

STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

APPEAL FROM THE ADMINISTRATIVE LAW COURT **Oct 27 2020**

Administrative Law Judge Ralph K. Anderson, III

SC Court of Appeals

ALC-Case No. 19-ALJ-04-0277-AP
Appellate Case No. 2019-002115

Gregory Pencille #312332 Appellant,

v.

South Carolina Department of Corrections Respondent,

RECORD ON APPEAL

KENSEY EVANS
S.C. Department of Corrections
PO Box 21787
Columbia, SC 29221-1787
SC Bar No. 102215
evans.kensey@doc.sc.gov
(803) 896-1943

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Attorney at Law
305 Main Street
Greenwood, SC 29646
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(864) 229-5010

Attorney for Respondent

Attorney for Appellant

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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Gregory Percille

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

#312332

NOTICE OF APPEAL

DOCKET NO. -ALJ-04-
GRIEVANCE NO.: Lee CJ - 0135-19

Notice is hereby given that Gregory Percille does hereby appeal the final decision of the South Carolina Department of Corrections dated April 19th, 2019 and received on May 13th, 2019, a copy of which is attached. A general statement of the grounds for appeal is (See S.C. Code Ann. § 1-23-380(A)(6)):

SCDC has violated Equal Protection by denying one Religious group (Wiccans) access to Religious Materials (Sacramental oil) supposedly for security reasons, while allowing other groups (Muslims, Buddhists, etc) access to similar religious materials (Sacramental oil) and other Religious needs.
(See Step 1 Griev. for case law quoted.)

Gregory Percille

Appellant's Name

990 Wisacky Hwy

Mailing Address

[Signature]

Signed

05/21/2019

Dated

FILED

MAY 22 2019 4-13

City, State, Zip Code

SC ADMIN. LAW COURT

CERTIFICATE OF SERVICE

I hereby certify that I, Gregory Percille (your name), on the 21st day of May, 2019, in Beaufort (city), South Carolina, served a copy of the foregoing Notice of Appeal on all parties to this matter by depositing the same in the United States Mail, postage paid, or in the mail room of the undersigned's institution and addressed as follows:

Name of person/Agency served: SCALE
Address: 1205 Pendleton St, Suite 224
City, State, Zip Code: Columbia SC 29201

General Counsel
P.O. Box 21787
Columbia, SC 29221

Print your name Sign your name
(See reverse side for instructions)

Gregory Percille

[Signature]

Instructions for filing an appeal of the final agency decision from the South Carolina Department of Corrections:

- 1) You must complete the **Notice of Appeal** on the reverse side of these instructions and mail it to the Administrative Law Court at the following address:

**Clerk's Office
South Carolina Administrative Law Court
1205 Pendleton Street, Suite 224
Columbia, SC 29201**

A copy of the Notice of Appeal must also be forwarded to the Office of General Counsel at the Department of Corrections.

- 2) **In order for your case to be processed by the ALC, a copy of the final decision from the Department of Corrections must be attached to the Notice of Appeal.**

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

STEP 1

INMATE COPY

INMATE NAME: <u>Gregory Pencille</u>	OFFICE USE ONLY Grievance No. <u>Lee CI 0135-19</u> Code: General <u>RL/IS</u> Policy _____ Disc. Hear. _____ Class. _____ PREA _____ Date Received <u>2/8/19</u> IGC Initials <u>JS</u>
SCDC NUMBER: <u>312332</u>	
INSTITUTION: <u>Lee CI</u>	
HOUSING UNIT: <u>F2B 2254</u> <u>FEB 07 2019</u>	
WORK ASSIGNMENT: <u>Education</u> <u>DP</u>	

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.)

Original incident; 12/12/18, on date paper request sent and copy given to chaplain. 12/21/18 kiosk #18-01112528 resent request. As of 2/5/19 no response as per GA 6.04-3.6

Supporting policies; PS 10.05 handbook 3.4; 1st amend. U.S.Con; 42 U.S.C.A (sept.22.2000) chap. 21(c); 42 U.S.C 2000bb; case law as follows;

- Turner v. Safely, 482 US 78 (1987)
- Kikumura v. Hurley 247 F3d 950 (2001)
- LaPlante v. Mass. DOC 89 F supp. 3d 235 (2015)
- Mintz v. Catholic church of springfield 424 F supp. 2d. 309 (2006)
- Schlemm v. Wall, 784 F3d 362 (2015)
- Nance v. Miser, 700 Fed appx. 629 (2017)
- Jenkins v. Sinclair- 2018 WL4608312
- Henderson v. Ayers CD col 2007. 476 F supp 2d 1168

Statement of grievance; Administrative staff refuses to respond to RSTM/kiosk requests to allow use of religious oils in the Wiccan community services and discriminates against religious requests for Wiccan communities needs.

[Signature] 2/7/19
Grievant Signature Date

ACTION REQUESTED: Respectfully respond and approve Religious oils for use in Wiccan Religious activities. Discontinue discriminating against Wiccan community requests and disciplinary action taken towards deficient staff according to ADM. 11.04 employee corrective action.

ACTION TAKEN BY IGC: PROCESSED UNPROCESSED OTHER

[Signature] 2/20/19
IGC Signature Date

(CONTINUE ON REVERSE SIDE)

RECEIVED

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Step 2 Due: 3/13/19

MAR 18 2019

INMATE GRIEVANCE FORM

STEP 2

Office Use Only

INMATE GRIEVANCE

INMATE NAME: Gregory Pencille
 SCDC NUMBER: 312332
 INSTITUTION: Lee CI ✓
 HOUSING UNIT: F2-2254 MAR 12 2019
 WORK ASSIGNMENT: _____

Grievance No: Lee CI-0135-19
 Code: General RL/IS
 Policy _____
 Disc. Hear. _____
 Class _____
 PREA _____
 Date Received: 3/13/19
 IGC Initials: [Signature]
 Date Received _____
 IGA Initials: [Signature]

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

For reasons stated in Step 1 Grievance. The procedures Lee CI's Administration are following are against SCDC policy and are unconstitutional. And must be corrected as stated in Step 1 "Action Requested".

Grievant Signature [Signature] Date 3/4/19

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

I have reviewed your concern. In your grievance, you stated that SCDC Staff has refused to respond to RTSM and ARTSM regarding the use of religious oils in the Wiccans Community. You believe that such action is discriminatory. You would like religious oils to be available for use and disciplinary action to be taken against those who refuse to allow use of the same. The Warden responded to your concern on SCDC Step 1 Inmate Grievance Form 10-5 dated 2/22/19. Your request to use religious oils that you have identified and requested were disapproved consistent with SCDC Policy PS-10.05, Inmate Religion. That Policy provides that, "Within the limitations imposed on the Agency as a result of its safety and security needs, the South Carolina Department of Corrections (SCDC) will be committed to upholding and facilitating the constitutional rights afforded inmates to religious freedom. Inmates will be given the opportunity to practice their religious faith to the extent that such practice does not interfere with the security and safety of the institution, staff, or others. The South Carolina Department of Corrections will provide necessary programs to facilitate the practice of any recognized religion based on inmate request, need, and available resources." Additionally, subsection 10. Religious Materials sets forth materials that may be considered for an inmate's use to support his/her religious beliefs. Your request has been properly considered and denied.

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.

Responsible Official Signature Lena Haley Date 4/19/19

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 5/2/19

IGC Signature [Signature] Date 5/13/19

INSTRUCTIONS FOR COMPLETING STEP 2 GRIEVANCE FORM

1. Complete form in its entirety, writing only in the space provided for inmate use.
2. State your specific reason for further appeal. Do not submit any new issues for review. No additional pages will be permitted.
3. Submit this completed form with your copy of the Step 1 form by placing in the Grievance Box within five (5) days of your receipt of the Warden's decision. Do not write in the space provided for the responsible official.
4. The decision rendered by the responsible official exhausts the appeal process of the SCDC Inmate Grievance Procedure.

WARDEN'S DECISION AND REASON:

Gregory Pencille

SCDC #: 312332

SCDC #: Lee CI-0135-19


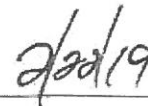
In your grievance you stated that the Administrative staff refuses to respond to your RTSM/Kiosk requests to use religious oils in the Wiccan community services and discriminates against religious requests for Wiccan community needs.

You are requesting that the Administrative staff respond and approve the use of religious oils to be use in Wiccan Religious activities according to ADM.11.04 employee corrective action.

SCDC Handbook of Inmate Religious Practice section 3.4 addresses a number of items that can be kept by the Chaplain for the Wiccans to use during their worship times. Incense and oil are among those items, however, they must be approved by the Warden. A request to receive oils for the Wiccan Community was given to A.W. Tisdale to approve or disapprove. A.W. Tisdale disapproved the request due to security reasons.

Therefore, your grievance is denied.

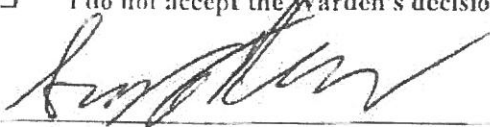
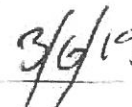
If you disagree with this Warden's Decision (Decision), you may file an appeal by completing SCDC Inmate Grievance Form 10-5A, provided to you while serving you this Decision, and placing it in the Grievance Box at your local correctional institution within five (5) days of your receipt of this Decision.


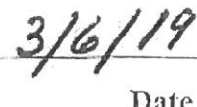
Warden Signature Date

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

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

Grievant Signature Date

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.

State of South Carolina
Administrative Law Court

Date: 7/3/19

Grievance No: Lee CI-0135-19
Case No. 19C0277


Notice of Address change

The above listed case was Assigned
6/13/2019. The appellant has been transferred
to Evans CI from Lee CI. New
address as follows:

Gregory Pencille 312332
Evans CI F3A266
610 Hwy 9 west
Bennettsville SC 29512

FILED

JUL - 3 2019


SC ADMIN LAW COURT
Gregory Pencille 312332



August 8, 2019

The Honorable Ralph King Anderson, III
South Carolina Administrative Law Court
Edgar A. Brown Building, Suite 224
1205 Pendleton Street
Columbia, SC 29201

Reference: Inmate Gregory Thomas Pencille, #312332, vs. SCDC
Docket No. 19-ALJ-04-0277-AP

Dear Judge Ralph King Anderson, III:

Find enclosed a copy of the Respondent's Record, consisting of Inmate Grievance LEECI 135-19, in the above referenced case. Please file the original and return a clocked-in copy of the cover letter in the enclosed envelope.

Sincerely,

Cheron Hess
Administrative Assistant
Office of General Counsel

Enclosures

cc: Inmate Gregory Thomas Pencille, #312332
File

FILED

AUG - 9 2019

SC ADMIN. LAW COURT

RECEIVED

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Step 2 Date: 3/13/19

MAR 18 2019

INMATE GRIEVANCE FORM

STEP 2

Office Use Only

INMATE GRIEVANCE

INMATE NAME: Gregory Pencille
 SCDC NUMBER: 312332
 INSTITUTION: Lee CI ✓
 HOUSING UNIT: F2-2254 MAR 12 2019
 WORK ASSIGNMENT: DP

Grievance No. Lee CI-0135-19
 Code: General RI/IS
 Policy _____
 Disc. Hear. _____
 Class _____
 PREA _____
 Date Received: 3/13/19
 IGC Initials: JPSP
 Date Received _____
 IGA Initials: _____

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

For reasons stated in step 1 Grievance. The procedures Lee CI's Administration are following are against SCDC policy and are unconstitutional. And, must be corrected as stated in step 1 "Action Requested".

Grievant Signature [Signature] Date 3/4/19

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

I have reviewed your concern. In your grievance, you stated that SCDC Staff has refused to respond to RTSM and ARTSM regarding the use of religious oils in the Wiccans Community. You believe that such action is discriminatory. You would like religious oils to be available for use and disciplinary action to be taken against those who refuse to allow use of the same. The Warden responded to your concern on SCDC Step 1 Inmate Grievance Form 10-5 dated 2/22/19. Your request to use religious oils that you have identified and requested were disapproved consistent with SCDC Policy PS-10.05, Inmate Religion. That Policy provides that, "Within the limitations imposed on the Agency as a result of its safety and security needs, the South Carolina Department of Corrections (SCDC) will be committed to upholding and facilitating the constitutional rights afforded inmates to religious freedom. Inmates will be given the opportunity to practice their religious faith to the extent that such practice does not interfere with the security and safety of the institution, staff, or others. The South Carolina Department of Corrections will provide necessary programs to facilitate the practice of any recognized religion based on inmate request, need, and available resources." Additionally, subsection 10. Religious Materials sets forth materials that may be considered for an inmate's use to support his/her religious beliefs. Your request has been properly considered and denied.

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.

Responsible Official Signature [Signature] Date 4/19/19

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 _____ Date _____

IGC Signature _____ Date _____

(SEE REVERSE SIDE FOR INSTRUCTIONS)

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

STEP 1

INMATE COPY

INMATE NAME: <u>Gregory Pencille</u>	OFFICE USE ONLY Grievance No. <u>Lee CI 0135-19</u> Code: General <u>RL/LL</u> Policy _____ Disc. Hear. _____ Class. _____ PREA _____ Date Received <u>2/18/19</u> IGC Initials <u>JS</u>
SCDC NUMBER: <u>312332</u>	
INSTITUTION: <u>Lee CI</u>	
HOUSING UNIT: <u>F2B 2254</u> <u>FEB 07 2019</u>	
WORK ASSIGNMENT: <u>Education</u> <u>DF</u>	

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.)

Original incident; 12/12/18, on date paper request sent and copy given to chaplain. 12/21/18 kiosk #18-01112528 resent request. As of 2/5/19 no response as per GA 6.04-3.6

Supporting policies; PS 10.05 handbook 3.4; 1st amend. U.S.Con; 42 U.S.C.A (sept.22.2000) chap. 21(c):42 U.S.C 2000bb; case law as follows;

- Turner v. Safely, 482 US 78 (1987)
- Kikumura v. Hurley 247 F3d 950 (2001)
- LaPlante v. Mass. DOC 89 F supp. 3d 235 (2015)
- Mintz v. Catholic church of springfield 424 F supp. 2d. 309 (2006)
- Schlemm v. Wall, 784 F3d 362 (2015)
- Nance v. Miser, 700 Fed appx. 629 (2017)
- Jenkins v. Sinclair- 2018 WL4608312
- Henderson v. Ayers CD col 2007. 476 F supp 2d 1168

Statement of grievance; Administrative staff refuses to respond to RSTM/kiosk requests to allow use of religious oils in the Wiccan community services and discriminates against religious requests for Wiccan communities needs

[Signature] 2/7/19
 Grievant Signature Date

ACTION REQUESTED: Respectfully respond and approve Religious oils for use in Wiccan Religious activities. Discontinue discriminating against Wiccan community requests and disciplinary action taken towards deficient staff according to ADM. 11.04 employee corrective action.

ACTION TAKEN BY IGC: PROCESSED UNPROCESSED OTHER

[Signature] 2/20/19
 IGC Signature Date

(CONTINUE ON REVERSE SIDE)

WARDEN'S DECISION AND REASON:

Gregory Pencile

SCDC #: 312332

SCDC #: Lee CI-0135-19

In your grievance you stated that the Administrative staff refuses to respond to your RTSM Kiosk requests to use religious oils in the Wiccan community services and discriminates against religious requests for Wiccan community needs

You are requesting that the Administrative staff respond and approve the use of religious oils to be use in Wiccan Religious activities according to ADM.11.04 employee corrective action.

SCDC Handbook of Inmate Religious Practice section 3.4 addresses a number of items that can be kept by the Chaplain for the Wiccans to use during their worship times. Incense and oil are among those items, however, they must be approved by the Warden. A request to receive oils for the Wiccan Community was given to A.W. Tisdale to approve or disapprove. A.W. Tisdale disapproved the request due to security reasons.

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.

K. M. [Signature] 2/22/19
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.

[Signature] 3/6/19
Grievant Signature Date

[Signature] 3/6/19
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.

18-0112528 - 12/22/18 to send Paper
K.usk 12/21/18

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER

2/5/19 - 45 day

TO: NAME: A W Tisdale	TITLE: Security	DATE: 12/12/18
INMATE'S NAME: Gregory Pencille	SCDC #: 312332	
INSTITUTION: Lee CI	LIVING QUARTERS: F2B2254	

It has come to my attention that the Wiccan Community has been denied approval to order and use Religious oil in Services. As the Wiccan Coordinator it is my responsibility to address this issue. PS.10.05 issue late Aug. 6, 2015 § site - (Purpose/Policy Statement)

2. Institutional requirements: "Space and equipment adequate to conduct worship and religious education programs"

• Religious Handbook. "Wicca" 3.4 items for use during worship times - Incense and oil; (If approved by warden...)

Turner V. Safley, 482 US, 78 (1987) defines Turner test, when applied to reasonable regulation of religious rights against disparaging or discriminatory actions from prison officials. Disapproving the use of oil in Wiccan Services and yet allowing other religions the approval of oil for use discriminates against the Wiccan Religion and Wiccan Community and Violates the 1st Amend. US Const.

I respectfully request that you reconsider your decision to disapprove the Wiccan Community Use of Oil during its Religious activities. The Wiccan Coordinator and Community has shown no reason to assume any violation of SCDC Religion Policy concerning use of oil and its procedures of care.

[Signature]

DISPOSITION BY STAFF MEMBER:

DATE:	SIGNATURE:
-------	------------

Inmate Request - General

Today's Date: 2/11/19 10:41

Name: PENCILLE, GREGORY THOMAS
 Booking #: 312332
 Permanent #: 312332
 Reference #: 18-01112528
 Date Requested: 12/21/18 06:28
 Request Type: Security
 Requested By: Kiosk

Request Details: AW TISDALE, it has come to my attention that the wiccan community has been denied approval to order and use religious oil in services. as the wiccan coordinator it is my responsibility to address this issue; p.s 10 05 site; purpose/ policy. 2. institutional requirements, sace and equipment adequate to conduct worship and religious education programs, religuou handbook. wicca. 3.4 items for use during worship times- insense and oil; if approved by the warden... turner v. afley. 482 u.s. 78 [1987] defines turner test, when appied to resonable regulation of religuou rights in prisons. 1st amedment u.s. cons. establishes protection of religuou rights against disparaging or discrimating actions from prison officals. disapproving the use of oil in wiccan services and yet allowing other religions the approval of oil discriminates against the wiccan religion and the coomunity and violates the 1st amend. I respectfully request that you reconsider your decision and approve oil for use during services in the wiccan activites. the wiccan coordinator and community has shown no reason for to assume any violation of sdcrc religious policy concerning use of oil and its procedures. thank you.

Disposition: Complete
 Officer:
 Disposition Date: 12/28/18 12:12

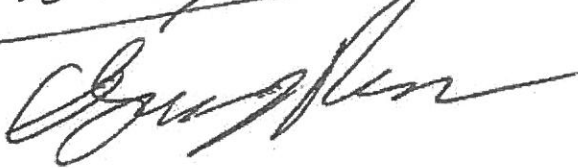
Request Responses

Date	Author	Note
12/28/18 12:12	c056385	You need to send this on a written staff request.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER

TO: NAME: Mrs. Prince	TITLE: Griev. Counselor	DATE: 2/6/19
INMATE'S NAME: Gregory Penelle	SCDC #: 312332	
INSTITUTION: Lee CI	LIVING QUARTERS: F2B 2254	

Please add these Att.(2) two
papers to Step 2 Grievance No. 0134-19
They show that sheets in Grievance
were ordered and sent to me. Plus
costs.

Thank you


DISPOSITION BY STAFF MEMBER:

DATE:

SIGNATURE:

State of South Carolina
Administrative Law Court

Gregory Perette, 312324,
Appellant,

v.

S.C. Dept. of Corrections,
Respondent,

Hon. Ralph King Anderson III
Docket No. 19-ALJ-04-0277-AP

Motion for Extension
of time

Case No. 19C0277
Griev. No. LCI 135-19

Comes Now, Appellant, Gregory Perette in the entitled case. So moves on this day 3rd of September, 2019 for a (90) ninety day extension of time to prepare and file appellants original brief. Appellants brief is due September 12th, 2019. To be due on or before December 12th, 2019 with Granting (90) ninety day extension pursuant to Rule 60A, SCACR.

"MEMORANDUM

Appellant respectfully moves this court to grant this motion for extension of time for (90) ninety days for exceptional circumstances shown to file his original brief

FILED

SEP - 3 2019

SC ADMIN. LAW COURT

due 09/12/2019. Requested extension for (90) ninety days would allow Appellant's filing of his original brief due on or before December 12th, 2019. This request is made in good faith and not for any other reason or for delay ~~but~~ ^{but} for the following reasons:

1. Appellant was transferred from Lee CI to Evans CI on 06/05/2019 and the letter of ALC appointment was received by Lee CI's mailroom 06/24/2019 and forwarded to Evans CI. Appellant received ALC notice at Evans CI mailroom 07/01/2019.

2. Appellant has several ongoing cases in various courts simultaneously;

- U.S. Court of Appeals, Fourth Circuit (Appeal No. 19-7185)
- S.C. Court of Appeals (Case No. 18-ALJ-04-0547-AD)
- S.C. PCR court in Horry County (Case No. 2018-CP-26-06065)
- (2) two ALC cases were assigned 07/11/19 to ALJ Durden and dismissed 07/17/19 (Case No. 19C0332, No. 19C0333) for which appellant was attempting to perfect his original brief and research for.

3. Access to the Law library is greatly insufficient for the case load the Appellant is currently

Working on and the adequacy of Evans institutional Law library is basic at best, servicing approx. 1200 inmates with out of date or no law books, only (2) two westlaw computers, and little to no time in the Law library (Appellant is granted (3) three hours daily (3) three days weekly but staff shortage and negligence affords Penelle less than (1) one and (1) one half hours daily less than (2) two days weekly) and most days gets no useage of westlaw computers. Rules at Evans Law library exclude use of stationary (i.e. pens, paper, whiteout, tape, etc) and the carter rarely has these items/ materials in stock to allow purchase. A new rule has lengthened the processing time for legal copies and D.O.C. policy negates the ability to create document copies that were written by hand at Evans (I. Most court rules force multiple copies of filings and reproducing copies by hand becomes very time consuming. [Emphasis Added].

4. Appellant is proceeding Pro Se in all cases currently and must do extensive research in all current cases, laws, and court rules.

5. Due to S.C.D.C.'s high percentage of improperly trained, uneducated, negligent, corrupted, abusive, lax, and overly mismanaged administrative policies and procedures

inmates such as myself suffer "force majeure" on the agencies part with out remedy. This makes court deadlines nearly impossible.

CONCLUSION

Petitioner is diligently perfecting this case's original brief and for the above reasons and other possible unseen reasons respectfully prays that this court grants requested motion for (90) ninety day extension of time to allow original brief's due date on or before 12/12/2019. All above is true and correct to the best of my knowledge!

Date: Sept 3rd 2019



Gregory Perille, 312332
Evans LT F31A266
610 Hwy 9 west
Burrellsville, SC 29512

Form 16 and subscribed before me

on 3 day of Sept 2019


(Notary Public of South Carolina)

My Commission Expires 11/21/24

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Gregory Pencille, #312332,)	Docket No. 19-ALJ-04-0277-AP
)	
Appellant,)	
)	
vs.)	ORDER ON MOTION
)	
South Carolina Department of Corrections,)	
)	
Respondent.)	
<hr/>		

This matter is before the South Carolina Administrative Law Court (ALC or Court) on an appeal filed by Gregory Pencille (Appellant), an inmate housed with the South Carolina Department of Corrections (Department or SCDC).

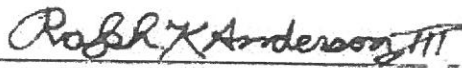
Appellant filed this appeal on May 22, 2019. The Notice of Assignment was filed June 13, 2019. Pursuant the Rules of Procedure for the Administrative Law Court (SCALC Rules), Appellant's brief is due ninety days after the Notice of Assignment was filed, or September 11, 2019. *See* SCALC Rule 60(A). By letter filed September 3, 2019, Appellant requested an extension of time to file his brief.¹ In his request for an extension of time, Appellant does not provide an adequate reason for granting such an extension.

IT IS THEREFORE ORDERED that the Motion for Extension of Time is Denied.

IT IS FURTHER ORDERED that Appellant shall file his brief within 5 days of the date of this Order.

IT IS FURTHER ORDERED that the Department shall have an additional five days, or until October 23, 2019, to file its brief.

AND IT IS SO ORDERED.


Ralph King Anderson, III
Chief Administrative Law Judge

September 17, 2019
Columbia, South Carolina

¹ Appellant sent his request to the Court by certified mail. The court received by the Motion on September 6. Unfortunately, the mail was not forwarded to chambers until September 10.

FILED

September 17, 2019
SC ADMIN. LAW COURT

State of South Carolina
Administrative Law Court

Gregory Perille, 312732
Appellant,

V.

S. Dept. of Corrections,
Respondent.

Case No. 19C0277
Grev. No. LCI 135-19
Dechet No. 19-ALJ-04-0277-AP

Appellants Brief

Comes Now, Gregory Perille, Appellant,
who duly swears and deposes and states on the
23rd day of September, 2019, The Appellants brief
in the entitled matter pursuant to Rule 60 SCACR
as follows:

"MEMORANDUM

Statement of Issues

Did SCDC Violate the religious rights,
protection of liberty and property, equal protection, and
due process of the Appellant and the Wiccan community
protected by the US. Constitution, State Constitution,
1st and 14th Amendments, 42 USCA, and SLDC Policy
PS. 10.05?

FILED

SEP 23 2019

SC ADMIN. LAW COURT

Border Filed Sept. 17th, 2019, Received by Appellant Sept. 20th, 2019, 5 days, ordered on file
on Sunday 22nd, 2019, by Rule 52 SCACR. Enter next day, 23rd, 2019. Filed in Int. Internet
mailroom.

Statement of the Case

In September of 2014, The Senior chaplain [Gair] at Lee CE with the Warden [Reynolds] and program director [Sligh] approved the Appellant for the Wiccan Community, "Use of Religious oils for use during Wiccan Services to be given out to the Wiccan Community" coordinator [Appellant, Innate Pencille #312532], [Exhibit A]. Following two (2) successful purchase orders for oil by the Appellant the third (3) purchase order was delayed for unknown reasons. Pencille discussed this with the new chaplain [McKnight] and Associate Warden [Sharp]. It was advised to update the approval of Religious oils. By the chaplains clerk a renewal was submitted to associate Warden [Sharp] and Warden [Joyner] for approval. In November of 2018, appellant Pencille in the capacity, as the Wiccan Community Coordinator was denied [disapproved] by the associate Warden [Tisdale] in capacity as the Warden renewed approval of religious oils for use in services, Pencille attempted several times to speak to A/W Tisdale as to the reasons why the Wiccan Community was disapproved while other religious groups [i.e. Muslims, Buddhists, Rastafarians] were being approved use of religious oils.

Other potential issues of discrimination to the Wiccan Community where that passes allowed

religious coordinators of all faiths access to their respective communities in their own forms and access to Restriction housing unit [RHU] to deal with religious issues except Percille as the Wiccan coordinator. At times the Wiccan Community, was denied access to the Chapel to attend or hold worship. Other faiths had no issues attending or allowed adequate space and time to conduct worship. Percille questioned staff about issues several times. Also, Religious donations that in the past were approved without issue were now being denied without reason to the Wiccan community only. Donations were replacements or new items such as DVDs, food for beasts [two(2) frust calked a year per P510.05], ritual equipment, media equipment. Other faiths were given approval without issue.

On January 31st, 2019, A meeting was held in which Percille, associate Warden Sharp and chaplain McKnight discussed the many issues that Percille as coordinator was facing with the Wiccan communities requests due to SCDC administration at Lee. During the meeting issues discussed consisted of Leadership, coordinator passes, donation, use of oils and policies. The only answer Percille received was that Percille was indeed confirmed as the religious coordinator of the Wiccan community at Lee and had been since 2008. All other issues had to be discussed with other

issues had to be discussed with other upper administration and that associate warden sharp would have to get back to Penick, etc. never did answer the raised issues.

On May, 2019, Penick was finally allowed an audience with A/W Tisdale, during which Tisdale denied use of Religious oil for the Wiccans, but would not state any reasons why other than it was due to security. He did allude to a reason after the meeting being due to another faith's ability to assert control of SDC's discretion. He also stated that the only way he could say the reason of security was if he were "on the stand" in court and he would gladly explain the reasons and the Smith group.

On June 5th, 2019, Penick was transferred to another SDC facility violating Rule 23 FRAP. This transfer eliminated qualified leadership for the Wiccan Community at Lees leaving the community to effectively "start from scratch". At the current prison that Penick is at the Wiccan community is completely inadequate due to the chaplains control. No services by schedule, No equipment [chaplains (wads) admitted to disposing of Wiccan Box, equipment], No oil, No adequate space for worship, and the inmate coordinator/leadership is unqualified. Penick has

not been able to worship or effectively practice his faith since the transfer.

ARGUMENT SUPPORTED BY FACTS OF LAW

The Administrative Law Court has Jurisdiction to hear cases involving State-created liberty or property interests. Al-Shibazz V. State, 338 S.C. 527, S.E.2d 742 (2000). that procedural due process is guaranteed when an inmate is deprived of an interest encompassed by the Fourteenth (14th) Amendment's protection of liberty and property and Furtick V. S.C. Dept. of Probation, Parole, and Pardon Services, 352 S.C. 594, 576 S.E.2d 146 (2003) when reviewing the Department's decisions in inmate grievance matters, the ALC sits in an appellate capacity. id 338 S.C. 527, S.E.2d 742. and S.C. Code Ann 1-23-600(E); 1-23-380(A)(5) in directing the ALJ on conduct in reviewing grievance decisions.

Turner V. Safely, 482 U.S. 78 (1987), States whether prison regulations that impinges on an inmates rights is "reasonably related" to legitimate penological interests. Mintz V. Catholic Church of Springfield, 424 F. Supp. 2d 309 (2006)

Substantial or unequal burdens are violations of equal rights and City of Boerne V. Flores, 521 US 507, 117 SC + 2151 (1997) Explains the constitutionality of RFRA and RLUIPA that no government shall impose a "substantial Burden" on the religious exercise of a person residing in or confined in an institution... even if the burden results from a rule of general applicability, unless the government demonstrates that imposition of the burden on that Person 1). is in the furtherance of compelling government interest 2). or is the least restrictive means. 42 USC A chap 21

(c), This Federal code is listed on the cover of SDC's Religious Policy PS. 10.05. Lighthouse institute of evangelism V. city of longbranch 510 F3d 253 (2007)

~~2007~~ challenging RLUIPA ^{antireg} regulations under equal terms does not need to show a 'substantial burden'. In Henderson V. Ayers CD cal 2007, 476 Fsupp 2d 1168. pertaining to the eleventh (11th) amendment and PLRA/RLUIPA the judge blocked the respondents motion to dismiss the religious grievance.

Religious o'its do not constitute a security risk and prison officials must show reasons and demonstrate a substantial burden as in Nance V. Miser, 700 Fed appx. 629 (2017) In which appellant sued for monetary damages

in the amount exceeding \$ 80,000.00; Jenkins V. Sinclair 2018 WL 4608312, certain religious materials, equipment, and funds to accommodate religious practices upheld in Schlemmer V. Wall, 781 F.3d 362 (2015) materials central to their practices. SC DOC continues to deny religious rights relying on cases to be burned in the courts. This effectively denies religious rights to prisoners and in most cases courts support this miscarriage of Justice or petitioners struggle to timely file due to SCDC, whims and violations fall through the cracks.

The agencies policy clearly states P.S. 1005 section 1.3.10... ensures that the religious freedom of inmates is protected. All religious requests are handled in a fair and impartial manner.

Appellant contends that the administration at Lee CP substantially and exceedingly burdened his right to practice his religion and in so doing burdened an entire religious community and by transferring him the agency further punished and discriminated him and the Wiccan community at Lee by removing the qualified instructor. And by placing Percilla at an institution where wiccan practice is almost completely prejudiced and non-existent by the administration and the chaplain. In this regard appellant reserves the right to keep

This brief's information relevant on Record as evidence against the state agency (SCDC) for further violations of civil and religious rights.

CONCLUSION

Therefore, Appellant asserts by the above substantial evidence and facts of State and Federal Laws that petitioner believes he has met his burden of proof showing SC, DOC agents and chaplains do not properly protect the religious rights of certain individuals and certain religious communities within its institutions. Violating free exercise of religious rights, is bias, and discriminates against certain individuals and communities. Due to this appellant prays the ALJ reverses and modifies the agencies decision pursuant to SC. code Ann 1-23-380 (A)(5) 1-5 and ensures discontinues discriminating against Wiccan communities behind its fences and allows Pencilla the ability to practice his religious rights in the least restrictive way. To allow use of religious oils and use of religious materials and to more easily facilitate the donations of religious materials for use by Wiccan Practitioners and disciplines those staff that violate any above matters pursuant to ADM 11.04. Appellant prays this court rules

In favor of the Appellants brief.

Date: Sept. 23rd, 2019

Gregory Percille 312332
Pr Sec.

sworn to and subscribed before me
on 23 day of Sept 2019

(Notary Public of South Carolina)

Commission Expires 2/17/24

Certificate of Service

I hereby certify that I, Gregory Percille, on the 23rd day of September, 2019 in Bensenville, South Carolina served a copy of the Appellants brief on all parties in this matter by depositing the same in the US. mail, postage paid, or in the mail room of the undersigned's institution and addressed as follows

SC, General Counsel
S.C. Corrections
PO, Box 21787,
Columbia, SC. 29221

SC, ALC
Judge Anderson
1205 Pendleton Street, Suite 224
Columbia, SC. 29201

Date: Sept. 23rd, 2019

Gregory Percille, 312332
Pr Sec.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
LEE CORRECTIONAL INSTITUTION
PASTORAL SERVICES, WC WILKS CHAPEL


MEMORANDUM

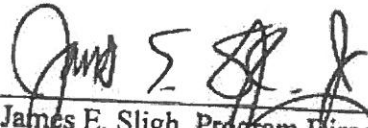
TO: Warden Reynolds, Warden
THRU: James E. Sligh, Director of Programs
FROM: L. L. Cain, Senior Chaplain
SUBJECT: Wiccan Religious Oil
DATE: September 22, 2014

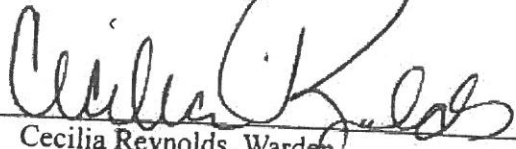
It is respectfully requested that the Wiccan Community be allowed to purchase non-alcoholic religious oils for their religious services. These oils will be under strict supervision through the Chaplain's Office.

The oil will be given out by the Wiccan Coordinator (Inmate Gregory Pencille 312332) and over seen by the Chaplain.

Thank you for your consideration.

S/ 
L. L. Cain, Senior Chaplain

S/ 
James E. Sligh, Program Director

S/ 
Cecilia Reynolds, Warden

Approve/~~Disapprove~~

 Approve/~~Disapprove~~

LLC/jkg

cc: Warden Reynolds
A/W Davis
A/W Sharp
Contraband

J. Sligh
Major's Office
File

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
LEE CORRECTIONAL INSTITUTION
PASTORAL SERVICES, W.C. WILKS CHAPEL

[Exhibit B]

RECEIVED

*** MEMORANDUM ***

NOV 21 2018

TO: Aaron S. Joyner, Warden
THRU: Kenneth Sharp, Associate Warden
FROM: Edward R. McKnight, Senior Chaplain
SUBJECT: Wiccan Religious Oil (UPDATE)
DATE: November 20, 2018

LEE CI
AW PROGRAMS

WARDEN

NOV 26 2018

LEE CI

It is respectfully requested that the Wiccan Community be allowed to purchase non-alcoholic religious oils for their religious services. These oils will be under strict supervision through the Chaplain's Office.

The oil will be given out by the Wiccan Coordinator (Inmate Gregory Pencille # 312332) and overseen by the Chaplain.

This memo is an update for the previously approved Memo dated back to September 22, 2014. Said Memo will be attached to this one.

Thank you for your consideration.

S/ Edward R. McKnight
Edward R. McKnight, Senior Chaplain

Date: 11-20-18

Approve / Disapprove S/ Kenneth Sharp
Kenneth Sharp, Associate Warden

Date: 11/21/2018

Approve / Disapprove S/ Aaron S. Joyner
Aaron S. Joyner, Warden

Date: 11-29-18

ERM/ajrc

cc: Warden
A/W Operations
A/W Programs
File

Major
Contraband
Front Gate

**STATE OF SOUTH CAROLINA
IN THE ADMINISTRATIVE LAW COURT**

Gregory Pencille, # 312332,)	Docket No.: 19-ALJ-04-0277-AP
)	[Grievance No.: LEECI 135-19]
Appellant,)	
)	<i>Hon. Ralph K. Anderson, III</i>
v.)	
)	RESPONDENT'S MOTION TO
South Carolina Department of Corrections,)	DISMISS
)	
Respondent.)	
)	

STATEMENT OF THE CASE

This matter is before the Administrative Law Court (ALC or Court) pursuant to the appeal of Gregory Pencille (“Appellant”), an inmate incarcerated with the South Carolina Department of Corrections (“SCDC”). Appellant is appealing SCDC’s final agency decision of April 19, 2019, denying Appellant’s Step 2 grievance.

On February 7, 2019, Appellant filed a Step 1 grievance asserting that SCDC discriminated against the Wiccan religious community by denying its requests for religious oils for religious services. On February 22, 2019, the Warden denied the Step 1 grievance, explaining to Appellant that while religious oils can be kept by the Chaplain for the Wiccan community to use during worship services, these items must be approved by the Warden, who in this case disapproved the requested items for security reasons. Thereafter, on March 6, 2019, Appellant filed a Step 2 grievance. On May 6, 2016, Appellant’s Step 2 grievance was denied by the Responsible Official who advised Appellant, *inter alia*, that while SCDC is committed to upholding and facilitating the constitutional rights afforded inmates to religious freedom, inmates will be given the opportunity to practice their religious faith to the extent that such practice does not interfere with the security and safety of the institution, staff, or others. This appeal followed.

FILED

OCT 28 2019

SC ADMIN. LAW COURT

STANDARD OF REVIEW

The ALC's jurisdiction to hear this matter is derived entirely from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). When reviewing SCDC's decisions in inmate grievance matters, the ALC sits in an appellate capacity. *Id.* at 377, 527 S.E.2d at 754. Subsequently, the South Carolina Supreme Court clarified the ALC's appellate jurisdiction over inmate appeals in *Sullivan v. S.C. Dep't of Corr.*, 355 S.C. 437, 586 S.E.2d 124 (2003). In affirming, as modified, the ALC's *en banc* decision of *McNeil v. S.C. Dep't of Corr.*, 02-ALJ-04-00336-AP (September 5, 2001), the Supreme Court held the ALC's jurisdiction was limited to (1) cases in which an inmate contends prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; (2) cases in which SCDC has taken an inmate's *state-created* liberty interest in major disciplinary hearings; and (3) cases in which an inmate's confinement implicates a *state-created* liberty interest. *See Sullivan*, 355 S.C. at 443, 586 S.E.2d at 127 (emphasis added).

Moreover, regarding categories (2) and (3), *supra*, the South Carolina Supreme Court has consistently emphasized that the liberty or property interest implicated must be one that is *state created*. *See Wicker v. S.C. Dep't of Corr.*, 360 S.C. 421, 602 S.E.2d 56 (2004) (emphasizing that the ALC's jurisdiction extends only to those cases involving the denial of "state created liberty interests" and that the Court's holding [*i.e.*, in *Wicker*] "is not to be viewed as expanding the jurisdiction of the [ALC] in any other circumstance."); *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 605 S.E.2d 506 (2004) (holding that the ALC "may summarily dismiss those appeals that do not implicate an inmate's *state created* liberty or property interest") (emphasis added).

SCDC interprets *Slezak* as encouraging, for the sake of judicial economy, the ALC to summarily dismiss inmate cases that do not involve a state created liberty or property interest. Recently, the South Carolina Court of Appeals has interpreted *Slezak* to mean that where a state

created liberty interest is not implicated in a prisoner appeal, a judge of the ALC “should” dismiss the appeal. *Skipper v. S.C. Dep’t of Corr.*, 370 S.C. 267, 633 S.E.2d 910 (Ct. App. 2006).

ARGUMENT

Appellant alleges that SCDC “substantially and exceedingly” burdened his right to practice his religion by denying the use of religious oils and transferring him to an institution where the Wiccan practice is almost non-existent and prejudiced by the chaplain. *See* Appellant Brief p. 7. There is no state created liberty interest implicated by Appellant’s allegations. Restricting inmates’ use of certain items due to security concerns, as done here, does not impose an “atypical or significant hardship on the inmate in the relation to the ordinary incidents of prison life.” *Sandin v. Conner*, 515 U.S. 472, 482 (1995). Wardens must take security concerns seriously and balance such concerns with inmate programs. Such action does not alter nor exceed Appellant’s sentence in such a manner “as to give rise to protection by the Due Process Clause of its own force.” *Id.* Further, addressing Appellant’s allegation that his transfer to another institution burdened his right to practice his religion, the United States Supreme Court in considering the state created interests protected by *Wolff v. McDonnell*, 418 U.S. 539 (1974), found that where State law “conferred no right on the prisoner to remain in the prison to which he was initially assigned . . .”, the discretion to “transfer in a wide variety of circumstances was vested in prison officials,” and the discretion to transfer prisoners could be “for whatever reason or for no reason at all.” *Meachum v. Fano*, 427 U.S. 215, 226-28 (1976). Therefore, because no state created liberty interest is implicated in this case, the Court should dismiss this appeal.

Additionally, Appellant contends that his right to practice his religion is being burdened in violation of the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA). *See* Appellant’s Brief p. 6. This Court should dismiss Appellant’s case because a cause of action under RLUIPA is not proper in this Court. An inmate who brings a cause of action under RLUIPA must


plead and prove the existence of claims under the Spending Clause or the Commerce Clause. *Cutter v. Wilkinson*, 544 U.S. 709, 715 (2005). Such claims would be properly brought in federal court. Therefore, because this case implicates a federal statute and the Appellant has failed to prove the existence of claims under the Spending or Commerce Clause, this Court should dismiss this appeal.

CONCLUSION

For the reasons stated above, this Court should dismiss this appeal.

Respectfully Submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**



Kensey Evans
Deputy General Counsel
South Carolina Department of Corrections
4444 Broad River Road
Columbia, South Carolina 29221
(803) 896-8508

October 22, 2019
Columbia, South Carolina

State of South Carolina
In the Administrative Law Court

Gregory Perille, 312332
Appellant,

v.

SC. Dep. of Corrections,
Respondent,

Docket No. 19-ALJ-04-0277-AP

Gen. No. LFELC 135-19

Hon. Ralph. K. Anderson III

Response to Respondent's
Motion to dismiss

Comes Now, Gregory Perille, Appellant, Pr 2
who duly swears and deposes his response to respondent's
motion to dismiss pursuant to Rule 63 SCACR. Also, if
deemed necessary an oral argument pursuant to Rule
64 SCACR, to further establish the record in the
matter.

ARGUMENT

Where respondent states "There is no state-created
Liberty interest implicated by appellants' allegations";
Appellant contends that the entirety of his brief
infallibly explains (per curiam) the state-created
Liberty interests. A constitutional violation caused by
the actions of a state agency are clearly "state-created
Liberty interests",

To expound on the issues and arguments

FILED

EST 31 2019

SC ADMIN. LAW COURT

already raised in appellant's initial brief; RLUIPA, defines religious exercise to include "any exercise of religion, whether or not compelled by, or control to, a system of religious beliefs, 42 USC § 2000cc - (5)(1A). "A person may assert a violation of [the RLUIPA] as a claim or defense in a Judicial proceeding and obtain appropriate relief against a government." 42 USC § 2000cc - (2)(a) [Emphasis added],

To plead a violation of the 1st Amendment, free exercise clause, an inmate must merely allege that defendant's burdened practice of his religion by preventing him from engaging in conduct mandated by his faith, USCA const. Amend 1.

In considering the motion to dismiss, The court must accept the allegations of the complaint as true. Albright V. Oliver, 510 US. 266, 114 Sct. 807, 127 LEd. 2d 114 (1994), Higdon, 467 US. at 73, 104 Sct. 2232, Kierul V. Espn, 393 F3d 1068, 1072, (2005). The court also must construe the pleadings in the light most favorable to the party opposing the motion and resolve all doubts in the pleader's favor. Sankins V. McKeithen, 395 US. 411, 421, 89 Sct. 1843, 1849, 23 LEd 2d 404 (1969), Berg V. Popham, 412 F3d 1122, 1125 (2007). Moreover, Pro Se pleadings are held to a less stringent standard than those drafted by a lawyer. Haines V. Kerner, 404 US. 519, 520, 92 Sct. 594, 596, 30 LEd 2d 512 (1972)

SC ADMIN. LAW COURT

(per curiam). Jackson V Carey, 353 F-3d 750, 757, (2003),
and, The complaint should not be dismissed if it states a
claim under any legal theory, even if the plaintiff
erroneously relies on a different legal theory. Haddock V.
 Bd. of Dental Examiners of Cal, 777 F.2d. 462, 464, (1985)

In opposition to motion to dismiss, the plaintiff clarifies
his claim/defense is brought under RLWIPA.

Both state and federal constitutions assure
religious freedom without secular interference, USA const.
Amend 1, 14, const. Art 1 § 2, Pearson V. church of God
318 S.E. 417, 458 S.E.2d 68.

furthermore, respondent cites McNeil V.
SCDC, 404 S.E. 186, 743 S.E.2d 843 (2013). In which the
court ruled it would have remanded for further proceedings.
Court must consider whether case posed a novel issue and
whether the facts should have been developed further.
As by Rule 64 SCACR, Oral argument. And/or the
"ALC", as fact finder, was authorized to visit site
that was subject of petition and draw its own conclusions
therefrom, Risher V. St. Dept. of Health environment control, 343
S.E. 198, 712 S.E.2d 428 (2011). Issue preservation is required
in administrative appeals, Hone medical systems V. St. Dept. of
revenue, 382 S.E. 556, 677 S.E.2d. 532 (2009). As per judgment
by Judge Ralph M. Anderson III, in Gatewood V. SCDC, 416
S.E. 304, 785 S.E.2d 600 (2017). "An issue that is not raised

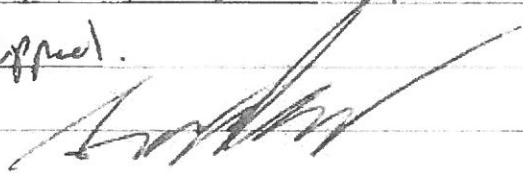
to an administrative agency is not preserved for appellate review by the ALJ; even if the issue has been addressed by the agency, it is not preserved if the appellant did not raise it. Appellant has raised all issues (see Step 1 Grievance) for preservation. Therefore, respondents argument is moot and motion to dismiss should be denied.

As to Respondents argument about appellant being transferred to another prison arguing Wolff v. McDonnell, 418 U.S. 539, (1974) and Meachum v. Fano, 427 U.S. 215, 226-28 (1976) allegedly protecting the agencies reason or lack of reason to transfer, appellant was protected from transfer due to an at the time, pending Federal Habeas petition by Rule 23 FRAP. The transfer was therefore in violation of a Federal rule and Vindictive which is in fact a, "State-created Liberty Interest" Violation.

CONCLUSION

Therefore, Respondents motion to dismiss should be denied for all above reasons and those stated in Appellants brief. And, The ALJ should rule in favor of appellants appeal.

October, 30th, 2019


Gregory P. Smith, 3/2332

Appellant filed a Response to Respondent's Motion to Dismiss and argued "a constitutional violation caused by the actions of a state agency are clearly "state-created liberty interests."

The Court's jurisdiction to hear this matter is derived from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). In *Al-Shabazz*, the Court held that the ALC's jurisdiction in inmate appeals is limited to state-created liberty interests typically involving: (1) cases in which an inmate contends that prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; and (2) cases in which an inmate has received punishment in a major disciplinary hearing as a result of a serious rule violation. *Id.* at 382; 527 S.E.2d at 757. "The **only** way for the [ALC] to obtain subject matter jurisdiction over [an inmate's] claim is if it implicates a state-created liberty interest." *Sullivan v. S.C. Dep't of Corr.*, 355 S.C. 437, 443, 586 S.E.2d 124, 127 (2003) (emphasis added). Thus, in *Slezak v. South Carolina Department of Corrections*, 361 S.C. 327, 331, 605 S.E.2d 506, 508 (2004), our Supreme Court explained that while the ALC has jurisdiction over properly filed inmate grievance appeals, summary dismissal is appropriate "where the inmate's grievance does not implicate a state-created liberty or property interest." *See also Skipper v. S.C. Dep't of Corr.*, 370 S.C. 267, 633 S.E.2d 910 (Ct. App. 2006) (finding dismissal of inmate's appeal appropriate because his grievance did not implicate a state-created liberty interest).

Appellant requests permission to use religious oils for Wiccan religious services; however, he has not demonstrated a state-created liberty or property interest to possess those oils. As the Supreme Court held in *Slezak*, an inmate's interest in "religious tapes" did not implicate a state-created liberty interest. 361 S.C. at 331-32, 605 S.E.2d at 508. Likewise, in this case, an inmate's desire to obtain religious oils does not implicate a state-created liberty interest.

Furthermore, Appellate alleges that his transfer to another institution burdened his right to practice his religions and that the "transfer was therefore in violation of a federal rule and vindictive which is in fact a state created liberty interest violation." Appellant also argues in his brief that his transfer violates the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA). Causes of action brought under RLUIPA implicate federal law involving claims under the Spending or Commerce Clause. Thus, RLUIPA claims do not involve a state-created liberty interest and are not proper in this Court. Furthermore, as the Supreme Court explained in *Skipper v. South Carolina Department of Corrections*: "Absent an atypical and significant hardship on the

inmate, or an arbitrary, capricious, or biased decision by the prison, the court has no authority to interfere with inmate housing decisions." 370 S.C. 267, 272, 633 S.E.2d 910, 913 (Ct. App. 2006).

In conclusion, because Appellant has not alleged a deprivation of a state-created liberty or property interest in this matter, the Court finds that summary dismissal is appropriate. *See Slezak*, 361 S.C. at 331, 605 S.E.2d at 508.

ORDER

IT IS THEREFORE ORDERED that the Department's Motion to Dismiss is **GRANTED** and Appellant's appeal is **DISMISSED WITH PREJUDICE**.

AND IT IS SO ORDERED.



Ralph King Anderson, III
Chief Administrative Law Judge

November 27, 2019
Columbia, South Carolina

State of South Carolina
In the Administrative Law Court

Gregory Pencille, #312332
Appellant,

V.
S.S. Dept of Corrections,
Respondent.

Docket No. 19-ALJ-04-0277-AP

Griev. No. LEECT-135-19

Hon. Ralph K. Anderson III

Response to Order and
Notice and Demand

Comes now, Gregory Pencille, Appellant, Pro Se,
who duly swears and deposes his response to
Order and Notice and Demand, in which the Department's
Motion to dismiss is granted and Appellant's appeal
is dismissed with prejudice.

AFFIDAVIT

The Order filed November 27th, 2019 is
clerically incorrect, misconstruing facts and appellants
arguments and is per incuriam.

Pursuant to S.C. Code Ann §1-23-600(E) which
directs Administrative Judges to conduct appellate
review in the same manner prescribed in S.C. Code
Ann § 1-23-380. The court may affirm or remand
Dismissal with prejudice should not be appropriate.

SC ADMIN. LAW COURT

for this court.

Furthermore, this court has biased and prejudiced the Appellant by granting respondent's motion to dismiss without proper evidence or fact of Law due to the lack of admissible or substantial evidence when in fact respondent had filed No brief, No record or Appeal and No testimony under oath or affirmation. A "motion" even a motion to dismiss must be supported by affidavit which respondent had not done. Appellant's filings all have been sworn to and/or Notarized and are the only substantial evidence admissible on the record. Therefore, this court has made a grievous error and a miscarriage of Justice and must be corrected within (30) thirty days of receipt of this response. This Notice is not in any way or form to be construed as a motion to reconsider. The Judgment was decelerated per incuriam and imposes no duties, confers no rights, creates no ~~other~~ bestows no power or authority on anyone, affords no protection and justifies no acts performed under it, [16 Am Jur 2^d § 177] and is void.

It is further presumed that any and all issues not addressed or rebutted in respondent's motion to dismiss or the subsequent order are therefore Granted in Appellant's favor and an Order should be

drafted, issued, and signed by Judge Anderson III stating the issues defaulted by respondent and granted by acquiescence to Appellant within (30) thirty days of receipt of this paper.

CONCLUSION

Appellant concludes this response and Notice with full faith that this court will comply with the conditions set herein within the allotted time or rebut, point-for-point by sworn affidavit of respondent. No response within (30) thirty days to this notice and demand will signify acquiescence to its terms and may result in further punitive and criminal damages. Notice is therefore given.

I certify under penalty of perjury under the laws of this state in accordance with 28 USC § 1746(1) that the facts provided in this document are true, correct, and complete to the best of my knowledge and belief.

Date: ~~December~~ 10¹³, 2019

signed by and subscribed before me

on the 10 day of December, 2019

J. Overton

(Notary Public of South Carolina)

Commission Expires 01/17/24



Gregory Peadar, #312332

Appellant, Pro se

The South Carolina Court of Appeals

Appeal from Administrative Law Court

Hon. Ralph K. Anderson III

Case No. 19-ALS-04-0277-AP

Gregory Penille, #312332, Appellant
v.

S.C. Dept. of Corrections, Respondent

MOTION TO STAY ISSUANCE OF WRIT
OF SUPERSEDEAS AND PETITION TO COMPEL
A RESPONSE

This motion comes now by Gregory Penille, Appellant, Pro Se, who duly swears and deposes the following as declaration of issues addressed and issues unanswered by the Administrative Law Court held by Hon. Ralph K. Anderson III, pursuant to Rule 225(a)(b)(4) SCALC and Rule 12(b) SCRCP, Rule 68 SCALC, applicability of SCRCP and SCALC, "may be applied" in Administrative Law courts.

DECLARATION

FILED

DEC 31 2019

SC ADMIN. LAW COURT

Appellant addressed the ALC by "Response to Respondant's motion to dismiss" [Enclosed] in which appellant requested pursuant to Rule 64 SCALCR oral argument, at the judges discretion, to further establish the record.

Respondent had filed a motion to dismiss pursuant to Rule 12(b)(6) SCRCP failure of pleading to state facts sufficient to constitute a cause of action, Appellant argued in his response that the entirety of his complaint is a "state-created liberty interest" which constitutes a cause of action and appellant was the only party to state facts sufficient to require remedy. The Dept of corrections clearly deprived appellant his right to practice his religious beliefs as well as other stated issues in his complaint. The court and the respondent did not respond to the appellants response.

According to Rule 12(b) SCRCP, On a motion asserting the defense numbered (b) six to dismiss for failure of the pleading to state facts sufficient to constitute a cause of action, matters outside the pleadings are presented to and not excluded by the court, [non-response constitutes exclusion] the motion shall be treated as one for summary Judgment and disposed of as provided in Rule 56 SCRCP, and all parties shall be given reasonable opportunity to present all material [Appellant contends by rules of evidence to have been the only party to present any admissible evidence] made pertinent to

Such a motion by Rule 56 SCRPC. In Rule 56, the adverse party may demand a right to trial by jury in a manner prescribed in Rule 38, 39, where the issues are legal in nature, so that both parties would have a right to a jury trial, one party may not by invoking declaratory procedure, deprive another party of his constitutional right to a jury trial [oral argument in this case] Leggett v. Smith 226 S.C. 403, 85 S.E. 2d (1955). And where issue raised in proceedings for declaratory judgment are legal and not equitable in nature, they must be tried at law if either party insists upon it, and right of jury trial [oral argument] in what is essentially an action at law may not be denied merely because adversary asked that controversy be determined under declaratory procedure, Code 1952 § 10-2001 to 10-2014; 10-2009.

When a complaint is dismissed for failure to state facts sufficient to constitute a cause of action, the dismissal is generally without prejudice; the plaintiff in most cases should be given an opportunity to file and serve an amended complaint. Rule 12(b)(6) SCRPC.

In considering a motion to dismiss, the court must accept the allegations of the complaint as true. Kriewel v. Espn 343 F.3d. 1068, 1072 (2005) and the court must construe the pleadings in the light most favorable to the party opposing the motion and resolve all doubts in the pleader's favor. Berg v. Popham 412 F.3d. 1122, 1125 (2005);

SS. code Ann § 17-27-20(b).

The court filed an order granting respondent's motion to dismiss and dismiss "with prejudice" appellants appeal on Nov 27th, 2019. Received by appellant Dec. 4th, 2019. Without responding to appellants response dated Oct. 28th, 2019. Furthermore, Appellant filed a response to order and notice and demand on Dec. 10th, 2019 [Enclosed]. The respondent and/or the Court was given (30) thirty days to respond to the response dated Dec 10th, 2019. And Notice of Appeal was filed December 19, 2019.

CONCLUSION

For the above stated facts and to the appellants "layman" understanding to the best of his knowledge of this situation. Appellant requests and prays this court will grant a stay of appeal in this entitled case and Petition to compel a response from the respondent and the ALJ in compliance with Rule 10 S.A.C.R. to both responses the appellant had filed in the ALC. And also, believes an issuance of a writ of super seatas pursuant to Rule 241 S.A.C.R. is needed in this case due to the misadvised ruling from the ALJ Hon. Ralph K. Anderson III, being dismissed "with prejudice" and granted without any admissible evidence by The respondent.

RELIEF REQUESTED

A) Place appellant's notice of appeal in abeyance until;

B) The ALJ (lower court) is compelled and properly responds to the (2) true timely filed responses of the appellant, and

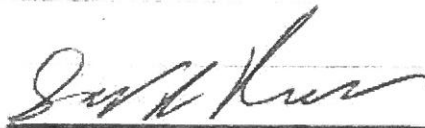
C) The ALJ denies respondent's motion to dismiss due to its failing to comply with court rules; or

D) allow appellant pursuant to Rule 12 (b)(6) SCRPC (give an opportunity to file and serve an amended complaint); or

E) order the lower court to hold an oral argument evidentiary hearing, or jury trial as requested by appellant.

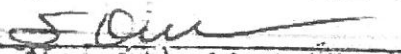
All declarations above are true and correct under penalty of perjury to the best of the undersigned's knowledge and is in the interest of Justice.

Date: December 31st, 2019



Gregory Penelle #312332
Evens LE EYA 275
610 Hwy 9 west
Bennettsville, SC 29512

Witness to and subscribed before me this 31 day of Decem, 2019


(Notary Public of South Carolina)

Commission Expires 2/17/24
5

In The State of South Carolina

Case No. 19-ALJ-04-0277-AP

Gregory Perille, #312332, Appellant
V.

St. Dept. of Corrections, Respondent

RECEIVED
JAN 06 2020
SC Court of Appeals

SUPERSEDEAS BOND

This order hereby commands the Dept. of Corrections,
Respondent to:

- 1) Refrain from all retributive acts towards Appellants
Gregory Perille.
- 2) Refrain from religious discrimination against Appellants.
- 3) Allow Appellant free exercise of his religious beliefs,
use of religious materials and oils, allow proper space and times
to worship and proper foods for religious feasts.

Or;

Respondant obtain an Appeal Bond in the amount
of \$255,000.00 in damages and costs.

~~Date to be substituted before me~~

the 31 day of ~~_____~~

(Notary Public of South Carolina)

Commission Expires _____

Court ordered by _____

Certificate of Service

I hereby certify that the undersigned on the 31st day of December, 2019 in Bennettsville South Carolina served a copy of Appellants motion to stay, Issuance of writ of supersedeas, and petition to compel a response on all parties by depositing the same in the US. mail, postage paid, or in the mail room of the undersigned's institution and addressed as follows:

Jenny A. Hutchings, Clerk
SC. Court of Appeals
P.O. Box 11629
Columbia, SC. 29211

SC. General Counsel, S.C.
P.O. Box 21787
Columbia SC 29221

SCALL

Judge R. K. Anderson III
1205 Penleton St. suite 224
Columbia, SC. 29201

RECEIVED

JAN 08 2020

SC Court of Appeals

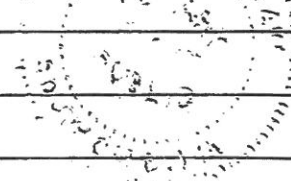
Date: December 31st, 2019

Gregory Runkle #312332
Evans LE F4A 275
810 Hwy 9 west
Bennettsville, SC 29572
Appellant, Pro Se

Subscribed and sworn to before me on the 31 day of Dec 2019

(Notary Public of South Carolina)

Commission Expires 3/1/20



The South Carolina Court of Appeals

Gregory Pencille, #312332, Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2019-002115

ORDER

Appellant's "motion to stay, issuance of writ of supersedeas, and petition to compel a response" is denied. This court will consider the merits of this appeal after final briefing is complete. Appellant's motion to proceed without costs is granted.


FOR THE COURT

Columbia, South Carolina

cc:
Gregory Pencille, 00312332
Christina Catoe Bigelow, Esquire

FILED

January 15, 2020

December 11, 2019, in which he argued that the Final Order was clerically incorrect; however, Appellant clarified his response was not to be construed as a motion to reconsider.

On December 31, 2019, Appellant filed a Motion to Stay, Issuance of Writ of Supersedeas and Petition to Compel a Response (Motion). In this Motion, Appellant moves the Court to take several actions, to include issuing a writ of supersedeas. In support of his Motion, Appellant cites to multiple cases and rules but never argues how or why these cases and rules apply to him. Appellant's statements supporting his motion are "conclusory" and fail to sufficiently support his Motion. See *D.R. Horton, Inc. v. Wescott Land Co., LLC*, 398 S.C. 528, 549, 730 S.E.2d 340, 351 (Ct. App. 2012) (noting that while the appellants cited one case to support their argument, the argument was nevertheless "largely conclusory" and considered abandoned on appeal); *State v. Hill*, 394 S.C. 280, 297, 715 S.E.2d 368, 377 (Ct. App. 2011) (considering a citation to a case "without any analysis whatsoever as to how or why [it] applies" insufficient to preserve an issue on appeal, and thus rendering that issue abandoned on appeal). Because Appellant has failed to sufficiently support his conclusory statements with authority, I find he has abandoned his arguments. *Potter v. Spartanburg School Dist. 7*, 395 S.C. 17, 24, 716 S.E.2d 123, 127 (Ct. App. 2011) ("An issue is deemed abandoned if the argument in the brief is not supported by authority or is only conclusory."). However, even if Appellant's arguments are not deemed abandoned, Appellant's Motion still fails for the reasons discussed below.

First, Appellant's Motion asks this Court to compel a response from the Department and this Court in compliance with Rule 10 of the Rules of Procedure for the Administrative Law Court (SCALC Rules). However, SCALC Rule 10 discusses simplification of procedures within contested cases. This case is an appeal, not a contested case. Therefore, SCALC Rule 10 does not apply to this case.

Appellant also notes in his Motion that the Department filed a motion under Rule 12(b)(6) of the South Carolina Rules of Civil Procedure (SCRCP) and argues this rule requires that "when a complaint is dismissed for failure to state facts sufficient to constitute a cause of action, the dismissal is generally without prejudice; the plaintiff in most cases should be given an opportunity to file and serve an amended complaint." However, the Court did not dismiss Appellant's appeal pursuant to Rule 12(b)(6), SCRCP, which does not apply to appeals. Rather, the Court dismissed Appellant's appeal pursuant to *Slezak v. South Carolina Department of Corrections* because there

was no state-created liberty interest implicated by Appellant's allegations. 361 S.C at 331, 605 S.E.2d at 508. As stated in the Final Order, "[t]he only way for the [ALC] to obtain subject matter jurisdiction over [an inmate's] claim is if it implicates a state-created liberty interest." *Sullivan v. S.C. Dep't of Corr.*, 355 S.C. 437, 586 S.E.2d 12, 127 (2003). Therefore, summary dismissal was appropriate.

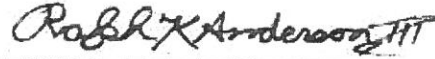
Next, Appellant moves this Court to grant oral arguments in his case pursuant to SCALC Rule 64.e Whether to grant oral arguments is within the discretion of this Court and "oral argument will ordinarily not be ordered by the Administrative Law Judge unless the proceeding involves a novel issue or a question of exceptional importance." SCALC Rule 64; *see* SCALC Rule 68 ("The South Carolina Rules of Civil Procedure and the South Carolina Appellate Court Rules [(SCACR)], in contested cases and appeals respectively, may, in the discretion of the presiding administrative law judge, be applied to resolve questions not addressed by these rules." (emphasis added)). This case does not involve a novel issue or a question of exceptional importance that would move this Court to exercise its discretion and grant oral arguments. *See id.* Moreover, because Appellant's allegations do not implicate a state-created liberty or property interest, this Court does not have jurisdiction to grant oral arguments.

Finally, Appellant moves this Court to grant a writ of supersedeas. In determining whether an order for supersedeas should be granted by this appellate court (ALC), it helpful to refer to SCACR Rule 241, which governs the imposition of a supersedeas in appeals. Rule 241(b), SCACR, sets forth exceptions to the general rule that cases are stayed pending appeal. Specifically, Rule 241(b)(11) provides that appeals from administrative tribunals are not stayed pending appellate review. However, Rule 241(c) further provides that a party may move for an order imposing a supersedeas in matters decided by administrative tribunals. In determining such motions, the court shall consider "whether such an order is necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot." Rule 241(c)(11), SCACR. In this case, Appellant has not provided grounds or an argument establishing that a writ of supersedeas is necessary to preserve the jurisdiction of the appeal or to prevent the issue from becoming moot. Accordingly, the Motion fails.

ORDER

IT IS THEREFORE ORDERED that Appellant's Motion to Stay, Issuance of Writ of Supersedeas and Petition to Compel a Response is **DENIED**.

AND IT IS SO ORDERED.



Ralph King Anderson, III
Chief Administrative Law Judge

January 23, 2020
Columbia, South Carolina

The South Carolina Court of Appeals

Gregory Pencille, #312332, Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2019-002115

ORDER

Appellant's "motion for leave to be heard on the original record" is denied. Within thirty days after service of the last brief, Appellant is required to serve a copy of the record on appeal on Respondent, and the record must include all documents listed in the parties' designations of matter. *See* Rule 210, SCACR. The copy requirement for the briefs and record on appeal, however, is reduced to the extent that the parties shall file one bound copy and one unbound copy of their final briefs, and Appellant shall file one bound copy and one unbound copy of the record on appeal.


FOR THE COURT

Columbia, South Carolina

cc:

Gregory Pencille, 00312332

Christina Catoe Bigelow, Esquire

FILED

March 6, 2020

The South Carolina Court of Appeals

Appeal from the Administrative law Court

Hon. Ralph K. Anderson III

RECEIVED

MAR 19 2020

Case No. 19-ALJ-04-0277-AP

SC Court of Appeals

Gregory Pencille, #312332, Appellant

V.

South Carolina Department of Corrections, Respondent

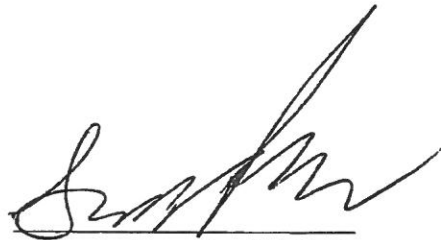
MOTION FOR CLARIFICATION OF ORDER

Appellant requests this court for clarification or to better understand the ruling appellant received on March 11th, 2020. In which Judge Lockemy, denied appellant's motion by only one line stating verbatim ("Appellant's "motion for leave to be heard on the original record" is denied.). this gives no explanation as to why it was denied, when pursuant to Rule 24 (b) leave to proceed in forma pauperis on appeal or review of an administrative-agency proceeding. When an appeal or review of a proceeding before an administrative agency, board, commission, or officer... proceeds directly in a court of appeals, a party may file in the court a motion for leave to proceed on appeal in forma pauperis with an affidavit prescribed by rule 24(a)(1). And, Rule 24 (c) leave to use original record. A party allowed to proceed on appeal in forma pauperis may request that the appeal be heard on the original record without reproducing any part.

Halo Electronics, Inc., v. Pulse Electronics Inc., 136 S.ct 1923, 195 L.Ed 2d 278 (2016), (A) When construing a statute, the word "may" clearly connotes discretion. (B) In a system of laws, discretion is rarely without limits, even when the statute does not specify any limits upon the courts discretion. (C) motion to a court's discretion is a motion, not to its inclinations but to

its judgment, and its judgment should be guided by sound legal principles, and in light of consideration. Bultman v. Barber, 277 S.C. 5, 7 281 S.Ed. 2d 791, 792 (1981), U.S v. Read, 778 F3d 1437, 1441 (1984), Construing ambiguities in favor of the appellant makes sense in light of the parties respective bargaining power and expertise.

Appellant requests this court to consider rescinding the denial of appellant's" motion to be heard on the original record" and prays this court grants" motion for leave to be heard on the original record" in the entitled case due to appellant's inability to financially reproduce any part of the record in this case. Such inability to do would be to the detriment of appellant's case.



Gregory Pencille, #312332
Evans CI F4A-275
610 Hwy 9 West
Bennettsville, S.C. 29512
Appellant, Pro se

Date: March 17th, 2020

SWORN to and subscribed before me this 17
Day of March, 2020
S. Ouellet (L.S.)

Notary Public

My Commission Expires: 2/17/24





The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

April 23, 2020

Gregory Pencille, 00312332
Evans Correctional Institution
610 Highway #9, West
Bennettsville SC 29512

Re: Gregory Pencille, #312332 v. SCDC (2)
Appellate Case No. 2019-002115

Dear Mr. Pencille:

The Court is in receipt of your Motion for Clarification of Order filed on March 19, 2020. No action will be taken on your motion pursuant to Rule 221(c), SCACR, which states that "the appellate court will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party's appeal."

Very truly yours,

V. Claire Allen

CLERK

cc: Christina Catoe Bigelow, Esquire

The South Carolina Court of Appeals

Appeal from Administrative Law Court
Hon. Ralph K. Anderson III

Case No. 19-ALJ-04-0277-AP

Gregory Perille, #312332, Appellant
v.

SC Dept. of Corrections, Respondent

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DEC 27 2019

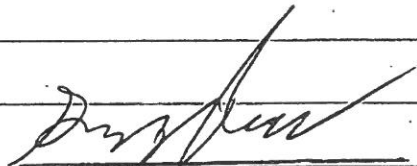
SC Court of Appeals

EAC

NOTICE OF APPEAL

comes now, Gregory Perille, Appellant, Pro Se
Who Appeals the decision of the Hon. Ralph
K. Anderson III dated November 27th, 2019; Appellant
received a copy of this decision December 04th, 2019
A copy of the order and envelope is enclosed. Also,
Appellants application to proceed In forma pauperis
is enclosed to this court.

Date: December 19, 2019



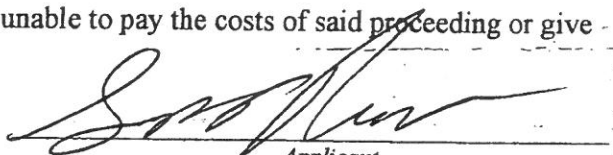
Gregory Perille #312332
Evans GE F4A 275
610 Hwy 9 west
Bennettsville, SC. 29712

more to and subscribed bills in
on 19 day of December, 2019
[Signature]
Secretary Public of South Carolina
267-214

APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, Gregory Penille, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.


Applicant

SWORN or affirmed to and subscribed before me this
19 day of December, 2019


Notary Public

My Commission Expires: 2/17/24

RECEIVED
DEC 27 2019
SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

APPEAL FROM THE ADMINISTRATIVE LAW COURT **Oct 27 2020**

Administrative Law Judge Ralph K. Anderson, III **SC Court of Appeals**

ALC-Case No. 19-ALJ-04-0277-AP
Appellate Case No. 2019-002115

Gregory Pencille #312332 Appellant,

v.

South Carolina Department of Corrections Respondent

CERTIFICATE OF COUNSEL

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

Oct 26th, 2020



C. RAUCH WISE
Attorney at Law
305 Main Street
Greenwood, SC 29646
(864) 229-5010
S.C. Bar No. 006188

Attorney for Appellant