

The State of South Carolina

In The Court of Appeals

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Appeal From Administrative Law Court  
Administrative Law Judge Deborah Brooks Dueden

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Case NO. 12-ALJ-04-0606-AP

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Billy Lee Lisenby JR, #200273 ..... Appellant,

v.

South Carolina Department of Corrections ..... Respondent

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Appellant's Supplement Record ON Appeal

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Dated: Feb. 5<sup>th</sup>, 2014.

Billy Lee Lisenby JR, #200273

990 Wisacky Hwy

Lee Cree Inst

Bishopville S.C. 29010

Pro-SE

General Counsel

4444 Broad River Rd

Columbia S.C. 29221-1787

**RECEIVED**

FEB 20 2014

**SC Court of Appeals**

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## Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Dated: Feb. 5<sup>th</sup> 2011

(s) Billy Lee Lisenby  
Billy Lee Lisenby JR. #200270  
990 Wsacky Hwy.  
Lee C. I  
Bishopville S.C. 29010

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
INCIDENT REPORT

022408

Page 1 of 1

Institution/Center: Keewi

Date of Report: 2/24/12 Time of Report: 6:45 pm.

Reporting Official: William Churchill 047859 Date of Incident: 2/24/12

Location of Incident: OAKA Time of Incident: 6:40 pm

Inmate(s)/Resident:	SCDC#	Age	Race	Sex	Employee(s) Involved:
1. <u>Billy Lisenby</u>	<u>200273</u>		<u>B</u>	<u>M</u>	1.
2.					2.
3.					3.
4.		<u>0411</u>			4.
5.					5.

On the above date and approximate time: During the evening pill line inmate Billy Lisenby scdc # 200273 was trying to go to the pill line with a 1300 pm pill line pass. Inmate Billy Lisenby (200273) was advised that the nurse would reschedule his medicine pick up because he had missed the movement. Inmate Billy Lisenby stated that he would be beat my fat chucker ass that he need to go. Inmate B. Lisenby continued to curse at me. Inmate Billy Lisenby (200273) was identified by his scdc flash card and is being charged with 809, threatening to inflict harm.

RECEIVED

FEB 20 2012

Signature: W. Churchill

SC Court of Appeals

Evidence: \_\_\_\_\_

Witness(es): 1.

Supervisor's Comments: FORWARD TO MAJOR for further

ACTION \_\_\_\_\_

Signature: T. Smith Title: U Date/Time: 2:00pm

Major / Responsible Authority: FORWARDED TO DHO  
I'm charged with 809

Signature: [Signature] Title: MMJ Date: 2/28/12

STG Related - Refer to STG Committee  
 Yes  No  Unknown

This Incident is DRUG related  
 Yes  No  Unknown

DMH 10.0

Action Taken  
 Informal Resolution  
 Administrative Resolution  
 Refer to Disciplinary Hearing 2/28

Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Date: 5/22/2016 300

# 030611

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
INCIDENT REPORT

Page 1 of 1

Institution/Center: <i>Kershaw CI</i>					
Date of Report: <i>3-6-12</i>			Time of Report: <i>10:15 A.M.</i>		
Reporting Official: <i>Sgt. Kristopher Sweet #032784</i>			Date of Incident: <i>3-6-12</i>		
Location of Incident: <i>OAK A</i>			Time of Incident: <i>9:30 A.M.</i>		
Inmate(s)/Resident:	SCDC#	Age	Race	Sex	Employee(s) Involved:
1. <i>Lisenby, Billy</i>	<i>#200273</i>		<i>B/m</i>		1. <i>Sally Crowe #048262</i>
2.					2.
3.					3.
4.					4.
5.					5.

On the above date and approximate time: *I, Sgt. Kristopher Sweet #032784, wrote a pass for inmate Billy Lisenby #200273 to report to His DHO hearing. Inmate Lisenby arrived in visitation for his hearing, but left shortly after. Per Ofc. Sally Crowe #048262, Inmate Lisenby did not attend his hearing before leaving.*

Signature: *Sgt. Kristopher Sweet*

Evidence:  
Witness(es): *2*

Supervisor's Comments:

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Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Date/Time: \_\_\_\_\_

Major / Responsible Authority:

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STG Related - Refer to STG Committee  
 Yes     No     Unknown

This Incident is DRUG related  
 Yes     No     Unknown

**Action Taken**

Informal Resolution  
 Administrative Resolution  
 Refer to Disciplinary Hearing

Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
DISCIPLINARY HEARING PROCEDURE  
DOCKET No.: 12-ALJ-04-0606-AP      GRIEVANCE No.: KRCI-0369-11  
INMATE NAME: Billy Lisenby      SCDC No.: 200273  
INSTITUTION: Kershaw Correctional Institution  
DATE: March 6, 2012  
CHARGE: 809-Threatening to Inflict Harm on/Assaulting an Employee and/or  
Members of the Public**

DHO: The purpose of this hearing is to treat this matter before me with fundamental fairness and arrive at a just decision. All parties must conduct themselves properly. Failure to do so will result in removal. I am Mrs. Sellers, Disciplinary Hearing Officer for Kershaw Correctional Institution. This is the Disciplinary Hearing of Inmate Billy Lisenby, 200273, uh, being recorded on March the 6<sup>th</sup>, 2012, at approximately 11:05 a.m. Inmate Lisenby, um, reported to the hearing area and exited without permission. He's being represented by Counsel Substitute Armstrong and this hearing will be conducted in his absence due to the Incident Report that was survive...provided from Sergeant Sweet, which will be read for the record by Mr. Armstrong, who is representing Inmate Lisenby. Mr. Armstrong, would you read it now for the record, sir?

C/S: Yes ma'am. We got a Incident Report from Sergeant Kristopher Sweet, dated 03/06/2012 at 10:15 a.m. Um, it's in reference to Billy Linsby, 200273, black male. I, Sergeant Kristopher Sweet, wrote a pass for Inmate Billy Linsby, 200273, to report to his DHO Hearing. Inmate Lisby by...arrive...arrived in visitation for his hearing but left shortly after per Officer Sally Crowe. Inmate Linsby did not attend his hearing before leaving. I reviewed his 19-69 and his 19-29. Found both of them to be in order. I have no other witness statement or voluntary statement in reference to this charge.

3.

DHO: Disciplinary Hearing Officer  
C/S: Counsel Substitute

DHO: At this time, I'm gonna read the Incident Report that was submitted from Officer Channell and the Report Number is 022408; Dated: February 24, 2012; 6:40 p.m.; Location is Oak A; and it reads: During the evening pill line, Inmate Billy Lisenby, 200273, was trying to go to the pill line with a 1300 p.m. pill line pass. Inmate Billy Lisenby, 200273, was advised that the nurse would reschedule his medicine pick-up because he had missed the movement. Inmate Billy Lisenby stated that he would be...he would...he would be...beat my fat cracker ass, that he needed to go. Inmate Billy Lisenby continued to curse at me. Inmate Billy Lisenby, 200273, was identified by his SCDC Flash Card and is being charged with 809-Threatening to Inflict Harm. He was served this offense on February 29<sup>th</sup>, 2012, at approximately 12:47 a.m. and he was served by Sergeant Watson. Um, a plea of none has been entered on behalf of Inmate Lisenby. He is represented by Counsel Substitute Armstrong. Mr. Armstrong, do you want to make a statement on behalf of Inmate Lisenby.

C/S: No ma'am.

DHO: At this time, I'm going to recess this hearing to arrive at a decision.

DHO: We will now go on the record with the hearing of Inmate Lisenby. I did find him guilty of the offense 809, based on the written report of Channell. The sanction for this offense is: 90 days disciplinary detention; 90 plus 180 equal 270 days loss of privileges; and 60 days loss of good time. This do to it being his second offense of 809. Inmate Lisenby will receive a copy of the Hearing Record explaining the results and appeal process. This is hearing is now concluded.

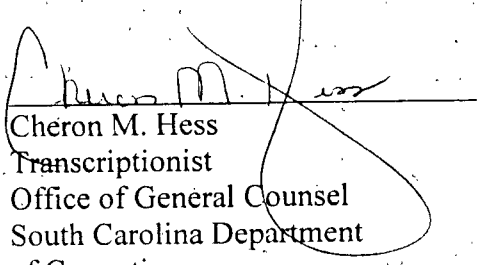
STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW JUDGE COURT

Billy Lisenby, #200273 )  
Appellant, )  
-vs- )  
South Carolina Department of Corrections, )  
Respondent. )  
\_\_\_\_\_ )

**CERTIFIED TRANSCRIPT**  
Docket No.: 12-ALJ-04-0606-AP

This is to certify that the following transcript of this tape-recorded administrative disciplinary hearing is a true, accurate and complete transcript of the proceedings and testimony hereby transcribed.

I do further certify that I was not present at the administrative disciplinary hearing that has been transcribed.

  
Cheron M. Hess  
Transcriptionist  
Office of General Counsel  
South Carolina Department  
of Corrections

SWORN TO before me this  
4th day of September, 2012

N. Dwayne Heil (L. S.)  
Notary Public for South Carolina  
My Commission Expires: 4/6/14

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW JUDGE COURT

Billy Lisenby, #200273 )

Appellant, )

-vs- )

South Carolina Department of Corrections, )

Respondent. )

**CERTIFICATION**  
Docket No.: 12-ALJ-04-0606-AP

This is to certify that I am the Disciplinary Hearing Officer who presided at the administrative disciplinary hearing in this matter. I have reviewed the attached transcript of this tape-recorded hearing and hereby certify the transcript as true, accurate, complete and constitutes the entire record of the proceedings.

*Donnie Sellers*  
Disciplinary Hearing Officer  
South Carolina Department of Corrections

SWORN TO before me this  
30<sup>th</sup> day of August, 2012.

*Cia J. Cooper* (L. S.)  
Notary Public for South Carolina  
My Commission Expires: Feb. 9<sup>th</sup>, 2020



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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
DISCIPLINARY REPORT AND HEARING RECORD

Case#: 124 Inmate Name: Lisenby, Billy SCDC#: 200273  
 Living Area: 0A11 Job: NA Custody: NAJ  
 Offense Date: 2/24/12 Offense Time: 6:40 AM/PM XX Institution: Kershaw

Offense Description:

809 Threatening to Inflict Harm on/Assaulting an Employee and/or Members of the Public: Communication, verbal or written, by an inmate to an individual that s/he intends to injure the person or commit a violent or unlawful act dangerous to human life, but does not result in bodily harm.

Charging Officer/Employee: William Channell (B1) Title: Officer  
**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
  - I WANT A COUNSEL SUBSTITUTE
  - I DO NOT WANT A COUNSEL SUBSTITUTE
- SMU/SEGREGATION ONLY Armstrong*

Date & Time Notified: 2/29/2012 12:47 AM/PM AM By (Print): Sgt. Regina D. Watson  
 Inmate Signature: Billy Lisenby SCDC#: 200273 Date: 02/29/2012

HEARING INFORMATION:

Hearing Date: 3/6/12 Hearing Time: 11:05 AM/PM AM Tape: / Side: / Start: / End: /

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.

nmk 10.0 NTV See attached report due to JIM leaving the area without permission.

OFFENSE CODES	<u>809</u>			
INMATE PLEA (G, NG, None)	<u>None</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: Written report of Channell.

HEARING LENGTH: 7 (MINUTES)

SANCTIONS: 5/22/2014 300

Loss of Privileges - (Days) \_\_\_\_\_ Reprimand: \_\_\_\_\_ Loss of Good Time (days): 60

- \* Property (Days) \_\_\_\_\_ Extra Duty: \_\_\_\_\_ Restitution: \$ \_\_\_\_\_
- \* Canteen (Days) 90+180=270 Visit Suspension Thru 1/1 90+180=270
- \* Other phone (Days) 90+180=270 Cell Restriction (Days): \_\_\_\_\_
- \* Disciplinary Detention (Days): 90

SPECIFIC FACTUAL REASON(S) FOR PARTICULAR PUNISHMENT IMPOSED: 2nd offense of 809.

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

DATE INMATE PLACED IN PHD \_\_\_\_\_

INMATE SIGNATURE FOR RECEIPT OF FINAL REPORT: Unaladeto Jerome K. Cant DATE: 3-6-12

HEARING OFFICER (PRINT NAME): William Channell

APPROVED/REVERSE/MODIFY: William Channell Warden REASON \_\_\_\_\_

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

White - Institutional Record 4 Canary - Inmate (Service of Disciplinary Report)

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

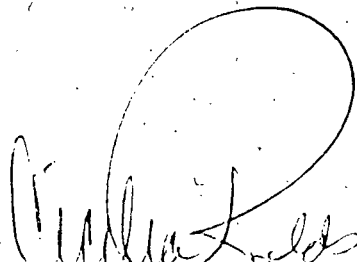


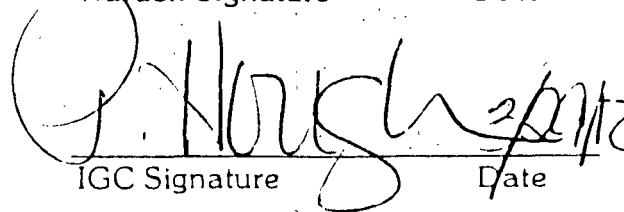
WARDEN'S DECISION AND REASON:

Inmate Lisenby;

This is in response to KRCI-0369-12 You have appealed the results of your 3/6/12 Disciplinary Hearing where you were found guilty on the charge of 809 Threatening to Inflict Harm on an Employee. The issues you stated do not warrant a reversal of the charge. Pertinent documentation has been reviewed and an investigation of the hearing was conducted. No technicalities, procedural errors, or misinterpretations of evidence was noted and the decision of the Disciplinary Hearing Officer was based on substantial evidence. Based on this information, your appeal is without merit and therefore denied.

If not satisfied with my response, see Step 5 below.

  
Warden Signature                      3-23-12  
Date

  
IGC Signature                      3/22/12  
Date

- I accept the Warden's decision and consider the matter closed.
- I do not accept the Warden's decision and wish to appeal.

Bill Lisenby                      3-22-12  
Grievant Signature                      Date

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM

1. An informal resolution shall be attempted prior to the filing of Step 1.
2. Complete each section in its entirety, writing only in the space provided for inmate use.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form to the Institutional Grievance Coordinator within fifteen (15) days of an alleged incident; policy grievances at any time. Do not write in the space provided for the Warden's response.
5. If you are not satisfied with the Warden's decision, you may appeal to the appropriate responsible official within five (5) days of your receipt of the Warden's decision, via the Institutional Grievance Coordinator.

Due to me not being properly notified of my D.H.O. and not having my right to  
my hearing I ask my case be overturned.

Attachment #1



STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Billy Lee Linsby JR, #200213

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

DOCKET NO. ALJ-04  
GRIEVANCE NO. \_\_\_\_\_

Notice is hereby given that \_\_\_\_\_ does hereby appeal the final decision of the South Carolina Department of Corrections dated 5-22-12 and received on 5-22-12, 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)):

Appellant was found guilty on 3-6-12 MRS. A. Settles in my absence, of the charge of 307 Threatening to Inj. Person. Please note Appellant was never notified of a hearing, date nor time. OP-22.14 Section 11 states "Notice means" to give notice to; inform." Notice means "a formal conveying of intention to end an agreement or contract at a certain time." I was never notified that a hearing was being held, nor was Appellant notified of a time. In S.C. DC the proper procedure is to provide me with an OTR (Order To Report) so that I will sign for my notification and IF I refuse to appear I can be charged pursuant to S.C. DC policy OP-22.14. I was never given any type of notification to go to the D.H.O. In order to go through the place gate I must have an O.T.R. So there is no way I could've went to the D.H.O. even if I wanted to. On 2-29-12 I checked "I want a counsel substitute." Beside it, it states "Armstrong" Well I never spoke to my counsel substitute, Even though I sent him and the D.H.O a request to staff asking for them to have my witness present. My counsel substitute was suppose to get with me prior to my hearing, then he would've known I didn't want to have my case heard in my absence. Also I did not check that "I DO NOT WANT TO BE PRESENT AT MY HEARING". By not checking this, the D.H.O and my counsel substitute should have contacted me prior to having my hearing in my absence. see page 2)

Billy Lee Linsby JR

Appellant's Name

Billy Lee Linsby JR

Signed

4843 Goldmine Highway Keeshaw Co. SC

Mailing Address

May 27th 2012

Dated

Keeshaw S.C. 29069

City, State, Zip Code

CERTIFICATE OF SERVICE

I hereby certify that I, Billy Lee Linsby JR, Court Reporter, on the 27th day of May in the year 2012 at Keeshaw, 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, form of the undersigned, constitution, and addressed as follows:

Name of person/Agency served: Deborah Grant

Address: 1141 Broad River Rd

City, State, Zip Code Calhoun S.C. 29221

Billy Lee Linsby JR Billy Lee Linsby JR  
Print your name Sign your name

(See reverse side for instructions)

Policy OP-22.14 Section 1.2 states in part "Should an inmate refuse to sign a waiver under which the hearing, the hearing will be held in the inmate's absence and tape recorded." Nothing on the Form 19-69 states or shows my hearing was recorded. Policy OP-22.14 Section 12.3 states in part "The tape number/date and counter stop/start reading for each hearing will be recorded in S.C. DC Form 1969." This was not done. Even though it's digital, the start and ending time should be listed. The first thing I heard about a hearing at approx. 5:00 PM SGT. Goodwin showed SGT. Sweets who I was and SGT. Sweets ask me why I did not go to my D.H.O hearing. I said I did not know I had to go. He stated "he to Channell." That is a conflict of interest C/o Channell is the officer who wrote me up. He never told me anything. Also I have constantly complained ~~to~~ C/o Channell's towards me. How can my accuser be the person who suppose to notify me, who's to say I was even in the dorm. On the day of the alleged hearing, I had an OTR. to the grievance office, mailroom, and law library.

Due to me not being properly notified of my D.H.O hearing and me not waiving my right to my hearing, my case should be overturned.

Russ v. Medical University of South Carolina 328 S.C. 51 492 S.E. 2d 62 (S.C. 1997)  
State South Carolina Constitution of 1895 p. 21 1969 Article I, § 22 provides in part  
No person shall be finally bound by judicial or quasi-judicial decision of an administrative agency affecting private rights except on due notice and opportunity to be heard, nor shall he be subject to the same person for both prosecution and adjudication.