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AUG 20 2020

SC Court of Appeals

STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Administrative Law Judge Milton G. Kimpson

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ALC Case No. 19-ALJ-04-0625  
Appellate Case No. 2020-000356

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Thomas Thompson #80681

Appellant

v.

South Carolina Dept. of Corrections

Respondent

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RECORD ON APPEAL

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Thomas Thompson #80681  
Pro Se Litigant  
Tyger River CI  
200 Prison Road  
Enoree, S.C. 29335  
Appellant

Imani Byas  
South Carolina Department of Corrections  
4444 Broad River Road  
Columbia, SC 29221  
Counsel for Respondent

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CERTIFICATE OF COUNSEL

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.

August 12, 2020



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Thomas Thompson #80681  
Pro Se Litigant  
Tyger River CI  
200 Prison Road  
Enoree, S.C. 29335



procedural due process in matters involving a state-created right to property such as the state's mandate that inmates be paid the prevailing wage). Under certain circumstances, states may create liberty interests which are protected by the Due Process Clause; however, "[t]hese interests will be generally limited to freedom from restraint which . . . 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 also *Sullivan v. S.C. Dep't of Corr.*, 355 S.C. 437, 445 n.5, 586 S.E.2d 124, 127 n.5 (recognizing that condition of confinement claims could implicate state-created liberty interests but adhering to *Sandin*'s pronouncement limiting these interests).

In *Slezack v. South Carolina Department of Corrections*, 361 S.C. 327, 605 S.E.2d 506 (2004), our supreme court distinguished the ALC's subject matter jurisdiction from its appellate jurisdiction in clarifying the ALC's jurisdiction in inmate grievance matters. The court explained that the ALC has subject matter jurisdiction to hear appeals from the final decision of the Department in non-collateral or administrative matters. *Id.* at 331, 605 S.E.2d at 507 (citation omitted); see also *Howard*, 399 S.C. at 625, 733 S.E.2d at 215 ("The ALC has subject matter jurisdiction under the [APA] to hear properly perfected appeals from the SCDC's final orders in administrative or non-collateral matters.") In addition, "[t]he AL[C] has appellate jurisdiction over any matter where the procedural prerequisites for perfecting such an appeal have been met." *Slezack*, 361 S.C. at 331, 605 S.E.2d at 507 (citation omitted). However, while the ALC has jurisdiction over all properly perfected appeals from Department final orders, summary dismissal may be appropriate where the inmate's grievance does not implicate a state-created liberty or property interest. *Id.* at 333, 605 S.E.2d at 509.

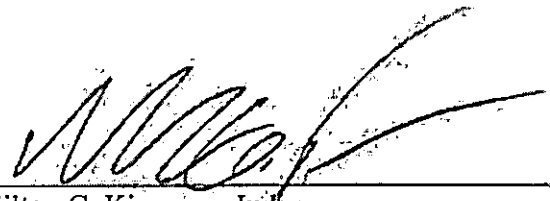
Despite Appellant's contentions, it is abundantly clear that his appeal does not relate to his sentence, sentence-related credits, or custody status. Moreover, Appellant does not allege any facts that suggest the requisite attire of the prison industry employment amounts to "restraint that imposes atypical and significant hardship on [him] in relation to the ordinary incidents of prison life."<sup>1</sup> See *Sandin*, 515 U.S. at 484. Accordingly, Appellant's appeal has not implicated any state-created liberty or property interests. In the absence of such interests, the Court finds that summary

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<sup>1</sup> While the Prison Industry programs are statutorily created pursuant to S.C. Code Ann. § 24-3-310, et seq., participation by inmates is a privilege and not a right. See *Skipper v. South Carolina Department of Corrections*, 370 S.C. 267, 633 S.E.2d 910 (2006) (finding that termination from prison employment is not an atypical, significant hardship that implicates a state created liberty interest.)

dismissal is appropriate. *See Slezak*, 361 S.C. at 333, 605 S.E.2d at 509 (holding that the ALC may summarily dismiss an inmate's appeal that does not implicate a state-created liberty or property interest). <sup>2</sup>

**IT IS HEREBY ORDERED** that this case is **DISMISSED WITH PREJUDICE**.  
**AND IT IS SO ORDERED.**



February 6, 2020  
Columbia, SC

Milton G. Kimpson, Judge  
South Carolina Administrative Law Court

**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 Interagency Mail Service addressed to the party(ies) or their attorney(s).

This 6 day of February, 2020

By: [Signature]  
Judicial Law Clerk

<sup>2</sup> To the extent Appellant's statement that he is "being subjected to a type of punishment ... which makes it cruel and unusual" seeks to make a claim under the Eighth Amendment to the United States Constitution, the Court notes that it is unlikely whether the ALC can exercise jurisdiction over such an action. See, *Mize v. South Carolina Department of Corrections*, Docket No. 01-ALJ-04-00926-AP (April 3, 2002) ("Prison officials are not allowed to impose significant hardships on the inmates under their control. However, this tribunal does not have authority to engage in the litigation of issues of such nature.") Nevertheless, participation in a Prison Industry work program is a privilege and not punishment.

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

Conformed Original

4

OCT 10

STEP 1

INMATE NAME: Thomas Thompson  
 WARDENS OFFICE  
 SCDC NUMBER: 80681  
 INSTITUTION: Tyger River  
 HOUSING UNIT: U1-225B  
 WORK ASSIGNMENT: Prison Industries Plant #1

OFFICE USE ONLY  
 Grievance No. TYGER 0580-19  
 Code: General  
 Policy PL10P  
 Disc. Hear. \_\_\_\_\_  
 Class. \_\_\_\_\_  
 PREA \_\_\_\_\_  
 Date Received 10/10/19  
 IGC Initials J

10-10-19  
BDR

STATEMENT OF GRIEVANCE (Indicate the date of incident, and if the grievance is a challenge to SCDC Policy, specify which policy. Include supporting documentation and attach answered RTSM or Kiosk reference number.)

I am grieving the policy requiring inmates working in PI to wear the sleeveless, pocketless striped uniforms. Inmates must be disciplinary free for a certain amount of time to be hired in the PI and must be disciplinary free while working there. These uniforms are humiliating and cause inmates to look like outcasts. All other inmates wear solid orange uniforms with a pocket and short sleeves state-wide. This includes inmates who participate in fighting, stabbing, perverse acts, assaults on officers and staff and various other prohibited activities. Why should someone who is obeying the rules and behaving positively have to endure this unique punishment while those who don't wear the same clothing as everyone else? If an inmate were working outside the fences such a uniform would be understandable. This policy is punishing the wrong people!

I have made a good faith effort to resolve this issue by filing a kiosk request under policy addressed to the Warden on 9-24-19 (19-01387817). Someone (c046946) responded to my RTSM but did not address the issue or send the RTSM to the person to whom it was clearly addressed.

[Signature] 10-8-19  
 Grievant Signature Date

ACTION REQUESTED:  
 Change this policy and stop requiring inmates working in PI to wear these striped uniforms.

ACTION TAKEN BY IGC:  PROCESSED  UNPROCESSED  OTHER

[Signature] 10/11/19  
 IGC Signature Date

(CONTINUE ON REVERSE SIDE)

**WARDEN'S DECISION AND REASON:**


**Thompson, Thomas 80681**

**TYRCI-0580-19**

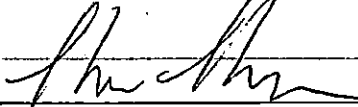
In response to your Grievance, TYRCI-0580-19, where you have stated that you are grieving the policy requiring inmates to wear the sleeveless, pocketless striped uniforms. You state that it is humiliating and cause the Prison Industry workers to feel separated from inmates who wear the fully orange uniforms. You allege that inmates are required to be disciplinary free and must remain so to receive a job in PI. An investigation discovered that there is no policy stating what the inmates are to wear to work in Prison Industries. However, due to past experience it is common knowledge that the inmates who have had jobs in PI were forced to wear stained, greasy looking, unsightly uniforms because of the hard labor that is required in PI. It was agreed that SCDC would give PI assigned inmates the stripe uniforms to wear while working. Thus, the Inmate Workers save their solid orange uniforms for other activities. This allows you and your co-workers to maintain fresher, cleaner, stain-free uniforms for visitation and other activities. It should be noted that the only time you are asked to wear the stripe uniform is during your shift in PI.

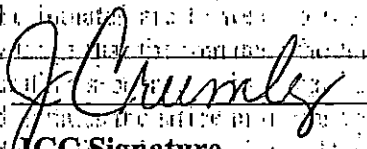
Therefore, your grievance is denied.

If you disagree with this Warden's Decision (Decision), you may file an appeal by completing SCDC Step 2 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.

 10/22/19  
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.

 10-24-19  
Grievant Signature Date

 10/24/19  
IGC Signature Date

**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 or Kiosk reference number 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 it in the Grievance Box at your institution within eight (8) working 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) working 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, by placing your Step 2 appeal form in the Grievance Box at your institution.

Due Date: 10-29-19

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE REPORT

STEP 2

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OCT 28

OCT 30 2019

INMATE NAME: Thomas Thompson  
TYGER RIVER C.I. WARDENS OFFICE

INMATE GRIEVANCE

Grievance No. Tyger-0580-19

SCDC NUMBER: 80681

INSTITUTION: Tyger River CI

HOUSING UNIT: U1-225B

WORK ASSIGNMENT: Prison Industries - Plant #1

General Policy PL/OP  
Disc. Hear. \_\_\_\_\_  
Class \_\_\_\_\_  
PREA \_\_\_\_\_  
Date Received: 10/29/19  
IGC Initials: [Signature]  
Date Received: 11-8-19  
IGA Initials: [Signature]

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): The Warden's decision states that "there is no policy stating what the inmates are to wear to work in Prison Industries" yet we inmates have been told it is mandatory that we wear these striped uniforms. If it was voluntary for inmates to wear these uniforms I would have no complaint. Some inmates do work in areas that have chemicals, (stains, finishes, glue, resins, etc) and these stains spread to other clothes when they are washed together. However, the commissary issued two extra 'used' uniforms to everyone assigned to PI so there was never truly any problem of not having fresh, clean, stain-free uniforms to wear on visit and other activities. The area I work in has only normal dirt and dust.

Grievant Signature [Signature] Date 10-27-19

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

I have reviewed your concern. You stated in this grievance that you are grieving the policy requiring inmates to wear the sleeveless, pocketless striped uniforms. You stated that it is humiliating and causes the Prison Industries (PI) workers to feel separated from the inmates who wear the fully orange uniforms. You stated that inmates are required to remain disciplinary free in order to work in PI. The Agency does not have a policy in place stating what kind of uniform the inmates are required to wear while working in PI. Due to the hard labor jobs in PI, the uniforms can become stained and greasy looking. The Agency decided to give inmates assigned to work in PI striped uniforms to wear while working. Therefore, this will allow the solid orange uniforms to maintain a fresher, cleaner, and stain-free appearance and you will be able to use this uniform for visitation and other activities within the institution.

Therefore, your grievance is resolved.

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.

Responsible Official Signature [Signature] Date 11-20-19

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 [Signature] Date 12-5-19

IGC Signature [Signature] Date 12/5/19

(SEE REVERSE SIDE FOR INSTRUCTIONS)