

RECEIVED

APR 27 2020

SC Court of Appeals STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Montavis Kentrall Gaines, #323168,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

Docket No. 19-ALJ-04-0640-AP

Grievance No. KCI 0876-19

ORDER OF DISMISSAL

RECEIVED

MAR 27 2020

SC Court of Appeals

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to a Notice of Appeal filed by Montavis Kentrall Gaines (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (Department or SCDC). Appellant seeks review of the Department's Step 2 Grievance decision in regards to a disciplinary matter. The SCDC decision indicates that Appellant was not sanctioned any accrued good time. Additionally, Appellant has not alleged the infringement of any other state-created liberty or property interest.

This Court reviews Department grievance decisions pursuant to the South Carolina Supreme Court decision in Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). Under the Al-Shabazz line of cases, this Court may only review matters related to a state-created liberty or property interest. See id., 338 S.C. at 368-69, 527 S.E.2d at 749-50 (vesting the ALC with jurisdiction over the loss of state-created liberty interests such as accrued good time credit); Wicker v. S.C. Dept. of Corrs., 360 S.C. 421, 602 S.E.2d 56 (2004) (holding that inmate had a right to procedural due process in matters involving a state-created right to property such as wages). Specifically, the South Carolina Supreme Court has stated that summary dismissal of an otherwise properly perfected inmate appeal "may be appropriate where the inmate's grievance does not implicate a state-created liberty or property interest." Slezak v. S.C. Dept. of Corrs., 361 S.C. 327, 331, 605 S.E.2d 506, 508 (2004) (citation omitted) (emphasis added). The Supreme Court has further stated that "there is a difference between an inmate's *forfeiture of accrued* sentence-related credits versus the *withholding of unearned, potentially available* sentence-related credits." Howard v. S.C. Dept. of Corrs., 399 S.C. 618, 629, 733 S.E.2d 211, 217 (2012) (emphasis in original). An inmate does not acquire a liberty interest in good time until it is earned. Id.

FILED

January 16, 2020

Because Appellant has not been sanctioned with the loss of any accrued good time, it is appropriate to dismiss this disciplinary appeal.

ORDER

THEREFORE, IT IS HEREBY ORDERED that this appeal is **DISMISSED, WITH PREJUDICE.**

AND IT IS SO ORDERED.

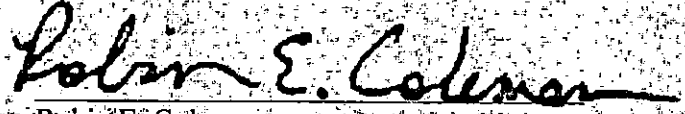


Deborah Brooks Durden, Judge
S.C. Administrative Law Court

January 16, 2020
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Robin E. Coleman, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail to the address provided by the party(ies) and/or their attorney(s).



Robin E. Coleman
Judicial Aide to Deborah Brooks Durden

January 16, 2020
Columbia, South Carolina

FILED

January 16, 2020

SC ADMIN. LAW COURT