

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Appeal From The Administrative Law Court
Administrative Appeals Court
Ralph K,III, Administrative Law Judge

APR 22 2024
SC Court of Appeals

CASE No. 2024-000204

ROGER D. CURTIS #143635, Pro Se

ROGER D. CURTIS, # 143635.....Appellant,

v,

South Carolina Department of Probation,Parole and Pardon
services,.....Respondent,

Initial Brief

STATEMENT OF THE CASE

On August 7,2023, I Mr. ROGER D. CURTIS #143635, did file a notice of Appeal with the Administrative Law Court. (See Exhibit # 1. On August 25th,2023, the Clerk of Court sent out to Mr. CURTIS (EXIBIT # 2.Memorandum) STATING ALC rule 57 and 59. " You must use the Attached NOTICE OF APPEAL form to submit your appeal.

ARGUMENT

Mr. Curtis is an Inmate at the Tyger river Correction Institution. Here in the Institution you can only get a Notice of Appeal form by filing a Step Two Grievance, and this is an appeal from the final decision of the South Carolina Department of Probation, Parole and Pardon Services.

So Mr.Curtis did the only thing possible at the time, which was, He typed up his own notice of Appeal in the same format as the courts notice of Appeal. (See Exhibit # 1).

CONCLUSION

I, ROGER D. CURTIS #143635, did everything that he was instructed to do, which was fill out and file the Notice of APPEAL form to come into complianc.

No sooner than I come into compliance with the rule of COURT BY THEIR Memorandum Mr. CURTIS RECIEVES AN Order of Dismissal on January 11,2024. Stating appeal was untimely. (See Exhibit # 3 ps 1 & 2)

Mr. CURTIS DID FILE HIS Notice of Appeal in a timely manne, it just was not on the correct form even though it was in the correct format. Mr. Curtis's Appeal should not have been dismissed

THE STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

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APR 22 2024
SC Court of Appeals

ROGER D. CURTIS #143635,)
APPELLANT,)

NOTICE OF APPEAL

vs.)

DOCKET No. 23-ALJ-15 _____ AP

SOUTH CAROLINA DEPARTMENT OF)
PROBATION, PAROLE and PARDON)
SERVICES.)

Notice is hereby given that Roger D. Curtis #143635 DOES HEREBY APPEAL THE FINAL DECISION OF THE SOUTH CAROLINA DEPARTMENT OF PROBATION, PAROLE and PARDON SERVICES dated July 11, 2023 and received on July 18, 2023. A copy of which is attached. A general statement of the grounds for appeal is (SEE S.C. CODE ANN. §1-23-380(A)(6)):

Appellant ROGER D. CURTIS #143635, will show that the Parole Board deprived him of his right to Due Process under the Fourteenth amendment of the United States Constitution and grossly abused its discretion in violation of the SOUTH CAROLINA Administrative Procedures Act by citing only the Nature and Seriousness of the Offense and Indication of violence in Offense to deny him parole, without reference to or discussion of the other Parole Factors that clearly weigh in his favor, and by doing so in a manner as to effectively deprive MR. Curtis of any meaningful chance of parole. In support of this claim Appellant will show that the Parole Board has not GRANTED PAROLE to any Violent Offender to date, May 21 2023 this year, and that the Board is Denying Parole in such ABroad and Arbitrary Fashion that it must be failing to consider and apply the Appropriate Statutory Factors, and/or it must be inappropriately relying on extraneous pressure or information to deny Parole to individuals such as Mr. ROGER D. CURTIS.

Appellant will also show that the Board violated his Due Process rights and acted ARbitrarily and Capriciously by failing to follow Parole Policies and SOUTH CAROLINA CODE of LAW (24-21-640).

Appellant will also show that the Board acted Arbitrarily in considering him a lifer without Parole, even though the Board allows him to appear before the Board for Parole hearings/ how the Board has mis interpreted his sentence regarding this and past hearings.

Appellant will also claim the Board is in violation of the 8th Amendment of the United States Constitution and South Carolina Constitution (Cruel and Unusual). There is also the question of whether the Board is applying amended statues to appellant that were not Law until years after appellant was incarcerated, and eligible for Parole.

Appellant will show under SOUTH CAROLINA Code, he has shown the Board a Disposition to reform, and that in the future he will obey the Law and Lead aproductive life under the established laws of this society. That by his conduct he has merited a lessening of the rigors of his imprisonment: that the interest of society will not be impaired or Diminished. The Board acted arbitrary when dening Appellant his Due Process when they failed to allow him a hearing under a full Board.

Roger D Curtis #143635

ROGER D. CURTIS, #143635
TYGER RIVER CORR. INSTI.
200 Prison Rd. U7-205A
Enoree, S.C. 29335

Date: August 7, 2023

CERTIFICATE OF SERVICE

I hereby certify that I Roger D Curtis #143635, on the 8th day of August, 2023, in Enoree (City), SOUTH CAROLINA, served a copy of the foregoing Notice of Appeal on all parties to this matter by depositing the same in the United States Mail, postage prepaid, or in the Mail-Room of the under-signed's Institution and addressed as follows:

Name of Person/Agency served Division of Legal Services
State of South Carolina Department of
Probation, Parole and Pardon Services
Address: 293 Graystone Boulevard, P.O. Box 207
City, State, Zip Code: Columbia, South Carolina 29207

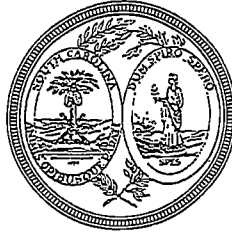
Print your name: Roger D. Curtis

Sign your name: Roger D. Curtis

STATE OF SOUTH CAROLINA
Administrative Law Court

RALPH K. "TRIPP" ANDERSON, III
Chief Judge

JANA E. SHEALY
Clerk



(803) 734-0550
FAX: (803) 734-6400
WEB: WWW.SCALC.NET

Memorandum

To: Appellant
From: Clerk's Office, Administrative Law Court
Date: 08/25/2023
Re: Compliance with ALC Special Appeals Rule

The Administrative Law Court received your information on 08/24/2023.
According to ALC Rule 59:

Any notice of appeal which is incomplete or not in compliance with this rule or Rule 71 will not be assigned to an administrative law judge until all required information is received and any applicable filing fee is processed.

Accordingly, your case will not be assigned until the following information is received:

- You must use the attached Notice of Appeal form to submit your appeal (See ALC Rule 57 and 59).
- A copy of the final decision which is the subject of the appeal (i.e., Step 2 Grievance Form from the DOC or the final decision from PPPS) pursuant to ALC Rule 59(C).
- A brief factual basis for each expressly and specifically asserted constitutional violation in accordance with ALC Rule 59(B).
- The Notice of Appeal form you submitted must be signed and dated.
- Filing Fee of \$25 in accordance with ALC Rule 71 for your 4th and subsequent appeal this calendar year.
- Please return the appropriate information within 10 days of the date of this Memorandum or your case will be returned to you unprocessed.
- Other:

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SC Court of Appeals

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Roger Curtis, #143635,)
)
Appellant,)
)
v.)
)
South Carolina Department of Probation,)
Parole and Pardon Services,)
)
Respondent.)

Docket No. 23-ALJ-15-0025-AP

ORDER OF DISMISSAL

This matter is before the South Carolina Administrative Law Court (the ALC or the Court) pursuant to an appeal filed by Roger Curtis (Appellant), an inmate incarcerated with the South Carolina Department of Corrections. By letter dated May 24, 2023, the South Carolina Department of Probation, Parole and Pardon Services (Department) notified Appellant that the South Carolina Parole Board (Board) denied him parole. In a letter dated June 2, 2023, Appellant asked for a rehearing. The Department denied Appellant a rehearing in a letter dated July 11, 2023. Appellant received the letter on July 18, 2023. Thereafter, on August 31, 2023, Appellant filed a Notice of Appeal with the Court seeking review of the Board's denial of parole.

On November 7, 2023, the Department filed the Record on Appeal. Thereafter, on December 12, 2023, Appellant filed his brief. On January 3, 2024, the Department filed its Brief and Motion to Dismiss.

Pursuant to the Rules of Procedure for the Administrative Law Court (SCALC Rules), an inmate must file an appeal from a decision of the Department within thirty days of receipt of the decision. SCALC Rule 59. In this case, Appellant received the Department's letter denying his request for a rehearing on July 18, 2023. Thirty days from July 18, 2023 was August 17, 2023. Appellant did not file an appeal until August 31st. Therefore, because Appellant did not file and serve his notice of appeal by August 17, 2023, his appeal is untimely. SCALC Rule 59. Our courts have held that "[t]he service of a notice of appeal is a jurisdictional requirement, and the time for service may not be extended" by the court. *Hill v. S.C. Dep't of Health & Env't Control*, 389 S.C. 1, 21, 698 S.E.2d 612, 623 (2010); *see also 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

FILED

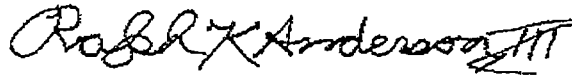
01/11/2024

SC Admin. Law Court

has no authority to extend or expand the time in which the notice of intent to appeal must be served.”). Therefore, because Appellant’s appeal was untimely, this Court does not have jurisdiction to address his claim and this case must be dismissed. *See id.*

ORDER

IT IS THEREFORE ORDERED that this matter is **DISMISSED WITH PREJUDICE.**
AND IT IS SO ORDERED.



Ralph K. Anderson, III
Chief Administrative Law Judge

January 11, 2024
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Stephanie Perez, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).



Stephanie Perez
Judicial Law Clerk

January 11, 2024
Columbia, South Carolina

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Ralph K. Anderson III, Administrative Law Court

CASE No. 2024-000204

ROGER D. CURTIS # 143635, Pro Se

ROGER D. CURTIS, # 143635Appellant,
v.

South Carolina Department of Probation, Parole and Pardon Services
.....Respondent,

PROOF OF SERVICE

I certify that I have served the following Initial Brief on the following persons listed below by depositing a copy in the United States Mail, prepaid on the _____ day of _____ 2024.

Date: April 18, 24
THOSE SERVED

/s/ Roger Curtis
Rogey D. Curtis 3 143635
Appellant Pro Se
TYGER RIVER CORR. Insti.
200 Prison Road
Enoree, S.C. 29335

S.C. COURT OF APPEAL
CLERK's Office
P.O.Box 11629
Columbia, S.C. 29211

Administrative Law COURT
1205 Pendleton St. Suite 224
Columbia, S.C. ~~29201~~

Administrative Judge Ralph K. Anderson III
1205 Pendleton St. Suite 224
Columbia, S.C. ~~29201~~

SCDC General Counsel
P.O. Box 21787
Columbia, S.C. 29221

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SC Court of Appeals

Swore and Subscribed before
me this 18 day of April, 2024
Paul James Oud
NOTARY PUBLIC
My COMM. EXPIRES Dec 10, 2024

Roger D. Curtis # 143635
Tyger River Com. Inst.
200 Prison Rd. U-7-205A
Enoree, SC 29335



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Received
APR 18 2023
Tyger River Mailroom

South Carolina Court of Appeals
Jenny Abbott Kitchings, Clerk
Post Office Box 11629
Columbia, South Carolina
29211

