

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Bryan Phillips, 318212,)
)
Appellant,)
)
v.)
)
South Carolina Department of Corrections,)
)
Respondents.)
_____)

Docket No. 14-ALJ-04-0085-AP

RECEIVED

JUN 03 2014

ORDER OF DISMISSAL

SC Court of Appeals

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.

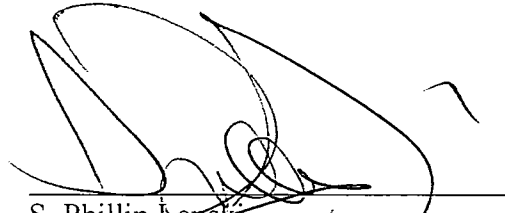
IT IS THEREFORE ORDERED that this appeal is DISMISSED.

FILED

APR 10 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

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SC ADMIN. LAW COURT