

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM ADMINISTRATIVE LAW COURT

JOHN McLEOD, ADMINISTRATIVE LAW JUDGE

Docket No.: 12-ALJ-04-0153-AP
Appellate Case No. 2012-213209

ISIAH JAMES, JR.,

PETITIONER,

V.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

APPENDIX

Isiah James, Jr., 96883 , Pro Se
RCI, CA-52, POB 2039
Ridgeland, S. C. 29936

Shanika K. Johnson
General Counsel
POB 21787
Columbia, S. C. 29221-1787

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The State of South Carolina

County of SUMTER

INDICTMENT FOR ARMED ROBBERY,
~~ROBBERY AND LARCENY~~

At a Court of General Sessions, convened on the 19th day of March, 1979, the Grand Jurors of Sumter County present upon their oath:

COUNT ONE—ARMED ROBBERY

That one MAURICE MACK and one ISIAH JAMES, JR. did in Sumter County on or about the 25th day of October, 1978, while armed with a deadly weapon, to wit: .38 calibre pistol feloniously take from the person in the presence of Gary Cusamano and Norman Guest Reames

by means of force or intimidation goods or monies of the said Gary Cusamano and Norman Guest Reames such goods or monies being described: a quantity of Marijuana

COUNT TWO—ROBBERY

That _____ did in _____ County, on or about the _____ day of _____, 19____, feloniously take from the person or presence of _____ by means of force or intimidation goods or monies of the said _____ such goods or monies being described: _____

COUNT THREE—LARCENY

That _____ did in _____ County on or about the _____ day of _____, 19____, feloniously take and carry away the goods and monies of _____ of a value of _____ described: _____

with intent to deprive the owner permanently of such goods and monies.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

R. Kirk McLeod
R. Kirk McLeod Solicitor

2

Witnesses

Sheriff I. Byrd Parnell
 Lt. Ted Owens, SLED
 J.L. Bonds, SLED
 Tom Henderson, SLED
 Carlton Medley, SLED
 Ira B. Parnell, Jr., SLED
 H.A. Mathis
 T.R. Mims
 W.L. Poulos
 J.A. Hyatt
 R.J. Foisey
 R.M. Jones

Verdict

Foreman

17-C-5-43
 RUBEN GRAY & E. ATKINSON (J) (M)
 JOHN HOAR (M)
 PUBLIC DEFENDER SAM HASKELL (M)
 The State of South Carolina

141

County of SUMTER

COURT OF GENERAL SESSIONS

MARCH Term, 19 79

THE STATE

VS.

MAURICE MACK

ISIAH JAMES, JR.

Isiah James, Jr. 3/2/79

Noble Pearson to Maurice Mack. Pled guilty to Murder. P.P.C.

INDICTMENT FOR

Armed Robbery,

Robbery with a Dangerous Weapon

TRUED? Bill

Isiah James, Jr.

Foreman of Grand Jury

MCCAW PRINTERS, 2620 DEVINE ST., COLUMBIA, S. C. 29206

THE PRISONER ISIAH JAMES, JR IS PUT TO THE BAR AND ARRAIGNED AND, UPON HIS ARRAIGNMENT PLEADS GUILTY AS CHARGED.

ATTEST:

[Signature]
C. C. P. & G. S.

THE SENTENCE OF THE COURT IS THAT THE PRISONER
Isiah James, Jr BE HELD TO HARD LABOR IN
 THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS FOR
 A PERIOD OF 25 years OR BE CONFINED
 AT HARD LABOR IN ONE OF THE DEPARTMENTS DESIGNATED
 COUNTY FACILITIES, OR PAY A FINE OF \$ —

[Signature]
PRESIDING JUDGE

JUN 18 1979 *Consecutive to Indictment # 140 and 139*

9

1 STATE OF SOUTH CAROLINA
2 COUNTY OF SUMTER

IN THE COURT OF GENERAL SESSIONS

7 STATE OF SOUTH CAROLINA,

9 vs.

TRANSCRIPT OF RECORD

10 MOTIONS: June 1, 1979

11 MAURICE MACK and
12 ISIAH JAMES, JR.,

13 Defendants.

CERTIFIED TRUE COPY
OF ORIGINAL FILED

Mary S. Fuller

DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

17 BEFORE: Honorable Ernest A. Finney, Jr.
18 Resident Judge

19 June 1, 1979

21 APPEARANCES

22 For The State:

23 R. KIRK McLEOD, SOLICITOR
24 Third Judicial Circuit
25 HARRY B. BURCHSTEAD, JR.,
Assistant Solicitor
Sumter, South Carolina 29150

For The Defendants:

SAM HASKELL, ESQUIRE
PHILLIP NEWSOM, ESQUIRE
JOHN S. HOAR, ESQUIRE
RUBEN L. GRAY, ESQUIRE
Sumter, South Carolina 29150

1 The Defendants Maurice Mack and Isiah James were
 2 indicted on Indictments Number 79GS43-139 and 79GS43-140,
 3 respectively, for two counts of murder as to each indictment.

4 The matter came on to be heard on June 1, 1979, on the
 5 disposition of motions filed in the Court of General Sessions
 6 for Sumter County before the Honorable Ernest A. Finney, Jr.,
 7 Resident Judge, at Sumter, South Carolina.

8 The State of South Carolina was represented by R. Kirk
 9 McLeod, Solicitor for the Third Judicial Circuit, and Harry
 10 B. Burchstead, Jr., Assistant Solicitor, both of Sumter,
 11 South Carolina.

12 Present and appearing on behalf of the Defendant
 13 Maurice Mack were Sam Haskell, Esquire, Phillip Newsom,
 14 Esquire, and John S. Hoar, Esquire, all of the Sumter
 15 County Bar and Sumter, South Carolina.

16 Present and appearing on behalf of the Defendant Isiah
 17 James, Jr., was Ruben L. Gray, Esquire, of the Sumter County
 18 Bar and Sumter, South Carolina.

19 The following represents a true record of the
 20 proceedings.
 21
 22
 23
 24
 25

SUMTER, S.C. 2150

1 BY SOL. McLEOD: I might point out, Judge, that the list
2 that he is talking about, the information for his defense
3 in the armed robbery case, the case has been called and
4 will be called as murder.

5 BY THE COURT: Yes sir, I understand that; but I
6 gather he is talking about one of the---

7 BY SOL. McLEOD: Of course, that's a back-up case---

8 BY ATTY. NEWSOM: Your Honor, I think Brady---

9 BY THE COURT: That's all right, let me go through
10 these.

11 BY ATTY. NEWSOM: Yes sir.

12 BY THE COURT: Number 3, all written statements of
13 the accused, whether signed or unsigned; any objection,
14 Solicitor?

15 BY SOL. McLEOD: They have them, sir, do?

16 BY ATTY. NEWSOM: We already have them, Your Honor.

17 BY THE COURT: All right, sir, that's granted.
18 Number 4, all written statements made by witnesses or any
19 other persons, whether signed or unsigned, which relates
20 to this case. You've got any---

21 BY SOL. McLEOD: So far as I know, they have
22 everything that they have asked for.

23 BY THE COURT: All right, sir. That one would be
24 granted with the exception of if there are people within
25 the State's file that they consider to be confidential,

QUARTER, L.C. 1118

1 to concentrate on this one case of murder.

2 BY THE COURT: Yes sir.

3 BY SOL. McLEOD: As the background of it, if
4 anything develops during the course of the trial, we are
5 going to pursue anything else; but at the present time we
6 are interested in disposing of these gentlemen here. The
7 next thing they'll want us to do is try something up in
8 Greenville or bring Sputnik back from Florida where he just
9 got electrocuted. We can't cover the whole world for them.
10 But these two gentlemen here are charged with murder, and
11 that's what we are here discussing. We are not discussing---

12 BY THE COURT: All right, sir---

13 BY SOL. McLEOD: ---The drug traffic, he was involved
14 in drugs before; we'll admit that he was indicted for it
15 prior to this.

16 BY ATTY. NEWSOM: Your Honor, our position would be
17 that we are entitled to the results of the investigation,
18 any negotiations. We submit that the State will need the
19 testimony of one or both of those individuals in the
20 Cusumano family in their efforts to prove beyond a
21 reasonable doubt the elements of the crime of armed robbery
22 that they have submitted as their aggravating circumstances.

23 BY THE COURT: All right, sir, fine. I'm not going
24 to rule on whether or not at this point the investigation
25 would be pertinent or germane to the inquiry because I think

SUMMER, S.C. 7/10

st be confirmed by the Parole Officer, must state of prospective employer, type of employment offered, is it of permanent nature, wages to be paid and suitability for subject in the opinion of the investigating officer.

Family Background: Name of parents, how many brothers and sisters. Place of birth of subject, subject married and if so to whom (give full maiden name, not just Jane Smith, but Jane Marie Jones, with status of marriage at present, where and when married. How many children born to subject and their names and ages. Where the children live and reside. Source of wife's income and amount and present address and are they re-uniting upon subject's release. Type of community subject came from, type of community and residence he will return

names and addresses of brothers and sisters and whether any member of the family has a record.

Educational Background of subject and his family as well as their general reputation in the community and residence program is acceptable.

0 - Parole Officer's Recommendation:

1) Refrain from personal opinions, reflections or objections in your recommendation.

2) Base your recommendation solely upon the Facts and Merit as disclosed by your investigation.

3) Refrain from any criticism or adverse comment which could be a reflection upon the Court or its officials.

4) Be concise, explicit and professional.

NOTE: NEVER QUOTE THE SOLICITOR, SHERIFF OR POLICE IN A MANNER THAT WOULD/OR COULD BE CRITICAL OF A JUDGE'S SENTENCE.

MEMBER - A COPY OF YOUR INVESTIGATION GOES TO THE JUDGES INVOLVED.

IN YOUR REPORT!!!!

CURRENT PAROLE INVESTIGATIONS

These investigations will be made according to the following outline:

Type of Residence: The officer should investigate and give his opinion as to the type of neighborhood, family situation and general environment. State if residence is acceptable in your opinion.

Employment Offer: The employment offer must be verified by personal contact as to exact address, type

of work, general reputation of employer. The officer should state whether he thinks the offer is considered suitable and satisfactory.

3. Prison Record: List all infractions of prison rules since last investigation and give the recommendation of the Prison Officials as to parole.

4. Parole Officer's Recommendation: Your recommendation should be based on the complete investigation, including the original Ten Point and Current Investigation.

A. The following computation is to be used in re-investigating all cases previously rejected unless otherwise specified by our Board.

Less than 10 years	re-investigate	after serving	12 months
10 years sentence	re-investigate	after serving	12 months
15 years sentence	re-investigate	after serving	15 months
20 years sentence	re-investigate	after serving	18 months
25 years sentence	re-investigate	after serving	21 months
30 years sentence or more	re-investigate	after serving	24 months

If a sentence falls in between the periods listed, begin your investigation as if the sentence were the lesser number of years. For Example: A 14 year sentence will be investigated as if it were a 10 year sentence. A 19 year sentence will be investigated as if it were a 15 year sentence.

These investigations are to be done automatically without further notice from the Central Office and you will need to check your Public Works Lists at least monthly to keep up with those who are about to become eligible.

You should start the 4 Point Investigation (Current) three (3) months prior to his new eligibility date, so the investigation will be in the Central Office two (2) months prior to his new eligibility date.

All re-investigations are to be made regardless of whether they have employment or suitable program of residence. The only exception will be when a person declines interview and signs a statement that he prefers to serve his sentence.

B. Prior Parole Revocations:

1. If parole has been revoked by our Board, only once, the prisoner involved shall be eligible for current investigation and further review of his case after service of one (1) year from date of revocation.

2. When a parolee has been revoked on two (2) or more occasions he shall be required to serve a minimum of two (2) years before becoming eligible for re-parole consideration.

A T T E S T

A TRUE COPY

(26)

Barbara A. Scott

1 on that and I'll think about it for a while. Do you wish to
2 be heard on that one, Solicitor? Criminal records of any
3 witnesses...

4 BY SOL. McLEOD: I don't see where it's got anything
5 to do with the prosecution or the defense of this case
6 because like I started off before, the only thing we are
7 concerned with is trying these two people for murder.

8 BY THE COURT: All right, sir, fine thank you.

9 BY ATTY. NEWSOM: Your Honor, I'd like to make one
10 other point at this time if I could?

11 BY THE COURT: Yes sir?

12 BY ATTY. NEWSOM: Our request for this information
13 does not necessarily only go as to the guilt or innocence
14 phase. We feel that we are entitled to, I think through
15 Brady, to any information of the same nature and all of
16 these other previous requests that go to the sentencing
17 phase---

18 BY THE COURT: The sentencing phase---

19 BY ATTY. NEWSOM: ---And that would be to the charge
20 of the aggravating circumstance of armed robbery.

21 BY THE COURT: All right, sir, fine thank you. I
22 think that takes care of your Brady motion. Now, Mr.--that
23 takes care of all of your motions, doesn't it?

24 BY ATTY. NEWSOM: Yes, Your Honor, it is a continuing
25 motion. Is that my understanding, that the motion is

SUMTER, S.C. 20130

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CERTIFICATE

1

3 I, the undersigned Daisy M. Moore, official court
4 reporter for the Third Judicial Circuit of the State of
5 South Carolina, do hereby certify that the foregoing is
6 a true, accurate and complete Transcript of Record of the
7 proceedings in the within captioned case which were held
8 in the Court of General Sessions for Sumter County on
9 June 1, 1979, before the Honorable Ernest A. Finney, Jr.
10 Resident Judge, at Sumter, South Carolina.

11 I do further certify that I am neither of kin, counsel
12 nor interest to any party hereto.

13
14 *Daisy M Moore*
15

16 December 28, 1983

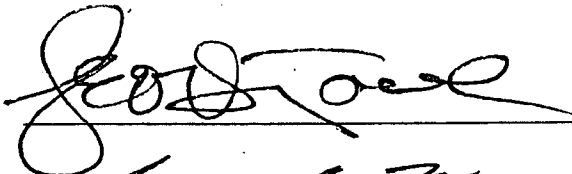

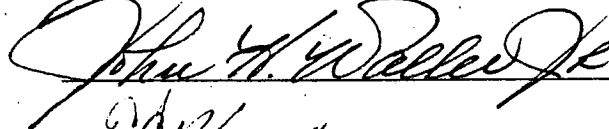
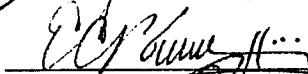
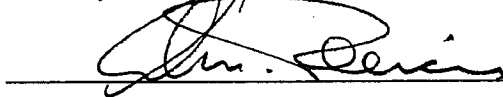
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SUMTER, S. C. 29150

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PER CURIAM: Petitioner seeks a writ of certiorari from the denial of his application for post-conviction relief (PCR).

The petition for a writ of certiorari is denied on Petitioner's Question II. Because petitioner raises non-collateral or administrative claims, we grant the petition on Petitioner's Question I, dispense with further briefing, vacate the order of the PCR judge, and remand to the Department of Corrections for further proceedings. Al-Shabazz v. State, Op. No. 24995 (S.C. Sup. Ct. filed February 14, 2000)(Shearouse Adv. Sh. No. 6 at 21).

 C.J.
 J.
 J.
 J.
 J.



9

South Carolina Court Administration

South Carolina Supreme Court
Columbia, South Carolina

ROSALYN FRIERSON
DIRECTOR

MOTTE L. TALLEY
ASSISTANT DIRECTOR

1015 SUMTER STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA
29201

TELEPHONE: (803) 734-1800

FAX: (803) 734-0269

E-MAIL: mtalley@sccourts.org

December 3, 2010

Isiah James, II #96883
RCI CA-52
P.O. Box 2039
Ridgeland, SC 29936

Dear Mr. James:

Your inquiry has been received by this office and has been forwarded to this section for response.

Unfortunately, Court Administration cannot assist you with your request because this office does not maintain or have ready access to the records you have requested.

If you need additional information pertaining to your case maybe obtained by contacting the County Clerk of Court where your case was heard concerning dockets, orders, motions, grand juries and true bills filed in your case.

Respectfully,

South Carolina Court Administration



SUMTER COUNTY CLERK OF COURT

JAMES C. CAMPBELL

Sumter County Courthouse ■ 141 North Main Street ■ Sumter, South Carolina 29150

Clerk's Office
(803)436-2227
Fax (803)436-2223

Family Court
(803)436-2366
Fax (803)436-2396

Common Pleas
(803)436-2228
(803)436-2231

Jury Information
(803)436-2233

Fines & Restitution
(803)436-2230

General Sessions
(803)436-2264
(803)436-2265

December 17, 2010

Isiah James 96883
R.C.I., CA-52
P. O. BOX 2039
Ridgeland, S. C. 29936

To: Isiah James,

We received your letter about requesting documentation on Sumter County Court having authorization to hold a general or regular court session in June of 1979. We do not make up the schedule for court sessions. The South Carolina Court Administration is the office that makes up the schedule. You need to contact them with your request.

Clerk of Court

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2**

Due: 10 153

INMATE NAME: ISIAH JAMES, JR.
 SCDC NUMBER: 96883
 INSTITUTION: RIDGELAND SEP 08 2011
 HOUSING UNIT: CA-52
 WORK ASSIGNMENT: EDUCATION - LIBRARY

RECEIVED

Office Use Only
 Grievance No. RCC-0503-11
 Code: General
 Policy CL/PL
 Disc. Hear. _____
 Class. _____
 Date Received 8/31/11
 IGC Initials mm
10-19-11

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): GRIEVANT APPEALS AND GRIPES AGAINST CLASSIFICATION CUSTODY (CHANGE) (1985) AND MAJOR CLASSIFICATION POLICY CHANGE UNDER DUE PROCESS CLAUSE (REPRISAL-VINDICTIVENESS) AND EX POST FACTO CLAUSE(S) VIOLATION(S). Sanders v. SCDC, 665 S.E.2d 231, 235 (S.C. App. 2008). JAMES WAS TRANSFERRED FROM DUTCHMEN CORRECTIONAL INSTITUTION (DCI) TO KIRKLAND CORRECTIONAL INSTITUTION (KCI) THE SUMMER OF 1985; HIS CUSTODY WAS REDUCED - LATER USED IN VINDICTIVE WAY(S) AGAINST HIM (SEE BURKE "Badge # 905" REPORT); HIS WORK CREDIT(S) WERE REDUCED IN VIOLATION OF DUE PROCESS OR ARBITRARILY. THE 1997 TRANSFER WAS FROM GOODMAN CORRECTIONAL INSTITUTION (GCI) TO RIDGELAND CORRECTIONAL INSTITUTION (RCI) WHERE HE WAS SUBJECTED TO CUSTODY REDUCTION AND WORK CREDIT(S) REDUCTION CONTRARY TO DUE PROCESS AND EX POST FACTO CLAUSE(S) OF SOUTH CAROLINA AND UNITED STATES CONSTITUTION(S). HIS MAX-OUT DATE WAS REDUCED FROM 2014 or 2015 or 2016 or 2017 or 2018 to 2023.

Isiah James, Jr. 8-21-11

 Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

Your concerns have been reviewed. Prior to 1996, an inmates work credits were determined by his/her job assignment. In reviewing your records, I see no errors in your work credits or custody assignments under the classification system prior to 1996. You were permitted to retain your EWC rate when the new classification system was implemented in 1996. Per OP-21.07 Earned Work Credits, section 2.1 "Each inmate who was allowed to keep his/her earned work credit rate upon implementation of the pilot Classification System on September 16, 1996, will continue to earn EWCs at that rate as long as the inmate is not convicted of a disciplinary rules violation." It is noted you were not convicted of a disciplinary rules violation after the implementation of the new Classification System until September 2006. Your EWC credits from your transfer to Ridgeland CI in 1997 until your disciplinary rules violation in 2006 has been corrected to reflect EWC level 2. Your projected release date has moved from 12/12/23 to 5/18/23. Your custody changes show no need for modification as they were appropriate based on the criteria established under the new Classification System.

Therefore, your grievance is resolved.

You may appeal this decision under the Administrative Procedures Act to the Administrative Law Court. In order to appeal, you must fill out the attached Notice of Appeal Form and submit it as instructed on the form within 30 days of receipt.

John S. Spitzer 2/15/12

 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.

 Grievant Signature Date IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

improper or unavailable. To the contrary, those cases teach that such review must be available to determine whether “the challenged conditions or degree of confinement are within the sentence imposed and are not otherwise violative of the Constitution,” or whether prison officials have acted arbitrarily, capriciously, or from personal bias. *Brown, id; Crowe, id.*

We emphasize, however, that we continue to endorse the limited nature of judicial review manifest in *Brown* and *Crowe*. 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. *Pruitt v. State*, 274 S.C. 565, 266 S.E.2d 779 (1980). We intend to adhere to this “hands off” doctrine when reviewing the outcome of any major or minor disciplinary hearing in which an inmate has a protected liberty interest due to the potential loss of sentence related credits. **In addition, the process due an inmate—as well as the level of judicial scrutiny—in a custody status case ... in which an inmate does not face the loss of sentence related credits is further limited by the fact that neither of those matters is a protected liberty interest within the scope of the Fourteenth Amendment.** (emphasis supplied).

Al Shabazz, v. State, 527 S.E.2d at 756-7.

In an appeal arising from South Carolina, the 4th Circuit Court of Appeals set forth the following in Slezak v. Evatt, 21 F.3d 590 (4th Cir. 1994):

The logical first question in assessing such a claim is, therefore, whether the inmate has a protectible liberty interest in the classification he seeks either to retain (against a “demotion”) or to receive (by a “promotion”). This, in turn raises the question of where such a liberty interest might be found. Here, again, the basics are plain. The federal constitution itself vests no liberty interest in inmates in retaining or receiving any particular security or custody status “ ‘[a]s long as the [challenged] conditions or degree of confinement ... is within the sentence imposed ... and is not otherwise violative of the Constitution.’ ” (citation omitted). Within these limits, so far as the federal constitution is concerned, the security and custody classification of state prison inmates is a matter for state prison-official discretion whose exercise is not subject to federal procedural due process constraints.

But such a liberty interest to retain or attain a particular security or custody classification may be created by state law having a very specific quality. Its effect must be to “plac[e] substantive limitations on official discretion,” (citation omitted) thereby giving rise, at the limits imposed upon discretion, to “legitimate claim[s] of entitlement,” *Kentucky Dep’t of Corrections v. Thompson*, 490 U.S. 454, 460, 109 S.Ct. 1904, 1908, 104 L.Ed.2d 506 (1989), to the classification sought and administratively denied.

The rub has come in determining whether particular state law has the required quality. Some fleshing out and clarification of the test has been provided in the line of Supreme Court decisions applying it to various state law patterns. Early on, Hewitt emphasized the need for “explicitly mandatory language in connection with requiring specific substantive predicates.” (citation omitted). And Olim emphasized that if under state law “the decision maker is not ‘required to base its decisions on objective and defined criteria,’ but instead ‘can deny the requested [classification] for any constitutionally permissible reason or for no reason at all,’ ” that law creates no protected liberty interest. (citation omitted). And, again, per Olim, the mere fact that state law mandates specific procedures does not suffice, since “[t]he State may choose to require procedures for reasons other than protection against deprivation of substantive rights.” (citation omitted). For, as Thompson most recently has pointed out, that which must be found mandated by state law is not procedures alone, or even procedures plus substantive predicates (objective criteria) alone, but substantive results once prescribed procedures have revealed that substantive predicates have been established. 490 U.S. at 464, 109 S.Ct. at 1910 (state laws that “stop short of requiring that a particular result is to be reached upon a finding that the substantive predicates are met” do not create protected liberty interests).

From these Supreme Court decisions, we have derived and applied the following understandings. No matter how firmly and in what detail procedural protections are mandated by state law for making decisions respecting the conditions of inmate custody and confinement, those standing alone create no protected liberty interest—either in the procedures or in any substantive result sought. *See Stewart v. Bailey*, 7 F.3d 384, 392 (4th Cir.1993). By the same token, no matter how plainly and explicitly substantive predicates for making such decisions are provided by state law, those either alone or in conjunction with prescribed procedures do not, without more, create protected liberty interests.—*See Berrier v. Allen*, 951 F.2d 622, 624–25 (4th Cir.1991) (North Carolina prison regulations); *O’Bar v. Pinion*, 953 F.2d 74, 84–85 (4th Cir.1991) (same); *Paoli v. Lally*, 812 F.2d 1489, 1492–93 (4th Cir.), cert. denied, 484 U.S. 864, 108 S.Ct. 184, 98 L.Ed.2d 137 (1987). (Maryland regulations).

What this all comes to is that constitutionally protected liberty interests are only created by state law regimes which in the end effectively say to inmates: “If facts A, B, and C are established in an appropriate fact-finding process, you are thereupon legally entitled to a more favorable security or custody classification than you presently have,” or, “Unless facts A, B, and C are so established, you are legally entitled not to be placed in a less favorable classification than you now have.”

Thus, even if a state law regime mandates both a detailed procedural process for making classification decisions, and substantive criteria to be

used in making those decisions, no constitutionally protected liberty interest is thereby created if under the regime either the primary decisionmaker or any reviewing authority is authorized to override, as a matter of discretion, any classification suggested by application of the prescribed substantive criteria. See *Stewart*, 7 F.3d at 392; *Paoli*, 812 F.2d at 1493.

Slezak, 21 F.3d at 594-5 (4th Cir. 1994).

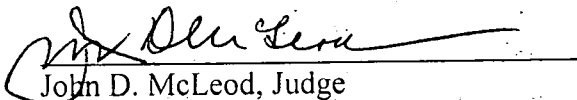
There is nothing in the record before me to indicate that the restriction complained of is "atypical and significant in relation to the ordinary incidents of prison life", or will affect the duration of his sentence or is beyond the sentence imposed; nor is there any indication of any decision of prison officials that is arbitrary, capricious, or resulting from personal bias or prejudice. I find nothing in the record to indicate that there has been an infringement that reaches Constitutional dimensions. There is clearly no state created liberty interest infringed upon here.

This Court may summarily dismiss an inmate appeal where the grievance does not implicate a state-created liberty or property interest. Slezak v. S.C. Department of Corrections, 361 S.C. 327, 605 S.E.2d 506 (2004). The foregoing being dispositive, it is unnecessary to address the remaining issues asserted by Appellant. See Futch v. McAllister Towing of Georgetown, Inc., 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999) (holding an appellate court need not review remaining issues when its determination of another issue is dispositive of the appeal).

THEREFORE, IT IS ORDERED that the within appeal be and hereby is **DISMISSED, WITH PREJUDICE.**

AND IT IS SO ORDERED.

September 6, 2012
Columbia, SC


John D. McLeod, Judge
S.C. Administrative Law Court

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

This 6 day of September, 2012
By: Anthony R. Goldman
Judicial Law Clerk

The South Carolina Court of Appeals

Isiah James, #096883, Appellant,

v.

South Carolina Department of Corrections, Defendant.

Appellate Case No. 2012-213209

The Honorable John D. McLeod
Trial Court Case No. 2012ALJ040153AP

ORDER

Appellant has failed to provide the \$100 notice of appeal filing fee, as required by Rule 203 of the South Carolina Appellate Court Rules. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY V. Claire Allen, Deputy
CLERK

FILED

SF
12/18/12

Columbia, South Carolina

cc:

Isiah James, Jr., 00096883
Shanika Kenyetta Johnson

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT

John McLeod, Administrative Law Judge

Case no. 12-ALJ-04-00153-AP
Appellate case no. 2012-213209

TSIAH JAMES, JR.,

Appellant,

v.

SOUTH CAROLINA DEPARTMENT OF
CORRECTIONS (SCDC),

Respondent.

NOTICE AND MOTION FOR REINSTATEMENT
AND REHEARING ON PAUPER STATUS
APPLICATION UNDER SCACR 260(a)
AND 240(1)&(j)

You will please take notice that on December 2, 2012 the undersigned will move before the Court of Appeals of Columbia, South Carolina for an order granting reinstatement of this appeal herein and pauper status on the ground(s) court rules set forth above herein and matter set forth below herein:

1. The court of appeals denied James's motion to proceed in forma pauperis on 11-20-12 under SCACR 240(j);
2. The clerk's office of this court issued the 12-12-12 order of dismissal;
3. Although the 11-20-12 order granted James pro se prisoner status; it is authored by only one Justice of the Court;

4. A rehearing or reconsideration of pauper status application is authorized under SCACR 240(1); In Howard v. SCDC, 733 S.E.2d 211, 215 (2012) decision of the High Court held, "The Supreme Court's standard of review of a decision by the Administrative Law Court derives from the Administrative Procedure Act";

5. Section 1-23-610 of S. C. Code Ann. () points to 'Judicial Review as statutory authority of decision of ALC; Howard at 221 points, "Indeed Article I, §22 of the South Carolina Constitution explicitly guarantees the right to judicial review of all final agency-decisions that affect private rights or libert or property interests";

6. As it was emphasized in the 10-3-12 application for pauper status; this case was brought in 1998 as application for post-conviction relief (APCR) which was dismissed and appealed to South Carolina Supreme Court; the Court issued Memorandum Opinion No. 2000-MO-082 (filed 6-6-Y2K) "Vacated and Remanded" (see attachment) under the Al-Shabazz ruling; he stresses that he was granted pauper status in the APCR proceedings (1998-2000); Martin v. State, 471 S.E.2d 134, 135 (1995) ("17-27-60(1955)(no fee required of indigent filing a post-conviction relief action)";

7. Even if this appeal is not characterized as APCR; it involves "a fundamental right that requires waiver of the filing fee" Martin at 135. Furthermore, he raised due process and ex post facto right(s) violation(s);

8. Section 1-23-610(A)(1) of S. C. Code (2006) commands, "Appeal in these matter is by right" and a due process claim sees not have to involve a liberty interest. See also State v. Fletcher, 471 S.E. 2d 702, 704 (S.C. App. 1996) ("punish a person for exercising a

protected statutory or constitutional right"); this is one of appellant's due process claim(s) and it points to whether the ALC abused its discretion.

The South Carolina Court of Appeals

Isiah James, #096883, Appellant,

v.

South Carolina Department of Corrections, Defendant.

Appellate Case No. 2012-213209

ORDER

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.

Thomas E. Huff J.
H. R. W. J.
A. Ke J.

Columbia, South Carolina

FILED

SF 4/17/13

cc:
Isiah James, Jr., 00096883
Shanika Kenyetta Johnson