

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Nathaniel Johnson, 211574,)
)
Appellant,)
vs.)
)
South Carolina Department of Corrections,)
)
Respondent.)

Docket No.: 19-ALJ-04-0240-AP
Grievance No.: ACI 68-19

ORDER RECEIVED
SEP 25 2019
SC Court of Appeals

STATEMENT OF THE CASE

This matter is before the South Carolina Administrative Law Court (“ALC” or “Court”) pursuant to the appeal filed by Nathaniel Johnson (“Appellant”), an inmate incarcerated with the South Carolina Department of Corrections (“Department”). Appellant seeks judicial review of the Department’s decision denying his grievance in which he challenges the constitutionality of Department Policy HS-18.17 and seeks reimbursement for medical healthcare payments.

DISCUSSION

Constitutionality of Department Policy HS-18.17

Appellant contends that Department Policy HS-18.17 authorizes charges to inmate accounts for medical healthcare co-payments in violation of S.C. Const. art. I, § 13¹ and S.C. Code Ann. § 24-13-80(B)(2).² Essentially, Appellant is challenging the constitutionality of Department Policy HS-18.17, and this Court has no authority to rule on the constitutionality of the policy. *See Video Gaming Consultants, Inc.*, 342 S.C. at 39, 535 S.E.2d at 645 (“[W]e hold if the only issue is a constitutional challenge to a statute or regulation, a party should seek a declaratory judgment from circuit court rather than going before an ALJ.”); *See also Hendricks v. S.C. Dep’t of Corr.*, 385 S.C. 625, 628, 686 S.E.2d 191, 193 n.3 (2009) (“The ALC was correct to abstain from determining the constitutionality of SCDC Policy GA-01.03.”); *See also Beaufort Cty. Bd. of Educ.*

~~*v. Lighthouse Charter Sch. Comm.*, 335 S.C. 230, 241, 516 S.E.2d 655, 660-61 (1999) (citation~~

¹ S.C. Const. art. I, § 13 discusses taking private property, economic development, and remedy of blight.
² S.C. Code Ann. § 24-13-80(B)(2) states in part that “[t]he administrator or director, whichever is appropriate, may establish, by rules, criteria for a reasonable deduction from money credited to the account of an inmate to: defray the costs paid by a municipality or county for medical services for an inmate, which have been requested by the inmate, if the deduction does not exceed five dollars for each occurrence of treatment received by the inmate...”

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omitted) (“An administrative agency must follow the law as written until its constitutionality is judicially determined; an agency has no authority to pass on the constitutionality of a statute.”).

Reimbursement for Medical Healthcare Payments

Appellant contends that S.C. Provision 37.16 authorized under Part 1(b) of the 2005-06 Appropriation Act entitles inmates to free medical healthcare; therefore, he is seeking a full reimbursement of all medical healthcare payments he made since 2007. In its Respondent’s Brief, the Department contends the ALC has no jurisdiction over this issue. The Court agrees.

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).


For the purpose of establishing jurisdiction, a state-created liberty or property interest exists when (1) an inmate is disciplined and punishment is imposed, or (2) when an inmate alleges prison officials have erroneously calculated his sentence, sentence-related credits, or custody status. *Sullivan v. S.C. Dep’t of Corr.*, 355 S.C. 437, 441, 586 S.E.2d 124, 126 (2003). Additionally, this Court has jurisdiction when an inmate contests the Department’s decision to permanently deny the inmate’s parole eligibility. *Id.* Finally, under certain circumstances, an inmate may have a state-created liberty interest in “freedom from restraint which, while not exceeding the sentence in such an unexpected manner as to give rise to protection by the Due Process Clause of its own force . . . nonetheless imposes atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life.” *Sandin v. Conner*, 515 U.S. 472, 483-84 (1995); *see Sullivan*, 355 S.C. at 443, 586 S.E.2d at 127 (applying *Sandin* to resolve a condition of confinement claim).

~~In this appeal, Appellant’s issue does not arise from punishment administered for a disciplinary conviction, nor does it relate to Appellant’s sentence, sentence-related credits, or custody. Furthermore, this appeal does not involve an “atypical” condition of restraint. Accordingly, Appellant has not alleged deprivation of a state-created liberty or property interest~~

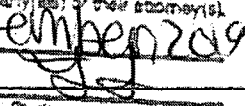
in this matter. Therefore, the Court finds *Howard* to be controlling, and the case must be dismissed for lack of jurisdiction.

ORDER

Based upon the foregoing, IT IS HEREBY ORDERED that this appeal is DISMISSED. AND IT IS SO ORDERED.³


SHIRLEY C. ROBINSON
Administrative Law Judge

September 16, 2019
Columbia, South Carolina

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 Intercity Mail Service addressed to the party (ies) or their attorney(s).
This 16 day of September 2019
By: 
Judicial Law Clerk

³ On August 13, 2019, Appellant filed a Motion for Summary Judgement. On September 3, 2019, Appellant filed an Amended Motion for Summary Judgement. Because the Court is dismissing this appeal, Appellant's Motion is moot. See *Curtis v. State*, 345 S.C. 557, 567, 549 S.E.2d 591, 596 (2001) (citation omitted) (The Court "will not pass on moot and academic questions or make an adjudication where there remains no actual controversy.").