

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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

Appellate Case No.: 2024-000204

RECEIVED
JUL 09 2024
SC Court of Appeals

ROGER CURTIS, # 143635, APPELLANT

v.

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

FINAL BRIEF



ROGER D. CURTIS, #143635
Pro Se

TYGER RIVER CORR. INSTI.
200 PRISON RD. U-7-205A
Enoree, S.C. 29335

July 5, 2024

-TABLE OF AUTHORITIES

CASES	PAGE(s)
Davis v. Vaughan (1876)	# 3
Eilenfeldt v. United C.U.S.D.#304 Board of Education....	# 3
U.S. Constitution	
8th Amendment.....	# 4

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 submitting the Proper Notice of Appeal Form that the Court supplied Appellant by Mail on 08/25/24.
- 2). Appellant's Initial typed Notice 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 to the courts.
- 4). When does the continued " UNANIMOUS " denials for Parole upon only (2) two Static Factors 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. (CSC1st.). Upon the conclusion of these appearances the Court sentenced Appellant to a peroid of incarceration. On July 2nd.1987, Appellant was sentenced to (10) ten years to life for Kidnapping and (30) thirty years on the offense of CSC 1st.(concurrent). On the November 2nd charges Appellant was sentenced to (10) ten years to life for Kidnapping and (30) thirty years consecutive for CSC 1st, but concurrent to sentence serving.

On August 3rd. 1995 Appellant made his first and initial appearance before the Board, which resulted in a unanimous denial 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 (14)fourteen appearances have each resulted in a unanimous denial for Parole using the same two Static Factors.

Appellant also requested reconsideration of his May 24, 2023 hearing which was denied on July 11, 2023. Thereafter, Appellant Mailed his Initial Typed Notice of Appeal to the Administrative Law Court (ALC) on August 8th, 2023, postage prepaid on August 9th, 2023. (see exhibit #1)

On August 25th, 2023, the ALC sent Appellant a Memorandum Re: Compliance with ALC Special Appeals Rule, supplying Appellant with the proper Notice of APPEAL Form. (see Exhibit #2- Memorandum)

In a January 11th, 2024, order, Administrative Law Judge Ralph K. Anderson, III, DISMISSED Appellant's appeal due to Appoellant's appeal was untimely. (see Exhibit #3- Order of Dismissal)

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.

Appellant filed his Notice of Appeal timely by typing his Notice of Appeal instead of using the court's form which he did not have access to at the time of filing. This form the ALC supplied Appellant along with the Memorandum dated 08/25/2023.

2). 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 9th ,2023, which will put his Initial Notice of Appeal as timely. (see SCDC Inmate Financial system Account Summary dated 05/28/2024.)

Furthermore, if a Notice of Appeal is in the correct format, how can the ALC not accept the written or typed form of notice of appeal for filing.

Not everyone has access to the proper forms or mrules of court, until one has filed a notice of appeal and the case has been assigned a Judge. In Davis v. Vaughan (1976) 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.

3). The Boards statements about Appellant are erroneous and incorrect,(R.p.2). Appellant was not sentenced to the remainder of his Natural LIFE. If that was the case appellant would not have been eligible for parole the last (30) thirty years. ALSO on (R.p.2) Consecutive sentences. Once again appellant would not have been eligible for Parole. Furthermore ,to show how incorrect thier files are, the Appellant's initial parole date was not September 3,1997, but AUGUST 15,1994. (R.p.2).

4-5). The continued unanimous denials for parole using only these two Static Factors has become excessive ,cruel and unusual. Also the continued use of these two static factors has made the appellant parole ineligible. The Nature and Seriousness of Offense, and Indication of violence in the offense will

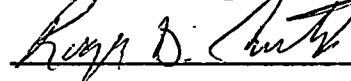
ARGUMENT (cont.)

always be the same, so Appellant will never be eligible for parole release, only Death. Under the Board's standards, Appellant has never been a potentially eligible inmate for Parole. In violation of the U.S. Constitution's 8th amendment Excessive, cruel and unusual.

CONCLUSION

The ALC improperly dismissed Appellant's appeal as untimely. Appellant asks this Honorable Court not to dismiss this Appeal and to make a ruling on all issues. Furthermore, Appellant asks this Honorable Court to order the Board to supply Appellant with a copy of his parole file to see what other incorrect information they may be using to make their decisions of whether to grant or deny parole. Appellant would ask this Honorable Court to order the Board to stop using static factors to deny potentially eligible inmates parole. For this only makes a potentially eligible inmate an ineligible inmate. An inmate can not change his past, but only work to improve his future life!

Respectfully Submitted,



ROGER D. CURTIS, #143635

Pro Se

TYGER RIVER CORR. INSTI.

200 Prison Rd. U-7-205A

Enoree, S.C. 29335

Enoree, S.C.

July 8th, 2024

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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

CASE No.# 2024-000204

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SC Court of Appeals

ROGER D. Curtis #143635, Pro Se

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

v.

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

Designation of Matter to be included In The Record on
Appeal.

- 1) South Carolina Department of Probation,Parole and Pardon Services(SCDPPPS), Notice Of Rejection Dated May 24, 2023.
- 2) SCDPPPS;s Notice of Final Decision dated July 11, 2023
- 3) Visual and audio recording of Appellant Parole Hearing dated May 24, 2023
- 4) Initial Notice of Appeal to Administrative Law Court Dated August 7, 2023
- 5) Memorandum from Administrative Law Court dated August 25,2023 Re: Compliance with ALC Appeals Rule
- 6) Appellant's second filing of Notice of Appeal
- 7) Judge Assignment Dated September 29, 2023
- 8) Appellant's Initial Brief before the Administrative Law Court
- 9) Order of Dismissal Dated January 11,2024 by Administrative Law Judge Ralph K.Anderson III.

Respectfully Submitted,

ROGER D. CURTIS #143635
Tyger River Corr. Insti.
200 Prison Rd. U-7-205A
enoree, S.C. 29335

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 24, 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 denying 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, PO. Box 207
City, State, Zip Code: Columbia, South Carolina 29207

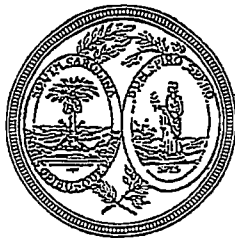
Print your name: Roger D. Curtis
Sign your name: Roger D. Curtis

1-1-11017 2 (PS 1)

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 PPS) 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:

Exhibit (ps1)

RECEIVED

APR 22 2024
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-AD)
)
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.

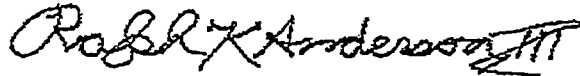
On November 7, 2023, the Department filed the Record on Appeal. Thereafter, on December 12, 2023, Appellant filed his brief. On January 3, 2024, the Department filed its Brief and Motion to Dismiss.

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

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