

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Robert L. Bostic, #317727,)
)
 Appellant,)
)
 v.)
)
 South Carolina Department of Corrections,)
)
 Respondent.)
)
 _____)

Docket No. 15-ALJ-04-0098-AP
(Grievance No. ECI-1544-13)

**ORDER GRANTING
MOTION TO DISMISS**

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SC Court of Appeals

This matter is before the South Carolina Administrative Law Court (ALC or court) pursuant the South Carolina Department of Corrections' (Department) Motion to Dismiss the appeal of Robert L. Bostic (Appellant), an inmate incarcerated with the Department. The Department's Motion to Dismiss was filed on May 28, 2015, on the basis that the Appellant failed to file timely file and service notice of his appeal.

Pursuant to ALC Rule 59, provides that "[t]he 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." In filing his Notice of Appeal with the court on February 24, 2015, the Appellant attached a copy of the Step 2 Inmate Grievance Form for grievance number ECI-1544-13 which constitutes a final agency decision. The Appellant's signature on this document indicates that he acknowledged service and receipt of the decision on March 12, 2014. As a final agency decision, ALC Rule 59 required that the Appellant file and serve his Notice of Appeal thirty days from March 12, 2014.

The Appellant filed no Notice of Appeal for grievance number ECI-1544-13 until February 24, 2015, more than one year after the Department issued its final decision. While there is written communication between the Appellant and the Department on February 6, 2015 including the Appellant's "Request to Staff Member" requesting a review of grievance number ECI-1544-13 and correspondence from the Department to the Appellant on that same date rejecting the request,

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neither document constitutes a final agency decision from which an appeal may be taken. The time for filing an appeal from a final agency decision is not tolled because an inmate continued to communicate with the Department regarding a matter on which a final agency decision had already been rendered. The Appellant is familiar with the appeal process from the Department's final decisions as the court's records indicate that since 2008, the Appellant has filed seventeen other appeals.


Rule 62, ALC Rules, entitled "Dismissal of Appeal" provides:

Upon motion of any party, or on its own motion, an Administrative Law Judge may dismiss an appeal for failure to comply with any of the rules of procedure for appeals, including the failure to comply with any of the time limits provided by this section (V)....

The Appellant failed to comply with rules of procedure for appeals by failing to timely file and serve a Notice of Appeal and this court has no jurisdiction to review the merits of the same. Further, there is nothing in the Appellant's brief and response to the Department's Motion to Dismiss for failing to timely file an appeal that changes the fact that the appeal was not timely filed. Therefore, pursuant to ALC Rules 59 and 62, this matter is hereby **DISMISSED**.

Based on the foregoing, it is hereby **ORDERED** that the Department's Motion to Dismiss is **GRANTED** and this appeal is **DISMISSED**.

AND IT IS SO ORDERED.



S. Phillip Lenski
Administrative Law Judge

June 16, 2015
Columbia, South Carolina

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SC ADMIN. LAW COURT

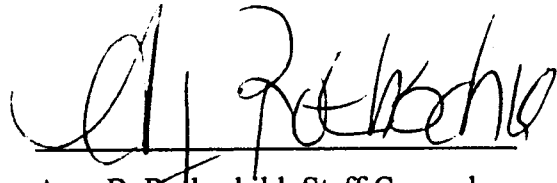
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CERTIFICATE OF SERVICE

I, Amy B. Rothschild, 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).



Amy B. Rothschild, Staff Counsel
The Honorable S. Phillip Lenski

June 6, 2015
Columbia, South Carolina

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