

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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

Appellant Case No.2024-002022

RECEIVED
FEB 20 2025
SC Court of Appeals

Thomas Thompson #80681

Appellant

v.

South Carolina Department of Probation,
Parole , and Pardon Services

Respondent

RECORD ON APPEAL

Thomas Thompson #80681
Pro Se Litigant
Tyger River CI 10-103
200 Prison Road
Enoree, South Carolina 29335

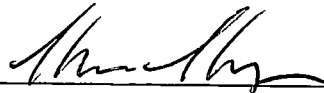
February 11, 2025

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CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all materials proposed to be included by any parties and not any other material.



Thomas Thompson #80681
Pro Se Litigant
Tyger River 10-103
200 Prison Road
Enoree, South Carolina 29335

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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

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

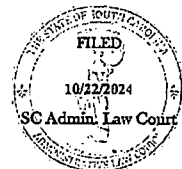
ORDER

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." The Department did not file a return to the Appellant's motion. Based on the appearance that Appellant's appeal was untimely, the Court issued an Order of Dismissal on August 28, 2024.

On September 12, 2024, Appellant filed a letter with the Court requesting actions which the Court believed was an attempted motion to reinstate pursuant to Rule 260, SCACR, and SCALC Rule 68. It was unclear to the Court whether Appellant served the same on the Department.¹ Consequently, the Court inquired with the Department by letter on September 23, 2024, and the Department responded on September 25, 2024, indicating that it had not received the motion from Appellant.

On October 1, 2024, the Court ordered Appellant to serve the letter upon the Department. Appellant had apparently done so on September 30, 2024, prior to the issuance of the Court's

¹ Appellant's letter included no reference, notations, or proof of service indicating it was served upon the Department when filed with the Court.



order. The Department subsequently confirmed receipt of the letter and filed an objection to Appellant's letter/motion. Appellant subsequently filed a reply to the objection.

The Court now enters the following order regarding Appellant's purported letter or motion to reinstate. Appellant's motion is denied for the following reasons:

1. The South Carolina Administrative Law Court Rules prevent consideration of Appellant's motion. SCALC Rule 65 ("The decision of the Administrative Law Judge is a final decision and motions for reconsideration will not be considered").
2. The only rule under which Appellant could conceivably have sought reinstatement of his appeal is Rule 260, SCACR, which, in the discretion of the Court, may be applied in appeals before the Administrative Law Court, SCALC Rule 68. Rule 260 provides in pertinent part that:

(a) **Involuntary Dismissal and Reinstatement.** Whenever it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, the clerk shall issue an order of dismissal, which shall have the same force and effect as an order of the appellate court. A case shall not be reinstated except by leave of the court, upon good cause shown, after notice to all parties. The clerk shall remit the case to the lower court or administrative tribunal in accordance with Rule 221 unless a motion to reinstate the appeal has been actually received by the court within fifteen (15) days of filing of the order of dismissal (the day of filing being excluded).

Rule 260(a), SCACR. By its terms, this rule permits reinstatement of an appeal where the clerk has issued an order based upon noncompliance with applicable rules and without the involvement of a judge. Here, the order of dismissal was made not by the clerk, but by the Court. Additionally, Rule 260 may be viewed as in conflict with SCALC Rule 65 for the reasons stated above. Such a conflict would foreclose reliance on Rule 260, SCACR. SCALC Rule 68 ("[t]he South Carolina Rules of Civil Procedure and the South Carolina Appellate Court Rules, in contested cases and appeals respectively, may, in the discretion of the presiding administrative law judge, *be applied to resolve questions not addressed by these rules*") (emphasis added).

3. Even if the Court could consider Appellant's motion and Rule 260, SCACR applied, Appellant has not established good cause for reinstatement of his appeal. Good cause is not defined in Rule 260. Black's Law Dictionary defines "good cause" as "[a] legally sufficient reason." Cause, *Black's Law Dictionary* (12th ed. 2024). The good cause standard is designed to excuse honest, harmless human mistakes so a case may be judged on its merits rather than its missteps. *Jordan v. Hartford Fin. Grp., Inc.*, 435 S.C. 501, 506–07, 868 S.E.2d 400, 402–03 (Ct.

App. 2021); *see also Micronics, Inc. v. S.C. Dep't of Rev.*, 345 S.C. 506, 511, 548 S.E.2d 223, 226 (Ct. App. 2001) (Administrative Law Judge acted arbitrarily by dismissing an appeal when a party's lawyer did not appear for court due to a calendar mishap); *Columbia Pools, Inc. v. Galvin*, 288 S.C. 59, 61, 339 S.E.2d 524, 525 (Ct.App.1986) (“where there is a good faith mistake of fact, and no attempt to thwart the judicial system, there is basis for relief”).

Appellant, as the moving party, bears the burden of establishing good cause. Were the Court permitted to entertain Appellant’s motion, the explanation offered by Appellant might have sufficed. However, Appellant submitted scant evidence to establish the facts underlying his explanation. The only support Appellant offered was a hand-crafted notice of appeal bearing a date of March 14, 2024. There is no evidence of record to support that this document was ever filed with the Administrative Law Court let alone when it was filed. Appellant did not enclose a certificate or proof of service, and, unfortunately, the Court simply cannot credit the naked statements made in Appellant’s letter or motion as evidence. 4 C.J.S. *Appeal and Error* § 689 (“[f]acts referred to solely in the arguments of counsel, in brief or otherwise, are not considered record evidence on appeal”). Appellant has therefore failed to carry his burden to establish good cause.

ORDER

IT IS THEREFORE ORDERED that, to the extent Appellant’s letter can be considered a motion to reinstate his appeal, his motion is **DENIED**.

AND IT IS SO ORDERED.



The Honorable Robert L. Reibold
Administrative Law Judge

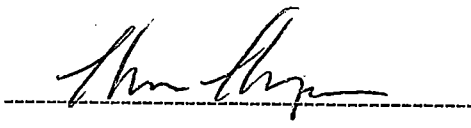
October 22, 2024
Columbia, South Carolina

Deputy Director of Legal Services
SCDPPPS
Post Office Box 207
Columbia, S.C, 20202

RE: Thomas Thompson v SCDPPS
24-ALJ-15-0023-AP

Dear Deputy Director,

Please find enclosed a Notice of Appeal in the above case. I am respectfully requesting that you include copies of all Notices of Appeal received from the Appellant in this case. Your assistance will be greatly appreciated. Thank you.



Thomas Thompson #80681
Tyger River CI 10-103
200 Prison Road
Enoree, S.C. 20335

November 21, 2024

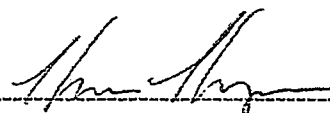
Respondent did
not submit

Clerk's Office
S.C. Administrative Law Court

RE: Thompson v SCDPPPS
24-ALJ-15-0023-AP

Dear Clerk,

Please find enclosed a Notice of Appeal in the above case. I am respectfully requesting that your office submit the dates and nature of any correspondence through the US Mail with Appellant during the period of March 13, 2024 through May 14, 2024. Your assistance will be greatly appreciated. Thank you.



Thomas Thompson #80681
Tyger River CI 10103
200 Prison Road
Enoree, S.C. 29335

November 21, 2024

ALC did not
submit

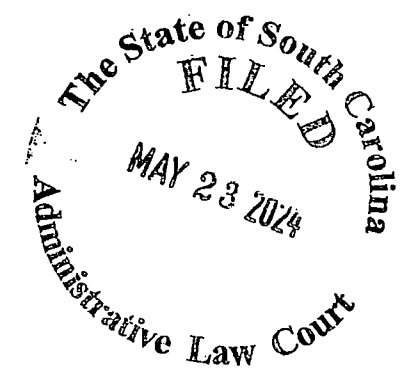
Dear Appellant:

5/22/2024

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Below is information regarding your case which has been filed with the ALC. Please refer to the Rules of Procedure (enclosed) for the time frames on filing briefs and other matters.

Case Type	Case Number	Filing Date	Date Assigned	Judge Last	Case Title (Appellant v. Respondent)
PPPS 15	24P0023	5/14/2024	5/23/2024	Reibold Thomas Thompson	#80681 v. SC PPPS



You must file all original documents and correspondence regarding this case directly with the above-named Judge and serve a copy on the Deputy Director of Legal Services. Dept. of PPPS, PO Box 207, Columbia, SC 29202.

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