

The State of South Carolina
In the Court of Appeals
Appeal From the Administrative Law Court
The Honorable John D. McLeod
Appellate case NO 2014-001-481

John B. Campbell

Appellant

S.C.D.C.

Respondent

Appellants Brief

November 3, 2014

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page 1. Table of Authority

1. South Carolina Administrative Court Rule, Special Appeals Rule 59(c) Notice of Appeal.
2. South Carolina Administrative Law Court Rule, Special Appeal Rule 63 motions
3. State vs Bennett 375 S.C. 165 650 S.E.2d 490 S.C. App August 14, 2007

Paged. Statement of Case

1. On May 20, 2013, appellant filed a South Carolina Department of Corrections Request to Staff, to Mr. Norman a classification official, requesting a custody review based on appellant possession of two distinguished sentencing sheets.
see attached request to staff
2. On May 23, 2013, appellant filed a Department Grievance Step I, alleging S.C. D.C. Classification has misinterpreted appellant sentence sheet, and Mr. Norman did not return to appellant the sentencing sheets that were attached with Request to Staff submitted to Mr. Norman.
see attached Grievance Step I.
3. On June 11, 2013, Appellant appealed the Step I Grievance to Agency Responsible officials.
4. On March 19, 2014, ^(C) appellant received S.C.D.C. Final decision and filed a Notice of Appeal, and on April 10, 2014, Appellant Appeal of S.C.D.C. Final decision was filed with South Carolina Court of Administrative Law Court Judge John D. McLeod.
see Court Records: 14-ALJ-04-0324-AP and Grievance No PCI 1249-13
Also 14-ALJ-04-325-AP Grievance No P.C.I. 1267-13.
5. On May 27, 2014, The Respondent S.C.D.C. filed the record for Appeal, pursuant to Administrative Law Court Rule 59(c)
6. Although, on June 4, 2014, Appellant filed a Motion to Compel Respondent to Supplement the Record, Although, on June 10, 2014 ALJ John D. McLeod, denied appellant Motion.
see attached Motion to Compel Respondent to Supplement the Record

page 3. Statement on Issue.

I. Do appellant have a Legal right to utilize motion so to address legal concerns to the Administrative Law Court Judge, instead of a formal Brief; when circumstance hinder appellant from filing a formal Brief pursuant to ALC Rule 60?

II. Did the Administrative Law Court Judge John D. McLeod erroneously dismissed Appellant appeal for failure to file a Brief as required under ALC Rule 60, when circumstance hinder Appellant from filing a formal Brief pursuant to ALC Rule 60?

III. In Light of Judicial Economy, Did S.C.O.C. misinterpreted Appellant sentence sheet?

I. Do appellants have a legal right to utilize motions so to address legal concerns to the Administrative Law Court, instead of filing a formal brief, when circumstance hinder appellants from filing a formal brief pursuant to ALC Rule 60?

1. On June 4, 2014, Appellant filed a Motion to compel Respondent S.C.D.C. to supplement the record, although, on June 10, 2014, the Honorable John D. McLeod denied Appellant request.
2. Appellant believes the Honorable John D. McLeod, decision to deny Appellant motion to compel Respondent to supplement the record **was** a error of law
3. To correct the Honorable John D. McLeod, decision, Appellants relies on ALC Rule. 63 Motion. in which states.
"Any motion filed shall be in written form and shall state the grounds for relief and the relief sought..." Based on this motion appellants is permitted to utilize motion, therefore, the A.L.J. decision is not supported by rules, regarding motions.
4. Furthermore, Appellant relies on ALC Rule 59(c), in which states within forty five (45) days of the date the case is assigned to an Administrative Law Judge (date of assignment) the agency shall file the record with the court, including a statement of the contents of the record, unless the time for filing the record is extended by the Administrative Law Judge assigned to the appeal".
Based on ALC Rule 59(c) the Respondent S.C.D.C. was required to file a complete record

II. Did the Administrative Law Court Judge John D. McLeod erroneously dismiss Appellant appeal for failure to file a brief as required under ALC Rule 60, when circumstance hinder appellant from filing a formal brief pursuant to ALC Rule 60?

1. On June 13, 2014, Appellant filed another motion, and explained to the Honorable John D. McLeod that without an adequate record Appellant will forfeit a statement on issue on appeal based on the circumstance of the Respondent's failure to provide a full record.

2. Furthermore, in despite of the circumstance, Appellant still requested to the court to review the concerns Appellant filed within Appellant general statement for appeal.

3. The Respondent came on record June 23, 2014, complaining that "Appellant letter was attempting to circumvent the procedural rules of the court, and S.C. A.C. is not provided with a notice of Appellant specific point of argument on appeal."

4. On June 27, 2014, the Honorable John D. McLeod issued an order of dismissal based on Appellant failure to comply with Rule 60.

5. Appellant believes the Honorable John D. McLeod decision to dismiss Appellant appeal, is in violation of statutory provision S.C. Code of 1-23-610.

6. Appellant primary document provide a general statement in accordance to ALC Rule 59(B), and The Administrative Law Court, acknowledged this concern in its order of dismissal.

Therefore, the Court was able to liberally construe Appellant concerns.

III In light of Judicial Economy, Appellant ask this Court to hear. Did S.C.D.C. Misinter-petated Appellant Sentence sheet?

1. Appellant, disagreed with S.C.D.C. Final decision, in regards to their Interpretation of Appellant sentence sheets.
2. Appellant showed S.C.D.C. classification that there is an ambiguity between the statute and C.D.R. code appearing on Appellant sentence sheet.
3. On May 20, 2013, appellant filed a South Carolina Department of Corrections Request to Staff, to Mr. Norman a classification official, requesting a custody review based on appellant possession of two disstincted sentencing sheets.
4. See Attached R.T.S. for a complete review of appellant concern. Although, In this Request to staff (R.T.S) disposition it stated.. The statute 16-1-80 matches what is in the computer. Therefore in review of Mr. Norman disposition statute 16-1-80 is cited as the controlling Authority for Appellant sentence.
5. Furthermore, on May 30, 2013, Appellant filed a R.T.S. to S.C.D.C. classification Ms. Ogunsi. See attached R.T.S. for a complete review of appellant concerns, Although, In this Request (R.T.S) disposition by Ms. Ogunsi. It states you were sentence to C.D.R. code 1151 which is for the crime of attempt of the principal offense. In your case, the principal offense is kidnapping your kidnapping has been classified as attempt to commit per characted code for the offense in our data Base

Argument III continued

Because you were sentence under C.D.R. Code 1151 the offense carries the same penalties as the actual crime of kidnapping.

6. In review of Ms. Ogunsile disposition Appellant disagreed with this interpretation of appellants sentence sheet in regards to C.D.R. Code 1151 being the correct means for classification Appellant Sentence.

7. Appellant base this disagreement essentially on the fact that C.D.R. codes in general don't define a sentence penalty

8. Appellant Learned this via reading a variety of caselaw that discuss similar concerns to Appellant concerns.

For example In state vs Bennett 375 S.C. 165 650 S.E2d 490 S.C. App. August 14, 2007 It holds that,

" Because the South Carolina Code of Laws is the controlling Authority for classification, definition and penalties for criminal offenses a statute listed on a sentence sheet and not a C.D.R. code will dictate a criminal sentence. Id in Status Bennett.

9. Now with the knowledge of state vs Bennett Appellant asserts that S.C.D.C. classification is erroneously classifying and interpreting sentence sheet as a ground for relief in this Appeal Issue

page 7 conclusion

Appellant appeal should be granted with regulation detailing the proper classification and custody for Appellant sentence.

November 3, 2014

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Appendix Exhibits

1. Exhibits I

S.C.D.C. Request to Classification addressed to Mr. Norman.

2. Exhibits II

S.C.D.C. Request to Classification addressed to Ms. Ugunsile

3. Exhibits III

S.C.D.C. Department of grievance Step I grievance # PCI-1249
also Step II of same grievance

4. Exhibits IIII

S.C.D.C. Department of grievance Step I grievance # PCI 1267-13
also Step II of same grievance

5. Exhibits V

Appellant, Motion to Compel Respondent to Supplement the Record

6. Exhibits VI

Administrative Law Judge John D. McLeod Order of Dismissal

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The Honorable John D. McLeod
Appellate case No 2014-001-481

John B. Campbell

Appellant

S.C.D.C.

Respondent

Proof of Service

I certify that I have served the Appellant Brief on the office of General Counsel. Christopher Florian, by depositing a copy of it in the Kershaw Correctional Mail Room on November 3, 2014, address at 4444 Broad River Road Columbia S.C. 29221-1787

November 3, 2014.

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