

RECEIVED
APR 23 2021
SC Court of Appeals

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

James A. Primus, #252315,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

Docket No. 20-ALJ-04-0472-AP

**ORDER GRANTING RESPONDENT'S
MOTION TO DISMISS**

This matter is before the South Carolina Administrative Law Court (ALC or court) pursuant to a Notice of Appeal filed by James A. Primus (Appellant), an inmate in the custody of the South Carolina Department of Corrections (Respondent or Department). After the Appellant's Step 1 and Step 2 grievances were filed and denied, he filed a Notice of Appeal with this court on November 24, 2020, because of the Department's incorrect classification of the Appellant, he is unfairly being denied minimum custody which he deserves due to his good behavior. The Appellant is not appealing a disciplinary hearing conviction, nor did he lose any good time credit as part of any punishment he received.

On March 22, 2021, the Department filed a Motion to Dismiss pursuant to *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 605 S.E.2d 506 (2004) and *Skipper v. S.C. Dep't of Corr.*, 370 S.C. 267, 633 S.E.2d 910 (Ct. App. 2006), because the Appellant's appeal does not implicate a state-created liberty or property interest. The Appellant filed his response to the Department's motion on April 2, 2021, arguing that the Department incorrectly classified him as a sex offender, which violated his liberty interest, in order to prevent him from taking college courses provided by Claflin University free of charge, or participate in substance abuse or pre-release programs.

DISCUSSION

The court's jurisdiction to hear this matter is derived entirely from the decision of the Supreme Court of South Carolina in *Al-Shabazz*. See *Al-Shabazz v. State*, 38 S.C. 354, 527 S.E.2d 742 (2000). The court's appellate jurisdiction in inmate appeals is limited to cases involving the

FILED
APR 13 2021

SC ADMIN. LAW COURT

denial of a state-created liberty interest,¹ which typically arise in two ways: (1) when an inmate contends that prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; and (2) when an inmate is disciplined and punishment is imposed in a major disciplinary hearing as a result of a serious rule violation. *See id.* at 369, 527 S.E.2d at 750.

When reviewing the Department's decisions in inmate grievance matters, the court sits in an appellate capacity. *Id.* at 377, 527 S.E.2d at 756 (citation omitted). Consequently, the court's review in such cases is limited to the Record on Appeal. Pursuant to *Slezak*, the court is to have jurisdiction over all properly perfected inmate appeals, but "[s]ummary dismissal may be appropriate where the inmate's grievance does not implicate a state-created liberty or property interest." *See Slezak*, 361 S.C. at 331, 605 S.E.2d at 508 (citation omitted). Further, in *Skipper*, the Court of Appeals of South Carolina interpreted *Slezak* as holding that a judge "should" dismiss a prisoner's appeal where it does not implicate a state-created liberty interest. *See Skipper*, 370 S.C. at 279, 633 S.E.2d at 917.

There is no state-created liberty or property interest implicated in this case. *See Brown v. Evatt*, 322 S.C. 189, 470 S.E.2d 848 (1996) (citation omitted) (an inmate has no liberty interest in a particular custody status as long as the challenged conditions or degree of confinement are within the sentence imposed and are not otherwise violative of the Constitution); *Crowe v. Leeke*, 273 S.C. 763, 259 S.E.2d 614 (1979) (transfer within a prison system or downgrading of custody status is not subject to judicial review as long as prison officials do not act arbitrarily, capriciously, or from personal bias or prejudice); *see also Skipper*, 370 S.C. at 272, 633 S.E.2d at 913 (citation omitted) ("Absent an atypical and significant hardship on the inmate, or an arbitrary, capricious, or biased decision by the prison, the court has no authority to interfere with inmate housing decisions."). The Appellant's grievance is that his custody status is incorrectly listed as a sex-offender. The Appellant has no liberty interest in having a particular security or custody status, provided such status does not implicate a constitutional right or exceed the limits of his sentence. *Brown v. Evatt*, 322 S.C. 189, 194, 470 S.E.2d 848, 851 (1996). Here, neither of those things are present, therefore, this court's jurisdiction is not triggered.

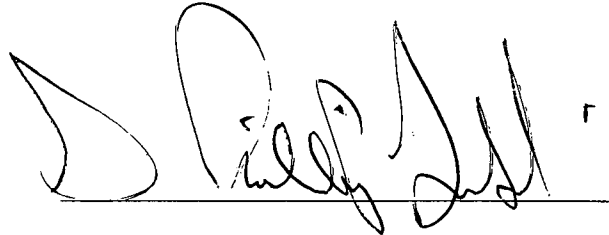
The court must, therefore, adhere to the traditional "hands off" doctrine regarding judicial involvement in prison disciplinary procedure and other internal prison matters. *See Al-Shabazz*,

¹ The court does have limited jurisdiction in some property matters, the authority for which need not be cited here.

338 S.C. at 382, 527 S.E.2d at 757; *Pruitt v. State*, 274 S.C. 565, 567-68, 266 S.E.2d 779,780 (1980) (citations omitted).

THEREFORE, based on the foregoing reasons, the Department's Motion to Dismiss is **GRANTED** and this appeal is hereby **DISMISSED**.

IT IS SO ORDERED.



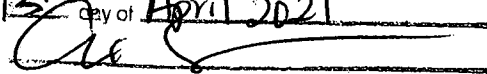
S. Phillip Lenski
Administrative Law Judge

April 13, 2021
Columbia, South Carolina

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States Mail, postage paid, or in the interagency mail Service addressed to the party(ies) or their attorney(s).

This 13th day of April 2021



Judicial Law Clerk