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Feb 20 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATION LAW COURT

Hon. S. Phillip Lenski, Administrative Law Judge

Case No. 2024-002073

Anthony Crosby,

Appellant,

v.

South Carolina Criminal Justice Academy,

Respondent.

MOTION IN RESPONSE TO RESPONDENT'S MOTION TO DISMISS

I, John A. O'Leary, Counsel for Appellant, respectfully request that this court dismiss Respondents Motion for Dismissal dated 2/19/25, on the following grounds:

The Motion was dated 2/19/25 and Counsel for Appellant and Respondent spoke that day. The allegation was made that Appellant failed to file a Motion for Reconsideration of the Administrative Law Court's ("ALC") final Order per Rule 40(B), SCALC, which states, "*Prior to filing a Notice of Appeal from the decision of an administrative law judge, a party must file a motion for rehearing stating with particularity the points supposed to have been overlooked or misapprehended by the court. A motion for rehearing must be filed within ten days of receipt of the order.*"

Based upon the ALC's final Order Appellant requested that an appeal to this court be

made. Appellant's law enforcement career was ended as a result of this case with the imposition of permanent decertification in law enforcement. Consequentially a Notice of Appeal was filed with this court on 11/26/24, and on 12/23/24 Appellant's Brief was filed. Further on 1/22/25, Respondent filed a Motion for Extension of Time to file the Respondent's Brief and Designation of Matter. The extension was granted and the new filing deadline for the Respondent's Brief and Designation of Matter is 2/2/25.

In the conversation between counsel on 2/19/25, it was noted that Mr Fennell also requested that he be made substitution counsel for the Respondent since the original attorney has left the agency. Mr Fennell he acknowledged his filing deadline for Respondent's Brief was two days hence, 2/21/25.

Appellant's Brief was a matter of extensive time and research and costs and was filed and docketed by this court. That Appellant's counsel considers the issues in this case of prime importance for all officers here in South Carolina. It is a complicated issue involving law enforcement certification which impacts all law enforcement in South Carolina and their certification in law enforcement under the statutes of South Carolina.

Counsel was unaware of the amendment of Rule 40(B), SCALC on 4/8/24. Counsel recognizes that a Motion for Reconsideration was not filed before the ALC. On behalf of the Appellant the Appellant Brief has been filed and the Respondent is in the process of filing their Response. It is the position of Appellant's Counsel that in view of all of the facts of the case that the jurisdiction in this matter rests with this court from the brief being formerly filed by the court on 12/23/24.

We respectfully request that the Motion for Dismissal be denied

/s/ John A. O'Leary
John A. O'Leary,
Attorney for Appellant
714 Calhoun Street
Columbia, SC 29201
Phone: (803) 779-5556
Oleay-Email@yahoo.com

Dated: February 20, 2025

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v.

South Carolina Criminal Justice Academy, Respondent.

PROOF OF SERVICE

I, Jeanette Bettles, the undersigned employee of O'Leary Associates, P.A., attorney for Appellant, Anthony D. Crosby, certify that I have served the foregoing document(s) on the individual(s) listed below on February 20, 2025 by via e-mail only to:

PERSON SERVED:

James M. Fennell
General Counsel
SC Criminal Justice Academy
5400 Broad River Road
Columbia, SC 29210
Bar # 72576
jfennell@sccja.sc.gov

DOCUMENTS:

MOTION IN RESPONSE TO RESPONDENT'S MOTION TO DISMISS



Jeanette Bettles, Paralegal.

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SC Court of Appeals
Jenny Abbott Kitchings, Clerk of Court
1220 Senate Street
Post Office Box 11629
Columbia, SC 29211

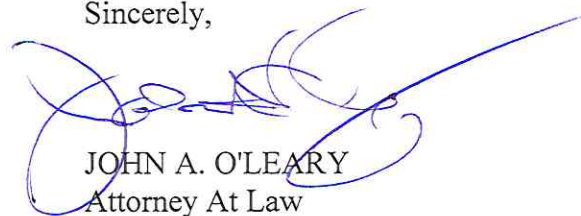
RE: SC Criminal Justice Academy vs. Anthony D. Crosby
Case No(s): 24-ALJ-30-0171-AP
Charge(s): Law enforcement Certification appeal from the Admn. Law Court

Dear Ms. Kitchings:

Attached please find Appellant's Motion in Response to Respondent's Motion to Dismiss with proof of service.

Thank you for your time and consideration in this matter. If you have any questions or if we may be of assistance, please do not hesitate to call.

Sincerely,



JOHN A. O'LEARY
Attorney At Law

JAO/jb

cc: James M. Fennell, Esq.,
Attorney for Respondent
Jfennell@sccja.sc.gov
South Carolina Criminal Justice Academy
5400 Broad River Road
Columbia, South Carolina 29210