

STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

SC Court of Appeals

Administrative Law Judge Robert L. Reibold

ALC Case No. 25-ALJ-04-0579-IJ
Appellate Case No. 2025-002411

ROBERT GRAHAM, JR., # 178039,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

INITIAL BRIEF OF RESPONDENT

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

Christina Catoe Bigelow
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ATTORNEY FOR RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

THE ADMINISTRATIVE LAW COURT PROPERLY DISMISSED THE APPEAL WHERE APPELLANT SUBMITTED A NOTICE OF APPEAL PRIOR TO RECEIVING A FINAL AGENCY DECISION.

STATEMENT OF THE CASE

This matter comes before this Court pursuant to the appeal of Robert Graham, Jr., an inmate in the custody of the South Carolina Department of Corrections (SCDC). Appellant submitted a Step 1 grievance on July 18, 2025, claiming that a prior complaint he made about staff misconduct was altered. The Step 1 grievance was returned to Appellant for his failure to first submit a Request to Staff Member Form to informally resolve the matter. Appellant then submitted a Notice of Appeal to the Administrative Law Court on August 7, 2025. On November 14, 2025, Administrative Law Judge Robert L. Reibold issued an Order of Dismissal. In that Order, Judge Reibold dismissed the appeal because Appellant failed to file a Step 2 grievance and therefore failed to exhaust his administrative remedies. This appeal follows.

STANDARD OF REVIEW

S.C. Code Ann. § 1-23-610(B) provides the applicable standard of review:

The review of the administrative law judge's order must be confined to the record. The reviewing tribunal may affirm the decision or remand the case for further proceedings; or it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or 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.

In an appeal of a final decision of an administrative agency, the standard of appellate review is whether the ALC's findings are supported by substantial evidence. S.C. Code Ann. § 1-23-610(B). "Substantial evidence" is evidence which, considering the record as a whole, would allow a reasonable mind to reach the same conclusion that administrative agency reached. Hendley v. S.C. State Budget & Control Bd., 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996). A reviewing court shall not substitute its own judgment for that of the ALC as to findings of fact, but it may reverse or modify decisions that are controlled by errors of law or that are clearly erroneous in view of the substantial evidence on the record as a whole. Id.

ARGUMENT

THE ADMINISTRATIVE LAW COURT PROPERLY DISMISSED THE APPEAL WHERE APPELLANT SUBMITTED A NOTICE OF APPEAL PRIOR TO RECEIVING A FINAL AGENCY DECISION.

In this case, Appellant's ALC case was dismissed because Appellant failed to file a Step 2 grievance. Because he failed to file a Step 2 grievance, he failed to obtain a final agency decision and also failed to exhaust his administrative remedies. (See Order of Dismissal dated November 14, 2025). Because there was no final agency decision to appeal, the ALC correctly dismissed the case. See Al-Shabazz v. State, 338 S.C. 354, 373, 527 S.E.2d 742, 752 (2000) (an inmate make seek review of the Department's *final decision* in an administrative matter)(emphasis in original); Bradley v. State Human Affairs Comm'n, 293 S.C. 376, 380, 360 S.E.2d 537, 539 (Ct. App. 1987) (relief in the courts is generally not available if administrative remedies have not been exhausted); Garris v. Governing Bd. of South Carolina Reinsurance Facility, 319 S.C. 388, 390, 461 S.E.2d 819, 821 (1995) (judicial review is unavailable where one has not exhausted administrative remedies).

CONCLUSION

For the foregoing reasons, this Court should affirm the Administrative Law Court's decision below.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

BY: _____


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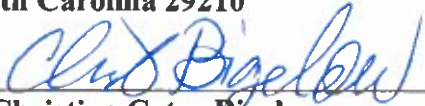
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that on this date, she mailed a copy of the **Motion to File out of Time** to Appellant, addressed as follows:

**Robert Graham, Jr., # 178039
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SCDC

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

"CORRECTIONAL EXCELLENCE TODAY FOR A SAFER SOUTH CAROLINA TOMORROW"

Joel E. Anderson | Director

Office of General Counsel

OFFICE OF GENERAL COUNSEL

September 4, 2026

The Honorable Jenny A. Kitchings
Clerk of Court, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

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SC Court of Appeals

RE: Robert Graham, Jr., # 178039 v. South Carolina Department of Corrections
Appellate Case No. 2025-002411

Dear Ms. Kitchings:

Enclosed please find the **Initial Brief of Respondent** and **Designation of Matter** in the above captioned appeal, along with **Proof of Service**. Also enclosed is Respondent's **Motion to File out of Time** and a **Proof of Service**.

Thank you for your attention to this matter, and please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

Christina Catoe Bigelow
Deputy General Counsel
South Carolina Department of Corrections

cc: Robert Graham, Jr., # 178039
Broad River Correctional Institution
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Columbia, South Carolina 29210

