

THE STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT
Carolyn C. Matthews
Docket No. 2014-ALJ-040849-AP

Gary Slezak, #109201,

Appellant,

vs.

South Carolina Department of
Probation, Parole and Pardon
Services,

Respondent.

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S.C. SUPREME COURT

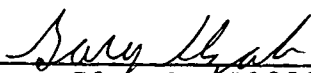
Rule 260 Dimissal and Reinstatement

Comes now the Appellant, Gary Slezak #109201, having just cause to show dismissal and reinstatement:

Having just cause shown that the appellant has just cause shown to file for an dismissal or reinstatement is to tell the truth of this matter. The appellant is shown to have just cause to tell this court that on or about the first day of the month that he has had a stroke and was unable to finish his complaint as said forthwith. That he has a complaint for the cause asset forth in his brief. That he has a cause set forth in his complaint for loss of his ability to furnish his with just cause to complain.

The appellant has had just cause to withhold his complaint until recently and has the opportunity to rejoin the regular social norm and can complaint as follows.

The appellant has had the opportunity to complaint to the SCDC about this to no avial. The clerk can remit this matter to the lower court for administrative tribunal in accordance with rule 221.



Gary Slezak, #109201
Allendale C.I. F4b-5
P.O. Box 1151
Fairfax, S.C. 29827

Gary Storch #109201
Allendale Ct F4B-5
P.O. Box 1151
Fairfax, S.C. 29927

Supreme Court of
South Carolina
P.O. Box 11330
Columbia, S.C. 29211

RE Appeal

Dear Chick,

Enclosed is my reinstatement for my appeal rights
to be removed, thank you in advance.

Gary Storch

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT
Carolyn C. Matthews
Docket No. 2014-ALJ-040849-AP

Gary Slezak, #109201,)
)
Appellant,)
VS.)
)
South Carolina Department of)
Probation, Parole and Pardon)
Services,)
)
Respondent,)
)

Certificate of Service


I, Gary Slezak, Appellant, certify that I have served the Rule 260 Dismissal and Reinstatement, dated 2/25/2015, on Respondent by depositing a copy of the same in the United States Mail, postage prepaid, the 6/25/2015, 2015 addressed to:

Tommy Evans, Jr.
Assistance General Counsel
S.C. Dept. of Probation, Parole
and Pardon Services
PO Box 50666
Columbia, SC 29250

Clerk of Court
Administrative Law Court
1205 Pendleton Street
Columbia, SC 29201-3756

Supreme Court of South Carolina
P Box 11330
Columbia, SC 29211

I further certify that all parties required by Rule 61 to be served have been served.



Gary Slezak, 109201 F4-B5
Allendale CI
PO Box 1151
Fairfax, SC 29827-1151

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Gary Slezak, #109201,

Appellant,

vs.

South Carolina Department of Probation,
Parole and Pardon Services,

Respondent.

Docket No. 15-ALJ-15-0005-AP

ORDER OF DISMISSAL

STATEMENT OF THE CASE

This case is before the Administrative Law Court (ALC or Court) pursuant to the appeal of Reginald Mack (Appellant), an individual incarcerated with the South Carolina Department of Corrections. On January 16, 2015, the South Carolina Department of Probation, Parole and Pardon Services (Department) denied Appellant a rehearing of his September 18, 2014 decision by the South Carolina Parole Board (Board) which rejected him for parole. Appellant filed an appeal with the ALC on February 3, 2015. Appellant challenges the Board's denial of parole on the grounds that: The findings of fact in the Board's decision are not supported by evidence; the Department failed to conduct a psychological evaluation before the hearing; and the Board relied on factors that cannot be changed.

The Supreme Court of South Carolina has spoken clearly concerning the jurisdiction of the Administrative Law Court in cases such as this.

We emphasize that in future parole review hearings the Parole Board may avoid the result in the instant case if it clearly states in its order denying parole that it considered the factors outlined in section 24-21-640 and the fifteen factors published in its parole form. If the Board complies with this procedure, the decision will constitute a routine denial of parole and the ALC would have limited authority to review the decision to determine whether the Board followed proper procedure. Under that scenario, the ALC can summarily dismiss the inmate's appeal.

Cooper v. S.C. Dept. of Probation Pardon and Parole Services, 377 S.C. 489, 66 S.E.2d 106 (2008).

The Cooper decision was underscored by Compton v. S.C. Dept. of Probation Pardon and Parole Services, 385 S.C. 476, 685 S.E.2d 175 (2009), as follows:

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SC ADMIN. LAW COURT

In Cooper, we held that if the Parole Board deviates from or renders its decision without consideration of the appropriate criteria, it essentially abrogates an inmate's right to parole eligibility and infringes on a state-created liberty interest, warranting minimal due process protection. Because the Parole Board in Cooper neither offered an explanation nor indicated it had considered the statutory criteria or the criteria set forth in Form 1212, we had no other choice but to determine the order was defective and the decision was arbitrary and capricious. We emphasized that this result could be avoided in the future if the Parole Board clearly states in its order denying parole that it considered the factors outlined in section 24-21-640 and the fifteen factors published in Form 1212, and that if the Parole Board complies with this procedure, the decision will constitute a routine denial of parole and the ALC will have limited authority to review the decision.

Moreover, S.C. Code Ann. § 1-23-600(D) (Supp. 2014) provides, "An administrative law judge shall not hear...an appeal involving the denial of parole to a potentially eligible inmate by the Department of Probation, Parole and Pardon Services." Thus, this Court's authority to review a decision of the Board is limited to determining if the Board followed the proper procedure and considered the relevant factors. If that procedure was followed, any decision of the Board constitutes a routine denial of parole which this Court has no jurisdiction to hear.

The Notice of Rejection dated January 15, 2015, states that the parole board considered the fifteen factors and § 24-21-640, mentioned above. Thus, this is a routine denial of parole, and the ALC has no authority to consider this appeal.

ORDER

IT IS THEREFORE ORDERED that this appeal is **DISMISSED**, with prejudice.

AND IT IS SO ORDERED.



Deborah Brooks Durden
Administrative Law Judge

February 12, 2015
Columbia, South Carolina

CERTIFICATE OF SERVICE
This is to certify that the undersigned has this date served in a manner 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 12th day of February 2015
By: RS
JULIA A. LAW, Clerk

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Gary Slezak, #109201,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

Docket No. 14-ALJ-04-0849-AP
Grievance No.: ACI 297-14

ORDER OF DISMISSAL

This matter is before the South Carolina Administrative Law Court ("ALC") pursuant to the Notice of Appeal filed September 29, 2014 by Gary Slezak ("Appellant"), who is incarcerated with the South Carolina Department of Corrections ("SCDC"). On December 31, 2014, SCDC filed a Motion to Dismiss asserting that Appellant's Grievance does not implicate a state-created liberty or property interest.

Appellant's appeal alleged that SCDC caused him to miss a filing deadline regarding an appeal from this Court on his parole status because SCDC deactivated his identification card without providing him a new one. This deactivation limited his access to funds so, Appellant argues, he could not file and mail his appeal. SCDC denied Appellant's Step Two Grievance.

Under Slezak v. S.C. Dep't of Corr., 361 S.C. 327, 605 S.E.2d 506 (2004), the ALC is to have jurisdiction of all properly perfected inmate appeals but "[s]ummary dismissal may be appropriate where the inmate's grievance does not implicate a state-created liberty or property interest." Id. at 331, 605 S.E.2d at 508. The present case presents no issue of state-created liberty or property interest. SCDC's management of identification cards is not one of these interests. Appellant's lack of access to funds through this avenue did not foreclose him of his due process rights in the appeals process.

It is therefore,

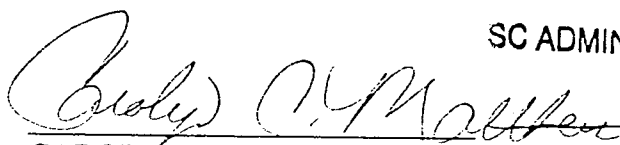
ORDERED that this appeal is **DISMISSED, WITH PREJUDICE.**

AND IT IS SO ORDERED.

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SC ADMIN. LAW COURT

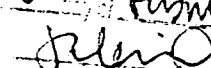


CAROLYN C. MATTHEWS
Administrative Law Judge

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this order in the manner set forth on the official notice to the parties in this matter. All parties have been notified and advised of the date of this order and the date of its entry.

February 5, 2015
Columbia, South Carolina

5 February 2015


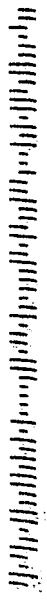
Gary Skezak # 109201
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Supreme Court of South Carolina
P.O. Box 16330
Columbia, SC 29211



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