

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT
APPEAL TO THE COURT OF APPEALS
The Honorable Shirley C. Robinson, Administrative Law Judge

APPELLATE CASE No: 2022-000442

Mr. Nathaniel Johnson, Jr., 211574,

Petitioner,

v.

South Carolina Department of Corrections,

Respondent,

PETITION FOR A WRIT OF CERTIORARI

/s/ Mr. Nathaniel Johnson, Jr.
Mr. Nathaniel Johnson, Jr. 211574
ACI. Bamberg Unit F-4 B-35
P.O. Box 1151
Fairfax, S.C. 29827
Pro-Se Petitioner

Other Counsel of Record:

Imani Diane Byas, Esquire
Staff Attorney
Office of General Counsel
South Carolina Department of Corrections
P.O. Box 21787
Columbia, S.C. 29221
(803)896-8508

RECEIVED

JUN 10 2022

S.C. SUPREME COURT

CERTIFICATE OF COUNSEL

Counsel for the Petitioner hereby certifies that the Petition for Rehearing was made and finally ruled on by the S.C. Court of Appeals on March 31st, 2022. Notice of Appeals received by the S.C. Supreme Court on April 12th, 2022.

Dated: 6/10/22

/s/ Mr. Nathaniel Johnson, Jr. #211574
Mr. Nathaniel Johnson, Jr. 211574
ACI. Bamberg Unit F-4 B-35
P.O. Box 1151
Fairfax, S.C. 29827
Pro-Se Petitioner

QUESTION PRESENTED

1. Whether the Court of Appeals erred in holding that the Administrative Law Court ruled correctly by stating that it lacked the authority to consider a facial challenge to the constitutionality of SCDC's policy?
2. Whether the Court of Appeals lacked jurisdiction to consider the constitutionality of a facial challenge to SCDC's policy violating Art 1 Section 13 of the State's Constitution?

STATEMENT OF THE CASE

On Tuesday February 26th, 2019, the Petitioner wrote a request to staff member, form 19-11, for a response. On Thursday February 28th, 2019, Petitioner received a response from Nurse P. Derrick. Petitioner proceeded with his Step 1 grievance procedure on the same date. On March 14th, 2019, Petitioner received the Warden's response. Petitioner disagreed with the Warden's response and then proceeded with Step 2 grievance on the same date.

On April 15th, 2019, the Petitioner received a response from the Responsible Official Mr. Wayne C. McCabe. On May 6th, 2019, Petitioner filed his Notice of Appeal, to the Administrative Law Court, after exhausting his grievance process.

On September 16th, 2019, The Honorable Shirley C. Robinson, ALJ, issued an order dismissing appeal for lack of jurisdiction. On September 27th, 2019, Petitioner filed his Notice of Appeal with the S.C. Court of Appeals. On February 16th, 2022, the S.C. Court of Appeals affirmed the decision of the Administrative Law Court with an Unpublished opinion No: 2022-UP-071. Petitioner requested a Rehearing En Banc and on March 31st, 2022, Rehearing petition was denied. March 16th, 2022, Petitioner received notice of Remittitur being sent to the Administrative Law Court.

Petitioner filed his Notice of Appeal along with Application to Proceed In Forma Pauperis on April 12th, 2022, received by the S.C. Supreme Court. Appeals as follows:

ARGUMENT

DISCUSSION:

1. The S.C. Court of Appeals did err in holding that the ALC lacks the authority to consider a facial challenge to the constitutionality of SCDC's policy violating the State's Constitution Art 1 Section 13.

Petitioner argues that SCDC has been charging \$15.00 each month for chronic Blood Pressure meds by taking monies out of inmate's Cooper Trust Fund to pay for prescription meds. The Federal Government has given the S.C. Department of Corrections funding to take care of inmate's every fisical year. Petitioner contends that the ALC and the S.C. Court of Appeals did have authority and jurisdiction to rule on the constitutionality of this issue See *Howard v. S.C. Dept. of Corrections, 399 S.C. 618 (Sept. 12th,2012). The ALC has subject matter jurisdiction under Administrative Procedure Act (APA) to hear a properly perfected appeal from the Dept. of Corrections 1-23-310(B).

2. Court of Appeals did have jurisdiction to consider a facial challenge in regards to the constitutionality of SCDC's policy violating Art 1 Section 13 of the State's Constitution.

Petitioner argues that the S.C. Court of Appeals did have proper jurisdiction in pursuant to S.C. Code Ann 14-8-200 (Supp. 2016), providing that the S.C. Court of Appeals has jurisdiction over any case in which an appeal is taken from a final decision of an agency or a final decision of the Administrative Law Court.

Petitioner further argues that he is medically insured with both medicaid and medicare under the Americans with disability Act and should not have to pay SCDC for a chronic Blood Pressure med that is necessary, and the State Department of Corrections is responsible for the welfare, maintenance, health, education and rehabilitation of its inmates.

Petitioner contends that the S.C. Court of Appeals erred in arguing the case of * S.C. Dept. of Corrections v. Cartrette, 387 S.C. 640, 649, 694 S.E.2d 18, 23 (Ct. App 2010) concluding deductions from an inmate's pay for room and board did not violate the State's obligation.

Petitioner argues that his issues in regard to SCDC taking his monies were taken out of his personal protected interest account which violated his protected property interest from his E.H. Cooper Trust Account and not from inmate's pay. Having Petitioner pay for his prescription meds did violate the State Agency's obligation under Art XII Section 2 of the State's Constitution.

CONCLUSION

Wherefore, the Petitioner pray that this Honorable Court, finds in favor and reverse and remand the decision of the S.C. Court of Appeals to consider a hearing by granting Petition for Writ of Certiorari, as a matter of law.

Dated: 6/10/22

Respectfully submitted,

/s/ *Mr. Nathaniel Johnson, Jr. #211574*

Mr. Nathaniel Johnson, Jr., 211574

ACI. Bamberg Unit F-4 B-35

P.O. Box 1151

Fairfax, S.C. 29827

Pro-Se Petitioner

RECEIVED

JUN 10 2022

S.C. SUPREME COURT