

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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DEC 8 1 2020

SC Court of Appeals

APPEAL FROM THE SC COURT OF APPEALS

TROY BURKS #160726, APPELLANT,

v.

SOUTH CAROLINA DEPT OF CORRECTIONS, RESPONDENT.

APPELLANT CASE NO. 2020-001293

NOTICE IS HEREBY GIVEN THAT TROY BURKS #160726 DOES HEREBY APPEAL THE FINAL DECISION OF THE ADMINISTRATIVE LAW COURT HONORABLE JUDGE D.B. DURDEN DATED AUGUST 4, 2020 AND RECEIVED THE ORDER TO DISMISS ON JULY 15, 2020. THE PLAINTIFF REPLIED WITH DECLARATION IN OPPOSITION TO ORDER FOR DISMISSAL WITH A INITIAL BRIEF JULY 24, 2020. THE ALL FINAL ORDER REACHED THE PLAINTIFF ON AUGUST 4, 2020 WITH THE RULING THAT MOTIONS FOR RECONSIDERATION ARE PROHIBITED. A COPY IS ATTACHED.

THE PLAINTIFF WAS RESTRICTED FROM THE LAW LIBRARY NOR ANY MOVEMENT AT THE PRISON DUE TO THE COVID-19 VIRUS WHICH HAD THE ENTIRE PRISON UNDER A TOTAL LOCK-DOWN STATUS. THE PLAINTIFF ERRORLY FILED A NOTICE OF APPEAL TO THE U.S. DISTRICT COURT. AFTER ASKING THE DISTRICT COURT TO TRANSFER HIS NOTICE OF APPEAL TO THE S.C. STATE APPEAL COURT HE LEARNED HE HAD TO MAKE THE NOTICE OF APPEAL HISSELF. AFTER PLAINTIFF RECEIVED THE ORDER FROM COURT OF APPEALS ON NOVEMBER 4, 2020 HE FILED A NEW IN COMPLIANCE PROOF OF SERVICE ON NOVEMBER 14, 2020 WHEN HE DID NOT RECEIVE ANY REPLY.

ON DECEMBER 12, 2020 he filed A MOTION FOR RECONSIDERATION WITH A SUPPORTING AFFIDAVIT, but to NO REPLY which now REQUIRE the APPELLANT to file his NOTICE OF APPEAL to the S.C. SUPREME COURT.

123 Bks 100726  
Troy Burks  
PERRY CORR. INST.  
430 Daffness Rd.  
PETER, SC 29669

CC: RESPONDENTS:

S.C. COURT OF APPEALS  
S.C. ADMINISTRATIVE LAW COURT  
SCDC GENERAL COUNSEL OFFICE

DECEMBER 23, 2020

CERTIFICATE OF SERVICE

I TROY BURKS hereby certify that this 23<sup>rd</sup> day of December, 2020 has served the following documents:

1. NOTICE OF APPEAL
2. APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEES AND AFFIDAVIT.
3. LEGER SHEET
4. COPY OF DISTRICT COURT ORDER: NOTICE TO PROCEED WITHOUT PREPAYMENT.
5. ALC ORDER OF DISMISSAL
6. ALC MOTION FOR RECONSIDERATION ARE PROHIBITED.
7. COPY OF SC COURT OF APPEALS NOTICE DATED SEPTEMBER 29, 2020
8. COPY OF SC COURT OF APPEALS NOTICE DATED OCTOBER 19, 2020
9. COPY OF SC COURT OF APPEALS ORDER DATED NOVEMBER 4, 2020

I CERTIFY I SERVED THE NOTICE OF APPEAL BY DEPOSITING A COPY IN U.S. MAIL, POSTAGE PREPAID DECEMBER 23, 2020.

Sworn to and subscribed before me this

23<sup>rd</sup> day of December, 2020

Chancy C. Murchant 1-23-2023  
J. N. P. EXPIRES

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DEC 31 2020

SC Court of Appeals

cc: RESPONDENTS:

SC COURT OF APPEALS  
SC ADMINISTRATIVE LAW COURT  
SCDC GENERAL COUNSEL OFFICE

1 Troy Burk 160726

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MR. Troy Burks #160726  
PERCY Correctional Institution  
430 Oakhurst Rd.  
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SOUTH CAROLINA COURT OF APPEALS  
JERRY ABBOTT KITCHENS, CLERK  
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Columbia, SC 29201

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SC Court of Appeals

TROY BURKS #160726

APPELLANT,

VS.

SOUTH CAROLINA DEPT. of CORRECTIONS,

RESPONDENT.

DOCKET NO. 20-ALJ-04-0292-AP

GRIEVANCE NO. PCE:0057-20

DECLARATION IN OPPOSITION

TO ORDER TO DISMISS

Motions for Reconsideration

are Prohibited.

See ALC Rule 65.

INITIAL BRIEF

This matter is before SOUTH CAROLINA ADMINISTRATIVE LAW COURT (ALC OR COURT) PURSUANT TO THE NOTICE OF APPEAL BY APPELLANT ABOVE NAMED, WHO IS INCARCERATED WITH THE SOUTH CAROLINA DEPT OF CORRECTIONS (SCDC),

THE APPELLANT APPEALS FROM THE DECISION IN THE STEP 2 GRIEVANCE WHICH AFFIRMED HIS CONVICTION FOR (903) THE TRAFFICKING, SCDC POLICE DP-22-14 DISCIPLINARY SYSTEM.

HE WAS NOT SANCTIONED WITH THE LOSS OF ANY GOOD TIME CREDITS, BUT HE DID MAKE CLAIMS FOR THE LOSS OF OTHER STATE CREATED LIBERTY OR PROPERTY INTEREST AND CONTENTS HIS SENTENCE RELATED POINTS OR CREDITS OR CUSTODY STATUS HAS BEEN UNJUSTLY RECALCULATED. THERE IS CLEARLY SIGNIFICANT STATE CREATED LIBERTY INTEREST IMPLICATED HERE.

NOW APPELLANT MOVES HONORABLE COURT THAT SCDC AND RESPONDENTS ORDER TO DISMISS WITH PREJUDICE AND CLAIMS FROM THEIR NEW POST LITIGATION PROMULGATIONS IS OVERREACHING. THE RESPONDENT IS NOT ENTITLED TO ANY DISMISSAL ORDER SIMPLY BECAUSE ALL OF THE STATED DEFENSE ARE INAPPLICABLE IN THIS CASE. THE COURT HAS MISAPPLIED THESE RULES 12(b)(1-5). THIS ACTION NO LESS THAN ANY OTHER COMPLAINT FILED IN COURTS MAY NOT BE DISMISSED ON THE PLEADING UNLESS IT APPEARS TO A CERTAINTY THE APPELLEE WOULD NOT BE ENTITLED TO RECOVER UNDER ANY STATE OF FACTS WHICH COULD BE PROVEN IN SUPPORT OF HIS CLAIM. COOK v. NICHOL INC. v. PLEASANT CLUB (5 CIR. 1971) 451 F.2d 505; HAINES v. KERNER, 404 U.S. 519, 92 S.Ct. 594, 30 L.Ed. 2nd 659; CONLEY v. GIBSON, 355 U.S. 417, 8 S.Ct. 99, 2 L.Ed. 2nd 80; CRUZ v. BETO, 405 U.S. 139 (b) MOTION TO DISMISS THE WELL PLEADED ALLEGATION OF THE COMPLAINT MUST BE ACCEPTED AS TRUE. COOPER v. PATE, 378 U.S. 546, 84 S.Ct. 1733, 12 L.Ed. 2nd 1030. THE APPELLANT ASSERTS HE WAS NOT ONLY DENIED ELEMENTS OF

TBD

Fundamental Fairness, Constitutional Due Process of Right and Liberty interest, when a STATE law require a substantive factual predicate for a typical restricted confinement, when the procedure were invoked in my case, it was not treated with the consideration that was contemplated either the STATUTES SCDC Policy OP-2214 Inmate Disciplinary system or due process clause.

The Powers and duties of the Administrative Law Judge upon assignment of the case the Judge shall rule on all motions, preside at the contested case hearing, rule on the admissibility of evidence, require the parties to submit briefs when appropriate, issue orders and rulings to ensure the orderly conduct of the proceeding and issues presented and the types of proof likely to be introduced so that the matter be fully and fairly presented. The Appellant challenges the sufficiency of the court's order, based on the argument that the criteria used were in violation. The court did not apply ALC rule 58 on record after final decision which should consist of:

- A. All documents filed.
- B. All evidence received or considered, including copies of all relevant sentencing sheets, copies of specific policies relied upon by agency.
- C. A statement of matters judicially notice.
- D. All proffers of proof of excluded evidence.
- E. The final order.
- F. ANY transcript taken of the testimony.

An individual has a right to ALC review of a final decision of the Agency when that decision affects liberty interest for which due process is required. SEE Furtick v. SC Dept. of Probation, 52 S.C. 594, 576 S.E.2d 146, 149, 150 (2003).

Appellant contends the STATE acted ARB. TRAILY and CAPRICIOUSly when it MOVED to DEPRIVE him of LIFE, LIBERTY, and PROPERTY without due PROCESS of LAW and will CAUSE IRREPARABLE INJURY when it MOVED to IMPED his APPEAL ON July 9, 2020.

Abuse of discretion occurs when there's NO EVIDENCE to SUPPORT the JUDGES factual conclusions OR when RULING is BASED ON ERRORS OF LAW. APPELLANT HAS NOT BEEN OFFERED ANY EVIDENCE SHOWING that the STATE VIOLATED his due PROCESS rights. WHILE the 14th AMENDMENT DOES NOT confer a LIBERTY interest in PAROLE itself, it DOES PROTECT a LIBERTY interest in PAROLE ELIGIBILITY conferred by STATUTE. WILKINSON v. DOTSON, 544 U.S. 74 (2005). EVEN if A PAROLE STATUTE CREATES a LIBERTY interest AN INMATE is ENTITLED to MINIMAL PROCEDURE. VAN V. ANGELONE, 73 F.3d 519, 522 (4th Cir. 1996). A finding of INNOCENCE can be MADE where the STATES ORDER LACKS AN ARGUABLE BASIS EITHER in LAW OR in FACT. DENTON v. HERNANDEZ, 504 U.S. 25, 31 (1992). A ORDER BASED ON MERITLESS legal theory may be DISMISSED SUA SPONTE under 28 U.S.C. § 1915(e)(2)(B). SEE NEITZKE v. WILLIAMS, 490 U.S. 319, 327 (1989).

APPELLANT brings this ACTION CHALLENGING the STATE AND RESPONDENT have VIOLATED his CONSTITUTIONAL RIGHTS, STATE STATUTES, POLICIES, LIBERTY INTERESTS, due PROCESS OF RIGHTS, AND INMATES ACCESS TO COURT. This UNLAWFUL conviction by the STATE would NOT PROTECT his LIBERTY interest in being HIRED to WORK in the PRISON INDUSTRY to RECEIVE the MUCH NEEDED MINIMAL WAGE of \$7.00 A HOUR.

SOME PRISON CONDITION EXCEED THE SENTENCE IN SUCH AN UNEXPECTED MANNER AS TO GIVE RISE TO PROTECTION BY THE DUE PROCESS CLAUSE OF IT'S OWN FORCE. THEY ARE SO SEVERE IN KIND OF DEGREE OR SO REMOVED FROM THE ORIGINAL TERM OF CONFINEMENT THAT THEY AMOUNT TO DENIATION OF LIBERTY REGARDLESS OF THE TERM OF STATE LAW.

THIS CASE MUST BE GUIDED BY PRINCIPLES ARTICULATED BY THE SUPREME COURT AND SCDC POLICY OP-22.14 THAT PROHIBIT INMATES FROM BEING DEPRIVED OF PROTECTED PROPERTY RIGHTS AND DEPRIVATION IS CONSTITUTIONALLY IMPROPER. IN ACCORDANCE WITH AGENCY POLICY OP-22.14 INMATE DISCIPLINARY SYSTEM THERE ARE RULES AND FACTORS MUST BE CONSIDERED AND FOLLOWED. THE DUE PROCESS CLAUSE OF 14TH AMENDMENT PROHIBITS A STATE FROM DEPRIVING ANY PERSON OF LIFE, LIBERTY, OR PROPERTY WITHOUT DUE PROCESS LAW. THERE ARE TWO PARTS OF THIS (PHRASE) SUBSTANTIVE DUE PROCESS AND PROCEDURAL DUE PROCESS IT HAS TWO PARTS. FIRST, YOU HAVE TO SHOW LIBERTY INTEREST. (2ND) MUST SHOW I SHOULD HAVE GOTTEN MORE PROCEDURE THAN I RECEIVED. INMATES HAVE A LIBERTY INTEREST WHEN PRISON ACTIONS INTERFERE WITH OR VIOLATE HIS CONSTITUTIONALLY PROTECTED RIGHTS OR RESULTS IN CONDITIONS OF CONFINEMENT THATS MUCH WORSE THAN NORMAL FOR INMATES, OR SUBJECT HIM TO TREATMENT OR CONDITIONS THAT ARE AN ATYPICAL AND SIGNIFICANT HARSHIP IN RELATION TO THE ORDINARY INCIDENT OF PRISON LIFE, THEN THEY MUST PROVIDE HIM WITH SOME FULL AND FAIR LEVEL OF PROCESS.

ON 11/21/20 THE SCDC'S DISCIPLINARY HEARING OFFICER MR. TURNER CONDUCT AND ACTIONS NOT ONLY DENIED THE APPELLANT HIS DUE PROCESS OF LAW BUT HE ALSO WILLFULLY AND INTENTIONALLY VIOLATED SECTIONS 19.2 AND 19.3 AND 16. AND 8.2.2 AND 14 WITHOUT OBSERVING THE

the safeguards of due process in Wolff v. McDonnell, 44 S.Ct. 7963 (1974).  
The DHO's refusal to call Appellant's witness denied due process  
calling his witness was not unduly hazardous to institutions safety  
or correctional goals. Wolff witness was not unnecessary or irrelevant,  
witness with personal knowledge of incident in question denies due  
process and violates Appellant's liberty interest by violating constitutional  
protected right. — A week before the day of the hearing  
the Appellant's room mate, MARK Wingo #269107 had given the coun-  
sel substitute MR. McCARTY a written and verbal statement ad-  
mitting he owned the illegal drug and had placed it in my boots  
while I was out in the church service for a KIDNAS BELLNION.  
The D-H-O would not allow the Appellant's witness at the hearing nor would  
he allow the written evidence and documentation at the hearing.  
The reason the DHO violated rule 8.2.4 and 14.3 relating to Appellant's  
witness was because the D-H-O did not want a white inmate take  
a guilty charge to help have the charges dismissed on a black inmate.  
If Appellant's witness or any evidence is denied by the D-H-O the  
official must write his/her reasons for the denial on the SCDC  
form 19-69.

Moreover in violation of section 14.7 and 14.3, the D-H-O allowed  
an inadmissible witness a DFC-MILLER give detailed and false testi-  
mony at hearing. He was allowed to lie about questioning the  
Appellant on the day of the incident and that he found the drugs  
in Appellant's boots but Policy and rules only allow the search  
team officer to search or question any inmate, not DFC MILLER.

The D-H-O was so determined to illegally convict the Appellant he would not allow the counsel substitute, MR McCarty, assist the Appellant although the complexity of the issue would make it unlikely the Appellant could collect or present the evidence necessary for an adequate comprehension of the case. The Appellant shows the D-H-O has also willfully violated sections 8.1.4, 8.2.4, and 13.2.14.7 and 18.1.3. Fox v. Coughlin, 893 F2d 475 (1990). The Appellant's room mate MARK WINGO 269107 admitted the counsel substitute and the D-H-O, MR Turner told him they did not want to see a white inmate to come up to charge and help a Black inmate.

UNFAIR PREJUDICE AS USED IN RULE 403 RELEVANCY 1.6 ALLOWING THE EXCLUSION OF EVIDENCE IF ITS PROBATIVE VALUE IS SUBSTANTIALLY OUTWEIGHED BY THE DANGER OF UNFAIR PREJUDICE MEANS AN UNDUCE TENDENCY TO SUGGEST DECISION ON AN IMPROPER BASIS. SEE: STATE V. STOKES, (SC 2009) 2009 WL 367581; STATE V. DWIGGS 552 S.E.2d 745.

THE APPELLANT'S INTEREST IN DEMONSTRATING HIS INNOCENCE WITH THIS NEW EVIDENCE PROVIDED A LIBERTY INTEREST, AS REQUIRED TO RAISE A DUE PROCESS CHALLENGE TO THE STATES REFUSAL TO GIVE HIM ACCESS TO HIS ROOM MATE WINGO'S WRITTEN STATEMENTS ADMITTING HIS OWNERSHIP OF THE ILLEGAL DRUG.

THE APPELLANT HAS NOT FAILED TO SHOW THE STATE AND RESPONDENTS HAVE VIOLATED CLEARLY ESTABLISHED CONSTITUTIONAL OR STATUTORY RIGHTS. APPELLANT HAD LIBERTY INTEREST VIOLATED WHEN PRISON INTEREST VIOLATED CONSTITUTIONAL PROTECTED RIGHTS.

VFC

## Conclusion

It can be proven the SCDC employee's conduct was not within the scope of his official duties or that it constituted actual fraud, actual malice, intent to harm or a crime involving moral turpitude. This illegal conviction will not only stop and interfere with his eligible to work in the Prison Industry for minimal wages but it also will add to the length of his sentence by stopping and interfering with his parole, it also stopped his being reclassified to a level-2 institute, TIGER RIVER, who have two Prison Industry plants paying minimal wages, but it also resulted in conditions of confinement that are much worse by ordering him to be restricted to cell restriction with sanctions against his visitation privileges and ineligible to be a part of institutions programs like JUMP START, AA, Christian Fellowship, KIROAS SERVICES, etc.

A failure to provide a meaningful explanation of the finding of guilty denies due process. The only evidence at hearing was the false inadmissible testimony of SCDC officer MILLER, no further explanation. Superintendent v. Hill, 105 S. Ct. 2768 (1985).

THE HONORABLE COURT SHOULD VACATE THE ORDER OF DISMISSAL BECAUSE APPELLANT'S CLAIM IS NOT BARRED BY ISSUE PRECLUSION AND BECAUSE GENUINE ISSUES OF MATERIAL FACT APPEAR IN THE RECORD AS TO THE REMAINING APPELLANT.

FOR THE GOING REASONS THE COURT SHOULD NOT GRANT RESPONDENT'S ORDER. THE AMOUNT OF INJURY DUE APPELLANT MUST BE DETERMINED AT TRIAL.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

SIGNED THIS 24<sup>th</sup> DAY OF JULY 2020

Troy Bliss

TROY BLISS #160726  
PERRY CORR-INST.  
430 DAKLAWSON RD.  
PELZER, SC 29669

CC:  
SCDC  
OFFICE OF GENERAL COUNSEL  
4444 BROAD RIVER RD.  
COLUMBIA, SC 29201

C.C.X.

CERTIFICATE OF SERVICE

I TROY BURKS hereby certify that this 23<sup>rd</sup> day of December, 2020 has served the following documents:

1. NOTICE OF APPEAL
2. APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEES AND AFFIDAVIT.
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Sworn to and subscribed before me this  
23<sup>rd</sup> day of December, 2020  
Chancy C. Murchard 1-23-2023  
 J. N. P. EXPIRES

**RECEIVED**

DEC 31 2020

SC Court of Appeals

cc: RESPONDENTS:

- SC COURT OF APPEALS
- SC ADMINISTRATIVE LAW COURT
- SCDC GENERAL COUNSEL OFFICE

Troy Burk 160726  
 TROY BURKS  
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Perry Correctional Institution  
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SOUTH CAROLINA COURT OF APPEALS  
JERRY ABBOTT KITCHINGSS, CLERK  
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DEC 31 2020  
SC Court of Appeals

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Troy Burks, #160726,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

Docket No. 20-ALJ-04-0292-AP

Grievance No. PCI 0057-20

**ORDER OF DISMISSAL**

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to a Notice of Appeal filed by Troy Burks (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (Department or SCDC). Appellant seeks review of the Department's Step 2 Grievance decision in regards to a disciplinary matter. The SCDC decision indicates that Appellant was not sanctioned any accrued good time. Additionally, Appellant has not alleged the infringement of any other state-created liberty or property interest.

This Court reviews Department grievance decisions pursuant to the South Carolina Supreme Court decision in Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). Under the Al-Shabazz line of cases, this Court may only review matters related to a state-created liberty or property interest. See id., 338 S.C. at 368-69, 527 S.E.2d at 749-50 (vesting the ALC with jurisdiction over the loss of state-created liberty interests such as accrued good time credit); Wicker v. S.C. Dept. of Corrs., 360 S.C. 421, 602 S.E.2d 56 (2004) (holding that inmate had a right to procedural due process in matters involving a state-created right to property such as wages). Specifically, the South Carolina Supreme Court has stated that summary dismissal of an otherwise properly perfected inmate appeal "may be appropriate where the inmate's grievance does not implicate a **state-created** liberty or property interest." Slezak v. S.C. Dept. of Corrs., 361 S.C. 327, 331, 605 S.E.2d 506, 508 (2004) (citation omitted) (emphasis added). The Supreme Court has further stated that "there is a difference between an inmate's *forfeiture of accrued* sentence-related credits versus the *withholding of unearned, potentially available* sentence-related credits." Howard v. S.C. Dept. of Corrs., 399 S.C. 618, 629, 733 S.E.2d 211, 217 (2012) (emphasis in original). An inmate does not acquire a liberty interest in good time until it is earned. Id.

Because Appellant has not been sanctioned with the loss of any accrued good time, it is appropriate to dismiss this disciplinary appeal.

**FILED**

July 15, 2020

SC ADMIN. LAW COURT

**ORDER**

**THEREFORE, IT IS HEREBY ORDERED** that this appeal is **DISMISSED, WITH PREJUDICE.**

**AND IT IS SO ORDERED.**

A rectangular box containing a handwritten signature in cursive script, which reads "Deborah Brooks Durden".

Deborah Brooks Durden, Judge  
S.C. Administrative Law Court

July 15, 2020  
Columbia, South Carolina

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Troy Burks,

Plaintiff,

vs.

South Carolina Department of  
Corrections and Administrative  
Law Court,

Defendants.

C/A No.: 1:20-3153-DCN-SVH

ORDER AND NOTICE

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SC Court of Appeals

Troy Burks ("Plaintiff"), proceeding pro se and in forma pauperis, filed a document entitled "Notice of Appeal" that has been construed as a complaint in this court. Pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Civ. Rule 73.02(B)(2)(e) (D.S.C.), the undersigned is authorized to review such complaints for relief and submit findings and recommendations to the district judge.

I. Factual Background

Plaintiff states he is appealing the final decision of the South Carolina Administrative Law Court's decision dismissing his request for review of a disciplinary decision. [ECF No. 1; 1-1 at 9-10]. Plaintiff alleges he was unlawfully accused and convicted of possession of an illegal drug that he never

possessed. *Id.* He claims that in so convicting him, Defendants have violated his constitutional rights. *Id.*

## II. Discussion

### A. Standard of Review

Plaintiff filed his complaint pursuant to 28 U.S.C. § 1915, which permits an indigent litigant to commence an action in federal court without prepaying the administrative costs of proceeding with the lawsuit. To protect against possible abuses of this privilege, the statute allows a district court to dismiss a case upon a finding that the action fails to state a claim on which relief may be granted or is frivolous or malicious. 28 U.S.C. § 1915(e)(2)(B)(i), (ii). A finding of frivolity can be made where the complaint lacks an arguable basis either in law or in fact. *Denton v. Hernandez*, 504 U.S. 25, 31 (1992). A claim based on a meritless legal theory may be dismissed sua sponte under 28 U.S.C. § 1915(e)(2)(B). *See Neitzke v. Williams*, 490 U.S. 319, 327 (1989).

A complaint must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). Pro se complaints are held to a less stringent standard than those drafted by attorneys. *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). In evaluating a pro se complaint, the plaintiff's allegations are assumed to be true. *Fine v. City of N.Y.*, 529 F.2d 70, 74 (2d Cir. 1975). The mandated liberal construction afforded to pro se pleadings means that if the court can reasonably read the