

RECEIVED

SEP 20 2021

IN THE
SOUTH CAROLINA COURT OF APPEALS
Court of Appeals

Kevin E. Herriott, Appellant,

Case No.: 2021-000979

v.

AFFIDAVIT OF

Kevin E. Herriott

SCDC, Respondent.

COMES NOW PERSONALLY BEFORE ME One Affiant, Kevin E. Herriott, who affirms upon oath that:

- 1) I, Kevin E. Herriott is above the age of 18 and Competent to testify concerning the matters in this case action.
- 2) On or before August 16, 2021, I was contacted by SCDC General Counsel Annie Runkler that advised me Five (5) boxes of legal property was sent to Massachusetts DOC, However, I have not received any property whatsoever.
- 3) I am without my case files and work product concerning this case action and six (6) other open case actions that is still pending in the State of South Carolina and Federal Jurisdictions.

4) I have already sent informal requests attach with a grievance and a) Step 2 appeal addressing my property that is being withheld.

5) As of May 30, 2021, I have been deprived of my legal correspondences, law books, case files, and work product.

6) SEDC is still in possession of my (2) two duffel bags consisting of legal correspondences, case files, and my work product.

7) On May 30, 2021, I was transferred to Massachusetts DOC from South Carolina DOC with only the clothes on my back. My property was not forwarded to me and I do not have custody, control, nor possession of my property.

— The Affiant Further Sayeth Not. —

SWORN AND SUBSCRIBED BEFORE ME

On this 27th Day of SEPTEMBER 2021,
[Signature] (L.S.)
Notary Public



My Commission Expires: Oct 28, 2022

By [Signature]
Kevin E. Herriott, #T97826
MCI - Cedar Junction
P.O. Box 100
South Walpole, MA 02041

COMMONWEALTH OF MASSACHUSETTS *Copy*
DEPARTMENT OF CORRECTION
INFORMAL COMPLAINT FORM

Attachment I

351

Inmate Name: Kevin Herriott
Institution: MCI - Cedar Junction

Commitment #: 197826
Housing Unit: Block 1, 19

Incident Date: June 29, 2021

IMPORTANT: A Step 1 Informal Complaint Form is not required for an emergency grievance, allegation of staff misconduct, or allegation of sexual assault/abuse. Please file a formal grievance.

CHECK OFF AREA OF CONCERN (ONE ISSUE PER FORM ALLOWED)

CANTEEN FOOD HOUSING ASSIGNMENT/STATUS INMATE ACCOUNTS LIBRARY MAIL PHONE

PHYSICAL PLANT PROCEDURE PROGRAMS PROPERTY RELIGION SEARCHES/INST VISITS

OTHER _____

State completely, but briefly, the single issue of concern:
On May 30, 2021, I arrived at MCI - Cedar Junction as a(n) out-of-state transfer inmate and my personal property, legal court documents, law books, and other purchased items was not forwarded to me. I am being deprived of my property and denied reasonable access to my law materials.

Requested resolution:
To have my personal property forwarded to my new address or just compensation.

List any previous steps you have taken to resolve your concern:
I've wrote Superintendent Mr. DeMoura, I.P.S., and property on June 20, 2021.

(Use other side of page if more space is needed)

Inmate Signature: *Kevin Herriott* Date: June 29, 2021

Note: If you follow instructions in preparing your request, it can be addressed more readily. Your complaint will be reviewed and replied to within ten (10) business days from the date of receipt.

DO NOT WRITE BELOW THIS LINE (Reserved for Staff Response)

Received By: *[Signature]* Date Received: 8/19/21

DECISION
(IN ACTION)*

Resolution: Granted Partially Granted Denied Alternate Resolution Offered N/A
 File a Formal Grievance

Comments: Per the Informal Complaint Resolution, Standard Operating Procedure 7.1(c) Inmate shall file an Informal Complaint Form within five (5) working days of the actual incident. This informal exceeds the required time frame for submission.

Decision By: *[Signature]* Date: 8/19/21

Denied informal complaints may be appealed to the Institution Grievance Coordinator within ten (10) business days.

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF CORRECTION
INMATE GRIEVANCE FORM

INMATE'S NAME: <i>Kevin E. Herrhoff</i>	INMATE'S #: <i>T97826</i>	DATE: <i>08/21/2021</i>
INSTITUTION INCIDENT OCCURRED AT: <i>MCI - Cedar Junction</i>		DATE OF INCIDENT: <i>June 29, 2021</i>
<p>INSTRUCTIONS:</p> <ol style="list-style-type: none"> 1. Refer to 103 CMR 491, Inmate Grievance Policy. 2. In Block B, give a brief and understandable summary of your complaint/issue. 3. List any actions you may have taken to resolve this matter in Block C. Be sure to include the identity of staff members you have contacted. 4. Provide a Requested Remedy in Block D. 		
<p>A. When filing an Emergency Grievance check Emergency.</p> <p style="text-align: center;"><input checked="" type="checkbox"/> EMERGENCY</p>		
<p>B. Give a brief and understandable summary of your complaint/issue. Additional paper may be used, if necessary: <i>The grievant appeal the decision of the informal complaint based on the following facts: The grievant gave the DOC of Massachusetts, more than (2) two weeks, to retrieve grievant three (3) duffle bags from the South Carolina DOC. The grievant spoke with a(n) CPO female, in LPU - C2 Block, inquiring about his property who told grievant later that "usually property takes a while to be forwarded". The grievant then wrote Superintendent Mr. DeMoura, I.P.S. Officer DuBois, property, and Deputy Superintendent Mrs. Jodi. The grievant got no response to neither of his informal complaints. As a result of the above named officials' conduct the grievant is being denied adequate, reasonable access to his legal property to which amounts to denial of access to the courts.</i></p>		
<p>C. List any action taken to address/resolve this matter. Include the identity of staff members you have contacted.</p> <p><i>I have contacted Superintendent Mr. DeMoura, I.P.S. Officer DuBois, and property on June 20, 2021. On June 29, 2021, I contacted Deputy superintendent Mrs. Jodi.</i></p>		
<p>D. Provide your Requested Remedy.</p> <p><i>To have grievant's personal property, legal court documents, legal correspondences, and law books forwarded to his new address here at MCI - Cedar Junction, Massachusetts or just compensation.</i></p>		

Inmate's Signature

K-E Herrhoff

Date:

8/21/2021

Staff Recipient

Date:

**DENIED GRIEVANCES MAY BE APPEALED TO THE REVIEWING AUTHORITY WITHIN 10 BUSINESS DAYS.

(Inmate receipts/responses will be generated via the Inmate Management System.)

COMMONWEALTH OF MASSACHUSETTS
 DEPARTAMENTO DE CORRECCION
 FORMULARIO DE QUEJA DE PRESO

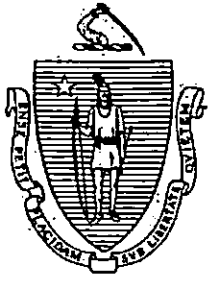
NOMBRE DEL PRESO:	PRESO #:	FECHA:
INSTUTUCION INCIDENTE OCCURRIO:		FECHA DEL INCIDENTE:
INSTRUCCIONES: Refiérase a 103 CMR 491, Políticas de Queja de Preso. En el Bloque B, dé un breve y comprensible resumen de su queja / asunto. Liste cualquier acción que usted ha tomado para resolver esta materia en Bloque C. Asegúrese de incluir la identidad del miembro del personal que usted ha contactado. Provea el remedio que usted solicita en Bloque D.		
A. Cuando presente una Queja de Emergencia seleccione Emergencia. <p style="text-align: center;">_____ EMERGENCIA</p>		
B. Dé una breve y comprensible resumen de su queja / asunto. Si es necesario, use papel adicional.		
C. Liste cualquiera acción que usted ha tomado para exponer / resolver esta materia. Incluya la identidad de los miembros del personal que usted ha contactado		
D. Provea el Remedio Solicitado.		

Firma del preso _____ Fecha: _____

Personal que lo recibe _____ Fecha: _____

** QUEJAS NEGADAS PUEDEN SER APELADAS A LA AUTORIDAD QUE LA REVISAS DENTRO DE LOS 10 LABORALES

(**LOS RÉCIBOS/RESPUESTAS DE LOS RECLUSOS SE GENERARAN A TRAVES DEL SISTEMA DE GESTION DE RECLUSOS



*The Commonwealth of Massachusetts
 Executive Office of Public Safety and Security
 Department of Correction
 Massachusetts Correctional Institution
 MCI-Cedar Junction at Walpole
 2405 Main Street, P.O. Box 100
 South Walpole, Massachusetts 02071*



Charles D. Baker
 Governor

Karyn E. Polito
 Lieutenant Governor

Terrence M. Reidy
 Secretary

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Carol A Mici
 Commissioner

Patrick T. Depalo, Jr.
Christopher M. Fallon
Jennifer A. Gaffney
Michael G. Grant
Thomas J. Preston
 Deputy Commissioners

Douglas W. DeMoura
 Superintendent

To: Kevin Herriott T97826
 From: CO Dumornay, IGC
 Date: September 2, 2021
 RE: Grievance Correspondence

Please be advised, the grievance form you submitted is being returned for the following reason:

- In accordance with the Step 1 Informal Complaint Process, you are required to file an **Informal grievance prior** to filing a formal grievance, **in accordance with 103 CMR 491.09 (4).**
- In accordance with the Step 1 Informal Complaint Process, the Informal grievance (with the decision you were given) must be attached to the formal grievance, please **refer to 103 CMR 491.14 (2g).**
- May not be filed on behalf of a group of inmates, **in accordance with 103 CMR 491.11 (4).**
- Content of Grievance forms, **in accordance with 103 CMR 491.14 (2) (A-F).**
- Not considered to be an emergency, in accordance with 103CMR491.18(2).**
- As of, I am extending the length of time on your grievance, an additional ten (10) days to further research the matter.
- Other:** The incident date on your informal complaint form and your formal grievance must be the same.

****Whenever a grievance is returned for non-compliance pursuant to 103 CMR 491.15(3)(a), the inmate shall have an additional three business days from the date of the inmate's receipt of the returned grievance to file a grievance in proper format.**

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF CORRECTION
INMATE GRIEVANCE APPEAL FORM

INMATE'S NAME: Kevin E. Herrdott	INMATE'S #: T97826	DATE: 9/4/2021
INSTITUTION: MCI - Cedar Junction	ASSIGNED GRIEVANCE #:	
INSTRUCTIONS: 1. Refer to 103 CMR 491, Inmate Grievance Policy. 2. Provide your appeal argument in Block A, in a brief and understandable manner. 3. Provide your requested remedy in Block B.		
A. Provide your appeal argument in a brief and understandable manner. On September 04, 2021, the Grievant Kevin E. Herrdott received correspondence dated September 02, 2021, directing the Grievant to submit grievance in the proper format when the grievant has already. The grievant appeals the IGC Co Dumornay reply based on the following facts: 1) Grievant has an emergency whereas he has seven open cases/actions that's pending in State and Federal Jurisdictions. Grievant has to respond to appeals without his legal material, case files, and work product. This conduct by Massachusetts DOC and South Carolina DOC responsible Officials, Superintendent DeMoura, and C. Burton, Warden, is impeding my constitutional rights. For I am of the belief that their conduct is obstruction of justice. 2) As of June 29, 2021, the grievant made the request to receive his property dated June 19, 2021 and it was not delivered to him. On June 29, 2021, the grievant gave the DOC's time before filing a civil initial complaint. This is a state created liberty interest and the grievant will pursue this to the courts.		
B. Provide your requested remedy To have grievant's personal property, legal court documents, legal correspondences, case files, law books, and purchased canteen items forwarded to his new address here at MCI - Cedar Junction, Massachusetts or just compensation		

Inmate's Signature

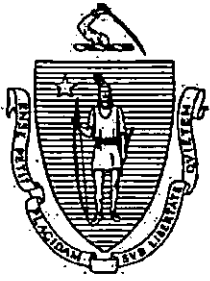
K. E. Herrdott

Date:

9/8/2021

Staff Recipient

Date:



The Commonwealth of Massachusetts
Executive Office of Public Safety and Security
Department of Correction
Massachusetts Correctional Institution
MCI-Cedar Junction at Walpole
2405 Main Street, P.O. Box 100



Charles D. Baker
Governor

South Walpole, Massachusetts 02071

Carol A Mici
Commissioner

Karyn E. Polito
Lieutenant Governor

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Christopher M. Fallon
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Michael G. Grant
Thomas J. Preston
Deputy Commissioners

Terrence M. Reidy
Secretary

Douglas W. DeMoura
Superintendent

To: Kevin Herriott T97826
From: CO Dumornay, IGC
Date: September 10, 2021
RE: Grievance Correspondence

Please be advised, the grievance form you submitted is being returned for the following reason:

- In accordance with the Step 1 Informal Complaint Process, you are required to file an **Informal grievance prior** to filing a formal grievance, **in accordance with 103 CMR 491.09 (4).**
- In accordance with the Step 1 Informal Complaint Process, the Informal grievance (with the decision you were given) must be attached to the formal grievance, please **refer to 103 CMR 491.14 (2g).**
- May not be filed on behalf of a group of inmates, **in accordance with 103 CMR 491.11 (4).**
- Content of Grievance forms, **in accordance with 103 CMR 491.14 (2) (A-F).**
- Not considered to be an emergency, in accordance with 103CMR491.18(2).**
- As of, I am extending the length of time on your grievance, an additional ten (10) days to further research the matter.
- Other:**

****Whenever a grievance is returned for non-compliance pursuant to 103 CMR 491.15(3)(a), the inmate shall have an additional three business days from the date of the inmate's receipt of the returned grievance to file a grievance in proper format.**



SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS
Safety, Service, and Stewardship

HENRY McMASTER, Governor
BRYAN P. STIRLING, Director

August 16, 2021

Kevin Herriott
#T97826
SCDC #313862
MCI-Cedar Junction
Post Office Box 100
South Walpole, MA 02071

Reference: Property

Dear Mr. Herriott:

It is my understanding that some of your property did not get moved with you when you were transferred from South Carolina to Massachusetts. I am not clear on all the details but your mother, Ms. Jeanette Williams, reached out to me about it. She picked up some property from SCDC and needed to get it to you. However, she told me that Massachusetts would not allow you to have it if she sent it. Instead, they wanted it to come directly from SCDC. She dropped the property off at Lieber CI in Ridgeville, SC and they got it to me in Columbia. She dropped off one small box and two large ones.

I contacted Massachusetts about getting the property to you. They told me to send legal materials only and had me send them to the Property Department at the institution where you are currently housed. They told me they would not move you until the property was received and processed. I opened the boxes Ms. Williams sent me to make sure that everything was legal as requested by the Massachusetts DOC. As far as I could tell it was all related to legal issues and I sent to you everything I received from Ms. Williams. I was concerned that the larger two boxes she sent would get banged up and damaged in the mail, so I repackaged everything as well. I ended up sending five boxes. They are going out to USPS today.

I believe that the Massachusetts DOC will be reviewing the materials sent. I do not know how long that will take or what exactly they will be doing. I just wanted to let you know that the boxes were placed in the mail from South Carolina today!

Sincerely,

Annie Rumler, Deputy General Counsel
South Carolina Department of Corrections
Post Office Box 21787
Columbia, SC 29221-1787

August 25, 2021

Annie Rumber
Deputy General Counsel
S.C. Department of Corrections
Post Office Box 21787
Columbia, SC 29221-1787

Reference: Property

Dear Madam Rumber:

I am in receipt of your letter dated August 16, 2021, and I would like to provide you with an accurate account of what transpired on May 30, 2021.

On May 30, 2021, I was transferred to Massachusetts with only the clothes on my back. I was told by Correctional Officer Lieutenant Jones that my property was going to be placed in property storage. I was never aware that some of my property was given to my mother. However, the property that my mother returned was one duffel bag. The McCormick facility still has the remainder of my property in which is two (2) duffel bags that consist of my work product and case files along with canteen purchased items. I understand from your correspondence that the receiving institution is only taking my legal material. I would appreciate that I receive my remainder properties from McCormick Correctional. Thanks!

Yours Truly,
K. E. Leavelle

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INCIDENT REPORT**

Institution/Center: McCormick Correctional Institution					Date of Report: June 2, 2021
Reporting Official (Full Name): Lt. Jones					Time of Report: appx 7:45pm
Employee ID #: 028929					Date of Incident: May 30, 2021
Location of Incident:					Time of Incident: appx 2:30am
Inmate(s)/Resident:	SCDC #	Age:	Sex:	Race:	Employee(s)/Witnesses Involved:
1. Herriott, Kevin	313862		B	M	1.
2.					2.
3.					3.
4.					4.
5.					5.

On the above date and approximate time:

Blue Knight officer Rodney Gaynor arrived at the institution to transport inmate Herriott, Kevin 313862 to Massachusetts under the provisions of the interstate Corrections Compact. The inmates property was inventoried for transfer but Officer Rodney Gaynor would not take the property because he said he was only responsible for the inmate and not his property. The inmate had three bags and 1 Lt. Jones placed them in the property storage room.

Signature: *[Handwritten Signature]* 028929 Title: Lt

Evidence:

Disposition of Evidence:

Supervisor's Comments:

Printed Name:

Signature: Title: Date/Time:

Major/Responsible Authority:

Printed Name:

Signature: Title: Date/Time:

STG Related - Refer to STG Committee
 Yes No Unknown

This incident is DRUG related
 Yes No Unknown

**Responsible Authority
Action Taken**

- Informal Resolution
- Administrative Resolution
- Refer to Disciplinary Hearing

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SEP 20 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph K. Anderson, Presiding Judge
Case No.: 21-ALJ-04-0097-1J
2021-000979

South Carolina Department of Corrections, Respondent,

v.

Kevin E. Herrriott, Appellant.

PROOF OF SERVICE

I certify that I have served the foregoing instrument on the Clerk of this Court and Imani D. Byas, by depositing a copy of it in the United States Mail, postage prepaid and addressed thereto.

September 14, 2021

/s/ Kevin E. Herrriott
Kevin E. Herrriott
MCI - Cedar Junction
P.O. Box 100
South Walpole, MA 02021

Kevin E. Herrriott
#T97826

MCI - Cedar Junction
P.O. Box 100
South Walpole, MA 02071

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SEP 20 2021
SC Court of Appeals

September 13, 2021

Clerk's Office
S.C. Court of Appeals
Post Office Box 11629
Columbia, SC 29211

Re: Kevin Herrriott vs. SCDC
Case No.: 21-ALJ-04-0094-IJ

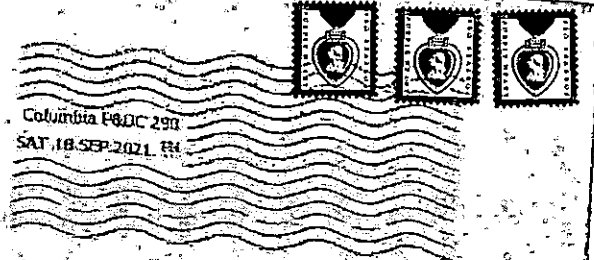
Dear Clerk:

Enclosed WILL you PLEASE FIND one(1) motion
to hold case in abeyance with attachments to file for the record.

Yours Truly,

K.E. Herrriott
Kevin E. Herrriott, Pro Se.

Kevin E. Herriott, T97826
MC-I - Cedar Junction
P.O. Box 100
South Walpole, MA 02071



RECEIVED
SEP 20 2021
SC Court of Appeals

Clerk Jenny Abbot Kitchings
S.C. Court of Appeals
Clerks Office
P.O. Box 11629
Columbia, SC 29211