

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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JAN 14 2025

SC Court of Appeals

Appeal from the Administrative Law Court
The Honorable Robert L. Reibold, Administrative Law Judge
Case No.: 24-ALJ-15-0023-AP

Appellant Case No. 2024-002022

THOMAS THOMPSON, #80681,.....APPELLANT

v.

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

INITIAL BRIEF OF RESPONDENT

South Carolina Department of Probation,
Parole and Pardon Services
P.O. Box 207
Columbia, South Carolina 29202
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(803) 734-9220
SC Bar No 73740
Attorney for Respondent

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STATEMENT OF THE ISSUE ON APPEAL

- 1. Did the Administrative Law Court properly dismiss the appeal for filing notice more than thirty days after the deadline?**

STATEMENT OF THE CASE

On October 4, 1975, a car was spotted on the side of the road near the Cherokee Creek Bridge in Cherokee County. The Sheriff's Department was called and upon responding they found two men inside the vehicle. One was deceased after suffering a gunshot wound in the back of the head. The other was shot in the temple, he was alive but in critical condition. After an investigation, officials arrested Appellant and two other men for the murder and assault.

In exchange for Appellant's plea to murder, all other charges were dismissed. On December 11, 1975, the Honorable Robert Hayes sentenced Appellant to incarceration for the remainder of his natural life.

At the time the Appellant committed this offense an inmate serving a life sentence for murder was eligible for parole upon the service of ten years. The Appellant made his initial appearance before the Board on February 6, 1985. His most recent appearance was on March 7, 2024, after which parole was denied due to the nature and seriousness of the current offense and the use of a deadly weapon in this or a previous offense. (R.p.*).

On May 14, 2024, Appellant filed a notice of appeal with the Administrative Law Court (ALC). (R. *). In his notice, Appellant indicated he received the letter from Respondent indicating he had been denied parole on March 13, 2024. Respondent filed the Record on Appeal on June 10, 2024. (R.*).

On August 28, 2024, the Honorable Administrative Law Judge Robert L. Reibold issued an order dismissing the appeal due to Appellant filing his notice of appeal outside the time required by SCALC Rule 59, that requires the notice be filed within thirty days of the agency decision that is being appealed. Appellant then submitted a letter on September 11, 2024, that the ALC took to

be a motion to reinstate pursuant to Rule 260, SCACR, and SCALC Rule 68. (R.*). In an order dated October 22, 2024, Judge Reibold denied the motion.

Appellant now brings this appeal, arguing that the ALC erred because he had made a good faith effort to properly file his appeal. The brief of Respondent follows.

ARGUMENT

1. The ALC was correct in dismissing the appeal and denying the motion to reinstate.

Appellant argues that he has made a good faith effort to file a notice of appeal within the thirty days required by the rules of the ALC.

Respondent submits that the ALC was correct when it dismissed the appeal. By Appellant's own admission, he received notice of the Parole Board's denial on March 13, 2024. However, his notice of appeal was not received by the ALC until May 14, 2024, sixty days after his receipt of his receipt of the Parole Board's letter of parole denial.

"The 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." SCALC Rule 59.

Appellant argues that he submitted a notice of appeal dated March 13, 2024; however, that was returned because it was not on the proper form. That, too, is a requirement in Rule 59, SCALC.

"The notice shall be on the form prescribed by the Court..."

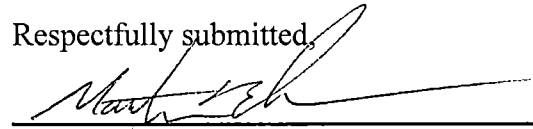
As Judge Reibold explained in his October 22, 2024 order dismissing Appellant's motion to reinstate, Appellant's only evidence that he timely submitted a notice of appeal was a handwritten document without a certificate of service. Without further evidence that Appellant attempted to file a notice of appeal within the time limits allotted by SCALC Rule 59, the ALC was correct when it affirmed its decision to dismiss the appeal.

Respondent would further submit that the ALC has limited authority to hear appeals from the Parole Board, pursuant to S.C. Code 1-23-600(D) and *Cooper v. S.C. Dept. of Probation, Parole and Pardon Services*, 377 S.C. 489, 661 S.E.2d 106 (2008). The decision of the lower court should be affirmed.

CONCLUSION

Based on the foregoing reasons the Respondent respectfully requests the final decision of the Administrative Law Court be affirmed.

Respectfully submitted,



Matthew Buchanan
General Counsel

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Columbia, South Carolina
January 14, 2025

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Case No.: 24-ALJ-15-0023-AP

Appellant Case No. 2024-002022

THOMAS THOMPSON, #80681,.....APPELLANT

v.

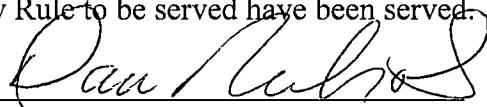
S.C. DEPARTMENT OF PROBATION, PAROLE AND
PARDON SERVICES,.....RESPONDENT

CERTIFICATE OF SERVICE

I, Dawn K. Nichols, Executive Assistant, hereby certify that I have served the within
Initial Brief and Designation of Matter on Appellant this 10th day of January, 2025, by depositing
a copy of the same in the United States mail, postage prepaid, addressed to:

Thomas Thompson, #80681
Tyger River Correctional Institution
200 Prison Road
Enoree, S.C. 29335

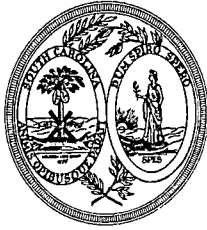
I further certify that all parties required by Rule to be served have been served.



Dawn K. Nichols
Executive Assistant
South Carolina Department of Probation,
Parole, and Pardon Services
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State of South Carolina
Department of Probation, Parole and Pardon Services

HENRY McMASTER
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SC Court of Appeals

January 10, 2025

The Honorable Jenny Kitchings
Clerk, South Carolina Court of Appeals
P. O. Box 11629
Columbia, South Carolina 29211

RE: Thomas Thompson, #80681 v. SCDPPPS
Case No.: 24-002022

Dear Ms. Kitchings:

Please find enclosed the Respondent's Initial Brief and Designation of Matter. Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew C. Buchanan".

Matthew C. Buchanan
General Counsel

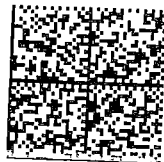
MCB:dn
Enclosures

cc: Thomas Thompson, #80681

State of South Carolina

Department of Probation, Parole, and Pardon Services

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