

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

~~APPEAL FROM~~ THE ADMINISTRATIVE LAW COURT
Shirely C. Robinson, Administrative Law Judge

Appellate Case No:2019-001628
Docket No:19-SCR-04-0271-AP
Grievance No:ACI 100-19

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SC Court of Appeals

Nathaniel Johnson, Jr., #211574,

Appellant,

v.

South Carolina Department of Corrections,

Respondent,

FINAL BRIEF OF THE APPELLANT

Is Nathaniel Johnson, Jr. #211574
Mr. Nathaniel Johnson, Jr., #211574
ACI. Colleton Unit F-1 A#05
1057 Revolutionary Trail Hwy47
P.O. Box 1151
Fairfax, S.C. 29827
Pro-Se Appellant

Ms. Imani Byas
Staff Attorney
Office of General Counsel
S.C. Dept. of Corrections
P.O. Box 21787
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TABLE OF AUTHORITIES

CASES

* Eubanks v. S.C. Dept. of Corrections, et al 561, F.3d. 294 (4th. Cir. 2009)

STATUTES

Article#6 Sec§73-61 State DNA Database (B)(1)(C).

S.C. Const. & U.S. Const.

Art.#1 Sec§23

Art.#XII. Sec§2

U.S. Const. Amendment V.

U.S. Const. Amendment XIV. Sec§1

STATEMENT OF ISSUES ON APPEAL

1). Whether the decision of SCDC's policy OP-21.09, that authorized or enforced the taking of \$250.00 for DNA fee prejudiced the substantial rights of the Appellant?

2). Whether the establishment of taking \$250.00 for DNA fee from the Appellant's E.H. Cooper Trust fund account to pay for what the jurisdictional agency is deemed to be responsible for, made or done upon an unlawful procedure?

STATEMENT OF THE CASE

On March 13th, 2019, the Appellant, moved with his (RTSM) Request to Staff Member directed to the inmate Grievance Branch Chief, Atty. Sherman L. Anderson. On March 28th, 2019, the Appellant, received a response back from Mr. Anderson.

The Appellant, moved forward with his Step#1 grievance. On April 16th, 2019 the Appellant, received the Warden's decision to deny the grievance, and on the same day Appellant, moved forward with his Step#2 grievance.

On May 17th, 2019, a response back from the responsible official Wayne C. McCabe. On May 20th, 2019, the Appellant, filed his Notice of Appeal to the S.C. Administrative Law Court. On May 29th, 2019, the case was assigned to the Honorable Shirley C. Robinson, Administrative Law Judge.

On September 16th, 2019, the Appellant, received an Order of Dismissal of the appeal and thereafter, he moved forward with his Notice of Appeal to the S.C. Court of Appeals as follows:

FACTS

DISCUSSION

I. Appellant is requesting an full reimbursement of the \$250.00 that was stolen from his E.H. Cooper Trust fund account to pay for the DNA sample.

II. Appellant was made aware under Article#6 Section §73-61 of the State DNA Database (B)(1)(C), which states, that the Jurisdictional Agencies, will incur all costs associated with sample collections and completion of information in the database collection kit.

III. Article#6 Section §73-61 (2)(b), states, the jurisdictional agency will be responsible for obtaining the recollected sample as described in subsection (B)(1)(C).

ARGUMENTS

1). Appellant, argues that SCDC's policy OP-21.09 that authorizes the taking of the \$250.00 DNA fee from the Appellant's E.H. Cooper Trust fund account was indeed prejudice and violated the Appellant's substantial rights.

See* Eubanks v. S.C. Dept. of Corrections, In Re DNA Ex Post Facto Issues, 561 F.3d. 294, 301 (4th Cir. 2009), Ex Post Facto violation of State Law requiring inmates to pay \$250.00 fee for DNA sampling before making parole or before being released.

Also, See* Lynce v. Mathis, 519 U.S. 433, 446-47 (1997), Ex Post Facto violation when actual events unquestionably disadvantaged the inmate.

2). Appellant, argues that the establishment of the taking of \$250.00 for DNA fee from the Appellant, to pay for what the jurisdictional agency is deemed to be responsible for, is made or done upon an unlawful procedure.

3). The Respondent, admitted that the \$250.00 DNA fee is not established by SCDC, but, they are requiring by force, the taking of \$250.00 or suffer punishment if going to lock-up or agree to sign consent to pay DNA sampling.

4). Article#1 Sec§23, of the S.C. Constitution, thus "mandates" that the S.C. General Assembly institutions for the confinement of all persons convicted of such crimes shall provide for the custody, maintenance, health, welfare, education, and rehabilitation of all inmates.

Therefore, the Appellant, based his demand for full reimbursement upon the clauses of Article#XII Sec.§2 of the S.C. Constitution.

CONCLUSION

WHEREFORE, this Court, should find that the S.C. Dept. of Corrections, taking of the Appellant's liberty or property to pay \$250.00 for DNA fee was hereby done unlawfully and should be reimbursed as a matter of law.

Dated: 02/20/20

Respectfully Submitted,

is *Nathaniel Johnson Jr. #211574*

Mr. Nathaniel Johnson, Jr. #211574

ACI. Colleton Unit F-1 A#05

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Pro-Se Appellant

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Respondent,

CERTIFICATE OF APPELLANT

The undersigned certified that this Final Brief complies with
Rule#211(b), SCACR.

Dated: 02/20/20

Respectfully submitted,
/s/ Nathaniel Johnson, Jr. #211574
Mr. Nathaniel Johnson, Jr. #211574
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Appellant,

v.

South Carolina Department of Corrections,

Respondent,

CERTIFICATE OF SERVICE

I, Nathaniel Johnson, Jr. #211574, the undersigned hereby certify that I have served an true copy of the Final Brief of the Appellant, on the Respondent, Ms. Imani Byas, Staff Attorney, Office of General Counsel, South Carolina Department of Corrections, P.O. Box 21787, Columbia, S.C. 29221, by depositing into the Allendale Correctional Institution mailroom on this 20th day of February, 2020.

Respectfully submitted,

/s/ Nathaniel Johnson Jr. #211574

Mr. Nathaniel Johnson, Jr. #211574
ACI. Colleton Unit F-1 A#05
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Pro-Se Appellant

LEGAL MAIL

Thurs. February 20th 2020

The Honorable Jenny A. Kitchings
Clerk, of the SC. Court of Appeals
P.O. Box 11629
Columbia, SC. 29211

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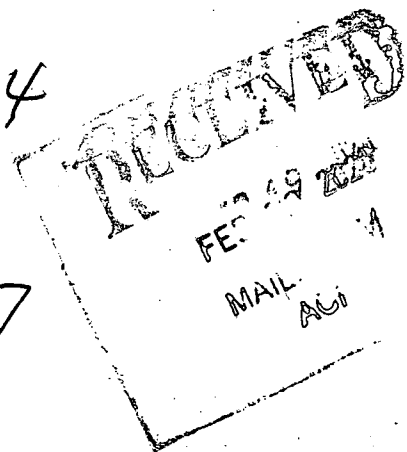
RE: Nathaniel Johnson Jr. # 211574, Appellant,
v. SC. Department of Corrections
Appellate Case No: 2019-001628

Dear Ms. Kitchings:

Enclosed you will find the original, plus fifteen (15) copies.
Please fill and send back one (1) copy for my records.
Thank you kindly!

Sincerely,
Nathaniel Johnson Jr. # 211574
Mr. Nathaniel Johnson Jr. # 211574
ACI. Colleton Unit F-1 A # 05
1057 Revolutionary Trail Hwy 47
P.O. Box 1151
Fairfax, SC. 29827
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SC Court of Appeals

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