

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Roy White, #263221

Docket No. 24-ALJ-04-0598-AP

Appellant,

ORDER DISMISSING APPEAL

vs.

South Carolina Department of Corrections,

Respondent.

STATEMENT OF THE CASE

This matter is pending before the South Carolina Administrative Law Court (the ALC or the Court) pursuant to an appeal filed by Roy White (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (the Department).

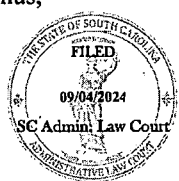
Appellant submitted a Step 1 Grievance, seeking payment of prevailing wages. The Department elevated the matter to a Step 2 Grievance without addressing the merits. On October 25, 2023, the Responsible Official denied the grievance, stating in part that the grievance was untimely under SCDC Policy ADM-15.13. Appellant received the Step 2 decision on October 31, 2024.

On August 28, 2024¹, Appellant filed a Notice of Appeal, restating his demand for payment of prevailing wages. The envelope in which the Notice was filed was date stamped August 26, 2024 by the Department mailroom and hand delivered on August 28, 2024 via inter-agency delivery, as specified on the envelope, to the Court. The case was assigned to the undersigned on August 29, 2024 and the Court has made an initial review of the matter which prompted this Order.

DISCUSSION

SCALC Rule 59 provides that "[t]he notice of appeal from the final decision to be heard by the [ALC] shall be filed with the Court and a copy served on each party, including the agency, within thirty (30) days of receipt of the decision from which the appeal is taken." *Id.* (emphases added); *see also Al-Shabazz v. State*, 338 S.C. 354, 377, 527 S.E.2d 742, 754 (2000) ("The inmate

¹ Although the Notice of Assignment indicates the Notice of Appeal was filed on August 26, 2024, the correct date of filing pursuant to SCALC Rule 53 is August 28, 2024. As described above, the Notice of Appeal envelope was taken to the prison mailroom on August 26th with directions for interagency delivery, *i.e.* – courier / hand delivered. Thus, the Notice of Appeal was filed with the Court upon receipt on August 28, 2024.



must file and serve a notice of appeal upon specified parties *within thirty days* of receipt of written notice of Department's final decision." (emphasis added)). The timely filing of a notice of appeal is a jurisdictional issue for the Court. *See Elam v. Dep't of Transp.*, 361 S.C. 9, 14-15, 602 S.E.2d 772, 775 (2004) ("The requirement of service of the notice of appeal is jurisdictional, *i.e.*, if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority to 'rescue' the delinquent party by extending or ignoring the deadline for service of the notice."). Additionally, SCALC Rule 62 provides the ALC may dismiss an appeal if the appellant fails to comply with the Court's rules. *See id.* ("Upon motion of any party, or on its own motion, an Administrative Law Judge may dismiss an appeal or resolve the appeal adversely to the offending party for failure to comply with any of the rules of procedure for appeals, including the failure to comply with any of the time limits provided by this section (V) . . .").

Appellant was therefore required to file his appeal by November 30, 2023. *See* SCALC Rule 59. Appellant filed his Notice of Appeal on August 2, 2024. Unfortunately, this filing came over 270 days after the applicable deadline. As a result, the Court lacks jurisdiction over this appeal. *See* SCALC Rule 62 and *Elam*.

ORDER

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



The Honorable Robert L. Reibold
Administrative Law Judge

September 4, 2024
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Van Whitehead, hereby certify that I have on 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).



Van Whitehead
Judicial Law Clerk

September 4, 2024
Columbia, South Carolina