

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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JUN 03 2024
SC Court of Appeals

Appeal from the Administrative Law Court
Honorable Ralph K. Anderson, III, Chief Administrative Law Judge
Docket Number 23-ALJ-15-0025-AP

Appellate Case No.: 2024-000204

ROGER D. CURTIS, #143635, APPELLANT,

v.

S.C. Department of Probation, Parole and
Pardon Services, Respondent

Reply Brief of Appellant

ROGER D. CURTIS, # 143635
Pro Se

TYGER RIVER Corr. Insti.
200 Prison Road (U-7-205A)
Enoree, S.C. 29335

STATEMENT OF ISSUES ON APPEAL

- 1). Should the Administrative Law Court (ALC or COURT) have accepted Appellant's First Initial Notice of Appeal, until Appellant could come into compliance by filing the Proper Notice of Appeal Form that the Court supplied Appellant by Mail on 08/25/2023.
- 2). Appellant's Initial typed Motice of Appeal was placed in the United States Mail, postage prepaid on August 9th, 2023 in the Institutional Mail Room.
- 3). How can the South Carolina Department of Probation, Parole and Pardon Services (Board or S.C.D.P.P.P.S) make Proper Decisions when reviewing Parole cases when they make statements that are clearly incorrect and erroneous.
- 4). When does the continued " UNANIMOUS " denials for Parole upon only (2) TWO StaticFactors constitute an 8th Amendment violation of excessive, cruel and unusual.
- 5). Furthermore, how many unanimous denials for Parole to a Potentially eligible Inmate does it take before that Inmate becomes Parole Ineligible.

STATEMENT OF THE CASE

On July 2nd, 1987, and again on November 2nd, 1987, Appellant appeared before the Honorable Dan Laney, Jr. for the offenses of kidnapping and Criminal Sexual conduct 1st (CSC 1st). Upon the conclusion of the appearances the Court sentenced Appellant to a period of incarceration. On the first set of charges Appellant was sentenced to (10) Ten years to life for kidnapping and (30) Thirty years for CSC 1st (concurrent). On the second identical set of charges Appellant was sentenced to (10) Ten years to Life and (30) Thirty years consecutively but concurrent to sentence serving.

On August 3rd, 1995, Appellant made his first and initial appearance before the Board, which denied Parole unanimously, due to: 1) the nature and seriousness of the current offense; and 2) an indication of violence in this or a previous offense. The Appellant's additional fourteen appearances have each resulted in a unanimous denial of Parole using the same two Static Factors.

Appellant also requested reconsideration which was also denied on July 11, 2023. thereafter, Appellant filed his Initial typed Notice of Appeal before the Administrative Law Court (ALC) on August 8th, 2023, postage prepaid on August 9th, 2023.

In an order filed January 11, 2024, the ALC dismissed Appellant's appeal due to the fact that the Court did not accept the Initial Notice of appeal Appellant sent postage prepaid on AUGUST 9th, 2023. Appellant's initial Notice was typed and not on the proper form although it was in the proper format.

STANDARD OF REVIEW

ARGUMENT

1).- The ALC improperly dismissed Appellant's appeal under SCALC 59, which requires Notices of appeal to be filed within thirty days of receipt of the final decision.

The ALC dismissed Appellant's appeal due to the untimely filing, not for an attempt to file the Notice in the improper format, (SEE Exhibit #1-Notice of Appeal; and exhibit #3- order of Dismissal).

Appellant also includes a S.C.D.C. Inmate Financial system account summary that shows the only postage withdrawn from his account was on August 9, 2023, which would put his Initial Notice of appeal as timely. (See attached SCDC Inmate Financial system Account Summary dated 05/28/2024).

Furthermore, how can using the proper format whether written, typed or Court form be a requirement to submit a notice of appeal. Not every one has access to the proper forms or rules of Court until the Court sends them after being assigned to a Judge. In Davis v. Vaughan (1876) the Judge has no power to extend the time to appeal. Nor has he jurisdiction to hear an appeal where notice in writing was not served within that time. DAVIS V. Vaughan (1876) 7 S.C.342. The Court may not be able to extend time to appeal, but may grant leave to amend deficiencies freely. LEAVE TO Amend a pleading because pleading rules favor decisions on the merits rather than technicalities, Eilenfeldt v. United C.U.S.D.#304 Board of Education

CONCLUSION

The ALC improperly dismissed the appeal as untimely, all evidence shows the Initial Notice of Appeal was filed before AUGUST 17th, 2023. The dead line for Appellant to file his initial Notice of appeal whether written, typed or otherwise. Therefore, Appellant respectfully requests this honorable Court to affirm and grant this appeal.

(signature appears on following page)

Respectfully Submitted,

Roger D. Curtis

ROGER, D. CURTIS #143635
PRO SE

Tyger river Corr. Insti.
200 Prison Road U-7-205A
Enoree, S.C. 29335

Enoree, South Carolina
May 14, 2024

Time Stamped

Swore and Subscribed before
me this 17 DAY OF MAY,
2024

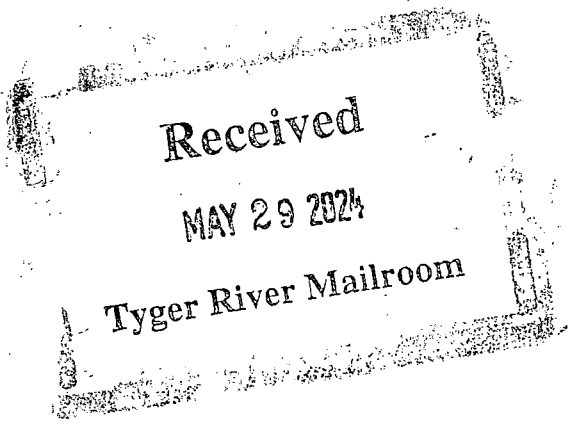
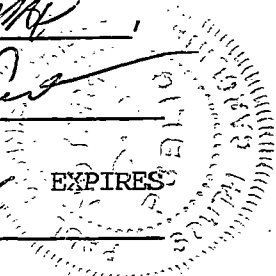
Paul Dennis Cur

NOTARY PUBLIC

MY COMM. EXPIRES

Dec. 10, 2024

EXPIRES



PS 4

E. H. COOPER
ACCOUNT SUMMARY

ACCOUNT TYPE: I ACCOUNT ID: 143635
CURTIS, ROGER DALE

CURR LOC: 0161 TYGER RIVER

TYPE OF FREEZE : PARTIAL
AMOUNT OF FREEZE: 15.00
CASH WITHDRAWALS: 0.00
CANTEEN PURCHASE: 0.00
TEXT : TV \$15

SUSPENSE DTE.....: 12/11/17
REST. HOLD AMOUNT: 0.00
LAST UPDATE : INPEHCPY DATE: 12/17/19

DATE	REF-NUM	TYPE	DEPOSIT	WITHDRWL	BALANCE
08/31/23	937107	CANTEEN PURC	0.00	4.28	470.09
08/31/23	937107	CANTEEN PURC	0.00	56.48	474.37
08/24/23	937095	TABLET TIME	0.00	15.00	530.85
08/23/23	936946	CANTEEN PURC	0.00	85.59	545.85
08/16/23	PRIPAY	PRISON INDUS	165.31	0.00	631.44
08/10/23	936552	CANTEEN PURC	0.00	50.22	466.13
08/09/23	936549	POSTAGE	0.00	3.18	516.35
08/08/23	INTEREST	INTEREST	0.47	0.00	519.53

PAGE: 0015

PF4=> MODIFY ENTER=> DISPLAY PF7=>FORWARD PF8=> BACKWARD

EHCI101D

SCDC INMATE FINANCIAL SYSTEM

05/28/24

E. H. COOPER

C068478

ACCOUNT SUMMARY

ACCOUNT TYPE: I ACCOUNT ID: 143635

CURR LOC: 0161 TYGER RIVER

CURTIS, ROGER DALE

TYPE OF FREEZE : PARTIAL

SUSPENSE DTE.....: 12/11/17

AMOUNT OF FREEZE: 15.00

REST. HOLD AMOUNT: 0.00

CASH WITHDRAWALS: 0.00

LAST UPDATE : INPEHCPY DATE: 12/17/19

CANTEEN PURCHASE: 0.00

TEXT : TV \$15

DATE	REF-NUM	TYPE	DEPOSIT	WITHDRWL	BALANCE
08/07/23	936425	MEDICAL CO-P	0.00	5.00	519.06
08/04/23		OPERATING FE	0.00	0.64	524.06
08/04/23	936512	SINGLE CHECK	0.00	50.00	524.70
08/01/23	PRIPAY	PRISON INDUS	89.57	0.00	574.70
07/27/23	936265	CANTEEN PURC	0.00	1.09	485.13
07/27/23	936265	CANTEEN PURC	0.00	79.85	486.22
07/24/23	936256	TABLET TIME	0.00	10.00	566.07
07/20/23	935969	CANTEEN PURC	0.00	39.04	576.07

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PF7=>FORWARD

PF8=> BACKWARD

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

v.

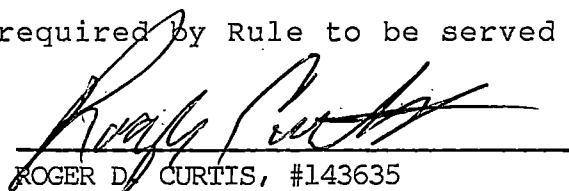
S.C.DEPARTMENT OF PROBATION, PAROLE AND
PARDON SERVICES,.....RESPONDENT

CERTIFICATE OF SERVICE

I, ROGER D. CURTIS, #143635, PRO SE, hereby certify that I have served the within Reply Brief dated this ____ day of ____, 2024, on Respondent the ____ day of ____, 2024, by depositing a copy of the same in the United States Mail, postage prepaid, addressed to:

Dawn K. Nichols
Executive Assistant
South Carolina Department of Probation||
Parole and pardon Services
P.O.Box 207
COLUMBIA, South Carolina
29202

Ifurther certify that all parties required by Rule to be served have beenserved.



ROGER D. CURTIS, #143635
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Enoree, S.C. 29335

Dee D. Curtis # 143635

Tiger River Correction Institution

c. Prison Rd. U-7-205A

Enoree, S.C. 29335



The South Carolina Court of Appeals
Clerk's Office
P.O. Box 11629
Columbia, S.C. 29211

Received
MAY 29 2024
Tiger River Mailroom

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