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SC Court of Appeals

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

APPEAL FROM THE ADMINISTRATIVE LAW

Administrative Law Judge Ralph K. Anderson, III

ALC Case No. 19-ALJ-04-0492-AP
Appellate Case No. 2020-000521

James Millholland 367569 Appellant

v.

SOUTH CAROLINA DEPT. OF CORRECTIONS Respondent

RECORD ON APPEAL

Kensley Evans
Office of General Counsel
South Carolina Department of Corrections
4444 Broad River Road
PO Box 21787
Columbia, SC 29221
Counsel for Respondent

James Millholland 367569
pro-se Appellant

Allendale C.I. / FIA50
PO Box 1151
Fairfax, SC 29827

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**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

James Millholland, #367569,)	Docket No. 19-ALJ-04-0492-AP
)	
Appellant,)	
)	
vs.)	ORDER OF DISMISSAL
)	
South Carolina Department of Corrections,)	
)	
Respondent.)	
<hr style="width:45%; margin-left:0;"/>		

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

On June 25, 2019, Appellant filed a Step 1 Grievance objecting to the deduction of funds from his personal account to pay a DNA processing fee. He argued that he had already paid the fee while on probation in the early 2000s, and he believed it should have been a one-time fee. After the Warden denied the grievance, Appellant filed a Step 2 Grievance asserting that his Fifth Amendment rights were violated when they charged him the fee twice. The Responsible Official denied his grievance citing to SCDC Policy 21.09 and advising Appellant, *inter alia*, that “records indicate [Appellant was] admitted into SCDC as a New Admission on 03/26/16. New admissions will be assessed the fee as required by SLED.”

Appellant filed a Notice of Appeal on September 26, 2019. On January 14, 2020, Appellant filed his brief. On February 12, 2020, the Department filed a Motion to Dismiss (Motion) asserting the Court lacks jurisdiction to hear the case because Appellant’s complaint does not implicate a state-created liberty or property interest. Appellant filed a Response¹ to the Motion on February 25, 2020.

DISCUSSION

This Court must first determine whether it has subject matter jurisdiction to decide this case. “Subject matter jurisdiction is the power to hear and determine cases of the general class to

¹ Appellant labeled this document “Reply Brief,” however, upon reviewing it, the Court interprets this to be his Response to the Motion.

FILED
March 4, 2020
SC ADMIN. LAW COURT

which the proceedings in question belong.” *Dove v. Gold Kist, Inc.*, 314 S.C. 235, 237–38, 442 S.E.2d 598, 600 (1994) (internal quotation marks and citation omitted). “The ALC has subject matter jurisdiction under the Administrative Procedures Act (“APA”) to hear properly perfected appeals from the SCDC’s final orders in administrative or non-collateral matters.” *Howard v. S.C. Dep’t of Corr.*, 399 S.C. 618, 625, 733 S.E.2d 211, 215 (2012). Nevertheless, the Court’s jurisdiction in inmate matters is limited to agency decisions implicating a state-created liberty or property interest. *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). When an inmate’s appeal does not implicate a state-created liberty or property interest, the ALC may summarily dismiss the appeal at its discretion. *Slezak v. S.C. Dep’t of Corr.*, 361 S.C. 327, 331, 605 S.E.2d 506, 508 (2004).

In his Response to the Department’s Motion, Appellant asserts the Court has jurisdiction pursuant to section 23-3-620(D) of the South Carolina Code (Supp. 2019). He also clarifies he “is not challenging the constitutionality of the manner in which funds were deducted to pay the \$250.00 DNA processing fee,” nor is he challenging the “constitutionality of the DNA law.” Rather, Appellant is challenging being charged again when he already paid for his DNA to be taken for a previous crime. In other words, Appellant does not think he should be charged again when his DNA is already in the State DNA database.

Section 23-3-620(D) provides that:


Unless a sample has already been provided pursuant to the provisions of subsection (A), before a person is released from confinement or released from the agency’s jurisdiction, a suitable sample from which DNA may be obtained for inclusion in the State DNA Database must be provided as a condition of probation or parole.

However, this statute does not grant this Court subject matter jurisdiction; nor does it establish a state-created liberty or property interest in having DNA only collected once.² Because Appellant’s complaint does not implicate a state-created liberty or property interest, the Court does not have jurisdiction and summary dismissal is appropriate. *See Slezak*, 361 S.C. at 331, 605 S.E.2d at 508. Accordingly,

² Even if the Court had jurisdiction, Appellant’s argument is without merit. S.C. Code Ann. § 23-3-670(A) (Supp. 2019) provides that: “A person who is required to provide a sample pursuant to this article . . . **must** pay a two hundred fifty-dollar processing fee which **may not be waived** by the court. *See Collins v. Doe*, 352 S.C. 462, 470, 574 S.E.2d 739, 743 (2002) (emphasis added) (“Under the rules of statutory interpretation, use of words such as “shall” or “must” indicates the legislature’s intent to enact a mandatory requirement.”). Furthermore, the DNA samples are not even taken by the Department but rather by other law enforcement agencies prior to conviction. *See S.C. Code Ann. § 23-3-620(A)*. The Department is thus simply charged with collecting the fee for actions taken by another agency. Moreover, Appellant has not presented any evidence that his previous sample was determined to be suitable by SLED.

IT IS HEREBY 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

March 4, 2020
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Stephanie Michelle Perez, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).



Stephanie Michelle Perez
Judicial Law Clerk

March 4, 2020
Columbia, South Carolina

The South Carolina Court of Appeals

James Millholland, #367569, Appellant,

v.

South Carolina Department of Corrections, Respondent.

~~Appellate Case No. 2020-000521~~

The Honorable Ralph King Anderson, III
Trial Court Case No. 2019ALJ040492AP

ORDER

The time for serving and filing the respondent's initial brief and designation of matter is hereby extended until August 11, 2020.

FOR THE COURT

BY

V. Claire Allen

CLERK

Columbia, South Carolina

FILED
Jul 28 2020

cc:

James Millholland, 00367569

Kensley Evans, Esquire

JUN 27 2019

INMATE GRIEVANCE FORM

WARDEN'S OFFICE

STEP 1

PMOJ: 6.13.23

INMATE NAME: <u>James Millholland</u>	OFFICE USE ONLY Grievance No. <u>ACT-0174-19</u> Code: General <u>MV/IS</u> Policy _____ Disc. Hear. _____ Class. _____ PREA _____ Date Received <u>6.27.19</u> IGC Initials <u>CD</u> <u>8.11.19</u>
SCDC NUMBER: <u>367569</u>	
INSTITUTION: <u>Allendale C.I.</u>	
HOUSING UNIT: <u>F1A50</u>	
WORK ASSIGNMENT: <u>Peer Support / Dorm</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.) In the years of 2000 to 2003 I was on probation in Anderson county. During this time I had to give my blood to SLED for DNA and I was charged \$250⁰⁰ for the fee of this. I paid this fee of 250⁰⁰ to SLED through the probation office. Then in the year of 2016 when I came to prison on my current charges, SCDC charged me a 250⁰⁰ fee for my DNA again. They took 5% out of every money order I got until this was paid. This DNA fee for SLED is a one time fee of 250⁰⁰. SCDC charged me a second time, when SLED already had my DNA and the 250⁰⁰ fee was paid. in 2001-2003 while serving time on probation for Burglary 2nd. I was not supposed to be charged two times by S.C.D.C. when I came to prison this time. Ref: ~~16-1724-99~~, ~~16-1757-27~~, ~~16-1778-317~~, ~~16-2811-933~~, ~~16-2961-587~~, ~~16-322-946~~, ~~19-0128-1998~~, ~~19-01272-878~~, ~~19-01272-877~~. Millholland 6-25-19

Grievant Signature _____ Date _____

ACTION REQUESTED: I request that S.C.D.C confirm with SLED that they did in fact have my DNA from 2001-2003 and that the fee was paid while on probation in Anderson County. I also request that the 250⁰⁰ fee S.C.D.C. took from me be returned since the fee was previously paid.

ACTION TAKEN BY IGC: PROCESSED UNPROCESSED OTHER

Your grievance has been received and processed. Please see the Warden's Decision (Decision) on the reverse side of this form.

Connie Buckner 7.9.19
 IGC Signature _____ Date _____

(CONTINUE ON REVERSE SIDE)

WARDEN'S DECISION AND REASON:

MILLHOLLAND, JAMES, #367569

GRIEVANCE #ACI-0174-19

I have reviewed your concern. In your grievance, you stated you are challenging SCDC Policy and its process of taking \$250.00 from every inmate to pay for DNA fees in which SCDC or jurisdiction agency is responsible for paying. You are requesting full reimbursement. In accordance to SCDC Policy OP-21.09, Inmate Records Plan, Section 16, the DNA database is administered under the direction of the State Law Enforcement Division (SLED). SCDC, the Department of Juvenile Justice, the Department of Probation, Parole and Pardon Services, and county Sheriffs work with SLED to ensure the security and implementation of the DNA database. Any person incarcerated in SCDC who has been convicted of or who has pled guilty or nolo contendere to any of the offenses identified in the DNA Statute, will be required to provide a blood sample for inclusion into the State DNA Database. The DNA law also specifies a \$250.00 fee the inmate must pay in addition to submitting a blood sample.

Therefore, your grievance is denied.

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

Michael Raut 7/17/19
Warden/Signature Date

- I accept the Warden's decision and consider the matter closed.
- I do not accept the Warden's decision and wish to appeal.

[Signature] 7-24-19
Grievant Signature Date

Cecilia B. Pines 7.24.19
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.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM

JUL 26 2019

STEP 2

Office Use Only

WARDEN'S OFFICE

ACI

INMATE NAME: James Millholland

SCDC NUMBER: 367569

INSTITUTION: Allendale C.I.

HOUSING UNIT: F1A50

WORK ASSIGNMENT: Peer Support/ Dorm

Grievance No. ACI-0174-19
General MY/ES
Policy _____
Disc. Hear. _____
Class _____
PREA _____
Date Received: _____
IGC Initials: _____
Date Received: 7-26-19
IGA Initials: CS

RECEIVED

JUL 30 2019

INMATE GRIEVANCE

8/2/19

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): I paid the 250⁰⁰ DNA Fee in the years of 2000-2001 to the SLED while on probation in Anderson, SC for Burglary. This is a one time fee but SCDC charged me 250⁰⁰ again in the year of 2016 when I entered the Dept of Corr. SLED already had my DNA in the Database from my previous charges. I should not have been charged a second time. This is a violation of my 5th Amendment right. This violates the double jeopardy clause of my 5th Amendment right to be free from successive punishments. United States V. Ursery, 518 U.S. 267, 273 (1996) I am resolved to diligently seek a remedy to enforce my rights.

Grievant Signature J. Millholland Date 7-25-2019

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

Your grievance has been reviewed. In it you stated you paid a DNA fee of \$250.00 while incarcerated with South Carolina Department of Corrections during years 2000 and 2001. You do not believe you should be assessed the fee a second time upon your return to SCDC custody. You would like to be reimbursed of the total amount. You were notified on 07/24/19 that the DNA database is administered under the direction of State Law Enforcement Division (SLED). Pursuant to OP-21.09 Inmate Records Plan, any person incarcerated in SCDC who has been convicted of or who has pled guilty or nolo contendere to any of the offenses identified in the DNA Statute, will be required to provide a blood sample for inclusion into the State DNA Database and assessed a fee of \$250.00. Records indicate you were admitted SCDC as a New Admission on 03/29/16. New admissions will be assessed the fee as required by SLED.

Therefore, your grievance is denied.

You may appeal this decision under the Administrative Procedures Act to the Administrative Law Court. In order to appeal, you must fill out the attached Notice of Appeal Form and submit it as instructed on the form within 30 days of receipt.

Responsible Official Signature Randall P. Will Date 9/4/19

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)

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

James Millholland 367569

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

DOCKET NO. -ALJ-04-
GRIEVANCE NO.: A.C.I-0174-19

Notice is hereby given that James Millholland does hereby appeal the final decision of the South Carolina Department of Corrections dated 9/9/2019 and received on 9/18/2019, 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)):

In the years of 2000-2001 I give SLED my DNA at the probation office in Anderson, SC. They charged me \$250⁰⁰ for this transaction. SLED was paid then and my DNA has been in the database, but when I came into the SCDC in 2016, SCDC charged me again. This is a one time fee. SCDC shouldnt have charged me for a second time. This is a violation of my 5th Amendment right to be free from successive punishment and violates the double Jeopardy clause, United States v. Ursery, 518 U.S. 267, 273 (1996) I am resolved to diligently seek a remedy to enforce my rights.

James Millholland
Appellant's Name
Allendale Corr. Inst. FIASO
PO Box 1151
Mailing Address
Fairfax, SC 29827
City, State, Zip Code

[Signature]
Signed
9/25/2019
Dated

CERTIFICATE OF SERVICE

I hereby certify that I, James Millholland (your name), on the 25 day of September 2019, in Fairfax (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: S.C. Dept of Corrections
Address: PO Box 21787

City, State, Zip Code: Columbia, SC 29221

Print your name: James Millholland
(See reverse side for instructions)

Sign your name: [Signature]

STATE OF SOUTH CAROLINA
Administrative Law Court

James Millholland, #367569
Appellant,

v.

South Carolina Department
of Corrections
Respondant,

Honorable Ralph Anderson

APPELLANTS BRIEF

CA NO: 19C0492

GRIEVANCE NO: A.C.I. 174-19

This matter is before the Court by way of appeal from the final decision of the South Carolina Department of Corrections (SCDC) in grievance number A.C.I. 174-19.

CASE HISTORY

The Appellant is an inmate incarcerated in the SCDC and housed at the Allendale Correctional Institution in Fairfax, South Carolina. On June 25, 2019, Appellant submitted a Step 1 grievance appealing being charged two times for a one time DNA fee of \$250⁰⁰. Following denial of his Step 1 grievance, Appellant submitted a Step 2 grievance on July 25, 2019 arguing that his 5th amendment right had been violated.

This appeal was denied on September 9, 2019.

Appellant timely filed a notice of appeal to this court. This case was assigned to the Honorable Anderson under the above docket number.

STANDARD OF REVIEW

In appeals from the final decision of the S.C.D.C. summary dismissal is appropriate if the prisoner cannot demonstrate the decision implicated a liberty or property interest sufficient to warrant due process protections of the 14th Amendment Skinner v. S.C.D.C., 370 S.C. 267, 635 S.e. 2d. 910, (Ct. App. 2006)

A decision by an administrative agency may be modified or reversed if the findings and conclusions of the agency are affected by error of law or clearly erroneous in view of the reliable, probative and substantial evidence on the whole record. Brown v. Bilo, Inc., 341 S.C. 611 at 614, 535 S.e. 2d. 445 at 447, (Ct. App. 2000). Review of an administrative agency decision is deferential and will be upheld if substantial evidence supports

it. Heater of Seabrook, Inc. v. S.C. Public Service Comm'n., 324 S.C. 56 at 60, 478 Se.2d. 826 at 828, (1996). Substantial evidence is relevant evidence that, considering the record as a whole would allow reasonable minds to reach the conclusion that the administrative agency reached; its decision must be based on documented factual findings within the record.

Hamm v. S.C. Public Service Comm'n., 309 S.C. 295, 422 Se.2d. 118, (1992)

An administrative agency must follow its own rules and regulations. Triska v. S.C. Dept. of Health and Environmental Control, 292 S.C. 190, 355 Se.2d. 531, (1987). Although failure to do so does not rise to the level of a constitutional violation, administrative principles do apply. Board of Regents v. Horowitz, 435 U.S. 78, 98 S. Ct. 948, (1978); Ogburn - Matthews v. Loblolly Partners, 332 S.C. 551, 505 Se.2d. 603, (Ct. App. 1998). While administrative agencies generally have little or no discretion in deciding whether its actions are rationally grounded as opposed to the arbitrary. Al-Shobazz v. State, 338 S.C. 354 at 381, 527 Se.2d 742 at 761.

Issue(s) Present

Did the South Carolina Dept. of Corrections error, when they failed to confirm with S.L.E.D. that Appellant was already entered into the DNA Database, and that the \$250.00 fee was already paid?

ARGUMENT

In the year of 2000-2003, in Anderson County, S.C. I was on probation. I was required by the South Carolina Dept. of Probation, Parole, and Pardon Services, to provide a sample of my blood for the SLED Database. A nurse came to probation office and drew my blood sample and in return, I had to provide a money order in the amount of 250.00 for S.L.E.D. This was paid and I was entered into the Database.

Then in 2016, I came to the South Carolina Dept. of Corrections on my current charges I was charged for the DNA Database again. This time 5% of all the money orders I received on my EIT Cooper account, was taken

until I had paid the \$250⁰⁰ fee for the DNA Database again.

I should not have to pay twice for the same DNA Database fee. In 2000-2003 while serving time on probation for Burglary 2nd, I paid the \$250.⁰⁰ fee, I should not have been required to pay again for the same DNA Database.

This should not have happened because the DNA Database is administered by S.L.E.D. Someone has to know that I was already entered into the Database in 2000-2003. My DNA has not changed since then. and S.C.D.C. did not have to take another sample.

I am not arguing that I have to pay the \$250.⁰⁰. Im only arguing that I was charged two times for a one time fee.


Conclusion

I am requesting that this Court order the South Carolina Dept. of Corrections, first verify with S.L.E.D.

that they collected my DNA while on probation for Burglary in Anderson County, SC. and that the \$250⁰⁰ fee was in fact paid. Then I request that this Court order S.C.D.C. to refund the \$250⁰⁰ fee that was charged to my account, since the fee had previously been paid.

January 14 ^{jm}
Fairfax, SC ~~2019~~
2020

Respectfully,


James M. Millholland 367569
A.C.I. FIASO
PO Box 1151
Fairfax, SC 29827

CC:

State Of South Carolina
Administrative Law Court
Honorable Ralph Anderson

James Millholland 367569
Appellant,

CA NO: 19C0492

Grievance NO: A.C.I. 174-19

v.

Certificate Of Service

South Carolina Department
Of Corrections

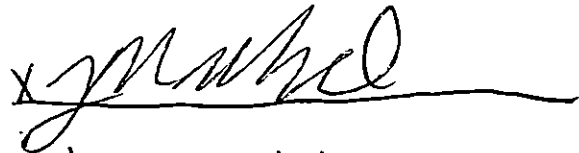
Respondents

This is to certify that a true and correct copy of appellants
brief has been sent by U.S. mail to the parties listed
below on this 14th day of January, 2020

Honorable Ralph Anderson
S.C. Administrative Law Court
1205 Pendleton St., Suite 224
Columbia, SC 29201

Dept. Of General Counsel
S.C. Dept. Of Corrections
P.O. Box ~~2080~~ 21787
Columbia, SC 29221

January 14, 2020
Fairfax, SC



James Millholland 367569
A.C.I./ Colleton A-50
PO. Box 1151
Fairfax, SC 29827

STATE OF SOUTH CAROLINA
Administrative Law Court

James Millholland 367569
Appellant

v.

South Carolina Dept.
of Corrections
Respondent

Docket No.: 19-ALJ-04-0499-AP
[Grievance No.: ACI 174-19]

Honorable Ralph King Anderson III

Reply Brief

This matter is before the Court by way of appeal from the final decision of the South Carolina Dept. of Corrections (S.C.D.C.)

The Respondents are misstating Appellants claim in his appeal. Appellant is not challenging the constitutionality of the manner in which funds were deducted to pay for the \$250.00 DNA processing fee.

This Court does have jurisdiction to hear this case. Where as stated in the Respondent's Statement of the case "he believed this should have been a one time fee charged to him". South Carolina Code Ann. 23-3-620 (D) is clear and needs no interpretation "unless a sample has already been provided pursuant to the provisions of subsection (A),

before a person is released from confinement or released from the agency jurisdiction a suitable sample from which DNA may be obtained for inclusion in the State Database must be provided as a condition of probation or parole" further "Anyone required to provide a sample must also pay a processing fee and if the person required to provide the sample is not sentenced to a term of confinement payment of the fee must be a condition of the persons sentence"


Appellant has claimed through out this process grievance and the Notice of Appeal, and brief to this Court that he already gave a sample of DNA for the S.L.E.D. Database and paid the required processing fee at the Anderson County Probation Office in 2000-2001, when I entered the S.C.D.C., I should not have been processed as a new admission for the purpose of the D.N.A Database.

No-one or no where through out this process has anyone said that I was not in the S.L.E.D. Database or that I had not paid the 250.00 fee. Again I ask this Court to to take notice that I am not challenging

the constitutionality of the DNA law in any form, Only that I paid the 250⁰⁰ DNA processing fee in Anderson County as a condition of Probation for Burglary 2nd.

Conclusion

I am requesting that this Court Order S.C.D.C to refund to the Appellant 250⁰⁰ that he was over charged. The statute is clear on the amount to be paid. And the Respondents did not deny that the Appellant payed the fee, two times.

I am,

James Millholland 367569
A.C.I. F1A50
PO Box 1151
Fairfax, SC 29827

February 21, 2020
Fairfax, SC 29827

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

APPEAL FROM ADMINISTRATIVE LAW COURT

Rolph K. Anderson III, Administrative Law Judge

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

Appellate Ca. No. 2020-000521

James Millholland 367569 Appellant,

South Carolina Department of Corrections^{v.} Respondent.

[INITIAL] Brief of Appellant

James Millholland 367569
Appellant

A.C.I. / Colleton A-50
PO Box 1151
Fairfax, SC 29827

Pro-se Appellant

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Fourteenth Amendment to the United States Constitution 1

STATEMENT OF THE CASE

The Appellant is an inmate in the South Carolina Department of Corrections (S.C.D.C.) and housed at Allendale Correctional Institution in Fairfax, South Carolina. On June 25, 2019 Appellant submitted a Step 1 grievance appealing being charged two times for a one time DNA processing fee of \$250⁰⁰. Following denial of his step 1 grievance, Appellant submitted a step 2 grievance on July 25, 2019 arguing that his fifth amendment right had been violated. Step 2 was denied on September 9, 2019. Appellant then filed a notice of appeal in the Administrative Law Court on October 24, 2019. This appeal was denied on March 4, 2020. Appellant timely filed a notice of appeal and motion to proceed in forma pauperis to this court. The motion to proceed in forma pauperis was granted on May 1, 2020.

STANDARD OF REVIEW

In appeals from the final decision of the S.C.D.C. summary dismissal is appropriate if the prisoner cannot demonstrate the decision implicated a liberty or property interest sufficient to warrant due process protections of the 14th Amendment. Skipper v. S.C.D.C., 370 S.C. 267, 635 S.E.2d. 910 (Ct. App. 2006) A decision by an administrative agency may be modified or

reversed if the findings and conclusions of the agency are affected by error of law or clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record Brown v. BiLo, Inc. 341 S.C. 611 at 614, 535 S.E. 2d. 445 at 447,

(Ct. App. 2000) Review of an administrative agency decision is deferential and will be upheld if substantial evidence supports it. Heater of Seabrook, Inc. v. S.C. Public Service Comm'n.

324 S.C. 56 at 60, 478 S.E. 2d. 826 at 828, (1996) substantial evidence is relevant evidence that considering the record as a whole would allow reasonable minds to reach the conclusion that the administrative agency reached, its decision must be based on documented factual findings within the record. Hamm v. S.C. Public Service Comm'n. 309 S.C. 295, 422 S.E. 2d. 118, (1992)

An administrative agency must follow its own rules and regulations. Triska v. S.C. Dept. of Health and Environmental Control, 292 S.C. 190, 335 S.E. 2d. 531, (1987) Although failure to do so does not rise to the level of constitutional violation, administrative principles do apply. Board of Regents v. Horowitz, 435 U.S. 78, 98 S. Ct 948, (1978) Ogburn - Mathews v. Lublolly Partners, 332 S.C.

551, 505 Se. 2d. 603, (Ct. App. 1998) while administrative agencies generally have little or no discretion in deciding whether its actions are rationally grounded as opposed to the Arbitrary. Al-Shabazz v. State, 338 S.C. 354 at 381, 527 Se. 2d. 742 at 761.

STATEMENT OF ISSUE(S) ON APPEAL

Did the South Carolina Dept. of Corrections error when they failed to confirm with S.L.E.D. that Appellant was already entered into the DNA Database, and that the \$250⁰⁰ processing fee was already paid?

ARGUMENT

In the years of 2000-2003, Appellant was charged and convicted of 2nd degree burglary in Anderson County, South Carolina. Appellant was sentenced to five years probation. Since the burglary charge was a violent crime, the Appellant was required by the Dept. of Probation, Parole, and Pardon Services to provide a sample of blood for the DNA database. A nurse came to the Anderson Probation Office and collected a blood sample and the Appellant had to pay \$250⁰⁰ processing fee to S.L.E.D. at the time of service. South Carolina Code Ann. 23-3-620 (D) is clear

and needs no interpretation" unless a sample has already been provided pursuant to the Subsection (A), before a person is released from confinement or released from the agency jurisdiction a suitable sample from which DNA may be obtained for inclusion in the state database must be provided as a condition of probation or parole" Further "anyone required to provide a sample must also pay a processing fee and if the person required to provide a sample is not sentenced to a term of confinement payment of the fee must be a condition of the persons sentence."

Then in 2016, Appellant was sentenced to nine years in the S.C.D.C. for trafficking meth. At this time S.C.D.C. proceeded in charging Appellant a second time for the same database. This time the fee was taken out of Appellants E.H. Cooper account. 5% of every money order deposited on Appellants account was taken for S.L.E.D. until the \$250⁰⁰ fee was paid in full again. Appellant sent several request to staff to inmate financial and to the Warden explaining this error. and also wrote a letter to S.L.E.D. asking them for their help in resolving this mistake made by S.C.D.C. Appellant has claimed through out this grievance process, notice of appeal,

brief and reply brief to the Administrative Law Court, and in this initial brief to the Court of Appeals, that the required processing fee of \$250⁰⁰ for the state D.N.A. database was paid to S.L.E.D. as a condition of his sentence while serving on probation in Anderson County for Burglary in the years of 2000-2003. Therefore S.C.D.C. should have never charged the Appellant in 2016 an additional \$250⁰⁰. This is not a \$500⁰⁰ fee, only \$250⁰⁰ one time. S.C. Code Ann § is clear "unless, the original sample was lost or contaminated, no second sample would be required" and no second processing fee would be required either.

Again, I ask this Court to take notice that I am not challenging the constitutionality of the D.N.A. law in any form. Only that I paid the 250⁰⁰ DNA processing ^{fee} as a condition of my probation sentence in Anderson County for 2nd Burglary in 2000-2003. And that S.C.D.C. made an error when they charged me a second time for S.L.E.D. DNA database when I entered S.C.D.C. in 2016.

Furthermore, Respondents have never once through out this entire process denied that Appellant paid this fee two times and

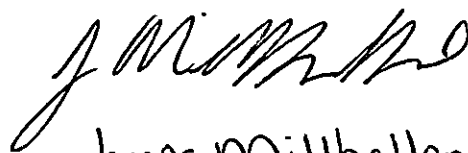
the statute is clear. This is a one time fee not to be paid twice.

CONCLUSION

For the reasons listed above, this Court should order the S.C.D.C. to refund the \$250⁰⁰ to the Appellant that they overcharged him or reverse the judgment of the Administrative Law Court and remand back to the Lower Court.

WHEREFORE, Appellant prays this Court grant the relief requested, and, for such other relief as this Court deems just and proper.

Respectfully Submitted,



James Millholland 367569
A.C.I./ Colleton A-50
PO Box 1151
Fairfax, SC 29827

June 9., 2020
Fairfax, SC

CERTIFICATE OF COMPLIANCE

I hereby certify that this Initial Brief of Appellant complies with Rule 208(b), SCACR, and with Rule 267(a) SCACR.

Respectfully Submitted,



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June 9, 2020
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THE STATE OF SOUTH CAROLINA
In The Court of Appeals
[In The Supreme Court]

APPEAL FROM ADMINISTRATIVE LAW COURT

Ralph K. Anderson, III, Administrative Law Court

Appellate Ca. No. 2020-000521

James Millholland 267569 Appellant

v.

South Carolina Department of Corrections Respondent

DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL

Appellant proposes the following be included in the record on appeal:

1. Inmate Kiosk Request to Staff (reference #) (A) 19-01287998
(B) 19-01272878 (C) 19-01272877 (D) 16-322946 (E) 16-296158
(F) 16-281933 (G) 16-177831 (H) 16-175712 (I) 16-172499
2. Letter to S.L.E.D. dated May 3, 2019
3. S.L.E.D. DNA Database record for Appellant (years 2000-2003)
4. D.N.A. payment receipts from Anderson County Probation Office
record from 2000-2003
5. E.H. Cooper account deductions for D.N.A. database (years
2016-2019)
6. Step 1 grievance
7. Step 2 grievance

8. Appellants Brief and Reply Brief, Administrative Law Court
9. Reply Brief of Respondents, Administrative Law Court.
10. S.L.E.D. record of D.N.A. processing fee paid by S.C.D.C. from Appellants E.H. Cooper.

I certify that this designation contains no matter which is irrelevant to this appeal.



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June 9, 2020
Fairfax, SC

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

APPEAL FROM ADMINISTRATIVE LAW COURT

Ralph K. Anderson III, Administrative Law Judge

Appellate Ca No. 2020-000521

James Millholland 367569 Appellant

v.

South Carolina Department of Corrections Respondent

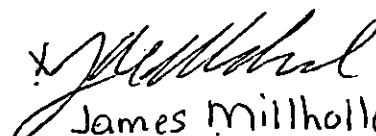
PROOF OF SERVICE

This is to certify that a true and correct copy of the Initial Brief of Appellant, Designation of Matter To Be Included In The Record on Appeal, and proof of Service has been served on the following listed below by depositing a copy in the U.S. mail with postage prepaid on this 9 day of ~~May~~^{June}, 2020:

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June 9
~~May~~, 2020
Fairfax, SC

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Ralph K. Anderson, III

ALC Case No. 19-ALJ-04-0492-AP
Appellate Case No. 2020-000521

JAMES MILLHOLLAND, # 367569,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

INITIAL BRIEF OF RESPONDENT

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

Kensley Evans
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ATTORNEY FOR RESPONDENT

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STATEMENT OF ISSUES ON APPEAL

- I. DID THE ADMINISTRATIVE LAW COURT PROPERLY DISMISS APPELLANT'S APPEAL WHERE NO STATE CREATED LIBERTY OR PROPERTY INTEREST WAS IMPLICATED IN THE CLAIMS RAISED BY APPELLANT?

- II. DID THE DEPARTMENT OF CORRECTIONS ERR IN FAILING TO CONFIRM WITH THE LAW ENFORCEMENT DIVISION WHETHER APPELLANT HAD PREVIOUSLY PAID A DNA PROCESSING FEE?

STATEMENT OF THE CASE

This matter comes before the Court pursuant to the appeal of James Millholland, an inmate incarcerated with the Department of Corrections. On June 25, 2019, Appellant filed a Step 1 grievance disputing deductions taken by SCDC for payment of a DNA processing fee. Appellant alleged this occurred in violation of policy because he had paid \$250.00 to the State Law Enforcement Division (“SLED”) prior to these deductions, and he believed this should have been a one-time fee charged to him. Appellant’s Step One Grievance was timely reviewed by the Warden and denied based on SCDC Policy OP 21.09: “Inmate Records Plan,” whereby “the DNA database is administered under the direction of [SLED] . . . [and] any person incarcerated in SCDC who has been convicted of . . . any of the offenses identified in the DNA Statute will be required to provide a blood sample for inclusion into the State DNA Database” and be required to pay the associated \$250.00 fee. Appellant then filed a Step 2 Grievance in response to the Warden’s decision on July 25, 2019 on the same basis. This grievance was denied by the reviewing Responsible Official on September 9, 2019. They informed Appellant that, although he believes the fee is a one-time fee, “[r]ecords indicate [Appellant was] admitted into SCDC as a New Admission on 03/26/16 . . . [and that n]ew admissions will be assessed the fee as required by SLED.” R. p. 1.

Appellant filed a Notice of Appeal in the Administrative Law Court on September 25, 2019. The Department of Corrections filed a Motion to Dismiss on February 11, 2020. Appellant filed a Reply Brief on February 24, 2020. Thereafter, on March 4, 2020, the Honorable Ralph K. Anderson, III issued an order granting the Department’s Motion to Dismiss, dismissing Appellant’s appeal with prejudice. Appellant filed Notice of this appeal on March 15, 2020.

STANDARD OF REVIEW

S.C. Code Ann. § 1-23-610(B) provides the applicable standard of review:

The review of the administrative law judge's order must be confined to the record. The reviewing tribunal may affirm the decision or remand the case for further proceedings; or it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code Ann. § 1-23-380(5).

In an appeal of a final decision of an administrative agency, the standard of appellate review is whether the ALC's findings are supported by substantial evidence. S.C. Code Ann. § 1-23-610(B). "Substantial evidence" is evidence which, considering the record as a whole, would allow a reasonable mind to reach the same conclusion that administrative agency reached. *Hendley v. S.C. State Budget & Control Bd.*, 325 S.C. 413, 481 S.E.2d 159 (S.C. Ct. App. 1996). A reviewing court shall not substitute its own judgment for that of the ALC as to findings of fact, but it may reverse or modify decisions that are controlled by errors of law or that are clearly erroneous in view of the substantial evidence on the record as a whole. *Id.*

ARGUMENT

THE ADMINISTRATIVE LAW COURT PROPERLY DISMISSED APPELLANT'S APPEAL WHERE APPELLANT'S CLAIM DID NOT IMPLICATE A STATE CREATED LIBERTY OR PROPERTY INTEREST.

The ALC's jurisdiction to hear appeals from final agency decisions of the South Carolina Department of Corrections 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). Further, this Court 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 (S.C. Ct. App. 2006).

This appeal concerns Appellant’s challenge of a second DNA processing fee that was levied against deposits made into his E.H. Cooper account. *See* Appellant’s Initial Brief, p. 4. SCDC takes DNA samples from inmates and provides those samples to SLED for inclusion in the State DNA Database in accordance with S.C. Code Ann. § 23-3-620. That statute states, in relevant part, that DNA samples will be required,

(A) Following a lawful custodial arrest, the service of a courtesy summons, or a direct indictment for: (1) a felony offense or an offense that is punishable by a sentence of five years or more . . . This sample must be taken at a jail, sheriff’s office that serves a courtesy summons, courthouse where a direct presentment indictment is served, or detention facility at the time the person is booked and processed into the jail or detention facility following the custodial arrest, or other location when the taking of fingerprints is required prior to a conviction. The sample must be submitted to SLED as directed by SLED. . . .

Appellant was admitted to SCDC custody on March 29, 2016 as a New Admission after previously serving a sentence in SCDC custody. *See* Respondent’s ALC Motion to Dismiss, p. 4. Per S.C. Code Ann. §23-3-620(A), Appellant was properly assessed an additional \$250.00 following a lawful custodial arrest. Appellant contends that because he paid the DNA processing fee during his previous term of incarceration he should not have had to pay the fee again when he was admitted to SCDC in 2016. *See* Appellant’s Initial Brief, p. 5. Appellant’s sole issue on appeal to the ALC and here is: “Did the South Carolina Dept. of

Corrections [err] when they failed to confirm with SLED that Appellant was already entered into the DNA Database, and that the \$250.00 fee was already paid?” *See* Appellant’s ALC Brief, p. 4; Appellant’s Initial Brief, p. 3. In support of his argument that SCDC’s actions were in error, Appellant puts forth that “Someone has to know that I was already entered into the Database . . .”, “I should not have to pay twice for the same DNA Database fee”, and “SCDC should have never charged Appellant in 2016, an additional \$250.00.” *See* Appellant’s ALC Brief, p. 5; *See* Appellant’s Initial Brief, p. 5. Appellant also asks the Court to “take notice that [he] is not challenging the constitutionality of the DNA law in any form.” *See* Appellant’s ALC Reply Brief, p. 1; Appellant’s Initial Brief, p. 5. Appellant’s only argument is the fact that he was charged the DNA processing fee twice, which constitutes a facial challenge to the statute. Because Appellant did not present any arguments challenging the constitutionality of the actual method by which SCDC deducted amounts to which they are entitled under §23-3-620(A), the ALC did not have subject matter to hear his Appeal. *See Travelscape, LLC v. S.C. Dep’t of Revenue*, 391 S.C. 89, 109 705 S.E.2d 28, 38-39 (2011) (where the Court held that the ALC can rule on as-applied challenges to statutes or regulations but not facial challenges to the constitutionality thereof). *See* ALC Order of Dismissal, p. 2-3.

Because no state created liberty or property interest is implicated in this case, Administrative Law Judge Anderson’s March 4, 2020 Order dismissing the appeal on this basis was proper and should be upheld.

THE DEPARTMENT'S DEDUCTION OF THE DNA PROCESSING FEE FROM APPELLANT'S E.H. COOPER ACCOUNT IS IN ACCORDANCE WITH STATE LAW AND THUS PROPER.

Even if the ALC had jurisdiction over Appellant's appeal, Appellant's argument is without merit. S.C. Code Ann. § 23-3-670 requires that Appellant pay a \$250.00 fee for the processing of his DNA sample. That statute says in relevant part, "A person who is required to provide a sample pursuant to this article, upon conviction, pleading guilty or nolo contendere, or forfeiting bond, **must** pay a two hundred fifty dollar processing fee which **may not be waived** by the court." S.C. Code Ann. § 23-3-670(A) (emphasis added); *See Collins v. Doe*, 352 S.C. 462, 470, 574 S.E.2d 739, 743 (2002) ("Under the rules of statutory interpretation, use of words such as "shall" or "must" indicates the legislature's intent to enact a mandatory requirement.").

Appellant's argument that SCDC erred in accessing the DNA processing fee a second time relies on S.C. Code Ann. § 23-3-620(D). *See* Appellant's Initial Brief, p. 4. That section provides that

[u]nless a sample has already been provided pursuant to the provisions of subsection (A), before a person is released from confinement or released from the agency's jurisdiction, a suitable sample from which DNA may be obtained for inclusion in the State DNA Database must be provided as a condition of probation or parole.

Appellant incorrectly interprets § 23-3-620(D) as establishing a state-created liberty or property interest in having DNA and the associated fee collected only once. A statute "must be read as a whole and sections [that] are part of the same general statutory law must be construed together and each one given effect." *S.C. State Ports Auth. v. Jasper County*, 368 S.C. 388, 398, 629 S.E.2d 624, 629 (2006). Therefore, the Court should avoid concentrating on "isolated phrases within the statute." *Id.* Instead, the Court must "read the statute as a

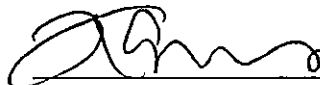
whole and in a manner consonant and in harmony with its purpose.” *Id.* Finally, “when the terms of a statute are clear and unambiguous, the court must apply them according to their literal meaning . . . without resort to subtle or forced construction to limit or expand the statute’s operation.” *State v. Blackmon*, 304 S.C. 270, 273, 403 S.E. 2d 660, 662 (1991). Nowhere in the unambiguous language of § 23-3-620 does the General Assembly provide that the collection of DNA samples, and the corresponding assessment of the collection fee under § 23-3-670, is to be a one-time occurrence. Rather, when § 23-3-620 is read as a whole it is clear that the legislature’s intent behind subsection (D) was to provide that in situations where an incarcerated individual’s DNA had not been collected upon lawful arrest for an offense enumerated in subsection (A), then the DNA sample must be obtained as a condition of probation or parole. Thus, to interpret § 23-3-620(D) as Appellant suggests would force the statute to operate in a manner contrary to the General Assembly’s intention.

Thus, SCDC’s charge for and deductions towards the \$250.00 DNA processing fee were proper as these actions were carried out in accordance with state law.

CONCLUSION

For the foregoing reasons, the Court should affirm the Administrative Law Court’s decision below.

Respectfully submitted,
**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**



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August 10, 2020

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Ralph K. Anderson, III

ALC Case No. 19-ALJ-04-0492-AP
Appellate Case No. 2020-000521

JAMES MILLHOLLAND, # 367569,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

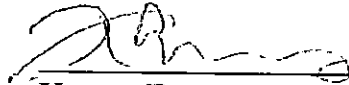
**RESPONDENT'S DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

The Respondent submits that the following should be included in the Record on Appeal:

- (1) Appellant's Administrative Law Court Notice of Appeal dated September 25, 2019;
- (2) Record filed with the Administrative Law Court dated December 31, 2019;
- (3) Appellant's Administrative Law Court Brief dated January 14, 2020;
- (4) Respondent's Administrative Law Court Motion to Dismiss dated February 11, 2020;
- (5) Appellant's Administrative Law Court Reply Brief dated February 24, 2020
- (6) Administrative Law Judge Anderson's Order dated March 4, 2020;

The undersigned hereby certifies this Designation contains no matter that is irrelevant to this appeal.

[SIGNATURE BLOCK ON FOLLOWING PAGE]



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August 10, 2020

ATTORNEY FOR RESPONDENT

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Ralph K. Anderson, III

ALC Case No. 19-ALJ-04-0492-AP
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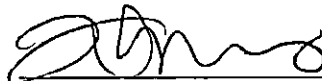
JAMES MILLHOLLAND, # 367569,
----- APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,
RESPONDENT.

CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that on today's date she mailed a copy of the **Initial Brief of Respondent and Designation of Matter to be Included in the Record on Appeal** to Appellant, addressed as follows: **James Millholland (#367569)**, Allendale Correctional Institution, COA-0050-B, 1057 Revolutionary Trail, Fairfax, SC 29827.



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August 10, 2020

State of South Carolina
IN THE COURT OF APPEALS

Appeal From The Administrative Law Court

Administrative Law Judge RALPH K. ANDERSON, III

ALC CASE NO. 19-ALJ-04-0492-AP
Appellate CASE NO. 2020-000521

JAMES M. HOLLAND, 367569

✓
SOUTH CAROLINA DEPT. OF CORRECTIONS

REPLY BRIEF

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Statement of Issues on Appeal

1. Did The Administrative Law Court properly DISMISS Appellant's Appeal where NO STATE CREATED LIBERTY OR PROPERTY INTEREST WAS implicated in the CLAIMS RAISED by Appellant?
2. Did the Department of Corrections ERR in failing to confirm with the LAW ENFORCEMENT Division whether Appellant had previously PAID A DNA PROCESSING FEE?

Statement of the Case

The Appellant is an inmate in the South Carolina Department of Corrections (S.C.D.C.) and housed at Allendale Correctional Institution in Fairfax, South Carolina. On June 25, 2019 Appellant submitted a Step 1 grievance appealing being charged two times for a one time DNA processing fee of \$250⁰⁰. Following denial of his step 1 grievance, Appellant submitted a Step 2 grievance on July 25, 2019 arguing that his 5th Amendment right had been violated. Step 2 was denied on September 9, 2019. Appellant then filed a notice of appeal in the Administrative Law Court on October 24, 2019. This appeal was denied on March 4, 2020. Appellant timely filed a notice of appeal and motion to proceed in forma pauperis to this Court. The motion to proceed in forma pauperis was granted on May 1, 2020

Standard of Review

S.C. Code 1-23-610(B) provides the Applicable Standard of Review.

The Review of the Administrative Law Judge's order must be confined to the record. The reviewing tribunal may affirm the decision or remand the case for further proceedings; or it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion or decision is:

- (a) in violation of Constitutional or Statutory provisions;
- (b) in excess of the Statutory Authority of the Agency.
- (c) Made upon Unlawful Procedure
- (d) affected by other error of law
- (e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record, or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. CODE ANN. 1-23-380 (5)

IN AN APPEAL OF A FINAL DECISION FROM AN ADMINISTRATIVE AGENCY, THE STANDARD OF APPELLATE REVIEW IS WHETHER THE ALC'S FINDINGS ARE SUPPORTED BY SUBSTANTIAL EVIDENCE. S.C. CODE ANN. 1-23-610(B) "SUBSTANTIAL EVIDENCE" IS EVIDENCE WHICH (CONSIDERING THE RECORD AS A WHOLE, WOULD ALLOW A REASONABLE MIND TO REACH THE SAME CONCLUSION THAT ADMINISTRATIVE AGENCY REACHED. *Hendley v. S.C. State Budget & Control Bd.* 325 S.C. 413, 481 S.E.2d 159 (S.C. Ct. App. 1996). A REVIEWING COURT SHALL NOT SUBSTITUTE ITS OWN JUDGMENT FOR THAT OF THE ALC AS TO FINDING OF FACT, BUT IT MAY REVERSE OR MODIFY DECISIONS THAT ARE CONTROLLED BY ERRORS OF LAW OR THAT ARE CLEARLY ERRONEOUS IN VIEW OF THE SUBSTANTIAL EVIDENCE ON THE RECORD AS A WHOLE.

Argument

Did The Administrative Law Court Properly Dismiss Appellant's Appeal Where No State Created Liberty or Property Interest Was Implicated in the Claim Raised by Appellant?

The Respondent are incorrect in their assertion that no property interest was asserted! The ALJ did have jurisdiction. When the 250⁰⁰ processing fee established by S.C. Code 23-3-620 is a state created property interest. When the state requires one to submit his property to pay a processing fee. See *Wicker v. S.C.D.C.* 360 S.C. 421, 602 S.E. 2d 56. ALC jurisdiction extends to this case when the Appellant is denied his right to only to pay this processing fee ~~once~~^{once}. See S.C. Code Ann. 23-3-620 (D) "Unless a sample has already been provided." The respondents are side stepping this very simple claim, they have attempted to change the issue, but they have never addressed the facts in this claim.

Did the S.C. Dept. of Corrections err in failing to confirm with the Law Enforcement Division whether Appellant had previously paid a DNA processing fee?

The only answer to this question is YES, they failed. There must be some system between agencies to verify these kind of matter with so many repeat offenders!

Appellant is not challenging S.C. Code Ann. 23-3-670! It has not been disputed that Appellant should not have to pay the processing fee 2 times. Nor is it disputed that he did. As stated above S.C. Code 23-3-670 (D) the statute is clear and unambiguous and the intent of the General Assembly is clear.

To imply that DNA was never taken is without merit. In fact this is the root of the claim, for S.C.D.C. to verify that the DNA was taken and the processing fee paid. S.C. Code 23-3-670 (D) is clear. "Unless a sample has already been provided pursuant to the provisions of subsection (A)". The Respondent don't want the Court to consider the meaning of this very important part of this statute!


Conclusion

For the foregoing reasons, the Court should overturn the ALC's decision. Make S.C.D.C. refund the \$250⁰⁰ they over charged Appellant, And make S.C.D.C. create a system with S.L.E.D. so they can verify who and who has not already provided a sample of DNA For the database and who ^{has} or has not already paid the processing fee.

Wherefore, Appellant prays this Court grant him the relief requested and all other relief this Court seems just and proper.

Respectfully Submitted,

James Millholland 367569



A.C.I. / FIASO
PO Box 1151
Fairfax, SC 29827

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Administrative Law Judge Ralph K. Anderson, III

ALC Case No. 19-ALJ-04-0492-AP
Appellate Case No. 2020-000521

James Millholland, #367569 Appellant

v.

South Carolina Dept of Corrections Respondent

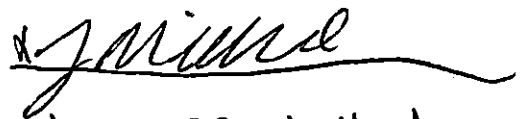
Certificate of Service

This is to certify that a copy of Appellants Reply Brief
was mailed to the followigon this 18th day of August, 2020.

S.C.D.C. OGC
PO Box 21787
4444 Broad River Rd
Columbia, SC 29221

Administrative Law Court
1205 Pendleton St. Suite 224
Columbia, S.C. 29201

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



James Millholland 367569
A.C.I. / Colleton A-50
PO Box 1151
Fairfax, SC 29827

August 18, 2020

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

James Milholland, #367569,)	Docket No.: 19-ALJ-04-0492-AP
)	[<u>Grievance No.: ACI 174-19</u>]
Appellant,)	
)	<i>Hon. Ralph King Anderson, III</i>
v.)	
)	
South Carolina Department of Corrections,)	RESPONDENT'S MOTION TO
)	DISMISS
Respondent.)	
_____)	

STATEMENT OF THE CASE

This matter is before the Administrative Law Court (“ALC” or “Court”) pursuant to the appeal of Mr. James Millholland (“Appellant”), an inmate presently incarcerated with the South Carolina Department of Corrections (“SCDC”). On June 25, 2019, Appellant filed a Step One Grievance disputing deductions taken by SCDC money orders sent to Appellant for payment of a DNA processing fee. R. p. 2. Appellant alleged this occurred in violation of policy because he had paid \$250.00 to the State Law Enforcement Division (“SLED”) prior to these deductions, and he believed this should have been a one-time fee charged to him. *Id.* Appellant’s Step One Grievance was timely reviewed by the Warden and denied based on SCDC Policy OP 21.09: “Inmate Records Plan,” whereby “the DNA database is administered under the direction of [SLED] . . . [and] any person incarcerated in SCDC who has been convicted of . . . any of the offenses identified in the DNA Statute will be required to provide a blood sample for inclusion into the State DNA Database” and be required to pay the associated \$250.00 fee.

Appellant then filed a Step Two Grievance in response to the Warden’s decision on July 25, 2019 on the same basis. This grievance was denied by the reviewing Responsible Official on September 9, 2019. They informed Appellant that, although he believes the fee is a one-time fee,

“[r]ecords indicate [Appellant was] admitted into SCDC as a New Admission on 03/26/16 . . . [and that n]ew admissions will be assessed the fee as required by SLED.” R. p. 1.

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 Supreme Court of South Carolina 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 of South Carolina held the ALC’s jurisdiction is 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 Supreme Court has consistently emphasized that the liberty – or, under subsequent precedent, 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 “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).

Furthermore, the ALC should not disturb findings of an administrative agency if those

findings are supported by substantial evidence in the record as a whole. *Pearson v. JPS Converter & Ind. Corp.*, 327 S.C. 393, 489 S.E.2d 219 (Ct. App. 1997). Stated differently, an Administrative Law Judge may not substitute his judgment for that of an agency “as to the weight of the evidence on questions of fact.” S.C. Code Ann. § 1-23-380(5) (amended by 2008 Act No. 334, § 5, eff. June 16, 2008). Additionally, “an Administrative Law Judge may not reverse or modify an agency’s decision unless substantial rights of the Appellant have been prejudiced because the decision is clearly erroneous in view of the substantial evidence on the whole Record, arbitrary or affected by an error of law.” *Marietta Garage, Inc. v. S.C. Dep’t. of Pub. Safety*, 337 S.C. 133, 136-37, 522 S.E.2d 605, 607 (1999); *see* S.C. Code Ann. § 1-23-380(5)(e); *see also* *S.C. Dep’t. of Labor, Licensing & Regulation v. Girgis*, 332 S.C. 162, 503 S.E.2d 490 (1998).

ARGUMENT

- I. **APPELLANT HAS RAISED NO ARGUMENT CHALLENGING THE CONSTITUTIONALITY OF THE MANNER IN WHICH FUNDS WERE DEDUCTED TO PAY FOR THE \$250.00 DNA FEE ACCRUED IN 2016; THEREFORE, NO STATE-CREATED LIBERTY OR PROPERTY INTERESTS ARE IMPLICATED, AND THIS COURT HAS NO JURISDICTION TO HEAR THE CASE.**

SCDC takes DNA samples from inmates and provides those samples to SLED for inclusion in the State DNA Database in accordance with S.C. Code Ann. § 23-3-620. That statute states, in relevant part, that DNA samples will be required,

(A) Following a lawful custodial arrest, the service of a courtesy summons, or a direct indictment for: (1) a felony offense or an offense that is punishable by a sentence of five years or more . . .

This sample must be taken at a jail, sheriff's office that serves a courtesy summons, courthouse where a direct presentment indictment is served, or detention facility at the time the person is booked and processed into the jail or detention facility following the custodial arrest, or other location when the taking of fingerprints is required prior to a conviction. The sample must be submitted to SLED as directed by SLED. . . .

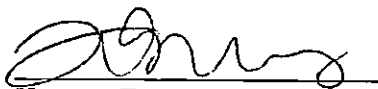
Here, Appellant was readmitted to SCDC custody on March 29, 2016 as a New Admission. Per S.C. Code Ann. §23-3-620(A), Appellant was properly assessed an additional \$250.00 following a lawful custodial arrest. R. p. 1. In his brief, Appellant states the issue presented as follows: “Did the South Carolina Dept. of Corrections [err] when they failed to confirm with SLED that Appellant was already entered into the DNA Database, and that the \$250.00 fee was already paid?” See Brief of Appellant, p. 4. Appellant alleges a violation of his 5th Amendment rights. See Brief of Appellant, p. 1; R. p. 1. Because Appellant did not present any arguments challenging the constitutionality of the actual method by which SCDC deducted amounts to which they are entitled under §23-3-620(A), this Court does not have subject matter to hear this Appeal. See *Travelscape, LLC v. S.C. Dep’t of Revenue*, 391 S.C. 89, 109 705 S.E.2d 28, 38-39 (2011) (where the Court held that the ALC can rule on as-applied challenges to statutes or regulations but not facial challenges to the constitutionality thereof).

In his Step Two Grievance, Appellant states, “I should not have been charged a second time. This is a violation of my 5th Amendment right . . . to be free from successive punishment.” R. p. 1. In failing to specifically state why the way in which he was charged was unconstitutional, and instead stating that being charged the \$250.00 DNA fee twice was improper, Appellant has raised a facial challenge to the statute.

CONCLUSION

Therefore, for the above state reasons, SCDS respectfully requests this Appeal be dismissed.

Respectfully submitted,



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

February 11, 2020
Columbia, South Carolina

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Ralph K. Anderson, III

ALC Case No. 19-ALJ-04-0492-AP
Appellate Case No. 2020-000521

JAMES MILLHOLLAND, # 367569,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

MOTION FOR EXTENSION OF TIME

The Initial Brief of Respondent and Designation of Matter are due to be served and filed today, July 27, 2020. Respondent is hereby requesting a fifteen-day extension in which to file this Brief and Designation. No previous extensions have been requested on behalf of Respondent. This extension request is not being made for the purpose of delay; instead, it is being made to ensure that the issues raised in this appeal are properly researched and briefed.

WHEREFORE, Respondent respectfully requests that this Court extend the deadline for the service and filing of the Initial Brief of Respondent and Designation of Matter in this case by fifteen days from the date such relief is granted and hold the matter in abeyance pending a ruling this motion.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**



KENSEY EVANS

Deputy General Counsel
Office of General Counsel

S.C. Department of Corrections

Post Office Box 21787

Columbia, South Carolina 29221

(803) 896-8508

ATTORNEY FOR RESPONDENT

July 27, 2020

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Ralph K. Anderson, III

ALC Case No. 19-ALJ-04-0492-AP
Appellate Case No. 2020-000521

JAMES MILLHOLLAND, # 367569,

APPELLANT,

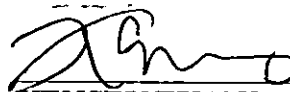
v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that on today's date, she mailed a copy of the **Motion for Extension of Time** to Appellant via U.S. Mail addressed as follows: **James Millholland, #367569**, Allendale Correctional Institution, 1057 Revolutionary Trail, Fairfax, South Carolina, 29827.



KENSEY EVANS
Deputy General Counsel
Office of General Counsel
S.C. Department of Corrections
Post Office Box 21787
Columbia, South Carolina 29221
(803) 896-8508

July 27, 2020

Inmate Request Audit Trail - General

Today's Date: 7/2/19 11:49

Name: MILLHOLLAND, JAMES MICHAEL
 Booking #: SCB0037795
 Permanent #: SCP0037795

Reference #: 16-172499
 Date Requested: 06/11/16 22:41
 Request Type:
 Requested By: Kiosk

Request Details: CAN YOU PLEASE TELL ME WHY I OWE MEDICAL 250 DOLLARS I THINK THEY HAVE MY ACCOUNT MESSED UP. I ALSO PAID FOR MY DNA IN 1999 WHILE I WAS ON PROBATION FOR BURGLARY AND GRAND LARCONY. WILL YOU PLEASE HELP ME ON THIS MATTER. THERE IS NO WAY THAT I OWE MEDICAL 250 DOLLARS. PLEASE HELP ME GET THIS STRAIT. I DONT GET VERY MUCH MONEY AND CANT AFFORD FOR THEM TO KEEP TAKING IT. THANK YOU FOR YOUR TIME AND ALL YOUR HARD WORK

Review Level: Inmate Financial - Level 1
 Disposition: Complete
 Officer:
 Disposition Date: 06/15/16 08:41

Request Responses		
Date	Author	Note
06/15/16 08:42	c053296	Mr. Hollandnbspl just sent you the answer to this on your previous request.Thank YouL Cook

Request Notes		
Date	Author	Note

Audit Trail Updates				
Date	User ID	Original Value	New Value	Column Name
06/13/16 16:42	c011076	2016-06-11 22:41:31.0	2016-06-11 22:41:00.0	DATE_REQUESTED
06/13/16 16:42	c011076		INFIN1	REVIEW_WORKFLOW
06/13/16 16:42	c011076	VISIT	INMFIN	INMATE_REQUEST_TYPE
06/15/16 08:42	c053296	PEND	COMP	DISPOSITION
06/15/16 08:42	c053296		2016-06-15 08:41:00.0	DISPOSITION_DATE

69

Inmate Request Audit Trail - General

Today's Date: 7/2/19 11:50

Name: MILLHOLLAND, JAMES MICHAEL
Booking #: SCB0037795
Permanent #: SCP0037795

Reference #: 16-175712
Date Requested: 06/14/16 11:11
Request Type:
Requested By: Kiosk

Request Details: my mental heath counsler at kirkland told me that i owe medical for 250 dollars. i dont know how in the world i owe them that much.ive been in the system only 80 days. can you please check on this for me. i also paid my dna when i was on probation in 1999. they took my dna at the probation office and i paid them already can you please look into this for me. thank you so much

Review Level:
Disposition: Complete
Officer:
Disposition Date: 06/15/16 08:38

Request Responses		
Date	Author	Note
06/15/16 08:41	c053296	Mr. MillhollandAs of 061516 you owe the state a total of \$256.62.The charges you owe for DNA is \$247.15.If you have the paper work showing this was paidnbspduring your probation, we would need to see them. If your family could get them for you this be helpful.nbspThanknbspyouL Cooknbsp

Request Notes		
Date	Author	Note

Audit Trail Updates				
Date	User ID	Original Value	New Value	Column Name
06/15/16 08:41	c053296	PEND	COMP	DISPOSITION
06/15/16 08:41	c053296		2016-06-15 08:38:00.0	DISPOSITION_DATE
06/15/16 08:41	c053296	2016-06-14 11:11:45.0	2016-06-14 11:11:00.0	DATE_REQUESTED



Inmate Request Audit Trail - General

Today's Date: 7/2/19 11:50

Name: MILLHOLLAND, JAMES MICHAEL
Booking #: SCB0037795
Permanent #: SCP0037795

Reference #: 16-177831
Date Requested: 06/15/16 17:44
Request Type:
Requested By: Kiosk

Request Details: mrs cook, the only family members that i have that will do anything for live in atlanta ga so getting them to go to my probation office ans getting my records would be asking a whole lot. besides my dad and grandmother are not able to travel. i was on probation in anderson county if there is any ay you could get the information from them for me i would greatly appreciate it. like i said i paid my dna in 1999 while i was on probation in anderson sc thank you

Review Level: Inmate Financial - Level 2 HQ
Disposition: Complete
Officer:
Disposition Date: 06/23/16 11:28

Request Responses

Date	Author	Note
06/20/16 11:31	c053296	Mr. Millholland understand. I have sent your request to headquarters. This will take some time to research. We ask that you be patient during this time. Headquarters will follow up with you thru the Kiosk. Thank You. Cooknbsp
06/23/16 14:47	c044581	You will have to write them or call.nbsp

Request Notes

Date	Author	Note
6/20/16 11:34	c053296	Mr. Holland said his DNA was paid while he was on prebation in 1999. Indicated it was paid at the probation office. Thanks Lydia ACI

Audit Trail Updates

Date	User ID	Original Value	New Value	Column Name
06/20/16 11:34	c053296		INFIN2	REVIEW_WORKFLOW
06/20/16 11:34	c053296		2016-06-20 11:28:00.0	DISPOSITION_DATE
06/20/16 11:34	c053296	2016-06-15 17:44:37.0	2016-06-15 17:44:00.0	DATE_REQUESTED
06/23/16 14:47	c044581	PEND	COMP	DISPOSITION
06/23/16 14:47	c044581	2016-06-20 11:28:00.0	2016-06-23 11:28:00.0	DISPOSITION_DATE

Inmate Request Audit Trail - General

Today's Date: 7/2/19 11:51

Name: MILLHOLLAND, JAMES MICHAEL
Booking #: SCB0037795
Permanent #: SCP0037795

Reference #: 16-281933
Date Requested: 09/04/16 17:52
Request Type:
Requested By: Kiosk

Request Details: I PAID FOR MY DNA IN1999 WHILE I WAS ON PROBATION IN ANDERSON SC. CAN YOU PLEASE CORRECT THIS FOR ME. THANK YOU

Review Level: Inmate Financial - Level 2 HQ
Disposition: Complete
Officer:
Disposition Date: 09/14/16 13:12

Request Responses

Date	Author	Note
09/14/16 13:13	c044581	Please get a receipt from probation for reimbursement.

Request Notes

Date	Author	Note
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Audit Trail Updates

Date	User ID	Original Value	New Value	Column Name
09/12/16 16:04	c011076	2016-09-04 17:52:21.0	2016-09-04 17:52:00.0	DATE_REQUESTED
09/12/16 16:04	c011076		INFIN2	REVIEW_WORKFLOW
09/14/16 13:13	c044581	PEND	COMP	DISPOSITION
09/14/16 13:13	c044581		2016-09-14 13:12:00.0	DISPOSITION_DATE

Inmate Request Audit Trail - General

Today's Date: 7/2/19 11:50

Name: MILLHOLLAND, JAMES MICHAEL
 Booking #: SCB0037795
 Permanent #: SCP0037795

Reference #: 16-296158
 Date Requested: 09/15/16 19:55
 Request Type:
 Requested By: Kiosk

Request Details: i paid my dna while on probation in anderson county during the year of 1999 and 2000. i have no way of going to the probation office and getting a receipt to show this and my dad and grandmother live in dallas ga and are disabled and therefore are unable to travel 4 hrs one way to get a receipt for me. i am paying for dna for my second time and would greatly appreciate it if you can get the receipt for me so they will stop taking money off my account for something i have paid dearly for already. i am working with a budget with my money because my parents are on a fixed income an anything you can do to help me is greatly appreciated. or please advise me about how or what i can do to fix this thank you

Review Level: Inmate Financial - Level 2 HQ
 Disposition: Complete
 Officer:
 Disposition Date: 09/23/16 09:38

Request Responses

Date	Author	Note
09/23/16 09:38	c044581	You can write them and have them mail you a receipt.nbsp I will look on their web-site and see if they have it posted.

Request Notes

Date	Author	Note

Audit Trail Updates

Date	User ID	Original Value	New Value	Column Name
09/20/16 09:39	c053296		INFIN2	REVIEW_WORKFLOW
09/20/16 09:39	c053296		2016-09-20 09:38:00.0	DISPOSITION_DATE
09/20/16 09:39	c053296	2016-09-15 19:55:55.0	2016-09-15 19:55:00.0	DATE_REQUESTED
09/23/16 09:38	c044581	PEND	COMP	DISPOSITION
09/23/16 09:38	c044581	2016-09-20 09:38:00.0	2016-09-23 09:38:00.0	DISPOSITION_DATE

SLED

May 3, 2019

RE: DNA

Dear Sir or Madam,

My name is James Michael Millholland. My date of birth is 07-28-1982 and my SS# is 414-41-0627. I am writing in regards to the DNA that I have been charged two times for. In 1999 I was sentenced to 5 years probation in Anderson County S.C. for a 2nd Burglary and Grand Larceny. While on probation there I had to report to their office and give my blood to SLED during the years of 2000-2004. I was charged \$250⁰⁰. The probation office said this payment was for SLED. I have tried reaching out to the Anderson County Probation Office concerning this matter because I need to obtain a record of this. Thus far I cannot get a response. That is why I am writing you. I am now incarcerated at the South Carolina Department of Corrections. They too have charged me again for my DNA. That is a total of \$250⁰⁰, two times equaling \$500⁰⁰.

The second time the DOC charged me. To my understanding this is only supposed to be a one time payment. They tell me that I need to write SLED concerning this matter. Can you please respond back to me and send something showing proof that I did already give and pay for my DNA in the year of 2000-2004 while on probation in Anderson County. Thank you for your time. My address is

James M. Millholland 367569
Allendale C.I. FIASO
1057 Revolutionary Trail
Po Box 1151
Fairfax, SC 29827



Inmate Request Audit Trail - General

Today's Date: 7/2/19 11:55

Name: MILLHOLLAND, JAMES MICHAEL
Booking #: SCB0037795
Permanent #: SCP0037795

Reference #: 19-01272877
Date Requested: 06/08/19 16:58
Request Type:
Requested By: Kiosk

Request Details: mrs english , i am writing concerning the fee i paid for dna. i already paid the 250 dollars one time in the year of 2000-2001 while on probation in anderson county . then scdc charged me a second 250 dollars when sled already had my dna. i have wrote sled several times and thus far i have not gotten a response. is there anyway you can tell me who i need to contact and their address. i should not have been charged two times for the same thing. and i request your help in this matter/ please tell me who i need to contact.

Review Level:
Disposition: Pending
Officer:
Disposition Date: 06/26/19 08:42

Request Responses

Date	Author	Note
06/10/19 08:43	c011076	I am forwarding your request to Ms. Cook in Inmate Financial. C. English

Request Notes

Date	Author	Note
------	--------	------

Audit Trail Updates

Date	User ID	Original Value	New Value	Column Name
06/10/19 07:43	c011076		2019-06-10 08:42:00.0	DISPOSITION_DATE
06/10/19 07:43	c011076	VISIT	INMFIN	INMATE_REQUEST_TYPE
06/10/19 07:43	c011076	2019-06-08 16:58:29.493	2019-06-08 16:58:00.0	DATE_REQUESTED
06/10/19 07:43	c011076	PEND	COMP	DISPOSITION
06/10/19 07:43	c011076		0	RESPONSE_AMOUNT
06/10/19 07:43	c011076	com.dsicdiiti.int.oms.codetables. REQUEST_DISPOSITIONData@24 6cb427[comp_id=com.dsicdiiti.int. oms.codetables. CodeTableDataPK@75844bbb [id=PEND,JLocat=DSI_SHARED]]	com.dsicdiiti.int.oms.codetables. REQUEST_DISPOSITIONData@39 63e385[comp_id=com.dsicdiiti.int. oms.codetables. CodeTableDataPK@1d555ff7 [id=COMP,JLocat=DSI_SHARED]]	DISPOSITION
06/26/19 10:08	c011076	2019-06-10 08:42:00.0	2019-06-26 08:42:00.0	DISPOSITION_DATE
06/26/19 10:08	c011076	COMP	PEND	DISPOSITION

77

Inmate Request Audit Trail - General

Today's Date: 7/2/19 11:55

Name: MILLHOLLAND, JAMES MICHAEL
 Booking #: SCB0037795
 Permanent #: SCP0037795

Reference #: 19-01272878
 Date Requested: 06/08/19 17.04
 Request Type:
 Requested By: Kiosk

Request Details: i am writing concerning the 250 dollar dna charge that was deducted from my account. i paid sied 250 dollars already one time while i was on probation in anderson county .there has to be some record of this somewhere. then scdc charged me 250 dollars again for the same dna charge. that is a total of two times that i was when i was only supposed to be charged one time. can you please give me the name and address of who i would need to contact tohave this matter taken care off thank you

Review Level:
 Disposition: Complete
 Officer:
 Disposition Date: 06/20/19 12:30

Request Responses

Date	Author	Note
06/20/19 12:32	c037463	please send a request to inmate financial for that information

Request Notes

Date	Author	Note
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Audit Trail Updates

Date	User ID	Original Value	New Value	Column Name
06/20/19 11:33	c037463	2019-06-08 17:04:36.62 .	2019-06-08 17:04:00.0	DATE_REQUESTED
06/20/19 11:33	c037463		2019-06-20 12:30:00.0	DISPOSITION_DATE
06/20/19 11:33	c037463	PEND	COMP	DISPOSITION
06/20/19 11:33	c037463		0	RESPONSE_AMOUNT
06/20/19 11:33	c037463	com.dsicdiliti.tnt.oms.codetables. REQUEST_DISPOSITIONData@30 a0dc8d[comp_id=com.dsicdiliti.tnt. oms.codetables. CodeTableDataPK@6f57c5c1 [id=PEND,JLocat=DSI_SHARED]]	com.dsicdiliti.tnt.oms.codetables. REQUEST_DISPOSITIONData@78 02b8ab[comp_id=com.dsicdiliti.tnt. oms.codetables. CodeTableDataPK@1bd6f1f8 [id=COMP,JLocat=DSI_SHARED]]	DISPOSITION

Inmate Request Audit Trail - General

Today's Date: 7/2/19 11:54

Name: MILLHOLLAND, JAMES MICHAEL
 Booking #: SCB0037795
 Permanent #: SCP0037795

Reference #: 19-01287998
 Date Requested: 06/22/19 10:41
 Request Type:
 Requested By: Kiosk

Request Details: mrs. wilkins smith, i am writing to ask for your help. when i was on probation in the year of 2000- and 2001 . i had to pay sled 250 dollars for my dna. they came to the probation office and drew my blood. then when i came to prison in 2016 i was charged again 250 dollars for my dna. sled already had my dna and i had already paid them the 250 dollars. to my understanding i was only supposed to pay the fee one time but scdc took the money out of my account every time i would get money. in the end i ended up paying 500 dollars for a 250 dollars fee. i have been trying to get this taken care of for some time i have wrote mrs english several times and she said that she was forwarding my message to someone else.mrs english also said that i would need proof showing that paid this and i have wrote sled and the probation office several times but they will not respond . i even talked to one of the men form sled in the visitation room office and he said for me to write them. i did again and got no response. i guess what i am tring to say is scdc charged me when my one time fee had already been paid while i served my probation time on a burglary charge in 2000-2001, i ask that my money be refunded from scdc since i have already paid sled one time thank you

Review Level:
 Disposition: Complete
 Officer:
 Disposition Date: 06/26/19 11:52

Request Responses		
Date	Author	Note
06/26/19 11:53	c011076	I am returning this request to you so that you can submit ACCURATE information to AAW Wilkins-Smith. You have NOT written me several limes concerning this issue. You sent me ONE request that I forwarded to the Inmate Financial category which is where it should have gone to. I NEVER advised you that you would need "proof" showing this was paid. SCDC Policy allows up to 45 days to respond to inmate requests. You sent the original request to me on 6/8/19. Please allow up to 45 days for a response before duplicating requests to other staff. Your request will be marked as a "DUPLICATE" and returned to you via the kiosk system if you do not allow the request adequate time to be responded to. C. English

Request Notes		
Date	Author	Note

Audit Trail Updates				
Date	User ID	Original Value	New Value	Column Name
06/26/19 10:53	c011076		2019-06-26 11:52:00.0	DISPOSITION_DATE
06/26/19 10:53	c011076	2019-06-22 10:41:24.657	2019-06-22 10:41:00.0	DATE_REQUESTED
06/26/19 10:53	c011076	PEND	COMP	DISPOSITION
06/26/19 10:53	c011076		0	RESPONSE_AMOUNT
06/26/19 10:53	c011076	com.dsicdlii.tnt.oms.codetables.REQUEST_DISPOSITIONData@3b42a32e[comp_id=com.dsicdlii.tnt.oms.codetables.CodeTableDataPK@29926b3a[id=PEND,JLocat=DSI_SHARED]]	com.dsicdlii.tnt.oms.codetables.REQUEST_DISPOSITIONData@460e2fa9[comp_id=com.dsicdlii.tnt.oms.codetables.CodeTableDataPK@59f0c451[id=COMP,JLocat=DSI_SHARED]]	DISPOSITION

CERTIFICATE OF APPELLANT

Pursuant to Rule 210(g), SCACR, Appellant hereby certifies that this Record of Appeal contains all material to be included by any of the parties and not by any other material.

Respectfully Submitted,

James Millholland 367569
A.C.I. FIASO
PO Box 1151
Fairfax, SC 29827

October 8, 2020
Fairfax, SC

RECEIVED
OCT 23 2020
SC Court of Appeals