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STATE OF SOUTH CAROLINA
In the Court of Appeals

SC Court of Appeals

~~APPEAL FROM THE ADMINISTRATIVE LAW~~
COURT Judge S. Phillip Lenski

20-ALJ-04-0136-AP
Griev: LEECI-91-20
Ct. App. No. 2020-000910

S.C. Dept. of Corr. (*Sec*) Respondent,

v.

ROBERT WILLIAM WAZNEY, Appellant.

~~BRIEF OF APPELLANT~~

**AFFIDAVIT OR DECLARATION IN SUPPORT OF APPELLANT'S VIOLATION OF
CIVIL RIGHTS COMMITTED BY STATE OFFICIALS BY DEVICE OF
POLICE MISCONDUCT AND ABUSE OF DISCRETION, DESIGNATION OF
MATTER TO BE INCLUDED IN THE RECORD ON APPEAL, and PROOF OF SERVICE**

January 09, 2021

ROBERT WILLIAM WAZNEY
990 Wisacky Highway
Bishopville, SC 29010
Appellant, Victim, Pro Se (forced)

SCDC
PO Box 21787
Columbia, SC 29221-1787
Respondent

TABLE OF CONTENTS

CASES

Bounds v. Smith, 97 S.Ct. 1491	RECORD ON APPEAL (ROA) Grievance/S2 0727-19, Grievance/S2 0091-20
Lewis v. Casey, 117 S.Ct. 2174	ROA Grievance/S2 0727-19, Grievance/S2 0091-20

~~SCDC POLICY~~

SCDC Policy GA=01-03-§-2-1,-3,-7-1,-7-3	ROA Opposition Motion p.1, Grievance/S1 0091-20
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FEDERAL AUTHORITIES

United States Constitution Amendment 5	5, 6, 7, ROA Notice of Appeal of 5/26/20 Judgment
United States Constitution Amendment 14	5, 6, 7, ROA Notice of Appeal of 5/26/20 Judgment
United States Constitution Amendment 8	7

STATEMENT OF ISSUES ON APPEAL

~~I. HAS ROBERT WILLIAM WAZNEY BEEN DENIED PROCEDURAL DUE PROCESS OF LAW AS
GUARANTEED BY THE FIFTH AND FOURTEENTH AMENDMENT OF THE UNITED STATES
CONSTITUTION?~~

STATEMENT OF THE CASE

1. 7/19/19 Appellant filed Grievance-Step-1 0676-19 complaining about actual and threatened abuse by employee of South Carolina Department of Corrections.

2. 7/23/19 Appellant filed Grievance-Step-1 0681-19 complaining about violation of federal laws committed by SDC Staff.

3. 8/1/19 Grievance Coordinator proclaimed Grievance-Step-1 0676-19 as duplicate to 0681-19.

4. 8/16/19 Appellant filed Grievance-Step-2 0727-19 complaining SCDC Warden Nelson has failed to reply to Grievance-Step-1 0681-19.

5. 8/23/19 Grievance Coordinator informs Appellant that Grievance-Step-1 0681-19 is unclear as to what Appellant is asking and was returned to Appellant unprocessed.

6. 12/26/19 Appellant refiled Grievance-Step-1 0681-19, now Grievance-Step-1 0091-20, complaining about violation of federal laws committed by SCDC Staff, with more clarity.

7. 2/13/20 Appellant filed Grievance-Step-2 0091-20 against Warden who failed to reply to Grievance-Step-1 0091-20.

8. 2/20/20 Grievance coordinator claimed Warden already answered Grievance-Step-1 0091-20 and returned the Grievance-Step-2 0091-20 unprocessed.

9. 3/1/20 Appellant filed Notice of Appeal of 0091-20 with Administrative Law Court (ALC), court filed 3/11/20.

10. 5/14/20 Appellant provided ALC with PROFFER OF EXCLUDED EVIDENCE where Grievance 0091-20 is a refile of 0681-19, and Grievance 0718-19, as well as 0676-19, are "duplicate[s]" to/of 0681-19 per Grievance Coordinator, and therefor the language of 0718-19 and 0676-19 should be incorporated.

11. 5/20/20 Respondent claimed it never received Notice of Appeal of 0091-20 and moved for dismissal of the case, which Motion Appellant received on or about 5/29/20.

12. 5/29/20 Appellant received Denial Order of PROFFER OF PROOF OF EXCLUDED EVIDENCE, Court denied 5/26/20.

13. 6/9/20 Appellant filed OPPOSITION to RESPONDENT'S MOTION TO DISMISS.

14. 6/9/20 Appellant received ORDER GRANTING RESPONDENTS MOTION TO DISMISS, filed 6/4/20, and Court dismissing the case.

15. 6/10/20 Appellant filed Notice of Appeal against 6/4/20 Judgment of ORDER GRANTING RESPONDENTS MOTION TO DISMISS for failure to provide due process.

16. 6/18/20 Appellant filed Notice of Appeal against 5/26/20 Judgment for neglecting report of case involving actual or threatened abuse of inmate, or neglect of an inmate by an employee of South Carolina Department of Corrections, an being a violation of procedural due process guaranteed by U.S. Const. Amends. V and IV.

17. This Appellant's Brief follows:

ARGUMENT

~~I. Appellant's Denial of Procedural Due Process~~

18. Appellant filed NOTICE OF APPEAL of 0091-20 with ALC and copy served on each party, including the agency, within thirty (30) days of the decision from which the appeal is taken, and NOTICE OF APPEAL contained everything required by ALC Rules, specifically ALC Rule 59, and specifically proof of service of the NOTICE OF APPEAL on all parties.

19. ALC received the NOTICE OF APPEAL of 0091-20 on 3/1/20 which means it also received NOTICE OF APPEAL's Proof of Service, which is on the same page as the NOTICE OF APPEAL, and with proper signatures of Appellant.

20. Respondent claims it never received such NOTICE OF APPEAL of 0091-20 on 5/20/20 and submitted MOTION TO DISMISS (MTD) to ALC and to Appellant. Appellant received MTD on or about 5/29/20.

21. ALC Granted Respondents MTD 6/4/20, Courts Granting MTD was made prior to 10 day requirement set out in ALC Rule 63 where Appellant response to the Motion must be filed within ten days after receipt of the Motion. Appellant received MTD on or about 5/29/20, the ALC 6/4/20 Court ruling to dismiss the case failed to provide Appellant opportunity for response in accordance with ALC Rules and in violation of procedural due process guaranteed by U.S. Const. Amends. 5 and 14, violation of procedural due process guaranteed by the U.S. Constitution as the Supreme Law.

22. ~~ALC served it's 6/4/20 Order Granting MTD on Appellant on 6/9/20 and ALC never considering Appellant's OPPOSITION TO RESPONDENTS MOTION TO DISMISS filed 6/9/20.~~

II. Appellants Second Denial of Procedural Due Process

23. Appellant suffered threatened and actual abuse from employee of SCDC in violation of U.S. Const. Amends. 5, 8, 14, et al. Appellant grieved the issue of abuse to SCDC and which report of abuse was presented to AIC who neglected such report of case involving actual or threatened abuse of inmate, or neglect of an inmate by an employee of South Carolina Department of Corrections, such neglect being in and of itself a violation of procedural due process guaranteed by U.S. Const. Amends. 5 and 14.

AFFIDAVIT OR DECLARATION IN SUPPORT OF APPELLANT'S VIOLATION

OF CIVIL RIGHTS COMMITTED BY STATE OFFICIALS

BY DEVICE OF POLICE MISCONDUCT AND ABUSE OF DISCRETION

24. COMES NOW, ROBERT WILLIAM WAZNEY, Appellant, who after being duly sworn deposes and states:

I am ROBERT WILLIAM WAZNEY, I am the Appellant in this action 20-ALJ-04-0136-AP, Grievance LEECI-91-20, Grievance LEECI-0676-19, Grievance LEECI-0718-19, Court of Appeals Number 2020-000910, et al. I have been abused by South Carolina Department of Corrections employee and which abuse I have reported to many Staff members of SCDC, to include, Sgt. Shaw, Lt. Green, Sgt. Lucky, Major Thomas--who is now A/W Thomas--(KIOSK-19-01315252), and others, also I have reported the abuse to STATE EMPLOYEE GRIEVANCE COMMITTEE 6/9/20, 7/30/20, 9/29/20 who fails to reply to my papers. I have complained to other state agencies and await their delayed reply.

Abuse by SCDC employee has caused me fear, humiliation, degradation, agitation and confusion. I feel there is no reason why an officer of the law should threaten me with violence because I request their help with a problem I have which they find difficult to answer involving their violation of my constitutional and statutory rights. Now, through appeal of Grievance, I have reported where I was abused by SCDC employee to S.C. Administrative Law Court. But, all of my reports have gone unresolved.

ALC has dismissed my appeal where it prematurely ruled upon a Motion To Dismiss by Respondent which stated my NOTICE OF APPEAL was never received by Respondent, however, I have proof Respondent received my NOTICE OF APPEAL, but the ALC never permitted me to argue that position, and dismissed the case before I could respond. My federal rights have been violated by SCDC employee, SCDC, and by the ALC.

I have been subjected to extreme emotional distress from SCDC employee abuse, and I feel my Grievances should be resolved. I request this Court to make resolution of the incident which happened July 15, 2019 where I was abused by SCDC employee, and to resolve the Grievances surrounding the abuse which consist of unequal protection and unequal treatment as opposed to other similarly situated inmates, and to resolve the injustice committed by ALC, and I request this Court to appoint counsel to aid me with resolution of my claims, and any other relief as this Court deems fit, appropriate, just, and equitable.

I declare under penalty of perjury the foregoing is true and correct.

/s/

1/9/21

ROBERT WILLIAM WAZNEY

Appellant pro se (forced)

CONCLUSION

25. PREMISES CONSIDERED, it is requested this Court to:

(1) resolve Appellants issues of federal violations of law committed by SCDC, SCDC empolyee(s), and ALC;

(2) appoint counsel to Appellant to aid him with resolution of Appellants federally violated rights;

(3) provide declaration the the acts and omissions described herein violated Appellant's rights under the Constitution and laws of the United States;

(4) provide a preliminary and permanent injunction ordering Respondents to no longer treat Appellant indifferently.

and any other relief as this Court deems fit, appropriate, just, and equitable.

26. I have read the foregoing complaint and hereby verify that the matters alleged therein are true, except as to matters alleged on information and belief, and, as to those, I believe them to be true. I certify under penalty of perjury that the foregoing is true and correct.

Executed at Bishopville, S.C. on January 09 , 2020.

/s/

ROBERT WILLIAM WAZNEY

990 Wisacky Highway

Bishopville, SC 29010

803-428-2800

Appellant pro se (forced)

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S.C. Dept. of Corr. (SCDC), Respondent,

v.

ROBERT WILLIAM WAZNEY, Appellant.

PROOF OF SERVICE

I, the undersigned, hereby certify that I have served the BRIEF OF APPELLANT, AFFIDAVIT OR DECLARATION IN SUPPORT OF APPELLANT'S VIOLATION OF CIVIL RIGHTS COMMITTED BY STATE OFFICIALS BY DEVICE OF POLICE MISCONDUCT AND ABUSE OF DISCRETION, DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL, and PROOF OF SERVICE on all parties required by depositing a copy of it in the U.S. Mail, postage prepaid, on January 09, 2021 addressed to the following addresses:

Office of General Counsel
at the Department of Corrections
PO Box 21787
Columbia, SC 29221-1787

S.C. Court of Appeals
PO Box 11629
Columbia, SC 29211

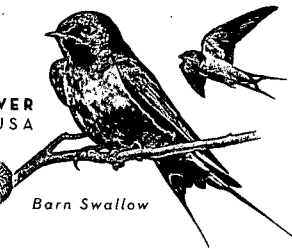
/s/

ROBERT WILLIAM WAZNEY
990 Wisacky Hwy.
Bishopville, SC 29010
803-428-2800

ROBERT WILLIAM WAZNEY
c/o Lee Correctional Institution
F32214 363679
990 Wisacky Highway
Bishopville, SC 29010

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