

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

William R. Smith, # 161838,

Appellant,

vs.

South Carolina Department of Probation,
Parole and Pardon Services,

Respondent.

Docket No. 13-ALJ-15-0050-AP

ORDER OF DISMISSAL

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SC Court of Appeals

STATEMENT OF THE CASE

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to the Notice of Appeal filed by William R. Smith (Appellant), an individual incarcerated with the South Carolina Department of Corrections. On September 4, 2013, the South Carolina Department of Probation, Parole and Pardon Services (Department) notified Appellant that the South Carolina Board of Parole and Pardon (Board) had rejected him for parole. Appellant filed an appeal with the ALC on October 29, 2013. Appellant challenges the Board's denial of parole as well as its procedures related to his parole eligibility hearing.

DISCUSSION

The Supreme Court of South Carolina has spoken clearly concerning the jurisdiction of the Administrative Law Court in cases such as this.

We emphasize that in future parole review hearings the Parole Board may avoid the result in the instant case if it clearly states in its order denying parole that it considered the factors outlined in section 24-21-640 and the fifteen factors published in its parole form. If the Board complies with this procedure, the decision will constitute a routine denial of parole and the ALC would have limited authority to review the decision to determine whether the Board followed proper procedure. Under that scenario, the ALC can summarily dismiss the inmate's appeal.

Cooper v. S.C. Dept. of Probation Pardon and Parole Services, 377 S.C. 489, 66 S.E.2d 106 (2008).

The Cooper decision was underscored by Compton v. S.C. Dept. of Probation Pardon and Parole Services, 385 S.C. 476, 685 S.E.2d 175 (2009), as follows:

In Cooper, we held that if the Parole Board deviates from or renders its decision without consideration of the appropriate criteria, it essentially abrogates an inmate's right to parole eligibility and infringes on a state-created liberty interest, warranting

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minimal due process protection. Because the Parole Board in Cooper neither offered an explanation nor indicated it had considered the statutory criteria or the criteria set forth in Form 1212, we had no other choice but to determine the order was defective and the decision was arbitrary and capricious. We emphasized that this result could be avoided in the future if the Parole Board clearly states in its order denying parole that it considered the factors outlined in section 24-21-640 and the fifteen factors published in Form 1212, and that if the Parole Board complies with this procedure, the decision will constitute a routine denial of parole and the ALC will have limited authority to review the decision.

Moreover, S.C. Code Ann. § 1-23-600(D) (Supp.2012) provides, "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." Thus, this Court's authority to review a decision of the Board is limited to determining if the Board followed the proper procedure and considered the relevant factors. If that procedure was followed, any decision of the Board constitutes a routine denial of parole which this Court has no jurisdiction to hear.

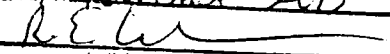
The Notice of Rejection dated October 3, 2013, states that the parole board considered the fifteen factors and § 24-21-640, mentioned above. Thus, this is a routine denial of parole, and the ALC has no authority to consider this appeal.

ORDER

IT IS THEREFORE ORDERED that this appeal is **DISMISSED**, with prejudice.
AND IT IS SO ORDERED.


Deborah Brooks Durden
Administrative Law Judge

November 26, 2013
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 26th day of November 2013
By: 
Judicial Law Clerk