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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATION LAW COURT
HON: H.W. FUNDERBURK, Jr., ALJ
APPELLATE CASE NO.: 2020-000055

FRANKLIN BENJAMIN,....., APPELLATE,

v.

S.C. DEPT. OF CORR.,....., RESPONDENT.

APPELLANT'S INITIAL BRIEF

FRANKLIN BENJAMIN
LEE CORR. INST.
990 WISACKY HWY.
BISHOPVILLE, SC
29010

COUNSEL OF RECORD

DAVID TARTASKI
S.C. GEN. COUNSEL
PO BOX 21787
COLUMBIA, SC 29221-1787
RESPONDENT

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S.C. & U.S. CONSTITUTIONS+
EIGHTH AMEND., U.S.

QUESTIONS

- 1) DID THE ALJ IMPROPERLY DISMISSED THE APPELLANT'S APPEAL BASED ON ERRONEOUS CONSTRUING THE CREATED LIBERTY STANDARDS PURSUANT TO THE S.C. AND U.S. CONSTITUTIONS THAT GUARANTEES APPELLANT THE RIGHT TO BE PROTECTED FROM CRUEL AND UNUSUAL PUNISHMENTS ACCORD. TO THE 8th AMEND.?

- 2) DID THE ALJ ERRED WHEN IT DISMISSED APPELLANT'S APPEAL BASED ON THE SCDC AGENCY FINAL DECISIONS, AND WITHOUT EXAMNING THE APPELLANT'S CLAIMS AND ISSUES REGARDING THE SCDC AGENCY CRUELTY ACTIONS AGAINST APPELLANT, USING FOOD AND LACKING OF FOOD SUBSTANCES AS A PUNISHMENT, ENDANGERING TOOLS THAT CAUSES INMATES HEALTH TO DETERIORATE AND OR TO BECOME IN BAD HEALTH, HIGH BLOOD PRESSURE, DIABETIC, AND PROHIBITING THE YOUTHFUL PORTION OF THE POPULATION IN SCDC TO BE DEPRIVED OF THE APPROPRIATE TYPES OF MEALS AND THE LACK OF MEALS, etc. AND WHEN IT IS FACTUALYLY DOCUMENTED THAT THE SCDC FEEDS ONLY TWO MEALS ON SATURDAY AND SUNDAYS, AS SCDC DO NOT FEED THE PRISON POPULATION ACCORDINGLY TO THE USDA CURRENT DIETICIAN STANDARDS?

STATEMENT OF CASE

ON 8/04/2019, AT APPROX. 11:27 a.m., I MADE A REQUEST TO MRS. E. DAVIS, FOOD SERVICE NUTRITIONIST 4, TO ADJUST MY DIET BECAUSE IT WAS INADEQUATE NOT PROVIDING FRUITS OR JUICE, NO WHOLE GRAINS OR ADEQUATE PROTEIN. ON 10/4/2019, AT APPROX. 8:28 a.m., (C044706) THE RESPONSES WAS THAT THE DIET IS ADEQUATE. I FILED GRIEVANCE ON 10/07/2019, IT WAS RESPONDED TO ON 10/15/2019. I FILED STEP GRIEVANCE ON 10/17/2019, AND IT WAS RESPONDED TO ON 11/22/2019, (LEE C.I.-0832-19), MY NOTICE OF APPEAL ON 12/05/2019. I LATER FILED AN APPEAL IN THE ADMINISTRATIVE LAW COURT ON 01/01/2020, SEE CASE #19C0623. THE ISSUES FOR APPEAL ARE BASED UPON THE FACTUAL EVIDENCE THAT THE CURRENT S.C.D.C DIET IS INADEQUATE BECAUSE IT DOES NOT PROVIDE FRUIT OR FRUIT JUICE DAILY. IT DOES NOT PROVIDE WHOLE GRAIN FOODS NOR ADEQUATE PROTEIN OF (56 g.) 56 GRAMS DAILY, RECOMMENDATION OF THE DIETARY GUIDELINES COMMITTEE OR 2015-20 DIETARY GUIDELINES FOR AMERICANS. THE CURRENT DIET DOES NOT PROVIDE ADEQUATE CALORIES DAILY BASED UPON MY SEX, AGE, OR EXERCISE. I'VE DEVELOPED HIGH BLOOD PRESSURE CONDITIONS DUE TO DIET VOID OF FRUITS AND WHOLE GRAIN AND HEALTHY HEART FOODS. THE CASE WAS DISMISSED ON JANUARY 16, 2020, via LETTER FROM THE COURT OF APPEALS JANUARY 16, 2020, I RECEIVED NOTICE OF ASSIGNMENT OF CASE #2020-000055, THEN FILED RECORD OF APPEAL ON JANUARY 27, 2020.

THE FOLLOWING IS APPEAL MATTERS PERFECTED:

QUESTION # ONE

DID THE ALJ IMPROPERLY DISMISS THE APPELLANT'S APPEAL
BASED ON ERRONEOUS CONSTRUING OF THE CREATED LIBERTY STANDARDS
PURSUANT TO THE S.C. AND U.S. CONSTITUTIONS THAT GUARANTEES
THE APPELLANT THE RIGHTS TO BE PROTECTED FROM CRUEL AND
UNUSUAL PUNISHMENTS ACCORDINGLY TO THE 8TH AMENDMENT?

ARGUMENT

THE ALJ ERRED WHEN IT DISMISSED APPELLANT'S APPEAL. THE COURT MISCONSTRUED THE MEANINGS OF CREATED LIBERTY STANDARDS, SINCE IT IS A CONSTITUTIONAL RIGHT GUARANTEED, EVENMORESO, ALTHOUGH I AM INCARCERATED, I HAVE THE RIGHT TO BE PROTECTED FROM CRUEL AND UNUSUAL PUNISHMENT. SEE U.S. CONSTITUTION 8th AMENDMENT, ALSO SEE CASE AT: WILLIAMS V. COUGHLIN, 875 F.supp. 1004 (KEY 1532), STIPULATES THAT INMATES SHOULD RECEIVE ADEQUATE FOOD AND MEDICAL CARE. ALSO SEE KEY (1533), THAT STIPULATES THERE SHOULD BE NO INDIFFERENCE DELIBERATELY TOWARDS MY HEALTH.

THE DISMISSAL OF MY GRIEVANCES AND APPEALS TO THE COURT SHOWS THE DELIBERATE INDIFFERENCE TO MY HEALTH BY PRISON OFFICIAL AND THE COURT. IT CONTRIBUTES TO THE FURTHER DEGRADATION OF MY HEALTH THAT HAS ALREADY SUFFERED WITH HIGH BLOOD PRESSURE FROM LACK OF WHOLE GRAINS AND FRUIT OF FRUIT JUICE EQUIVALENT DAILY.

QUESTION #TWO

DID THE ALI COURT ERRED WHEN IT DISMISSED APPELLANT'S
APPEAL BASED ON THE S.C.D.C. AGENCY FINAL DECISIONS, AND WITHOUT
EXAMINING THE APPELLANT'S CLAIMS AND ISSUES REGARDING THE
S.C.D.C. CRUELTY ACTIONS AGAINST APPELLANT, USING FOOD AND
THE LACKING OF FOOD ITEMS AS A PUNISHMENT, ENDANGERING TOOLS
THAT CAUSES INMATES HEALTH TO DETERIORATE AND OR TO BECOME
IN BAD HEALTH, HIGH BLOOD PRESSURE, DIABETES, AND PROHIBITING
NOT THE YOUTHFUL OFFENDER PORTIONS OF THE POPULATION IN S.C.D.C.
TO BE DEPRIVED OF THE APPROPRIATE TYPES OF MEALS AND LACK OF
MEALS, etc., AND WHEN IT IS FACTUALLY DOCUMENTED THAT SCDC ONLY
FEEDS TWO MEALS TO THE POPULATION ON SATURDAYS AND SUNDAYS,
AS SCDC DO NOT FEED THE PRISONERS POPULATION ACCORDINGLY TO
THE USDA CURRENT STANDARDS?

ARGUMENT

THE ALC ERRED WHEN DISMISSING APPELLANT'S APPEAL WITHOUT HAVING AN EVIDENTIARY PROCESS FOR THE FACT FINDING OF THE CASE ISSUES. THE ALC DISMISSED APPEAL SOLELY ON BASED ON THE SCDC FINAL DECISION, AND HAD THE EVIDENTIARY PROCESSES BEEN FOLLOWED APPELLANT WOULD HAVE SHOWN THE COURT THAT THE SCDC DIETS DOSE NOT MEET THE MOST CURRENT DIETARY STANDARDS OF THE DIETARY GUIDELINE FOR AMERICANS AND DIETARY GUIDELINES ADVISORY COMMITTEE 2015-2020. APPELLANT COULD HAVE PROFFERED DOCUMENTS THAT THE CURRENT DIETARY STANDARDS THAT SCDC IMPLEMENTED IN ITS AGENCY DOSE NOT COMPLIES TO THE CURRENT STANDARDS AND THE ONE USED ARE OUTDATED AND OBSOLETE. APPELLANT HAVE DOCUMENTS THAT HIS HEALTH HAS BEGUN TO DECLINE FROM LACK OF WHOLE GRAINS AND FRUITS OR FRUIT JUICE EQUIVALENT DAILY. THE NEW STANDARDS TAKE INTO CONSIDERATION AGE, SEX, AND THE RECOMMENDED EXERCISES TO DETERMINE AMOUNT OF CALORIES APPELLANT SHOULD GET AS WELL AS DAILY PROTEINS INTAKE OF AT LEAST 56 GRAMS AND 2000 200 CALORIES MINIMUM FOR OPTIMAL HEALTH.

WITH THE PROFFERED DOCUMENTED EVIDENCE APPELLANT SHOWS THAT THE MASTER MENU SCDC PREPARES THE POPULATION MEALS FROM ONLY STATES THE DESCRIPTION OF TWO (2) MEALS FED TO THE POPULATION ON SATURDAYS AND SUNDAYS, WHICH FURTHER COMPROMISES GOOD HEALTH. IT IS A WELL KNOWN FACTS THAT FOR OVER THIRTY (30) YEARS THE COUNTRY HAS PROMOTED THE USE OF FIVE (5) FOOD GROUPS FOR GOOD HEALTH AND BALANCE DIET. SCDC ONLY SATISFIES THREE (3) FOOD GROUPS.

CONCLUSION

THEREFORE, (1) THE APPELLANT RESPECTFULLY REQUEST THAT THE SCDC DIET BE IMMEDIATELY FOR THE ENTIRE INMATE POPULATION TO INCLUDE WHOLE GRAIN FOODS, FRUIT OF FRUIRT JUICE EQUIVALENT AND VARIETY OF MEAT TO ENSURE ADEQUATE DAILY PROTEIN. (2) APPELLANT REQUEST THAT THE DIET BE ADJUSTED TO MEET CALORIE REQUIREMENTS OF MODERATE EXERCISE FOR THE ENTIRE INMATE POPULATION. (3) APPELLANT REQUEST TO BE COMPENSATED WITH A \$7 MILLION CASH SETTLEMENT , SINCE I MAY NEVER BE ABLE TO WORK DUE TO CONSTANT HEADACHES BROUGHT ON BY HIGH BLOOD PRESSURE DUE TO INADEQUATE DIET. APPELLANT REQUEST TO BE COMPENSATED FOR THE PAIN AND PSYCHOLOGICAL SUFFERING, WHILE FEARING AN EARLY DEATH FROM THIS LIFE THREATENING ILLNESS THAT THE SCDC DOES NOT TAKE THE RESPONSIBILITY FOR CAUSING IN ITS INMATE POPULATION. THE COURT MUST REVERSE THE ALC DISMISSAL AND GRANT FOR THE CASE TO BE HEARD IN ITS ENTIRETY.

IT IS THEREFORE RESPECTFULLY SUBMITTED ON THIS 12th DAY OF FEBRUARY 2020

RESPECTFULLY SUBMITTED,


FRANKLIN BENJAMIN

990 WISACKY HWY.

BISHOPVILLE, SC 29010

APPELLANT

DAVID TARTASKI, Esq.

SCDC GEN. COUNSEL

PO BOX 21787

COLUMBIA, SC 29221-1787

RESPONDENT

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

HON: H. W. FUNDERBURK, Jr.

SC Court of Appeals

APPELLATE CASE NO.: 20020-000055

FRANKLIN BENJAMIN, 245407,, APPELLANT,

v.

S.C. DEPT. OF CORR.,, RESPONDENT.

PROOF OF SERVICE

I, CERTIFY THAT I HAVE SERVED THE APPELLANT'S INITIAL BRIEF ON THE RESPONDENT BY DEPOSITING A COPY OF IT IN THE UNITED STATES MAIL, POSTAGE PREPAID, ON FEBRUARY 1st, 2020, ADDRESSED TO HIS OFFICE AS: SC DEPT. OF CORRECTIONS, GENERAL COUNSEL OFFICE, PO BOX 21787, COLUMBIA, SC 29221, BY PERSONALLY DELIVERING IT TO THE PRISON MAIL ROOM CLERK, ON THIS 1st DAY OF FEBRUARY 2020.

FEBRUARY 1st, 2020

Franklin Benjamin

FRANKLIN BENJAMIN
990 WISACKY HWY.
BISHOPVILLE, SC 29010
APPELLANT

GENERAL COUNSEL
PO BOX 21787
COLUMBIA, SC 29221
RESPONDENT

FRANKLIN BENJAMIN, #245407
LEE C.I./F4A-2105
990 WISACKY HWY.
BISHOPVILLE, SC 29010

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SC Court of Appeals

SC COURT OF APPEALS
PO BOX 11629
COLUMBIA, SC 29211

FEBRUARY 04, 2020

RE: FRANKLIN BENJAMIN V. SCDC, C/A. #2020-000055, ENCLOSURES
APPELLANT'S INITIAL BRIEF & PROOF OF SERVICE.

DEAR HON: CLERK OF COURT:

PLEASE ALLOW MY CORRESPONDENCE TO SERVE AS MY FORMAL SERVICE
OF LISTED CONTENTS AS STATED IN THE-TITLED MATTERS.

I HAVE PROVIDED TO THE COURT MY INITIAL BRIEF AND THE PROOF
OF SERVICE AS IS REQUIRED BY THE RESPECTFUL COURT RULES.

I ALSO PROVIDED AN EXTRA COPY FOR IT TO BE RETURNED TO ME
WITH YOUR RESPECTFUL OFFICE DATE AND STAMPED FILED COPY ON
IT AT YOUR EARLIEST TIME PRACTICAL.

THANKING YOU IN THE ADVANCE FOR YOUR TIME AND HELP GIVEN TO
ME IN THIS CRUX MATTERS AND I LOOK FORWARD IN HEARING FROM
YOU IN THIS VERY NEAR FUTURE.

AGAIN THANK YOU!!

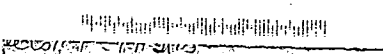
ENCLOSURE:

RESPECTFULLY SUBMITTED,

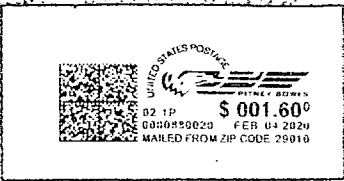
Franklin Benjamin
FRANKLIN BENJAMIN
990 WISACKY HWY.
BISHOPVILLE, SC 29010
APPELLANT

FG/elb

cc: DAVID TARTASKI, Esq.
SCDC GEN. COUNSEL
FILES/fg



90 W. Sackville Hwy.
S. 7 Sackville S.C. 29010



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South Carolina Court of Appeals
P.O. Box 11627
Columbia, SC 29211