

RECEIVED

AUG 20 2020

SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

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

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

Thomas Thompson #80681

Appellant

v.

South Carolina Dept. of Corrections

Respondent

APPELLANT'S REPLY BRIEF

APPELLANT'S OBJECTIONS

Appellant, Thompson objects to Respondents' statements as to the issue on appeal and the facts regarding the Department's response to his grievances. The issue on appeal is as follows:

HAS THE DEPARTMENT VIOLATED THOMPSON'S 8th AMENDMENT RIGHT TO PROTECTION FROM CRUEL AND UNUSUAL PUNISHMENT BY REQUIRING HIM TO WEAR A UNIFORM SYMBOLIC OF PUNISHMENT WITHOUT DUE CAUSE AND THROUGH UNETHICAL MEANS?

The Department clearly stated in the responses to both steps 1 & 2 grievances that there was no policy stating what type of uniform inmates must wear to work in PI. Both responses state that the uniforms were given to PI workers rather than being required. It is implicit in the verb "gave" that the thing must be accepted whereas a requirement cannot be declined. Thompson also asks the Court to observe that the responses to both grievances were essentially identical yet the first was a denial and the second proposed to resolve the issue.

ARGUMENT

The Administrative Law Judge based his ruling on the issue of whether there was a state created liberty interest. (R.p1&2) The Department now asserts the same argument. Thompson is serving a life sentence therefore he has no good time and work credits do not apply to his sentence so he cannot establish a liberty interest as stipulated in this argument. Does this in effect deny him and all other similarly situated inmates the right to Due Process while incarcerated?

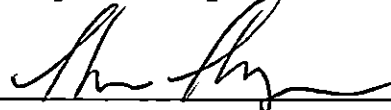
In this particular instance due process is not an issue since Thompson has not been before a disciplinary board, charged with a rules violation, or even accused of one. It is precisely because Thompson has not violated the rules and regulations of the Department that he is being subjected to this punishment.

Through good behavior and hard work Thompson has earned the privilege of working in the PIE Program and receiving the benefits thereof. The Department is using these benefits as leverage to force Thompson to accept the requirement to wear these chain-gang style uniforms. This can be described in various terms such as extortion, coercion and blackmail. Commissioner Sterling originally purchased these uniforms to issue to the entire population of the Department. After a ruling in a Class-Action lawsuit regarding mental health the Department was prohibited from doing so for mental health reasons. The practice of sentencing inmates guilty of sexual misconduct to wear pink jumpsuits was also prohibited. Thus came about this proverbial "white elephant", some 80,000 uniforms made unusable. Now the Department has decided to put the mental health of PI workers at risk. If it was a threat to the mental health of the entire population then it must be an even greater threat to a small minority of the whole. The Department then answers Thompson's complaint with arbitrary statements that it has no policy and the uniforms were a gift when in fact it was made a mandatory requirement to work in PI.

CONCLUSION

The Department has neither addressed nor disputed these facts. The Department only argues the decision of Judge Kimpton that there is no atypical and significant hardship. Only a small section of the prison population is required to wear the uniforms so it is atypical. A threat to someone's mental health is a significant hardship. Thompson begs the Court to consider these facts and rule against the mandatory requirement for PI workers to wear these uniforms.

Respectfully submitted,



Thomas Thompson #80681

August 12, 2020