

The South Carolina Court of Appeals

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SEP 21 2026

Administrative Law Court

S.C. SUPREME COURT

Phillip Lenski, Administrative Law Judge

Docket No: 24-ALJ-04-0610-IJ

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SEP 22 2026

Ben Robert Stewart, 223006

Appellant

CC Court of Appeals

v.
South Carolina Department of Corrections

Respondent

Final Brief

Case No: 2024-002076

Ben Robert Stewart
100-200 Prison Road
Enoree, S.C. 29335

APPLICABLE LAW AND STANDARD OF REVIEW;

South Carolina Constitution Art 1 § 22;

South Carolina Constitution Art 1 § 3;

South Carolina Code 1-23-610; 650;

South Carolina Administrative Law Court Rule 60.

United States Constitution 14th Amendment

United States Constitution 1st Amendment

CLAIM PRESENTED

Whether the party first noticing the appeal did not file the initial brief, does this violate Rule 60 SCALCR? and due process?

STATEMENT OF THE CASE

The Appellant Ben Robert Stewart filed two motions and an Affidavit after the date of assignment and prior to the ninety (90) day dead line for initial brief. The actual motion were a (Motion To Consolidate, Proof of Service date October 3, 2024 and A Affidavit To Motion For Trial And Extension of Time, dated November 27, 2024.

Before the ninety (90) day for the appellant had expired the Respondent filed a proposed order of dismissal without first being briefed and provided the Record on Appeal or exhibits relating to the case for adjudication purposes.

The Respondent incorrectly believes that "the Appellant filed a Notice of Appeal prior to the issuance of a Step 2 Grievance response." see, Order of Dismissal Docket No: 24-AJ-04-0610 ITJ)

The Appellant properly obtained a final decision from the Department when the Warden received the step 1 and step 2 including the 1911 Request to staff member then filing a notice of appeal to the Administrative Law Court within ninety (90) days or the Clerk of Court is required to not assign a case see, Rule 59 SCALCR Notice of Appeal:

" The notice of appeal from the final decision to be heard by the Administrative Law Court shall be filed with the Court and a copy served on each party, including the agency, within (30) days of receipt of the decision from which the appeal is taken. The notice shall be on a form prescribed by the Court pursuant to Rule 57 and shall contain the following information:

c. a copy of the final decision that is subject of the appeal and the date of receipt.

Any notice of appeal which is incomplete or not in compliance with this Rule or Rule 71 will not be assigned to an administrative law judge until all required information is received and any applicable filing fee is processed." This appeal is proper.

The Respondent has violated the Rules of the ALC and uniform procedures in Rule 60 SCALCR by first filing a brief or argument and falsely stating, "Appellant submitted a notice of Appeal prior to receiving a final agency decision," when in fact those required documents was needed to assign the case to the Appellant in the first instant.

Rule 60 SCALCR was disregarded by the Court and Respondent. The rights to participate and be heard was also disregarded. The Respondent has forfeited the appellate argument and waived its chance to reargue this matter for failure to deny.

The Judgment of the ALC should be reversed and remanded with instructions to vacate order and return Appellant back to Pennsylvania due to S.C.D.C policy, state and federal statutes violations, because Appellant is mentally ill and does not apply to the Interstate Agreement on Detainer Act pursuant ~~to~~ ^{not}

to Article VI(b) of the (IAD) 17-11-10 s.c. code; 18 USCA App 2:2 Article VI(b) and SCDC Policy O.P. 21-04 Section 28.4.9 Mental Illness see; Order of Dismissal. Docket No: 24-ALJ-04-0610 IT filed Nov. 27, 2024) further, appellant raised Article III violation of the (IAD) and SCDC policy OP.21-04.28

The Respondent falsely claimed that Appellant failed to file a Request to Staff Form and that reason was used to conclude that Appellant failed to exhaust administrative remedies, and the Respondent first submitted a brief and violated Rule 60 SCACR. Had Rule 60 of Administrative Law Court Rules been followed and the Appellant was able to file the initial brief on appeal and the Record on Appeal the exhaustion argument by the State / Respondent / the South Carolina Department of Corrections and Defendants would proved to be baseless and without merit.

The Respondent also violated the ALC Rules in this case and should be sanctioned see; SCACR Rule 269 Reply Brief, Record on Appeal at 72-85).

During the course of this instant appeal, the Appellants criminal case indictments or charging documents were placed under seal for being fraudulent in a 30-9-30 s.c. code ann Request for Removal and Professional Conduct violation 3.8(a)

The fact that the actual charging documents in this case are removed by the Clerk of Court proves that those same charging documents were invalid charges in the extradition / transfer proceedings violating Article III of the 18 USCA App 2:2 (IAD) from 2007-Present,,

The fact that this also developed during this appeal warrants a removal because Appellants State and Federal Constitutional Amendments are clearly violated because there is a lack of probable cause in this instant case see: Record on Appeal at 1-162)).

The right to redress of grievances was denied under South Carolina Constitution Article 1 § 22; because the due process and equal protection of the laws are violated under S.C. Const. Art 1 § 3; were the Rules procedures e.g. Rule 60 SCALCR was violated.

The United States Constitution 1st Amendment has been denied and the 14th Amendment has been likewise denied and violated in this case.

This appeal follows...

Argument

Whether the party first noticing the appeal did not file the initial brief, does this violate Rule 60? and due process?

Provided in Rule 60 SCAEC it states:

" Unless otherwise ordered or stayed by the operation of Rule 59, the party first noticing the appeal shall file an original brief within ninety (90) days after the date of assignment "

In this instant case, the AEC did not order otherwise or stayed the operation of Rule 59, and therefore, the appellant was suppose to file; be able to first file the initial brief or it violates Rule 60 SCAEC.

The Respondent has made an argument to support its position to be able to violate the Rules of ALC and although that reason is false there can be nothing Respondent can rely on because Rule 60 is procedural as well as substantive.

Regardless of any reasons the Respondent might have the Appellant was denied the chance to file the initial brief. see; Rule 59-60 SCALCR.

Had Appellant been able to file and submit all the relevant documents the issue respondent claims would have been non existing because a Request to Staff Form was filed see; Exhibit B-20 1911 Farm Request to Staff Member dated Dec. 7, 2023 Kiosh No: 23-03312811 also Exh C18 1911 Farm Request to Staff Member dated Feb. 19, 2024) Record on Appeal at

Therefore, Respondents assertion that Appellant failed to

exhaust administrative remedies is wrong and misplaced because the appellant indeed received a stamped Warden step 1 and step 2 decision, then appealed to ALC.

The Appellant's right to procedure before administrative agency for judicial review under S.C. Const Art 1 § 22 is denied also.

The due process under S.C. Const Art 1 § 3 is denied and the right to redress the due process and equal protection of the laws are violated. see; 1-23-610(B) (a) (b) (c) (d) (e) and (f)

The United State Constitution ^{7th} and 14th Amendments are ~~denied~~ ^{violated} in this ~~case~~ ^{case} for failure of the courts the opportunity violated for denying opportunity for the appellant to participate in his ALC appeal see; S.C. Const Art 1 § 22; Rule 8, SCALCR; USCA 1st Amend.

Rule 59 SCALCR states: "Any notice of appeal which is incomplete or not in compliance with this Rule or Rule 91 will not be assigned to an administrative law judge until all required information is received and any applicable filing fee is processed," and therefore, if the appellant improperly filed an appeal the Clerk of Court would have rejected the appeal without a copy of the final decision that is subject of the appeal and the date of receipt. see; Rule 59 SCALCR.

The Record on Appeal at 1-14-) reveals that the required forms in the agency; the step 1 and step 2 including 1911 Form was used and filed but the agency failed to answer or deny the appellant.

Pursuant to 1-23-610 (B) s.c. code ann, in part it states:

"The review of the administrative law Judge's order must be confined to the record, The Court may not substitute its judgment for the judgment of the ALJ as to the weight of the evidence on question of facts..." "The Court of Appeals 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:

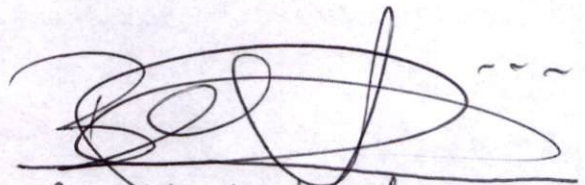
- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure
- (d) affected by other error of law
- (e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
-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

The instant case clearly has been decided and prejudiced the Appellant's ability to participate and be heard in this appeal to the ALC, see; S.C. Const Art 1 § 3; USCA 14th Amend;.

(The Administrative Law Court decision was improper for failing to make a detailed finding of fact) see; Equal Employment Commission v. United Virginia Bank / Seaboard Nat. 555 F.2d. 403 (4th Cir 1977)

CONCLUSION AND RELIEF

The Appellant respectfully request that this Honorable Court reverse and remand or modify the decision of the Administrative Law Court because the Appellant have been prejudiced with its decision.

A handwritten signature in dark ink, appearing to read 'Ben Robert Stewart', written over a horizontal line.

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