

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT
Administrative Law Judge Ralph King Anderson, III

ALC Case NO. 19-ALS-04-0446-AP
Appellate Case NO. 2020-000251

Kenneth Rivera, #318979, Appellant,

v.

South Carolina Department of Corrections, Respondent.

RECORD ON APPEAL

May 4, 2020

Kenneth Rivera #318979
BRCI-Waterce B #225
4460 Broad River Road
Columbia, South Carolina 29210

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MAY 14 2020
SC Court of Appeals

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LEGAL MAIL

RESPONDENT MOTION TO DISMISS

On January 14, 2020 Respondent filed with the Administrative Law Court ("ALC") their Motion to Dismiss Appellant's Brief.

ORDER OF ADMINISTRATIVE LAW JUDGE

On February 3, 2020 Administrative Law Judge,
Ralph King Anderson, III dismissed with prejudice
Appellant's Brief.

APPELLANT BRIEF

On December 16, 2019 Appellant filed his Brief
with the Administrative Law Court ("ALC").

NOTICE OF APPEAL

On February 13, 2020 Appellant Appealed the Honorable Ralph King Anderson, III of the Administrative Law Court (ALC) Order of Dismissal with the South Carolina Court of Appeals.

RESPONDENT Entry OF Appearance

On March 4, 2020 Respondent Entry of Appearance
Was filed with S.C. Court of Appeals.

INITIAL BRIEF OF APPELLANT

On March 14, 2020 Appellant filed his Initial Brief
with the S.C. Court of Appeals.

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LEGAL MAIL

MOTION TO STRIKE CERTAIN DOCUMENTS

On March 24, 2020 respondent filed with the S.C. Court of Appeals Motion To Strike Certain Documents.

INITIAL BRIEF OF RESPONDENT

On April 13, 2020 respondent filed their Initial Brief.

REPLY BRIEF OF APPELLANT

On April 16, 2020 Appellant filed his Reply Brief.

APPELLANT EXHIBITS

1. On April 16, 2019 Appellant submitted a Request to Staff Member ("RTSM") to Food service about receiving Animal products.
2. On April 17, 2019 Appellant filed a step 1 grievance challenging the denial of a vegetarian diet.
3. On June 26, 2019 Appellant filed a Step 2 grievance appealing the denial of his step 1 grievance to an adequate vegetarian diet.
4. The October 21, 2019 Daily Alternative Diet Roster of Monticello Unit.

Inmate Request - General

Today's Date: 8/22/19 9:12

Name: RIVERA, KENNETH DARRELL
Booking #: SCB0030306
Permanent #: SCP0030306

1

Reference #: 19-01217056
Date Requested: 04/11/19 13:40
Request Type: Food (Cafeteria and Food)
Requested By: Kiosk

Request Details: PEACE I AM WRITING REGARDING THESE BAG LUNCHES. I AM A VEGAN AND DONT CONSUME ANY ANIMAL PRODUCTS BUT THE PAST TWO DAYS I RECEIVED BAGS WITH MEAT PRODUCTS. Y DID THIS OCCUR

Disposition: Complete
Officer:
Disposition Date: 04/16/19 15:28

Request Responses

Date	Author	Note
04/16/19 15:29	c059214	During this time we only honor ADA diets.

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS



APR 17 2019

INMATE GRIEVANCE FORM

STEP 1

2

INMATE ROOM: BRCI Kenneth Rivera

Grievance No. BRCI 0340.19

SCDC NUMBER: 318979

Code: General FBI/FS

Policy _____

INSTITUTION: Broad River C.I.

Disc. Hear. _____

HOUSING UNIT: Monticello B#157

Class. _____

WORK ASSIGNMENT: Wardkeeper

PREA _____

Date Received 4-19-19

IGC Initials SO

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

I, Kenneth Rivera, #318979 is the grievant of this grievance. On the date of April 17, 2019 at 8:38 AM I did state the facts. I am a vegan and do not eat or consume animal products. The Food Service Division stated via kiosk "We only honor ADA during lockdowns". The past week I've been giving meat products, I have to forfit my meals due to this.

ACTION REQUESTED: I Am requesting to have non-meat products everytime we receive bag lunches.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

19-01217056

Kenneth Rivera 4-17-19

Grievant Signature

Date

WARDEN'S DECISION AND REASON:

BRCI-0340-19

Your grievance has been reviewed. In it you stated you adhere to a Vegan Diet. You would like to be served items that are consistent with Veganism. Pursuant to ADM-16.05 Food Service Operations, "The SCDC recognizes the importance of proper nutrition to maintain the health and well-being of inmates. The Agency will, therefore, ensure that the food served to inmates is in keeping with all applicable state and federal statutes, DHEC Regulations, and the "Recommended Dietary Allowances" as defined by the National Academy of Sciences, National Research Council". Currently SCDC offers Therapeutic Diets for qualified persons, which is reviewed and approved through Medical. A list of approved therapeutic diets will be maintained in each institutional cafeteria. Vegan Diets have not been approved as a choice of dietary preferences at SCDC. You may consult with Medical to discuss dietary options that may apply to your request.

Therefore, your grievance is denied.

If you disagree with this Warden's Decision (Decision), you may file an appeal by completing SCDC Inmate Grievance Form 10-5A, provided to you while serving you this Decision, and placing it in the Grievance Box at your local correctional institution within five (5) days of your receipt of this Decision.

[Handwritten Signature] 6/17/19
Warden Signature Date

I accept the Warden's decision and consider the matter closed.

I do not accept the Warden's decision and wish to appeal.

[Handwritten Signature] 6/26/19
Grievant Signature Date

[Handwritten Signature] 6/26/19
IGC Signature Date

Served by [Handwritten Signature] 6/26/19

INSTRUCTIONS FOR COMPLETING STEP-1 GRIEVANCE FORM

1. An informal resolution shall be attempted prior to the filing of Step 1 by sending an Inmate Request to Staff Member (RTSM) form to the appropriate supervisor. A copy of the answered RTSM must be attached to the grievance when the grievance is filed.
2. Complete each section in its entirety writing only in the space provided for inmate use. No additional pages will be permitted.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form by placing in the Grievance Box within five (5) days of the date on the RTSM response; policy grievances can be filed at any time. Disciplinary and Classification Review appeals must be submitted within five (5) days of the hearing/review. Do not write in the space provided for the Warden's response.
5. If you are not satisfied with the Warden's decision, you may appeal to the appropriate responsible official within five (5) days of your receipt of the Warden's decision, via placement in the Grievance Box.

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM

446

rel/b JUL 12 2019

3

STEP 2

INMATE NAME: Kenneth Rivera
SCDC NUMBER: 318979
INSTITUTION: Broad River C.I. ✓
HOUSING UNIT: Monticello A # 212
WORK ASSIGNMENT: Ward Keeper

~~JUL 20 2019~~
75
JUL 03 2019

Office Use Only
Grievance No. BPCI-0340-19
Code: General FDIFS
Policy _____
Disc. Hear. _____
Class. _____
Date Received 6/26/19
IGC Initials BW

cel/19/19 JW

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

I, Kenneth Rivera #318979 is the grievant of this appeal. On June 26, 2019 at 12:30pm I did appeal the warden's decision. Nothing warden Stephen stated has anything to do with my grievance. Giving me "A Vegan meat products is against Kosher law." since when do Vegans eat meat? I do not eat meat period....

Kenneth Rivera 6/26/19
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

Your grievance has been reviewed. In it you stated you adhere to a Vegan Diet. You would like to be served items that are consistent with Veganism when bag lunches are served. You were informed of South Carolina Department of Corrections' current policy regarding dietary needs. Requirements are met by the Agency pursuant to ADM-16.05 Food Service Operations which states, "The SCDC recognizes the importance of proper nutrition to maintain the health and well-being of inmates. The Agency will, therefore, ensure that the food served to inmates is in keeping with all applicable state and federal statutes, DHEC Regulations, and the "Recommended Dietary Allowances" as defined by the National Academy of Sciences, National Research Council". Security-related concerns may cause normal operations to be modified in an institution. Special arrangements will be made by the Food Service Nutritionist or designee to ensure that the medical dietary needs of the inmates are met. Service of therapeutic diets will be limited to diabetics, hypoglycemics, and renal inmates for meals when emergency feeding practices are employed. Religious diets will be provided only if the circumstances make it feasible to do so. Meals (whether hot meals or sack meals) will be wholesome and nutritious and will be prepared and served according to dietary guidelines and Food Service regulations as they relate to your dietary plan approved by Medical. Various items are sold in the institution Canteen, when accessible to offenders, as an alternative to food items served through Food Service.

Therefore, your grievance is denied.

You may appeal this decision under the South Carolina Administrative Procedures Act to the South Carolina Administrative Law Court. In order to appeal, you must complete the attached Notice of Appeal Form (Form) and submit it as instructed on the Form within thirty (30) days of receipt.

Rebecca N. Lane 8-27-19
Signature Date

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

Grievant Signature _____ Date _____ IGC Signature _____ Date _____

(SEE REVERSE SIDE FOR INSTRUCTIONS)

Exhibit E
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South Carolina Department of Corrections
Division of Support Services
DAILY ALTERNATE DIET ROSTER

BROAD RIVER CORRECTIONAL INSTITUTION

DATE: October 21, 2019

Name	SCDC#	Diet	Bkfst	Dinner	Supper	Snack	Index
GREENWOOD							
ELSEY JOSEPH G.	217218	VEGETARIAN		At Work			1004
PRINCE D.	356225	VEGETARIAN		CHAPEL	At Work		933

Total Alternate Trays This Unit = 2 10/21 10/21 10/21

MARION							
BLASSINGAME, TIMOTHY	213064	VEGETARIAN					864
JOHNSON CURTIS T.	337543	VEGETARIAN					110
MOORE, ROBERT	155652	VEGETARIAN					724
MULLINS, TERRANCE	302684	VEGETARIAN					771
TAMISO SAYER A.	370196	VEGETARIAN					980

Total Alternate Trays This Unit = 5 10/21

MONTICELLO							
BROWN JOSHUA T.	286520	VEGETARIAN					945
CANNON, DONTELLE D.	317657	VEGETARIAN					886
DOCK III WORTH E	293532	VEGETARIAN					761
GRIFFIN, TERRANCE	327735	VEGETARIAN					101
JOHNSON, KADEEM S.	350533	VEGETARIAN					1047
MEADOWS WILLIAM D.	375319	VEGETARIAN					954
PARKER KEVAN D.	379381	VEGETARIAN					308
RIVERA KENNETH D.	318970	VEGETARIAN					1087
WRIGHT, RAYON D	370455	VEGETARIAN					258

Total Alternate Trays This Unit = 9

MOULTRIE							
BELCHER, CRANDALL C.	292796	VEGETARIAN					944
DUGGS, BRIAN A.	248964	VEGETARIAN					314
PATTERSON JAMES B.	217543	VEGETARIAN					631
WASHINGTON, LOWELL J.	240109	VEGETARIAN					686

Total Alternate Trays This Unit = 4 10/21 10/21 10/21

FOOD SERVICE SPECIALIST ON DUTY:

E. Barber

SC 20-69 (Rev. January 2004)

Breakfast *E*
 Dinner *E*
 Supper *E*
 Snack *E*

ATTENTION: WHEN A DIET OR SNACK BAG IS RECEIVED IT MUST BE INITIALED.
CHECK MARKS ARE NOT ACCEPTABLE AND CAN NOT BE COUNTED!

Exhibit F-

South Carolina Department of Corrections
Division of Support Services

DAILY ALTERNATE DIET ROSTER

BROAD RIVER CORRECTIONAL INSTITUTION

DATE: October 21, 2019

Name	SCDC#	Diet	Bkfst	Dinner	Supper	Snack	Index
MURRAY							
ANDERSON, JAMES E.	256077	VEGETARIAN		UNIT	UNIT		194
MADDOX, BRANDON	373215	VEGETARIAN					793
PEMEY, JOSHUA G	379617	VEGETARIAN					760
ROSSIMS, KENNIER J.	265346	VEGETARIAN		UNIT	UNIT		616

Total Alternate Trays This Unit = 4

10/21

WATEREE							
BUTLER JR, SHELTON L.	339834	VEGETARIAN					848

Total Alternate Trays This Unit = 1

10/21

10/21

10/21

FOOD SERVICE SPECIALIST ON DUTY:

E. Barber

SCDC 20-69 (Rev. January 2004)

Breakfast *E*
 Dinner *E*
 Supper *E*
 Snack *E*

ATTENTION: WHEN A DIET OR SNACK BAG IS RECEIVED IT MUST BE INITIALED.
CHECK MARKS ARE NOT ACCEPTABLE AND CAN NOT BE COUNTED!

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the Record On Appeal contains all material proposed to be included by any of the parties and not any other material.

May 4, 2020

Kenneth Rivera
Kenneth Rivera #318979
BRCI-Waterlee B #225
4460 Broad River Road
Columbia, SC 29210

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IAN LABELL

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Kenneth Rivera, #318979, Appellant,

v.

South Carolina Department of Corrections, Respondent

PROOF OF SERVICE

I certify that I have served the Record on Appeal on the respondent by depositing a copy of it in the United States Mail, postage prepaid, on May 4, 2020, addressed to their attorney of record, Annie Laurie Rumlter, Post Office Box 21787, Columbia, SC 29221-1787.

May 4, 2020

Kenneth Rivera
Kenneth Rivera #318979
BRCI - Waterree B # 225
4460 Broad River Road
Columbia, SC 29210

BCCI-Waterce B #228
4460 Broad River Road
Columbia, SC 29210



RECEIVED
MAY 14 2020
SC Court of Appeals

RECEIVED
MAY 07 2020
BCCI
MAIL ROOM

THE Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office BOX 11629
Columbia, SC 29211