

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Shirley C. Robinson, Administrative Law Judge

Appellate Case No: 2019-001628
Docket No: 19-SCR-04-0240-AP
Grievance No: ACI. 68-19

RECEIVED
NOV 15 2019
SC Court of Appeals

Nathaniel Johnson, Jr., #211574,

Appellant,

v.

S.C. Dept. of Corrections,

Respondent,

INITIAL BRIEF OF THE APPELLANT

Dated: _____

11/12/19

Nathaniel Johnson Jr. #211574
1st Mr. Nathaniel Johnson, Jr. #211574
ACI. Colleton Unit F-1 A#05
1057 Revolutionary Trail Hwy47
P.O. Box 1151
Fairfax, S.C. 29827
Pro-Se Appellant

Ms. Imani Byas
Staff Attorney
Office of General Counsel
S.C. Dept. of Corrections
P.O. Box 21787
Columbia, S.C. 29221-1787
(803)896-8508

TABLE OF CONTENTS

TABLE OF AUTHORITIES.....	ii
STATEMENT OF ISSUES ON APPEAL.....	1
STATEMENT OF THE CASE.....	2
FACTS.....	3
ARGUMENTS.....	4
CONCLUSION.....	6

TABLE OF AUTHORITIES

CASES

- * Al-Shabazz v. State, 338 S.C. 354, 369, 527 S.E.2d. 742, 750 (1999).
- * Brown v. Plata, 131 S.Ct. 1910, 1928 (2001).
- * Hawkins v. City of Greenville, 358 S.C. 280, 594 S.E.2d. 557, 566 (Ct. App. 2004).

STATUTES

- S.C. Appropriation Act. Proviso 37.16 Part#1(b) 2005-06
- S.C. Appropriation Act. Proviso 65.8 2018-19.
- S.C. Code Ann§24-13-80(B)(2).
- SCDC Policy HS-18.17

S.C. Const. & United States Constitution

- S.C. Const. art#1 Sec.§13
- S.C. Const. art#1 Sec§23
- S.C. Const. art#12 Sec§2
- U.S.C.A. V.
- U.S.C.A. XIV. Sec§1.

STATEMENT OF ISSUES ON APPEAL

1). Whether (SCDC) South Carolina Department of Corrections policy HS-18.17 authorizing charges to the Appellant's E.H. Cooper Trust fund account for co-payment of Meds, Medical Health Care, violated State Law?

2). Whether the Appellant is entitled to receive free medical health care under the S.C. Appropriation Act. Provision 37.16 authorized under Part#1(b) of 2005-06?

STATEMENT OF THE CASE

On Tuesday February 26th, 2019, the Appellant, wrote an request to staff member, form 19-11, for a response from medical. On Thursday Feb. 28th, 2019, the Appellant, received an response from nurse Ms.P. Derrick. Appellant, was unhappy with the response and proceeded with Step#1 grievance procedure on the same date.

On March 14th, 2019, the Appellant, received the Warden's decision to deny. Appellant, disagreed with the Warden's response, and then proceeded with his Step#2 grievance on the same date. On April 15th, 2019, the Appellant, received an response back on his Step#2 grievance from the responsible official Mr. Wayne C. McCabe.

On May 6th, 2019, the Appellant, filed his Notice of Appeal with the Administrative Law Court. On May 9th, 2019, the case was assigned to the Honorable Shirley C. Robinson, the Administrative Law Judge. On September 16th, 2019, the Administrative Law Judge rendered her decision to Affirm. Appellant, filed his Notice of Appeal with the S.C. Court of Appeals dated September 27th, 2019. Appeals as follow:

FACTS

DISCUSSION

1). Prisoners are dependent on the State for food, clothing, medical needs, health care, prescription drugs, especially necessary medical care. When the Agency fails to provide sustenance for inmates, it may actually produce physical torture or a lingering death. SCDC was negligent in failing to supply inmates with the basic needs or ordinary medical and health care.

See * Brown v. Plata, 131 S.Ct. 1910, 1928 (2011).

2). Procedural Due Process is supposed to be guaranteed, and when an inmate is deprived of an interest state-created or protected property interest in which the State or its Agencies shall not infringe upon encompassed by the Fifth and Fourteenth Amendment. See * Al-Shabazz v. State, 338 S.C. 354, 369, 527 S.E.2d. 742, 750 (1999).

3). When deductions ~~are made~~ on an inmates E.H. Cooper Trust fund account for expenses that the State's legislature has deemed free health, and medical care, the policies or procedures which authorizes the deductions from the Appellant's account were made upon an unlawful procedure, violating State law and Federal Law.

ARGUMENTS

1). Appellant, argues that SCCC's policy HS-13.17, which authorizes charges to the Appellant's E.H. Cooper Trust fund account does violate State Law, and was conducted upon an unlawful procedure. He further argues that his procedural and substantial rights were violated and prejudiced. Therefore, depriving the Appellant, of his protected state-interest and property interest in violation of the Fifth and Fourteenth Amendment Sec§1.

2). The Appellant's E.H. Cooper Trust fund account has been debited for the amount of \$200.00 per year since 2007, for medical co-pay and prescription meds. The State's Constitution Art.#1 Chapter#13 Section§24-13-89(B)(2), which states, that all defray of costs paid by a municipality or county for medical services for an inmate which have been requested by the inmate. This item does not apply to medical cost incurred if the inmate's medical need are determined not to be responsible.

3). Appellant, argues that he is entitled to an full reimbursement of all monies paid to medical for prescription meds, or medical health care since 2007. Because inmate was in an institution and not in a municipality or a county facility. Appellant has been made aware that all medical care or health care debts incurred are the responsibility of the jurisdictional agency. The costs are deemed by legislature to be free medical, and free health care under the S.C. Provision 37.16 authorized under Part#1(b) of the 2005-06 Appropriation Act.

ARGUMENTS CONT.

4). Article#1 Sec.§23, of the South Carolina Constitution thus "mandates", that the S.C. General Assembly established institutions for the confinement of all persons convicted of such crimes shall provide for the custody, maintenance, health, welfare, education, and rehabilitation of all inmates.

Therefore, the Appellant based his arguments on the S.C. Constitution Art.#12 Sec.§2 clauses and demand to be reimbursed all monies debited from his account since 2007, to pay for what the jurisdictional agency is deemed to be responsible for.

5). SCDC was negligent in failing to provide or supply inmates the basic needs in reference to their welfare, education, rehabilitation, custody, maintenance, ordinary medical and health care.

CONCLUSION

WHEREFORE, this Honorable Court, should find that (SCDC) South Carolina Department of Corrections and the taking of the Appellant's liberty or protected property is hereby done upon an unlawful procedure and the Appellant should be reimbursed as a matter of law.

Dated: 11/12/19, 2019

Respectfully submitted
/s/ Nathaniel Johnson, Jr. #211574
Mr. Nathaniel Johnson, Jr. #211574
ACI. Colleton Unit F-1 A#05
1057 Revolutionary Trail Hwy47
P.O. Box 1151
Fairfax, S.C. 29827
Pro-Se Appellant

RECEIVED

NOV 15 2019

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
APPEAL FROM THE ADMINISTRATIVE LAW COURT
Shirley C. Robinson, Administrative Law Judge

Appellate Case No:2019-001628

Docket No:19-SCR-04-0240-AP

Grievance No:ACT. 68-19

Nathaniel Johnson, Jr. #211574,

Appellant,

v.

S.C. Dept. of Corrections,

Respondent,

PROOF OF SERVICE

I, certify that I have served an true copy of the Initial Brief of the Appellant, along with the Designation of Matter to be included in the Record on Appeal, by depositing into the Allendale Correctional Institution mailroom inter-agency mailing on this 12th day of November, 2019.

Respectfully submitted,

Nathaniel Johnson, Jr. #211574
1/s/ Nathaniel Johnson, Jr. #211574
Mr. Nathaniel Johnson, Jr. #211574
ACT. Colleton Unit F-1 A#05
1057 Revolutionary Trail Hwy47
P.O. Box 1151
Fairfax, S.C. 29827
Pro-Se Appellant

Mr. Nathaniel L Johnson Jr. #211574

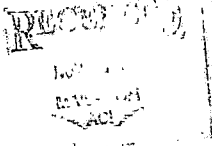
ACI. Colleton Unit F-1 A#25

1057 Revolutionary Trail Hwy 47

P.O. Box 1151

Fairfax, SC. 29827

RECEIVED
NOV 15 2019
SC Court of Appeals



The Honorable Jenny A. Kitchings
Clerk of the SC. Court of Appeals

P.O. Box 11629

Columbia, SC. 29211