

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Administrative Law Court
Honorable S. Phillip Lenski, Administrative Law Judge

Case No.: 17-ALJ-04-0560-AP

ALARIC WAYNE HUNT, # 151418,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

RECORD ON APPEAL

RECEIVED

AUG 07 2018

SC Court of Appeals

Alaric Hunt 151418 F6B 1212
Lee Correctional Institution
990 Wisacky Highway
Bishopville SC 29010
Pro Se Appellant

Christina Bigelow
4444 Broad River Road
Columbia SC 29210
Attorney for Respondent

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INCIDENT REPORT

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Institution/Center: Lee CI				Date of Report: April 21, 2017	
Reporting Official (Full Name): LT. V. Smith				Time of Report: 7:41 AM	
Employee ID #: 045026				Date of Incident: April 21, 2017	
Location of Incident: visitation				Time of Incident: 7:10 AM	
Inmate(s)/Resident:	SCDC #	Age:	Sex:	Race:	Employee(s)/Witnesses Involved:
1. Hunt, Alarie	151413		M	W	1.
2.					2.
3.					3.
4.					4.
5.					5.

On the above date and approximate time:

During a Targeted Drug Test, I/m Hunt Alarie #151413 was allotted three hours to produce a urine specimen and refused. I/m Hunt Alarie #151413 is being charged with 903 - The Possession or use of narcotics, marijuana or prescription drugs or inhalants.

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APR 24 2017

LEE CI MAJOR'S OFFICE

Signature: *Smith, V* Title: *LT.*

Evidence: *Drug Test form*

Disposition of Evidence: *see contraband*

Supervisor's Comments: *Refer To DHO*

STG Related - Refer to STG Committee

() Yes () No () Unknown

Printed Name: *J. Richardson*

This incident is DRUG related

Signature: *J. Richardson* Title: *Sgt.* Date/Time: *4-21-17 7:56am*

() Yes () No () Unknown

Major/Responsible Authority:

903

Responsible Authority

Action Taken

() Informal Resolution

() Administrative Resolution

() Refer to Disciplinary Hearing

Printed Name: *Arenda Thomas* Date/Time: *4-24-2017 12:01 pm*

Signature: *Arenda Thomas* Title: *Captain* Date/Time: *4-24-2017*

SCDC OFFENDER MANAGEMENT SYSTEM
RANDOM & TARGET INMATE DRUG TEST FORM

INSTITUTION: LEE CORR INST
SCDC #: 00151418 INMATE NAME: HUNT, ALARIC, W
INMATE HOUSING UNIT: F61252T
ASSIGNMENT: EDUCATION DEPT BED: T
EXTERNAL TEST: NO
TEST REASON CODE: >02 TARGET TESTING SELECT DATE: 01/19/17
LAST POS.- 00/00/00 DILUT- THC- COC- MOR- AMP- BAR- BEN- MTH- REF-

GIVEN BY: Lt. v. Smith TESTER CODE:
TEST DATE: 4/21/17 MILITARY TIME: ~~0700~~ 7:10 am

TEST RESULT: (CIRCLE ONE) POSITIVE NEGATIVE REFUSED NOT TESTED

INDIVIDUAL SCREEN RESULTS: (CIRCLE ONE)

THC:----- (POSITIVE NEGATIVE NOT TESTED)
COCAINE:----- (POSITIVE NEGATIVE NOT TESTED)
MORPHINE/OPIATE:----- (POSITIVE NEGATIVE NOT TESTED)
AMPHETAMINE:----- (POSITIVE NEGATIVE NOT TESTED)
BARBITUATE:----- (POSITIVE NEGATIVE NOT TESTED)
BENZODIAZEPINE:----- (POSITIVE NEGATIVE NOT TESTED)
METHAMPHETAMINE:----- (POSITIVE NEGATIVE NOT TESTED)

TESTER: Lt. v. Smith (PRINTED NAME) Lt. v. Smith (SIGNATURE)

INSTITUTIONAL OFFICER/EMPLOYEE: _____ (PRINTED NAME) _____ (SIGNATURE)

CONFIRMATION T (CIRCLE ONE) POSITIVE NEGATIVE REFUSED NOT TESTED

INDIVIDUAL SCREEN RESULTS: (CIRCLE ONE)

THC:----- (POSITIVE NEGATIVE NOT TESTED)
COCAINE:----- (POSITIVE NEGATIVE NOT TESTED)
MORPHINE/OPIATE:----- (POSITIVE NEGATIVE NOT TESTED)
AMPHETAMINE:----- (POSITIVE NEGATIVE NOT TESTED)
BARBITUATE:----- (POSITIVE NEGATIVE NOT TESTED)
BENZODIAZEPINE:----- (POSITIVE NEGATIVE NOT TESTED)
METHAMPHETAMINE:----- (POSITIVE NEGATIVE NOT TESTED)

TESTER: _____ (PRINTED NAME) _____ (SIGNATURE)

INSTITUTIONAL OFFICER/EMPLOYEE: _____ (PRINTED NAME) _____ (SIGNATURE)

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
DRUG TESTING REFUSAL FORM

INSTITUTION: Lee CF DATE: 4/21/17

INMATE NAME: Must, Alvin SCDC #: 151018

BEGINNING TIME: 4:00 AM ENDING REFUSAL TIME: 7:10 AM

CIRCUMSTANCES (check appropriate category item and provide written explanation below):

- Refused to be tested.
- Admitted to use of illegal drug and refused test.
- Attempted to tamper with specimen.
- Would not provide specimen within the three-hour time frame.
- Refused to follow directions or instructions.

EXPLANATION: _____

WATER INTAKE TIME FRAME (8 oz. water every thirty minutes)

First time water offered: 5:25 AM

Second time water offered: 5:55 AM

Third time water offered: 6:25 AM

Fourth time water offered: 6:55 AM

Fifth time water offered: _____

Drug tester: At V Smith
Printed Name

At V Smith
Signature

Date: 4/21/17

A COPY OF THE INMATE MEDICATION RECORD FORM MUST BE SUBMITTED ON EVERY INMATE THAT CLAIMS TO BE UNABLE TO PRODUCE A SPECIMEN.



Inmate Request

Today's Date: 5/22/17 14:11

Name: HUNT, ALARIC WAYNE
Booking #: 151418
Permanent #: 151418

Reference #: 17-544059
Date Requested: 04/28/17 09:19
Request Type: Disciplinary
Requested By: Kiosk

Request Details: DHO: on 21 april 2017, i was drug-tested but i was unable to produce a specimen i was charged--not certain of the exact date. because the staff has not yet served the charge papers despite telling me that they do have the charge papers i was not given three hours to produce a specimen, nor was i given sufficient water to allow my body to produce urine i have an anxiety difficulty, documented in medical, with urination i do know that my drug test period was terminated at 7:04 am on 21 april, but i did not reach the testing area until after 4:45 am 21 april i ordinarily need the entire three hours--i have fourteen years of successful and clean specimen production on my drug-testing record. my clean record speaks for itself i do not use drugs i simply need the full allocated time to produce the specimen due to my anxiety. UM Graham was present for the testing, and should witness the correct start time. i wish to call UM Graham as a witness to my hearing. thank you, a hu

Disposition: Complete
Officer:
Disposition Date: 05/02/17 10:29

Request Responses

Date	Author	Note
05/02/17 10:29	c031434	Your staff request will be forwarded to the DHO

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

STEP 1

INMATE NAME: Alesia Hunt
 SCDC NUMBER: 151418
 INSTITUTION: Lee CI
 HOUSING UNIT: F6B 1212
 WORK ASSIGNMENT: Education

MAY 19 2017
 [initials]

OFFICE USE ONLY
 Grievance No. Lee CI 0373-17
 Code: General _____
 Policy _____
 Disc. Hear. ✓ 903/18
 Class. _____
 PREA _____
 Date Received 5/22/17
 IGC Initials [initials]

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 15 May 2017, I went to disciplinary hearing for a 903 charge (case # 018) and was heard by DHO Brown, following a 21 April 2017 drug test where I failed to produce a specimen; I was not given three hours or sufficient water to produce a specimen. The DHO, LT Smith, did not consult my medical records or submit medical documentation to the DTC, Inspector General, before charging me with 903.

At the hearing, DHO Brown refused to consider my 14 year history of clean drug tests, refused to consult Medical on my behalf, failed to consult available records (F6B logbook to confirm disputed time that testers left F6), and refused to call UM Graham as a witness on my behalf, falsely claiming first that I had not submitted a request, and then falsely claiming that I had not asked for the UM as a witness; but I did ask for the UM as a witness—see kiosk RTSM # 17-544059 (final sentence). The lack of the staff witness prevented confrontation of LT Smith's false testimony.

LT Smith said I refused the test when I simply failed to produce a specimen in the time she allowed; she claimed, falsely, that she gave me 3 hours and 5 cups of water for the test. She didn't. The F6B logbook shows the correct time that the test began, and UM Graham would have testified to the correct time. By comparing that time to the time of the charge, it is plain that 3 hours wasn't given, and without 3 hours, 5 cups of water cannot be given at half-hour intervals, as LT Smith falsely claimed. LT Smith also admitted that she did not consult my medical records, and admitted that she targeted me for a drug test despite that I have not been found guilty of a 903 since 2002; I should not be on the target list.

DHO Brown gave an unfair and untrue finding at the hearing. She violated policy—OP 22.14, and specifically subsections (.7), (.9.1), (.9.2), (.14.1), (.14.3), (.14.4), (.14.7.(1), (.2), and (.3)), and (.18.1.2).

LT Smith mismanaged the drug test. She violated policy—CA 03.03 (.2.2), (.4.1), (.6.1), and (.6.2). According to OP 22.14.24.1, a disciplinary rehearing may be granted for after-discovered evidence (...evidence concerning a disciplinary offense is discovered after the disciplinary offense hearing has been conducted.) In this case, medical records, the F6B logbook, and UM Graham's unfairly excluded testimony. I ask specifically that some other staff member, besides Brown, serve as DHO in a rehearing.

A Hunt 17 May 2017
 Grievant Signature Date

ACTION REQUESTED: rehearing; conviction overturned; charge expunged

ACTION TAKEN BY IGC: PROCESSED UNPROCESSED OTHER

See Warden's Response.

[Signature] 6/7/17
 IGC Signature Date

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM

STEP 2

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Office Use Only

INMATE NAME: Alaric Hunt
SCDC NUMBER: 151418
INSTITUTION: Lee C.I. ✓
HOUSING UNIT: F6B 12/2
WORK ASSIGNMENT: _____

JUN 2

INMATE GRIEVANCE

JUN 19 2017

Grievance No. Lee C I 0373-17
Code: General _____
Policy _____
Disc. Hear. 903/18
Class. _____
Date Received 6/20/17
IGC Initials JB

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

The Warden's Response to LEE CI 0373-17 claims that an investigation was performed but no faults were found in the hearing or evidence of this charge. That finding is false. I was not given 3 hours for the drug test or sufficient water to produce a urine specimen. I was denied a witness that I requested by kiosk, and denied consultation with Medical. Without proper administration of the drug test and disciplinary hearing (ie, sufficient time and water, witness requested by RTSM # 17-544059, etc.) I was deprived of due process.

The DTO violated SCDC policy repeatedly in misadministration of the drug test, and the DHO violated SCDC policy and protected Constitutional rights repeatedly in misadministration of the disciplinary hearing (policies GA 03.03 (.2.2), (.4.1), (.6.1), and (.6.2); OP 22.14 (.7), (.9.1), (.9.2), (.14.1), (.14.3), (.14.4), (.14.7(.1), (.2), and (.3)), and (.18.1.2).); 14th Amendment of the US Constitution and Article I, Section 3 of the SC Constitution.)

Alaric Hunt 19 June 2017
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

The documentation provided indicates that the evidence presented was sufficient to support the conviction of the Trafficking, Use, and/or Possession of Narcotics, Marijuana, or Unauthorized Drugs, including prescription drugs, or Inhalants (903), case #18, Level 1 Offense, on May 15, 2017, under SCDC Policy OP-22.14, Inmate Disciplinary System, dated February 2, 2015. The sanctions imposed, which included the loss of -0- 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 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.

Jim Riley 9/20/17
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.

Alaric Hunt 26 Sept 17
Grievant Signature Date

JB Purser 9/26/17
IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

Rule 62 states that:

Upon motion of any party, or on its own motion, an Administrative Law Judge may dismiss an appeal for failure to comply with any of the rules of procedure for appeals, including the failure to comply with any of the time limits provided by this section

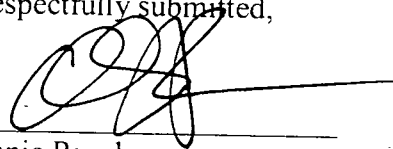
Here, although Appellant has filed a Notice of Appeal, pursuant to Rule 60, Appellant was required to file and serve an original brief "within ninety (90) days after the date of assignment." This case was assigned on November 9, 2017; therefore, Appellant's brief was due by February 7, 2018. Rule 62 provides that "upon motion of any party, or on its on motion, an Administrative Law Judge may dismiss an appeal for failure to comply with any of the rules of procedure, *including the failure to comply with any time limits provided by this section.* R. Admin. L. Ct. 62. .

Here, Appellant had an obligation to advance his position and has been given ample time to do so. Moreover, Appellant has not notified SCDC of any extenuating circumstances regarding his failure to file a brief. As of today's date, July 22, 2016, Appellant has failed to file a brief in support of his appeal.

CONCLUSION

WHEREFORE, SCDC respectfully requests the Court dismiss this appeal.

Respectfully submitted,



Annie Rumler
Staff Attorney
South Carolina Department of Corrections
4444 Broad River Road
Columbia, South Carolina 29221
(803) 896-1355

February 16, 2018
Columbia, South Carolina

STATE OF SOUTH CAROLINA
IN THE ADMINISTRATIVE LAW COURT

Alaric Hunt, #151418,)
)
 Appellant,)
)
 v.)
)
 South Carolina Department of Corrections,)
)
 Respondent(s).)
)

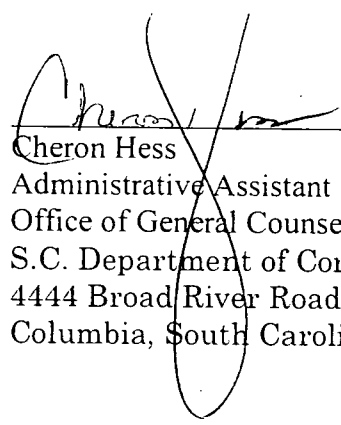
Docket No.: 17-ALJ-04-0560-AP
Grievance No.: LEECI 373-17

Hon. S. Phillip Lenksi

AFFIDAVIT OF
CHERON HESS

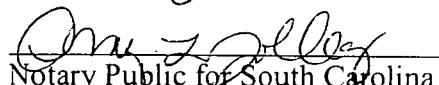
PERSONALLY APPEARED BEFORE ME, Cheron Hess, who, being duly sworn, states as follows:

1. I am employed by the South Carolina Department of Corrections Office of General Counsel as an Administrative Assistant. As an Administrative Assistant, I receive inmate briefs, motions, and other filings that are served on SCDC.
2. I have reviewed my files, specifically the file for the above-captioned case.
3. I have not received a brief from Appellant in any form in the above-captioned case.



Cheron Hess
Administrative Assistant
Office of General Counsel
S.C. Department of Corrections
4444 Broad River Road
Columbia, South Carolina 29221

Sworn to before me this 16 day
of February 2018


Notary Public for South Carolina
My Commission Expires: 10/26/2022

State of South Carolina In the Administrative Law Court

Alaric Hunt 151418,)	Docket No: 17-ALJ-04-0560-AP
)	[Grievance No: LEECI 373-17]
Appellant,)	
)	Honorable S. Phillip Lenski
v)	
)	
South Carolina Department of Corrections,)	Appellant's Motion for Special Consideration
)	
Respondent.)	
_____)	

Statement of the Case

This matter is before the South Carolina Administrative Law Court ("ALC") pursuant to the appeal of Alaric Hunt ("Appellant"). The case was assigned on November 9, 2017. Respondent, South Carolina Department of Corrections ("SCDC"), filed the record on December 29, 2017. Appellant's brief was due by February 7, 2018, but the Appellant failed to submit brief as of February 16, 2018 (or indeed, by February 23, 2018).

Argument

Frankly, the Appellant did not receive the Respondent's record until the end of January or the beginning of February. The exact date is available by a consultation of the registry at the Lee Correctional Institution Mailroom, but is not recalled by the Appellant. The Appellant admits to being remiss, a failure common to this particular Appellant (for such is he originally incarcerated).

However, the Appellant pleads special indulgence for circumstances. Lee Correctional Institution has been a war-zone in the months immediately preceding this moment, with no sign of peace. Lockdowns and other emergency situations have punctuated every week. (D-Brown was killed last night at about 6 o'clock PM.) One of the Appellant's coworkers, whom he relied

upon for guidance, was airlifted in late January or early February after being stabbed at 10:45 am. (John Garvin.) Lee Correctional Institution has seen as many as four stabbings in a single working day during this extended period. More specifically, the doors connecting the Education Building and the Library have been secured continuously during all working hours in these preceding months. In essence, the Appellant has been confined in his working area when not confined in his cage, and without any recourse in the severe circumstances to gain access to materials necessary for legal-work.

These continuing problems are the result of deliberate decisions made by the agency, specifically by introducing over 200 prisoners as a mass transfer from another institution. This mass transfer placed a social strain upon Lee Correctional Institution that interfered in the Appellant's ability to function. (Said in common terms, the Appellant was forced to pay primary attention to safety and survival during a drug and turf war between gang factions that was incited by the agency's decision to transfer a large group of prisoners between regions. This war has not ended yet. The Appellant is still in fear for his life on a daily basis.)

SCDC has stated the law relevant to this remission, naturally with the intention of securing a dismissal before this matter is heard. The Appellant wonders why SCDC would not prefer to offer a remedy in what is a plain and straightforward situation. It should not be the purpose of a government agency to "win at any price" in a tug-of-war with its citizens. The Appellant pays taxes and presumably is still a citizen, and should not suffer abuse simply because he is defenseless. [And here I think it is worthwhile to note that SCDC used a form-submission motion to dismiss, but failed to change the date on page 2 of the motion, claiming that the date of remission was July 22, 2016. SCDC is merely going through motions, with no internal intention to render justice. This is in accordance with the agency's general indifference.]

The Appellant provides a letter stating his grievance, with attachments taken from SCDC's record, and hopes that this can be taken as his brief in this matter.

Conclusion

WHEREFORE, the Appellant respectfully requests that the Court consider this appeal.

Respectfully submitted,

Alaric Hunt 151418 F6B 1212
Lee Correctional Institution
990 Wisacky Highway
Bishopville SC 29010

23 February 2018
Bishopville SC

Alaric Hunt 151418 F6B 1212
Lee Correctional Institution
990 Wisacky Highway
Bishopville SC 29010

15

23 February 2018

The Honorable S. Philip Lenski
South Carolina Administrative Law Court
Edgar A. Brown Building, Suite 224
1205 Pendleton Street
Columbia SC 29201

Reference: Inmate Alaric Wayne Hunt, 151418 v SCDC
Docket No 17-ALJ-04-0560-AP

Dear Judge Lenski:

I was accused of using drugs on 21 April 2017, based upon the spurious proof of simply failing to urinate in an allotted span of time.

Agency policy allows three hours for the task of urination and allots one cup of water for each thirty minutes in this span. In prior tests, I have succeeded because I was allowed three hours and given water.

In this test on 21 April 2017, I was not allowed and given such.

I face here the organs of criminal justice in America. At each step in the process of this accusation, conviction, and appeal, these organs have turned aside from their announced duty—justice?—in favor of pretence. Guilt was predetermined by the original fact of my imprisonment.

First, the charging officer, the DTO, knew for a fact that I was not given water at the appropriate times in the testing process.

(The testing paper is handwritten by the DTO, and oddly enough records the actual times that I was given water. I actually thought that the document would be fraudulent, written especially to support the conviction. But the process of conviction upon accusation was so certain that proof to the contrary was irrelevant.) [See attached. My first cup of water came 1:26 after the test 'started'.]

But with this record in hand, the DTO wrote the charge anyway.

Second, the staff judge, the DHO, knew for a fact both that I had asked for a witness (the UM that retrieved me for the drug test and who noted the time of retrieval upon the test-list) **and** that I was not given water. [See attached. At the hearing, the DHO denied at first that I had even written a request.]

The DHO had both these documents in hand but pronounced guilt at the hearing anyway.

Third, the warden at Lee Correctional Institution, when reviewing the conviction on direct appeal, knew for a fact that I had been denied a witness at DHO and that I had not been given water.

The warden listened to the recording of the hearing (where I was denied the witness and found guilty) and had in hand the documents, both the request for the witness and the testing form proving that I was not given water. [Sorry, I can't supply the audio recording or any transcript.]

The warden denied the appeal anyway.

Fourth, the Inmate Grievance Branch, when reviewing the Step 2 appeal, knew for a fact that I had been denied a witness at DHO and that I had not been given water.

This special branch operates solely to review appeals and administer the grievance system, exercises final agency oversight on the process, stamps it with the *imprimatur* of the agency Director, and likewise had in hand the document requesting the witness, the testing form with the entries for water, and the recording of the hearing.

The Inmate Grievance Branch denied the appeal anyway.

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Fifth, the agency's Staff Attorney at the Office of General Counsel, when reviewing the appeal to the Administrative Law Judge, knew for a fact that I asked for a witness at hearing and that I was not given water at the appropriate times in the testing process.

I know this because the attorney supplied these documents to me as part of the record on appeal. Prior to the record on appeal, I had never seen the documents that proved that the agency knew all along that I had not been tested or heard properly.

If the Office of General Counsel exists to provide legal oversight and guidance—as an agent of the State—the GC should do deliberate justice (simply said, do the right thing) in places where right and wrong are plain. This should require no action from the injured. The GC should volunteer a remedy.

Would a simple man not bandage my wound if I was bleeding? *When the injury is plain, address it.* Unless, of course, the Office of General Counsel is designed to win cases even at the price of justice.

But the Staff Attorney filed a motion for dismissal anyway, dated 16 February 2018.

I suspect that the court has already ruled in favor of the State's motion to dismiss. (Today is 23 February 2018, the same day I have received the motion.) This would be more of the fabric that shrouds me. In the minds of these agents of criminal justice, plausible reasons exist to ignore the command of truth. More importantly, my participation in the process was never required to achieve the preordained results.

First among those reasons, I am a lifer, a prisoner that will never be released except for a tenuous promise of potential parole. (The rate of parole for lifers in this agency is one percent or less per year.)

The agency's understanding of this certainty raises the natural question of why appeal-relief would ever be relevant to a lifer. I can only refer this, or any court, to the language of *Sibron v New York* (392 US 40 (1968)). [And specifically, if I *had* some slim chance of parole, this disciplinary conviction does nothing except erode that chance.]

Second, the agency, as a general rule, doesn't hear disciplinary appeals from prisoners unless that prisoner was penalized "Good Time" in the disciplinary process. (The agency fails to mention that *no* prisoner with a violent offense has "Good Time", and that consequently no prisoner with a violent offense is entitled to review of disciplinary convictions *no matter how spurious the charge*.) As a general policy, this forecloses the possibility of justice in the disciplinary process for a large class of prisoners.

This would have been the procedural argument of the Staff Attorney given different circumstances.

And finally, the agency's appeal process and policy has been manufactured with the sole intent of presenting a fiction that oversight exists in the correctional practice of discipline. The plain evidence in this case, in being ignored by the process, demonstrates that the process is pretence. And it further demonstrates that the agency participants (various staff) do little more than cash paychecks for maintaining the pretence of occupation.

I am grieved by this sham of justice and purpose. I pray that you will demonstrate the judicial oversight necessary to relieve the burden unnecessarily placed upon me. I will be considered for parole—for the first time—at some time after October 2018. I frankly do not expect to receive parole under any circumstances, but this spurious disciplinary conviction may provide the public mote that tips the scale against me. Help me.

Sincerely,

A Hunt

PS – I thought I should include the appropriate quote from the *Sibron* ruling for your reference:

"A judge or jury faced with a question of character, like a sentencing judge, may be inclined to forgive or at least discount a limited number of minor transgressions, particularly if they occurred at some time in the relatively distant past. It is impossible for this Court to say at what point the number of convictions on a man's record renders his reputation irredeemable. And even if we believed that an individual had reached that point, it would be impossible for us to say that he had no interest in beginning the process of redemption with the particular case sought to be adjudicated. We cannot foretell what opportunities might present themselves in the future for the removal of other convictions from an individual's record. [...] Moreover, litigation is better conducted when the dispute is fresh and additional facts may, if necessary, be taken without a substantial risk that witnesses will die or memories fade. And it is far better to eliminate the source of a potential legal disability than to require the citizen to suffer the possibly unjustified consequences of the disability itself for an indefinite period of time before he can secure adjudication of the State's right to impose it on the basis of some past action."

--Mr. Chief Justice Warren

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Alaric Wayne Hunt, #151418,)	Docket No. 17-ALJ-04-0560-AP
)	
Appellant,)	
)	
vs.)	
)	ORDER OF DISMISSAL
South Carolina Department of Corrections,)	
)	
Respondent.)	
)	
)	

This matter is before the South Carolina Administrative Law Court (ALC or court) pursuant to the Notice of Appeal filed on October 27, 2017 by Alaric Wayne Hunt (Appellant), who is incarcerated with the South Carolina Department of Corrections (SCDC or Department). The Appellant was convicted of Use or Possession of Narcotics, Marijuana or Unauthorized Drugs, Including Prescription Drugs, or Inhalants. He received punishment, however, ie did not include loss of good time credit.

On February 16, 2018, the Respondent filed a Motion to Dismiss requesting the court dismiss the Appellant’s appeal because he failed to timely advance his position. The case was assigned on November 9, 2017. Therefore, pursuant to SCALC Rule 60, the Appellant’s brief was due on or before February 7, 2018. The Appellant did not file a brief until March 1, 2018.¹ As such, the Appellant’s brief was not timely filed.²

DISCUSSION

SCALC Rule 62, entitled “Dismissal of Appeal,” provides that:

Upon motion of any party, or on its own motion, an Administrative Law

¹ The Appellant also filed a Motion for Special Consideration with his brief on March 1, 2018 explaining that his brief was late because the correctional facility where he is currently incarcerated has been on lockdown or in some type of emergency situation on a weekly basis. However, although the Appellant’s Motion for Special Consideration was in the format of a brief, it did not contain any legal citations or legal arguments.

² The court would likewise note that the Appellant’s brief filed on March 1, 2018 is in the form of a letter with no headings, legal citations, or legal arguments. Consequently, the Appellant’s brief also fails to meet the content requirements contained in SCALC Rule 60(B).

FILED

MAR 12 2018

Judge may dismiss an appeal . . . for failure to comply with any of the rules of procedure for appeals, including the failure to comply with any of the time limits provided by this section (V)

SCALC Rule 62. By filing an appeal, the Appellant has an obligation to advance a position. "There is a limit beyond which the court should not allow a litigant to consume the time of the court . . ." *Georganne Apparel, Inc. v. Todd*, 303 S.C. 87, 92, 399 S.E.2d 16, 19 (Ct. App. 1990). Therefore, pursuant to SCALC Rule 62, the Respondent's Motion to Dismiss is granted and this matter is hereby dismissed.

However, even if the court were to proceed to consider the merits of this matter, the appeal must be dismissed for lack of jurisdiction. The court's jurisdiction in inmate appeals is derived entirely from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). The court's appellate jurisdiction to hear such matters is limited to cases involving denial of state created liberty interests³ 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. *Al-Shabazz*, 338 S.C. at 369, 527 S.E.2d at 750.

When reviewing the Department's decisions in inmate grievance matters, the court sits in an appellate capacity. *Id.* at 377, 527 S.E.2d at 754 (citation omitted). Consequently, review in inmate grievance cases is limited to the record before the court. Pursuant to *Slezak v. S.C. Dep't of Corr.*, the ALC is to have jurisdiction over all properly perfected inmate appeals but "[s]ummary dismissal may be appropriate where the inmate's grievance does not implicate a state created liberty or property interest." *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 331, 605 S.E.2d 506, 508 (2004). While the court is sympathetic to the Appellant's concerns about possible negative implications this disciplinary conviction will have on his opportunity for parole, there is clearly no state created liberty or property interest implicated here.

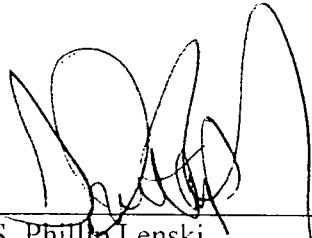
Thus, even had the Appellant timely filed his brief, this is undoubtedly a case in which this court must adhere to the traditional "hands off" doctrine regarding judicial involvement in internal prison matters. *See Pruitt v. State*, 274 S.C. 565, 266 S.E.2d 779 (1980); *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000) (emphasis supplied).

³ The court does have limited jurisdiction in some property matters, the authority for which need not be cited here.

ORDER

THEREFORE, the Department's Motion to Dismiss is **GRANTED** and this matter is hereby **DISMISSED**.

AND IT IS SO ORDERED.

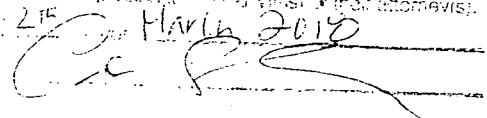


S. Phillip Lenski
Administrative Law Judge

March 12, 2018
Columbia, South Carolina

STATE OF SOUTH CAROLINA
 DEPARTMENT OF SOCIAL SERVICES
 DIVISION OF CHILD PROTECTION
 215 CALLETON DRIVE
 COLUMBIA, SOUTH CAROLINA 29201
 (803) 732-2200

215
 March 2018

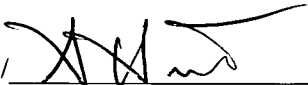


CONCLUSION

And the foregoing matter is the Record on Appeal.

July 9, 2018.
Bishopville SC

Respectfully Submitted,

s/ 

Alaric Hunt 151418 F6B 1212 Pro Se
Lee Correctional Institution
990 Wisacky Highway
Bishopville SC 29010