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SC Court of Appeals

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Marquis Robinson, #266341,)
)
Appellant,)
)
vs.)
)
South Carolina Department of)
Corrections,)
)
Respondent.)

Docket No. 19-ALJ-04-0169-AP

ORDER OF DISMISSAL

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to the Notice of Appeal filed by Marquis Robinson (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (Department or SCDC). Appellant appeals from a Step 2 Grievance which affirmed his conviction for violating SCDC Policy-22.14, Offense 904, "Possession of Escape Tools and/or Paraphernalia", for which he was sanctioned with no loss of accrued good time credits. Appellant contends on appeal that his Due Process rights have been violated and that his conviction for possessing a six-foot rope was not based upon any probative evidence.

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 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), cert. denied, 544 U.S. 1033, 125 S.Ct. 2266, 161 L.E.2d 1060 (2005), our Supreme Court explained that while the ALC has jurisdiction

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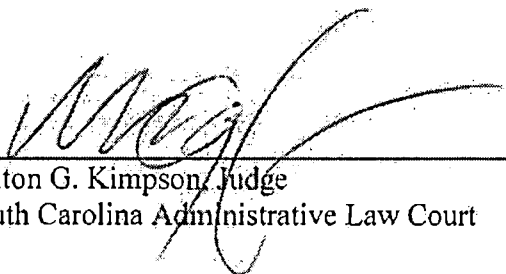
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over properly filed inmate grievance appeals, summary dismissal is appropriate “where the inmate’s grievance does not implicate a state-created liberty or property interest.”

Despite Appellant’s contentions, he: (a) was not sanctioned with the loss of any good time credits; (b) made no claim for the loss of any other state created liberty or property interest; and, (c) made no contention that his sentence, sentence related credits or custody status has been erroneously calculated. There is clearly no state created liberty interest implicated here. Without such a liberty interest, this Court cannot address any of the matters raised in inmate’s appeal. *See Slezak* 361 S.C. at 331, 605 S.E.2d at 508 (“[s]ummary dismissal may be appropriate where the inmate’s grievance does not implicate a state created liberty or property interest.”) Therefore,

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

June 12, 2019
Columbia, South Carolina



Milton G. Kimpson, Judge
South Carolina Administrative Law Court

CERTIFICATE OF SERVICE

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 12 day of June, 2019
By: C. S. [Signature]
Judicial Law Clerk