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SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
[In The Supreme Court]

APPEAL FROM ADMINISTRATIVE LAW COURT

Ralph K. Anderson III, Administrative Law Judge

Docket No. 19-ALJ-04-0492-AP

Appellate Ca. No. 2020-000521

James Millholland 367569. . . . . Appellant

South Carolina Department of Corrections<sup>V</sup> . . . . . Respondent

[INITIAL] Brief of Appellant

This matter is before this Court by way of Appeal from the decision of the  
Administrative Law Court in Docket No. 19-ALJ-04-0492-AP

CASE HISTORY

The Appellant is an inmate in the South Carolina Department of Corrections (S.C.D.C.) and housed at the Allendale Correctional Institution in Fairfax, South Carolina. On June 25, 2019 Appellant submitted a Step 1 grievance appealing being charged two times for a one time DNA processing Fee of \$250<sup>00</sup> following denial of his Step 1 grievance, Appellant submitted a Step 2 grievance on July 25, 2019 arguing that his 5<sup>th</sup> amendment right had been violated. Step 2 was denied on September 9, 2019. Appellant then filed a notice of

appeal in the Administrative Law Court on October 24, 2019. This appeal was denied on March 4, 2020.

Appellant timely filed a notice of appeal and motion to proceed in forma pauperis to this Court. The motion to proceed in forma pauperis was granted on May 1, 2020

### STANDARD OF REVIEW

In appeals from the final decision of the S.C. D.C. summary dismissal is appropriate if the prisoner cannot demonstrate the decision implicated a liberty or property interest sufficient to warrant due process protections of the 14<sup>th</sup> Amendment

Skinner v. S.C.D.C., 370 S.C. 267, 635 S.E. 2d 910 (Ct. App. 2006)

A decision by an administrative agency may be modified or reversed if the findings and conclusions of the agency are affected by error of law or clearly erroneous in view of the reliable, probative and substantial evidence on the whole record

Brown v. BiLo, Inc., 341 S.C. 611 at 614, 535 S.E. 2d 445 at 447,

(Ct. App. 2000) Review of an administrative agency decision is

deferential and will be upheld if substantial evidence supports

it. Heater of Seabrook, Inc. v. S.C. Public Service Comm'n.,

324 S.C. 56 at 60, 478 S.e. 2d 826 at 828, (1996). Substantial evidence is relevant evidence that considering the record as a whole would allow reasonable minds to reach the conclusion that the administrative agency, reached its decision must be based on documented factual findings within the record. Hamm v. S.C. Public Service Comm'n., 309 S.C. 295, 432 S.e. 2d. 118 (1992)

An administrative agency must follow its own rules and regulations. Triska v. S.C. Dept. of Health and Environmental Control, 292 S.C. 190, 335 S.e. 2d. 531, (1987). Although failure to do so does not rise to the level of a constitutional violation, administrative principles do apply. Board of Regents v. Horowitz, 435 U.S. 78, 98 S. Ct. 948, (1978) Ogburn-Mathews v. Loblolly Partners, 332 S.C. 551, 505 S.e. 2d. 603, (Ct. App. 1998) while administrative agencies generally have little or no discretion in deciding whether its actions are rationally grounded as opposed to the arbitrary. Al-Shobazz v. State, 338 S.C. 354 at 381, 527 S.e. 2d. 742 at 761

### Issue(s) Present

Did the South Carolina Dept. of Corrections error, when they failed to confirm with S.L.E.D. that Appellant was already entered

into the DNA Database, and that the \$250<sup>00</sup> fee was already paid?

### Argument

In the years of 2000-2003, Appellant was charged and convicted of 2<sup>nd</sup> degree Burglary in Anderson County, South Carolina. Appellant was sentenced to five years probation. Since the burglary charge was a violent crime, the Appellant was required by the Dept. of Probation, Parole, and Pardon Services to provide a sample of blood for the D.N.A database. A nurse came to the Anderson Probation Office and collected a blood sample and the Appellant had to pay a \$250<sup>00</sup> processing to S.L.E.D. at the time of service. South Carolina Code Ann. 23-3-620(D) is clear and needs no interpretation "unless a sample has already been provided pursuant to the Subsection (A), before a person is released from confinement or released from the agency jurisdiction a suitable sample from which DNA may be obtained for inclusion in the state database must be provided as a condition of probation or parole" further "anyone required to provide a sample must also pay a processing fee and if the person required

to provide the sample is not sentenced to a term of confinement payment of the fee must be a condition of the persons sentence."

In 2016, appellant was sentenced to nine years in the S.C.D.C. for trafficking meth. At this time S.C.D.C. proceeded in charging Appellant a second time for the same database. This time the fee was taken out of Appellants E. H. Cooper account. 5% of every money order deposited on Appellants account was taken for S.L.E.D. until the \$250<sup>00</sup> fee was paid in full again. Appellant sent several request to inmate financial and to the warden explaining this error, and also wrote a letter to S.L.E.D. asking for their help.

Appellant, has claimed though out this grievance process, notice of appeal, brief and reply brief to the South Carolina Administrative Law Court, and in the brief to this Court that the required processing fee of \$250<sup>00</sup> was paid to S.L.E.D. while serving on probation in Anderson County for Burglary in the years of 2000-2003. Therefore S.C.D.C. should have never charged the Appellant an additional \$250<sup>00</sup> for a one time processing fee. This is not a \$500<sup>00</sup> fee, only \$250<sup>00</sup> one time

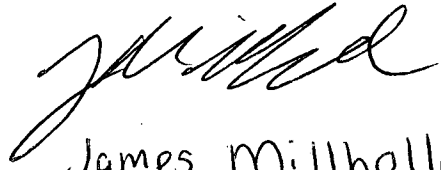
Unless the original sample was contaminated, no second sample would be required and no second fee would be required either.

Again, I ask this Court to take notice that I am not challenging the constitutionality of the D.N.A. Law in any form. Only that the \$250<sup>00</sup> processing fee was paid to S.L.E.D. as a condition of my probation sentence in Anderson County for 2nd Burglary in 2000-2003. And that S.C.D.C. made an error when they charged me a second \$250<sup>00</sup> in 2016 while in the D.O.C.

### Conclusion

I am requesting that this Court order S.C.D.C. to refund to the Appellant \$250<sup>00</sup> that they overcharged him for the D.N.A. database, and all other cost this Court seem just. The statute is clear on the amount to be paid and it is not \$500<sup>00</sup>. Furthermore, Respondents have never once, throughout this entire process, denied that Appellant paid this fee two times. For the reasons stated, this Court should reverse the judgement of the Administrative Law Court.

I am,



James Millholland 367569

A.C.I. Colleton A-50

PO Box 1151

Fairfax, SC 29827

May 18, 2020  
Fairfax, SC

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Ralph K. Anderson, III, Administrative Law Judge

APPELLATE CA. NO. 2020-000521

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South Carolina Department of Corrections . . . . . Respondent

PROOF OF SERVICE

This is to certify that a true and correct copy of the Initial Brief of Appellant, Designation of Matter To Be Included in the Record on Appeal, and Proof of Service has been served on the following listed below by depositing a copy in the U.S. mail with postage prepaid on this 18<sup>th</sup> day of May 2020:

S.C.D.C.  
Office of General Counsel  
PO Box 21787  
4444 Broad River Road  
Columbia, SC 29221

Administrative Law Court  
1205 Pendleton St, suite 224  
Columbia, SC 29201

S.C. Court of Appeals  
Jenny Abbott Kitchings, clerk  
PO Box 11629  
Columbia, SC 29211

X *James Millholland*

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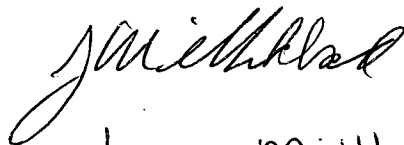
SC Court of Appeals

The Honorable Jenny Abbott Kitchings, Clerk  
S.C. Court of Appeals  
PO Box 11629  
Columbia, SC 29211

RE: James Millholland 367569 v. S.C.D.C. Appellate Ca No 2020-000521

Dear Ms. Kitchings,

Enclosed for filing is the Initial Brief of Appellant, Designation of Matter To Be Included in The Record On Appeal, and a Proof of Service. I received an update on the inmate Kiosk saying that the Supreme Court had relaxed its rules concerning the amount of copies due to the current situation with the Corona virus Pandemic. I pray that this is still in effect because Allendale C.I. is currently on lockdown and has been since April 28, 2020, therefore I am at a limited supply of paper and materials. thank you



James Millholland 367569

A.C.I. Colleton A-50

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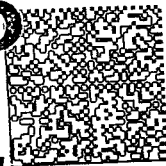
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May 18, 2020

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