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SC Court of Appeals

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

James Primus, 252315,	)	Docket No.: 21-ALJ-04-0199-AP
	)	Grievance No.: MACCI 22-21
Appellant,	)	
vs.	)	<b>ORDER GRANTING</b>
	)	<b>RESPONDENT'S</b>
South Carolina Department of Corrections,	)	<b>MOTION TO DISMISS</b>
	)	
Respondent.	)	

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to the appeal filed by James Primus (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (Department). Appellant appeals the decision of the Department denying his grievance. The Department now moves to dismiss this appeal pursuant to *Slezak v. S.C. Dep't of Corr.* and *Skipper v. S.C. Dep't of Corr.* contending no state-created liberty or property interest is involved in this matter. Appellant filed a response in opposition.

The ALC has subject matter jurisdiction when the Department disciplines an inmate and imposes a punishment that deprives the inmate of a constitutionally protected liberty or property interest. *Al-Shabazz v. State*, 338 S.C. 354, 369, 527 S.E.2d 742, 750 (2000). *Slezak v. S.C. Dep't of Corr.* provided further clarification that this Court has jurisdiction of all inmate grievance appeals that have been properly filed. 361 S.C. 327, 331, 605 S.E.2d 506, 508 (2004). However, when the grievance appeal does not implicate a state-created liberty or property interest, the ALC may summarily dismiss the appeal at its discretion. *Id.*

For the purpose of establishing jurisdiction, a state-created liberty or property interest exists when (1) an inmate is disciplined and punishment is imposed, or (2) when an inmate alleges prison officials have erroneously calculated his sentence, sentence-related credits, or custody status. *Sullivan v. S.C. Dep't of Corr.*, 355 S.C. 437, 441, 586 S.E.2d 124, 126 (2003). Additionally, this Court has jurisdiction when an inmate contests the Department's decision to permanently deny the inmate's parole eligibility. *Id.* Finally, under certain circumstances, an inmate may have a state-created liberty interest in "freedom from restraint which, while not exceeding the sentence in such an unexpected manner as to give rise to protection by the Due Process Clause of its own

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force . . . nonetheless imposes atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life.” *Sandin v. Conner*, 515 U.S. 472, 483-84 (1995); *see Sullivan*, 355 S.C. at 443, 586 S.E.2d at 127 (applying *Sandin* to resolve a condition of confinement claim).

In this instance, Appellant contends that his social security number and last name are incorrect on his sentencing sheets (97-GS-18-1045 and 97-GS-18-1046) and that the incorrect information hinders the Department from correctly calculating his sentence and custody status.<sup>1</sup> Appellant requests that this Court grant the corrections to his name and social security number on his sentencing sheets “by a judicial officer and not by an executive agency” in accordance with *Tant v. S.C. Dep’t of Corr.* See 408 S.C. 334, 347, 759 S.E.2d 398, 404 (2014).<sup>2</sup>

However, this appeal does not arise from punishment administered for a disciplinary conviction, nor does it relate to Appellant’s sentence, sentence-related credits, or custody, and it does not involve an “atypical” condition of restraint. In sum, Appellant has not alleged that he was deprived of a state-created liberty or property interest, nor does the appeal raise other matters that can be reviewed by this court. Thus, I find that the Department’s motion requesting dismissal of this appeal should be granted and this appeal is dismissed pursuant to *Slezak*. *See Slezak*, 361 S.C. at 333, 605 S.E.2d at 509 (holding that the ALJD “may summarily decide those appeals that do not implicate an inmate’s state-created liberty or property interest.”).

**THEREFORE, IT IS HEREBY ORDERED** that the Department’s Motion to Dismiss is **GRANTED** and this appeal is **DISMISSED**.

**AND IT IS SO ORDERED.**

CERTIFICATE OF SERVICE  
This is to certify that the undersigned has caused to be served this order in the above entitled action upon all parties to this cause by depositing a copy thereof in the United States mail postage paid or in the emergency Mail Service addressed to the parties (or their attorneys).

This 23 day of September, 2021  
By: [Signature]  
Justice Law Clerk

September 23, 2021  
Columbia, South Carolina

[Signature]  
**SHIRLEY C. ROBINSON**  
Administrative Law Judge

<sup>1</sup> Appellant clarified that he is not disputing his 10-year sentence for his conviction of Assault and Battery with a High and Aggravated Nature and 30-year sentence for his conviction of Kidnapping.

<sup>2</sup> The Court notes that the holding in *Tant* refers to the interpretation of an unclear sentence.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
REQUEST TO STAFF MEMBER

<b>TO: STAFF NAME:</b> Mr. Michael Arnold	<b>STAFF TITLE:</b> Programs Assistant	<b>DATE:</b>
<b>INMATE NAME:</b> <i>James Anthony Pious</i>		<b>SCDC #:</b>
<b>INSTITUTION:</b> MacDougall CI	<b>DORM/SIDE/BED:</b>	<b>HOUSING TYPE:</b> <input type="checkbox"/> RHU <input type="checkbox"/> R&E <input type="checkbox"/> INFIRMARY <input type="checkbox"/> SSR <input type="checkbox"/> DEATH ROW <input type="checkbox"/> ASSISTED LIVING UNIT (ALU) <input checked="" type="checkbox"/> N/A
<b>REASON FOR PAPER REQUEST:</b> <input type="checkbox"/> PREA <input type="checkbox"/> MEDICAL <input type="checkbox"/> MENTAL HEALTH <input type="checkbox"/> DENTAL <input type="checkbox"/> MEDICAL COPAY <input type="checkbox"/> MEDICAL RECORDS <input checked="" type="checkbox"/> KIOSK INACCESSIBLE (EXPLAIN): <u>Clafin College</u>		
<b>YOU MUST USE THE KIOSK IF YOUR PAPER REQUEST DOES NOT MEET ANY OF THE CRITERIA ABOVE.</b>		
<p>I understand that I must submit a KIOSK and a PAPER request as instructed for the CLAFLIN COLLEGE Program. I also understand and meet the following CRITERIA to submit for consideration into the program.</p> <p>Current SCDC Requirements for Stage 1 of the Registration Process</p> <ul style="list-style-type: none"> <li>• Must be a Level 1 or Level 2 inmate</li> <li>• Must have a high school diploma or GED</li> <li>• Selective service eligible</li> <li>• No SCDC disciplinary issues for the last 12 months</li> <li>• No sex offenders</li> </ul>		
<b>DISPOSITION BY STAFF MEMBER:</b>		
<b>DATE:</b>	<b>STAFF SIGNATURE:</b>	