

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APR 28 2025

SC Court of Appeals

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Appeal from the Administrative Law Court  
The Honorable Ralph K. Anderson, III, Chief Administrative Law Judge  
Docket Number 24-ALJ-15-0034-AP

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Appellate Case No.: 2025-000488

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MICHAEL ROWLAND, #163624, ..... APPELLANT

v.

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

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**BRIEF OF RESPONDENT**

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**Matthew C. Buchanan**  
**General Counsel**

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Parole and Pardon Services  
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Attorney for Respondent

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## STATEMENT OF ISSUES ON APPEAL

1. Did the ALC properly dismiss the appeal when the notice of appeal was clearly filed outside of the limit required by SCALC Rule 59, and that the prior notice was in the improper format required by SCALC Rule 57?

## STATEMENT OF THE CASE

On May 23, 1989, Appellant shot at an acquaintance of his former girlfriend and his friend after they left a bar in Oconee County. Bullets struck and killed the victim and Appellant fled. After an investigation by authorities, Appellant was arrested and charged with murder.

On November 30, 1989, a jury convicted Appellant of murder after a trial. The Honorable William Traxler, Jr., sentenced the Appellant to life in prison. At the time Appellant committed this offense, South Carolina law allowed a person serving a sentence for murder parole eligibility upon the service of twenty years.

Appellant made his initial appearance before the Board on June 17, 2009. The Board denied the Appellant parole, and seven additional times. At the conclusion of his most recent hearing the Appellant was denied parole due to: 1) the nature and seriousness of the current offense; 2) an indication of violence in this or a previous offense; 3) a use of a deadly weapon in this or a previous offense; and 4) criminal record indicates poor community adjustment (R. p. \*) At the conclusion of this hearing, Appellant requested a review of his parole file regarding the hearing conducted on July 24, 2024. (R. p. \*) On August 20, 2024, officials with the Department denied his request for a rehearing. (R. p. \*) Upon receiving the denial, the Appellant filed a notice of appeal before the Administrative Law Court on October 8, 2024.

In an order filed February 19, 2025, the ALC dismissed Appellant's appeal due to the fact that he filed the notice of appeal out of the time allowed by ALC rules. Appellant now brings this appeal arguing that he attempted to file his notice within the allotted time, although it had been in the improper format.

In reply, Respondent will argue that the ALC properly dismissed the appeal. This brief follows.

## STANDARD OF REVIEW

In criminal cases the appellate court sits to review errors of law only and is bound by the trial court's factual findings unless they are clearly erroneous. When reviewing a parole case, the ALC sits in an appellate capacity. *Furtick v. S.C. Dept. of Prob., Parole & Pardon Servs.*, 352 S.C. 594, 576 S.E.2d 146 (2004). Under the appellate standard of the Administrative Procedures Act, the ALC's review is limited to the record, absent irregularities in the procedure of the agency. S.C. Code Ann. § 1-23-380(4). Additionally, the court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact, but may modify or reverse the decision of the agency when substantial rights of the appellant have been prejudiced. S.C. Code Ann. § 1-23-380(5). However, "an administrative law judge shall not hear... an appeal involving the denial of parole to a potentially eligible inmate by the Department of Probation, Parole and Pardon Services." S.C. Code Ann. § 1-23-600(D).

In an appeal from an ALC decision, the Administrative Procedures Act provides the standard of review. S.C. Code Ann. §1-23-610(B). This Court may only reverse the decision of the ALC if that decision is:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

*Id.*

“The [C]ourt may not substitute its judgment for the judgment of the [ALC] as to the weight of the evidence on questions of fact.” *Id.* In determining whether the ALC's decision was supported by substantial evidence, this Court need only find, looking at the entire record on appeal, evidence from which reasonable minds could reach the same conclusion that the ALC reached. *Hill v. S.C. Dep't of Health and Envtl. Control*, 389 S.C. 1, 9–10, 698 S.E.2d 612, 617 (2010).

## ARGUMENT

### **1. The Administrative Law Court properly dismissed the appeal because SCALC Rule 59 requires notice of appeal within thirty days of receipt of the final decision.**

Appellant argues that he filed his notice of appeal within the designated time frame as required by SCALC Rule 59, which requires the notice of appeal to be served within thirty days of receipt of the final decision. However, his prior attempt was not in the proper format as required by SCALC Rule 57.

As Judge Anderson stated in his order, the filing of proper notice within the prescribed timeframe is a jurisdictional requirement, and courts may not extend the deadlines. *Hill v. S.C. Dep't of Health & Env't Control*, 389 S.C. 1, 21, 698 S.E.2d 612, 623 (2010).

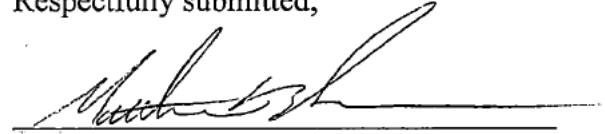
Furthermore, submitting notice using the proper forms is also a mandatory requirement. SCALC Rule 57. “The Court shall prescribe the content and format of forms required by these rules. The use of required forms as prescribed is mandatory.”

## CONCLUSION

The ALC properly dismissed the appeal because notice of the appeal was untimely. The ALC was constrained to dismiss the appeal in light of the clear jurisdictional limitations when

notice of the appeal is not filed within the proscribed time limit. Therefore, Respondent respectfully requests this Court to affirm and dismiss this appeal.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Matthew C. Buchanan', is written over a horizontal line.

**Matthew C. Buchanan**  
**General Counsel**

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April 22, 2025

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MICHAEL ROWLAND, #163624, ..... APPELLANT

v.

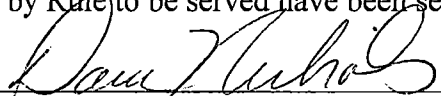
S.C. DEPARTMENT OF PROBATION, PAROLE AND  
PARDON SERVICES, ..... RESPONDENT

**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 22<sup>nd</sup> day of April, 2025, by depositing a  
copy of the same in the United States mail, postage prepaid, addressed to:

Michael Rowland, #163624  
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  
P. O. Box 207  
Columbia, South Carolina 29202

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SC Court of Appeals

April 22, 2025

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

RE: Michael Rowland, #163624 v. SCDPPPS  
Case No.: 25-000488

Dear Ms. Kitchings:

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

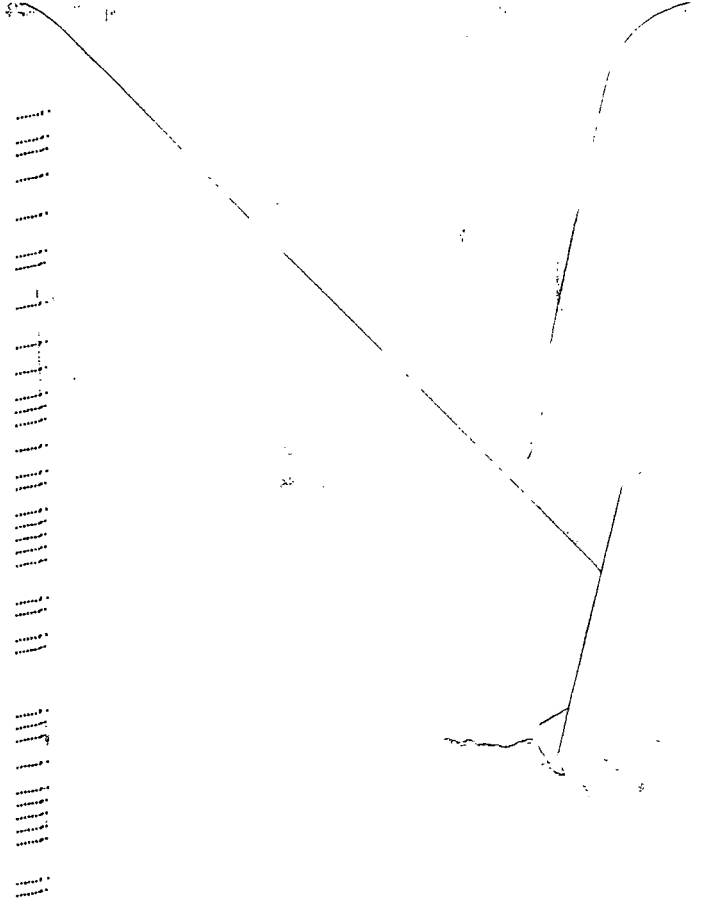
Sincerely,

A handwritten signature in black ink, appearing to read "Matthew C. Buchanan", with a horizontal line extending to the right.

Matthew C. Buchanan  
General Counsel

MCB:dn  
Enclosures

cc: Michael Rowland, #163624



State of South Carolina

Department of Probation, Parole, and Pardon Services

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