

The State Of South Carolina  
In The Court Of Appeals

Appeal From The Administrative Law Court  
S. Phillip Lenski, S.C. Administrative Law Court

Case No.

Joshua Reed, 252079

Appellant,

v.

South Carolina Dep't. Of Corrections,

Respondent.

Designation Of Matter To Be  
Included In The Record On Appeal

Appellant proposes the following be included in the Record on Appeal:

- (1) Officer's Incident Report;
- (2) Respondent's "Response To Appellant's Objection To Respondent's Motion To Dismiss";
- (3) Transcript Of Disciplinary Hearing held on November 14, 2018, Entire Transcript (pgs. 1-3);

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

Respectfully Submitted  
Joshua Reed #252079  
Joshua Reed, 252079  
Kershaw C.I., SB-19  
4848 Goldmine Hwy.  
Kershaw, S.C. 29067

**RECEIVED**

DEC 10 2019

SC Court of Appeals

11/26/19  
11/19

(Attachment: A)  
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
INCIDENT REPORT

1005. 11/16  
TV.4

Institution/Center: KERCI					Date of Report: 10/29/18	
Reporting Official (Full Name): Ellis, Claude					Time of Report: 6:45 PM	
Employee ID #: 057522					Date of Incident: 10/29/18	
Location of Incident: Sycamore B cell 19					Time of Incident: Approx 1:30 PM	
Inmate(s)/Resident:		SCDC #	Age:	Sex:	Race:	Employee(s)/Witnesses Involved:
1. Blakeny Foster	356143	31	M	B		1. Ofc Jones
2. Joshua Reed	252079	36	M	B		2. Lt Hunt
3.						3.
4.						4.
5.						5.

15

SB-19

On the above date and approximate time:

I Sgt Ellis, Claude 057522 assisted by Lt hunt and Ofc Jones conducted a search of Sycamore B cell 19. During search of cell we recovered (1) LG phone and (1) charger. Inmates Blakely Foster 356143 and Joshua Reed 252079 are being charged with 898. Phone was found on top bunk and charger found in box on floor. Neither inmate claimed contraband. Inmates were identified by SCDC face sheets. End of report.

Signature: *Claude Ellis* Title: SGT

Evidence: (1) LG phone and (1) charger

Disposition of Evidence:

Supervisor's Comments:  
*refer to major for review*

Printed Name: *Jessica Severt*

Signature: *Jessica Severt* Title: *Sgt* Date/Time: *10/30/18 8:52am*

Major Responsible Authority:  
*FORWARD DTD WITH 898*

Printed Name: *ARMOND S*

Signature: *ARMOND S* Title: *CPT* Date/Time: *11/25/18 11:02am*

STG Related - Refer to STG Committee

Yes  No  Unknown

*N/A TV-y 8.4*

This incident is DRUG related

Yes  No  Unknown

Responsible Authority

Action Taken

Informal Resolution *11/6*

Administrative Resolution

Refer to Disciplinary Hearing

Attachment (B-1)  
 SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
 INMATE GRIEVANCE FORM  
 STEP 2

Due 067  
 12-31-18

2/28

(C) Office Use Only

INMATE NAME: JUSTUA REED  
 SCDC NUMBER: 252079  
 INSTITUTION: KERSHAW ✓  
 HOUSING UNIT: S-B-19  
 WORK ASSIGNMENT: CAFETERIA

**RECEIVED**  
 DEC 04 2018  
 INMATE GRIEVANCE

Grievance No. KRCT 1184-18  
 Code: General \_\_\_\_\_  
 Policy \_\_\_\_\_  
 Disc. Hear.  208 10295  
 Class 11-11-18  
 PREA \_\_\_\_\_  
 Date Received: 11-30-18  
 IGC Initials: 2/1/19  
 Date Received: 12/9/18  
 IGA Initials: RH

**INMATE'S REASON FOR APPEAL (state specific dissatisfaction):** on 10-29-18 I WAS CHARGED WITH AN 898. I CAME IN FROM THE KITCHEN AS I WAS WALKING TO THE ROOM THE OFFICER SAID EVERYONE HEAD TO YOUR ROOM THEY ARE PREPARING TO PASS OUT CANTEN. AS I WAS HEADED TO THE ROOM (CONTRABAND) SAID STRIKE DOWN I STAY BY THE PHONE UNTIL THEY STRIKE MY ROOMMATE DOWN THEN THEY STRIPPED SEARCHED ME, I CAME BACK OUT THE ROOM AN THEY STARTED STRIKING DOWN THE ROOM. IN MINS TO JONES CAME OUT AN ASKED WHO WAS ON THE TOP BENCH MY ROOMMATE BLAKELY FOSTER REPLIED HE WAS JONES SAID 898 MY ROOMMATE ASKED WHATS THAT HE STATED PHONE CHARGE. WHEN HEY WERE DONE STRIKING DOWN JONES ASKED I WANT TO MAKE SURE IM NOT CHARGING THE ~~WROTE~~ WALKING PERSON WHO'S PHONE IS THIS? MY ROOMMATE BLAKELY FOSTER STATED YOU FOUND IT ON THE TOP BENCH ITS MINE. HE ALSO HAS A STATEMENT FROM L.T. HUNT WHICH STATES DNTRELL SIMPSON RAYI SAYS IT WAS HIS PHONE

Grievant Signature Josh Schep Date 11-28-18

**RESPONSIBLE OFFICIAL'S DECISION AND REASON:**

The documentation provided indicates that the evidence presented was sufficient to support the conviction of the Possession of Any Communication Device (898), case #95 on November 14, 2018 under SCDC OP-22.14, Inmate Disciplinary System, dated February 2, 2015, and the sanctions imposed, which included the loss of -70- days accrued good time, were appropriate for the rules violation. 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 forty-eight (48) 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.

Responsible Official Signature Wayne C. McCall Date 1-29-19

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                                      IGC Signature                      Date

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

Attachment B-2

STEP 1

NOV 15 2018

INMATE NAME: <u>JOSHUA REED</u>	(C4)	OFFICE USE ONLY
SCDC NUMBER: <u>252079</u>		Grievance No. <u>KRCI-1184-18</u>
INSTITUTION: <u>KERSHAW</u>		Code: <u>General</u>
HOUSING UNIT: <u>S-B-19</u>		Policy: <u>11/6/18</u>
WORK ASSIGNMENT: <u>KITCHEN</u>		Disc. Hear. <u>11-14-18</u>
		Class. <u>998 Case 95</u>
		PREA <u>1</u>
		Date Received <u>11-15-18</u>
		IGC Initials <u>ELM</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.) ON 10-29-18 I WAS CHARGED WITH AN 898. I CAME IN FROM THE CAFETERIA AS I WAS WALKING TO THE ROOM. THE OFFICER SAID REPORT TO THE ROOM THEY ARE PREPARING TO PASS OUT CANTONS AS I WAS HEADED TO THE ROOM CONTRABAND CAME UP AND SAID STRIKE DOWN, I STAYED BY THE PHONE UNTIL THEY GOT APPROXIMATELY STRIKING MY ROOMMATE DOWN AND THEN THEY STRIPPED SEARCHED ME, I CAME BACK OUT THE ROOM. THEY STARTED STRIKING DOWN THE ROOM 10 MINS IN JONES CAME OUT ASKED WHO WAS ON THE TOP BUNK MY ROOMMATE BLAILEY FOSTER REPLIED HE WAS JONES SAID 898 MY ROOMMATE ASKED WHAT THAT HE SAID PHONE CONTRABAND THEY FINISHED STRIKING DOWN HE ASKED (JONES) I WANT TO MAKE SURE IM NOT CHARGED, THE WRONG PERSON WHO PHONE IS THIS MY ROOMMATE BLAILEY FOSTER STATED YES PHONE IS ON THE TOP BUNK ITS MINE. HE ALSO HAS A STATEMENT WHICH L.T. HUNT HAS WHICH STATES THAT DWYELL SIMPSON RA.#41 SAYS IT WAS HIS PHONE.

Joshua J. Reed #252079 11-14-18  
 Grievant Signature Date

ACTION REQUESTED: PLEASE REINSTATE ALL SANCTIONS REMOVE CHARGE OFF REED AN GIVE ME MY GOOD TIME BACK.

ACTION TAKEN BY IGC:  PROCESSED  UNPROCESSED  OTHER  
 I have reviewed pertinent documentation  
 Please review the warden's Decision.  
Elaine Moore 11-20-18  
 IGC Signature Date

Attachment B2

**WARDEN'S DECISION AND REASON:**

Inmate Reed #252079

KRCI-1184-18

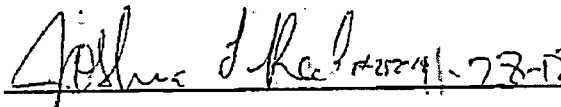
I have reviewed your concerns. In your grievance you stated that your conviction of November 14, 2018 of Disciplinary Charge 898, The Possession of Any Communication Device, Case Number 95 should be overturned because you were not in the Unit at the time contraband entered to search and your room-mate claimed possession of the cell phone at the time of incident. You added that Lt. Hunt has a written statement with the guilty party claiming ownership of the phone. The facts you've provided have been notated for review at the next level. Consequently, the points you raised do not substantiate any errors in the disciplinary hearing procedures and do not warrant a reversal. I find no technicalities, misinterpretation of evidence, or disproportionate sentencing on which you may appeal. The sanctions imposed were well within the guidelines for the offense

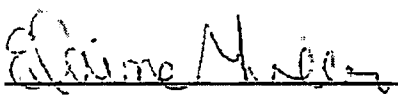
Therefore, your grievance is denied.

If you disagree with this Warden's 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, within five (5) days of your receipt of this decision.

 11/21/18  
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.

 11-28-18  
Grievant Signature Date

 11-28-18  
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.

(Attachment C)  
**STATE OF SOUTH CAROLINA**  
**IN THE ADMINISTRATIVE LAW COURT**

Joshua Reed, # 252079,	)	Docket No.: 19-ALJ-04-0067-AP
Appellant,	)	<u>Grievance No.: LCI-0274-15</u>
v.	)	<i>Hon. S. Phillip Lenski</i>
South Carolina Department of Corrections,	)	<b>RESPONSE TO</b>
Respondent.	)	<b>APPELLANT'S OBJECTION</b>
	)	<b>TO RESPONDENT'S</b>
	)	<b>MOTION TO DISMISS</b>

---

This matter is before the Administrative Law Court pursuant to the appeal of Joshua Reed (Appellant), an inmate incarcerated within the South Carolina Department of Corrections. In his filing, Appellant asserts that the transcript that was submitted as part of the Record on May 7, 2019 is not complete and accurate; specifically stating there is missing testimony from Sergeant Ellis. The transcript included certification from both the transcriptionist and DHO Bittinger. Further, undersigned counsel listened to the hearing, and there is not missing testimony from Sergeant Ellis. Appellant points to DHO Bittinger's disposition on page 3 of the transcript, in which he states, "The evidence I relied upon was the sergeant's report, statement at the hearing, picture of the evidence." Appellant asserts that the "statement at the hearing" is that of Sergeant Ellis. Sergeant Ellis did not make a statement at the hearing; however, Appellant did. The DHO weighed all the evidence presented and described that evidence in his disposition. As the transcript is complete, Respondent renews and incorporates fully by reference herein its June 14, 2019 Motion to Dismiss.

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS**

**DISCIPLINARY HEARING PROCEDURE**

**DOCKET No.: 19-ALJ-04-0067-AP**

**GRIEVANCE No.: KRCI 1184-18**

**INMATE NAME: Joshua Reed**

**SCDC No.: 252079**

**INSTITUTION: Kershaw Correctional Institute**

**DATE: November 14, 2018**

**CHARGE: 898 – Possession of any Communication Device (Case 95)**

DHO: The purpose of this hearing is to treat the matter before me with fundamental fairness and arrive at a just decision. All parties must conduct themselves properly. Failure to do so will result in your removal. State your name and SCDC Number for the record.

I/M: Joshua Reed, 252079.

DHO: You're appearing before the Kershaw Disciplinary Hearing being recorded at 2:25 p.m., 11/14/18. I'm DHO Bittinger. You're representing yourself. Are you ready to proceed?

I/M: Yes, sir.

DHO: I will now read into the record Case 95: Joshua Reed, 252079; Offense Date: 10/29/18; 1:30 p.m.; Institution: Kershaw; Offense Description: 898 - Possession of Any Communication Device; Charging Employee is Sergeant Ellis; Narrative: "On the above date and approximate time, I, Sergeant Ellis, Claude, 057522, assisted by Lieutenant Hunt and Officer Jones, conducted a search of Sycamore B, Cell 19. During search of cell, we recovered 1 LG phone and 1 charger. Inmate Blakely Foster, 356143, and Joshua Reed, 252079, are being charged with 898. Phone was found on top bunk and charger found in a box on the floor. Neither inmate claimed contraband. Inmates were identified by SCDC face sheet." The evidence in this case is a picture of the cell phone and charger. If you plead guilty or are found guilty of this charge, you will not earn good time for October 2018. You may also lose visiting, canteen, phone, and property privileges, pay restitution, disciplinary detention, loss of good time. Did you sign and receive a copy of these charges on 11/7/18, 12:05 a.m., from Sergeant Davis?

**DHO: Disciplinary Hearing Officer (Bittinger)**

**I/M: Inmate (Joshua Reed)**

**OFC: Accuser/Charging Official (Sergeant Ellis)**

I/M: Yes, sir.

DHO: You indicated you wanted your accuser present. Sergeant Ellis is on the speakerphone.

On the charge of 898, how do you plead?

I/M: Not guilty.

DHO: We will now receive evidence on behalf of the accused. Do you have a statement you will make in your defense?

I/M: I just came in from work and they say, "All inmate report to the room." As I was reporting to the room, they was already coming in to shake down the room.

DHO: Mm-hmm.

I/M: And they shook down...they pulled out...they pulled me out first. Shook...um, patted my roommate down, strip searched him. Called me and strip searched me. And standing out there, he came...Officer Jones came out and said, "Who's on top bunk?" My roommate said he was. He said, "Well, you got a 898." And he said, "What's that?" The other, um, contraband officer said, "That's a...that's a phone charge." He shook his head. Officer Jones went back in the room. Then as they was leaving, he said, "I want to make sure," he said, "Who's taking...who's taking ownership of this?" My roommate said, "You don't have to charge anybody. You don't have to charge anybody with what you're finding on the top bunk." I never said anything.

DHO: Mm-hmm. Now for the record, uh, we've already conducted a hearing on the other inmate. He did not accept ownership of the phone.

I/M: Mm-hmm.

DHO: Anything else, sir?

I/M: No, sir.

DHO: Now, I received evidence to support the charge against the accused. Disciplinary Report 95, which was read at the beginning of the hearing, will be considered as evidence against the accused. I will now recess this hearing to arrive at a decision.

(Recess)

DHO: Restate your name and SCDC Number.

I/M: Joshua Reed, 252079, sir.

DHO: I found you guilty of the charge of 898. The evidence I relied upon was the sergeant's report, statement at the hearing, picture of the evidence. No one has claimed this phone and charger found in the common area, sir.

I/M: [Inaudible 0:04:17].

DHO: That makes...that makes both...yeah, on top of the bed is a common area, um --

I/M: [Inaudible 0:04:26].

DHO: Both people are...both people responsible. Sanctions will be: 150 canteen, phone, visitation; 70 days loss of good time. You've been given that sanction because it's your first level, 898 conviction. You will receive a copy of the Hearing Record. You have five days to appeal my decision as to guilt and punishment imposed using a grievance form with Grievance Coordinator who can assist you if you need help. Do you want a grievance form, sir?

I/M: Yes, sir.

DHO: If you want to listen to record in this hearing, you have three days to do so through the Major's office utilizing the kiosk system. That concludes this case.

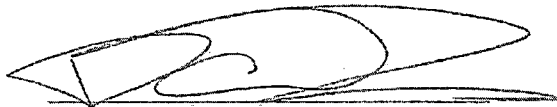
STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW JUDGE COURT

Joshua Reed, #252079, )  
 )  
Appellant, )  
 )  
-vs- )  
 )  
South Carolina Department of Corrections, )  
 )  
Respondent. )  
\_\_\_\_\_ )

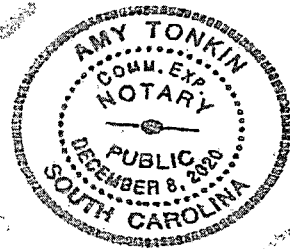
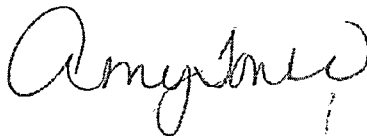
**CERTIFIED TRANSCRIPT**  
Docket Number: 19-ALJ-04-0067-AP

This is to certify that the transcript of the recording of this administrative disciplinary hearing is a true, accurate and complete transcript of the proceedings and testimony hereby transcribed.

I do further certify that I was not present at the administrative disciplinary hearing that has been transcribed.



Capital Typing  
37 Pritchard Farm Lane  
Bluffton, South Carolina 29910



The State Of South Carolina  
In The Court Of Appeals

RECEIVED

DEC 10 2019

Appeal From The Administrative Law Court  
S. Phillip Lenski, S.C. Administrative Law Court

SC Court of Appeals

Case No.:

Joshua Reed, 252079,

Appellant,

v.

South Carolina Dept. Of Corrections,

Respondent.

Proof Of Service

I, the above-stated Applicant, do hereby certify that I have served a copy of an "Initial Brief Of Appellant" on the 11 day of November, 2019, by placing said copies of same in the Kershaw Correctional Institutional Mailbox, addressed to the following: (Also Included: Resignation of [Name], [Name] Included on Approval)

(1) SCDC/Office Of General Counsel 4444 Broad River Road P.O. Box 21787 Columbia, SC, 29221-1787	2, Clerk Of Court S.C. Court of Appeals P.O. Box 11629 Columbia, SC, 29211
---	---

Dated: 11 - 2019.

Respectfully Submitted,  
Joshua Reed #252079

Joshua Reed, 252079  
Kershaw Co. I., SB-19  
4848 Goldmine Hwy.  
Kershaw, S.C. 29067

Dear Clerk,

Please find my "Initial Brief Of Appellants' Designation Of Matter To Be Included On Appeal", with a Certificate Of Service, to be filed with the Court,

Thank you for your kind services.

**RECEIVED**

DEC 10 2019

SC Court of Appeals

Respectfully,

Joshua Reed #252079

Joshua Reed, 252079

Kershaw C.I., SB-19

4848 Goldmine Hwy

Kershaw, S.C 29067