

State of South Carolina
In The Court of Appeals

Appeal From Administrative Law Court
Administrative Law Judge Deborah Darden

Case No: 12-ALJ-04-0546-APP &
12-ALJ-04-0547

Billy Lee Lisenby JR; #200273 Appellant

V.
South Carolina Department of Corrections Respondent

Supplemental Record on Appeal

Billy Lee Lisenby JR,
PRO-SE
200 Prison Rd.
Endree, S.C. 29335

Respondent(s) Attorney
Christopher D. Florian
P.O. Box 21787
Columbia, S.C. 29221

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JUL 15 2013

SC Court of Appeals

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Certificate of Counsel

I am a pro-se litigant and I certify that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

Dated: July 8th 2013

Billy Lee Lashby

Billy Lee Lashby JR, #200273

200 Prison Rd SMI # 48

Tyger River Corr. Inst.

Emree SC. 29375

LEGAL MAIL

State of South Carolina
In The Court of Appeals

Appeal From Administrative Law Court
Administrative Law Judge Deborah Durden

Case NO. 12-ALJ-04-0546-AP &
12-ALJ-04-0547

Billy Lee Lisenby JR, #200273 Appellant

v.
South Carolina Department of Corrections Respondent

PROOF OF SERVICE

I certify that I have served the Supplemental Record on Appeal on the
Respondents by depositing a copy of it in the U.S. Mail postage prepaid, on July 8th,
2013, addressed to Christopher D. Florian P.O. Box 21787 Columbia, S.C. 29221, [REDACTED]
Administrative Law Court 1205 Pendleton Street, Suite 224 Columbia, SC 29201

Dated: July 8th, 2013

Billy Lee Lisenby
Billy Lee Lisenby JR, #200273
200 Prison Rd smu #48
Tyger River Corr. Inst.
Enoree S.C. 29335

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**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM**

STEP 1

INMATE NAME: Billy Lee Lisenby JR.
 SCDC NUMBER: #200273
 INSTITUTION: North Carolina Inst.
 HOUSING UNIT: Dak All
 WORK ASSIGNMENT: Dorm Worker

Office Use Only
 Grievance No. KCCF 0233-12
 Code: General _____
 Policy _____
 Disc. Hear. SCS #122
 Class. HD 2/14/12
 Date Received 2/14/12
 IGC Initials PL

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy) On 2-14-12 I was found guilty of 893 Possession of a Cellphone and/or Charger, after pleading not guilty. I'm arguing actual innocence, violation of due process, and failure to abide by policy and procedure. I presented (7) statements by inmates Jeremy Gaines #297898, Antonio Singleton #295492, James L. Gentry #285909, Melvin Huntley #340142, and Marcus Brumfield #331161, stating I never claimed ownership of the cellphone, and that Ch. Curb, Moore, and Lee found the cellphone. (4) Two inmates were heard in the rooms but I was the only one charged. This is not the correct protocol, all (4) inmates were supposed to be charged and the D.H.U. was supposed to be the fact-finder. The D.H.U. refused to call my witnesses Ch. Curb, Moore, and Lee. I asked for my witnesses in the record and the D.H.U. stated "We don't call people from the Agency Search Team as witnesses." Prior to the hearing I sent the D.H.U. and Counsel Substake a S.C.D.C. Form 1941 Request to Staff Member asking that Ch. Curb, Moore, and Lee be called as my witnesses. This is a violation of OP 22.14 Section 15.3 which states "The inmate may call witnesses unless the Hearing Officer decides that the testimony of such witnesses is repetitive (that is, will simply repeat the testimony of other witnesses), is not relevant to the case, or is likely to jeopardize the life or safety of persons in the security and order of the institution. If witnesses are denied by the Hearing Officer, the Hearing Officer must make further requests for this denial on the SCDC Form 19-69, "Disciplinary Report and Hearing Record," in the space provided. If an employee has been called as a witness and has information that is relevant to the case, then he/she is obligated to provide said information." None of this was done, and the reasons for denying my witnesses were not on SCDC Form 19-69. If my witnesses couldn't have been present the D.H.U. could've gotten them on speaker phone. See OP 22.14 Section 15.5 in part which states "Any witness, including the accusing employee, who is unable to attend the hearing may be interviewed by a speaker telephone during the hearing and the answers of the witness must be recorded." Wolff v. McQuinn, 34 S.C. 296 (1977) supports the fact that I have a Constitutional right to have my witnesses called in my behalf. The D.H.U. obtained a statement from Ch. Curb, but refused to obtain statements from Moore and Lee, which would have been in my favor.

ACTION REQUESTED: I ask that my case be overruled and that the tape recording be made available to the appropriate reviewing authority before deciding my appeal as stated in OP 22.14 Section 23.4.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Appeal

Billy Lee Lisenby Jr. Feb 14, 2012
 Grievant Signature Date

ACTION TAKEN BY IGC:

Reviewed disciplinary documentation.
See Warden's Response.

P. Hough 5/2/12
 IGC Signature Date
N/A
 Grievant Signature Date

- ☒ I accept the action taken by the IGC and consider the matter closed.
☐ I do not accept the action taken and wish to appeal.

WARDEN'S DECISION AND REASON:

Inmate Lisenby;

This is in response to KRCI-233-12. You have appealed the results of your 2/14/12 Disciplinary Hearing where you were found guilty on the charge of 898 Possession of a Cell Phone. 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 the written and verbal testimony of Officer Hunt and a picture of the evidence. Based on this information, your appeal is without merit and therefore denied.

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

- ☐ 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 3-3-12
Grievant Signature Date

Julia Kralds 3-6-12
Warden Signature Date
P. North 3/8/12
IGC 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.

MAR 23 2012

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

STEP 2

INMATE GRIEVANCE

INMATE NAME: Billy Lee Lunsby, Jr.

MAR 13 2012

SCDC NUMBER: #200213INSTITUTION: Columbia C.F.HOUSING UNIT: Out AllWORK ASSIGNMENT: N/A

Office Use Only

Grievance No. KIC-0233

Code: General

Policy

Disc. Hear. 893-#122Class. HO-20412Date Received 3/13/12IGC Initials DL

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): I'm a victim of selective prosecution, because they never showed any evidence that I claim ownership of the contraband. (7) inmates made statements, saying I didn't claim ownership of the contraband. Several inmates had access to the contraband, and I was the only one charged. This is not protocol, all (9) inmates were supposed to be charged and the D.H.O. was supposed to be the Fact-Finder. The D.H.O. refused to call my witnesses, Cofitmore, and Coflee. I asked for my witnesses on the record and the D.H.O. stated "We do not call people from the Agency Search Team as witnesses." Nothing in policy OP-22.11 supports this. Prior to the hearing I sent the D.H.O. and Counsel Subst. Jule a S.C.D.C. Form 19-11 Request to Staff member asking that Cofitmore, and Coflee be called as my witnesses. [See Enclosed Request to Staff.] Pursuant to Justice McDonald, 99 S.Ct. 2963 (1979) supports the fact that I have a Constitutional Right to have my witnesses called in my behalf. Also I was denied the right to confront my accuser, Cofitmore, Coflee, and Lee found the contraband, and Cofitmore made the incident up. Plaintiff admits he was not in the room when the contraband was found. I ask my case be overturned.

Billy Lee Lunsby, Jr.
Grievant Signature

March 7th 2012
Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

The documentation provided indicates that the evidence presented was sufficient to support the conviction of Possession or Attempt to Possess a Cell Phone (898) on February 14, 2012, under SCDC OP-22.14, Inmate Disciplinary System, dated September 1, 2009, and the sanction(s) imposed, which included the loss of 60 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 twenty-four (24) 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.

[Signature] 4/30/12
Signature Date

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.

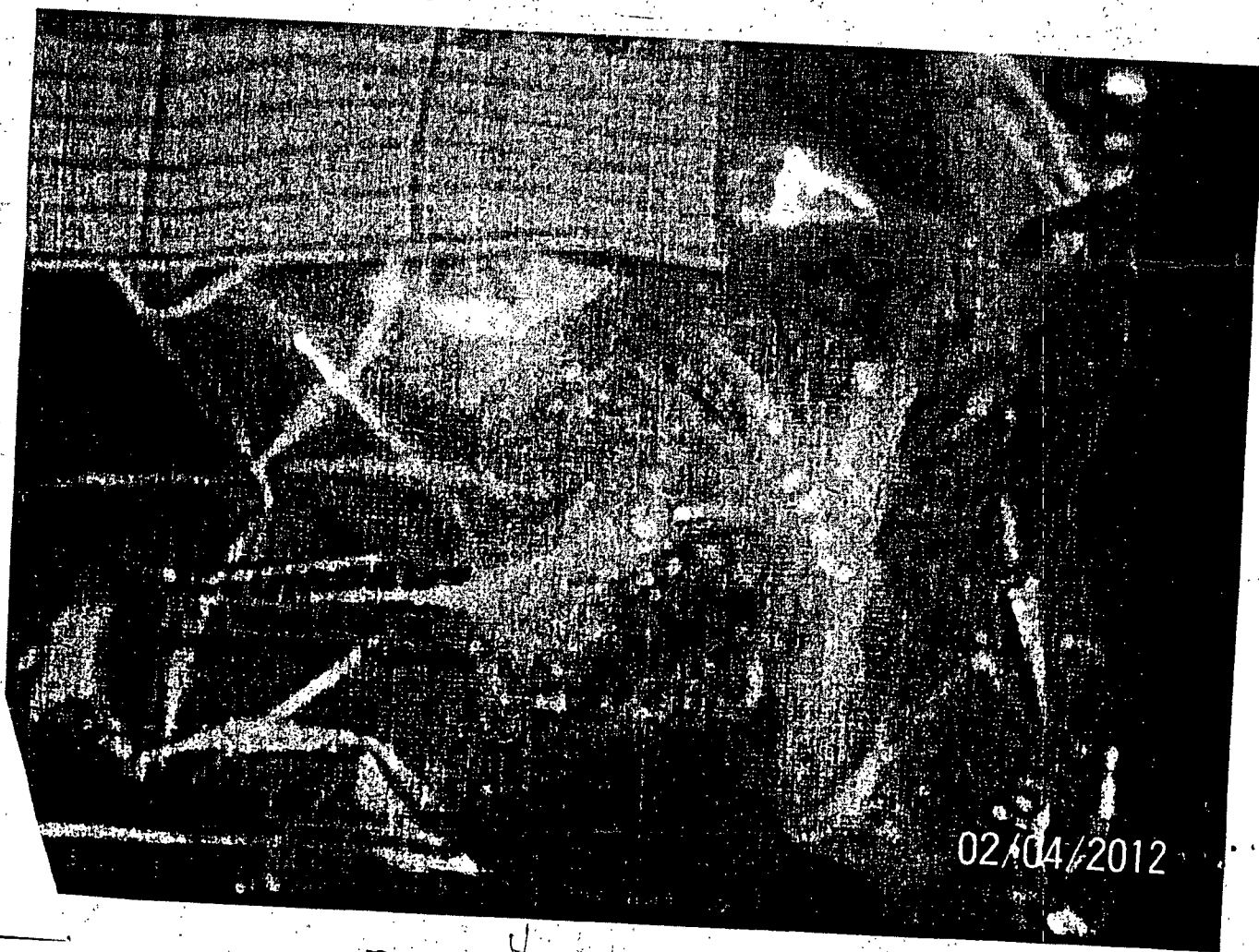
Grievant Signature

Date 3

IGC Signature

Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)



02/04/2012