

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT

Administrative Law Judge Shirley C. Robinson

ALC Case No. 18-ALJ-04-0063-AP
Appellate Case No. 2018-000722

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APR 29 2019
SC Court of Appeals

Darrell Sturkey, # 182368.....Appellant,

v.

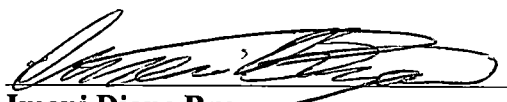
South Carolina Department of Corrections.....Respondent.

**RESPONDENT'S DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

The Respondent submits that the following should be included in the Record on Appeal:

- (1) Step 2 Grievance Form; and
- (2) Administrative Law Judge Robinson's Order of Dismissal dated March 21, 2018.

The undersigned hereby certifies this Designation contains no matter that is irrelevant to this appeal.



Imani Diane Byas
Staff Attorney
Office of General Counsel
S. C. Department of Corrections
Post Office Box 21787
Columbia, South Carolina 29221
(803) 896-1355

April 29, 2019

Due 12-18-17

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2 of 3

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INMATE NAME: Darrell Starke
DEC 10 2017

SCDC NUMBER: 182368
OFFICE OF

ASSOCIATE WARDEN
 INSTITUTION: Upper River ✓

HOUSING UNIT: 7-128-B

WORK ASSIGNMENT: Maintenance

Grievance No. TYR10913-17

Code: General

Policy _____

Disc. Hear. 903 case 9

Class _____

PREA _____

Date Received: 12-20-17

IGC Initials: J

Date Received: _____

IGA Initials: _____

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): I had no possession, actual and/or constructive poss. of the envelope or the alleged contraband/LSD. Thus, the DFO and the Warden's decisions has been arbitrary, capricious and bias where there was NO evidence presented as required by law SEE: State v Williams 552 SE2d 54 or policy to find me guilty.

Grievant Signature Darrell Starke Date 12-15-17

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

The documentation provided indicates that the evidence presented was sufficient to support the conviction of the Trafficking, Use, and/or Possession of Narcotics, Marijuana, or Unauthorized Drugs, including prescription drugs, or Inhalants (903), case #9, Level 1 Offense, held on August 23, 2017. The conviction was consistent with SCDC Policy OP-22.14, Inmate Disciplinary System, dated February 2, 2015. The sanctions imposed, which included the loss of -0- days accrued good time, were appropriate for the rules violation(s). There was no reason found to warrant a reversal of the Disciplinary Hearing Officer's decision. A review of your appeal revealed that you received forty-eight (48) hour notice prior to the hearing, you were afforded due process rights, as required, and the offense was classified and heard in a timely manner.

Therefore, your grievance is denied.

You may appeal this decision under the Administrative Procedures Act to the Administrative Law Court. In order to appeal, you must fill out the attached Notice of Appeal Form and submit it as instructed on the form within 30 days of receipt.

Responsible Official Signature Jim Riley Date 1/31/18

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.

Grievant Signature _____ Date _____ IGC Signature _____ Date _____

(SEE REVERSE SIDE FOR INSTRUCTIONS)

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MAR 26 2018

GENERAL COUNSEL

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Darrell Sturkey, 182368,
Appellant,
vs.
South Carolina Department of Corrections,
Respondent.

) Docket No.: 18-ALJ-04-0063-AP
) Grievance No.: TYRCL413-17

) **ORDER OF DISMISSAL**

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to the Notice of Appeal filed February 15, 2018, by Darrell Sturkey (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (Department). Appellant appeals the Department's decision convicting him of Trafficking, Use, and/or Possession of Narcotics, Marijuana, or Unauthorized Drugs, including prescription drugs, or Inhalants. As a result of the conviction, Appellant lost zero (0) days of accrued good time credits.


The ALC has subject matter jurisdiction when the Department disciplines an inmate and imposes a punishment that deprives the inmate of a constitutionally protected liberty or property interest. *Al-Shabazz v. State*, 338 S.C. 354, 369, 527 S.E.2d 742, 750 (2000). *Slezak v. South Carolina Department of Corrections*, provided further clarification that this Court has jurisdiction of all inmate grievance appeals that have been properly filed. 361 S.C. 327, 605 S.E.2d 506 (2004). However, when the grievance appeal does not implicate a state-created liberty or property interest, the ALC may summarily dismiss the appeal at its discretion. *Howard v. South Carolina Department of Corrections*, 399 S.C. 618, 733 S.E.2d 211 (2012).

In this case, Appellant did not allege in the appeal that he was deprived of a state-created liberty or property interest as a result of his disciplinary conviction. Therefore, the Court finds *Howard* to be controlling, and Appellant's appeal is dismissed.

IT IS HEREBY ORDERED that this appeal is **DISMISSED**, with prejudice.

AND IT IS SO ORDERED.

March 21st 2018
Columbia, South Carolina


SHIRLEY C. ROBINSON
Administrative Law Judge

FILED

MAR 21 2018

SC ADMIN. LAW COURT

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MAR 29 2018

GENERAL COUNCIL

CERTIFICATE OF SERVICE

The undersigned certifies that the undersigned herein attests to the fact that the above entitled action upon a petition to this cause by depositing a copy hereof, in the United States mail postage paid, or in the emergency mail service addressed to the clerk(s) or their attorney at

on 21 day of March, 2018

By [Signature]
Sudhills Law Clerk

THE STATE OF SOUTH CAROLINA
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Administrative Law Judge Shirley C. Robinson

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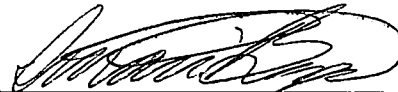
v.

South Carolina Department of Corrections.....Respondent.

CERTIFICATE OF SERVICE

I hereby certify that I have served Appellant a copy of Respondent's Initial Brief and Designation of Matter to be Included in the Record on Appeal by depositing a copy of same in the United States Mail, postage prepaid, April 29, 2019, addressed to the Appellant as follows:

Darrell Sturkey, # 182368
Tyger River Correctional Institution
100-200 Prison Road
U7-0127-B
Enoree, SC 29335



Imani Diane Byas
Staff Attorney
Office of General Counsel
South Carolina Department of Corrections
P.O. Box 21787
Columbia, SC 29221
Attorney for Respondent



SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS
Safety, Service, and Stewardship

HENRY McMASTER, Governor

BRYAN P. STIRLING, Director

OFFICE OF GENERAL COUNSEL

April 29, 2019

The Honorable Jenny A. Kitchings
Clerk of Court, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

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RE: Darrell Sturkey, #182368, v. South Carolina Department of Corrections
Appellate Case No. 2018-000722

Dear Ms. Kitchings:

Enclosed please find the **Initial Brief of Respondent and Designation of Matter to be Included in the Record on Appeal** in the above captioned appeal, along with **Proof of Service**. Please include me as counsel of record in this case.

Thank you for your attention to this matter, and please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

Imani Diane Byas
Staff Attorney
South Carolina Department of Corrections

cc: Darrell Sturkey, # 182368
Tyger River Correctional Institution
100-200 Prison Road
U7-0127-B
Enoree, SC 29335



SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS

Office of General Counsel

P.O. Box 21787 - 4444 Broad River Road - Columbia, SC 29221-1787

The Honorable Jenny A. Kitchings
Clerk of Court, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

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