

The South Carolina Court of Appeals

May 29, 2014

Ms. Jenny A. Kitchings

P.O. Box 11624

Columbia, SC 29211

RECEIVED

MAY 29 2014

SC Court of Appeals

Re: Appellate Case No. 2014-001036

Dear Ms. Kitchings:

I'm in receipt of your letter that I received on the 18th of May. Enclosed, you will find an original copy of the Dismissal order that I'm appealing in the Court of Appeals & the original copy of the Request returned from my former personal Bryant. I filed & submitted the "Trust Fund Account" form, indicating that I'm indigent. Ms. Kitchings file this & return a checked-in copy to me.

Please write me back if this is not completely correct. Thank You.

Sincerely,

Ben Phelan

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Bryan Phillips, 318212,)	Docket No. 14-ALJ-04-0085-AP
)	
Appellant,)	
)	
v.)	ORDER OF DISMISSAL
)	
South Carolina Department of Corrections,)	
)	
Respondents.)	
_____)	

This matter is before the court on the appeal of William McNeil (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (Department). On April 7, 2014, the Department filed a Motion to Dismiss. The Department cited ALC Rule 59 and Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000) which provide that an appeal must be filed and served upon the parties to the case within thirty (30) days from the date of the written notice of the final decision of the Department. The Department's Final Decision was delivered to the Appellant on January 24, 2014. Because the Appellant received the Department's decision on January 24, 2014, the date for perfecting an appeal from the decision was February 24, 2014. The Appellant filed his Notice of Appeal with the court on January 31, 2014. However, according to the Department, the Appellant failed to serve his Notice of Appeal on the Department as required by ALC Rule 59 and Al-Shabazz. Upon review of the Notice of Appeal, it is apparent that the certificate of service indicates that the Appellant mailed the Notice to the court but failed to mail the Notice to the Department.

Timely filing and service of a notice of appeal is a jurisdictional requirement and this court does not have the authority to extend or expand the time for filing such appeal. See *Mears v. Mears*, 287 S.C. 168, 337 S.E.2d 206 (1985); *State v. Brown*, 344 S.C. 302, 543 S.E.2d 568 (Ct. App. 2001). Because the Appellant failed to timely serve his Notice of Appeal on the Department, this court does not have jurisdiction to hear it. Pursuant to the Department's motion, this court concludes that this matter must be dismissed.


IT IS THEREFORE ORDERED that this appeal is DISMISSED.

FILED

APR 11 2014

SC ADMIN. LAW COURT

AND IT IS SO ORDERED.



S. Phillip Lenski
Administrative Law Judge

April 16 2014
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Leah E. Garland, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail to the address provided by the party(ies) and/or their attorney(s).



Leah E. Garland
Law Clerk

April 16, 2014
Columbia, South Carolina

certi

FILE

APR 16 2014

SC ADMIN. LAW COURT

1st Class


"Priority"

1st Class

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER

TO: NAME:	TITLE:	DATE:
	Mailroom - Mailroom	5.26.14
INMATE'S NAME:	SCDC #:	
Bryan Phillips	318212	
INSTITUTION:	IVING QUARTERS:	
Lieber Co.	M3-224	

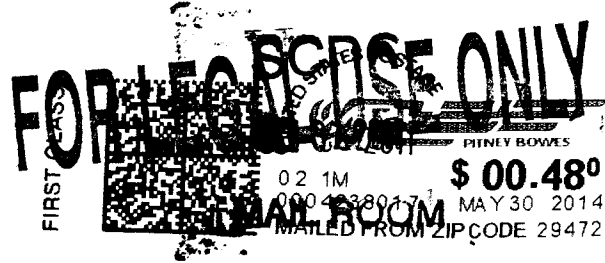
I have returned the "Trust Fund Account Report" & did fill it completely. I ask that you return this as soon as possible, so I can meet the required dead-line date for the South Carolina courts.

Thanks

 JUN 03 2014
 SC Court of Appeals

DISPOSITION BY STAFF MEMBER:
 Elm Phillips when Columbia full out the form and sent it back to Lieber you will be notify.

DATE:	SIGNATURE:
May 27, 2014	Bryant

Bryan Phillips 318212
P.O. Box 203-LCL
Bridgeville, SC 29472



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MAY 30 2014
MAILROOM
LIEBER CI

South Carolina Court of Appeals

P.O. Box 11829

Columbia, SC 29211

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