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SC Court of Appeals

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Timothy Dale Crockett, #200598

Docket No. 23-ALJ-04-0150-IJ

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

ORDER GRANTING
RESPONDENT'S MOTION TO
DISMISS

This matter is before the South Carolina Administrative Law Court (ALC or court) pursuant to the Notice of Appeal filed on April 19, 2023, by Timothy Dale Crockett (Appellant), an inmate in the custody of the South Carolina Department of Corrections (Respondent or Department). The Appellant is appealing the denial of his grievance in which he claims he is being denied complete access to the courts and the Department's policy of requiring a court order to access the courts is unconstitutional. The Appellant is not appealing a disciplinary hearing conviction for which he lost good time credit or failed to earn good time credit nor is the Appellant alleging that the Department has erroneously calculated his sentence, sentence related credits or custody status.

On July 11, 2023, the Department filed a Motion to Dismiss for the Appellant's failure to serve his Notice of Appeal on the Department. In support of its motion, the Department cited ALC Rules 54, 59, and 62, which provide that an appeal must be filed and served upon the parties to the case within thirty (30) days from the date of the written notice of the final decision of the Department. On July 20, 2023, the Appellant filed a response to the Department's Motion to Dismiss asking the court to deny the Department's motion because the Department must have gotten the Notice of Appeal in this case because the Department filed a motion to dismiss in this case. The Appellant filed his Notice of Appeal with the court on April 19, 2023. This case was assigned on May 3, 2023, however according to the notarized affidavit submitted with the Department's motion, the Appellant has not served the Department with his Notice of Appeal.

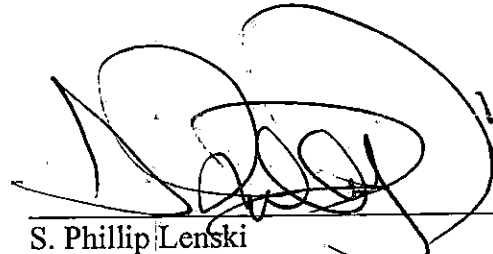
Timely filing and service of a notice of appeal is a jurisdictional requirement and this court

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The State of South Carolina
Administrative Law Court

does not have the authority to extend or expand the time for filing such appeal. See *Mears v. Mears*, 287 S.C. 168, 337 S.E.2d 206 (1985); *State v. Brown*, 344 S.C. 302, 543 S.E.2d 568 (Ct. App. 2001). Therefore, because the Appellant failed to timely serve his Notice of Appeal on the Department, this court does not have jurisdiction to hear it. Pursuant to the Department's motion, this court concludes that this matter must be dismissed.

IT IS THEREFORE ORDERED that the Department's Motion to Dismiss is **GRANTED** and this appeal is hereby **DISMISSED**.

AND IT IS SO ORDERED.



S. Phillip Lenski
Administrative Law Judge

July 28, 2023
Columbia, South Carolina

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 28th day of July 2023
by: _____
Judicial Law Clerk