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SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
The Honorable S. Phillip Lenski, Administrative Law Judge

Case No. 25-ALJ-15-0034-AP
Appellate Case No. 2026-001402

STEPHEN BECKHAM, #236548, APPELLANT,

v.

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

INITIAL BRIEF OF APPELLANT

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TABLE OF CONTENTS

TABLE OF AUTHORITIES	iii
STATEMENT OF ISSUES ON APPEAL	1
INTRODUCTION	1
STATEMENT OF THE CASE.....	2
STANDARD OF REVIEW	5
ARGUMENT	6
I. A parole denial is not routine under <i>Cooper</i> and <i>Compton</i> if the Board could not consider the required criteria because the Agency produced a factually deficient record.	6
II. Because the denial is not routine, the Administrative Law Court had ordinary review authority under the Administrative Procedures Act and was bound to exercise it.	9
CONCLUSION.....	11

TABLE OF AUTHORITIES

CASES

	Page(s)
<i>Al-Shabazz v. State</i> , 338 S.C. 354, 527 S.E.2d 742 (2000).....	6, 9
<i>Barton v. S.C. Dep’t of Prob., Parole & Pardon Servs.</i> , 404 S.C. 395, 745 S.E.2d 110 (2013)	5, 6
<i>Boiter v. S.C. Dep’t of Transp.</i> , 393 S.C. 123, 712 S.E.2d 401 (2011)	6
<i>Compton v. S.C. Dep’t of Prob., Parole & Pardon Servs.</i> , 385 S.C. 476, 685 S.E.2d 175 (2009)	7
<i>Cooper v. S.C. Dep’t of Prob., Parole & Pardon Servs.</i> , 377 S.C. 489, 661 S.E.2d 106 (2008)	6, 7, 8
<i>Furtick v. S.C. Dep’t of Prob., Parole & Pardon Servs.</i> , 352 S.C. 594, 576 S.E.2d 146 (2003)	6, 9
<i>Geohaghan v. S.C. Dep’t of Emp. & Workforce</i> , 439 S.C. 14, 885 S.E.2d 422 (Ct. App. 2023).....	5
<i>Kelsey v. S.C. Dep’t of Prob., Parole & Pardon Servs.</i> , 441 S.C. 373, 893 S.E.2d 588 (Ct. App. 2023).....	8, 9
<i>Olson v. S.C. Dep’t of Health & Env’t Control</i> , 379 S.C. 57, 663 S.E.2d 497 (Ct. App. 2008).....	5
<i>Schwiers v. S.C. Dep’t of Health & Env’t Control</i> , 429 S.C. 43, 837 S.E.2d 730 (Ct. App. 2019).....	5
<i>State v. Dingle</i> , 376 S.C. 643, 659 S.E.2d 101 (2008).....	6

CONSTITUTIONAL PROVISIONS

S.C. Const. art. I, § 24(C)(2).....	2
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STATUTES AND LEGISLATIVE MATERIALS

S.C. Code Ann. § 1-23-380(5)	10
S.C. Code Ann. § 1-23-610.....	5, 11
S.C. Code Ann. § 17-1-40.....	3

STATEMENT OF ISSUES ON APPEAL

- 1. Did the Administrative Law Court err as a matter of law in treating the Parole Board's denial as a "routine denial" under *Cooper* and *Compton* where the Agency assembled a parole file that was materially incomplete with respect to statutorily required parole criteria.**

INTRODUCTION

After three decades in prison, Appellant Stephen Beckham appeared before the South Carolina Parole Board ("the "Board") for the first time. In preparation for this hearing, the Department of Probation, Parole and Pardon Services ("the Agency") prepared a parole file for the Board's consideration and reliance. Appellant had no role in compiling or reviewing it before it went to the Board. He could only trust that it had been assembled accurately and completely. It had not been.

Appellant appealed his denial of parole to the Administrative Law Court ("ALC"), arguing that the Board's decision could not comport with due process when the sole record before it, the parole file, was missing information that directly informed several of the criteria the Board was required to consider. The ALC did not dispute the record failures that Appellant identified, yet it dismissed the appeal on jurisdictional grounds, holding that under *Cooper* and *Compton*, the Notice of Rejection ("Notice") issued to Appellant placed the parole denial beyond the ALC's review. In doing so, the ALC classified the parole denial as "routine," even though the record clearly indicated that the Board *could not* have considered all the required criteria because of the Agency's faulty parole file. In short, the Notice describes a deliberation that was impossible with such a limited and inaccurate record.

This appeal is a narrow one. Appellant does not ask this Court to second-guess the Board's discretion, much less to order his release. Instead, Appellant asks only that this Court clarify whether *Cooper* and *Compton* insulate the Agency from judicial review when the record makes

clear that the parole file was deficient and inaccurate with respect to the required parole criteria. Appellant asserts they do not, and respectfully asks this Court to reverse and to remand for a new parole hearing upon a corrected and complete parole file.

STATEMENT OF THE CASE

Appellant is presently serving a life sentence in the South Carolina Department of Corrections for the death of his wife (“the victim”). Following a high-profile, televised death-penalty trial in 1996, Appellant was convicted of murder, kidnapping, and conspiracy to commit murder. The Honorable Henry F. Floyd sentenced him to life imprisonment; because of aggravating factors, he would not become eligible for parole for thirty years. Appellant and the victim share three children: Shannon, Andrew, and Samuel, all of whom are now adults and, under the South Carolina Constitution, are legally recognized victims of the crime for which their father is incarcerated.¹

On November 19, 2025, Appellant appeared before the Parole Board for the first time. The Agency’s investigation and record-compilation began on or about February 22, 2024, when Appellant met with a parole examiner to review the Criteria for Parole Consideration. S.C. Dep’t of Prob., Parole & Pardon Servs. (“SCDPPPS”) Form 1212, Criteria for Parole Consideration (Feb. 22, 2024) [hereinafter Form 1212]. In the intervening months, the Agency built the parole file that would be placed before the Board. Appellant had no role in that process and was not permitted to view the parole file until the morning of the hearing.

¹ The Victims’ Bill of Rights in the South Carolina Constitution defines a Victim as “a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime against him. The term ‘victim’ also includes the person’s spouse, parent, child, or lawful representative of a crime victim who is deceased, who is a minor or who is incompetent or who was a homicide victim or who is physically or psychologically incapacitated.” S.C. Const. art. I, § 24(C)(2).

After a cursory review the morning of the hearing, Appellant and his counsel identified several material inaccuracies, including misidentification of the sentencing judge, whom the file listed as the late Judge Sidney Floyd rather than Judge Henry Floyd; an unsubstantiated reference to an alleged confession; and an unverified third-party allegation that Appellant had participated in a plot to escape from prison with other inmates.² Appellant and his counsel marked the inaccuracies, requested their correction, and attempted to clarify them with the Board during the hearing. SCDPPPS Acknowledgement of Parole File Review (Nov. 19, 2025) [hereinafter Acknowledgement].

The Board voted unanimously to deny parole and issued the Notice the same day. SCDPPPS Notice of Rejection (Nov. 19, 2025) [hereinafter Notice of Rejection]. The Notice stated that parole must be denied following the Board's consideration of the characteristics of Appellant's current and prior offenses, his supervision history, and his disciplinary record; the factors published in Department Form 1212; the factors set forth in S.C. Code Ann. § 24-21-640; and an actuarial risk and needs assessment. Notice of Rejection. To support their denial, the Board articulated two findings of fact: the nature and seriousness of the current offense, and an indication of violence in this or a previous offense. Notice of Rejection.

Shortly after the hearing, two of the victim's children, Shannon and Samuel, contacted Appellant's counsel. They explained that no victim's advocate from the Agency had ever reached out to them, and that they had therefore had no opportunity to provide a confidential written victim statement for the parole file, though each is an immediate relative of the victim. Appellant's

² Appellant was formally investigated, arrested, and charged with the criminal offense of escape on March 15, 2006 (Warrant No. 2006GS4001961). However, this charge was ultimately dismissed, and an Order for Destruction of Arrest Records was issued in January of 2014 pursuant to S.C. Code Ann. § 17-1-40. Appellant contends that the present use of or reference to dismissed and expunged non-convictions by both the Agency and the Newberry County Sheriff's Office is improper under South Carolina law.

Request for Reconsideration to SCDPPPS (Dec. 3, 2025) at 8 [hereinafter Request for Reconsideration]. During its investigation the Agency had contacted only one of the children, Shannon, and only in her capacity as Appellant's next of kin rather than as a victim witness. Request for Reconsideration at 8. The children received only the standard Notice of Parole Hearing on or about October 14, 2025. Request for Reconsideration at 17. The parole file nonetheless included multiple pages of redacted victim input, as well as a third-party statement from law enforcement purporting to reflect the position of the victim's family. Request for Reconsideration at 2-3.

Based on the inaccuracies and the incompleteness of the file, Appellant's counsel submitted a Request for Reconsideration and accompanying exhibits to the Agency on December 3, 2025. Request for Reconsideration at 1. Appellant filed and served a Notice of Appeal with the Administrative Law Court on December 19, 2025. Appellant's Notice of Appeal to the Administrative Law Court (Dec. 19, 2025) [hereinafter Notice of Appeal to the ALC]. On December 30, 2025, the Agency denied Appellant's Request for Reconsideration, stating that "the entire record before the Board reveals nothing to indicate the Board may have relied upon materially erroneous or incomplete information of a substantial nature." Letter from SCDPPPS to Appellant re: Denial of Request for Reconsideration (Dec. 30, 2025) [hereinafter Denial of Reconsideration]. On February 23, 2026, the Agency mailed Appellant (but not his counsel) a letter in response to the Request for Reconsideration. Letter from SCDPPPS to Appellant re: Correction of Parole File and Contact with Sentencing Judge (Feb. 23, 2026) [hereinafter Feb. 23 Correction Ltr.]. This letter confirmed that "[t]he statement received on behalf of the judge is the incorrect judge and has been updated to reflect a statement from the correct judge." Feb. 23 Correction Ltr.

Appellant argued before the ALC that the inaccuracies in his parole file and the Agency's procedures governing an inmate's review of his file deprived him of due process. On May 22, 2026, the Honorable S. Phillip Lenski issued a Final Order affirming the Agency's decision. Final Order, *Beckham v. S.C. Dep't of Prob., Parole & Pardon Servs.*, No. 25-ALJ-15-0034-AP (S.C. Admin. Law Ct. May 22, 2026) [hereinafter ALC Final Order]. The court held that the denial was a "routine" denial of parole under *Cooper* that it lacked the authority to review; that the Board's order reflected consideration of the required statutory and Form 1212 factors; and that the Agency satisfied *Kelsey* by permitting Appellant to review his file and to inform the Board of perceived inaccuracies. ALC Final Order at 4. This appeal followed.

STANDARD OF REVIEW

On appeal from a final decision of the ALC, this Court's review is governed by the Administrative Procedures Act ("APA"). S.C. Code Ann. § 1-23-610 (2025). This Court may "reverse the ALC if the findings are affected by error of law, are not supported by substantial evidence, or are characterized by abuse of discretion or clearly unwarranted exercise of discretion." *Schwiers v. S.C. Dep't of Health & Env't Control*, 429 S.C. 43, 49, 837 S.E.2d 730, 733 (Ct. App. 2019) (quoting *Olson v. S.C. Dep't of Health & Env't Control*, 379 S.C. 57, 64, 663 S.E.2d 497, 501 (Ct. App. 2008)). However, where an appeal presents a question of law, the substantial evidence test does not apply, and this Court "may reverse the decision of the ALC where it is in violation of a statutory provision or it is affected by an error of law." *Geohaghan v. S.C. Dep't of Emp. & Workforce*, 439 S.C. 14, 28, 885 S.E.2d 422, 429 (Ct. App. 2023); *Barton v. S.C. Dep't of Prob., Parole & Pardon Servs.*, 404 S.C. 395, 414, 745 S.E.2d 110, 120 (2013).

This appeal presents such a question of law: whether the routine denial framework of *Cooper* and *Compton* permits the ALC to decline review where the record before the Board was

materially incomplete or inaccurate with respect to criteria the Board was required to consider. The interpretation of *Cooper* and *Compton*, and the corresponding scope of the ALC's review authority under the APA, present questions of legal judgment rather than factual dispute. *See Boiter v. S.C. Dep't of Transp.*, 393 S.C. 123, 127, 712 S.E.2d 401, 403 (2011) (statutory interpretation is a question of law).

ARGUMENT

I. A parole denial is not routine under *Cooper* and *Compton* if the Board could not consider the required criteria because the Agency produced a factually deficient record.

South Carolina courts have long recognized that parole-eligible inmates retain limited but meaningful due process rights in the parole process. *See Furtick v. S.C. Dep't of Prob., Parole & Pardon Servs.*, 352 S.C. 594, 598-99, 576 S.E.2d 146, 149 (2003); *Al-Shabazz v. State*, 338 S.C. 354, 369-70, 527 S.E.2d 742, 750 (2000). Among them is the right to have the Board actually consider the statutory criteria that govern the parole decision. *State v. Dingle*, 376 S.C. 643, 649, 659 S.E.2d 101, 104-05 (2008). Where the Board fails to do so or is precluded from doing so, it infringes upon a state-created liberty interest, and that infringement is subject to judicial review. *Cooper v. S.C. Dep't of Prob., Parole & Pardon Servs.*, 377 S.C. 489, 499, 661 S.E.2d 106, 112 (2008); *Barton v. S.C. Dep't of Prob., Parole & Pardon Servs.*, 404 S.C. 395, 413, 745 S.E.2d 110, 120 (2013).

The South Carolina Supreme Court introduced the "routine denial of parole" framework in *Cooper*. The denial order in *Cooper* was so cursory that a reviewing court had no basis on which to determine whether the Board had considered the statutory criteria at all. *Cooper*, 377 S.C. at 498-99, 661 S.E.2d at 111. On that silent record, the court could only conclude that the Board had not discharged its duty to consider the requisite statutory criteria, and it characterized that failure as "an infringement of a state-created liberty interest" that "warrants minimal due process

procedures.” *Id.*, 377 S.C. at 499, 661 S.E.2d at 112. To address that problem going forward, the Court held that the Board could avoid the *Cooper* result if it “clearly state[d] in its order denying parole that it had considered the factors outlined in section 24-21-640 and the fifteen factors published in its parole form.” *Id.*, 377 S.C. at 500, 661 S.E.2d at 112. Where the Board’s order states their consideration and sets forth findings of fact and conclusions of law, reviewing courts will treat the denial as “routine” and will not disturb the Board’s discretionary weighing of the criteria. *Id.* The Court reiterated *Cooper*’s routine denial framework the following year in *Compton v. S.C. Dep’t of Prob., Parole & Pardon Servs.*, 385 S.C. 476, 685 S.E.2d 175 (2009), and it has governed South Carolina parole denials since.

That framework operates on the premise that the Board actually considered the requisite statutory criteria. That premise, in turn, depends on a more fundamental one: that the Board had before it a record upon which the required criteria could be considered. *Cooper* does not operate independent of the Board’s duty to consider; it presupposes the possibility of that consideration. A *Cooper*-compliant Notice of Rejection therefore does not immunize the Board or the Agency from judicial review where the record before the Board did not, and could not, support the deliberation the Notice recites.

The record in Appellant’s case could not support that deliberation. The errors in Appellant’s parole file correspond directly to criteria the Board was required to consider. The file’s victim-input section reflected only a selective subset of statutorily recognized victims: the Agency contacted one of Appellant’s three children, and only in her capacity as Appellant’s next of kin rather than as a victim, while seemingly excluding the two other children entirely from the investigative process. Request for Reconsideration at 8. The Agency knew who these victims were and how to contact them because each received the standard Notice of Parole Hearing as is required

under South Carolina law. Request for Reconsideration at 17. The Agency seemingly chose not to solicit their confidential input during the pre-hearing investigative process. That selective development of the record produced a distorted portrayal of victim sentiment on a question the Board is required to weigh. By misidentifying the sentencing judge, the Agency likewise foreclosed the Board's consideration of another required criterion—the attitudes of the sentencing judge towards parole—and confirmed as much after the fact when it acknowledged the error and belatedly obtained a statement from the correct judge. Feb. 23 Correction Ltr. Finally, the file presented unsubstantiated and refutable allegations, including references to a purported confession and allegations of institutional misconduct, without verification or supporting documentation, bearing directly on the Board's consideration of Appellant's institutional record. Form 1212.

The Board's Notice nonetheless states that it carefully considered all of the required parole criteria, including those to which the record failures speak. Notice of Rejection. In other words, the Notice issued to Appellant describes a deliberation that was demonstrably impossible with the erroneous and limited record. Under *Cooper* and *Compton*, a parole denial that recites consideration the record could not support is not a "routine" denial in any meaningful sense. It is instead the very failure of consideration that *Cooper* itself identified as an "infringement of a state-created liberty interest." *Cooper*, 377 S.C. at 499, 661 S.E.2d at 112. The ALC's treatment of Appellant's parole denial as routine was an error of law.

The ALC also relied on *Kelsey v. S.C. Dep't of Prob., Parole & Pardon Servs.*, 441 S.C. 373, 893 S.E.2d 588 (Ct. App. 2023), as an alternative ground for affirming the Board's decision. It reasoned that the Agency satisfied *Kelsey* by permitting Appellant to review his file and inform the Board of perceived inaccuracies on the morning of the hearing. ALC Final Order at 3-4. That reliance was misplaced. *Kelsey* addresses a narrow question: whether an inmate must be permitted

to review his file and notify the Board of errors he identifies. The *Kelsey* court held that Form 1212's requirement that an inmate notify the Board of inaccuracies in their parole files "necessarily implicates the right to review the file." *Kelsey*, 441 S.C. at 378, 893 S.E.2d at 591. And, while it provides that inmates shall notify the Board of perceived inaccuracies in the parole file, it does not shift the responsibility to compile an accurate and reliable parole file from the Agency to the inmate.

The defects in Appellant's file are not merely defects a pre-hearing review could have cured. They are the absence of information the Agency was required to gather during the investigative phase. Even if Appellant identified every inaccuracy on the face of the file, he would have had no way of knowing from the file itself that two of the three statutorily recognized victims were never contacted for confidential written statements, because their absence is exactly what a defective investigative record does not disclose. Nor were the errors Appellant did identify curable through same-morning notification alone. The Agency's own conduct after the hearing confirms this. In order to correct the file with regards to the sentencing judge, the Agency had to revert back to the investigative phase and contact the correct judge for input—a task that took more than three months after the error was identified on the day of the parole hearing. Feb. 23 Correction Ltr. *Kelsey*, no matter how generously construed, cannot remedy omissions or a defect that lies upstream of the review it protects.

II. Because the denial is not routine, the Administrative Law Court had ordinary review authority under the Administrative Procedures Act and was bound to exercise it.

The ALC reviews final Parole Board decisions under the APA. *Al-Shabazz*, 338 S.C. at 369–70, 527 S.E.2d at 750; *Furtick*, 352 S.C. at 598–99, 576 S.E.2d at 149. The scope of that review is set out in S.C. Code Ann. § 1-23-380(5): the ALC may modify or reverse a decision when substantial rights have been prejudiced because the decision is, among other grounds, in

violation of constitutional or statutory provisions, made upon unlawful procedure, or affected by other error of law. S.C. Code Ann. § 1-23-380(5)(a), (c), (d) (2025). *Cooper* and *Compton* narrow the ALC's ordinary review authority in parole appeals by providing that when reviewing routine denials of parole, the ALC has only the limited authority to determine whether the Board followed proper procedure.

Once Appellant's parole denial is properly understood as outside the routine denial framework, the ordinary APA standard of review applies with full force, and the record failures previously identified present multiple grounds for reversal or modification under § 1-23-380(5). The ALC nonetheless declined to modify or reverse, believing itself bound by *Cooper* and *Compton*. ALC Final Order at 4-5. The ALC's decision to do so reflects an error with regards to the scope of the ALC's review authority. *Cooper* and *Compton* only foreclose judicial review of the *Board's discretionary weighing* if the Notice recites the statutorily required and legally mandated consideration and articulates findings of fact. They do not foreclose judicial review of whether the Board's decision was constitutionally and procedurally valid in the first place. That is a question that necessarily includes whether the Board's consideration of the required criteria was possible with the record before it.

The relief Appellant seeks fits comfortably within the ALC's authority and preserves rather than displaces the deference *Cooper* and *Compton* require. Appellant does not ask this Court to order his release, to weigh the parole criteria, or to substitute any court's judgment for the Board's. He asks only that this Court reverse the ALC and remand for a new parole hearing on a corrected record. That relief leaves the Board's discretionary authority intact and directs remedial action only at the point where the record failures arose. The ALC's belief that it was foreclosed from providing

such relief by *Cooper* and *Compton* was itself a reviewable error of law. S.C. Code Ann. § 1-23-610(B) (2025).

CONCLUSION

For the foregoing reasons, Appellant respectfully requests that this Court reverse the Order of the Administrative Law Court and remand with instructions to (1) vacate the Board's denial of parole; (2) remand to SCDPPPS for timely re-investigation and correction of the parole file, including outreach to all statutorily recognized victims; (3) remand to the Board for reconsideration of the corrected parole file consistent with this Court's determination; and (4) grant any other relief this Court deems just and proper.

Respectfully submitted,

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