

RECEIVED
APR 15 2022
SC Court of Appeals

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

James Primus, #252315,)
)
Appellant,)
)
v,)
)
South Carolina Department of Corrections,)
)
Respondent.)

Docket No.: 21-ALJ-04-0164-AP

ORDER OF DISMISSAL

This matter is before the South Carolina Administrative Law Court (ALC or court) pursuant to the Notice of Appeal filed by James Primus (Appellant), an inmate in the custody of the South Carolina Department of Corrections (Respondent or Department). After the Appellant's Step 1 and Step 2 Grievances were denied, the Appellant filed a Notice of Appeal with the court on April 21, 2021. The Appellant is appealing the Department's denial of his grievance in which the Appellant alleges that because the Department admitted to miscalculating the Appellant's jail time, monetary restitution should not be applied due to administrative errors and the Department should absorb the amount of restitution entirely.

On June 8, 2021, the Appellant filed his brief with the court, in which he argued that whenever the Department alters an inmate's sentence sheet in its record, the Department must give the inmate formal notice of the change and advise him of his right to file a grievance and obtain a hearing. On July 16, 2021, the Department filed the Record on Appeal and a Motion to Dismiss requesting the court dismiss one of the Appellant's cases, 21-ALJ-04-0164-AP or 21-ALJ-04-0165-AP, because these cases are about the same or similar issues. On July 26, 2021, the Appellant filed an Objection to Respondent's Motion to Dismiss arguing that although an issue may appear to be similar, it is still not the same issue. On July 27, 2021, the Appellant filed his brief with the court arguing that the Department has been taking the stimulus money he received out of his account for legal mail and materials and for debt which is an infringement on liberty interest for due process purposes. The court agrees that this case should be dismissed but on different grounds.

FILED
AUG 03 2021

SC ADMIN. LAW COURT

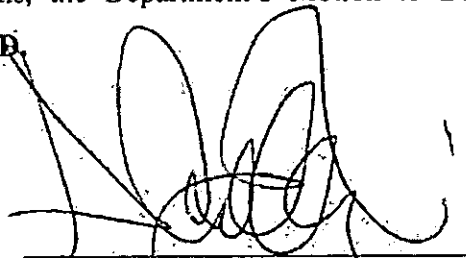
DISCUSSION

This court's jurisdiction to hear this matter 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). This court's appellate jurisdiction in inmate appeals is limited to cases involving denial of state created liberty interests typically involving: (1) cases in which an inmate contends that prison officials 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.* Later, the South Carolina Supreme Court found that the state's statutory mandate that inmates be paid the prevailing wage made the receipt of the prevailing wage a state created liberty or property interest. *Wicker v. S.C. Department of Corrections*, 360 S.C. 421, 602 S.E.2d 56 (2004). The Court, however, noted in a footnote that "our holding today is extremely limited and is not to be viewed as expanding the jurisdiction of the ALJ in any other circumstance."

When reviewing the Department's decisions in inmate grievance matters, the court sits in an appellate capacity. *Al-Shabazz*, at 756. Consequently, the review in these inmate grievance cases is limited to the Record presented. Pursuant to *Slezak*, the court is to have jurisdiction of all properly perfected inmate appeals but "[s]ummary dismissal may be appropriate where the inmate's grievance does not implicate a state created liberty or property interest." *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 605 S.E. 2d 506 (2004). Given the strongly worded caution in the footnote to *Wicker*, it cannot be said that *Slezak* was intended to overrule *Wicker* when referencing "property interest" and thereby extend the jurisdiction of this court to appeals involving all inmate property interests.

In this case, the Appellant is not appealing the loss of a liberty interest or a failure to receive a prevailing wage as described in *Wicker*. Consequently, the court is without jurisdiction to hear this matter. As such, this is a case in which this court must adhere to the traditional "hands off" doctrine regarding judicial involvement in prison disciplinary procedure and other internal prison matters. See *Pruitt v. State*, 274 S.C. 565, 266 S.E.2d 779 (1980) and *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000) (emphasis supplied).

THEREFORE, for the foregoing reasons, the Department's Motion to Dismiss is GRANTED and this appeal is hereby DISMISSED.
AND IT IS SO ORDERED.



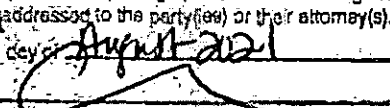
S. Phillip Denski
Administrative Law Judge

August 3, 2021
Columbia, South Carolina

CERTIFICATE OF SERVICE

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

This 3rd day of August 2021


Judicial Law Clerk