

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from the Administrative Law Court
The Honorable Robert L. Reibold, Administrative Law Judge
Docket Number 23-ALJ-15-0001-AP

Appellate Case No.: 2023-000847

RONALD C. ALBRIGHT, #217218.....APPELLANT

v.

S.C. DEPARTMENT OF PROBATION, PAROLE AND
PARDON SERVICES,.....RESPONDENT

REPLY BRIEF OF APPELLANT

6-30-2023
DATED

Ronald C. Albright
RONALD C. ALBRIGHT

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The ALC erred in dismissing the Appeal because it claimed a lack of jurisdiction. The ALC had jurisdiction under S.C. Code 1976 1-23-600(A), 1-23-380(a-f), and 24-21-1170(B), To hear, modify, amend, or correct an Agency decision.	
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TABLE OF AUTHORITIES

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Secondary Sources

Interstate Compact for Adult Offender Supervision(ICAOS) Rule 5.108(a-g)	3,4,5
75 ALR 6 th 181 “The Construction and Application of the ICAOS” Sect. 2.5, 2.6, 2.7, 21, 22, and 23	7,4
26 S.C. Jurisprudence Sect. 22 “Parole, Probation, and Pardons”	7,4

APPELLANT'S STATEMENT OF ISSUES ON APPEAL

1. Did the Agency depart from the requirements and mandatory language contained in the Interstate Compact regarding the Parolee's 'Retaking' and revocation of his parole status?
2. Did the Agency's departures from the ICAOS Compact violate Parolee's Due Process Rights?
3. Did the Agency's proceedings meet the minimum Due Process requirements of the 4th and 14th Amendments and the ICAOS Compact?
4. Is the Agency's decision "capable of repetition, Yet evading review" due to the agency's failure or refusal to issue the written final order of revocation and refusing to acknowledge the Parolee's defenses?
5. Did the absence of counsel, or the preliminary hearing justice's failure to inform Parolee of his right to hire or have counsel present, violate Parolee's Due Process Rights?
6. Did the preliminary hearing administrator proceed arbitrarily and capriciously in the proceedings denying the Parolee his Due Process Rights?

Did the Administrative Law Judge err in not recognizing a cause for a claim to Judicial review of the preceding issues? S.C. Code 1976 Ann. 24-21-1170(B) states the courts are supposed to enforce the rules of the compact. Appellant pointed out several deviations from the compact rules and regulations but the ALC declined to hear them. These issues are still valid, outstanding, and unresolved.

Appellant is asking for a little of this Court's discretion and leeway due to the Appellant being a layman. Appellant's intent is claiming that the ALC erred in not reviewing the above issues to determine if procedure was followed. In hindsight maybe a preface of " Did the Lower Court err in not finding a cause for a claim enough for review due to..." should have been added to the beginning of each of the issues above. Appellant pleads with this Court to not let a case of semantics or my ignorance of the law bar my issues. Thank you for your consideration.

STATEMENT OF CASE

1. APPELLANT IS STRIVING TO ADHERE TO ONLY RELEVANT MATTER IN THIS PRESENT CASE OF THE ALC'S REVIEW OF A STATE AGENCY'S DECISION, BUT ONLY AS A DIRECT REPLY TO THE OPENING PARAGRAPH OF RESPONDENT'S BRIEF, APPELLANT FEELS COMPELED TO ADDRESS THE OBVIOUS ATTEMPT BY RESPONDENT TO PREJUDICE HIM IN THE COURTS EYES BY INCLUDING THE FALSE AND IRRELEVANT STATEMENT "HE ROBBED AND BEAT TO DEATH A GUEST AT A HOTEL IN MYRTLE BEACH." THIS ORIGINAL 1992 CONVICTION IS NOT THE ISSUE AT HAND, BUT WAS A RESULT OF "THE HAND OF ONE" AND APPELLANT NEITHER ROBBED OR BEAT ANYONE. THIS STATEMENT WAS DISTASTEFUL, UNTRUE, UNPROFESSIONAL, AND IRRELEVANT TO THE PRESENT CASE AND AS VIGOROUSLY AS THE RESPONDENT IS ARGUING RELEVANCE, YOU'D THINK HE'D ALSO COMPLY. APPELLANT HOPES THE COURT SEES THROUGH THIS OBVIOUS ATTEMPT TO PRINT THE APPELLANT IN AN UNFAVORABLE LIGHT.

a. WITH THAT MATTER ADDRESSED, APPELLANT SUBMITS THE FOLLOWING RELEVANT STATEMENT OF THE PRESENT CASE. APPELLANT WAS GRANTED PAROLE BY A 7/6 VOTE ON MAY 27, 2015 AND HAD HIS SUPERVISION TRANSFERRED TO HIS HOME STATE OF FLORIDA UNDER THE ICAOS. TWO YEARS INTO THAT SUPERVISION, THE FLORIDA PAROLE AGENT SUBMITTED ERRONEOUS REPORTS AND TELETYPES TO SOUTH CAROLINA. APPELLANT HAS CONCLUSIVE AND EXCULPATORY EVIDENCE REFUTING THE ALLEGATIONS AGAINST HIM AND HAS PRESENTED IT TO THE RESPONDENT SEVERAL TIMES. THE RESPONDENT WILL NOT ADDRESS IT AND SEEKS TO KEEP IT FROM REVIEW OF THE COURTS.

3. UPON RECEIPT OF THESE ERRONEOUS REPORTS FROM FLORIDA, S.C. ISSUED A WARRANT AND HAD PAROLEE EXTRADITED BACK TO S.C. AND REVOKED HIS PAROLE, CONTRARY TO ICAOS PROCEDURES. AT PAROLEE'S PRELIMINARY HEARING, IN THE WRONG STATE, PAROLEE WAS TOLD BY THE HEARING ADMINISTRATOR TO TELL ALL OF HIS DEFENSES TO THE PAROLE BOARD WHEN HE GOES BACK IN FRONT OF THEM. THIS IS THE REASON APPELLANT DIDN'T SEEK FURTHER JUDICIAL REVIEW AT THAT TIME, HE WAS FOLLOWING THE ERRONEOUS DIRECTIVES OF THAT HEARING ADMINISTRATOR. WHERE THE PROPER PROCESS INVOLVES CONFRONTATION OF ACCUSER, CROSS-EXAMINATION OF ADVERSE WITNESSES, PRESENTATION TO PAROLEE OF EVIDENCE AGAINST HIM, AND AN INSTRUCTION THAT PAROLEE MAY HIRE COUNSEL REPRESENTATION. THESE ERRONEOUS DIRECTIVES AND THE AGENCY'S FAILURE TO ISSUE A WRITTEN FINAL ORDER OF REVOCATION HAVE KEPT APPELLANT FROM SEEKING JUDICIAL REVIEW, BUT IT SEEMS NOW HE HAS NO OTHER RECOURSE.

STATEMENT OF CASE (CONTINUED)

4. AFTER THREE ATTEMPTS AT PRESENTING DEFENSES AND EVIDENCE TO THE AGENCY, AS DIRECTED BY THE HEARING ADMINISTRATOR, APPELLANT SOUGHT JUDICIAL REVIEW IN THE ALC AS A CONTESTED CASE HEARING OF A STATE AGENCY DECISION PURSUANT TO § 1-23-600(A) EVEN THOUGH THE WRITTEN FINAL ORDER OF REVOCATION HAS YET TO BE RECEIVED FROM SCDPPPS. APPELLANT MOVED THE ALC TO EITHER HEAR THE MERITS OF THE CASE WITHOUT THE FINAL ORDER, OR TO COMPEL THE AGENCY TO ISSUE THE ORDER TO BEGIN THE TOLLING OF THE TIMELINE TO APPEAL THE REVOCATION PROCEEDINGS. THE ALC STATED THAT IT WASN'T THE PROPER VENUE TO COMPEL A STATE AGENCY TO ISSUE AN ORDER, BUT DIDN'T SUGGEST WHICH VENUE WAS.

5. NO MATTER HOW MANY TIMES THE APPELLANT HAS STATED THAT HE IS NOT CHALLENGING THE SUBSEQUENT ROUTINE DENIALS OF PAROLE, THE RESPONDENT CONTINUES TO INCLUDE THESE DENIALS, THEIR REASONS FOR THEM, AND THEIR RELEVANT STATUTES TO "MUDDY THE WATERS". APPELLANT FULLY UNDERSTANDS THAT THESE DENIALS ARE NON-REVIEWABLE AND HE IS NOT, NOR EVER WAS, CHALLENGING THEM, OR TRYING TO ADD OR "BOOT STRAP" THEM AS RESPONDENT CLAIMS IN THEIR BRIEF. THEY ARE IRRELEVANT TO THE PRESENT CASE.

6. RESPONDENT FILED A MOTION TO DISMISS CLAIMING TIMELINESS AND JURISDICTION. APPELLANT FILED A RESPONSE COUNTERING THAT THE ALC HAD JURISDICTION TO REVIEW, MODIFY, AMEND, OR REVERSE UNDER § 1-23-380(a-f), AND A DUTY TO ENFORCE ADHERENCE TO THE COMPACT UNDER § 24-21-1170(a) AS TO TIMELINESS, THE ALC ACKNOWLEDGED THAT IF APPELLANT HAS NOT RECEIVED A WRITTEN FINAL ORDER FROM THE AGENCY, THEN THE TIME TO APPEAL WOULD NOT HAVE BEGUN TO TOLL AND NO APPEAL HAS YET TO COMMENCE. APPELLANT HAS YET TO RECEIVE THE WRITTEN FINAL ORDER OF REVOCATION FROM THE AGENCY.

7. THE ALC THEN GRANTED THE MOTION TO DISMISS AND APPELLANT NOW BRINGS THIS APPEAL REITERATING THE REASONS WHY THE ALC COULD AND SHOULD HAVE HEARD APPELLANT'S CASE. BECAUSE THE ISSUES RAISED STATE A CAUSE FOR A CLAIM AND SHOW AN UNWARRANTED USE OF DISCRETION BY THE AGENCY AND A DECISION BASED UPON UNLAWFUL PROCEDURE, WHERE LAWFUL PROCEDURE WOULD HAVE BEEN TO FOLLOW THE ICAOS PROTOCOLS AND PROCEDURES FOR A 'RETAKING' PER ICAOS R. 5.108(A-C).

STANDARD OF REVIEW

"MORRISSEY" V. BREWER 408 U.S. 471 LAYS OUT THE MINIMUM PROCEDURES TO MEET DUE PROCESS REQUIREMENTS IN A PAROLE REVOCATION CASE. ICAOS RULE 5.108 (A-G) EMBODIES THE COURT'S RULING IN "MORRISSEY" AND PROVIDES A UNIFORM SET OF RULES AND PROCEDURES THAT A STATE MUST ABIDE BY. THESE RULES ARE BINDING UNDER §§ 24-21-1130(2) AND 24-21-1220(B)(2) AND SUPERSEDE EITHER STATE'S USUAL PRACTICES UNDER § 24-21-1220(A)(2) AND ARE CONSIDERED AS STATUTORY UNDER 24-21-1130(2).

THE ALQ HAS JURISDICTION OVER THE CONTESTED CASE HEARING OF A STATE AGENCY DECISION UNDER § 1-23-380 AND 1-23-600(A) AND § 1-23-600(D) DOES NOT BAR APPEAL AS THIS CASE ISNT CHALLENGING PAROLE ELIGIBILITY OR DENIALS OF PAROLE, TO A PAROLE ELIGIBLE INMATE.

THE PRESENT COURT ALSO HAS JURISDICTION TO REVIEW, AMEND, MODIFY, OR REVERSE AN AGENCY'S DECISION UNDER § 14-8-200(A) AND 1-23-610(A)(1) UNDER THE SAME CIRCUMSTANCES AS THE ALQ HAD UNDER 1-23-380(5)(a-f). FOR EITHER INSTANCE, § 24-21-1170(B) STATES THE COURTS SHOULD UPHOLD ADHERENCE TO THE COMPACT'S RULES AND REGULATIONS.

HOW CAN THE COURTS UPHOLD ADHERENCE TO A COMPACT IF THEY DONT REVIEW THE PROCEDURES, OR RATHER THE THE WHOLESALE DEPARTURE FROM THOSE PROCEDURES?

75 ALR 6th 181 "THE CONSTRUCTION AND APPLICATION OF THE ICAOS"
§§ 2.5, 2.6, 2.7, 21, 22, AND 23

26 S.C. JURISPRUDENCE § 22 "PAROLE, PROBATION, AND PARDONS"

ICAOS RULE 5.108 (A-G)

ARGUMENT

THE ALC ERRED IN GRANTING THE MOTION TO DISMISS IN THAT A CAUSE FOR A CLAIM WAS SHOWN TO EXIST DUE TO THE AGENCY'S DECISION BEING MADE ON UNLAWFUL PROCEDURE WHICH IS REVIEWABLE UNDER § 1-23-380(5)(c). THE DECISION WAS ALSO CLEARLY ERRONEOUS IN VIEW OF THE RELIABLE, PROBATIVE, AND SUBSTANTIAL EVIDENCE ON THE WHOLE RECORD WHICH ALSO SHOULD HAVE BEEN REVIEWED UNDER § 1-23-380(5)(e) AND THE DECISION WAS ARBITRARY AND CAPRICIOUS AND BASED ON AN UNWARRANTED EXERCISE OF DISCRETION, BY THE AGENCY'S INFERRING OF THE FIRST TWO WORDS OF § 24-21-680 "UPON FAILURE" FROM AN UNFOUNDED SUMMARY OF THE FLORIDA PAROLE OFFICERS REPORTS, TO IMPLY THAT THOSE ALLEGATIONS WERE ACTUAL VIOLATIONS COMMITTED, AND TO GRANT THEM THE OMNIPOTENT STATUS THE RESPONDENT CLAIMS THROUGH THIS STATUTE.

THE ALC ERRED IN DETERMINATION THAT IT LACKED THE ABILITY TO HEAR THE APPEAL. § 24-21-1170(B) STATES THAT THE COURTS AND EXECUTIVE AGENCIES SHOULD UPHOLD ADHERENCE TO THE COMPACTS RULES AND REGULATIONS. HOW CAN THE COURT UPHOLD ADHERENCE IF THEY DON'T FIRST REVIEW THE PROCEDURES BEING CHALLENGED FOR NON-COMPLIANCE?

THE PROCESS AND PROCEDURES EMPLOYED BY THE AGENCY AND EVIDENCE RELIED UPON IN REACHING THEIR NON-REVIEWABLE DECISIONS ARE REVIEWABLE AND THAT'S WHAT APPELLANT HAS BEEN CHALLENGING THE ENTIRE TIME. NO MATTER HOW MUCH THE RESPONDENT WANTS TO RE-FRAME APPELLANT'S ARGUMENTS AS ATTACKING THE DECISION ITSELF OR THE SUBSEQUENT ROUTINE DENIALS OF PAROLE. ALL OF THIS CONTRIBUTES TO THE "EXHAUSTIVE AND LENGTHY" APPEAL THE RESPONDENT REFERS TO IN ITS BRIEF.

THIS MATTER IS REALLY QUITE SIMPLE. THE AGENCY DEPARTED FROM THE MECHANISM PUT IN PLACE TO PROTECT A PAROLEE'S DUE PROCESS RIGHTS IN THE ICAOS PROTOCOLS. THE AGENCY WAS BOUND TO FOLLOW THESE RULES UNDER § 24-21-1130(2) AND § 24-21-1220(B)(2).

THE APPELLANT HAS THE RIGHT TO HAVE THESE PROCEDURES AND EVIDENCE RELIED UPON, REVIEWED. THE ALC AND THE PRESENT COURT HAVE JURISDICTION TO NOT ONLY HEAR, BUT TO RECTIFY ANY DAMAGE CAUSED BY THE STATE AGENCY'S DEPARTURES FROM THE LAWFUL PROCEDURE WHICH IN THIS CASE, WAS THE ICAOS RULES FOR A 'RETAKING' AS LAID OUT IN RULE 5.103(a-9).

THE RESPONDANT ONLY NOW BRINGS UP POST-CONVICTION RELIEF UNDER §17-27-20(A)(5) AFTER APPELLANT MOVED THE ALLC TO TRANSFER THE CASE TO CORE WANT OF JURISDICTION AND SERVED A COPY OF THIS MOTION TO RESPONDANT. NOTHING WAS MENTIONED THEN BY THE RESPONDENT OR THE COURT ABOUT A P.C.R. BEING THE PROPER FORUM, DESPITE THE QUESTION BEING ADDRESSED BY THE APPELLANT.

THE ALLC ACCEPTED THE APPLICATION OF A CONTESTED CASE HEARING OF A STATE AGENCY DECISION BECAUSE ALL ADMINISTRATIVE REMEDIES MUST BE EXHAUSTED BEFORE PROCEEDING TO FURTHER JUDICIAL REVIEW, APPELLANT ASSUMES THIS INCLUDES A P.C.R. AS WELL.

IF THIS PRESENT COURT IS OF THE OPINION THAT THE ALLC SHOULD HAVE BEEN FOREGONE AND APPELLANT'S CLAIMS FILED AS A P.C.R. INSTEAD, THEN APPELLANT PLEADS THIS COURT ACCEPT JURISDICTION UNDER §1-23-610(B) AND §14-8-200(A) AND HEAR THE MERITS OF THIS CASE, OR REQUESTS EQUITABLE TOLLING AND LEAVE TO FILE A P.C.R.

EITHER WAY A WRITTEN FINAL ORDER OF REVOCATION FROM THE AGENCY IS NEEDED AND HEREBY REQUESTED AGAIN.

CONCLUSION

APPELLANT IS APPEALING THE DECISION OF THE ALC REGARDING THE PROCEDURES EMPLOYED BY A STATE AGENCY IN REACHING THEIR DECISION. APPELLANT IS NOT APPEALING THE DECISION OF REVOCATION OR THE SUBSEQUENT ROUTINE DENIALS OF PAROLE AS RESPONDENT CLAIMS. APPELLANT IS SEEKING REVIEW OF THE DEPARTURES FROM THE PROPER PROCEDURE AND EVIDENCE RELIED UPON TO REACH THAT DECISION, WHICH IS REVIEWABLE BY THE COURTS.

RESPONDENT CLAIMS APPELLANT IS TRYING TO "BOOTSTRAP AN INVALID CHALLENGE TO AN OTHERWISE TENUOUS APPEAL OF A ROUTINE DENIAL OF PAROLE." THIS COULDN'T BE FURTHER FROM THE TRUTH. APPELLANT IS ACTUALLY TRYING TO KEEP THE RESPONDENT FROM CONSTANTLY DIVERTING ATTENTION TO THOSE IRRELEVANT ROUTINE DENIALS OF PAROLE AND THEIR REASONS FOR THEM. THEY ARE NOT WHAT'S BEING CHALLENGED AND ONLY SERVE TO COMPLICATE THE ISSUE AT HAND OR TO "MUDDY THE WATERS."

APPELLANT RESPECTFULLY REQUESTS THIS COURT TO RULE ON HIS MOTIONS PRESENTED, AND TO HEAR THE MERITS OF THIS CASE UNDER § 1-23-610(A)(1), (B)(a-f); § 14-8-200(A) OR ANY OTHER MEANS THIS COURT HAS FOR REVIEW, AND EITHER REINSTATE SUPERVISION PER ICAOS RULE 5.108(C)(2,3) OR ORDER A DE NOVO HEARING, OR REMAND THE CASE BACK TO THE ALC FOR JUDGEMENT, OR ANYTHING ELSE THE COURT SEES AS PROPER IN THE INTEREST OF JUSTICE AND FUNDAMENTAL FAIRNESS.

SECONDARY SOURCES

75 ALR 6TH 181 "THE CONSTRUCTION AND APPLICATION OF THE ICAOS"
(§§ 2.5, 2.6, 2.7, 21, 22, AND 23)

26 S.C. JURISPRUDENCE § 22 "PAROLE, PROBATION, AND PARDONS"

RESPECTFULLY
SUBMITTED,
Ronald C. Albright

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from the Administrative Law Court
The Honorable Robert L. Reibold, Administrative Law Judge
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Appellate Case No.: 2023-000847

RONALD C. ALBRIGHT, #217218.....APPELLANT

v.

S.C. DEPARTMENT OF PROBATION, PAROLE AND
PARDON SERVICES,.....RESPONDENT

CERTIFICATE OF SERVICE

I RONALD ALBRIGHT, APPELLANT, HEREBY CERTIFY THAT I HAVE SERVED THE ENCLOSED "REPLY BRIEF OF APPELLANT" AND "RESPONSE TO MOTION TO STRIKE" ON THE FOLLOWING ADDRESSED PARTIES BY PLACING A COPY OF EACH IN THE LIEBER CORRECTIONAL INSTITUTION MAIL ROOM LABELED: ATTENTION: INTERDEPARTMENTAL LEGAL MAIL (6/30/2023)

S.C. DEPT. OF P.P.P. SERVICES
JESSICA E. KINARD - LEGAL DIVISION
P.O. Box 207
COLUMBIA, SC 29201

AND

ADMINISTRATIVE LAW COURT
JAMES S. HARRISSON - CLERK
1205 PENDLETON ST.
COLUMBIA, SC 29201

I FURTHER CERTIFY THAT ALL PARTIES REQUIRED BY RULE TO BE SERVED, HAVE BEEN SERVED.

ON: 6/30/2023
DATED

Ronald C. Albright
RONALD C. ALBRIGHT

"RATIO EST RADIUS DIVINI LUMINIS" ~ "VERITAS NIHIL VERETUR NISI ABSCONDI"

RONALD C. ALBRIGHT ~ #211533
L.C.I. ~ SB-58 P.O. BOX 205
RIDGEVILLE, S.C. 29472

S.C. COURT OF APPEALS

HON. JENNY A. KITCHINGS - CLERK

P.O. Box 11629

COLUMBIA, SC. 29211

30TH of June, 2023

RE: RONALD ALBRIGHT # 211533 v. SCDPPPS (APPELLATE CASE No. 2023-000847)

REPLY BRIEF AND RESPONSE TO MOTION TO STRIKE

Dear Mrs. Kitchings,

PLEASE FIND ENCLOSED, ONE COPY OF EACH OF THE
REPLY BRIEF OF APPELLANT AND APPELLANT'S RESPONSE TO MOTION TO STRIKE
AND CERTIFICATE OF SERVICE ON ALL PARTIES.

COULD YOU KINDLY RETURN TO ME A FILE STAMPED COPY
OF THE COVER PAGE OF EACH.

RECEIVED

JUL 05 2023

SC Court of Appeals

cc: ADMINISTRATIVE LAW COURT
SC. DEPT. OF PPP SERVICES

Respectfully
Submitted,
Ronald C. Albright

RONALD ALBRIGHT #211533
L.C.I.-SB-58- P.O. Box 205
RIDGEVILLE, SC. 29472

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JUN 30 2023

MAIL ROOM
L.C.I.

S.C. COURT OF APPEALS
HON. JENNY A. KITCHINGS-CLERK
P.O. Box 11629
COLUMBIA, SC. 29211

INTERDEPARTMENTAL
LEGAL MAIL (6-30-23)