

The South Carolina Court of Appeals

Stephen Mueller, Appellant,

v.

South Carolina Department of Health and Environmental
Control, Carla Varn DuPre, and Jasper B. Varn, III,
Respondents.

Appellate Case No. 2023-000441

ORDER

After careful consideration, Respondents' motion to dismiss is granted in part and denied in part.¹ Appellant's appeal of the ALC's final order of June 7, 2022 is dismissed as untimely. *See* Rule 203(b)(6), SCACR (providing a notice of appeal from a decision of the ALC "shall be served on the agency, the administrative law court . . . and all parties of record within thirty (30) days after receipt of the decision," and "[i]f a timely petition for rehearing is filed with the administrative tribunal, the time to appeal for all parties shall be stayed and shall run from receipt of the decision granting or denying that motion"); *Mears v. Mears*, 287 S.C. 168, 169, 337 S.E.2d 206, 207 (1985) ("Service of the notice of intent to appeal is a jurisdictional requirement, and this Court has no authority to extend or expand the time in which the notice of intent to appeal must be served."). However, Appellant's appeal of the March 3, 2023 order denying his Rule 60(b), SCRCF motion is timely and shall proceed. *See* Rule 68, SCALC ("The South Carolina Rules of Civil Procedure and the South Carolina Appellate Court Rules, in contested cases and appeals respectively, may, in the discretion of the presiding administrative law judge, be applied to resolve questions not addressed by these rules."). Respondents' request for attorney's fees is denied.

¹ Because our ruling on Respondents' motion to dismiss is dispositive of the issues raised in Appellant's subsequent "Motion to Continue to Consider an Appeal," we decline to rule on that motion.

Stephanie P. McDonald

FOR THE COURT

Columbia, South Carolina

cc:

Bradley David Churdar, Esquire

Mary Duncan Shahid, Esquire

Terry E. Richardson, Jr., Esquire

FILED
May 24 2023