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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

On Petition for Writ of Certiorari to the Court of Appeals
Appeal from the Administrative Law Court
Robert L. Reibold, Administrative Law Judge

Appellate Case No. 2024-001024

WILLIE M. KNOX, # 153719

PETITIONER,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

RETURN TO PETITION FOR WRIT OF CERTIORARI

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

Christina Catoe Bigelow
Deputy General Counsel
Office of General Counsel
South Carolina Dept. of Corrections
Post Office Box 21787
Columbia, South Carolina 29221
(803) 896-8508

ATTORNEY FOR RESPONDENT

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ISSUE PRESENTED

The Court of Appeals properly dismissed Petitioner's appeal where Petitioner failed to timely perfect the appeal, and there are no special reasons to grant certiorari in this case.

STATEMENT OF THE CASE

This matter comes before this Court pursuant to the appeal of Willie Knox (Petitioner), an inmate incarcerated with the South Carolina Department of Corrections (SCDC). Petitioner appealed from a grievance he submitted to SCDC. The Administrative Law Court issued an Order of Dismissal on October 6, 2023. Petitioner then attempted to appeal to the South Carolina Court of Appeals, but he failed to timely file his Notice of Appeal. The Court of Appeals issued an Order dismissing the appeal for lack of jurisdiction on February 23, 2024. Petitioner then filed a Motion to Reinstate Appeal, which was construed as a Petition for Rehearing and was denied on May 15, 2024. This request for a writ of certiorari follows.

STANDARD OF REVIEW

S.C. Code Ann. § 1-23-610(B) provides the applicable standard of review:

The review of the administrative law judge's order must be confined to the record. The reviewing tribunal may affirm the decision or remand the case for further proceedings; or it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code Ann. § 1-23-380(5).

In an appeal of a final decision of an administrative agency, the standard of appellate review is whether the ALC's findings are supported by substantial evidence. S.C. Code Ann. § 1-23-610(B). "Substantial evidence" is evidence which, considering the record as a whole, would allow a reasonable mind to reach the same conclusion that administrative agency reached. Hendley v. S.C. State Budget & Control Bd., 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996). A reviewing court shall not substitute its own judgment for that of the ALC as to findings of fact, but it may reverse or modify decisions that are controlled by errors of law or that are clearly erroneous in view of the substantial evidence on the record as a whole. Id.

ARGUMENT

The Court of Appeals properly dismissed Petitioner’s appeal where Petitioner failed to timely perfect the appeal, and there are no special reasons to grant certiorari in this case.

Rule 203(d)(2), SCACR requires that a Notice of Appeal be filed with the appellate court clerk “within the time required to serve the notice of appeal under Rule 203(b)(6),” which is within thirty days of receipt of the decision being appealed. Filing by mail means “[d]epositing the document in the U.S. mail, **properly addressed to the clerk of the appellate court...**” Rule 262(a)(2) SCACR (emphasis added). Petitioner indicated in his Notice of Appeal to the Court of Appeals (dated January 11, 2024) that he received the decision of the Administrative Law Court (ALC) on October 10, 2023. No Notice of Appeal was filed with the Court of Appeals within thirty days of that date. Furthermore, no proof of timely service was filed in the Court of Appeals. The proof of service filed with the Court of Appeals in January 2024 stated that the Notice of Appeal was served on the relevant parties on January 12, 2024, well beyond the thirty-day period set forth in the rule.¹

Rule 203(d)(3) states that “[i]f the notice of appeal is not timely filed or the filing fee is not paid in full, the appeal shall be dismissed, and shall not be reinstated except as provided by Rule 260.” Rule 260 states, in relevant part, that “[a] case shall not be reinstated except by leave of the court, upon good cause shown, after notice to all parties.”² Petitioner has acknowledged that he failed to properly address his original Notice of Appeal to the Clerk of the Court of Appeals, as required by Rule 262(a)(2), SCACR, when he stated that such Notice of Appeal was returned to him marked “undeliverable” and that he then “noted the incorrect Post Office Box number on the

¹ Respondent does have a record of receiving a Notice of Appeal and Proof of Service dated November 3, 2023, on November 7, 2023. However, since no case had been docketed at that time, Respondent did not take any action upon it.

² Here, the Court of Appeals denied Petitioner’s motion for reinstatement by order dated May 15, 2024.

envelope.” (See Petition for Writ p. 3). Accordingly, since Petitioner failed to timely perfect his appeal, the Court of Appeals properly dismissed the appeal.

CONCLUSION

For the reasons discussed above, the Petition for a Writ of Certiorari should be denied.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

BY: 

JOSEPH SHAKIBANASAB
Deputy General Counsel
Office of General Counsel
S. C. Department of Corrections
Post Office Box 21787
Columbia, South Carolina 29221
(803) 896-8508

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