

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Darrell Hunter, #260730,

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Docket No. 13-ALJ-04-0206-AP

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Appellant,

)

)

vs.

)

ORDER OF DISMISSAL

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South Carolina Department of Corrections,

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Respondent.

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)

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to the Notice of Appeal filed by Appellant (Inmate) above named, who is incarcerated in the South Carolina Department of Corrections. He appeals his conviction for Use, Possession or Distilling and/or Brewing of any Alcoholic Beverage (8.99) SCDC Policy OP-22.14, Inmate Disciplinary System, which was affirmed at the agency level. He was sanctioned with the loss of good time credits so a state created liberty interest is involved

STANDARD OF REVIEW

The 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). The Court's appellate jurisdiction in inmate appeals is limited to 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.

When reviewing the Department's decisions in inmate grievance matters, the Court sits in an appellate capacity. Id. at 756. Consequently, the review in these inmate grievance cases is limited to the Record presented. An Administrative Law Judge may not substitute his judgment for that of an agency "as to the weight of the evidence on questions of fact." S.C. Code Ann. § 1-23-380(5) (Supp. 2012).

FILED

JUN 07 2013

SC ADMIN. LAW COURT

DISCUSSION

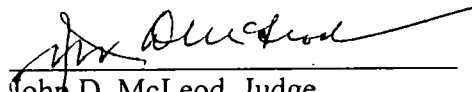
The Initial Brief submitted by Appellant failed to comply with SCALC Rule 60(B)(5) in that it was not accompanied by a proof of service of such document on **all parties** of record. (emphasis supplied) The proof of service attached does not show service upon Respondent and shows only service upon the ALC.

SCALC Rule 62 allows dismissal by the ALC on its own motion for failure to comply with any of the rules of procedure for appeals.

Therefore, the order appealed from is **AFFIRMED** and this appeal **DISMISSED WITH PREJUDICE**.

AND IT IS SO ORDERED.

Columbia, S.C.
June 7, 2013



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 7 day of June, 2013

By: 
Judicial Law Clerk