

Prison Cover up
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STATE OF CALIFORNIA
DEPARTMENT OF CORRECTIONS AND REHABILITATION
OFFICE OF APPEALS
P. O. BOX 942883
SACRAMENTO, CA 94283-0001

THIRD LEVEL APPEAL DECISION

JUL 02 2013

Date:

In re: Kirk Stevenson, H13365
High Desert State Prison
P.O. Box 270220
Susanville, CA 96127

TLR Case No.: 1211787

Local Log No.: HDSP-12-04182

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner D. Foston, Captain. All submitted documentation and supporting arguments of the parties have been considered.

I APPELLANT'S ARGUMENT: It is the appellant's position that Correctional Officer (CO) Oatman obstructed his ability to file an appeal. The appellant alleges that on November 19, 2012, he submitted an appeal to CO Oatman who opened it, read it, and walked away. The appellant states that when he inquired about his appeal with the High Desert State Prison (HDSP) Appeals Office he was informed that they had never received the appeal. The appellant requests that this matter be thoroughly investigated and that CO Oatman be reprimanded, terminated, and prosecuted to the fullest extent of the law.

II SECOND LEVEL'S DECISION: The appellant was interviewed on December 31, 2012, by Correctional Sergeant H. Weaver. A review of the allegations of staff misconduct presented in the written complaint has been completed. Based upon this review the appellant's appeal has been handled as a Staff Complaint Appeal Inquiry. The following witnesses were questioned: CO Oatman. The following information was reviewed as a result of the appellant's allegations of staff misconduct: CDC Form 602, Inmate/Parolee Appeal Form, with attachments; HDSP Operational Procedures; and the CDCR Operations Manual (DOM). The inquiry is complete and staff did not violate CDCR policy regarding this issue. The appeal was granted in part at the Second Level of Review (SLR), in that an inquiry was conducted.

III THIRD LEVEL DECISION: Appeal is denied.

A. FINDINGS: Upon review of the documentation submitted, it is determined that the appellant's allegations have been reviewed and evaluated by administrative staff and an appeal inquiry has been completed at the SLR.

in the event that staff misconduct was substantiated, the institution would take the appropriate course of action. All staff personnel matters are confidential in nature and not privy to the inquiries of other staff, the general public or the inmate population, and would not be released to the appellant. However, upon completion of final review, or culmination of an inquiry, the appellant is to be notified by the respective body that an inquiry has been completed and whether the complaint was unsubstantiated or substantiated. In this case, the institution has reported the disposition to the appellant. Although the appellant has the right to submit an appeal as a staff complaint, the request for administrative action regarding staff or the placement of documentation in a staff member's personnel file and monetary compensation are beyond the scope of the appeals process. On June 26, 2013, the examiner reviewed the confidential report related to this appeal and determined that staff did not violate policy as alleged. Therefore no relief is provided at the Third Level of Review.

B. BASIS FOR THE DECISION:

California Penal Code Section: 832.7, 832.8

California Code of Regulations, Title 15, Section: 3004, 3084.1, 3084.2, 3084.7, 3270, 3331, 3084, 3084.9, 3391

DOM: 54100.1, 54100.2, 54100.3, 54100.4

C. ORDER: No changes or modifications are required by the Institution.

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This decision exhausts the administrative remedy available to the appellant within CDCR.



D. FOSTON, Appeals Examiner
Office of Appeals

cc: Warden, HDSP
Appeals Coordinator, HDSP



J. D. LOZANO, Chief
Office of Appeals