

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Curtis Richardson, #269166,

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

Docket No. 25-ALJ-04-0695-AP

**ORDER GRANTING MOTION
TO DISMISS IN PART**

RECEIVED

SEP 25 2026

SC Court of Appeals

STATEMENT OF THE CASE

This matter is pending before the South Carolina Administrative Law Court ("ALC" or "Court") pursuant to an appeal filed by Curtis Richardson ("Appellant"), an inmate incarcerated with the South Carolina Department of Corrections ("SCDC" or "Department"). On July 29, 2025, Appellant filed a Step 1 Grievance with the Department asserting the Department should not have accepted him into incarceration because there was no indictment or warrant for the offense of possession of crack cocaine. As part of that Grievance, he asserts he is entitled to \$100,000 dollars per day of incarceration from the Department.

On August 4, 2025, the Inmate Grievance Coordinator returned the Step 1 Grievance by selecting the "OTHER" box stating:

This grievance has been processed but returned to you for the following reason(s): per SCDC Policy, GA-01.12, Inmate Grievance System, the issue you have presented is outside of SCDC control. However, consistent with SCDC GA-01.12 Inmate Grievance System, you may submit a paper Request to Staff Member (Form 19-11) to the Branch Chief within 10 days of a grievance being returned to you, with a copy of the grievance containing the staff's comments.

On August 18, 2025, Appellant filed a request to staff member to the Branch Chief stating "The Grievance refused per policy to to submit to the warden in order to proceed to the Administrative Law Court." On September 25, 2025, Department staff denied this request stating ~~requests for financial remuneration is outside the control of the Inmate Grievance System.~~

On October 4, 2025, Appellant filed a Notice of Appeal directly from the denial of this Request to Staff Member. In the Notice of Appeal, Appellant alleged the Department was detaining him illegally because his sentencing sheet was invalid because he was never indicted for



possession of crack cocaine 3rd or subsequent offense. This matter was assigned to the undersigned on October 16, 2025.

On November 18, 2025, Appellant filed a document with the Court titled ~~"Motion for Release"~~¹ before the Department had completed the Record on Appeal. The Department filed a Motion to Dismiss the appeal on December 10, 2025, on the basis that Appellant ~~failed to exhaust administrative remedies, thereby depriving the Court of jurisdiction.~~

Appellant responded through three separate filings. The first on December 11, 2025, arguing that the Department failed to file a timely response to his motion under Rule 7, SCALCR, which he asserts deprives this Court of jurisdiction to rule in the Department's favor. The second on December 15, 2025, objecting to SCDC's statement of the case from its motion to dismiss, stating that he had exhausted all available remedies and therefore, the Department's motion should be denied. Subsequently, Appellant filed a Supplemental Brief on December 28, 2025, reiterating his claim the Department's response to his motion was untimely, that he exhausted all administrative remedies, and that the Court has jurisdiction based on the Department's statements in its response to his grievance that "the issue [Appellant] presented is outside of SCDC control."²

In these three filings, Appellant asserted, among other things, that he ~~has exhausted his~~ administrative remedies, received a final agency decision because SCDC stated it was beyond their control, and also attached a second request to staff member which stated, "~~the Grievance Coordinator refuses to properly process this grievance complaint.~~"

DISCUSSION

The Department seeks dismissal of this appeal. The Court grants this motion in part and denies it in part. To the extent that Appellant requests that he be released from prison and awarded monetary damages for his incarceration, the Court lacks jurisdiction for a number of reasons including: (1) exclusivity of Post-Conviction Relief proceedings; and (2) the failure to exhaust administrative remedies. However, to the extent, if any, that Appellant argues on appeal that his ~~grievance should have been initially processed, the Court has jurisdiction to proceed,~~

¹ This document was stylized as a brief and not a motion, it included a statement of issues on appeal, statement of the case, and argument sections as required to be included in Rule 60(B), SCACR. Additionally, Appellant refers to this filing as an "original brief" in his subsequent supplemental brief. Therefore, this Court, by Appellant's own admission, will construe this filing as his initial brief.

² Appellant did not file a motion with this Court to accept his supplemental brief under Rule 60(D), SCALCR. As this brief does not contain any argument not already made by the Appellant in other filings, the Court accepts his supplemental brief.

I. Post-Conviction Relief Proceedings

The Court generally has jurisdiction to hear inmate appeals that have been properly filed and served. See S.C. Code Ann. § 1-23-600(D); *Allen v. S.C. Dep't of Corr.*, 439 S.C. 164, 170, 886 S.E.2d 671, 674 (2023) ("[T]he ALC has subject matter jurisdiction over inmate grievance appeals that have been properly filed."); *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 331 605 S.E.2d 506, 507 (2004); *Al-Shabazz v. State*, 338 S.C. 354, 369, 527 S.E.2d 742, 750 (2000). However, the Court is obligated to dismiss an appeal if jurisdiction is otherwise lacking. See *Levi v. N. Anderson Cnty. EMS*, 409 S.C. 374, 380, 762 S.E.2d 44, 47 (Ct. App. 2014) (stating the appealability of an order can be raised at any time); *Ashenfelder v. City of Georgetown*, 389 S.C. 568, 571, 698 S.E.2d 856, 858 (Ct. App. 2010) ("An appellate court may determine the question of appealability of a decision from a [trial] court as a matter of law."); 4 C.J.S. *Appeal and Error* § 84 (Aug 2023 Update) ("An appellate court has the duty to determine the question of its and the lower court's jurisdiction on its own motion, and dismiss an appeal if jurisdiction is lacking, even when the parties do not raise the issue.").

Where, however, the concern raised falls within the scope of Post Conviction Relief ("PCR") proceedings, the Court lacks jurisdiction. Section 17-27-20(A) addresses the type of claims which may be raised in a PCR proceeding. Pursuant to this section, a person may institute PCR proceedings for the following claims:

- (1) That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
- (2) That the court was without jurisdiction to impose sentence;
- (3) That the sentence exceeds the maximum authorized by law;
- (4) That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
- (5) That his sentence has expired, his probation, parole or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
- (6) That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy; may institute, without paying a filing fee, a proceeding under this chapter to secure relief. Provided, however,

that this section shall not be construed to permit collateral attack on the ground that the evidence was insufficient to support a conviction.

Id. ~~Here, the Court construes Appellant's claims as arguments that Appellant is "otherwise unlawfully held in custody."~~ Appellant's claim therefore fits within section 17-27-20(A)(5), which provides that PCR proceedings are available for a person who claims that "his sentence has expired, his probation, parole or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint." S.C. Code Ann. § 17-27-20(A)(5).

Where, as here, a claim fits within one of these enumerated categories, then PCR proceedings provide the exclusive remedy for that claim. S.C. Code Ann. § 17-27-20(B). Section 17-27-20(B) provides that except as otherwise provided, the remedy of PCR proceedings "comprehends and takes the place of all other common law, statutory or other remedies heretofore available for challenging the validity of the conviction or sentence. It shall be used exclusively in place of them." *Id.*; ~~*Carpenter v. S.C. Dep't of Corr.*, 431 S.C. 512, 526, 848 S.E.2d 346, 349 (Ct. App. 2020)~~ (dismissing as procedurally barred declaratory judgment action in which inmate claimed that had the Department of Corrections correctly calculated his earned good time credits, he would have been previously been released from prison).

Because the Administrative Law Court lacks jurisdiction to entertain a PCR petition, and because PCR proceedings provide the exclusive remedy for the claims raised by Appellant regarding the propriety of his incarceration, the Court lacks jurisdiction over the substance of Appellant's claim.

II. Exhaustion of Administrative Remedies

Additionally and alternatively, the Court agrees with the Department that Appellant failed to exhaust his administrative remedies as to the substance of Appellant's Step 1 Grievance for the reasons set forth below.³

³ As an initial matter, Appellant asserted that Respondent's motion to dismiss was untimely because he asserted the Department's motion to dismiss was actually a response to his "Motion for Release" and therefore had to be filed within ten days of his "motion" under Rule 7(B), SCALCR. However, the Department's motion to dismiss was not in response to Appellant's motion, but instead stood on its own, filed apart from Appellant's filing. Therefore, the Department is not bound by the response timeliness found in Rule 7(B), SCALCR. Moreover, this Court finds Appellant's "motion for release," was his initial brief.

The South Carolina Court of Appeals held that subject matter jurisdiction is distinct from the doctrine of exhaustion of administrative remedies. *Capital City Insurance Company v. BP Staff, Inc.*, 382 S.C. 92, 100, 674 S.E.2d 524, 538-20 (Ct. App. 2009). As the court of appeals explained, “subject matter jurisdiction is the power of a court to hear and determine a class of cases.” *Id.* at 100, 674 S.E.2d at 528 (quoting *Skinner v. Westinghouse Elec. Corp.*, 380 S.C. 91, 93-94, 668 S.E.2d 795, 796 (2008)). In contrast, the failure to exhaust administrative remedies goes to whether a suit is premature. *Id.* at 100, 674 S.E.2d at 529. The *Capital City* court described the doctrine of exhaustion of administrative remedies as a rule of policy and convenience rather than a rule of jurisdiction. *Id.*

The Court does not dispute that, in Circuit Court, exhaustion of administrative remedies is not generally jurisdictional. This case, however, is pending before the Administrative Law Court, which may alter the analysis. As the United States Court of Appeals for the District of Columbia has explained in addressing exhaustion of administrative remedies under federal administrative law:

the word “exhaustion” now describes two distinct legal concepts. The first is a judicially created doctrine requiring parties who seek to challenge agency action to exhaust available administrative remedies before bringing their case to court. We will call this doctrine “non-jurisdictional exhaustion.” . . .

The second form of exhaustion arises when Congress requires resort to the administrative process as a predicate to judicial review. This “jurisdictional exhaustion” is rooted, not in prudential principles, but in Congress’ power to control the jurisdiction of the federal courts. Whether a statute requires exhaustion is purely a question of statutory interpretation.

Avocados Plus Inc. v. Veneman, 370 F.3d 1243, 1247–48 (D.C. Cir. 2004) (internal citations omitted).

This framework is consistent with South Carolina law. The ALC is a creature of statute and must depend entirely upon constitutional and statutory provisions for its authority and jurisdiction. *See generally* S.C. Code Ann. §§ 1-23-500 *et seq.* (Supp. 2025). “The General Assembly has the authority to limit the subject matter jurisdiction of a court it has created; therefore, it can prescribe the parameters of the ALC’s powers.” *Amisub of S.C., Inc. v. S.C. Dep’t of Health & Env’t Control*, 403 S.C. 576, 585, 743 S.E.2d 786, 791 (2013). It follows that where the Legislature has prescribed requirements which must be satisfied before the ALC may address a matter, those requirements are jurisdictional.

Whether exhaustion of remedies is jurisdictional in the ALC therefore depends upon whether exhaustion of remedies is statutorily mandated. *See S.C. Dep't of Health & Env't Control v. Blocker*, No. 15-ALJ-07-0554-CC, 2016 WL 5867852 at 6 (S.C. Admin L. Ct. Oct. 3, 2016) (stating discretion whether to apply doctrine of exhaustion of remedies disappears when the administrative remedies are prescribed by statute). *See generally Responsible Econ. Dev. v. S.C. Dep't of Health & Env't Control*, 371 S.C. 547, 553, 641 S.E.2d 425, 428 (2007) (“[R]egulatory bodies...have only the authority granted them by the legislature.”).

~~This matter is an appeal from a decision by the Department. The Court has authority to preside over all appeals from final decisions of contested cases from the Department of Corrections.~~ S.C. Code Ann. § 1-23-600(D) (Supp. 2025). Review of such decisions must be conducted in the same manner as prescribed by Section 1-23-380 for judicial review of final agency decisions. S.C. Code Ann. § 1-23-600(E) (Supp. 2025). Section 1-23-380 in turn provides in pertinent part that: “[a] party who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision in a contested case is entitled to judicial review pursuant to this article and Article 1.” S.C. Code Ann. § 1-23-380 (Supp. 2025) (emphasis added). This statute plainly requires exhaustion of administrative remedies. Parties who have not exhausted their administrative remedies are not entitled to judicial review pursuant to the Administrative Procedures Act. *See id.* The Court therefore views a failure to exhaust administrative remedies as jurisdictional in this case.

Moreover, it is clear from the record before the Court that Appellant failed to exhaust his administrative remedies with respect to one of the issues on appeal ~~“the lack of indictment, lack of valid sentence, sheet-render, and subject-appellant to illegal imprisonment by the SCDC.”~~ The general inmate grievance process contemplates three steps which must be taken to exhaust administrative remedies. First, inmates must make an effort to informally resolve a grievance by submitting a Request to Staff Member. (SCDC Policy GA.01-12 (13.2)). If informal resolution is ineffective, an inmate must then file Form 10-5, otherwise known as a Step 1 Grievance. *Id.* If the response to the Step 1 Grievance is unsatisfactory, an inmate must file a Step 2 Grievance. (SCDC Policy GA.01-12 (13.2 through 13.7)). No Step 2 Grievance was filed in this case, and, as a result, Appellant has not exhausted his administrative remedies with respect to the subject matter of his initial Step 1 Grievance.

III. Refusal to Accept Grievance

Next, the Court must determine whether Appellant has exhausted his remedies as to the Department's procedure for reviewing and returning inmate grievances. The Department in this case reviewed Appellant's Step 1 Grievance but returned it to him because "the issue you have presented is outside of SCDC control." Where a grievance is reviewed but returned to an inmate, the review process is as follows:

If the IGC determines that the grievance will not be processed, the IGC will note this on the SCDC Form 10-5, Step 1, under "Action Taken by the IGC," maintain the original for the inmate grievance file, enter "non-grievable" into the automated system, and mail a copy of the SCDC Form 10-5, Step 1, to the inmate in a sealed envelope. Unprocessed (reviewed but returned) grievances may only be appealed by utilizing SCDC Form 19-11, "Inmate Request To Staff Member," (RTSM) to the Agency Inmate Grievance Coordinator within ten (10) days of the grievance being returned to the inmate. The inmate must provide a copy of the unprocessed (reviewed but returned) grievance with the RTSM. The inmate cannot file a grievance against the IGC for un-processing the grievance.

(SCDC Policy GA.01-12(13.3)).

~~The evidence currently available to the Court indicates that Appellant took the steps necessary to comply with this policy.~~ As a result, Appellant has exhausted his administrative remedies on the narrow question of whether the Department correctly determined that his Step 1 Grievance should be returned because it did not comply with Department policy governing the content and form of grievances. The Appeal may therefore proceed on this sole issue.

ORDER

IT IS THEREFORE ORDERED that the Department's Motion to Dismiss is **GRANTED IN PART**. The Court lacks jurisdiction to entertain Appellant's arguments regarding ~~indictments, sentencing, monetary damages,~~ and all aspects of this appeal related to those issues are hereby **DISMISSED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that the Court possesses jurisdiction to review a claim that the Department erred in returning Appellant's Step 1 Grievance to him, and the appeal may proceed on this sole issue.

IT IS FURTHER ORDERED that the briefing deadlines shall resume as follows: (1) the Department shall file the Record on Appeal within twenty (20) days of the date of this Order; (2) Appellant shall file his Brief within thirty (30) days from the date of this Order⁴; (3) the Department

⁴ Appellant already filed a Brief in this matter and is not obligated to file another.

shall file its brief within forty (40) days from the date of this Order; and (4) Appellant shall file his reply brief within fifty (50) days from the date of this Order.

AND IT IS SO ORDERED.



The Honorable Robert L. Reibold
Administrative Law Judge

July 29, 2026
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Jared Thompson, hereby certify that I have on 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).

A handwritten signature in cursive script, reading "Jared Thompson", written in black ink.

Jared Thompson
Judicial Law Clerk

July 29, 2026
Columbia, South Carolina