

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-ALJ-04-0446-AP

Appellate Case No. 2020-00029

RECEIVED

JUN 10 2020

Kenneth Rivera, #318979, Appellant,

SC Court of Appeals

v.

South Carolina Department of Corrections, Respondent.

APPELLANT AMENDED RECORD ON APPEAL

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

LEGAL MAIL

INDEX

Respondent's Record OF December 4, 2019 Consisting OF
Inmate Grievance BREI-340-19

Appellant's Brief OF December 16, 2019

Respondent's Motion TO Dismiss OF January 14, 2020

Order OF February 3, 2020

Appellant Notice OF Appeal OF February 13, 2020

Entry OF Appearance OF March 4, 2020

Order OF March 26, 2020

Respondent's Motion TO Strike OF March 24, 2020

Appellant's INITIAL BRIEF OF March 14, 2020

Appellant's Disignation OF Matter OF March 25, 2020

Respondent's Objection OF April 13, 2020

Respondent's Initial Brief OF April 13, 2020

Appellant's Reply Brief OF April 15, 2020

Exhibits OF the case

HAW JAD

Respondents Record of December 4, 2019

On December 4, 2020 Respondent's file with the ALS
Appellant record consisting of Inmate Grievance
BRCI-340-19.

Appellant's Brief of December 16, 2019

On December 16, 2019 Appellant filed his Brief with the Administrative Law Court.

Respondent's Motion TO Dismiss OF January 14, 2020

On January 14, 2020 Respondent's filed their Motion TO Dismiss Appellant Brief in the Administrative Law Court.

Order OF February 3, 2020

On February 3, 2020 Administrative Law Judge
Ralph King Anderson, III issued an order dismissing
Appellant's Brief.

Appellant's Notice of Appeal of February 13, 2020

On February 13, 2020 Appellant filed his Notice of Appeal with the South Carolina Court of Appeals.

Entry of Appearance of March 4, 2020

An Entry of Appearance was filed on March 4, 2020
by Respondent's...

Order of March 20, 2020

On March 20, 2020 the Court of Appeals issued an Order for Appellant to Proceed In Forma Pauperis.

HAM JAGEL

Respondent's Motion TO Strike on March 24, 2020

On March 24, 2020 Respondent's Filed A Motion TO Strike certain Documents of the Appellant.

Appellant's Initial Brief of March 14, 2020

On March 14, 2020 Appellant filed his Initial Brief.

Appellant's Designation of Matter of March 25, 2020

On March 25, 2020 Appellant Designation of Matter was filed with the court.

Respondent's Objection of April 13, 2020

On April 13, 2020 Respondent's Objected to Appellant's Designation of Matter.

Respondent's Initial Brief of April 13, 2020

On April 13, 2020 Respondent's Initial Brief was
filed.

Appellant's Reply Brief of April 15, 2020

On April 15, 2020 Appellant's Reply Brief was filed.

Appellant's Exhibits In The Case

Exhibit A - Request TO Staff Member ("RTSM") OF
April 16, 2019

Exhibit B, C, - Appellant Step 1 grievance filed April 17, 2019

Exhibit D - Appellant Step 2 grievance filed June 26, 2019.

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM

476

JUL 12 2019

Exhibit D

STEP 2

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

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

JUL 20 2019
JUL 03 2019

6/19/19

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 stephon 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.

Relia Alan 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)

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

APR 17 2019 Exhibit B

INMATE GRIEVANCE FORM



STEP 1

INMATE NAME: BRCI Kenneth Rivera

SCDC NUMBER: 318979

INSTITUTION: Broad River C.I.

HOUSING UNIT: Monticello B-187

WORK ASSIGNMENT: Wardkeeper

Grievance No. BRCI 0340.19
Code: General Policy FBIKS
Disc. Hear. _____
Class. _____
PREA _____
Date Received 4-17-19
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 8:38am 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 holidays". 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

Exhibit C

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.

[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.

[Signature] 6/26/19
Grievant Signature Date

[Signature] 6/26/19
IGC Signature Date

[Signature] 6/26/19
Served by [Signature]

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.

Inmate Request - General

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

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

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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JUN 10 2020

In The Court Of Appeals

SC 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.

PROOF OF SERVICE

I certify that I have served the Record on Appeal
on Annie Laurie Rumber by depositing a copy of it
in the United States Mail, postage prepaid, on
June 5, 2020, addressed to Attorney on Record
P.O. Box 21787, Columbia, SC 29221-1787.

June 5, 2020

Kenneth Rivera
Kenneth Rivera #318979
BRCE-Waterice B# 225
4460 Broad River Road
Columbia, SC 29210

BRCE-U
4460 Broad River Road
Columbia, SC 29210

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BRCE MAILROOM

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JUN 08 2020
BRCE MAILROOM

South Carolina Court of Appeals
Jenny Abbott Kitchings, Clerk
Post office BOX 11,629
Columbia, South Carolina 29211