



SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS
Division of Legal Counsel & Compliance

HENRY McMASTER, Governor
BRYAN P. STIRLING, Director

RECEIVED

Apr 21 2025

SC Court of Appeals

April 21, 2025

Ben Robert Stewart, # 223006
Tyger River Correctional Institution
9B-0228
200 Prison Road
Enoree, South Carolina 29335

RE: Ben Robert Stewart, # 223006 v. South Carolina Department of Corrections
Appellate Case No. 2024-002076

Dear Mr. Stewart:

Pursuant to the Court of Appeals' Order dated April 15, 2025, enclosed are copies of the ALC Orders in cases 24-ALJ-04-0610, 24-ALJ-04-0611, 24-ALJ-04-0632, and 24-ALJ-04-0633.

Thank you for your attention to this matter, and please do not hesitate to contact me should there be any questions or concerns.

Sincerely,

Christina Catoe Bigelow
Deputy General Counsel
South Carolina Department of Corrections

cc: The Honorable Jenny A. Kitchings
Clerk of Court, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

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Apr 21 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Ben Robert Stewart, #223006,)
)
 Appellant,)
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 vs.)
)
 South Carolina Department of Corrections,)
)
 Respondent.)
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Docket No. 24-ALJ-04-0610-IJ

ORDER OF DISMISSAL

This matter is before the South Carolina Administrative Law Court (ALC or court) pursuant to the Notice of Appeal filed on August 27, 2024 by Ben Robert Stewart (Appellant), an inmate in the custody of the South Carolina Department of Corrections (Department or Respondent). After the Appellant's Step 1 Grievance was filed, unprocessed, and returned to the Appellant for failing to file a Request to Staff Form and unclear statement, the Appellant filed an appeal with the court. The Appellant states that because his is mentally ill he should not have been transferred from Pennsylvania to South Carolina.

On November 26, 2024, the Department filed a Motion to Dismiss for the Appellant's failure to exhaust his administrative remedies. The Administrative Procedures Act (the Act) confers the jurisdiction of this court upon a party who has exhausted all administrative remedies available within an agency and who is aggrieved by a final decision in a contested case. See S.C. Code Ann. § 1-23-380. Interpreting the language of the Act, the South Carolina Supreme Court has determined that "judicial review is appropriate where there is an appeal from a final agency order . . ." and relief to be generally unavailable "where one has not exhausted administrative remedies." *Garris v. Governing Bd. of South Carolina Reinsurance Facility*, 319 S.C. 388, 390, 461 S.E.2d 819, 821 (1995). In this case, the Appellant filed a Notice of Appeal prior to the issuance of a Step 2 Grievance response. In failing to obtain a final decision from the Department, Appellant failed to exhaust his administrative remedies and, as such, has failed to meet the requirements of the Act to confer the jurisdiction of this court. Therefore, based on the foregoing

The State of South Carolina
FILED
NOV 27 2024
Administrative Law Court

IT IS HEREBY ORDERED that the Department's Motion to Dismiss is **GRANTED** and this appeal is **DISMISSED**.

AND IT IS SO ORDERED.



S. Phillip Lenski
Administrative Law Judge

November 27, 2024
Columbia, South Carolina

CERTIFICATE OF SERVICE

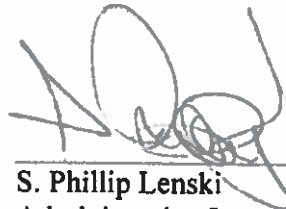
This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States Mail, postage paid, or in the interagency Mail Service addressed to the party(ies) or their attorney(s)

On 27th day of November 2024

Judicial Law Clerk

IT IS HEREBY ORDERED that the Department's Motion to Dismiss is **GRANTED** and this appeal is **DISMISSED**.

AND IT IS SO ORDERED.



S. Phillip Lenski
Administrative Law Judge

November 27, 2024
Columbia, South Carolina

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served the order in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States Mail, postage paid, or in the interagency Mail Service addressed to the party(ies) or their attorney(s).

This 27th day of November 2024



S. Phillip Lenski

IT IS HEREBY ORDERED that the Department's Motion to Dismiss is **GRANTED** and this appeal is **DISMISSED**.

AND IT IS SO ORDERED.



S. Phillip Lenski
Administrative Law Judge

December 3, 2024
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that the undersigned has this date served the order in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States Mail, postage paid, or in the Postage and Fees Office, at the address of the party(ies) or their attorney(s).

This 3rd day of December 2024



Administrative Law Judge

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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

GENERAL COUNSEL

Ben Robert Stewart, #223006,

Docket No. 24-ALJ-04-0633-AP
Grievance No. LEECI 0712-24

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

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ORDER OF DISMISSAL

Apr 21 2025

SC Court of Appeals

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to a Notice of Appeal filed by Ben Robert Stewart (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (Department or SCDC). In his Notice of Appeal Appellant alleges he is being deprived of light and ventilation. On December 5, 2024, Respondent filed a Motion to Dismiss, stating that Appellant's grievance was unprocessed and returned because he failed to file a Request to Staff Form. Furthermore, Respondent states in its motion that Appellant's Step One grievance is a duplicate to the grievance filed in 24-ALJ-04-0611-IJ, which a Motion to Dismiss was granted in that case. However, this appeal is not eligible for review by this Court because Appellant has failed to demonstrate that he has exhausted his administrative remedies by obtaining a final agency decision.

Rule 59(C), SCALC, requires that the Notice of Appeal must be accompanied by "a copy of the final decision which is the subject of the appeal and the date received[.]" Without a Step 2 Grievance decision from the Department, this Court cannot hear this matter in its appellate capacity. This Court hears inmate decisions under the appellate standard in Section 1-23-380, pursuant to the South Carolina Supreme Court opinion in Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). Under this procedure, an inmate may seek review of the Department's *final decision* in a non-collateral or administrative matter. See Al-Shabazz, 338 S.C. at 373, 527 S.E.2d at 752 (citation omitted) (emphasis added).

This requirement that an appellant obtain a final agency decision before judicial review is available is consistent with the doctrine of exhaustion of administrative remedies. "Relief in the courts is generally not available to one who has not exhausted administrative remedies." Bradley v. State Human Affairs Comm'n, 293 S.C. 376, 380, 360 S.E.2d 537, 539 (Ct. App. 1987) (citation

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SC Admin. Law Court

omitted). Specifically, other remedies are not available to a party who has not pursued an adequate administrative remedy to its conclusion. Id.

Because Appellant has not filed with this Court a final agency decision eligible for judicial review, nor presented any reason why exhaustion is not feasible, it is appropriate to dismiss this matter.

ORDER

THEREFORE, IT IS HEREBY ORDERED that this appeal is **DISMISSED, WITHOUT PREJUDICE.**

AND IT IS SO ORDERED.



Deborah Brooks Durden, Judge
S.C. Administrative Law Court

January 8, 2025
Columbia, South Carolina