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SC Court of Appeals

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Thomas Thompson, #80681,

Appellant,

vs.

South Carolina Department of Probation,
Parole and Pardon Services,

Respondent.

Docket No. 24-ALJ-15-0023-AP

ORDER OF DISMISSAL

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 Thomas Thompson (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (the Department). On May 14, 2024, Appellant filed a Notice of Appeal with the Court. In the notice, Appellant indicated his intent to appeal a March 8, 2024 final decision of the Department which Appellant indicated he received on March 13, 2024. This matter was assigned to the undersigned on May 23, 2024. On June 10, 2024, the Department filed the Record on Appeal. On June 23, 2024, Appellant filed a "Motion for Court Order" seeking to compel the Department to file the "whole record" by supplementing it with the "parole file" which is also known as the "case summary report." To date, the Department has not filed a return to the Appellant's motion.

In conducting a review of the file in order to address the Appellant's motion, the Court noted the existence of a jurisdictional issue, which is addressed below.

DISCUSSION

The Court lacks jurisdiction in this matter because Appellant's attempted appeal is untimely. 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." (emphases added). See also S.C. Code Ann. §§ 1-23-380(1) & -600(D)&(E) (Supp. 2023) (establishing 30-day deadline for filing of inmate appeals); *Furtick v. South Carolina Department of Probation, Parole, and Pardon Services*, 352 S.C. 594, 576 S.E.2d 146 (generally extending *Al-Shabazz* jurisdiction



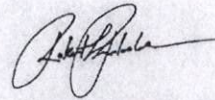
to the Administrative Law Court) (2003); *Al-Shabazz v. State*, 338 S.C. 354, 377, 527 S.E.2d 742, 754 (2000) ("The inmate *must* file and serve a notice of appeal upon specified parties *within thirty days* of receipt of written notice of Department's final decision." (emphasis added)). The timely filing 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.").

Appellant's own Notice of Appeal represents that he received the final agency decision under appeal on March 13, 2024. He was therefore required to file his appeal by April 12, 2024. However, Appellant filed his notice of appeal on May 14, 2024, more than thirty days after the applicable deadline. As a result, the Court lacks jurisdiction over this appeal.

ORDER

IT IS THEREFORE ORDERED that this appeal is **DISMISSED**.

AND IT IS SO ORDERED.



The Honorable Robert L. Reibold
Administrative Law Judge

August 28, 2024
Columbia, South Carolina