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SC Court of Appeals

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Darrell Rochester, #146731,)
)
Appellant,)
)
vs.)
)
South Carolina Department of Corrections,)
)
Respondent.)
_____)

Docket No. 24-ALJ-15-0044-AP

ORDER OF DISMISSAL

This matter is before the South Carolina Administrative Law Court (ALC or court) pursuant to the Notice of Appeal filed on November 19, 2024 by Darrell Rochester (Appellant) an inmate in the custody of the South Carolina Department of Corrections (SCDC). On July 25, 2024, the South Carolina Department of Probation, Parole and Pardon Services (Department or Respondent) notified the Appellant of the South Carolina Parole Board's (Parole Board) unanimous decision to deny the Appellant parole. On August 15, 2024 the Appellant filed a Petition for Reconsideration. On September 29, 2024 the Parole Board notified the Appellant that his request for reconsideration was denied. The Appellant is appealing the Parole Board's denial of parole on the basis that the Parole Board denied the Appellant a realistic opportunity to participate in the SC Parole Program and that such action by the Parole Board was arbitrary and capricious.

The Parole Board reached its final decision on September 29, 2024. In his Notice of Appeal, the Appellant affirms that he received the Parole Board's determination on October 8, 2024. Pursuant to SCALC Rule 59, "...the notice of appeal from the final decision to be heard by the Administrative Law Court 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." However, the court did not receive the Appellant's Notice of Appeal until November 19, 2024. Because timely filing of an appeal is a jurisdictional issue and this court has no jurisdiction to adjudicate this appeal if the filing is untimely, on February 28, 2025 the court issued an Order for Brief giving the parties fifteen (15) days to submit briefs to the court addressing this

State of South Carolina
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Administrative Law Court

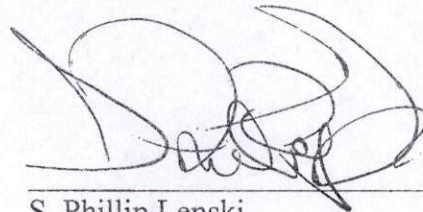
jurisdictional issued.

On March 4, 2025 the Department filed its Supplemental Brief requesting the court dismiss this appeal pursuant SCALC 62 because the Appellant did not timely file his Notice of Appeal. On March 6, 2025, the Appellant filed his Supplemental Brief arguing that he timely mailed his Notice of Appeal to the court on November 1, 2024, but that pursuant to the court's memo he received on November 8, 2025, he had to resubmit his appeal in compliance with ALC rules, which he did on November 19, 2024.

In this case, because the Appellant did not file his completed Notice of Appeal form with the court until November 19, 2024, the Appellant failed to timely appeal the Respondent's final decision. Timely filing and service of a notice of appeal is a jurisdictional requirement and this court does not have the authority to extend or expand the time for filing such appeal. *See Mears v. Mears*, 287 S.C. 168, 337 S.E.2d 206 (1985); *State v. Brown*, 344 S.C. 302, 543 S.E.2d 568 (Ct. App. 2001). Therefore, because the Appellant failed to timely file his Notice of Appeal with the court, this court does not have jurisdiction to hear it. Based on the foregoing,

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

AND IT IS SO ORDERED.



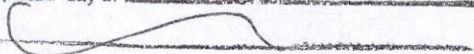
S. Phillip Lenski
Administrative Law Judge

March 12, 2025
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).

This 12th day of March 2025


Judicial Law Clerk