

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

James Scott, #269988,

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

Docket No. 26-ALJ-04-0197-AP
Grievance No. BRCI 0761-25

ORDER

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SC Court of Appeals

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to an appeal filed by James Scott (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (Department). This matter was assigned to the undersigned on April 17, 2026. Appellant contests the Department's denial of his Step 2 Grievance. On May 14, 2026, the Department filed a Motion to Dismiss (Motion) based upon Appellant's failure to serve the Notice of Appeal upon the Department as required by Rules 54, 59, and 62 of the Rules of Procedure for the Administrative Law Court (SCALCR). Appellant filed a response to the Department's Motion on May 22, 2026, alleging that he served the Department.

DISCUSSION

To initiate an appeal, Rule 59, SCALCR requires an aggrieved party file a notice of appeal upon the Court and serve a copy of the same upon the Department, within thirty days of receipt of the decision from which the appeal is taken. *See Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742, 754 (2000) ("[I]nmate must file and serve a notice of appeal upon specified parties within thirty days of receipt of written notice of Department's final decision."). Pursuant to this Court's rules, service is made by "delivery, or by mail to the last known address. Service is deemed complete upon mailing." Rule 54, SCALCR. Additionally, the date of mailing is the postmark or date stamp affixed by the mail room at Appellant's correctional institution. Rule 53(A), SCALCR.

Rule 62, SCALCR further provides that upon motion of a party, the Court may dismiss an appeal for failure to comply with deadlines prescribed by Court rules. Where it concerns a notice of appeal, dismissal for failure to meet timeliness deadlines is not discretionary. *See Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 14-15, 602 S.E.2d 772, 775 (2004) (citing *Mears v. Mears*, 287 S.C. 168, 337 S.E.2d 206 (1985) ("The requirement of service of the notice of appeal is jurisdictional,

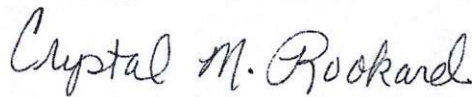
i.e., if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to 'rescue' the delinquent party by extending or ignoring the deadline for service of the notice.").

The Department maintains that Appellant did not serve it with the Notice of Appeal in this matter. The Department's assertion is corroborated by an attestation of nonreceipt of the Notice of Appeal from an Administrative Coordinator at the Department. The Notice of Appeal form provided to inmates informs inmates that "[a] copy of the Notice of Appeal must also be forwarded to the Office of General Counsel at the Department of Corrections." Appellant, in his response to the Motion, alleges that he did in fact properly serve the Department. Notably, the address provided on the Certificate of Service for Appellant's response contains a different zip code than the one provided on his Notice of Appeal. A close review of the Certificate of Service on the Notice of Appeal filed upon the Court reveals that, in completing the form, Appellant mailed the Notice of Appeal to: "4444 Broad River Road, Columbia, SC 29210." However, the Department's Office of General Counsel designates its mailing address as P.O. Box 21787, Columbia, SC 29221-1787. In the absence of any corroborating evidence to establish that Appellant properly made delivery upon the Department, the Court is left to conclude that Appellant failed to complete service of the Notice of Appeal.¹ As such, the Court finds service was not properly completed and thus, the appeal must be dismissed for lack of appellate jurisdiction. *Walters v. Laurens Cotton Mills*, 53 S.C. 155, 31 S.E. 1 (1898); see *Allen v. S.C. Dep't of Corr.*, 439 S.C. 164, 886 S.E.2d 671 (2023) (ALC has jurisdiction over properly perfected appeal).

ORDER

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

AND IT IS SO ORDERED.



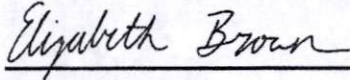
The Honorable Crystal M. Rookard
South Carolina Administrative Law Judge

June 5, 2026
Columbia, South Carolina

¹ Appellant bears the burden of proof with respect to this issue. See *Brown v. Inv. Mgmt. and Rsch., Inc.*, 323 S.C. 395, 399, 475 S.E.2d 754, 756 (1996)("[w]hen challenged, the plaintiff has the burden of showing jurisdiction is properly asserted").

CERTIFICATE OF SERVICE

I, Elizabeth Brown, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).



Elizabeth Brown
Judicial Law Clerk

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Columbia, South Carolina

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