

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Roosevelt Isaac, #118040, )  
 )  
 Appellant, ) Docket No. 07-ALJ-04-0874-AP  
 )  
 vs. ) ORDER OF DISMISSAL  
 )  
 South Carolina Department of )  
 Corrections, )  
 )  
 Respondent. )  
 )

This matter comes before the Administrative Law Court (ALC) pursuant to the appeal of Roosevelt Isaac, an inmate incarcerated with the Department of Corrections (DOC or Department) filed September 4, 2007. The Court file does not contain a certificate of service showing that the Appellant served the Department with the Notice of Appeal.

ALC Rule 59, provides

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 thirty (30) days of receipt of the decision from which the appeal is taken.

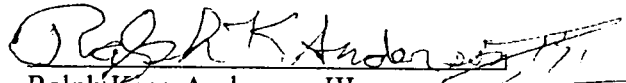
(emphasis added). Therefore, as set forth in Rule 59, the Department must be served with a copy of the Notice of Appeal within thirty (30) days of the Appellant's receipt of the final decision of the Department.

In this case, there is no evidence in the file that the Department was served with the notice of appeal within thirty (30) days of the Appellant's receipt of the Department's final decision. "The requirement of service of the notice of appeal is jurisdictional, i.e., if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to 'rescue' the delinquent party by extending or ignoring the deadline for service of the notice." Elam v. South Carolina Dept. of Transp., 361 S.C. 9, 14-15, 602 S.E.2d 772, 775 (2004). As set forth in Rule 59, the Appellant has not properly invoked the jurisdiction of this court

Pursuant to ALC Rule 62, an Administrative Law Judge may dismiss an appeal for failure to comply with the rules of procedure for appeals or for failure to comply with any time limits set forth in an appeal. Since there is no evidence the Appellant served Department with the notice of appeal within thirty (30) days of the Appellant's receipt of the Department's final decision as required by ALC Rule 59, I conclude *sua sponte* that this matter should be dismissed.

**IT IS THEREFORE ORDERED** that this appeal is dismissed.

**AND IT IS SO ORDERED.**



Ralph King Anderson, III  
Chief Administrative Law Judge

April 11, 2012  
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 11<sup>th</sup> day of April 2012

By: L. Howard Polan Jr  
Judicial Law Clerk