

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Franklin Benjamin, #245407,)
)
Appellant,)
)
vs.)
)
South Carolina Department of Corrections,)
)
Respondent.)
_____)

Docket No. 19-ALJ-04-0623-AP
Grievance No.: LCI-0832-19

ORDER OF DISMISSAL

RECEIVED

JAN 14 2020

SC Court of Appeals

This matter is before the South Carolina Administrative Law Court (ALC) pursuant to the Notice of Appeal filed December 6, 2019, by Franklin Benjamin (Appellant), an inmate in the custody of the South Carolina Department of Corrections (SCDC).

On October 8, 2019, Appellant filed a Step 1 Grievance complaining that his diet does not meet the dietary standards established by “USDA MyPlate” because it lacks the appropriate amount of daily protein, fruit, and whole grains. He requested that SCDC adjust his diet to meet the standards established by “USDA MyPlate”. In denying Appellant’s Step 1 Grievance, the Warden advised that he contacted the appropriate staff, reviewed pertinent documentation and was advised that the “USDA MyPlate” plan is only for inmates ages eighteen (18) through twenty-one (21). He further cited SCDC Policy ADM-16.05, Food Service Operations, and advised that “. . . [SCDC] will, therefore, ensure that the food served to inmates is in keeping with all applicable state and federal statutes, DHEC Regulations, and the ‘Recommended Daily Allowances’ as defined by the National Academy of Sciences, National Research Council.”

On October 21, 2019, Appellant filed a Step 2 Grievance disputing that his diet complies with standards of the National Academy of Sciences, National Research Council and realleging that his diet should be adjusted to meet the standards of “USDA MyPlate”. The Responsible Official denied Appellant’s Step 2 Grievance on the same grounds that the Step 1 Grievance was denied.

There is no relief available to Appellant within the scope of this Court’s authority. The ALC cannot and should not extend its jurisdiction over an internal prison matter. *See Al-Shabazz v. State*, 338 S.C. 354, 382, 527 S.E. 2d 742, 757 (2000) (citing *Pruitt v. State*, 274 S.C. 565, 567-68, 266 S.E.2d 779, 780 (1980)) and *Howard v. S.C. Dep’t of Corr.*, 399 S.C. 618, 733 S.E.2d 211 (2012).

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SC ADMIN. LAW COURT

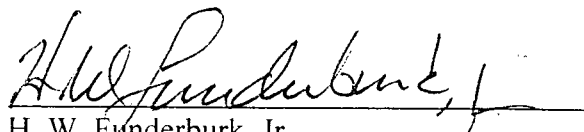
Under *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 331, 605 S.E. 2d 506, 508 (2004), the ALC is to have jurisdiction of all properly perfected inmate appeals but “[s]ummary dismissal may be appropriate where the inmate’s grievance does not implicate a state created liberty or property interest.” This is an internal prison matter involving SCDC medical policy and does not involve the denial of a liberty or property interest.

It is therefore,

ORDERED that this appeal is **DISMISSED**.

AND IT IS SO ORDERED.

Columbia, South Carolina
January 2, 2020


H. W. Funderburk, Jr.
Administrative Law Judge

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 Interagency Mail Service addressed to the party(ies) or their attorney(s).

This 2nd day of January, 2020
By: Elizabeth A. Palms
Judicial Law Clerk

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JAN 02 2020

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