

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT

HON: H.W. FUNDEBORK, JR., ALJ

APPELLATE CASE NO. 2020-000055

FRANKLIN BENJAMIN, #245407, APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, RESPONDENT.

APPELLANT'S INITIAL BRIEF

FRANKLIN BENJAMIN
LEE CORR. INST.
990 WISACKY HWY.
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COUNSEL OF RECORD

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FEB 13 2020

SC Court of Appeals

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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. R. 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 10/4/201, 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 OF 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 DISMISSED 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 ALJ COURT ERRED WHEN IT DISMISSED APPELLANT'S APPEAL BASED ON THE S.C.D.C. AGENCY FINAL DECISIONS, AND WITHOUT EXAMINING THE ABPELLANT'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 POPULTION 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 1st DAY OF FEBRUARY 2020

RESPECTFULLY SUBMITTED,


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PROOF OF SERVICE

I, CERTIFY THAT I SERVED THE APPELLANT'S INITIAL BRIEF ON THE RESPONDENT BY DEPOSITING A TRUE COPY OF IT IN THE UNITED STATES MAIL, POSTAGE PREPAID, ON FEBRUARY 11th, 2020, ADDRESSED TO HIS OFFICE, PO BOX 21787, COLUMBIA, SC 29221-1787, BY PERSONALLY DELIVERING IT TO THE PRISON MAIL ROOM CLERK, ON THIS 11th DAY OF FEBRUARY 2020.

FEBRUARY 11th, 2020

Franklin Benjamin
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RESPONDENT

Feb 11 / 2020

Per your letter dated Feb 6, 2020; I'd like to resubmit my brief along with record of appeal.

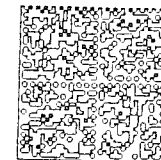
Frank A. Boyer

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