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**S.C. SUPREME COURT**

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph King Anderson, III, Chief Administrative Law Judge

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Court of Appeals Appellate Case No. 2018-002046  
Court of Appeals Opinion No. 5843

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Quincy Allen,.....Petitioner,

v.

South Carolina Department of Corrections,.....Respondent.

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**APPENDIX**

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**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

Quincy Allen, #6019, Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2018-002046

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Appeal From The Administrative Law Court  
Ralph King Anderson, III, Administrative Law Judge

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Opinion No. 5843  
Heard May 5, 2021 – Filed August 4, 2021

---

**AFFIRMED**

---

E. Charles Grose, Jr., of Grose Law Firm, of Greenwood,  
for Appellant.

Annie Laurie Rumler and Christina Catoe Bigelow, both  
of the South Carolina Department of Corrections, of  
Columbia, for Respondent.

---

**LOCKEMY, C.J.:** Quincy Allen appeals the Administrative Law Court's (ALC's) dismissal of his inmate grievance appeal. On appeal, he argues the ALC erred by holding it lacked jurisdiction to hear his case because the South Carolina Department of Corrections's (SCDC's) denial of his visitation with persons he did not know prior to his incarceration implicated a state-created liberty interest. We affirm.

**FACTS/PROCEDURAL HISTORY**

Allen is a death-sentenced inmate who has been incarcerated for nearly nineteen years. On March 21, 2018, Allen submitted a Step 1 Inmate Grievance Form requesting that SCDC permit him to see visitors whom Allen had not met prior to his incarceration. SCDC denied his Step 1 Grievance stating, "SCDC feels that not knowing an inmate prior to incarceration is a security concern." Allen filed a Step 2 Inmate Grievance Form repeating this request. SCDC denied his Step 2 Grievance citing SCDC Policy OP-22.09.<sup>1</sup>

Allen appealed SCDC's denial of his inmate grievances to the ALC, arguing SCDC (1) used arbitrary and capricious unwritten policies and procedures to disapprove visitors, (2) disregarded and overlooked its written policies regarding visitation, (3) misapplied its written policies, and (4) failed to provide due process. SCDC filed a motion to dismiss, which the ALC granted. The ALC ruled its jurisdiction regarding inmate appeals was limited to state-created liberty interests and SCDC restricting Allen's visitation did not implicate a state-created liberty interest. This appeal followed.

### **ISSUE ON APPEAL**

Did the ALC err by holding Allen did not have a state-created liberty interest in visitation with the general public?

### **STANDARD OF REVIEW**

The Administrative Procedures Act (APA) establishes the standard of review in appeals from the ALC. S.C. Code Ann. § 1-23-610(B) (Supp. 2020). An appellate court may reverse or modify a decision if the ALC's findings or conclusions are:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;

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<sup>1</sup> S.C. Dep't of Corr. Policy/Procedure, No. OP-22.09, Inmate Visitation § 1.4 (Aug 1, 2016) ("Inmate visitation is considered to be a privilege and is **not** considered a guaranteed right. Therefore, the SCDC reserves the right to suspend, restrict, deny, or terminate an inmate's or visitor's visitation privileges . . . due to legitimate concerns regarding the security and safety of the institution.").

- (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

*Id.*

## LAW/ANALYSIS

Allen argues he has a state-created liberty interest in rehabilitation, which includes visitation with members of the general public. He asserts that a ban on visitors he did not know prior to his incarceration implicates the due process clause. We disagree.

### State-Created Liberty Interest in Visitation

"Admittedly, prisoners do not shed all constitutional rights at the prison gate but '[I]awful incarceration brings about the necessary withdrawal or limitation of many privileges and rights, a retraction justified by the considerations underlying our penal system.'" *Sandin v. Conner*, 515 U.S. 472, 485 (1995) (citation omitted) (quoting *Jones v. N.C. Prisoners' Lab. Union, Inc.*, 433 U.S. 119, 125 (1977)).

An inmate who seeks to challenge a final decision of SCDC may seek review of an administrative matter under the APA. *Al-Shabazz v. State*, 338 S.C. 354, 369, 527 S.E.2d 742, 750 (2000). However, the ALC only has jurisdiction of matters implicating a state-created liberty interest. *See Sullivan v. S.C. Dep't of Corr.*, 355 S.C. 437, 443, 586 S.E.2d 124, 127 (2003) ("The only way for the [ALC] to obtain subject matter jurisdiction over [an inmate's] claim is if it implicates a state-created liberty interest."). "[S]tate law may create enforceable liberty interests in the prison setting." *Ky. Dep't of Corr. v. Thompson*, 490 U.S. 454, 461 (1989).

An inmate "claiming a protected interest must have a legitimate claim of entitlement to it. Protected liberty interests 'may arise from two sources[:] the Due Process Clause itself and the laws of the States.'" *Id.* at 460 (quoting *Hewitt v. Helms*, 459 U.S. 460, 466 (1983)). In order to establish a state-created liberty interest, a regulation must "contain 'explicitly mandatory language,' *i.e.*, specific directives to the decisionmaker that if the regulations' substantive predicates are present, a particular outcome must follow." *Id.* at 463 (quoting *Hewitt*, 459 U.S. at 472).

"Stated simply, 'a State creates a protected liberty interest by placing substantive limitations on official discretion.'" *Id.* at 462 (quoting *Olim v. Wakinekona*, 461 U.S. 238, 249 (1983)). This language means if the regulation explicitly mandates an outcome based on the existence of relevant criteria then the State has created a liberty interest. *Id.* at 462. Based on this, we must examine whether SCDC's policy mandates SCDC to permit inmate visitation with persons the inmate did not know prior to incarceration when relevant criteria are met. We find it does not.

SCDC's visitation policy lacked "explicitly mandatory language" requiring a particular outcome when factual predicates are met. SCDC's policy expressly states visitors deemed to be a security risk will not be permitted to visit inmates and that visitation is not a guaranteed right. *See* S.C. Dep't of Corr. Policy/Procedure, No. OP-22.09, Inmate Visitation § 1.4 (Aug 1, 2016). This policy vests SCDC with wide discretion; thus, it does not mandate an outcome. Since there is no mandated outcome there was no state-created interest in visitation with persons Allen did not know prior to his incarceration.

States may also create liberty interests protected by the Due Process Clause by limiting an inmate's freedom from restraint in such a way that "imposes atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life." *Sullivan*, 355 S.C. at 442, 586 S.E.2d at 126 (quoting *Sandin*, 515 U.S. at 484). The denial of Allen's visitation with persons not known to him prior to incarceration was not a violation of his right to freedom from restraint that is atypical, nor did it create a significant hardship on Allen in relation to ordinary prison life because the record contains no indication SCDC treats other inmates differently. *Cf. Sullivan*, 355 S.C. at 445, 586 S.E.2d at 128 ("[D]enying Sullivan access to [phase two of the Sex Offender Treatment Program (SOTP II)] or any other sex offender program does not impose an 'atypical or significant hardship' on Sullivan as all other inmates designated as sex offenders are afforded the same access to treatment.").

### Rehabilitation

Allen further argues these visitors are necessary for his rehabilitation; thus, the ALC had jurisdiction to hear this case because his visitation implicates a state-created liberty interest in rehabilitation. We disagree.

The South Carolina Constitution enumerates prisoner rehabilitation. *See* S.C. Const. art. XII, § 2 ("The General Assembly shall establish institutions for the confinement of all persons convicted of such crimes as may be designated by law,

and shall provide for the custody, maintenance, health, welfare, education, and rehabilitation of the inmates."'). However, our supreme court has held the South Carolina Constitution does not create a liberty interest in specific forms of that rehabilitation. *Sullivan*, 355 S.C. at 444, 586 S.E.2d at 127.

In *Sullivan*, our supreme court held the South Carolina Constitution does not impose a duty of rehabilitation on SCDC. *Sullivan*, an incarcerated sex offender, sought SOTP II immediately after he completed SOTP I through the SCDC grievance process. *Id.* at 440, 586 S.E.2d at 125. SCDC denied his requests. *Id.* *Sullivan* appealed to the ALC, and the ALC dismissed the case because it lacked subject matter jurisdiction. *Id.* *Sullivan* appealed to our supreme court arguing, "the South Carolina Constitution guarantee[d] him a right to rehabilitation, which require[d] the SCDC to give him access to sex offender treatment while incarcerated" and that the deprivation of SOTP II implicated a state-created liberty interest in rehabilitation. *Id.* at 444, 586 S.E.2d at 127. Our supreme court affirmed the ALC's dismissal and held *Sullivan* did not raise a state-created liberty interest and declined to impose a duty of specific forms of rehabilitation on SCDC. *Id.* Our supreme court held, "Even if [the South Carolina Constitution] is read to require *some* rehabilitation for inmates, it does not mandate any specific programs that must be provided by the General Assembly or the SCDC . . . ." *Id.*

The South Carolina Constitution did not create a liberty interest in specific programs of rehabilitation; thus, it does not mandate specific types of visitation in the interest of rehabilitation. *See id.* at 445, 586 S.E.2d at 127–28 (holding that if the court required specific programs of rehabilitation it "would conflict with the hands-off approach that this Court has taken towards internal prison matters.>"). *Allen* failed to raise a state-created liberty interest in rehabilitation that required the State to provide visitation with persons he did not know prior to his incarceration. Thus, the ALC lacked jurisdiction to hear *Allen*'s appeal from his Step 2 Grievance.<sup>2</sup>

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<sup>2</sup> *Allen* argues in his reply brief that SCDC's interpretation of its policy was arbitrary and capricious. Because he failed to raise this issue in his initial brief we find this issue abandoned. *See Glasscock, Inc. v. U.S. Fid. & Guar. Co.*, 348 S.C. 76, 81, 557 S.E.2d 689, 692 (Ct. App. 2001) ("[A]n argument made in a reply brief cannot present an issue to the appellate court if it was not addressed in the initial brief.>").

**CONCLUSION**

Based on the foregoing, we affirm the ALC's dismissal of Allen's appeal of his Step 2 Grievance based on lack of jurisdiction because there was no state-created liberty interest in visitation.

**AFFIRMED.**

**WILLIAMS and HEWITT, JJ., concur.**

# The South Carolina Court of Appeals

Quincy Allen, #6019, Appellant,

v.

South Carolina Department of Corrections, Respondent.

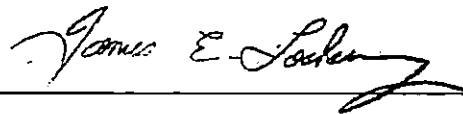
Appellate Case No. 2018-002046

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## ORDER

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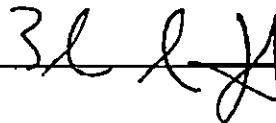
After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.



C.J.



J.



J.

Columbia, South Carolina

cc:

E. Charles Grose, Jr., Esquire  
Christina Catoe Bigelow, Esquire  
Annie Laurie Rumler, Esquire  
Jana E. Shealy

**FILED**  
**Sep 08 2021**

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Aug 19 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph King Anderson, III, Chief Administrative Law Judge

Appellate Case No. 2018-002046

Quincy Allen, #6019,.....Appellant,

v.

South Carolina Department of Corrections,.....Respondent.

***Petition for Rehearing***

Pursuant to Rule 221(a), SCACR, Quincy Allen petitions for rehearing because this Court overlooked or misapprehended the matters set forth in this petition.

Although this Court’s opinion cited *Ky. Dep’t of Corr. v. Thompson*, 490 U.S. 454, 461 (1989) (“[S]tate law may create enforceable liberty interests in the prison setting.”), Slip Op., at 3, Mr. Allen expressly asked this Court to consider Justice Kennedy’s concurring opinion identifying this limitation of the holding in *Thompson*:

I concur fully in the opinion and judgment of the Court. I write separately to note that this case involves a denial of prison access to particular visitors, not a general ban on all prison visitation. Nothing in the Court’s opinion forecloses the claim that a prison regulation permanently forbidding all visits to some or all prisoners implicates the protections of the Due Process Clause<sup>[1]</sup> in a way that the precise and individualized restrictions at issue here do not.

<sup>1</sup> U.S. Const. Am. XIV; *see also* S.C. Const. Art. I, § 3.

490 U.S. at 465 (Kennedy, J. concurring) (footnote added). Brief of Appellant, at 7. Mr.

Allen further argued his

appeal involves neither a “denial of prison access to a particular visitor” nor “a general ban on all prison visitation.” On the continuum between these two extremes, a permanent and complete ban on a broad category of visitors—anyone Mr. Allen did not know prior to his incarceration—is much closer to “a general ban on all prison visitation” than a “denial of prison access to a particular visitor,” thereby implicating the due process clause.

*Id.*, at 7-8.

This Court, much like the Department of Corrections in its pleadings and the court below, relies on *Thompson* to hold Mr. Allen does not have a liberty interest, regarding visitation, that was created by the State. *Thompson*, however, actually holds “an individual claiming a protected interest must have a legitimate claim of entitlement to it. Protected liberty interests ‘may arise from two sources—the Due Process Clause itself and the laws of the States.’” *Id.* at 460 (quoting *Hewitt v. Helms*, 459 U.S. 460, 468 (1983)). Although *Thompson* recognized “unfettered visitation” is not guaranteed by the Due Process Clause, the Court also reminded, “This is not to say that a valid conviction extinguishes every direct due process protection.” *Id.* Mr. Allen does not claim a right to “unfettered visitation.” Rather, he protests the SCDC denying him visitation to an entire class of visitors—anyone he met after his incarceration—without conducting an individualized determination. Because the SCDC failed to conduct an individualized determination, Mr. Allen has a liberty interest pursuant to the Due Process Clause<sup>2</sup> in visitation regarding the issue presented in this litigation.

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<sup>2</sup> U.S. Const. Am. XIV; S.C. Const. Art. I, § 3.

This Court's opinion does not address the distinction between the facts before the Court in *Thompson* and the issue presented to this Court in the current appeal. The *Thompson* Court explained:

This particular litigation was prompted in large part by two incidents when applicants were denied the opportunity to visit an inmate at the reformatory. The mother of one inmate was denied visitation for six months because she brought to the reformatory a person who had been barred for smuggling contraband. Another inmate's mother and woman friend were denied visitation for a limited time when the inmate was found with contraband after a visit by the two women. In both instances the visitation privileges were suspended without a hearing. The inmates were not prevented from receiving other visitors.

*Thompson*, at 458. *Thompson* thus "involve[d] a denial of prison access to particular visitors, not a general ban on all prison visitation." *Id.* at 465 (Kennedy, J. concurring). "Nothing in the Court's opinion [in *Thompson*] forecloses the claim that a prison regulation permanently forbidding all visits to some or all prisoners implicates the protections of the Due Process Clause in a way that the precise and individualized restrictions at issue here do not." *Id.*

Here, the SCDC did not make an individualized determination specific to Mr. Allen and his proposed visitors. The SCDC banned an entire class of visitors. The suspension of visitation in *Thompson* was temporary. The ban in Mr. Allen's case is permanent. Mr. Allen asserts that placing a permanent ban on an entire class of visitors, without any individualized determination, implicates the protections of the Due Process Clause.

As discussed in Mr. Allen's reply brief, this Court's opinion allows the Department of Corrections to continue down a slippery slope the could lead to banning all visitation:

[M]any people sentenced to the SCDC associated with people who engaged in criminal conduct prior to their incarceration. They might have committed crimes together. They might have consumed illegal drugs together. Sadly, family members sometimes introduce a person to criminal activity or illicit

drug use. The SCDC could conclude that knowing an inmate prior to the inmate's incarceration and wanting to visit that inmate is a security concern and, therefore, prohibit visitors that knew the inmate prior to incarceration. If the SCDC decides to combine such a policy with the policy at issue in Mr. Allen's case, then the SCDC would effectively ban all visitation.

Reply Brief, at 3.

### CONCLUSION

For the foregoing reasons, this Court should grant rehearing, withdraw its opinion, and reverse the Administrative Law Court. Once this Court properly considers *Thompson*, the need to reverse becomes apparent.

IT IS SO MOVED.

Respectfully Submitted,

By s/E. Charles Grose, Jr.

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August 19, 2021  
Greenwood, South Carolina

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph King Anderson, III, Chief Administrative Law Judge

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Appellate Case No. 2018-002046

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Quincy Allen, #6019,.....Appellant,

v.

South Carolina Department of Corrections,.....Respondent.

---

***Certificate of Service***

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I certify that I have served a copy of this pleading on the State of South Carolina, pursuant to South Carolina Supreme Court Order No. 2021-03-04-01, Section (c)(13), by emailing at copy to counsel, at their AIS email address, as reflected below:

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August 19, 2021  
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August 19, 2021

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**Aug 19 2021**

**SC Court of Appeals**

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

Re: *Quincy Allen v. South Carolina Department of Corrections*  
Appellate Case No. 2018-002046

Dear Ms. Kitchings:

Enclosed please find Mr. Allen's petition for rehearing, along with a certificate of service.

Thank you for your attention to this matter. Please let me know if you have any questions or require additional information.

With kindest regards, I am

Yours very truly,

s/E. Charles Grose, Jr.  
E. Charles Grose, Jr.

cc: Mr. Quincy Allen  
Christina Catoe Bigelow, Esquire  
Annie Laurie Rumler, Esquire

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph King Anderson, III, Chief Administrative Law Judge

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South Carolina Department of Corrections, ..... Respondent.

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***Final Brief of Appellant***

---

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Quincy Allen, ..... Appellant,

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South Carolina Department of Corrections, ..... Respondent.

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***Final Brief of Appellant***

---

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**QUESTIONED PRESENTED**

Does Quincy Allen, a death sentenced inmate confined to the South Carolina Department of Corrections, have liberty interests in rehabilitation and visitation with members of the general public?

**STATEMENT OF THE CASE**

Quincy Allen is a death-sentenced inmate confined to the South Carolina Department of Corrections (“SCDC”) at the Kirkland Reception and Evaluation Center.

On March 15, 2018, Mr. Allen sent a Request to Staff Member stating:

I’m requesting that you stop disapproving visitation applications just because the person didn’t know me before my incarceration in August 2002. It’s prejudicial and discriminating! The people that want to see [me] are my friends, and they have never been arrested and they don’t have a criminal record. You’re arbitrarily denying law abiding citizens the opportunity to take time out of their weekend, to come and see me, because they love and support me.

R. 13.<sup>1</sup> On March 19, 2019, the SCDC responded:

Be advised that All previous visitation applications have asked, “Did you know the inmate prior to incarceration?” We consider not knowing an inmate but wanting to visit a security concern. Therefore, I recommend that you communicate with them by mail/phone/messaging.

R. 13.

On March 21, 2018, Mr. Allen submitted a Step 1 Inmate Grievance Form stating:

I’m requesting that the SCDC Visitation Department Branch Chief’s Office stop denying law abiding citizens the opportunity to visit me for the simple reason that we didn’t know each other prior to August 2002. I’ve met people since August 2002 that have said that they’d now like to visit me.

---

<sup>1</sup> A blank copy of the SCDC Request for Visiting Privileges is found at R. 27-28.

R. 15. On March 30, 2018, the SCDC responded, "SCDC feels that not knowing an inmate prior to incarceration is a security concern." The SCDC once again suggested, "You still has [sic] the option to communicate with them by mail and phone." R. 16.

On March 26, 2018, while the Step 1 Grievance was still pending, Mr. Allen sent a Request to Staff Member stating:

A couple of my former attorneys are going to submit applications so that they can visit me as friends on the weekends. Will their applications be approved, even though they didn't know me before my incarceration, but they did get to know me since my incarceration, while they were representing me in the South Carolina court system, since 2002?

R. 18. On March 28, 2018, the SCDC responded, "Again, if an individual didn't know you before incarceration, they are not eligible." The response added, "If they request to see you as an attorney, they go through a different office." R. 18.

On April 4, 2018, Mr. Allen submitted a Step 2 Inmate Grievance Form pointing out:

As a Death Row inmate, I'm not allowed to have contact visits, so SCDC's feeling of someone not knowing me, before August 2002, being a security concern, is null and void, in addition to being nonsensical. My former attorney, Michael Siem, and his wife Audrey were denied on their application to visit me on the weekend. We had contact visits when he was my attorney and now he's my good friend. SCDC's current practice is inhumane.

R. 20. On May 8, 2018, the SCDC denied Mr. Allen's grievance and cited to its policy:

SCDC Policy OP-22.09, "Inmate Visitation," states that "Inmate visitation is considered to be a privilege and is not considered a guaranteed right. Therefore, the SCDC reserves the right to suspend, restrict, deny, or terminate an inmate's or visitor's visitation privilege and/or telephone privilege due to legitimate concerns regarding the security and safety of the institution." Although you may wish to have certain persons of your choice to be eligible to visit you, your incarceration at SCDC has limitations that must be followed for a number of reasons included but not limited to security.

R. 20.<sup>2</sup>

Mr. Allen appealed to the Administrative Law Court. He raised four issues on appeal:

1. The South Carolina Department of Corrections (SCDC) is using arbitrary and capricious unwritten policies and procedures to disapprove law-abiding citizens from visiting inmates.
2. The SCDC is disregarding and overlooking their written policies and procedures regarding visitation of inmates.
3. The SCDC is misapplying written policies and procedures in an overly broad and equivocal manner.
4. The SCDC deprived me of my right to due process in a fair grievance resolution.<sup>3</sup>

R. 5 (footnote added).

In his first argument, Mr. Allen argued the SCDC's prohibiting visitors he did not know before his incarceration "is arbitrary and capricious because it is not addressed in *any written policy or procedure* promulgated by the SCDC, which is legally significant because all of their other concerns dealing with visitation approval are addressed in writing." Mr. Allen pointed out that Mr. Siem was one of his prior attorneys, has known him "for over 7 ½ years," lives in Brooklyn, New York, and would prefer to visit "on weekends during personal visitation hours." Mr. Allen further pointed out:

Brie Russell is a lawyer in Columbia, SC and I have gotten to know her family. Her mother and sister send me words of encouragement and books to keep my mind busy. I do not have a lot of family or friends in my life and rely on my current and former legal teams for friendship and

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<sup>2</sup> A copy of the SCDC Policy OP-22.09 is found at R. 36-57.

<sup>3</sup> On May 18, 2018, Mr. Allen inquired of the Office of General Counsel, "Why was Alice Marcio allowed to deny my informal resolution and then allowed to decide my Step 2 grievance final decision? She was not going to overrule herself, after Warden Willie Davis upheld her informal resolution response to me." R. 23.

support. They help me strive to continue to grow as a person even under my current circumstances. The conditions on death row do not allow for much human interaction and we do not even have a window to see outside. Ms. Russell's mother, father and sister would like to be able to visit me during regular visitation hours.

Each of the individuals noted above are law-abiding, productive citizens and simply because I was not fortunate enough to have met them prior to my incarceration, the SCDC has denied the approval to be added to my visitation list. It should be noted that as a death row inmate I am not even permitted to have contact visitation with friends and family. All of my personal visits are in glass booths with telephone receivers.

R. 6-7 (emphasis original).<sup>4</sup> Mr. Allen then argued, "Because Question 6 [inquiring whether the person applying for visitation knew the inmate prior to his incarceration] is not addressed in any written policy or procedure, as the other 5 questions are, this should not be the sole basis for denying an individual the ability to be an approved visitor for an inmate." Mr. Allen informed the court below that the SCDC denying these visitors negatively impacts his "attitude," "mental health" and "outlook on life and [his] rehabilitation." R. 7-8.

Mr. Allen addressed the SCDC written policy. In his first argument, Mr. Allen pointed out the SCDC policy encourages inmates to visit with friends and family and pledges to conduct visitation "in an accommodating manner." In his second argument, Mr. Allen pointed out the SCDC policy allows visitors to "be added to an inmate's visitation approved list at any time, provided that the addition of the visitor(s) does not cause the inmate to exceed the 15 visitor limit." Mr. Allen then pointed out that written policy allows the SCDC to "suspend, restrict, deny, or terminate an inmate's or visitor's

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<sup>4</sup> Eighteen death row inmates are suing the SCDC in the United States District Court for the District of South Carolina regarding the conditions of confinement on death row. *Northcutt v. South Carolina Department of Corrections*, C/A 4:17-cv-03301-BHH-TER.

privileges and/or telephone privileges due to **legitimate concerns** regarding the security and safety of the institution.” Mr. Allen then argued:

The SCDC has no legitimate basis, nor any evidence whatsoever, for postulating that my proposed visitors are a threat to the security of the institution, staff, or others. None of them have a criminal record nor have they ever been arrested. In fact each of them is a pillar within her/his community. The fact that they did not know me prior to my incarceration is not a legitimate concern for safety. This is entirely too broad to be the sole basis for a denial of a visitor being added to an inmate’s approved visitor list.

R. 7-9 (emphasis supplied in ALJ brief).

The SCDC did not address the merits of Mr. Allen’s arguments, but rather moved 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.*, , 633 S.E.2d 910 (Ct. App. 2006) because Mr. Allen “has no liberty interest in having visitors that he did not know prior to incarceration.” R. 62-64.

Mr. Allen replied, pointing out his right to “rehabilitation” is “a state created liberty interest,” pursuant to S.C. Const. Art. XII, § 2. *See also Sullivan v. S.C. Dep’t of Corr.*, 355 S.C. 437, 586 S.E.2d 124 (2003). He argued one of the “primary goals” of the SCDC policy of “providing visitation to inmates is rehabilitation.” He pointed out, “Many inmates, including [himself], are serving lengthy, sometime lifetime, sentences. Denying their ability to create and foster relationships over the course of their lives flies in the face of the stated Constitutional right to rehabilitation opportunities.” R. 65-66.

The Administrative Law Judge granted the SCDC’s motion to dismiss, relying in large part, on *Kentucky Dep’t of Corr. v. Thompson*, 490 U.S. 454 (1989) to conclude “there is no state-created liberty interest in visitation, much less visitation with a specific persons of his choosing.” The court below reasoned:

Here, [Mr. Allen] has not been denied visitation. He has only been denied visitation with persons [he] did not know prior to his incarceration; however, he may communicate with these persons via telephone or letter. Therefore, a state-created liberty interest has not been implicated in this case, and this Court takes a hands-off approach to internal prison matters.

R. 1-3. This appeal follows.

### STANDARD OF REVIEW

The review of the administrative law judge's order must be confined to the record. The court may not substitute its judgment for the judgment of the administrative law judge as to the weight of the evidence on questions of fact. The court of appeals may affirm the decision or remand the case for further proceedings; or, it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code Ann. §1-23-610(B); *see also Howard v. S. Carolina Dep't of Corr.*, 399 S.C. 618, 625, 733 S.E.2d 211, 215 (2012).

### ARGUMENT

**Quincy Allen, a death sentenced inmate confined to the South Carolina Department of Corrections, has a liberty interests in rehabilitation and visitation with members of the general public.**

As seen, the Administrative Law Judge relied on *Kentucky Dep't of Corr. v. Thompson* in upholding the SCDC's unwritten policy of denying inmates visitation with

an entire class of visitors—anyone Mr. Allen did not know prior to his incarceration. Therefore, it is important to understand the holding in *Thompson*, including the limitations of that holding. Justice Blackmun, writing for the majority, described the issue before the High Court:

This particular litigation was prompted in large part by two incidents when applicants were denied the opportunity to visit an inmate at the reformatory. The mother of one inmate was denied visitation for six months because she brought to the reformatory a person who had been barred for smuggling contraband. Another inmate's mother and woman friend were denied visitation for a limited time when the inmate was found with contraband after a visit by the two women. In both instances the visitation privileges were suspended without a hearing. The inmates were not prevented from receiving other visitors.

490 U.S. at 458. The issue before the Court, accordingly, involved “[t]he denial of prison access to a particular visitor” which has long been held to be “well within the terms of confinement ordinarily contemplated by a prison sentence.” *Id.* at 461 (quoting *Hewitt v. Helms*, 459 U.S. 460, 468 (1983)). Justice Kennedy, in his concurring opinion, identified the limitations of the holding in *Thompson*:

I concur fully in the opinion and judgment of the Court. I write separately to note that this case involves a denial of prison access to particular visitors, not a general ban on all prison visitation. Nothing in the Court's opinion forecloses the claim that a prison regulation permanently forbidding all visits to some or all prisoners implicates the protections of the Due Process Clause<sup>5</sup> in a way that the precise and individualized restrictions at issue here do not.

490 U.S. at 465 (Kennedy, J. concurring) (footnote added).

Mr. Allen's appeal involves neither a “denial of prison access to a particular visitor” nor “a general ban on all prison visitation.” On the continuum between these two extremes, a permanent and complete ban on a broad category of visitors—anyone Mr.

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<sup>5</sup> U.S. Const. Am. XIV; *see also* S.C. Const. Art. I, § 3.

Allen did not know prior to his incarceration—is much closer to “a general ban on all prison visitation” than a “denial of prison access to a particular visitor,” thereby implicating the due process clause.

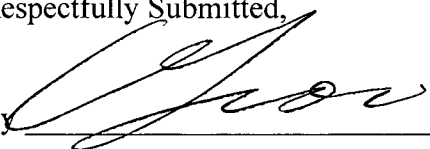
As argued in the court below, Mr. Allen has a right to “rehabilitation” that is “a state created liberty interest,” pursuant to S.C. Const. Art. XII, § 2. This constitutional provision mandates the SCDC provide rehabilitation for inmates, which includes visitation. The SCDC policy, in fact, is “to enable and encourage inmates, consistent with security and classification requirements, to visit with family and friends. . . . in an accommodating manner.” R. 7. In his appeal to the Administrative Law Court, Mr. Allen identified five people he believes qualify as visitors under the SCDC’s written policy. The relief requested by Mr. Allen would merely prohibit the SCDC from “disapproving visitation applications just because the person didn’t know [him] before [his] incarceration.” R. 6, 10. The individual visitors still would be subject to the ordinary visitor application process and the SCDC visitation policy. The visitors still would be subject to the SCDC’s security measures, and the visitation would be in accordance with Mr. Allen’s classification as a death row inmate. The SCDC still would be able to “suspend, restrict, deny, or terminate an inmate’s or visitor’s privileges and/or telephone privileges due to legitimate concerns regarding the security and safety of the institution.” See R. 37. Rather than categorically banning a class of visitors, the SCDC would be required to make the “individualized” determination that was at issue in *Thompson*, 490 U.S. at 465 (Kennedy, J. concurring).

(conclusion on next page)

**CONCLUSION**

For the forgoing reasons, this Court should reverse the Administrative Law Judge and remand for a determination on the merits because Quincy Allen has liberty interests in rehabilitation and visitation with members of the general public.

Respectfully Submitted,

By  \_\_\_\_\_

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June 28, 2019.

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph King Anderson, III, Chief Administrative Law Judge

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Appellate Case No. 2018-002046

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Quincy Allen, ..... Appellant,

v.


South Carolina Department of Corrections, ..... Respondent.

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***Rule 211(b), SCACR Certification***

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The Final Brief of Appellant Complies with Rule 211(b), SCACR.



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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT

Administrative Law Judge Ralph King Anderson, III

ALC Case No. 18-ALJ-04-0243-AP  
Appellate Case No. 2018-002046

Quincy Allen, #006019.....Appellant,

v.

South Carolina Department of Corrections.....Respondent.

**FINAL BRIEF OF RESPONDENT**

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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM ADMINISTRATIVE LAW COURT

Administrative Law Judge Ralph King Anderson, III

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**STATEMENT OF THE ISSUES ON APPEAL**

- I. DID THE ADMINISTRATIVE LAW COURT PROPERLY DISMISS APPELLANT'S APPEAL WHERE APPELLANT'S CLAIM DID NOT IMPLICATE A STATE CREATED LIBERTY OR PROPERTY INTEREST?**
  
- II. DID THE ADMINISTRATIVE LAW COURT PROPERLY DISMISS APPELLANT'S APPEAL WHERE RESPONDENT WAS NOT ARBITRARY OR CAPRICIOUS IN MAKING ITS FINAL AGENCY DECISION?**

**STATEMENT OF THE CASE**

This matter is before the Administrative Law Court (“ALC” or “Court”) pursuant to the appeal of Quincy Allen (“Appellant”), an inmate incarcerated with the South Carolina Department of Corrections (“SCDC” or “Department”). On March 21, 2018, Appellant filed a Step One grievance regarding the disapproval of visitation applications on the basis that the applicant did not know Appellant prior to his incarceration. R. 15. On March 29, 2018, SCDC denied the Step One grievance. R. 16. Thereafter, on March 30, 2018, Appellant filed a Step Two grievance appealing the disposition of his Step 1 grievance. R. 20. On May 11, 2018, SCDC denied the Step Two grievance, and Appellant appealed to the Administrative Law Court. R. 20. On November 1, 2018, Administrative Law Judge Ralph King Anderson, III dismissed Appellant’s appeal. R. 1-3. This appeal follows.

**STANDARD OF REVIEW**

S.C. Code § 1-23-610(B) provides the applicable standard of review:

The review of the administrative law judge's order must be confined to the record. The reviewing tribunal may affirm the decision or remand the case for further proceedings; or it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code § 1-23-380(5).

In an appeal of a final decision of an administrative agency, the standard of appellate review is whether the ALC's findings are supported by substantial evidence. S.C. Code § 1-23-610(B). "Substantial evidence" is evidence which, considering the record as a whole, would allow a reasonable mind to reach the same conclusion that the administrative agency reached. *Hendley v. S.C. State Budget & Control Bd.*, 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996). A reviewing court shall not substitute its own judgment for that of the ALC as to findings of fact, but it may reverse or modify decisions that are controlled by errors of law or that are clearly erroneous in view of the substantial evidence on the record as a whole. *Id.*

**ARGUMENTS**

**I. THE ADMINISTRATIVE LAW COURT PROPERLY DISMISSED APPELLANT'S APPEAL WHERE APPELLANT'S CLAIM DID NOT IMPLICATE A STATE CREATED LIBERTY OR PROPERTY INTEREST.**

The ALC's jurisdiction to hear inmate appeals of final decisions by the South Carolina Department of Corrections is derived entirely from the decision of the South Carolina supreme court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). When reviewing SCDC's decisions in inmate grievance matters, the ALC sits in an appellate capacity. *Id.* at 377, 527 S.E.2d at 754. The South Carolina supreme court clarified the ALC's appellate jurisdiction over inmate appeals in *Sullivan v. South Carolina Department of Corrections* holding that the ALC's jurisdiction was limited to (1) cases in which an inmate contends prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; (2) cases in which SCDC has taken an inmate's state-created liberty interest in major disciplinary hearings; and (3) cases in which an inmate's confinement implicates a state-created liberty interest. 355 S.C. 437, 443, 586 S.E.2d 124, 127 (2003).

Moreover, regarding categories (2) and (3), *supra*, the South Carolina supreme court has consistently emphasized that the liberty or property interest implicated must be one that is state created. *See Wicker v. S.C. Dep't of Corr.*, 360 S.C. 421, 602 S.E.2d 56 (2004) (emphasizing that the ALC's jurisdiction extends only to those cases involving the denial of "state created liberty interests" and that the Court's holding [*i.e.*, in *Wicker*] "is not to be viewed as expanding the jurisdiction of the [ALC] in any other circumstance."); *Slezak v.*

*S.C. Dep't of Corr.*, 361 S.C. 327, 605 S.E.2d 506 (2004) (holding that the ALC “may summarily dismiss those appeals that do not implicate an inmate’s state created liberty or property interest”). The South Carolina Court of Appeals has interpreted *Slezak* to mean that where a state-created liberty interest is not implicated in a prisoner appeal, a judge of the ALC “should” dismiss the appeal. *Skipper v. S.C. Dep't of Corr.*, 370 S.C. 267, 633 S.E.2d 910 (Ct. App. 2006).

The United States Supreme Court, in *Kentucky Department of Corrections v. Thompson*, articulated the test by which a court can determine if a state has created a liberty interest. 490 U.S. 454, 109 S. Ct. 1904, 104 L. Ed. 506 (1989). The Court stated that a state creates a liberty interest by (1) “establishing ‘substantive predicates’ to govern official decision-making” and (2) mandating a certain outcome “be reached upon a finding that the relevant criteria have been met.” *Id.* at 462, 109 S. Ct. at 1909 (internal citation omitted). In *Town of Castle Rock, Colorado v. Gonzales*, the Supreme Court further clarified the second prong of the *Thompson* test stating that a person is not entitled to, and thus has no property interest in, a benefit “if officials have discretion to grant or deny it.” 545 U.S. 748, 748, 125 S. Ct. 2796, 2798-99, 162 L. Ed. 2d 658 (2005).

Aside from prohibiting conjugal visits, South Carolina law does not address inmate visitation. S.C. Code § 24-3-81. However, under the authority granted him by S.C. Code § 24-1-90, the Director of the Department of Corrections has promulgated a policy regarding inmate visitation: SCDC Policy OP-22.09, “Inmate Visitation.” This policy clearly states that visitation can be “suspend[ed], restrict[ed], den[ied], or terminate[d].” R. 37. Additionally, permissive language such as “may” is used throughout in describing the granting or revoking

of visitation. This makes it clear that decisions regarding visitation are subject to wide discretion. SCDC Policy OP-22.09 also consistently refers to visitation as a privilege, not a right. This policy does not mandate any particular outcome upon the satisfaction of certain criteria. Thus, it does not create a liberty interest in visitation.

Appellant argues that he does have a state created liberty interest in visitation and that such a right is established by Article XII, section 2, of the South Carolina Constitution, which states, “[t]he General Assembly shall establish institutions for the confinement of all persons convicted of such crimes as may be designated by law, and shall provide for the custody, maintenance, health, welfare, education, and rehabilitation of the inmates.” Final Brief of Appellant, p. 8. This language does not mention visitation and certainly does not create criteria for awarding visitation privileges, mandate any particular outcome upon the completion of those criteria, or limit the discretion of decision makers in any way. Thus it does not create a liberty interest in visitation. *Thompson* at 462, 109 S. Ct. at 1909. Additionally, the South Carolina supreme court has already ruled that this language does not create a liberty interest. In *Sullivan v. South Carolina Department of Corrections*, the Court rejected Sullivan’s argument that this exact same language regarding rehabilitation created an interest in sex offender treatment and ruled that the Administrative Law Court did not have jurisdiction over the claim. 355 S.C. at 445, 586 S.E.2d at 128.

Appellant also argues that ALC Judge Anderson’s reliance on *Kentucky Department of Corrections v. Thompson* was improper. Final Brief of Appellant, p. 8. Appellant asserts that the facts in this case are so different from the facts in *Thompson* that the *Thompson* Court’s conclusion that “[t]he denial of prison access to a particular visitor is well within the

terms of confinement ordinarily contemplated by a prison sentence” is not applicable here. *Thompson* at 462, 109 S. Ct. at 1909 (internal quotations omitted); Final Brief of Appellant, p. 7-8. While Judge Anderson did make note of this language from *Thompson* in his Order, he did so only after noting that neither prong of the *Thompson* test had been established. R. 2. The *Thompson* test on which Judge Anderson relied is applicable to any situation in which the court must determine whether or not a state has created a liberty or property interest. In fact, in *Slezak v. Evatt*, the United States Court of Appeals for the Fourth Circuit relied on this test in determining that South Carolina law does not create a liberty interest in a particular custody or security classification. 21 F.3d at 594. Judge Anderson’s reliance on *Thompson* was proper.

SCDC Policy OP-22.09 makes it clear that visitation is a privilege – a privilege SCDC officials can grant, deny, or limit in their discretion. Therefore, applying the Supreme Court precedents *Thompson* and *Gonzales*, Appellant has no state created liberty interest in having any visitors, let alone the specific group of visitors of which he complains. Because no state created liberty or property interest is implicated in this case, Judge Anderson’s November 1, 2018 dismissal of this appeal was proper under *Slezak* and *Skipper*.

**II. THE ADMINISTRATIVE LAW COURT PROPERLY DISMISSED APPELLANT’S APPEAL BECAUSE RESPONDENT WAS NOT ARBITRARY OR CAPRICIOUS IN MAKING ITS FINAL AGENCY DECISION.**

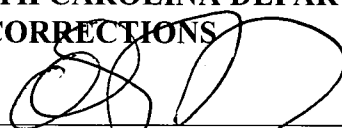
Appellant argues that SCDC’s final agency decision was arbitrary and capricious because disapproval of potential visitors who did not know the inmate prior to their incarceration is not in SCDC’s visitation policy. Final Brief of Appellant, p. 3. However,

Alice Mascio explained her reasoning for denying these visitors in her response to Appellant's Request to Staff Member stating, "not knowing an inmate but wanting to visit [is] a security concern." R. 13. This was again explained to Appellant in the responses to his Step One and Two Grievances. R. 16 & 20. This decision was within the discretion allowed by SCDC Policy OP-22.09, "Inmate Visitation" which states, "SCDC reserves the right to suspend, restrict, deny, or terminate an inmate's or visitor's visitation privileges and/or telephone privileges due to legitimate concerns regarding the security and safety of the institution." R. 37. SCDC's final agency decision was based on concerns regarding institutional security and was within the limitations set by policy. It was not arbitrary or capricious.

#### **CONCLUSION**

The Administrative Law Court's decision below is supported by substantial evidence and is neither effected by legal error nor clearly erroneous in view of the whole record. Thus it should be upheld.

Respectfully submitted,  
**SOUTH CAROLINA DEPARTMENT  
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August 14, 2019

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT

Administrative Law Judge Ralph King Anderson, III

ALC Case No. 18-ALJ-04-0243-AP  
Appellate Case No. 2018-002046

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AUG 14 2019

SC Court of Appeals

Quincy Allen, #006019.....Appellant,

v.

South Carolina Department of Corrections.....Respondent.

**CERTIFICATE OF COUNSEL**

Undersigned counsel hereby certifies that the **Final Brief of Respondent** complies with Rule 211(b), SCACR, and also complies with the South Carolina Supreme Court's April 15, 2014, order entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

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August 14, 2019

6

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph King Anderson, III, Chief Administrative Law Judge

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*Final Reply Brief of Appellant*

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
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APPEAL FROM THE ADMINISTRATIVE LAW COURT

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***Final Reply Brief of Appellant***

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## IN REPLY

Quincy Allen replies to the South Carolina Department of Corrections (“SCDC”) Brief of Respondent as follows.

**I. Liberty Interest.**

The SCDC, much like the court below, relies on *Kentucky Dep’t of Corr. v. Thompson*, 490 U.S. 454 (1989) to argue Mr. Allen does not have a liberty interest, regarding visitation, that was created by the State. Brief of Respondent at 4-7. *Thompson*, however, actually holds “an individual claiming a protected interest must have a legitimate claim of entitlement to it. Protected liberty interests ‘may arise from two sources—the Due Process Clause itself and the laws of the States.’” *Id.* at 460 (quoting *Hewitt v. Helms*, 459 U.S. 460, 468 (1983)). Although *Thompson* recognized “unfettered visitation” is not guaranteed by the Due Process Clause, the Court also reminded, “This is not to say that a valid conviction extinguishes every direct due process protection.” *Id.* Mr. Allen does not claim a right to “unfettered visitation.” Rather, he protests the SCDC denying him visitation to an entire class of visitors—anyone he met after his incarceration—without conducting an individualized determination. Because the SCDC failed to conduct an individualized determination, Mr. Allen has a liberty interest pursuant to the Due Process Clause<sup>1</sup> in visitation regarding the issue presented in this litigation.

The SCDC’s brief does not address the distinction between the facts before the Court in *Thompson* and the issue presented to this Court in the current appeal. The *Thompson* Court explained:

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<sup>1</sup> U.S. Const. Am. XIV; *see also* S.C. Const. Art. I, § 3.

This particular litigation was prompted in large part by two incidents when applicants were denied the opportunity to visit an inmate at the reformatory. The mother of one inmate was denied visitation for six months because she brought to the reformatory a person who had been barred for smuggling contraband. Another inmate's mother and woman friend were denied visitation for a limited time when the inmate was found with contraband after a visit by the two women. In both instances the visitation privileges were suspended without a hearing. The inmates were not prevented from receiving other visitors.

*Thompson*, at 458. *Thompson* thus “involve[d] a denial of prison access to particular visitors, not a general ban on all prison visitation.” *Id.* at 465 (Kennedy, J. concurring). “Nothing in the Court’s opinion forecloses the claim that a prison regulation permanently forbidding all visits to some or all prisoners implicates the protections of the Due Process Clause in a way that the precise and individualized restrictions at issue here do not.” *Id.*

Here, the SCDC did not make an individualized determination specific to Mr. Allen and his proposed visitors. The SCDC banned an entire class of visitors. The suspension of visitation in *Thompson* was temporary. The ban in Mr. Allen’s case is permanent. Mr. Allen asserts that placing a permanent ban on an entire class of visitors, without any individualized determination, implicates the protections of the Due Process Clause. As discussed below, the SCDC policy involved in this appeal is arbitrary and capricious.

## **II. Arbitrary and Capricious.**

The SCDC argues its policy is not arbitrary and capricious because “Alice Mascio explained her reasoning for denying these visitors in her response to [Mr. Allen’s] Request to Staff Member stating, ‘not knowing an inmate but wanting to visit [is] a

security concern.”<sup>2</sup> Brief of Respondent at 7-8. Two hypotheticals illustrate exactly why this policy is arbitrary and capricious.

First, many people sentenced to the SCDC associated with people who engaged in criminal conduct prior to their incarceration. They might have committed crimes together. They might have consumed illegal drugs together. Sadly, family members sometimes introduce a person to criminal activity or illicit drug use. The SCDC could conclude that knowing an inmate prior to the inmate’s incarceration and wanting to visit that inmate is a security concern and, therefore, prohibit visitors that knew the inmate prior to incarceration. If the SCDC decides to combine such a policy with the policy at issue in Mr. Allen’s case, then the SCDC would effectively ban all visitation.

Second, the SCDC policy involved in Mr. Allen’s case does not operate as a complete ban of the proposed visitor from visiting the institution. For example, Inmate A knew Visitor A prior to his incarceration. Inmate B did not know Visitor A prior to his incarceration. Under the SCDC’s policy, Visitor A is allowed to visit Inmate A but not Inmate B. There is no rational reason to believe Visitor A poses a security risk for wanting to visit Inmate B while still allowing Visitor A entry to the institution to visit Inmate A.

Additionally, the policy at issue in Mr. Allen’s case is at odds with the SCDC’s values expressed by its volunteer program. A copy of the SCDC website for “Volunteers” is attached to this brief.<sup>3</sup> The website states:

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<sup>2</sup> This policy is not a written policy.

<sup>3</sup> Found at <http://www.doc.sc.gov/programs/volunteers.html> (last viewed April 2, 2019).

Winston Churchill once said, “We make a living by what we do, but we make a life by what we give.” Volunteers are special people who unselfishly donate their time and energy towards inmates in need. They are the cherished resources of the South Carolina Department of Corrections. They supplement staff, provide programs and services that might not otherwise be available, and bridge the gap between the community and the correctional setting. There are no special education, race, sex, religion, or marital status requirements — just a desire to work with those less fortunate and a willingness to learn and follow the rules.

The SCDC volunteers provide inmates counseling, education, mentoring, pre-release preparation, recreation, and religious programs. Volunteers instruct seminars and sponsor Alcoholic Anonymous and Narcotics Anonymous groups. In essence, volunteers are a part of inmates’ rehabilitation. Volunteers must “[s]ubmit an application” and “[a]bide by all Agency policies, in particular, the contraband policy.”<sup>4</sup>

That Mr. Allen has meet people that take an active interest in his personal growth, development, and rehabilitation speaks well of both Mr. Allen and his new friends. Mr. Allen acknowledges his proposed visitors must submit applications for visitation, otherwise qualify for visitation, and abide by all Agency policies. Mr. Allen merely asks this Court to require the SCDC to make that individualized determination.

(conclusion on next page)

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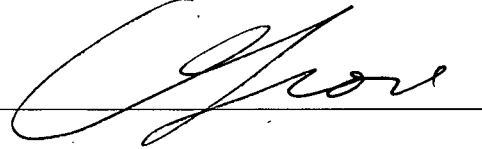
<sup>4</sup> *Id.* at 2.

**CONCLUSION**

For the reasons set forth in the Brief of Appellant and this reply brief, this Court should reverse the Administrative Law Judge and remand for a determination on the merits because Quincy Allen has liberty interests in rehabilitation and visitation with members of the general public.

Respectfully Submitted,

By



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*Attorney for Appellant Quincy Allen*

June 28, 2019  
Greenwood, South Carolina

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph King Anderson, III, Chief Administrative Law Judge

---

Appellate Case No. 2018-002046

---

Quincy Allen, ..... Appellant,

v.

South Carolina Department of Corrections, ..... Respondent.

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***Rule 211(b), SCACR Certification***

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The Final Reply Brief of Appellant Complies with Rule 211(b), SCACR.



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**RECEIVED**

JUL 09 2019

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
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Appellate Case No. 2018-002046

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Quincy Allen, ..... Appellant,

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South Carolina Department of Corrections, ..... Respondent.

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*Record on Appeal*

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**RECEIVED**

JUL 09 2019

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
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APPEAL FROM THE ADMINISTRATIVE LAW COURT

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***Record on Appeal***

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**STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT**

Quincy Allen, # 6019,	)	Docket No. 18-ALJ-04-0243-AP
	)	
Appellant,	)	
	)	
vs.	)	<b>ORDER GRANTING</b>
	)	<b>MOTION TO DISMISS</b>
South Carolina Department of Corrections,	)	
	)	
Respondent.	)	
_____	)	

This matter is before the South Carolina Administrative Law Court (the ALC or the Court) pursuant to an appeal filed by Quincy Allen (Appellant), an inmate incarcerated with the South Carolina Department of Correction (SCDC or Department).

On March 21, 2018, Appellant filed a Step 1 Grievance contesting SCDC’s visitation policy because SCDC denied his request for visitation rights with people whom he did not know prior to his incarceration in August 2002. The Warden denied the grievance. After Appellant’s Step 2 Grievance was denied, he filed his Notice of Appeal on May 21, 2018. The Notice of Assignment was filed June 1, 2018. The Record on Appel was filed August 10, 2018. Appellant filed his brief on August 29, 2018.

The Department filed a Motion to Dismiss (Motion) on September 19, 2018. In the Motion, the Department asserts that the appeal should be dismissed because Appellant’s complaint does not involve a state-created interest. Appellant filed a response to the Motion on October 1, 2018. In his response, Appellant asserts that visitation is a state-created liberty interest because the South Carolina Constitution mandates rehabilitation for inmates and SCDC policy states that one of the primary goals of visitation is to rehabilitate inmates.

**DISCUSSION**

The Court’s jurisdiction to hear this matter is derived from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). In *Al-Shabazz*, the Court held that the ALC’s jurisdiction in inmate appeals is limited to state-created liberty interests typically involving: (1) cases in which an inmate contends that prison officials

**FILED**

November 1, 2018

SC ADMIN. LAW COURT

R. 1

have erroneously calculated his sentence, sentence-related credits, or custody status; and (2) cases in which an inmate has received punishment in a major disciplinary hearing as a result of a serious rule violation. *Id.* at 382; 527 S.E.2d at 757. “The only way for the [ALC] to obtain subject matter jurisdiction over [an inmate’s] claim is if it implicates a state-created liberty interest.” *Sullivan v. S.C. Dep’t of Corr.*, 355 S.C. 437, 443, 586 S.E.2d 124, 127 (2003). Thus, in *Slezak v. S.C. Dep’t of Corr.*, 361 S.C. 327, 331, 605 S.E.2d 506, 508 (2004), the South Carolina Supreme Court explained that while the ALC has jurisdiction over properly filed inmate grievance appeals, summary dismissal is appropriate “where the inmate’s grievance does not implicate a state-created liberty or property interest.” *See also Skipper v. S.C. Dep’t of Corr.*, 370 S.C. 267, 633 S.E.2d 910 (Ct. App. 2006) (finding dismissal of inmate’s appeal appropriate because his grievance did not implicate a state-created liberty interest).

In the present case, Appellant asserts that he has a state created liberty interest in visitation with persons of his choosing because SCDC policy states that one of the primary goals of visitation to inmates is rehabilitation. In determining whether a SCDC regulation creates a protected liberty interest, the courts look to whether the state has imposed “substantive limitations on official discretion.” *Kentucky Dep’t of Corr. v. Thompson*, 490 U.S. 454, 462 (1989). “[T]he most common manner in which a State creates a liberty interest is by establishing ‘substantive predicates’ to govern official decision-making, and, further, by mandating the outcome to be reached upon a finding that the relevant criteria have been met.” *Id.* (citation omitted). Here, Appellant established neither. Moreover, “[t]he denial of prison access to a particular visitor ‘is well within the terms of confinement ordinarily contemplated by a prison sentence.’” *Ky. Dep’t of Corr. v. Thompson*, 490 U.S. at 461, (quoting, in part, *Hewitt v. Helms*, 459 U.S. 460, 468, 103 S.Ct. 864, 74 L.Ed.2d 675 (1983)). Thus, this Court thus finds that there is no state-created liberty interest in visitation, much less visitation with specific persons of his choosing.

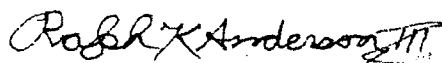
Here, Appellant has not been denied visitation. He has only been denied visitation with persons Appellant did not know prior to his incarceration; however, he may communicate with these persons via telephone or letter. Therefore, a state-created liberty interest has not been implicated in this case, and this Court takes a hands off approach to internal prison matters. *See Al-Shabazz*, 338 S.C. at 382, 527 S.E.2d at 757 (“Courts traditionally have adopted a ‘hands off’ doctrine regarding judicial involvement in prison disciplinary procedures and other internal prison

matters, although they must intercede when infringements complained of by an inmate reach constitutional dimensions.”). Accordingly, summary dismissal is appropriate in this case. *See Slezak*, 361 S.C. at 331, 605 S.E.2d at 508.

**IT IS THEREFORE ORDERED** that the Motion to Dismiss is **GRANTED**.

**IT IS FURTHER ORDERED** that this appeal is **DISMISSED WITH PREJUDICE**.

**AND IT IS SO ORDERED.**



---

Ralph King Anderson, III  
Chief Administrative Law Judge

November 1, 2018  
Columbia, South Carolina

IN THE STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Appeal from a Final Decision of  
South Carolina Department of Corrections

Case No: 18-ALC-0243  
Grievance No: MSU 25-18

Quincy Allen.....Appellant,

vs.

South Carolina Department of Corrections.....Respondent.

Quincy Allen #6019  
Kirkland CI, MSU 0029-A  
4344 Broad River Rd.  
Columbia, SC 29210

*Other Counsel:*  
General Counsel  
South Carolina Department of Corrections  
P.O. Box 21787  
Columbia, SC 29221

**STATEMENT OF ISSUES ON APPEAL**

1. The South Carolina Department of Corrections (SCDC) is using arbitrary and capricious unwritten policies and procedures to disapprove law-abiding citizens from visiting inmates.
2. The SCDC is disregarding and overlooking their written policies and procedures regarding visitation of inmates.
3. The SCDC is misapplying written policies and procedures in an overly broad and equivocal manner.
4. The SCDC deprived me of my right to due process and a fair grievance resolution.

**STATEMENT OF THE CASE**

On March 15, 2018 I wrote an informal resolution to the SCDC Visitation Department Branch Chief Alice Mascio in the hopes that the SCDC would discontinue the practice of disapproving visitors simply because they did not know an inmate prior to his/her incarceration (*Attachment 1*). The SCDC responded on March 19, 2018 stating that not knowing an inmate prior to his incarceration and wanting to visit that inmate was cause for a security concern. On March 21, 2018 I filed a Step 1 Grievance form in an attempt to have the SCDC stop the automatic denial of visitation approval simply for not knowing an inmate prior to his incarceration (*Attachment 2*). I also wrote another informal request to Alice Mascio on March 26, 2018 informing her that it was my prior attorney that had applied to visit me and inquiring if he would be added to my approved visitor list (*Attachment 3*). I got a response on March 28, 2018 stating that if the individual did not know me prior to my incarceration they are not eligible to be added to visitation list. My Step 1 Grievance form was denied by Warden Davis on March 29, 2018 stating that the SCDC feels that not knowing an inmate prior to incarceration is a security concern (*See Attachment 2*).

I filed a Step 2 Grievance form on March 30, 2018 to challenge Warden Davis' determination (*Attachment 4*). That grievance form was denied by Alice Mascio on May 11,

2018. I served the SCDC with a notice of appeal to the Administrative Law Court on May 18, 2018. I also wrote a letter to the SCDC Office of General Counsel on the same day inquiring as to why Alice Mascio was allowed to review her on decision during the grievance process, but their reply on June 4, 2018 did not answer the question (*Attachments 5 & 6*).

#### ARGUMENT

1. The SCDC is using arbitrary and capricious unwritten policies and procedures to disapprove law-abiding citizens from being able to visit inmates.

The SCDC response to the denial of several people who applied to be added to my visitation list is that they consider not knowing an inmate, but wanting to visit him/her, a security concern. This is arbitrary and capricious because it is not addressed in *any written policy or procedure* promulgated by the SCDC, which is legally significant because all of their other concerns dealing with visitation approval are addressed in writing.

I have been in the SCDC since 2004. I have been through several rounds of appeals and I have gotten to know many lawyers. Michael Siem (Siem) has known me for over 7 ½ years. Siem is my prior attorney and lives in Brooklyn, NY. Due to his work schedule and demands on his time, he would prefer to visit me on the weekends during personal visitation hours. Brie Russell is a lawyer in Columbia, SC and I have gotten to know her and her family. Her mother and sister send me words of encouragement and books to keep my mind busy. I do not have a lot of family or friends in my life and rely heavily on my current and former legal teams for friendship and support. They help me strive to continue to grow as a person even under my current circumstances. The conditions on death row do not allow for much human interaction and we do not even have a window to see outside. Ms. Russell's mother, father and sister would also like to be able to visit me during regular visitation hours.

Each of the individuals noted above are law-abiding, productive citizens and simply because I was not fortunate enough to have met them prior to my incarceration, the SCDC has denied them approval to be added to my visitation list. It should be noted that as a death row inmate I am not even permitted to have contact visitation with friends and family. All of my personal visits are in glass booths with telephone receivers.

The application for visitation contains six questions (*See Attachment 7*). Questions 1-5 of the application are all addressed by the SCDC O.P. 22.09 (*See Attachment 8*). Question 6 asks “did you know the inmate prior to his/her incarceration?” but this question is not rooted in *any written policy or procedure* regarding the SCDC visitation process (unlike the first five questions).

Every one of the people I referenced earlier appropriately filled out an application to visit me and each of them was returned to the applicant stamped “Disapproved” and Question 6 was circled (*See Attachment 9*). Because Question 6 is not addressed in any written policy or procedure, as the other 5 questions are, this should not be the sole basis for denying an individual the ability to be an approved visitor for an inmate. It is too overly broad and vague, and is being used to deny perfectly law-abiding friends to visit me.

The SCDC O.P. 22.09 states that “[i]t is the practice of the SCDC to enable and encourage inmates, consistent with the security and classification requirements, to visit with family members and friends. Visiting will be conducted in an accommodating manner, keeping with the need to maintain order and provide for the security and safety of persons and of each institution. Inmate visitation will be conducted in accordance with the provisions of this policy/procedure...”

The SCDC is not enabling or encouraging me to be able to visit with my friends because they are using an arbitrary and capricious standard to deny my friends visitation approval. The SCDC

is in fact discouraging me from visiting with my friends. This, in turn, has a negative impact on my attitude, my mental health, my outlook on life and my rehabilitation.

Simply wanting to visit a person one came into contact with after that person's incarceration does not make one a security threat. There are a number of security measures in place that ensure the safety of persons and institutions. When visitors enter onto the SCDC premises they become subject to search, both their persons and their vehicles, including with the use of drug dogs. When an individual enters Kirkland Correctional Institution to visit a death row inmate, they pass through a metal detector and are patted down by an officer. All of their belongings are searched thoroughly and most belongings are not even allowed inside of the institution at all. Once the visitor enters in to the death row building, they again have to clear a metal detector and a wand search. The visit is then conducted entirely behind glass though a telephone and no direct contact is made with the inmate being visited. Furthermore the visits are completely monitored by the SCDC.

Additionally, after I inquired as to whether my former attorney would be allowed to have a no contact personal visit with me as my friend, I was told that he would be allowed to schedule a legal visit as an attorney, but because he didn't know me prior to my incarceration, he would not be allowed to visit as my friend due to security concerns. This makes entirely no sense, and completely reveals the arbitrary nature of the denial, because lawyers are actually allowed contact visits with death row inmates.

2. The SCDC is disregarding and overlooking their written policies and procedures regarding inmate visitation.

The SCDC is disregarding and overlooking O.P. 22.09 Procedure 4.6: Addition to Inmate's Approved Visiting List. It states that "[v]isitors may be added to an inmate's approved visiting list at any time, provided that the addition of the visitor(s) does not cause the inmate to

exceed the 15 visitor limit...The proposed visitor must complete and mail a copy of [the visitation application] for approval pursuant to Procedure 4.2 - 4.4, above, and if necessary Procedure 5.1 – 5.10” (see Attachment 8).

If the SCDC adhered to this written procedure then my prospective visitors would have been approved to visit me because O.P. 22.09 4.2 - 4.4 does not disqualify them from being approved simply for not knowing me before coming to prison. Additionally, 5.1 – 5.10 do not apply to my proposed visitors and they should not have been disapproved.

3. The SCDC is misapplying written policies and procedures in an overly broad and equivocal manner.

The SCDC O.P. 22.09 Procedure 1.4 states “[i]nmate visitation is considered a privilege and it not considered a guaranteed right. Therefore, the SCDC reserves the right to suspend, restrict, deny, or terminate an inmate’s or visitor’s visitation privileges and/or telephone privileges due to **legitimate concerns** regarding the security and safety of the institution” (emphasis added)(See Attachment 8 Procedure 12-18).

The SCDC has no legitimate basis, nor any evidence whatsoever, for postulating that my proposed visitors are a threat to the security and safety of the institution, staff, or others. None of them have a criminal record nor have they ever been arrested. In fact each of them is a pillar within her/his community. The fact that they did not know me prior to my incarceration is not a legitimate concern for safety. This is entirely too broad to be the sole basis for a denial of a visitor being added to an inmate’s approved visitor list.

Furthermore, I argue that Procedure 1.4 does not have anything to do with prospective visitors at all. I believe that it applies to inmates and visitors who have already been approved and may break some rule during an actual visit.

4. The SCDC deprived me of my right to due process and a fair grievance resolution.

I was deprived of my right to due process and a fair grievance resolution because the SCDC allowed and/or enabled Visitation Department Branch Chief Alice Mascio to render the decision on my informal resolution and then she also rendered the final decision on my Step 2 grievance. An independent party from the Division of Operations should have rendered a final decision because they are the responsible authority over inmate visitation. Alice Mascio had already weighed in with her opinion during the informal resolution step and cannot be expected to objectively review her own prior decision. There is a 3-step process of review – 1. informal resolution, 2. Step 1 Grievance and then 3. Step 2 Grievance – the same person should not be allowed to render decisions at the different steps of the process, otherwise the review process is rendered meaningless.

### CONCLUSION

The SCDC should not bar a prospective visitor from being added to an inmate's approved visitor list solely on the basis that the individual did not know the inmate prior to his/her incarceration. This basis of denial is arbitrary, capricious, overly broad and not rooted in any legitimate concern for the safety and security of the SCDC. Furthermore, the SCDC should not allow the same person to review multiple steps of the grievance process because it renders the review meaningless.

Respectfully submitted,

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Kirkland CI, MSU 0029-A  
4344 Broad River Rd.  
Columbia, SC 29210

August \_\_\_\_\_, 2018.  
Columbia, South Carolina



Attachment 1

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
REQUEST TO STAFF MEMBER

INMATE COPY

TO: NAME:	TITLE:	DATE:
Alice Mascio	Visitation Department Branch Chief	March 15, 2018
INMATE'S NAME:	SCDC #:	
Quincy Allen	00006019	
INSTITUTION:	LIVING QUARTERS:	
Kirkland	MSU0029A	

To:

I'm requesting that you stop disapproving visitation applications, just because the person didn't know me before my incarceration in August 2002. It's prejudicial and discriminatory! The people that want to see are my friends, and they have never been arrested and they don't have a criminal record. You're arbitrarily denying law abiding citizens, the opportunity to take time out of their weekends, to come and see me, because they love and support me. Especially when it the corrupt correctional officers, that are working in the contract! I've made some close friendships in the past 6 months and now they would like to visit me on Saturdays and Sundays. If you weren't attempting to arbitrarily deny law abiding citizens visitation privileges, then there wouldn't be a need for the Question 6: 'Did you know this inmate prior to his/her incarceration?' on SCDC Form 19-129 (Revised March 2017) why they've never been in trouble with the criminal justice system.

DISPOSITION BY STAFF MEMBER:

I/M Allen: Be advised that All previous visitation applications have asked "Did you know the inmate prior to incarceration?" We consider not knowing an inmate but wanting to visit a security concern. Therefore, I recommend that you communicate with them by mail/phone/messaging. If the applicants have questions they should leave a message on the Visitation Hotline.

DATE:	SIGNATURE:
3/19/18	Alice Mascio, Visitation & I/M OT

Attachment 2

INMATE GRIEVANCE FORM

APR 06 2018

STEP 1

INMATE NAME: <u>Quincy Jovan Allen</u>	OFFICE USE ONLY
SCDC NUMBER: <u>00006019</u>	Grievance No. <u>MSU 0025-18</u>
INSTITUTION: <u>Kirkland</u>	Code: General _____
HOUSING UNIT: <u>MSU0029A</u> <u>3-26-18</u>	Policy _____
WORK ASSIGNMENT: <u>N/A</u> <u>CS</u>	Disc. Hear. _____
	Class. _____
	PREA _____
	Date Received <u>MAR 27 2018</u>
	IGC Initials _____

STATEMENT OF GRIEVANCE (Indicate the date of incident, and if the grievance is a challenge to SCDC Policy, specify which policy. Include supporting documentation and attach answered RTSM or Kiosk reference number.)

I'm requesting that the SCDC Visitation Department Branch Chief's Office, stop denying law-abiding citizens the opportunity to visit me, for the simple reason that we didn't know each other prior to August 2002. I've met people since August 2002, that have said that they'd now like to visit me. Ms. Alice Muccio says that it's a security concern, if people want to visit me, that didn't know me even 16 years ago. People get married after only meeting a month in advance. SCDC has more than adequate security precautions in place to search incoming visitors, especially, since I don't have contact visits in the first place. It's not SCDC's job, to police who wants to take time out of their life, to come and visit with me on Saturdays and Sundays. Especially when the applicants have never been arrested or involved in the criminal justice system.

Quincy Allen March 21, 2018  
Grievant Signature Date

ACTION REQUESTED: I request that the applicants that want to visit with me, aren't denied the opportunity because they came in to my life after August 2002. These applicants aren't security risks/concerns.

ACTION TAKEN BY IGC:  PROCESSED  UNPROCESSED  OTHER

See Warden's Decision

PDove 3/28/18  
IGC Signature Date

(CONTINUE ON REVERSE SIDE)

**WARDEN'S DECISION AND REASON:**

Inmate Allen Quincy 6019;

This is in response to MSU-0025-18. Pertinent information and documentation has been reviewed. The RTSM that was returned to you from Ms. Mascio stated that the question you are referring to on the Visitation Application has been on ALL applications. SCDC feels that not knowing an inmate prior to incarceration is a security concern. You were also informed that the persons he is referring to can call the Visitation Division if they have any questions. You still has the option to communicate with them by mail and phone. You can refer to the Visitation Policy OP 22.09 for any further questions.

Based on this information, your requested action is denied. If not satisfied with my response, see Step 5 below.

Wally Nave 3-29-18  
Warden Signature Date

- I accept the Warden's decision and consider the matter closed.  
 I do not accept the Warden's decision and wish to appeal.

Quincy Allen March 30, 2018  
Grievant Signature Date

None 3/30/18  
IGC Signature Date

**INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM**

1. An informal resolution shall be attempted prior to the filing of Step 1 by sending an Inmate Request to Staff Member (RTSM) form or Kiosk reference number to the appropriate supervisor. A copy of the answered RTSM must be attached to the grievance when the grievance is filed.
2. Complete each section in its entirety writing only in the space provided for inmate use. No additional pages will be permitted.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form by placing it in the Grievance Box at your institution within eight (8) working days of the date on the RTSM response; policy grievances can be filed at any time. Disciplinary and Classification Review appeals must be submitted within five (5) working days of the hearing/review. Do not write in the space provided for the Warden's response.
5. If you are not satisfied with the Warden's decision, you may appeal to the appropriate responsible official within five (5) days of your receipt of the Warden's decision, by placing your Step 2 appeal form in the Grievance Box at your institution.

Attachment 3

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
REQUEST TO STAFF MEMBER

TO: NAME:	TITLE:	DATE:
Alice Mascio Visitation Dept. Branch Chief		March 26, 2018
INMATE'S NAME:		SCDC #:
Quincy Allen		00006019
INSTITUTION:		LIVING QUARTERS:
Kirkland		MSU0029A

TO:

A couple of my former attorneys, are going to submit applications, so that they can now visit me as friends, on the weekends. Will their applications be approved, even though they didn't know me before my incarceration, but they did get to know me after my incarceration, while they were representing me in the South Carolina court system, since August 2002?

Thank You,  
Quincy Allen

DISPOSITION BY STAFF MEMBER:

IM Allen: Again if an individual didn't know you before incarceration they are not eligible. If they request to see you as an attorney, they go through a different office.

DATE:	SIGNATURE:
3/28/18	Alice Mascio, Visitation and IM DT

Attachment 4

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
INMATE GRIEVANCE FORM

DUE: 7/4/18

STEP 2

APR 10 2018

INMATE NAME: Quincy Jovan Allen  
 SCDC NUMBER: 00006019  
 INSTITUTION: Kirkland ✓  
 HOUSING UNIT: MSU0029A  
 WORK ASSIGNMENT: N/A

4-4-18  
CA

Office Use Only  
 Grievance No. MSU-0025-18  
 Code: General VS - VS  
 Policy \_\_\_\_\_  
 Disc. Hear. \_\_\_\_\_  
 Class. \_\_\_\_\_  
 Date Received APR 06 2018  
 IGC Initials QU

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): *As a Death Row inmate, I'm not allowed to have contact visits, so SCDC's feeling of someone not knowing me, before August 2002, being a security concern, is null and void, in addition to nonsensical. My former attorney, Michael Siem and his wife Audrey were denied on their application to visit me. Michael represented me from 2011-14 and he lives in Brooklyn, NY. He wants to come down a few times a year to visit me on the weekend. We had contact visits when he was my attorney and now he's my good friend. SCDC's current practice is inhumane, especially since you all have all the tools, to prevent contact from being walked in by visitors. These gadgets are part of you all's budget each year.*

Quincy Allen March 30, 2018  
 Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

I have reviewed your concern. In your grievance you stated that you would like the Visitation Department Branch Chief to stop denying law abiding citizens from visiting you for the simple reason that we did not know each other prior to August 2002. You further stated that people came into your life after August 2002 and you would like for them to have the opportunity to visit you. The Warden responded to your concern on SCDC Step 1 Inmate Grievance Form 10-5 dated 3/29/18. SCDC Policy OP-22.09, "Inmate Visitation," states that "Inmate visitation is considered to be a privilege and is not considered a guaranteed right. Therefore, the SCDC reserves the right to suspend, restrict, deny, or terminate an inmate's or visitor's visitation privileges and/or telephone privileges due to legitimate concerns regarding the security and safety of the institution." Although you may wish to have certain persons of your choice to be eligible to visit you, your incarceration at SCDC has limitations that must be followed for a number of reasons including but not limited to security. You have not shown that SCDC Staff have performed their job duties inappropriately.

Therefore, your grievance is denied.

You may appeal this decision under the South Carolina Administrative Procedures Act to the South Carolina Administrative Law Court. In order to appeal, you must complete the attached Notice of Appeal Form (Form) and submit it as instructed on the Form within thirty (30) days of receipt.

Chief Marcio 5/11/18  
 Signature Date

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

Quincy Allen May 16, 2018  
 Grievant Signature Date

PRONE 5/16/18  
 IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

1. Complete form in its entirety, writing only in the space provided for inmate use.
2. State your specific reason for further appeal. Do not submit any new issues for review.
3. Submit this completed form with your original Step 1 attached, to the Institutional Grievance Coordinator within five (5) days of your receipt of the Warden's decision. Do not write in the space provided for the responsible official.
4. The decision rendered by the responsible official exhausts the appeal process of the SCDC Inmate Grievance Procedure.

Attachment 5

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
REQUEST TO STAFF MEMBER

A. 76  
**RECEIVED**  
MAY 22 2018  
GENERAL COUNSEL

TO: NAME: <i>Office Of General Counsel</i>	TITLE:	DATE: <i>May 18, 2018</i>
INMATE'S NAME: <i>Quincy Allen</i>	SCDC #: <i>00006019</i>	
INSTITUTION: <i>Kirkland</i>	LIVING QUARTERS: <i>MSU0029A</i>	

*Why was Alice Mascio allowed to deny my informal resolution and then allowed to decide my Step 2 grievance final decision?*

*She was not going to over rule herself, after Warden Willie Davis upheld her informal resolution response to me.*

*Thank You,*

*Quincy Allen*

DISPOSITION BY STAFF MEMBER:

**RECEIVED**  
MAY 24 2018  
INMATE GRIEVANCE

DATE:	SIGNATURE:
-------	------------

Attachment 6

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
OFFICE OF GENERAL COUNSEL—INMATE GRIEVANCE BRANCH  
INMATE CORRESPONDENCE**

INMATE: Quincy Allen | 006019  
 INSTITUTION: Kirkland Correctional Institution | S-0115-A  
 FROM: Atty. Sherman L. Anderson, Chief  
 Inmate Grievance Branch | Office of General Counsel  
 SUBJECT: RTSM Dated 5/18/18 | Received June 1, 2018  
 DATE: June 4, 2018, 2018

I am in receipt of your inmate correspondence/Request to Staff Member. Your correspondence is being returned in accordance to SCDC Policy, GA-06.04, Request to Staff Member and returned to you for one or more of the following reasons as highlighted below:

1. Inmates must use the correct form (Request to Staff Member SCDC 19-11). Attachments will NOT be accepted.
2. Inmates are only allowed to submit one issue per RTSM, which must be written legibly (to the appropriate area) and must be limited to a single sheet.
3. Inmates are prohibited from sending a duplicate or similar RTSM to multiple staff members.
4. The RTSM is intended for use by an individual inmate (An inmate may not send a RTSM from multiple inmates).
5. You must enter your concerns through the KIOSK Automated Request to Staff Member System.
6. Your request for a transfer should be directed to SCDC Classification Case Worker/Manager.
7. Your medical issues can be addressed by requesting sick calls at your local institution.
8. State one issue that is a problem so that it can be fully addressed.
9. Please refrain from sending multiple RTSMs addressed to multiple areas. We only review Grievance issues.
10. Grievances MUST be placed in the box marked "Grievance" at your local institution before it will be considered.
11. Please review Policy GA-06.04, Request to Staff Member" for proper procedures on how to address your issues. Emergency grievances must come through the IGC's office.
12. **Contact your local Inmate Grievance Coordinator for assistance in filing grievance.**
13. Grievances must filed within timeframes as stated in Grievance Policy.
14. If you have not received a response to your RTSM after 45 days, you may file a grievance.
15. Your grievance is being processed at the Central Office. Please wait for a response.
16. Step 2 Grievances have up to 90 days to be answered. There are two months remaining.
17. Use of the grievance system for frivolous complaints will result in placing limitations.
18. **Other: You have not raised an issue that contradicts SCDC Policies. You are advised to follow SCDC rules, policies and procedures as well as any persons who may visit you.**

Attachment 7

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
REQUEST FOR VISITING PRIVILEGES

A. 80

INMATE NAME: \_\_\_\_\_

INMATE SCDC#: \_\_\_\_\_

RELATIONSHIP TO INMATE: \_\_\_\_\_

(I am the Inmate's: Mother, Father, Brother, Sister, Spouse, Child, Friend, etc.)

**RETURN COMPLETED  
FORM TO:**  
SCDC VISITATION & IM DT  
P. O. BOX 212969  
COLUMBIA, SC 29221

**PLEASE READ CAREFULLY:** The **ONLY** minors (under 18 yrs. of age) that may apply to visit are the inmate's children, brothers/sisters, step-children, grandchildren, or step-grandchildren. The relationship **MUST** be verified by attaching a "photocopy" of the minor's long-form, certified birth certificate. Minor nieces/nephews are not eligible until the inmate has been incarcerated with SCDC for at least three (3) consecutive years **AND** meets all other specific criteria per policy OP-22.09, "Inmate Visitation."

The inmate named above has requested that you apply for visitation privileges with him/her within the South Carolina Department of Corrections (SCDC). In order for your application to be considered, you must provide the following information. If you do not fully complete the application, it will not be processed. (NOTE: If you do not wish to provide your social security number (SS#), please complete the form, leaving off the number and attach a "photocopy" of your driver's license/state ID.) **BE ADVISED. IT WILL TAKE ADDITIONAL TIME TO PROCESS.** (In cases where you do not have a SS#, attach a "photocopy" of your Passport/US VISA.)

If you have any questions regarding this process, please call the **Visitation Hotline (803-896-1838) & leave a message.**

**SOCIAL SECURITY NUMBER:**    -    -     (Must be legible - print carefully)

**LEGAL NAME:** \_\_\_\_\_  
Last First Middle

**RACE:** \_\_\_\_\_ **SEX:** M  F  **DATE OF BIRTH:**   /   /     **AGE:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_  
(Physical address as shown on your picture I.D.)

**CITY:** \_\_\_\_\_ **STATE:**   **ZIP CODE:**

**MAILING ADDRESS (If different):** \_\_\_\_\_

**PHONE NUMBER:**    -    -        
(Area Code)

**DRIVER'S LICENSE OR STATE I.D. NUMBER:** \_\_\_\_\_ **STATE OF ISSUE:**

**HEIGHT:** \_\_\_\_\_ **WEIGHT:** \_\_\_\_\_ **HAIR COLOR:** \_\_\_\_\_ **EYE COLOR:** \_\_\_\_\_

Please answer the following questions. **NOTE:** If you answer YES to Questions #1, #2, #3 and/or #5, you **MUST** be an immediate family member to be considered for visitation privileges.

1. Are you currently or have you ever been employed or performed contract or volunteer services for SCDC?

YES  NO

If yes, where? \_\_\_\_\_ When \_\_\_\_\_

2. Have you ever been incarcerated at the South Carolina Department of Corrections or any other state/federal (not county) correctional institution (prison)?

YES  NO

3. Are you presently on parole, probation, or other supervision by either the South Carolina Department of Probation, Parole, and Pardon Services, or any other state/federal agency?

YES  NO

**NOTE:** If YES, you must attach written authorization on official letterhead from your supervising agency.

**\*\*This request will still require review and authorization from SCDC.\*\***

INMATE NAME: \_\_\_\_\_

SCDC NUMBER: \_\_\_\_\_

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4. Have you **EVER** been convicted of a crime of any kind, misdemeanor/felony? If yes, list the information below. Attach a separate sheet of paper if necessary.

YES  NO

OFFENSE	DATE	PLACE	PENALTY (Fine, jail, prison etc.)

5. Do you have any pending criminal charges? If yes, list the information below. Attach a separate sheet of paper if necessary.

YES  NO

OFFENSE	DATE	PLACE	ANTICIPATED COURT DATE

6. Did you know this inmate prior to his/her incarceration? (Before he/she was in jail or prison.)

YES  NO  (You may be asked to verify how/when.)

**PLEASE READ THE FOLLOWING INFORMATION AND BE CERTAIN THAT YOU UNDERSTAND FULLY. YOUR SIGNATURE BELOW ACKNOWLEDGES THAT YOU HAVE READ AND UNDERSTAND THIS FORM AND HAVE PROVIDED ACCURATE AND FACTUAL INFORMATION TO EACH SECTION.**

**\*\*NOTICE TO ALL VISITORS:** It is a state crime to bring upon the institutional grounds any weapons, intoxicants, drugs, or other contraband of any kind. South Carolina Code of Laws, Section 24-3-950: It shall be unlawful for any person to furnish or attempt to furnish any prisoner under the jurisdiction of the Department of Corrections with any matter declared by the Director to be contraband. Any person violating the provisions of this section shall be deemed guilty of a felony and, upon conviction, shall be punished by a fine of not less than one thousand dollars nor more than ten thousand dollars or imprisonment for not less than one year nor more than ten years, or both. All persons entering upon the premises are subject to routine searches of their person and personal property to include vehicles. Upon reasonable suspicion that a person may be introducing contraband or upon any person demonstrating actions that might otherwise endanger institutional safety, security, or good order, the Warden/designee may require that the person submit to a visual search, pat search, or strip search as a prerequisite to his/her entry. Any refusal by a visitor to cooperate with a search will result in him/her being denied entry into the institution and his/her visitation privileges will be revoked by the Warden/designee.

I have read, understand and agree to the above rules. If I am approved to visit with an inmate, I also understand and agree to abide by the visiting guidelines established by the South Carolina Department of Corrections. I understand that falsification of any part of the information on this application will result in suspension or denial of visiting privileges. I also understand it is my responsibility to update my application if there is a change of address or if any information on items 1 - 5 are no longer valid. I hereby authorize the release to the South Carolina Department of Corrections any and all record(s) of criminal offenses for which I have been arrested and convicted.

Applicant Signature \_\_\_\_\_

Date \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

Applicant - print name \_\_\_\_\_

If the applicant is under the age of 18, the parent or legal guardian must sign and print their name below. If legal guardian, attach photocopy of documentation verifying relationship.

Parent/Legal Guardian \_\_\_\_\_

Date \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

Parent/Legal Guardian - print name \_\_\_\_\_

**(PHOTOCOPY OF LONG FORM BIRTH CERTIFICATE ATTACHED)**

\*\*\*\*\* Do not write below this line (Warden use only) \*\*\*\*\*

Approved / Disapproved: S/ \_\_\_\_\_

Warden

Date \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

SCDC Form 19-127 (Revised March 2017)

R. 28

Attachment 8

## SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

## MEMORANDUM

**TO:** All Policy Manual Holders

**FROM:** Mr. Robert E. Ward, Acting Director

**SUBJECT:** CHANGE 2 to OP-22.09, "INMATE VISITATION"

**DATE:** November 17, 2011

This change is effective immediately:

Section 6.1, amended as follows:

**6. RULES FOR VISITATION- INMATES:**

6.1 Inmates will be required to wear SCDC-issued shirts and pants during visits. Issued shoes, issued boots, issued bobos, and Oxford/hush puppy/buck type/*slip on* shoes or boots purchased at the canteen may be worn to visitation, but athletic/tennis/basketball type shoes purchased from the canteen cannot be worn. The inmate must be in compliance with OP-22.13, "Inmate Grooming Standards," or s/he will not be allowed to visit on that day. This rule is intended to stop visitors and inmates from trading shoes during visitation. All shirts must be tucked in and buttoned (if applicable) and each inmate's ID card must be visibly worn and displayed at all times. The only exception to SCDC-issued clothing will be for those inmates participating in the Work Program at a Pre-Release Center. These inmates may be permitted to wear personal shirts, pants, and shoes during visitation.

Policy Manual Holders should make the above changes to the Policy/Procedure and place this memo immediately in front of SCDC Policy/Procedure OP-22.09, "Inmate Visitation," in each of the Operations Manuals. Questions regarding this change should be directed to the Division of Operations.

**SIGNATURE ON FILE**

---

s/Robert E. Ward, Acting Director

**ORIGINAL SIGNED COPY MAINTAINED IN POLICY DEVELOPMENT.**

## SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

## MEMORANDUM

**TO:** All Policy Manual Holders

**FROM:** Mr. Bryan P. Stirling, Director

**SUBJECT:** CHANGE 3 to OP-22.09, "INMATE VISITATION"

**DATE:** July 27, 2015

This change is effective September 4, 2015:

**RESPONSIBLE AUTHORITY:** ~~INSPECTOR GENERAL~~ *DIVISION OF OPERATIONS*

**Section 9.1, amended as follows:**

**9. PROCEDURES FOR SEARCHES OF VISITORS:**

**9.1** As a matter of general security, visitors may be questioned at any time. When there is information that indicates a visitor possesses unauthorized items or contraband and/or is introducing or attempting to introduce unauthorized items/contraband into the institution, the visitor will be questioned. ~~If the results of the questioning and/or other facts and information support reasonable cause, the visitor will be asked to submit to a pat/frisk or strip search.~~

~~Note: The visitor retains the option of refusing to be searched, unless there is reason to detain and arrest.~~

~~However, refusal to be questioned or searched will result in suspension of the visitor's visitation as outlined in Procedure 15., "Visitor Suspension Chart," below.~~

**Sections 9.3.1 through 9.3.3, amended as follows:**

**9.3 Visitors Age 18 and Older:** (Changes in BLUE below, amended by Change 3, dated July 27, 2015.)

**9.3.1 Pat/Frisk Search:** *At level II and III institutions, visitors age 18 and older may will be pat/frisk searched in addition to successfully passing through the walk-through metal detector or transfrisker (where available) prior to being admitted into the institution.* ~~, based on a reasonable concern the visitor may be bringing in contraband or as a result of an alert from the transfrisker or metal detector, providing the visitor agrees in writing to be searched. The Warden/Designee will be contacted for approval of the search. Consent will be documented on SCDC Form 19-95, "Consent to~~

~~be Searched".~~ *Refusal to be searched will result in suspension of the visitor's visitation as outlined in Section 15.*

*9.3.2 All Pat/frisk searches of female visitors age 18 and older will always be conducted by employees of the same sex. Pat/frisk searches of male visitors age 18 and older may be conducted by employees of either sex. and Strip searches of visitors age 18 and older may be conducted based on a reasonable concern that the visitor may be bringing in contraband or as a result of an alert from the drug dog, transfrisker, metal detector, or pat/frisk search providing the visitor agrees in writing to be searched. The Warden/Designee will be contacted for approval of the strip search. Consent will be documented on SCDC Form 19-95, "Consent To Be Searched." Refusal to be searched will result in suspension of the visitor's visitation as outlined in Section 15.*

*9.3.3 Strip searches of visitors age 18 or older will be conducted by employees of the same sex as the visitor being searched. Strip searches will be conducted in a private area away from the view of others. During a strip search, the visitor will be required to disrobe and only a visual inspection of the visitor will be made by the officers. Clothing will be physically inspected to ensure the absence of contraband.*

**Section 9.4, amended as follows:**

*9.4 Visitors (MINORS) at Least 12 Years Old and Less Than 18 Years Old: Pat/frisk or strip searches may be conducted based on a reasonable concern that the visitor may be bringing in contraband, or as a result of an alert from the drug dog, transfrisker or metal detector. All pat/frisk searches and strip searches will be conducted by employees of the same sex as the visitor. The Warden/Designee will be contacted for approval of the pat/frisk or strip search. The same procedures outlined for adults 18 years of age and over apply; however, the minor's parent, legal guardian, or authorized adult must consent to the search of the minor and must be present during the search. Parental, legal guardian, or authorized adult consent must be documented on SCDC Form 19-95, "Consent to be Searched."*

**Section 9.5, amended as follows:**

*9.5 Visitors (MINORS) Under the Age of 12: Pat/frisk or strip searches may be conducted based on a reasonable concern that the visitor may be bringing in contraband, or as a result of an alert from the drug dog, transfrisker or metal detector. All pat/frisk searches and strip searches will be conducted by employees of the same sex as the visitor. The Warden/Designee will be contacted for approval of the pat/frisk or strip search. Consent will be documented on SCDC Form 19-95, "Consent To Be Searched." The same procedures outlined for minors at least 12 years of age but less than 18 apply; however, the minor's parent, legal guardian, or authorized adult will be required to disrobe the child or assist the child in disrobing.*

**Section 9.6, amended as follows:**

*9.6 Refusal to be Questioned/Searched: The visitor retains the option of refusing to be searched, unless there is reason to detain and arrest. Any visitor who refuses to be questioned, who refuses to consent to be searched, or who refuses to allow a minor to be*

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questioned or searched will be subject to visitation suspension as outlined in Procedure *Section 15*, "Visitation Suspension Chart," below.

Policy Manual Holders should make the above changes to the Policy and place this memo immediately in front of SCDC Policy OP-22.09, "Inmate Visitation," in each of the Operations Manuals. Questions regarding this change should be directed to the Division of Operations.

**SIGNATURE ON FILE**

---

s/Bryan P. Stirling, Director

---

Date of Signature

**ORIGINAL SIGNED COPY MAINTAINED IN THE OFFICE OF POLICY DEVELOPMENT**

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

MEMORANDUM

**TO:** All Policy Manual Holders  
**FROM:** Mr. Bryan P. Stirling, Director  
**SUBJECT:** CHANGE 4 to OP-22.09, "INMATE VISITATION"  
**DATE:** January 22, 2015

**This change is effective immediately:**

**7. RULES FOR VISITATION - VISITORS:**

**Section 7.1.5, amended as follows:**

~~7.1.5 At institutions that continue to utilize blue-jean denim inmate uniforms (shock units), visitors will be prohibited from wearing blue jeans/shorts or blue denim pants/shorts. Denim jeans/shorts other than the color blue will be allowed.~~

**NOTE:** Sections 7.1.6 through 7.1.10 will be renumbered accordingly due to the deletion of Section 7.1.5.

**Sections 7.1.10, amended as follows:**

~~7.1.10~~ **7.1.9** No jewelry except wedding ring, *one pair of earrings*, one (1) religious medallion *on a necklace or chain*, one (1) wristwatch, and a medical alert bracelet. **NOTE:** *Activity fitness trackers and smart watches are NOT permitted.* (Changes in RED, amended by Change 4, dated January 22, 2016.)

Policy Manual Holders should make the above changes to the Policy and place this memo immediately in front of SCDC Policy OP-22.09, "Inmate Visitation," in each of the Operations Manuals. Questions regarding this change should be directed to the Division of Operations.

**SIGNATURE ON FILE**

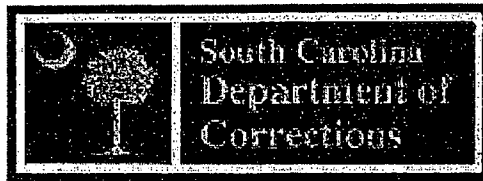
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s/Bryan P. Stirling, Director

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**Date of Signature**

**ORIGINAL SIGNED COPY MAINTAINED IN THE OFFICE OF POLICY DEVELOPMENT**



**SCDC POLICY/PROCEDURE**

**Change 1 to OP - 22.09 :** 3.0, 5.2, 5.3, 5.8.2, 5.9, 7.2

**Change 2 to OP-22.09:** 6.1

**Change 3 to OP-22.09:** 9.1; 9.3.1; 9.3.2; 9.3.3; 9.4; 9.5; 9.6

**Change 4 to OP-22.09:** 7.1.5; 7.1.9

**NUMBER:** OP-22.09

**TITLE:** INMATE VISITATION

**ISSUE DATE:** August 1, 2006

**RESPONSIBLE AUTHORITY:** INSPECTOR-GENERAL *DIVISION OF OPERATIONS*

**OPERATIONS MANUAL:** OPERATIONS

**SUPERSEDES:** OP-22.09 (August 1, 2002); Change 1 (July 22, 2002); Change 2 (July 29, 2002); Change 3 (June 23, 2003)

**RELEVANT SCDC FORMS/SUPPLIES:** 7-1, 19-11, 19-29A, 19-29B, 19-31, 19-69, 19-84, 19-95, 19-118, 19-127, 19-128, B-2, 19-154

**ACA/CAC STANDARDS:** 4-ACRS-5A-23, 4-ACRS-6A-01, 4-ACRS-5A-17, 4-ACRS-5A-18, 4-ACRS-2A-02, 4-4267, 4-4275, 4-4498, 4-4499-1, 4-4499, 4-4500, 4-4503

**STATE/FEDERAL STATUTES:** South Carolina Code of Laws, 1976, Â§ 24-3-950, as amended

**PURPOSE:** To establish uniform and consistent policies/procedures for the implementation and management of the inmate visitation program.

**POLICY STATEMENT:** It is the practice of the South Carolina Department of Corrections (SCDC) to enable and encourage inmates, consistent with security and classification requirements, to visit with family members and friends. Visiting will be conducted in an accommodating manner, keeping with the need to maintain order and provide for the security and safety of persons and of each institution. Inmate visitation will be conducted in accordance with the provisions of this policy/procedure, related Agency policies/procedures, and all applicable state and federal statutes.

**THE LANGUAGE USED IN THIS POLICY/PROCEDURE DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS POLICY/PROCEDURE DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENTS OF THIS POLICY/PROCEDURE, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.**

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19. REMOVAL FROM INMATE VISITATION LIST
20. DEFINITIONS

## 1. VISITATION PROVISIONS:

1.1 Each institution will provide adequate visiting areas for inmates and their visitors. Written information regarding visitation procedures will be made available to each inmate within 48 hours after arrival at the institution. At a minimum, the information will include, but not be limited to, the following: institution address; **telephone number**; directions to the institution; information about local transportation; days and hours of visitation; approved dress code and identification requirements for visitors; items authorized in visitation room; special rules for children; items (if any) that visitors may bring to give to inmates; and special visits (for example, family emergencies). (4-ACRS-5A-23, 4-4499)

1.2 Each Warden will ensure that sufficient copies of the SCDC Supply Item B-2, "Rules for Visitors" pamphlet are available for distribution to visitors. The Division of Policy Development will ensure that changes to this policy/procedure are provided to the institutions when published and that SCDC Supply Item B-2 is updated as necessary.

1.3 Inmates will not be assigned to specific institutions solely for the convenience of visitation privileges. While it is recognized that assignments to institutions may create difficulty for visitors and inmates, these assignments must also be based on security considerations and other factors rather than on inmate or family convenience alone.

1.4 Inmate visitation is considered to be a privilege and is **not** considered a guaranteed right. Therefore, the SCDC reserves the right to suspend, restrict, deny, or terminate an inmate's or visitor's visitation privileges and/or telephone privileges due to legitimate concerns regarding the security and safety of the institution. (See Specific Procedures 12., through 18., below, for additional information.)

1.5 The Warden of each institution will be responsible for ensuring that a sufficient number of security staff are assigned to the visiting area and to the entrance of the institution in accordance with the Master Post Chart to provide for continuous sight and sound supervision of all visitors and inmates and to enforce rules, regulations, directives, and statutes applicable to visitation. Any deviation from the Master Post Chart must be approved in writing by the Division Director of Operations.

1.6 Normally, inmates will be afforded the opportunity to receive contact visits. However, where appropriate non-contact visiting facilities exist, the Warden may require non-contact visits for inmates in the Maximum Security Unit, or in Special Management Units (e.g., those in security detention, pre-hearing detention, etc.), or

on Death Row and may require them to be physically restrained during visitation when such visits are taking place in the presence of other visitors and other inmates who are in restraints. Visits for restrained inmate(s) will not be conducted in the presence of unrestrained inmates. General population inmates may be required to utilize non-contact visiting facilities under specific circumstances which are outlined elsewhere in this policy/procedure or other SCDC policies/procedures. Depending on the custody level and the actual location of such available non-contact visiting facilities, general population inmates may be unrestrained. (4-4499-1)

1.7 Information on Family Support Groups will be available in all visiting areas.

**2. VISITATION SCHEDULES:**

**2.1 General Visitation Days/Hours:** Generally, visitation days/hours are as follow:

Fridays:	Saturdays:	Sundays:
<p>Level 1A - No visitation on Fridays due to inmate work schedules.                      Level 1B - At Warden's discretion visitation may be allowed for all inmates or special visits may be allowed for visitors who cannot visit on Saturday/Sunday.                      Level 2 and 3 - Visitation for 3 hours during afternoon/evening. Scheduled hours to be requested by the Warden and approved by the Division of Operations.</p>	<p>8:00 A.M. to 12:00 p.m. and 1:00 P.M. to 5:00 P.M. (Note: Wardens will determine how to divide the inmate population to allow equal visitation for all inmates.)</p>	<p>8:00 A.M. to 12:00 p.m. and 1:00 P.M. to 5:00 P.M. (Note: Wardens will determine how to divide the inmate population to allow equal visitation for all inmates.)</p>

**Note:** Visitors will only be allowed to visit during one visitation period per day. For example, if a visitor visits from 8:00 A.M. to 12:00 p.m. on Saturday, that visitor will not be allowed to visit from 1:00 p.m. to 5:00 p.m. on Saturday afternoon. However, the visitor will be allowed to visit on Sunday during the inmate's scheduled visiting period, provided the inmate has not *reached his/her maximum number of* visits for the month. *Visitors are only allowed to visit one inmate a day. They may not depart the institution and return to visit another inmate. The inmate is only authorized one (1) visit per day. (4-4498)*

**2.2 Special Visiting Schedules:** State Holidays (except when they fall on days which are recognized as regular visitation days as described in Procedure 2.1, above, when the schedule will remain the same) will be recognized as special visiting days, unless otherwise notified by the Division of Operations and/or the Agency Director. Special visiting days may be authorized by the Agency Director during the Thanksgiving and/or Christmas holidays. In the event that these special visiting days are authorized, notices will be posted at each institution. These visits will be included in an inmate's authorized number of visits per month unless special directives are disseminated by the Division of Operations and/or the Agency Director. Except as noted otherwise, only those inmates housed in the general population, *with full visiting privileges*, will be approved for such special visits. Unless scheduled otherwise, Special Management Unit, Maximum Security Unit, Death Row, and Reception and Evaluation (intake) inmates *are not eligible* for such special visits. Holiday visiting will normally be divided into two visitation periods that will run from 9:00 A.M. to 12:00 p.m. and 1:00 P.M. to 4:00 P.M. (Note: Wardens will determine how to divide the inmate population to allow equal visitation for all inmates. If these hours conflict with the institutional schedule, Wardens may request an exception from the Division of Operations, who will be the approval authority for these exceptions.)

**2.3 Number of Visitors Allowed:** Limits may be placed on the number of visitors allowed to visit on the inmate's scheduled visiting day due to safety and security reasons and/or space limitations. The number of approved visitors an inmate may have per scheduled visiting day will be determined by the Warden of each institution and will be based on space availability, security/safety reasons, and the custody level of inmate(s) being visited. All approved visitors desiring to visit with the same inmate on the same day must enter the institution at the same time in order to visit with the inmate (but may depart at different times). Visitors may be asked to terminate their visit to allow others an opportunity to visit. Visitors who arrive first will be the first asked to leave (in order of arrival). (4-ACRS-5A-17, 4-4498)

**3. FREQUENCY OF VISITS FOR INMATES:**

General Population	No more than eight (8) visits per month.
Medium Custody	No more than four (4) visits per month for up to two (2) hours each visit.
Unemployed inmates who refuse to work and/or inmates who are required to attend educational programs, but who refuse or fail to attend	No more than two (2) visits per month for a maximum of <del>two (2)</del> <i>three (3)</i> hours each visit.
*Protective Custody	See SCDC Policy/Procedure OP-22.23, "Protective Custody." (4-4267)
*Special Management Unit (SMU)	See SCDC Policy/Procedure OP-22.12, "Special Management Unit." (4-4267)
*Maximum Security Unit (MSU) at Kirkland	See SCDC Policy/Procedure OP-22.11, "Maximum Security Unit." (4-4267)
Gilliam Psychiatric Hospital (GPH) or Department of Mental Health facility	By appointment only - scheduled through GPH or the appropriate Department of Mental Health facility medical or mental health care staff.
*Reception and Evaluation (R&E)/New Admission inmates	After 30 days at R&E, inmates may have two (2) visits, <i>from immediate family members only</i> , per month. Only three (3) visitors will be authorized to visit at any given time. Visits will be up to two (2) hours in duration and must be scheduled in advance through R&E Center classification personnel. <i>YOA inmates are excluded.</i>
Death Row	See SCDC Policy/Procedure OP-22.16, "Death Row."
Untried County Safekeepers	See SCDC Policy/Procedure SK-22.02, "Safekeepers."
Inmates in the Infirmary	Visitation for inmates in the infirmary will be allowed on the regularly scheduled visitation days. (The Warden may approve visitation on other days for critically/terminally ill patients.) The scheduled hours for visitation will be jointly determined by the Health Care Authority and the Warden, at a time that is convenient for security reasons and for the infirmary schedule. Visits should be pre-scheduled through the Warden/designee's office. Visits should not exceed two hours in duration; however, exceptions may be made for critically/terminally ill inmates at the discretion of the attending physician and nursing staff with the concurrence of security staff. There are to be no more than two (2) visitors per inmate. (The Warden may approve additional visitors for critically/terminally ill inmates if space permits, the infirmary routine/schedule is not disrupted, and security can be maintained.) All visitors must be at least 18 years of age. (The legal spouse can visit if s/he is 16 or 17 years old and is listed on the inmate's visitation list as the spouse. The Warden may approve visits by the inmate's children if the inmate is critically/terminally ill. All visitors must be on the inmate's approved visiting list.
Critically/Terminally/Seriously Ill inmates	If an inmate is physically unable to visit during regularly scheduled visitation, the Warden (with the concurrence of medical staff) may arrange alternative visitation times on a case-by-case basis.
Inmates Hospitalized in a Community Hospital <i>or Just Care Facility</i>	The Duty Warden or designee may approve immediate family members from the automated approved visiting list to visit for a maximum of one (1) hour daily and only during the community hospital's approved visiting hours. A list of approved family members will be obtained from the institution. If an inmate is hospitalized after normal working hours, the list of approved family members will be obtained the next morning. (NOTE: The exception to this visitation procedure is for those inmates in MSU, SMU, Protective Custody, Safekeeper, or Death Row status. These inmates cannot receive any visits or phone calls while hospitalized.) The Officer will: <ul style="list-style-type: none"> <li>• call the control room of the inmate's respective institution and provide the name and address of each visitor(s), date, time, length of visit, and relationship to the inmate; and</li> <li>• remain in the room at all times; and</li> <li>• ensure that the inmate does not receive any articles, food, gifts, or money from the visitor(s); and</li> <li>• never provide information concerning the inmate's medical condition to the visitor.</li> </ul> If approved, only two (2) adult visitors may be present in the room at any given time

Shock Incarceration/Boot Camp inmates	One (1) visit during their second month in the program and two (2) visits each month thereafter except that, after 90 days in the 180-day Boot Camp Program, inmates will be authorized one (1) visit weekly.
Youthful Offender Intensification Program (YOIP) inmates	See SCDC Policy/Procedure PS-10.09, "Youthful Offender Intensification Program (YOIP)," for information regarding visiting privileges for these inmates.
Other Specialized Programs	Refer to SCDC policies/procedures governing the specific program for information regarding visiting privileges for these inmates.
Sexual predator program residents who are housed at SCDC, but are under the jurisdiction of the South Carolina Department of Mental Health (DMH): The DMH will use the SCDC automated system for approving and recording visits, but the number of visits these residents may receive is not restricted.	

\*These visits must be scheduled through an approved representative of the Unit Classification Section or a Warden's designee at the inmate's assigned institution.

**4. VISITING APPROVAL PROCESS:**

**4.1** While an inmate *is being* processed at the Reception and Evaluation Center the inmate will be given up to 15 copies of the SCDC Form 19-127, "Request for Visiting Privileges," to send to his/her proposed visitors. The Reception and Evaluation Center will ensure that a copy of the Supply Item B-2, "Rules for Visitors" pamphlet is added to each Form 19-127 that is mailed to a proposed visitor.

**4.2** Upon receipt of SCDC Supply Item B-2, "Rules for Visitors" pamphlet and the SCDC Form 19-127, each proposed visitor must FULLY complete the 19-127, and return it by mail to the Central Visitation Center (CVC). If the proposed visitor does not provide all requested information, the application will be *returned*. If the SCDC Form 19-127 cannot be processed because it is incomplete or because the prospective visitor has provided an incorrect inmate name or inmate SCDC number, the 19-127 will be returned to the prospective visitor, if the address on the form is complete. A parent, legal guardian, or other adult may assist a child in completing the form; however, only a parent or legal guardian will be permitted to sign this form. Upon receipt, the CVC supervisor *or designee* will review the form and information provided and will approve or disapprove the potential visitor. (4-ACRS-2A-02, 4-4503)

**4.3 Criminal Records:** Persons with criminal records will not automatically be disapproved. The nature and extent of the person's criminal record, the recency of the criminal activity, and the person's relationship to the inmate will be taken into consideration. (NOTE: The CVC Staff will, pursuant to Procedure 5.1 - 5.10.2, below, refer those requests that require the additional review or approval of the Warden to the *Inspector General's Office for review before going to the Warden for approval*. Falsification of any part of an application will result in disapproval.

**4.4** For approved visitors, the information provided on SCDC Form 19-127 will be entered into the automated visiting system by the CVC Staff. The inmate will be responsible for notifying visitors once they have been approved. For those disapproved, the *Inspector General's Office, or designee* will be responsible for informing each such applicant. The denied visitor will have the responsibility of advising the inmate. If disclosure of the reasons for the disapproval would jeopardize the security/safety of the institution or the SCDC, the response will be stated as follows: "To uphold the safety and security of the institution, staff, and/or others." (4-ACRS-2A-10, 4-4503)

**4.5 Deletions to an Inmate's Approved Visiting List:** An inmate may delete visitors from his/her approved visiting list once every **120** days by completing and forwarding through interoffice mail a copy of SCDC Form 19-84, "Request for Deletion to Visiting List," to the CVC. The **120** day period will begin on the date of the inmate's first request to delete an approved visitor(s).

**4.6 Additions to an Inmate's Approved Visiting List:** Visitors may be added to an inmate's approved visiting list at any time, provided that the addition of the visitor(s) does not cause the inmate to exceed the 15 visitor limit. Inmates will be required to provide each newly proposed visitor with a copy of Supply Item B-2, "Rules for Visitors" pamphlet and SCDC Form 19-127, "Request for Visiting Privileges." The proposed visitor must

complete and mail a copy of the form 19-127 to the CVC for approval pursuant to Procedure 4.2 - 4.4, above, and, if necessary, Procedure 5.1 - 5.10, below.

**4.7. Change of Visitor Address:** The home address on a visitor's identification card must match the address on the automated system. If an approved visitor arrives at an institution to visit an inmate and has a different address on his/her identification card than on the automated system, s/he will be *asked what their correct address is. If the address is not correct on the automated system*, s/he will be required to complete SCDC Form 19-154, "Visitor Change of Address," prior to entering the institution. *The officer should verify that the form is completed in full, is legible and that it matches the picture ID. If the visitor admits their address on their ID is incorrect, they should be advised to obtain a new one at the Department of Motor Vehicles.* These forms should be forwarded to the Inspector General's Office each Monday so they may be entered before the next visitation date to ensure the visitor does not complete multiple forms.

**4.8 Updated Visiting Lists:** The CVC will be responsible for *entering all additions and deletions* to each inmate's approved visiting list in the automated system. On a weekly basis, personnel from the Division of Resource and Information Management will provide each institution with two (2) copies of each inmate's initial or up-dated approved visiting list. One (1) copy of the approved list will be provided to each affected inmate by an employee designated by the Warden. The second copy will be maintained at the visitors' sign-in area, or an area designated by the Warden that is accessible to the Officers who are processing visitors. (NOTE: If no changes have been made to an inmate's approved visiting list, then a weekly updated list will not be printed for that inmate.)

**5. ADDITIONAL APPROVAL AND VISITOR IDENTIFICATION PROCEDURES:** The following additional procedures must be followed to approve and/or authorize visiting privileges for the prospective visitors listed below: (NOTE: ANY ATTORNEY OR CLERGY MEMBER WHO DESIRES TO VISIT AN INMATE AND WHO IS A MEMBER OF THE INMATE'S IMMEDIATE FAMILY WILL BE TREATED AS A VISITOR AND WILL BE REQUIRED TO FOLLOW THE VISITOR APPROVAL PROCESS DESCRIBED IN PROCEDURE 4.2 - 4.4, ABOVE.)

**5.1 Visitation Approval for Children Under 18 Years of Age:** The only minors who will be considered for inclusion on an inmate's approved visiting list are the inmate's brothers and sisters, the inmate's children (to include adopted), stepchildren, grandchildren, great-grandchildren, and step-grandchildren., *who are listed as such on the inmate relative screen.* Unless a *minor, who is on the approved visiting list*, under the age of 18 can furnish proof of emancipation, s/he must be accompanied by a parent, legal guardian, or authorized adult in order to be allowed entrance into the institution for visiting. The only exception to this requirement is for a 16 or 17 year old spouse whose marriage to the inmate is legally recognized by the State of South Carolina and verified by the SCDC Office of General Counsel. *Minor nieces and nephews may be considered to visit, after an inmate has been incarcerated for three (3) consecutive years and only if specific criteria is met based on the inmate's record.* See Procedure 5.1.4 for these conditions. The relationship of the respective inmate and each *minor* in question will be compared to the inmate's relative screen. Only those minors noted on the inmate's screen at intake or those added by an inmate (with appropriate documentation, *i.e. certified long form Birth certificate, valid marriage license to prove/verify* the relationship to the inmate) will be approved to visit.

**5.1.1** If an authorized adult is to accompany a child who is on the inmate's approved list to visit an inmate, the parent or legal guardian must complete SCDC Form 19-118, "Authorization for Adult Supervision of a Minor," and have the form notarized by a Notary Public. The custodial parent or guardian must request this form through the CVC *or the Inspector General's Office.*

**5.1.2** The SCDC Form 19-118 must be brought to the institution by the authorized adult and *shown* to the Officer assigned to the entrance of the institution each time that the child and authorized adult visit in order to be allowed admission into the institution. *(The form is maintained by the authorized visitor.)*

**5.1.3** If a child is in the custody of the Department of Social Services (DSS), all other requirements for approval apply to the child as outlined in this policy/procedure. DSS will then be responsible for

coordinating visits with the respective Warden/designee and for accompanying the child on each authorized visit. DSS employees must present their employee identification in order to be admitted to an institution for such purposes.

**5.1.4** Only the *minor* nieces and nephews of those inmates who meet ALL of the criteria listed below will be considered for addition to the respective visiting list.

- Inmate must have been incarcerated for at least three (3) *consecutive* years.
- Inmate may NOT have ever been convicted of a sex offense */to include disciplinary convictions for sexual misconduct.*
- Inmate must have NO Major disciplinaries and/or NO More than *Two (2) minor disciplinary convictions within the last three (3) years.*
- Inmate must have been employed for a minimum of three (3) *consecutive years.* (*The Wardens at Lieber and Graham Correctional Institutions may grant an exception for inmates on Death Row.*)
- The *name of the* brother or sister, (parent of the niece or nephew,) must be listed on the inmate's relative screen and *the parents* must submit a copy of the respective niece/nephew's *certified long form* birth certificate *along with the SCDC Form 19-127* for verification.

APPLICATIONS FOR MINORS TO VISIT INMATES NOT MEETING ALL OF THESE CRITERIA WILL BE **DENIED**. NO EXCEPTIONS WILL BE MADE.

**5.2 Identification Documents for Visitors Age 10 and Older:** Prior to entering the Institution, all approved visitors 10 years of age and older will be required to properly identify themselves with an acceptable identification card which includes their photograph and date of birth. A valid driver's license, Department of Public Safety (DPS) identification card, (*available to children under the age of five [5]*), employee identification card, student identification card, passport, state identification card, military identification card, or green card can be used for this purpose. (Note: *The home address on a visitor's identification card must match the address in the automated system. If an approved visitor arrives at an institution to visit an inmate and has a different address on his/her identification card than in the automated system, they will be asked which is the correct address. If the CRT is incorrect, s/he will be required to complete SCDC Form 19-154, "Visitor Change of Address," prior to entering the institution. If the ID is incorrect, the visitor will be advised of the necessity to obtain a new ID at the Department of Motor Vehicles. (4-ACRS-2A-02, 4-4503)*)

**5.3 Identification Documents for Visitors Age Nine (9) and Under:** Prior to entering the visiting area, all visitors nine (9) years of age and under will be required to show a Department of Public Safety (DPS) identification card, *long form* birth certificate *showing the appropriate parents' names*, student identification card, passport, or green card, as long as the name and date of birth are listed. (**NOTE: Children under nine who have a valid department of Public Safety ID will be allowed entrance without a birth certificate.**)

**5.3.1** *The parents' name must match the authorized adult in case of niece, nephew, or grandchild. When the appropriate parents' name is not listed on the birth certificate, the Institution should get a copy of the birth certificate and provide it to the Inspector General's Office, who will update records accordingly and delete any minors not verified as immediate family.*

**5.4 Attorneys:** The SCDC recognizes that inmates have a guaranteed right to communicate with their attorneys and to be provided access to state and federal courts. The SCDC will ensure that inmates are afforded sufficient access to visit with their attorneys and authorized agents, e.g., paralegal *or an investigator, who can show they are working for the attorney of record*. An attorney desiring to visit an inmate who is not a member of his/her immediate family may gain admission to any SCDC institution *by calling* Monday through Friday during normal business hours *and making an appointment with the Institution the inmate is housed at* (on or about 8 A.M. - 4 P.M.) *The Institutions will make every effort to accommodate attorney visits, but may require advance notice*

**for the visit.** The attorney will be required to present his/her bar identification card and a *photo* identification card as described in Procedure 5.2, above, to the Officer(s) at the entrance of the institution. Attorneys may, with advance approval of the Warden, or designee, make arrangements to visit an inmate before or after normal business hours or on weekends and holidays. The Warden, or designee, will be responsible for communicating all approvals to the Officer(s) assigned to the entrance of the institution. The attorneys will be logged in on SCDC Form 19-31, "SCDC Vehicle/Visitor Daily Admittance Log." (NOTE: Because inmate visitation with an attorney (s) is considered a guaranteed right, all attorney visits will be conducted in areas that afford *Employee* visual supervision only.) (4-ACRS-6A-01, 4-ACRS-2A-02, 4-4275, 4-4503)

**5.5 Clergy:** Official representatives (herein referred to as clergy) of all faith groups will be authorized to visit with inmates and to provide religious services to inmates of their faith group any day of the week during normal institution business hours (on or about 8:00 A.M. - 4:00 P.M.). Clergy must receive advance approval for the visit through the institutional Chaplain, who will notify the Duty Warden. In the absence of the Chaplain, the Duty Warden may approve the visit. The Warden, or approved designee will ensure that the institutional Chaplain and all Officers assigned to the front entrance of the institution are notified of all clergy approved to visit with inmates. Clergy will be logged in on SCDC Form 19-31, "SCDC Vehicle/Visitor Daily Admittance Log." (4-ACRS-2A-02, 4-4503)

**5.5.1** Clergy approved for *religious* visitation will be required to abide by the following procedures when visiting with inmates:

- Clergy must present proof of their profession and an identification card which includes his/her photograph to the officer(s) assigned to the front entrance of the institution. (A valid driver's license, Department of Public Safety (DPS) identification card, employee identification card, student identification card, passport, state identification card, military identification card, or green card can be used for this purpose.)
- Clergy will normally be limited to an hourly visit one (1) time per week.
- Clergy will be required to abide by the rules and regulations established for visitation as outlined in Procedure 7, below.
- Clergy will not be allowed to visit inmates who are members of their immediate family without going through the SCDC visitation approval process outlined in Procedure 4.1 - 4.4, above. In these cases, clergy will be classified as family and will be required to visit with their inmate family members on each inmate's scheduled visiting day.

(NOTE: Any volunteer who requests to visit an incarcerated family member or friend will not be authorized to provide volunteer services at the institution where the family member or friend is assigned. A volunteer who wishes to visit an incarcerated family member or friend must be approved to visit pursuant to the visitors' approval process described in Procedure 4.2 - 4.4, above and will be governed by the directives, rules, and regulations contained in this policy/procedure. [Refer also to SCDC Policy/Procedure PS-10.04, "Volunteer Services Program."])

**5.5.2** In limited situations, clergy may be approved to visit with an inmate after normal business hours. In these cases, clergy desiring to visit with an inmate will be required to coordinate such a visit in advance through the institutional Chaplain who will obtain approval for the visit from the Warden or approved designee. The same procedures outlined in Procedure 5.5.1, above, must be followed.

**5.6 Volunteers:** Persons who are approved to serve as volunteers and who are not classified as a member of an inmate's immediate family or as a friend may volunteer with an inmate during the normally scheduled volunteer service hours in the capacity of a volunteer, provided that they receive approval from the Warden or a designee to volunteer with the inmate. Volunteers will be logged in on SCDC Form 19-31, "SCDC Vehicle/Visitor Daily Admittance Log." (4-ACRS-2A-02, 4-4503)

**5.7 Former Inmates and Persons on Active Probation, Parole, and/or Mandatory Supervised Release may be *considered for visiting privileges* ; however, the following conditions must be met for consideration:**

**5.7.1** Must be a member of the inmate's immediate family, *listed as such on the inmate's relative screen (not to include in-laws)*, and be approved to visit the inmate pursuant to the visitors' approval process described in Procedure 4.2 - 4.4, above. **(4-ACRS-2A-02,4-4503)**

**5.7.2** Must have been released from the SCDC or any other correctional facility for a minimum of *one (1) year* . The Warden or designee may make an exception on a case-by-case basis when it is requested in writing and the applicant provides documented justification for the exception to be granted. Any exceptions made by a Warden or designee must be directly communicated to the CVC so that information can be entered into the automated visitation system.

**5.7.3** A former inmate, no matter how long ago s/he was incarcerated, must answer yes to Questions #2 *and #4* of the SCDC Form 19-127, "Request for Visiting Privileges." (Note: If a prospective visitor falsifies any part of the SCDC Form 19-127, that person will not be approved to visit.) The CVC *or Inspector General's Office* will forward the 19-127 to the Warden/*Designee* of the institution where the inmate is currently incarcerated for their review. The Warden/*Designee* may disapprove visiting privileges if, in his/her opinion, the prospective visitor poses a threat to the safe and secure operation of the institution. After this approval/disapproval, the 19-127 will be returned to the CVC *or the Inspector General's Office, who will advise the applicant if they are denied.*

**5.7.4** *Immediate family members who are* prospective visitors *and are* on probation, parole, mandatory supervised release, or any other form of conditional release, must obtain written permission from the agency responsible for his/her supervision to visit with the inmate. (This written permission must be on the supervising agency's letterhead stationary and must be attached to the prospective visitor's SCDC Form 19-127, "Request for Visiting Privileges," when it is mailed to the CVC.) *It will then be sent to the Institutional warden for review and approval.*

**5.8 Persons With Pending Criminal Charges may be *considered for visiting privileges*; however, the following conditions must be met for consideration:**

**5.8.1** Must be a *verified* member of the inmate's immediate family and be approved to visit the inmate pursuant to the visitor's approval process described in Procedure 4.2 - 4.4, above.

**5.8.2** Must not be nor previously have been a co-defendant with the inmate. ~~on any criminal charges~~ (Amended by Change Memo #1 dated February 1, 2008.)

**5.8.3** Must provide information listing all outstanding charges which are still active including the jurisdiction (city/county/state) where the warrants were signed or the indictments issued.

**5.8.4** The prospective visitor must answer accurately and truthfully all questions on SCDC Form 19-127, "Request for Visiting Privileges." The CVC *or Inspector General's Office* forward the 19-127 to the Warden/*designee* of the institution where the inmate is currently incarcerated *for their review and approval or disapproval*. The Warden/*designee* may disapprove visiting privileges if, in his/her opinion, the prospective visitor poses a threat to the safe and secure operation of the institution. After this approval/disapproval, the 19-127 will be returned to the CVC/*Inspector General's Office, who will advise the applicants if they have been denied.*

**5.8.5 PERSONS WITH PRIOR CONVICTION(S):**

*Applications for persons with prior convictions, who have not been incarcerated, will be forwarded from the CVC to the Inspector General's Office for review. The individual relationship to the inmate and the type of convictions noted will be considered when reviewing these applications. Some of them will be forwarded to the Institution for the Warden's review.*

**5.9 Current Employees/ Volunteers:** A current/active SCDC employee/contract employee, *or volunteer* desiring to visit an inmate must:

**5.9.1** Be a member of the inmate's immediate family *and listed on the inmate's relative screen*;

**5.9.2** Complete SCDC Form 19-127, "Request for Visiting Privileges," and be approved to visit pursuant to the guidelines contained in Procedure 4.2 - 4.4, above. The current/contract employee must answer yes to Question #1, of the SCDC Form 19-127, "Request for Visiting Privileges."

**5.9.3** Attach a written authorization from his/her supervising Warden, Division Director, Agency Director's Staff Member, or the Agency Director, to the SCDC Form 19-127, "Request for Visiting Privileges." The CVC will forward the 19-127 to the Warden/*designee* of the institution where the inmate is currently incarcerated and that Warden/*designee* will have the authority to approve or disapprove the SCDC or contract employee for visiting privileges. The Warden/*designee* may disapprove visiting privileges if, in his/her opinion, the prospective visitor poses a potential threat to the safe and secure operation of the institution. After this approval/disapproval, the 19-127 will be returned to the CVC *for appropriate processing*.

**5.9.4** Current employees meeting the above requirements will be authorized to visit on the inmate's scheduled visiting day(s), will be processed for admission to the institution like any other visitor, and may not conduct Agency business, wear their SCDC uniform, or use their SCDC identification card to gain access to areas of the facility which are inaccessible to other visitors.

#### **5.10 Former Employees:**

**5.10.1** Any former employee who, while employed with the SCDC, or contract employee who worked within an SCDC facility, violated any SCDC policy/procedure pertaining to employee/inmate relations, to include sexual intercourse, any other type of sexual relations, dating, marrying, or otherwise establishing a personal relationship with an inmate and/or any person under the jurisdiction of the SCDC, will be prohibited from visiting any inmate *whether they are currently an immediate family member or not*.

**5.10.2** Former employees or contract employees who have terminated their employment with the SCDC for more than *one (1) year and* who are considered members of an inmate's immediate family, *excluding in-laws*, (provided the former employee did not become a member of the inmate's immediate family as a result of marrying him/her while incarcerated *or after a relationship as defined in paragraph 5.10.1, above*) may be approved to visit with the inmate on his/her scheduled visiting days following the visiting approval process listed in Procedure 4.2 through 4.4, above. If the prospective visitor is a former employee, no matter how long ago s/he was employed with the SCDC, s/he must answer yes to Question #1 of the SCDC Form 19-127, "Request for Visiting Privileges." The former employee must also receive the written approval of his/her previous supervisor (Warden, Division Director, Agency Director's Staff Member) or the person currently occupying that position, and attach this approval to his/her SCDC Form 19-127, "Request for Visiting Privileges." The CVC will forward the 19-127 to the Warden/*designee* of the institution where the inmate is currently incarcerated and that Warden/*designee* will have the authority to approve or disapprove the prospective visitor for visiting privileges. The Warden/*designee* may disapprove visiting privileges if, in the opinion of the Warden/*designee*, the prospective visitor poses a potential threat to the safe and secure operation of the institution. After this approval/disapproval, the 19-127 will be returned to the CVC.

**5.11 Prospective Employers:** On a case-by-case basis, the Warden may permit inmates to visit with a prospective employer who is not listed on the inmate's approved Visiting List. The prospective employer must arrange for the visit with the inmate and receive advance approval from the Warden or designee. Prospective employers must satisfactorily identify themselves as such in order to obtain permission to visit and may be permitted to visit with inmates during normal working hours at the discretion of the Warden or an approved designee.

**5.12 Special Visits:** The Warden or an approved designee may permit special visits or authorize special conditions for visits for persons, *who are immediate family members and can be verified on the relative screen and* on the inmate's visitation list, outside of the established visitation schedules. In those circumstances where the inmate has no prior notice of the special visit (e.g., family members travel a considerable distance to see the inmate without prior notification of their visit), the Warden/Designee will have the authority to approve or disapprove the request based on an assessment of the individual circumstances of the request. The Warden/Designee has the sole, final discretionary authority to grant or deny requests for special visits. (4-ACRS-5A-18, 4-4500)

**5.13 Falsification of Information:** Any prospective visitor who falsifies any part of an application or request for visitation will not be approved to visit. If someone has been approved and it is subsequently determined that any information was falsified, that individual's visitation privileges will be immediately revoked. *This includes individuals who are signing as guardians and have falsified information regarding the minor.* When there are extenuating circumstances which contributed to errors on an application or other information provided, a disapproved prospective visitor may submit a letter of explanation to the *Inspector General's Office*. If the situation is appropriate, the *Inspector General's Office/Designee* may approve visitation privileges after a denial period of six (6) months for immediate family members or 18 months for persons who are not immediate family. If the incorrect information provided pertains to arrest or criminal history, the *Inspector General/Designee* will review the explanation submitted along with all other documentation available and will forward the relevant material *to the respective Warden/Designee for approval/disapproval.*

## 6. RULES FOR VISITATION- INMATES:

**6.1** Inmates will be required to wear SCDC-issued shirts and pants during visits. Issued shoes, issued boots, issued bobos, and Oxford/hush puppy/buck type/*slip on* (Amended by Change 2, dated November 17, 2011.) shoes or boots purchased at the canteen may be worn to visitation, but athletic/tennis/basketball type shoes purchased from the canteen cannot be worn. *The inmate must be in compliance with OP-22.13, "Inmate Grooming Standards," or s/he will not be allowed to visit on that day.* This rule is intended to stop visitors and inmates from trading shoes during visitation. All shirts must be tucked in and buttoned (if applicable) and each inmate's ID card must be visibly worn and displayed at all times. The only exception to SCDC-issued clothing will be for those inmates participating in the Work Program at a Pre-Release Center. These inmates may be permitted to wear personal shirts, pants, and shoes during visitation.

**6.2** Inmates will not pass items to other inmates or to visitors or accept items from other inmates or visitors. (Exceptions will be made for attorneys, clergy, and prospective employers due to paperwork that may need to be passed, and for food and beverage items purchased by visitors from vending machines located in each visitation room.) Attorneys, clergy, and prospective employers must first notify security staff that they have paperwork which they wish to pass to an inmate. Inmates may be allowed to retain such paperwork, provided it is inspected for contraband/unauthorized items.

**6.3** Inmates will not be loud or boisterous during visits to keep from disturbing other inmates and visitors.

**6.4** Inmates authorized contact visitation will be allowed to embrace and to kiss visitors once at the beginning and once at the end of each visit. Whenever possible, depending upon the number of visitors and the shape of tables, an inmate and visitor(s) are to be seated at opposite sides of the table. *An infant/toddler (under the age of two (2)) can* be held by the inmate. Any other display of affection between inmate and visitor other than that described above will be prohibited, and may result in disciplinary action for the inmate and visitation suspension for the inmate and/or visitor involved. (4-4499-1)

**6.5** Inmates will be subject to and will submit to being searched before and/or after each visit.

**6.6** Inmates will not be allowed to *have watches* and/or sunglasses *in their possession when entering the visitation area.*

**6.7** Inmates will be required to observe all other SCDC rules and regulations during visitation.

**6.8** Inmates will not be allowed to switch tables or to visit with anyone other than their first authorized visitor(s) during visiting. (NOTE: Inmates and their visitors may go from an inside table to a table outside the visiting room [for those institutions with outdoor visiting areas]. The Duty Warden may approve exceptions to the prohibition against table-switching in those cases of immediate family members incarcerated at the same institution.)

**6.9** The Warden may designate certain areas in the visitation room as restricted from inmate or visitor access. These areas will be marked in such a way that the restriction is obvious to the inmates and to visitors. These restricted areas may change at any time without prior notice.

**7. RULES FOR VISITATION - VISITORS:** Upon entry to the institution, visitors must provide the name and SCDC number of the inmate to be visited *and appropriate identification* to the Officer stationed at the front entrance. (4-ACRS-2A-02, 4-4503)

**7.1 Dress Requirements:** The following requirements for visitors apply to all institutions and will be strictly enforced: (Should any Officer or SCDC employee have any doubt as to whether a visitor is appropriately dressed, s/he will contact the Duty Warden (or designee if the Duty Warden is not present in the institution) who will come to the entrance area and make the final determination.

**Should a decision be made that a visitor is inappropriately dressed, the visitor will be denied admission to the institution.)**

**7.1.1** Shirts and shoes are mandatory.

**7.1.2** *Clothing that exposes an undue amount of flesh (e.g., exposing chest, back, thighs, or midsections) is prohibited.* Halter tops, underwear-type tee-shirts, tank tops, fish net shirts, or any type of shirt or pants made with see-through fabric are NOT allowed to be worn by any visitor (male or female). *Sleeveless shirts WILL NOT be allowed.*

**7.1.3** Visitors may wear Bermuda-length shorts provided they are not more than three (3") inches above the top of the kneecap.

**7.1.4** At institutions where the use of khaki inmate uniforms has been fully implemented, all visitors may wear blue jeans/shorts, khaki pants/shorts, or other color denim jeans/shorts.

~~**7.1.5** At institutions that continue to utilize blue jean denim inmate uniforms (shock units), visitors will be prohibited from wearing blue jeans/shorts or blue denim pants/shorts. Denim jeans/shorts other than the color blue will be allowed. (Amended/deleted by Change 4, dated January 22, 2016.)~~

~~**7.1.6**~~ **7.1.5** Women and girls may wear dresses or skirts. However, *no sleeveless dresses will be allowed.* If a dress or skirt appears to be too short *or if there is a slit* (no higher than three [3"] inches above the top of the knee), or is considered otherwise inappropriate by an Officer, the Officer will be required to contact the Duty Warden (or designee if the Duty Warden is not present in the institution) who will be responsible for coming to the entrance area for a decision as to whether the visitor will be allowed to visit.

~~**7.1.7**~~ **7.1.6** Any shirt or other article of clothing with a picture or language that may be considered profane or offensive by current public and/or SCDC standards will not be allowed. In such cases, the Officer will contact the Duty Warden (or designee if the Duty Warden is not present in the institution) who will be responsible for coming to the entrance area for a decision as to whether the visitor will be allowed to visit.

~~**7.1.8**~~ **7.1.7** *Clothing designed or intended to be tightly worn, to excessively accent the body, e.g., spandex, tights, leggings, tank tops, etc., is prohibited.*

~~**7.1.9**~~ **7.1.8** Hair pieces and any hair accessories are subject to search.

**7.1.10 7.1.9** No jewelry except wedding ring, *one pair of earrings*, one (1) religious medallion *on a necklace or chain*, one (1) wristwatch, and a medical alert bracelet. **NOTE: Activity fitness trackers and smart watches are NOT permitted.** (Changes in RED, amended by Change 4, dated January 22, 2016.)

**7.2 Authorized Items Permitted by Visitors:** Visitors will only be permitted to bring into any SCDC institution the items listed below: (Any item not included in the following list, or any authorized item in excess of approved amounts [e.g., cash], will be considered as "unauthorized items" and will not be permitted to be brought into any SCDC institution by any visitor.)

Authorized Items Permitted by Visitors	
ITEM	AMOUNT
Unopened pack of cigarettes	One (1) ( <b>NOTE: Smoking is permitted only in designated outside areas, if available. If no outside area is available, cigarettes will not be permitted.</b> )
Lighter or pack of matches	One (1) ( <b>NOTE: Smoking is permitted only in designated outside areas, if available. If no outside area is available, lighters or matches will not be permitted.</b> ) (Amended by Change Memo #1 dated February 1, 2008.)
Small wallet or change purse	One (1) ( <i>clear plastic only</i> )
Cash	<p>When the inmate receives only one visitor, that visitor is permitted to carry up to \$15.00 (nothing larger than a \$5.00 bill) in cash. When the inmate receives more than one visitor, each visitor, <i>other than infants or toddlers under two (2)</i> may carry up to <b>\$15.00</b> in cash (nothing larger than a \$5.00 bill) to purchase snacks and beverages for the visitor and the inmate that s/he is visiting from vending machines located in SCDC visiting rooms.</p> <p style="text-align: center;"><b>Money will not be given by a visitor to any inmate.</b></p> <p>All snacks and beverages must be purchased by the visitor and must be consumed by the inmate or visitor before leaving the visiting room. The only exception will be made for inmates housed in SCDC Pre-Release Centers who are participating in Work Programs. Work Program inmates are authorized to possess money pursuant to related SCDC policies and procedures governing the same. (Note: When a visitor admits, prior to contact with an inmate and prior to entering the visiting room, that s/he has discovered that s/he has \$10.00 or less above the spending limit in his/her possession, the visit will be terminated for that day only.)</p>
Keys	One (1) set ( <b>Must not contain any items that may cause a security threat.</b> )
Photographic identification card	One (1) as described in Procedure 5.2 and 5.3, above
Prescription Medications	For those individuals who are required to take prescription medications at certain times during visiting hours, the SCDC will allow only the dosage necessary to be taken by the individual during his/her visit to be brought into any institution. Each prescription medication brought into any institution must be placed in its original prescribed container with the original pharmacy label. The container must contain written information concerning the type of medication, dosage requirements, and the name of the individual to whom the medication was prescribed. Under no circumstances will containers containing different types of medications be allowed into any SCDC institution. The SCDC reserves the right to prohibit individuals from bringing into any institution any medication that may pose a threat to the inmate population or institutional security. ( <b>NOTE: Individuals who are required to use injections [needles/syringes] for medical conditions will be required to leave the institution for such purposes and may be allowed to return. Under no circumstances will needles/syringes be brought into any SCDC institution or left on the grounds of any SCDC property.</b> ) <b>Epi-pens will be allowed with Doctor's motorized, written authorization.</b>
SCDC Form 19-118, "Authorization for	If applicable, one (1) copy (See Procedure 5.1 through 5.1.2, above, for information.)

Adult Supervision of a Minor"	
Baby/Infant Supplies	For those visitors bringing authorized infants and small children, no more than five (5) diapers, three (3) baby bottles (or two (2) sipper cups for toddlers, <b>must be clear</b> ) and three (3) jars of sealed baby food may be brought in a clear plastic bag. Baby wipes/towelettes may be brought in by visitors provided that they are brought in a clear plastic bag. Infant/Baby carriers will be allowed but will be subject to search prior to entry into the institution. Visitors will be required to remove the infant from the carrier for this purpose.

**7.3 Visitors Who Have Unauthorized Items:** Any visitor found bringing any items not listed above, or excessive amounts of any authorized item(s), into any institution will, if the item is not determined to be contraband/illegal (see Procedure 7.5, below), **have to dispose of item. They will not be allowed to return to their car and then come back and visit.** Under no circumstances will any SCDC employee offer or be allowed to keep the item for the visitor.

**7.4 Pets/Animals:** Under no circumstances will visitors be authorized to leave any pet/animal unattended in any vehicle on SCDC property while they are visiting nor bring any pet/animal into an SCDC institution unless the animal is necessary to enable a person to physically maneuver (e.g. "seeing eye" dog).

**7.5 Contraband/Illegal Items Prohibited on SCDC Property:** Visitors will not be allowed to possess, introduce, or attempt to introduce any of the following items into any SCDC institution, or to pass or attempt to pass any of these items to any inmate, staff member, or other individual: (Any visitor found to be in violation of these procedures will have his/her visitation privileges suspended and may have his/her telephone privileges suspended [as outlined in Procedure 15., and 16., below]. **If an inmate is found with contraband following a visit, the respective visitor (s) may be suspended.** NOTE: Any contraband/illegal item found in an unsecured area by a SCDC employee may be seized and the item will not be returned without the prior approval of the Division Director of Operations.)

7.5.1 Any intoxicating beverages;

7.5.2 Any controlled substances (to include, but not be limited to, any narcotic, hallucinogens, marijuana, stimulant, or any drug affecting the central nervous system); (The only exception made will be for prescription medications as identified in Procedure 7.2, "Authorized Items Permitted by Visitors Chart," above.)

7.5.3 Any cash over the amount specified in Procedure 7.2, "Authorized Items Permitted by Visitors Chart," above (or any bill larger than a \$5.00 bill) per visitor allowed for vending machines;

7.5.4 Any firearm or instrument that customarily can be used or is designed to be used as a dangerous weapon; (NOTE: Visitors carrying Mace, i.e., canisters on key chains, will be advised that they will not be allowed to enter any SCDC institution with such an item and will be instructed to find a secure location to place the item for the duration of their visit. Under no circumstances will any SCDC employee offer to keep the item for the visitor.)

7.5.5 Any explosive devices or instruments;

7.5.6 Any article or instrument that may be used to aid in effecting or attempting to effect an escape;

7.5.7 Any cellular phones and/or recording devices; and

7.5.8 Any beeper/pager unless it is required due to medical/ professional reasons. (In questionable cases, the Officer will contact the Duty Warden [or designee if the Duty Warden is not present in the institution] who will be responsible for coming to the entrance area to make a determination as to whether the visitor will be permitted to bring the pager/beeper into the institution.) (NOTE: If the visitor has been approved to take in a beeper/pager, it will be thoroughly inspected prior to the visitor entering the institution.)

In order to ensure that all visitors are aware of state laws governing contraband, Section 24-3-950 of the South Carolina Code of Laws (Contraband Law), as amended, will be posted in a conspicuous place at the entrance of each institution so that all visitors may read it prior to entering.

**7.6 Visitor Conduct:** Except as otherwise noted, visitors are prohibited from engaging in the following activities: (Any violation of the following rules of conduct may result in the immediate termination of a visit, **and/or further visitation suspension**, as outlined in Procedure 14., below.)

**7.6.1** loitering;

**7.6.2** taking any article whatsoever from the grounds of the institution (e.g., gifts from inmates or inmates' excess personal property items) without prior authorization from the Warden or designee; (Exceptions may be made for approved attorneys, paralegals, clergy, or prospective employers who require paperwork to be submitted to them by an inmate.)

**7.6.3** walking or driving along the perimeter road;

**7.6.4** photographing buildings, fences, etc.;

**7.6.5** loud playing of vehicle radios while on SCDC property;

**7.6.6** actions/inactions which are a security risk or health risk to others, e.g., leaving children in vehicle, leaving keys in vehicle, etc.; (Under no circumstances will visitors be authorized to leave any child unattended in any vehicle on SCDC property while they are visiting. Under no circumstances will visitors be authorized to leave any pet or animal unattended in any vehicle on SCDC property while they are visiting.)

**7.6.7** yelling at inmates or engaging in loud, boisterous behavior during visitation or at any time while on SCDC property; or

**7.6.8** passing any item to inmates or accepting items from inmates. (NOTE: The only items authorized to be passed by a visitor will be food and beverage items purchased from vending machines. Attorneys, clergy, and prospective employers should notify security staff that they have paperwork which they wish to pass to an inmate. Inmates may be allowed to retain such paperwork, provided it is inspected for contraband/unauthorized items.)

**7.6.9** *any disrespectful behavior towards staff or their directives*

**7.7** Visitors will be required to keep accompanying children as orderly as possible during their visit so that other inmates and visitors will not be disturbed. In the event that a visitor(s) is unable to control his or her child(ren), the visit will be terminated and the visitor(s) and children will be required to leave the institution. (See Procedure 14., below, for additional information regarding the termination of visits while in progress.)

**7.8** Visitors will not be allowed to switch tables and/or visit with any inmate(s) other than those they are currently authorized to visit or to visit with any other visitors. (NOTE: Inmates and the visitors may go from an inside table to a table outside the visiting room [for those institutions with outdoor visiting areas]. The Duty Warden may approve exceptions when inmates who are immediate family members are incarcerated at the same institution.)

**8. SEARCHES OF VISITORS/GENERAL:** The following procedures are to be followed for all searches of visitors where Canine Drug Interdiction Units have NOT been involved or **are NOT** present: (All searches prompted as a result of any Canine Drug Interdiction Unit efforts are to be conducted pursuant to SCDC Policy/Procedure OP-22.04, "Canine Drug Interdiction Units.")

8.1 All visitors are subject to search and to questioning while on SCDC property or while inside any SCDC institution. Each institution will have a sign to this effect posted at each entrance to the institution and at the visitor check-in point.

8.2 Visitors *will* be required to pass through a metal detector, be scanned with a transfrisker, or submit to any non-intrusive drug detection equipment. Visitors *will* be asked to remove hats, *to include muslim head dress*, shoes, and items from their pockets for inspection. All hand-carried items allowed to be brought into SCDC institutions as outlined in Procedure 7.2, above, will be subject to search.

8.3 No internal body cavity searches of any visitor will be conducted. Pat or strip searches of visitors will only be conducted as outlined below. (4-4503)

## 9. PROCEDURES FOR SEARCHES OF VISITORS:

9.1 As a matter of general security, visitors may be questioned at any time. When there is information that indicates a visitor possesses unauthorized items or contraband and/or is introducing or attempting to introduce unauthorized items/contraband into the institution, the visitor will be questioned. ~~If the results of the questioning and/or other facts and information support reasonable cause, the visitor will be asked to submit to a pat/frisk or strip search.~~ (Changes in BLUE, amended by Change 3, dated July 27, 2015.)

~~Note: The visitor retains the option of refusing to be searched, unless there is reason to detain and arrest.~~

~~However, refusal to be questioned or searched will result in suspension of the visitor's visitation as outlined in Procedure 15, "Visitor Suspension Chart," below.~~

9.2 In general, a pat/frisk search should be conducted before a strip search is considered. A strip search should only be conducted when the Warden, Associate Warden, *Division Deputy Director of Operations*, Inspector General, *or their Designees*, have reason to believe that the unauthorized items/contraband may be concealed in such a way that the pat/frisk search does not and/or will not discover the unauthorized items/contraband.

9.3 Visitors Age 18 and Older: (Changes in BLUE below, amended by Change 3, dated July 27, 2015.)

9.3.1 *Pat/Frisk Search: At level II and III institutions, visitors age 18 and older may will be pat/frisk searched in addition to successfully passing through the walk-through metal detector or transfrisker (where available) prior to being admitted into the institution.* ~~, based on a reasonable concern the visitor may be bringing in contraband or as a result of an alert from the transfrisker or metal detector, providing the visitor agrees in writing to be searched. The Warden/Designee will be contacted for approval of the search. Consent will be documented on SCDC Form 19-95, "Consent to be Searched". Refusal to be searched will result in suspension of the visitor's visitation as outlined in Section 15.~~

9.3.2 *All Pat/frisk searches of female visitors age 18 and older will always be conducted by employees of the same sex. Pat/frisk searches of male visitors age 18 and older may be conducted by employees of either sex. and Strip searches of visitors age 18 and older may be conducted based on a reasonable concern that the visitor may be bringing in contraband or as a result of an alert from the drug dog, transfrisker, metal detector, or pat/frisk search providing the visitor agrees in writing to be searched. The Warden/Designee will be contacted for approval of the strip search. Consent will be documented on SCDC Form 19-95, "Consent To Be Searched." Refusal to be searched will result in suspension of the visitor's visitation as outlined in Section 15.*

9.3.3 *Strip searches of visitors age 18 or older will be conducted by employees of the same sex as the visitor being searched. Strip searches will be conducted in a private area away from the view of others. During a strip search, the visitor will be required to disrobe and only a visual inspection of the visitor will be made by the officers. Clothing will be physically inspected to ensure the absence of contraband.*

9.4 *Visitors (MINORS) at Least 12 Years Old and Less Than 18 Years Old: Pat/frisk or strip searches may be conducted based on a reasonable concern that the visitor may be bringing in contraband, or as a result of*

*an alert from the drug dog, transfrisker or metal detector. All pat/frisk searches and strip searches will be conducted by employees of the same sex as the visitor. The Warden/Designee will be contacted for approval of the pat/frisk or strip search.* The same procedures outlined for adults 18 years of age and over apply; however, the minor's parent, legal guardian, or authorized adult must consent to the search of the minor and must be present during the search. Parental, legal guardian, or authorized adult consent must be documented on SCDC Form 19-95, "Consent to be Searched." (Changes in BLUE, amended by Change 3, dated July 27, 2015.)

**9.5 Visitors (MINORS) Under the Age of 12:** *Pat/frisk or strip searches may be conducted based on a reasonable concern that the visitor may be bringing in contraband, or as a result of an alert from the drug dog, transfrisker or metal detector. All pat/frisk searches and strip searches will be conducted by employees of the same sex as the visitor. The Warden/Designee will be contacted for approval of the pat/frisk or strip search. Consent will be documented on SCDC Form 19-95, "Consent To Be Searched."* The same procedures outlined for minors at least 12 years of age but less than 18 apply; however, the minor's parent, legal guardian, or authorized adult will be required to disrobe the child or assist the child in disrobing. (Changes in BLUE, amended by Change 3, dated July 27, 2015.)

**9.6 Refusal to be Questioned/Searched:** *The visitor retains the option of refusing to be searched, unless there is reason to detain and arrest.* Any visitor who refuses to be questioned, who refuses to consent to be searched, or who refuses to allow a minor to be questioned or searched will be subject to visitation suspension as outlined in *Procedure Section 15.*, "Visitation Suspension Chart," below. (Changes in BLUE, amended by Change 3, dated July 27, 2015.)

**10. DISCOVERY OF CONTRABAND/ILLEGAL ITEMS:** Whenever a contraband/illegal item (as defined by law and in Procedure 7.5 through 7.5.8, above) is discovered, the following steps will be taken:

**10.1** The Officer making the discovery will immediately detain the visitor and explain to the visitor the reason that s/he is being detained. Physical force will not be used to detain the visitor unless the lives or safety of SCDC staff or others are threatened or jeopardized.

**10.2** Upon detention of the visitor, the Officer will immediately contact the Warden or designee. Upon arrival (or sooner, if necessary) the Warden or designee will contact the Division of Investigations or EAC so that an Investigator *or K-9 agent* can report to the institution. (The length of time prior to an Investigator/*Agent* arriving will vary.) All evidence seized will be directly turned over to the Investigator/*Agent* upon his/her arrival.

**10.3** The Officer will complete SCDC Form 19-29A, "Incident Report," and, if necessary, SCDC Form 19-29B, "Incident Report Continuation." At a minimum, the following information will be included in this report:

- date, place (institution), location within the institution, and time of the search;
- name and SCDC number of inmate to be visited;
- name and address of person(s) searched;
- name of official who authorized the search;
- reason for search;
- name(s) of officer(s) who performed the search;
- result of the search;
- make, model, and license plate number of the visitor's vehicle, as applicable; and
- attached consent form signed by each person who was searched (SCDC Form 19-95).

**10.4** The officer will also be required to document the items found on SCDC Form 19-95, "Consent to be Searched," in the space provided.

**10.5** Upon arrival, the Investigator/*Agent* will assess the situation and, if appropriate, arrest the individual. The Investigator/*Agent* will make a determination as to whether outside law enforcement should be contacted to assist in the transportation and/or *criminal* processing of the visitor.

**10.6** Any visitor found in possession of any contraband/illegal item or found passing or attempting to pass such items to any inmate *or those persons who visited an inmate who was found with contraband immediately after*

*visit*, will be suspended from visiting privileges with any inmate housed by the SCDC as outlined in Procedure 15., "Visitation Suspension Chart," below. (This suspension will also apply to visitation privileges with SCDC inmates who are housed at Designated Facilities *and/or community hospitals.*)

**11. DISCOVERY OF UNAUTHORIZED ITEMS:** Whenever an unauthorized item(s) is found on the visitor that is **not** considered contraband/illegal items as defined by law and in Procedures 7.5 through 7.5.8, above, the visitor will be advised *that they may not visit that day, but come another regularly scheduled visiting day.*

**12. DENIAL OF VISITATION/VISITORS:** The Warden or designee may deny a visitor permission to enter an institution and visit with an inmate on that date for reasons which include, but are not limited to, the following:

- the visitor is, or appears to be, under the influence of drugs or alcohol;
- the visitor refuses or fails to produce sufficient photographic identification (as required by this Policy/Procedure) or falsifies identifying information;
- visitation space is limited;
- the inmate to be visited has already had his/her scheduled visit for the day or the allowed number of visits for the month;
- the visitor is disruptive before his/her visit with an inmate or the children accompanying the visitor are disruptive;
- the visitor is not on an inmate's approved visiting list or it is not the inmate's scheduled visiting day;
- the visitor is accompanied by minor children who are not on the approved visiting list and/or who do not have a completed SCDC Form 19-118, "Authorization for Adult Supervision of a Minor" (when necessary);
- the inmate refuses or indicates a desire not to visit with the visitor;
- the visitor is inappropriately dressed and does not meet SCDC dress requirements for visitors as determined by the Warden or designee;
- *institutional* emergency situations;
- a determination is made that the visit may jeopardize the security and/or safety of staff, inmates, others, or the institution; and/or
- the visitor attempts to visit with more than one (1) inmate at the same table and they are not immediate family members. (NOTE: Visitors who have completed a visit with one [1] inmate may not leave the institution and re-enter to visit with a different inmate.)
- *The inmate was required to report to his/her regularly scheduled job assignment, but failed to do so.*

**13. NOTIFICATION TO INMATES OF VISITOR'S DENIAL:** An inmate will be notified, either verbally or in writing, of his/her visitor's denial as soon as possible following the denial by the Duty Warden or approved designee. The inmate will be advised as to the reasons why the visitor was denied admission to the institution, provided that disclosure of such reasons would not jeopardize the security/safety of the institution or any individual. In these instances, the reason given to an inmate will be stated as follows: "Your visitor was denied admission to the institution to protect the security and safety of the institution, staff, and/or others."

**14. TERMINATION OF VISITS IN PROGRESS:** The Warden or an approved designee will have the authority to terminate an inmate's visit while the visit is in progress if the inmate violates any established rules and regulations of the SCDC or if the inmate's visitor(s) does not comply with the rules and regulations governing inmate visitors. Prior to termination of the visit, less severe alternatives may be attempted, if

appropriate. This may include verbal warnings to the inmate and/or visitor(s) of improper conduct which, if not discontinued, will result in the visit being terminated and may result in the visitor's and the inmate's visitation privileges being suspended, *for a specific length of time. A visit may be terminated to allow space for newly arriving visitors when the visiting area is full.*

**15. SUSPENSION OF VISITOR'S PRIVILEGES:** When a visit is terminated, the reasons for the termination will be fully documented on SCDC Form 19-29A, "Incident Report," and, if necessary, SCDC Form 19-29B, "Incident Report Continuation." If a rules violation has occurred, *the inmate will be subject to disciplinary action pursuant to SCDC Policy/Procedure OP-22.14, "Inmate Disciplinary System."* All forms will be forwarded to the Warden for his/her review. The Warden will decide if *the visitor's or inmate's visitation privileges* and/or telephone privileges *will be suspended.* Should a suspension be warranted, the Warden will follow the guidance in *the "Visitor Suspension Chart, and Paragraphs 16., and 17.,* below. If a visitor commits any of the acts *or is found in possession of any of the contraband items listed below*, his/her visitation privileges will be suspended as follow:

Visitor Suspension Chart		
Rules Violation	Relationship of Visitor to Inmate	Term of Suspension
<sup>1</sup> Possession of an illegal drug (controlled substances) or firearm (on his/her person) and/or in possession of explosive devices, articles, or instruments, <i>weapons, any and all firearms, knives of any and all descriptions, clubs, billies or any other article that may be used for offense or defense</i> , when entering any SCDC institution or subsequent to visiting an inmate, or found passing or attempting to pass such items to an inmate, or if the inmate is found with contraband immediately after visiting, or assisting, facilitating, and <sup>2</sup> or aiding and abetting an inmate to escape/attempt to escape from the custody of the SCDC	ANY VISITOR	PERMANENT (NOTE: Such circumstances also warrant the arrest of the individual as outlined in Procedure 10., above.)
Visitor age 18 or older refuses to be questioned or refuses to consent to be pat or strip searched	Any visitor	First Offense - Two (2) Years Second Offense - Indefinite
Minor refuses to be questioned or refuses to consent to be pat or strip searched (even if the parent, legal guardian, or authorized adult consents to the search).	Any minor visitor	One (1) Year
Minor <sup>1</sup> 's parent, legal guardian, or authorized adult refuse to allow a minor to be questioned or refuse to consent to allow a minor to be pat or strip searched.	The parent, legal guardian, or authorized adult <sup>3</sup> Any minor visitor	First Offense - Two (2) Years Second Offense - Indefinite
Sexual misconduct of any type during visitation	Any visitor	First Offense - Two(2) Years Second Offense - permanent
<b>Sexual intercourse</b>	Any person	Permanent
Possession of intoxicating beverages when entering any SCDC institution, or found passing or attempting to pass such items to an inmate.	Any visitor	First Offense - Two (2) Years Second Offense - Permanent
<sup>4</sup> Possession of money above the amount authorized by this policy when entering any SCDC institution, after passing front Check in procedures, or found passing or attempting to pass such items to an inmate.	Any visitor	First Offense - Two (2) Years Second Offense - Permanent
<sup>4</sup> Possession of contraband (jewelry, clothing, etc.) when entering any SCDC institution, or found passing or attempting to pass such items to an inmate.	Any visitor	First Offense - Two Years Second Offense - Permanent
<sup>5</sup> Other Incidents/Violations not listed in this chart	Any visitor	Up to Two (2) Years as deemed appropriate by the Warden.

<sup>1</sup>(Exceptions may only be made for official law enforcement personnel who present proper credentials and who mistakenly may attempt to enter a SCDC institution carrying his/her weapon. In these cases, the law enforcement officer will be required to find a secure location to place his/her weapon for the duration of his/her visit. Under no circumstances will any SCDC employee offer to keep or secure the weapon for the officer.)

<sup>2</sup>(NOTE: An inmate's visiting privileges with all visitors and telephone privileges will be temporarily suspended once s/he has been returned to the SCDC following an escape or if s/he has attempted to escape, pending the completion of the Inspector General's investigation. Once the investigation is over, the Warden will submit a recommendation through the Division Director of Operations to the Inspector General for his/her approval/disapproval to reinstate telephone and/or visiting privileges.)

<sup>3</sup>When a minor's parent, legal guardian, or authorized adult refuses to allow a minor to be questioned or refuses to consent to allow a minor to be pat or strip searched, the minor visitor will be suspended on a case by case basis by the Division Director of Operations. The Division Director of Operations will consider the age of the minor and the circumstances of the refusal of the search in determining whether to suspend the minor's visitation privileges.

<sup>4</sup>In certain cases, when the amount of *money* found is excessive, the Division Director of Operations may suspend the visitor's visiting privileges *permanently on the first offense*.

<sup>5</sup>Because every type of incident/violation cannot be accounted for in these procedures, the Warden of each institution has the discretion to authorize a period of suspension up to two years for incidents or violations that occur other than those listed in the Visitor Suspension Chart, above. The severity of the offense; the impact the offense/violation has on the overall security and safety of the institution; and the type of offense should all be taken into account when considering suspensions. Like incidents/violations will be treated similarly. The Division Director of Operations and the *Inspector General* or their designee(s) will be responsible for reviewing all suspensions and for ensuring the consistency of the suspension periods being issued by all Wardens for like/similar incidents. Any noted discrepancies will be investigated by the Division Director of Operations and the *Inspector General* or their designee(s) and, if necessary, rectified.

<sup>6</sup> *Anyone who is suspended indefinitely may, after two years, write a letter to the Division of Operations and request to be considered for visitation again. The final approval will be up to the Division Director of Operations.*

**16. SUSPENSION OF TELEPHONE PRIVILEGES:** The Warden will also have the authority to suspend an inmate's telephone privileges for up to one (1) year when it can be substantiated that the telephone was used to plan any of the offenses for which visitation privileges were suspended. (Note: The Division Director of Operations will review all telephone suspensions and ensure that there is consistency in the suspension periods being issued by Wardens.)

**17. SUSPENSION PROCEDURES:** The Warden (or the Division Director of Operations, when appropriate) will complete SCDC Form 7-1, "Letter of Visitation and/or Telephone Suspension," and will forward copies to the visitor, the Division Director of Operations, *Inspector General's Office*, the CVC, and the inmate; and copies will be filed in the inmate's Institutional Record and Central Record. The Warden will ensure that the suspension period is entered into the automated system. (NOTE: Should a Warden feel that disclosure of the reasons for the suspension to an inmate would jeopardize the security and/or safety of the institution or any individual, the Warden may state the reason as follows: "For the security and safety of inmates, staff, and the institution.") With the exception of those visitors suspended permanently [see Visitor Suspension Chart and notes, above], a visitor's privileges (to include telephone privileges) will be reinstated at the conclusion of the suspension period.

**17.1** An inmate may appeal the decision to suspend a visitor and/or his/her telephone privileges with any visitor through the Inmate Grievance System as outlined in SCDC Policy/Procedure GA-01.12, "Inmate Grievance System."

17.2 Visitors whose visitation and/or telephone privileges have been suspended should address any concerns to the authority listed on the SCDC Form 7-1, "Letter of Visitation and/or Telephone Suspension." In the event of telephone suspension, request for exceptions/reinstatements may be made as per the Visitor Suspension Chart and notes, above.

#### 18. INMATE VISITATION SUSPENSION:

18.1 Visitation is a privilege granted to inmates and is thereby subject to suspension. The Duty Warden will impose a temporary visitation suspension pending the disposition of the disciplinary hearing for rules violations listed in SCDC Policy/Procedure OP-22.14, "Inmate Disciplinary System." Inmates found guilty will be suspended from visitation as per *SCDC Policy/Procedure OP-22.14, "Inmate Disciplinary System."* Any violation of SCDC rules and regulations to which an inmate is party will also result in the inmate being disciplined in accordance with SCDC Policy/Procedure OP-22.14, "Inmate Disciplinary System."

18.2 *The Warden may suspend the inmate's visitation privileges for up to two (2) years for any offense(s) committed by the inmate during visitation, while entering or exiting the visiting area, or immediately subsequent to visitation.*

18.3 *When an inmate in General Population or Death Row, has had his/her visitation privileges suspended for more than one (1) year, the Warden may, upon the inmate's completion of the first year of the suspension, consider the inmate for reinstatement of visitation privileges. The inmate must request this reinstatement on SCDC Form 19-11 after s/he has served the first year of the suspension time. The Warden will consider the inmate's disciplinary record and institutional adjustment when making the decision to reinstate the visitation privileges. If the request is denied, the inmate may re-apply one (1) year after the disapproval date.*

19. **REMOVAL FROM INMATE'S VISITATION LIST:** *If an inmate is convicted of a disciplinary charge involving sexual misconduct or sexual assault, a letter will be mailed to the person(s) who regularly visit the inmate. At that time the visitor may choose to suspend his/her visits with the inmate by signing at the bottom of the letter and mailing the letter back to the Central Visitation Center.*

#### 20. DEFINITIONS:

**Authorized Adult** refers to an adult who is not a child's parent or legal guardian but who has been given written and notarized authorization by the parent or legal guardian (a) to accompany a child who cannot furnish proof of emancipation to the SCDC for purposes of visiting an inmate and (b) to represent the parent or legal guardian should the same child need to be questioned or searched for purposes of an investigation. Both the authorized adult and any minor must be listed on the inmate's approved visiting list to be authorized to visit.

**Central Visitation Center (CVC)** refers to a central location within the SCDC where all visitors' requests to visit with an inmate are processed and disseminated. The CVC is headed by a staff member herein referred to as the CVC Supervisor *who reports to the Office of the Inspector General.*

**Child, Children, or Minor** refers to a person under the age of 18.

**Duty Warden** refers to the on-duty official at a facility who is classified as a Captain or other higher authority or, at Level 1A/1B facilities, a designated Lieutenant or higher authority.

**Emancipated Minor** refers to a person under the age of 18 who is totally self-supported *as verified by the Office of General Counsel.*

**Immediate Family** refers to an inmate's mother, father, children (to include adopted), sister, brother, grandmothers, grandfathers, great-grandmothers, great-grandfathers, wife, husband, common-law spouse, grandchildren, great-grandchildren, stepbrothers, stepsisters, stepparents, foster parents, stepchildren, step grandchildren, half-brothers, half-sisters. (Relationship is verified by the inmate's relative screen.)

**Scheduled Visiting Day(s)** refers to the specific day(s) that an inmate is authorized to visit. Normally these days are Friday, Saturday, and Sunday. Due to factors such as the availability of visiting space, inmate work schedules, and the number of inmates housed at certain institutions, Wardens may elect (with the approval of the Division Director of Operations) to designate alternate days, weeks, or hours for visitation for segments of their population. Every eligible inmate will be given the *equal* opportunity to have the allowed number of visits specified in these procedures. However, during an *institutional or statewide* emergency situation, and sometimes due to extenuating circumstance *all* visitation may be suspended, *without any notice*.

---

Jon E. Ozmint, Director

ORIGINAL SIGNED COPY MAINTAINED IN THE DIVISION OF POLICY DEVELOPMENT.

Attachment 9

3/21/05

#6

REQUEST FOR VISITING PRIVILEGES

INMATE NAME: Quincy Jovan Allen

INMATE SCDC#: 006019

RELATIONSHIP TO INMATE: Friend  
(I am the Inmate's: Mother, Father, Brother, Sister, Spouse, Child, Friend, etc.)

RETURN COMPLETED FORM TO: SCDC VISITATION & IM DT P. O. BOX 212969 COLUMBIA, SC 29221

PLEASE READ CAREFULLY: The ONLY minors (under 18 yrs. of age) that may apply to visit are the inmate's children, brothers/sisters, step-children, grandchildren, or step-grandchildren. The relationship MUST be verified by attaching a "photocopy" of the minor's long-form, certified birth certificate. Minor nieces/nephews are not eligible until the inmate has been incarcerated with SCDC for at least three (3) consecutive years AND meets all other specific criteria per policy OP-22.09, "Inmate Visitation."

The inmate named above has requested that you apply for visitation privileges with him/her within the South Carolina Department of Corrections (SCDC). In order for your application to be processed, you must provide the following information. If you do not fully complete the application, it will not be processed. (NOTE: If you do not wish to provide your social security number (SS#), please complete the form, leaving off the number and attach "photocopy" of your driver's license/state ID.) BE ADVISED, IT WILL TAKE ADDITIONAL TIME TO PROCESS. In cases where you do not have a SS#, attach a "photocopy" of your Passport/US VISA.)

DENIED

If you have any questions regarding this process, please call the Visitation Hotline (803-896-1838) & leave a message.

Form with fields for SOCIAL SECURITY NUMBER, LEGAL NAME (Last, First, Middle), RACE, SEX, DATE OF BIRTH, AGE, ADDRESS, CITY, STATE, ZIP CODE, MAILING ADDRESS, PHONE NUMBER, DRIVER'S LICENSE OR STATE I.D. NUMBER, STATE OF ISSUE, HEIGHT, WEIGHT, HAIR COLOR, EYE COLOR.

Please answer the following questions. NOTE: If you answer YES to Questions #1, #2, #3 and/or #5, you MUST be an immediate R. 59

YES  NO

OFFENSE	DATE	PLACE	ANTICIPATED COURT DATE

Did you know this inmate prior to his/her incarceration? (Before he/she was in jail or prison.)

YES  NO  (You may be asked to verify how/when.)

**PLEASE READ THE FOLLOWING INFORMATION AND BE CERTAIN THAT YOU UNDERSTAND FULLY. YOUR SIGNATURE BELOW ACKNOWLEDGES THAT YOU HAVE READ AND UNDERSTAND THIS FORM AND HAVE PROVIDED ACCURATE AND FACTUAL INFORMATION TO EACH SECTION.**

**\*NOTICE TO ALL VISITORS:** It is a state crime to bring upon the institutional grounds any weapons, intoxicants, drugs, or other contraband of any kind. South Carolina Code of Laws, Section 24-3-950: It shall be unlawful for any person to furnish or attempt to furnish any prisoner under the jurisdiction of the Department of Corrections with any matter declared by the Director to be contraband. Any person violating the provisions of this section shall be deemed guilty of a felony and, upon conviction, shall be punished by a fine of not less than one thousand dollars nor more than ten thousand dollars or imprisonment for not less than one year nor more than ten years, or both. All persons entering upon the premises are subject to routine searches of their person and personal property to include vehicles. Upon reasonable suspicion that a person may be introducing contraband or upon any person demonstrating actions that might otherwise endanger institutional safety, security, or good order, the Warden/designee may require that the person submit to a visual search, pat search, or strip search as a prerequisite to his/her entry. Any refusal by a visitor to cooperate with a search will result in him/her being denied entry into the institution and his/her visitation privileges will be revoked by the Warden/designee.

I have read, understand and agree to the above rules. If I am approved to visit with an inmate, I also understand and agree to abide by the visiting guidelines established by the South Carolina Department of Corrections. I understand that falsification of any part of the information on this application will result in suspension or denial of visiting privileges. I also understand it is my responsibility to update my application if there is a change of address or if any information on items 1 - 5 are no longer valid. I hereby authorize the release to the South Carolina Department of Corrections any and all record(s) of criminal offenses for which I have been arrested and convicted.

*mcust*

Applicant Signature

5, 2, 18

Date

[Redacted]

Applicant - print name

If the applicant is under the age of 18, the parent or legal guardian must sign and print their name below. If legal guardian, attach photocopy of documentation verifying relationship.

Parent/Legal Guardian

Date

**(PHOTOCOPY OF LONG FORM BIRTH CERTIFICATE ATTACHED)**

Parent/Legal Guardian - print name

\*\*\*\*\* Do not write below this line (Warden use only) \*\*\*\*\*

Approved / Disapproved: S/ \_\_\_\_\_  
Warden

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Date

IN THE STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

_____	)
Quincy Allen	)
	)
Appellant	)
	)
v.	)
	)
South Carolina Department of	)
Corrections,	)
	)
Respondent.	)
_____	)

CERTIFICATE OF SERVICE

I, Quincy Allen, the undersigned, certify that I have served the foregoing document on the SCDC Department of General Counsel by mailing a copy, postage prepaid of the same to P.O. Box 21787, Columbia, SC 29221.

Dated this \_\_\_\_\_ day of August, 2018.

Respectfully Submitted,

\_\_\_\_\_  
 Quincy Allen, #6019  
 Kirkland Correctional Institution  
 MSU 0029-A  
 Columbia, SC 29210



Moreover, regarding categories (2) and (3), *supra*, the South Carolina Supreme Court has consistently emphasized that the liberty or property interest implicated must be one that is *state created*. See *Wicker v. S.C. Dep't of Corr.*, 360 S.C. 421, 602 S.E.2d 56 (2004) (emphasizing that the ALC's jurisdiction extends only to those cases involving the denial of "state created liberty interests" and that the Court's holding [*i.e.*, in *Wicker*] "is not to be viewed as expanding the jurisdiction of the [ALC] in any other circumstance."); *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 605 S.E.2d 506 (2004) (holding that the ALC "may summarily dismiss those appeals that do not implicate an inmate's *state created* liberty or property interest") (emphasis added).

SCDC interprets *Slezak* as encouraging, for the sake of judicial economy, the ALC to summarily dismiss inmate cases that do not involve a state-created liberty or property interest. Recently, the South Carolina Court of Appeals has interpreted *Slezak* to mean that where a state-created liberty interest is not implicated in a prisoner appeal, a judge of the ALC "should" dismiss the appeal. *Skipper v. S.C. Dep't of Corr.*, 370 S.C. 267, 633 S.E.2d 910 (Ct. App. 2006).

### ARGUMENTS

This case is a prime example of a case that should be dismissed under *Slezak* and *Skipper*. Appellant is challenging SCDC's disapproval of visitors who did not know the inmate prior to incarceration. See Appellant's Brief, p. 3-5. SCDC policy does not allow individuals who did not know an inmate prior to incarceration to visit that inmate because the desire of such individuals to visit the inmate raises security concerns. See responses to RTSM and Step 1 & 2 Grievances. The Supreme Court has upheld stringent limitations on inmate visitation. *Overton v. Bazzetta*, 539 U.S. 126, 123 S. Ct. 2162, 156 L. Ed. 2d 162 (2003) (holding that limiting the number of unrelated persons on an inmates visitation list, requiring a

related adult to accompany minor visitors, denying former inmates the ability to visit current inmates, and restricting inmates with multiple substance abuse related violations to visits from attorneys and clergy only for a minimum of two years all bore a rational relationship to legitimate penological interests). Therefore, Appellant has no liberty interest in having visitors that he did not know prior to incarceration.

To the extent that Appellant's arguments can be construed as a claim that SCDC's visitation policy is unconstitutional, this court cannot grant relief on such a claim. *Travelscape, LLC v. S.C. Dep't of Revenue*, 391 S.C. 89, 109, 705 S.E.2d 28, 39 (2011) (held that the Administrative Law Court has the authority to hear as applied challenges to the constitutionality of statutes and regulations but does not have jurisdiction over facial challenges to the constitutionality of statutes or regulations).

Because no state-created liberty or property interest is implicated in this case, the Court should dismiss this appeal, with prejudice.

#### CONCLUSION

No state-created liberty or property interest is implicated in this case. Thus the Court should dismiss this appeal pursuant to *Slezak* and *Skipper*.

Respectfully Submitted,

**SOUTH CAROLINA DEPARTMENT  
OF CORRECTIONS**



Annie Laurie Rumler  
Staff Attorney  
S.C. Department of Corrections  
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Columbia, South Carolina 29221  
(803) 896-1355

Columbia, South Carolina  
September 17, 2018

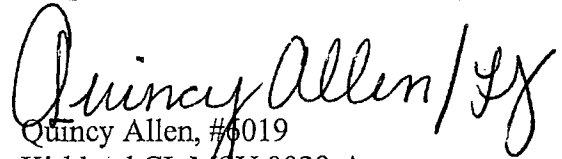


relationships over the course of their lives flies in the face of the stated Constitutional right to rehabilitation opportunities. Furthermore, this arbitrary policy is not rationally related to any legitimate penological objective as required by *Overton v. Bazetta*, 539 U.S. 126, 123 S. Ct. 2162 (2003).

In conclusion, since rehabilitation is a state created liberty interest under the S.C. Constitution and inmate

visitation is for rehabilitation, the arbitrary denial of individuals desiring to visit inmates simply because they did not know an inmate prior to his/her incarceration is a denial of a state created liberty interest and within the jurisdiction of the ALC.

Respectfully submitted,



Quincy Allen, #6019  
Kirkland CI, MSU 0029-A  
4344 Broad River Rd.  
Columbia, SC 29210

October 1, 2018.  
Columbia, South Carolina

*Other Counsel:*  
General Counsel  
South Carolina Department of Corrections  
P.O. Box 21787  
Columbia, SC 29221

IN THE STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

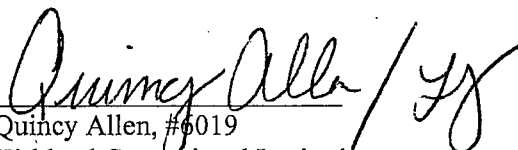
_____	)
Quincy Allen	)
	)
Appellant	)
	)
v.	)
	)
South Carolina Department of	)
Corrections,	)
	)
Respondent.	)
_____	)

CERTIFICATE OF SERVICE

I, Quincy Allen, the undersigned, certify that I have served the foregoing document on the SCDC Department of General Counsel by mailing a copy, postage prepaid of the same to P.O. Box 21787, Columbia, SC 29221.

Dated this 1<sup>st</sup> day of October, 2018.

Respectfully Submitted,

  
 Quincy Allen, #6019  
 Kirkland Correctional Institution  
 MSU 0029-A  
 Columbia, SC 29210

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph King Anderson, III, Chief Administrative Law Judge

---

Appellate Case No. 2018-002046

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Quincy Allen, ..... Appellant,

v.


South Carolina Department of Corrections, ..... Respondent.

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***Rule 210, SCACR Certification***

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The Record on Appeal contains all material proposed to be included by any of the parties and not any other material.



E. Charles Grose, Jr.  
The Grose Law Firm, LLC  
404 Main Street  
Greenwood, SC 29646  
(864) 538-4466

June 28, 2019  
Greenwood, South Carolina

**RECEIVED**  
JUL 09 2019  
SC Court of Appeals