

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Cody Waters, 328607,)
)
 Appellant,)
 vs.)
)
 South Carolina Department of Corrections,)
)
 Respondent.)
)

Docket No.: 20-ALI-04-0031-AP
Grievance No.: ECI 657-19

ORDER RECEIVED

MAR 26 2020

SC Court of Appeals

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to the Notice of Appeal filed by Cody Waters (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (Department). Appellant appeals the Department's decision denying his Step 2 Grievance.

The ALC has subject matter jurisdiction when the Department disciplines an inmate and imposes a punishment that deprives the inmate of a constitutionally protected liberty or property interest. *Al-Shabazz v. State*, 338 S.C. 354, 369, 527 S.E.2d 742, 750 (2000). *Slezak v. South Carolina Department of Corrections* provided further clarification that this Court has jurisdiction of all inmate grievance appeals that have been properly filed. 361 S.C. 327, 605 S.E.2d 506 (2004). However, when the grievance appeal does not implicate a state-created liberty or property interest, the ALC may summarily dismiss the appeal at its discretion. *Howard v. South Carolina Department of Corrections*, 399 S.C. 618, 733 S.E.2d 211 (2012).

For the purpose of establishing jurisdiction, a state-created liberty or property interest exists when (1) an inmate is disciplined and punishment is imposed, or (2) when an inmate alleges prison officials have erroneously calculated his sentence, sentence-related credits, or custody status. *Sullivan v. S.C. Dep't of Corr.*, 355 S.C. 437, 441, 586 S.E.2d 124, 126 (2003). Additionally, this Court has jurisdiction when an inmate contests the Department's decision to permanently deny the inmate's parole eligibility. *Id.* Finally, under certain circumstances, an inmate may have a state-created liberty interest in "freedom from restraint which, while not exceeding the sentence in such an unexpected manner as to give rise to protection by the Due Process Clause of its own force, nonetheless imposes atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life." *Sandin v. Conner*, 515 U.S. 472, 483-84 (1995). *See Sullivan*

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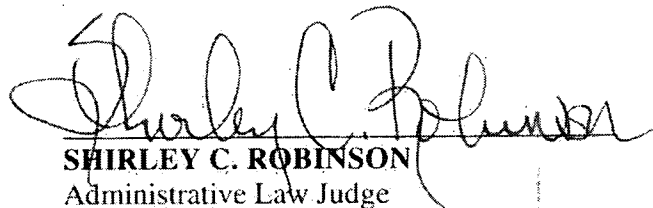
SC ADMIN. LAW COURT

355 S.C. at 443, 586 S.E.2d at 127 (applying *Sandin* to resolve a “condition of confinement claim”).

Here, Appellant contends that the Department failed to properly validate his Security Group Threat (STG) status and is requesting that the validated STG status be removed from his record. Appellant specifically contends there is no evidence to validate the status; he never signed documentation accepting the status, the Department did not conduct a formal meeting to notify him of the status and allow him to respond, and the Department failed to meet the two prong criteria to properly validate him as a STG. However, a prison official’s failure to follow the prison’s own policies, procedures or regulations, does not constitute a violation of procedural due process, if constitutional minima are nevertheless met. *See Weatherholt v. Bradley*, 316 Fed. Appx. 300, 303 (4th Cir. 2009) (not selected for publication) (quoting *Myers v. Klevenhagen*, 97 F.3d 91, 94 (5th Cir. 1996)) (“[F]ailure to follow prison rules or regulations does not, without more, give rise to a constitutional violation . . .”). Furthermore, for the ALC to have jurisdiction over Appellant’s classification status, there must be a showing by Appellant that the classification status assigned by the Department imposes an atypical and significant hardship such that a liberty interest is implicated. Appellant has not met that burden.

Consequently, because there are no allegations in Appellant’s Notice of Appeal that shows he was deprived of a state-created liberty or property interest, the Court finds *Howard* to be controlling, and the case is dismissed for lack of jurisdiction.

IT IS HEREBY ORDERED that this appeal is **DISMISSED, with prejudice.**
AND IT IS SO ORDERED.


SHIRLEY C. ROBINSON
Administrative Law Judge

March ^{5th} 5th, 2020
Columbia, South Carolina

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 appropriate Mail Service addressed to the party(ies) of their attorney(s).

This 5 day of March, 2020

By: 
Judicial Law Clerk