

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Appeal from the Admin Law Ct.

MAY 22 2019

the Hon. Deborah Brooks Durden

SC Court of Appeals

#2019 - 000053

Bennie Mitchell

vs

Appellant

S.C.D.C.

Respondent

DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL

Appellant proposes the following be included in the record
on appeal

- (1) letter from SLED dated June 8, 18 - Ex. A
- (2) Step 1 grievance dated 7.12.18
- (3) Step 2 grievance dated 8.3.18
- (4) letter from office of disciplinary counsel postmarked 8.2.18 - Ex. B
- (5) letter from U.S. Ct of Appeals dated 8.21.18
- (6) order of dismissal dated 12.4.18

I certify that this designation contains no matter which is
irrelevant to this appeal.

Date: May 19, 19

Bennie Mitchell
Fairfield Co. Jail
#10 Faith Lane
Wintersboro, SC 29180

The Supreme Court of South Carolina
OFFICE OF DISCIPLINARY COUNSEL
POST OFFICE BOX 12159
COLUMBIA, SOUTH CAROLINA 29211

Ex. B

Hasler

FIRST-CLASS MAIL

08/02/2018

US POSTAGE

\$00.47⁰



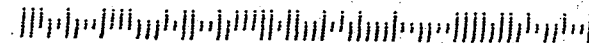
ZIP 29201
011D12602823

PERSONAL AND CONFIDENTIAL

Bennie Parren Mitchell # 278318
Tyger River Correctional Institution
100-200 Prison Road
U3-0124-A
Enoree, SC 29335

LEGAL MAIL

2933532799 R003



Ex. C

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
LEWIS F. POWELL, JR. UNITED STATES COURTHOUSE ANNEX
1100 EAST MAIN STREET, SUITE 501
RICHMOND, VIRGINIA 23219-3517
WWW.CA4.USCOURTS.GOV

PATRICIA S. CONNOR
CLERK

TELEPHONE
(804) 916-2700

August 21, 2018

Bennie P. Mitchell #278318
Tyger River Correctional Institution
200 Prison Road
Enoree, SC 29335

Re: FRAP Request

Dear Mr. Mitchell:

We received your letter on August 20, 2018. Per your request a copy of the Federal Rules of Appellate Procedures is enclosed.

Sincerely,

/s/ T. Scott
Deputy Clerk

Enclosure



South Carolina
Law Enforcement Division

Ex. A

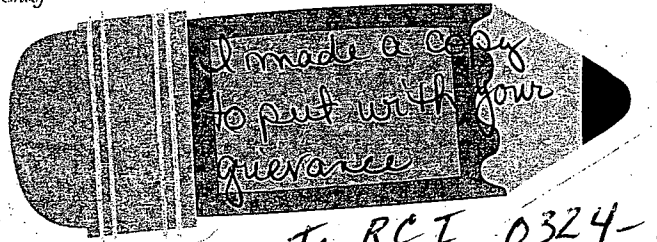
P.O. Box 21398
Columbia, South Carolina
29221-1398

2 copy

Henry D. McMaster, Governor

Mark A. Keel, Chief

Tel: (803) 737-9000



Ty. RCI. 0324-18

June 8, 2018

Bennie Mitchell #278318
Tyger River Correctional Institution U.3.124
200 Prison Rd
Enoree, South Carolina 29335

Dear Mr. Mitchell:

We have reviewed your South Carolina criminal record and as of June 8, 2018 the only names, including alias names, listed on your South Carolina criminal history are: Bennie Darren Mitchell, which was added from your arrests in Newberry; and Bennie Darron Mitchell, added by Clinton Police Department. As for the name Parren, we have modified it to read Darren.

It appears that Darren and Darron were added to you South Carolina criminal record due to the booking officer's different spellings of Darren/Darron.

There are no alias names of Danon, Dalton, Bernie or Benny on your criminal history. If these names are in your files, it appears to be from the Department of Corrections, not SLED.

I hope this information will assist you.

Sincerely,

AFIS/Fingerprint Department
SLED CJIS



An Accredited Law Enforcement Agency



INMATE COPY

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

STEP 1

RECEIVED
JUL 18 2018
OFFICE OF
ASSOCIATE WARDEN

INMATE NAME: <u>Bennie Mitchell</u>	OFFICE USE ONLY
SCDC NUMBER: <u>278318</u> <u>Vol 7/18/18</u>	Grievance No. <u>TYR IC 0324-18</u>
INSTITUTION: <u>Tyger River</u>	Code: General <u>CH/CL</u>
HOUSING UNIT: <u>U. 3. 124</u>	Policy _____
WORK ASSIGNMENT: <u>L-4 Head Barber</u>	Disc. Hear. _____
	Class. <u>CH/CL</u>
	PREA _____
	Date Received <u>7/19/18</u>
	IGC Initials <u>J</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.)

request # 18-00961837, and Mr. Fowler's # 18-00948867 per. your
 Once again I am filing this form 10-5. Where I have also shown Mr. Fowler per. Form 19-11, that the alias names, Danon, Dalton, Bernie, Benny is from SCDC, not SLED. SEE: attached letter from SLED dated June 8, 18. Also see: 18-00903003 and TY.RCI 0197-18.

INMATE COPY

Bennie Mitchell 7/12/18
 Grievant Signature Date

ACTION REQUESTED: For the above alias names, plus Parren be removed from my Inst record cs) and I/m I.D. card. And or for the guilty parties to be held legally... responsible.

ACTION TAKEN BY IGC: PROCESSED UNPROCESSED OTHER

All pertinent information and documentation of this Grievance has been reviewed. See Warden's response on back.

J Crumley 7/23/18
 IGC Signature Date

(CONTINUE ON REVERSE SIDE)

WARDEN'S DECISION AND REASON:

This is in response to your grievance, TYRCI-0324-18. You stated in your grievance that the names Damon, Dalton, Bernie, Benny on your SCDC records was not provided by SLED and have attached a letter from SLED for authentication. You have requested that these names, plus Parren, be removed from your records and identification card. You further have requested that the guilty parties be held legally responsible. According to SCDC Policy 21.09, Inmate Records Plan, "An inmate will be admitted to SCDC under the name exactly as spelled on the commitment order, and this name will be assumed to be his/her legal name, even if misspelled by the courts. An inmate's commitment name that has been misspelled by the courts will only be corrected by an amended court order. Any variations to the inmate's name obtained during the R&E interview or found on the NCIC rap sheet or on other court documents/law enforcement information forwarded to SCDC will be entered as "aliases."

Therefore, your grievance is found to be without merit and is denied.

If you disagree with this Warden's Decision (Decision), you may file an appeal by completing SCDC Inmate Grievance Form 10-5A, provided to you while serving you this Decision, and placing it in the Grievance Box at your local correctional institution within five (5) days of your receipt of this Decision.

INMATE COPY

L. Caldwell 07/27/18
Warden Signature Date

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

Bernie Mitchell 8/1/18
Grievant Signature Date

J. Crumley 8/1/18
IGC Signature Date

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM

1. An informal resolution shall be attempted prior to the filing of Step 1 by sending an Inmate Request to Staff Member (RTSM) form or Kiosk reference number to the appropriate supervisor. A copy of the answered RTSM must be attached to the grievance when the grievance is filed.
2. Complete each section in its entirety writing only in the space provided for inmate use. No additional pages will be permitted.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form by placing it in the Grievance Box at your institution within eight (8) working days of the date on the RTSM response; policy grievances can be filed at any time. Disciplinary and Classification Review appeals must be submitted within five (5) working days of the hearing/review. 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, by placing your Step 2 appeal form in the Grievance Box at your institution.

RECEIVED
AUG 08 2018
OFFICE OF
ASSOCIATE WARDEN

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

RECEIVED

SEP 28 2018

Office Use Only
DIVISION OF CLASSIFICATION
& INMATE RECORDS

INMATE NAME: Bennie Mitchell
SCDC NUMBER: 278318
INSTITUTION: Tyger River ✓
HOUSING UNIT: U. 3, 124
WORK ASSIGNMENT: L. Y. Head Barber

Grievance No. TYRRI-0324-18
Code: General _____
Policy _____
Disc. Hear. _____
Class CL/CL
PREA _____
Date Received: 8/8/18
IGC Initials: [Signature]
Date Received: 8-14-18
IGA Initials: [Signature]

RECEIVED
AUG 09 2018
INMATE GRIEVANCE

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): Because I have to seek a court order in having the alias names, Damon, Dalton, Bernie, Benny - plus Farren removed from my Inst. records and I/m I.D. card.

Grievant Signature Bennie Mitchell Date 8-3-18

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

I have reviewed your concern. In your grievance, you stated that your alias names in SCDC's records should be deleted as they are incorrect. You provided a letter from SLED stating that the alias were included not by them but rather by SCDC. You would like the alias names to be deleted from your SCDC Inmate Records. The Warden responded to your concern on SCDC Step 1 Inmate Grievance Form 10-5 dated 7/27/18. SCDC Policy 21.09, Inmate Records Plan does not allow for the action that you requested to be performed. Upon your release from SCDC, the issue that you have raised will no longer be pertinent. Until such time, your inmate records remain as they exist now.

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 10/2/18

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 Bennie Mitchell Date 10-25-18

IGC Signature [Signature] Date 10-25-18

(SEE REVERSE SIDE FOR INSTRUCTIONS)

INSTRUCTIONS FOR COMPLETING STEP 2 GRIEVANCE FORM

1. Complete form in its entirety, writing only in the space provided for inmate use.
2. State your specific reason for further appeal. Do not submit any new issues for review. No additional pages will be permitted.
3. Submit this completed form with your copy of the Step 1 form by placing in the Grievance Box within five (5) days of your receipt of the Warden's decision. Do not write in the space provided for the responsible official.
4. The decision rendered by the responsible official exhausts the appeal process of the SCDC Inmate Grievance Procedure.

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Bennie Mitchell, #278318,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

Docket No. 18-ALJ-04-0513-AP

Grievance No. TYRCI-0324-18

ORDER OF DISMISSAL


This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to a Notice of Appeal filed by Bennie Mitchell (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (Department or SCDC). Appellant seeks review of the Department's Step 2 Grievance decision in a matter concerning removing his alias names in the SCDC's records. The SCDC decision indicates that Appellant was not sanctioned any accrued good time. Additionally, Appellant has not alleged the infringement of any other state-created liberty or property interest.

This Court reviews Department grievance decisions pursuant to the South Carolina Supreme Court decision in Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). Under the Al-Shabazz line of cases, this Court may only review matters related to a state-created liberty or property interest. See id., 338 S.C. at 368-69, 527 S.E.2d at 749-50 (vesting the ALC with jurisdiction over the loss of state-created liberty interests such as accrued good time credit); Wicker v. S.C. Dept. of Corrs., 360 S.C. 421, 602 S.E.2d 56 (2004) (holding that inmate had a right to procedural due process in matters involving a state-created right to property such as wages). Specifically, the South Carolina Supreme Court has stated that summary dismissal of an otherwise properly perfected inmate appeal "may be appropriate where the inmate's grievance does not implicate a state-created liberty or property interest." Slezak v. S.C. Dept. of Corrs., 361 S.C. 327, 331, 605 S.E.2d 506, 508 (2004) (citation omitted) (emphasis added). Therefore,

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

AND IT IS SO ORDERED.

December 4, 2018
Columbia, South Carolina


Deborah Brooks Durden, Judge

CERTIFICATE OF SERVICES
S.C. Administrative Law Court

This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, or in the Interagency Mail Service addressed to the party(ies) or their attorney(s).

This 4th day of December 2018

By: R. E. Co
Judicial Law Clerk

FILED

DEC 04 2018

SC ADMIN. LAW COURT

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from the Admin Law Ct.
the Hon. Deborah Brooks Durden
2019 - 006653

RECEIVED

MAY 22 2019

SC Court of Appeals

Beunie Mitchell

Appellant

vs

S.C.D.C.

Respondent

PROOF OF SERVICE

I, Beunie Mitchell hereby certify that I have served the below persons, my designation of matter. By placing it in the hands of a Fairfield Co. jail officer hand w/postage prepaid. to be placed in the U.S. mail on this 19th day of May, 19

Beunie Mitchell

U. Claire Allen, Deputy Clerk
P.O. Box 11629
Columbia, SC 29211

S.C.D.C.
Gen. Counsel's Office
Atty Christina C. Bigelow
4444 Broad River Rd.
Columbia, SC 29221

Mr. Beanie Mitchell
#10 Faith Lane
Winnsboro, SC 29180

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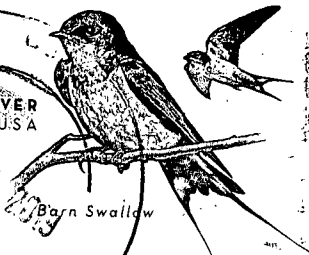
MAY 22 2019

SC Court of Appeals



FOREVER
USA

MAY 20 2019



Barn Swallow

The S.C. Ct. of Appeals SC 2
V. Claire Allen, Deputy Clerk
P.O. BOX 11629
Columbia, SC 29211