

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

RECEIVED

SEP 17 2015

SC Court of Appeals

Arnon R. Willis 323761)
)
Appellant,)
)
vs.)
)
South Carolina Department of Corrections,)
)
Respondent.)

NOTICE OF APPEAL

DOCKET NO. -ALJ-04- -
GRIEVANCE NO.: RC1-0149-15

Notice is hereby given that Arnon R. Willis 323761 does hereby appeal the final decision of the South Carolina Department of Corrections dated and received on June 23, 2015, a copy of which is attached. A general statement of the grounds for appeal is (See S.C. Code Ann. § 1-23-380(A)(6)):

On April 13, 2015, I was wrongfully convicted (BSS) smuggling/conspiracy to smuggle. There was no evidence to support the conviction. I was convicted off another inmates word, who stated I had something to do with the incident. There's numerous visit video cam, which I wasn't seen nowhere near the incident. And a shake down was conducted of my cell and nothing was discovered/ did have anything in my possession. Im asking that this conviction of (BSS) smuggling/conspiracy to smuggle be overturned.

Arnon R. Willis
Appellant's Name

Arnon R. Willis
Signed

RC1-PO Box 1151/Fairfax, SC. 29827
Mailing Address

July 31, 2015
Dated

City, State, Zip Code

CERTIFICATE OF SERVICE

I hereby certify that I, Arnon R. Willis (your name), on the ___ day of _____, 20 15, in Fairfax (city), South Carolina, served a copy of the foregoing Notice of Appeal on all parties to this matter by depositing the same in the United States Mail, postage paid, and addressed as follows:

Name of person/Agency served: _____

Address: RC1- P.O. Box 1151

City, State, Zip Code: Fairfax, SC. 29827

Arnon R. Willis
Print your name

Arnon R. Willis
Sign your name

(See reverse side for instructions)

Memorandum

To: APPELLANT

From: Clerk's Office

Date: 7-21-15

The information you filed with the Administrative Law Court is being returned to you for the following reason(s):

We have no jurisdiction over this matter, however, if you would like to proceed with filing a grievance, follow the steps below:

File your appeal on the appropriate form (see attached Notice of Appeal form and Special Appeals Rules).

Please attach a copy of the action taken by the Inmate Grievance Coordinator to the Notice of Appeal form and return it to this Court.

Attached is a copy of the Rules of Procedure for the Administrative Law Court in matters on appeal from the South Carolina Department of Corrections.

Al-Shabazz vs. State of South Carolina, held that an inmate may file an appeal from certain final decisions of the Department with the Court. However, an appeal may only be filed with the Court in matters in which the Department has rendered a final decision after February 14, 2000, or in which the matter was pending in circuit court or the appellate courts. If you had an action pending in another court, then the matter has to be remanded to the Department by the court your action was pending in and you must exhaust all administrative remedies which are available within the Department prior to filing with the Court, if you have not already done so. If you wish to proceed with an appeal then you must complete the grievance process within the Department and receive a written final decision from the appropriate official. Attached to the decision will be a form Notice of Appeal with instructions on how to file the appeal with the Court. This form must be used in order to have your case filed with the Court.

Please return and provide any response from the IGC for **each** Notice of Appeal to support your claim.

Please make copies for your records before filing them with this Court.

V. SPECIAL APPEALS

51. **Applicability.** The Rules in this section shall apply exclusively in matters heard on appeal from final decisions pursuant to Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000).

2009 Revised Notes

The Special Appeals Rules are the exclusive rules of procedure used in appeals from final decisions of the Department of Corrections and the Department of Probation, Parole and Pardon Services. The Court's jurisdiction to hear such matters is derived entirely from the decisions of the South Carolina Supreme Court in Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000), and Furtick v. S.C. Dep't of Probation, Parole and Pardon Services, 352 S.C. 594, 576 S.E.2d 146 (2003). These Rules are based upon the Court's existing general procedural and appellate rules, with adaptations for this specific type of appeal.

52. **Computation of Time.** In computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute, the day of the act, event, or default after the designated period of time begins to run is not included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a State or Federal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor such holiday. When the period prescribed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation. A half holiday shall be considered as any other day and not as a holiday.

53. **Filing.**

A. **Filing Defined.** The date of the filing is the date of delivery or the date of mailing as shown by the postmark or by the date stamp affixed by the mail room at the appellant's correctional institution. Any document filed with the Court shall be accompanied by proof of service of such document on all parties. A document, pleading or motion or other paper is deemed filed with the Court by:

- (1) delivering the document to the Court; or
- (2) depositing the document in the U.S. mail or in the mail room at the appellant's correctional institution, properly addressed to the Court, with sufficient first class postage attached.

B. **Paper Size.** All papers filed with the Court shall be on letter-size (8 ½ by 11 inches) paper. Exhibits or copies of exhibits in their original form which exceed that size shall be reduced by photocopying or otherwise to letter-size so long as such documents remain legible after reduction.

54. **Service.** Any document, pleading, motion, brief or memorandum or other paper filed with the Court shall be served upon all parties to the proceeding. Service shall be made upon counsel if the party is represented, or if there is no counsel, upon the party. Service shall be made by delivery, or by mail to the last known address. Service is deemed complete upon mailing. Service that complies with Rule 5(b)(1), SCRCP, also shall satisfy this Rule.

55. **Docket Number and Subsequent Filings.** The clerk of the Court shall assign a docket number to each case. All papers, pleadings, motions and orders thereafter shall be filed with the presiding administrative law judge and a copy served on all other parties of record. All papers shall be signed and contain:

- A. a caption setting forth the title of the case and a brief description of the document;
- B. the case docket number assigned by the Court;
- C. the name, address and telephone number of the person who prepared the document.

2009 Revised Notes

After the Clerk assigns a docket number to the case, all filings must be made with the presiding administrative law judge, must be served upon all parties, and must contain the information prescribed in the Rule.

56. **Legibility of Documents.** Any document, pleading, motion, brief or memorandum or other paper filed with the Court may be typewritten or handwritten, but in either event must be legible. In the discretion of the clerk of the Court, any illegible document may be returned unfiled to the party who submitted it.
57. **Forms.** The Court shall prescribe the content and format of forms required by these rules. The use of required forms as prescribed is mandatory. The Court may also prescribe the content and format of other forms which would facilitate administrative efficiency and judicial economy.
58. **Record After Final Decision.** Where applicable, the record of the contested case shall consist of:
- A. All pleadings, motions, intermediate rulings and depositions filed;
 - B. All evidence received or considered;
 - C. A statement of matters judicially noticed;
 - D. All proffers of proof of excluded evidence;
 - E. The final order or decision which is subject to administrative review;
 - F. Any transcript taken of the testimony during the proceeding.
59. **Notice of Appeal.** The 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. The notice shall be on the form prescribed by the Court pursuant to Rule 57 and shall contain the following information:
- A. the name, address, SCDC number, and telephone number of the party requesting the appeal, and the name, address, and telephone number of the attorney or other authorized representative, if any, representing that party;
 - B. a brief factual basis for each expressly and specifically asserted constitutional violation;
 - C. a copy of the final decision which is the subject of the appeal and the date received;
 - D. a certificate showing the service of the notice of appeal on all parties.

Any notice of appeal which is incomplete or not in compliance with this rule or Rule 71 will not be assigned to an administrative law judge until all required information is received and any applicable filing fee is processed. 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.

2009 Revised Notes

The notice of appeal must be on the Court's prescribed form and must be filed and served within 30 days of receipt of the order appealed from. The notice must contain the prescribed information and must be accompanied by a certificate of service and any applicable filing fee. Notices which are not in compliance with this Rule or Rule 71 will not be assigned to an administrative law judge until all required information and applicable fees are received.

60. **Briefs.**
- A. **Time for Filing Briefs.** Unless otherwise ordered, the party first noticing the appeal shall file an original brief within sixty-five (65) days after the date of assignment. Within eighty-five (85) days after the date of assignment, the respondent shall file an original brief in response. A reply brief may be filed within ninety-five (95) days after the date of

assignment. The principal briefs shall not exceed ten (10) pages and the reply brief shall not exceed five (5) pages.

B. Content of Brief. Each brief shall contain:

- (1) **Statements of the Issues on Appeal.** A statement of each of the issues presented for review. The statement shall be concise and direct as to each issue and may be stated in question form. Broad general statements may be disregarded by the Court. Ordinarily, no point will be considered that is not set forth in the statement of issues on appeal.
- (2) **Statement of the Case.** The statement shall contain a concise history of the proceedings, insofar as necessary to an understanding of the appeal. The statement shall not contain contested matters and shall contain as a minimum, the following information: the date of commencement of the action; the nature of the action; the nature of the defense or response; the date and nature of the agency action appealed from; the date of service of the notice of appeal; the date of and description of any orders or proceedings in the agency as may have affected the appeal, or may throw light upon the questions involved in the appeal. Any matters stated or alleged in a party's statement shall be binding on that party.
- (3) **Argument.** The brief shall be divided into as many parts as there are issues to be argued, and each such part shall bear an appropriate caption, followed by a discussion and citation of authority. A party may also include a separate statement of facts relevant to the issues presented for review, with reference to the record on appeal, which may include contested matters and summarize that party's contentions. Any facts stated or alleged in a party's argument shall be binding on that party.
- (4) **Conclusion.** A short conclusion stating the precise relief requested.
- (5) **Certificate of Service.** A certificate showing the service of the brief on all parties of record.

C. Service of Brief. At the time of filing the brief with the Court, one copy of the brief and any appendix shall be served on each party to the appeal.

2009 Revised Notes

This rule provides the time frames for filing, format, and content of appellate briefs. Statements of fact set forth in the briefs are binding upon the proponent of the statement. The brief must be accompanied by a certificate of service.

- 61. Record on Appeal.** The record on appeal shall consist of the transcript of the proceedings before the agency, if any, and the record of the contested case as described by Rule 58.
- 62. Dismissal of Appeal; Sanctions.** Upon motion of any party, or on its own motion, an Administrative Law Judge may dismiss an appeal or resolve the appeal adversely to the offending party 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), or for the failure to provide a factual basis for each expressly and specifically asserted constitutional violation as prescribed by Rule 59(B). Notwithstanding the time frames established herein, the Administrative Law Judge has the discretion to determine that a document is timely filed upon a finding that the party who filed the document made a good faith effort to file the document within the applicable time limits. If the presiding judge determines that the appeal is frivolous or taken solely for purposes of delay, the judge may impose such sanctions as the circumstances of the case and discouragement of like conduct in the future may require.

2009 Revised Notes

Rule 62 allows an administrative law judge to dismiss an appeal for failure to comply with any applicable rule of

procedure, and to impose appropriate sanctions for inmate appeals which are frivolous or taken solely for the purpose of delay.

Note to 2013 Amendments

Rule 62 is amended to clarify that an administrative law judge may dismiss an appeal or resolve it adversely to an offending party for failure to comply with the rules of procedure for appeals, or for the failure to provide a factual basis for each alleged constitutional violation.

- 63. Motions.** Any motions filed shall be in written form and shall state the grounds for relief and the relief sought. Any response to the motion must be filed within ten (10) days after receipt of the motion, unless the time is extended or shortened by the Administrative Law Judge. The filing of a motion does not toll any time limits imposed by these Rules.

2009 Revised Notes

This rule provides the procedure for filing motions. However, pursuant to Rule 65, motions for reconsideration or rehearing are not permitted and will not be considered by the administrative law judge.

- 64. Oral Argument.** In the discretion of the Administrative Law Judge, oral argument may not be required. Oral argument will ordinarily not be ordered by the Administrative Law Judge unless the proceeding involves a novel issue or a question of exceptional importance. If so ordered, at least twenty (20) days notice of oral argument shall be provided. The oral argument shall follow the procedure in Rule 218, SCACR.

- 65. Opinion.** The Administrative Law Judge shall render a decision in a written order which shall be served on all parties and filed with the clerk of the Court. The Administrative Law Judge may affirm any ruling, order or judgment upon any ground(s) appearing in the Record and need not address a point which is manifestly without merit. The decision of the Administrative Law Judge is a final decision and motions for reconsideration will not be considered. Judicial review of any decision of the Court shall be as provided in S.C. Code Ann. § 1-23-610 (2005) (as amended).

2009 Revised Notes

Rule 65 incorporates the portion of Rule 220, SCACR, which allows the judge to affirm upon any ground appearing in the Record and to decline to address points which are without merit. Motions for reconsideration are not allowed.

- 66. Appeal of Final Order.** The appellant shall file a copy of the notice of appeal from the decision of the Administrative Law Judge with the clerk of the Court.

2009 Revised Notes

Pursuant to Act 387 of 2006, the South Carolina Appellate Court Rules govern the procedure for appealing a final order of an administrative law judge.

Dear Miss Jenny Abbott Kitchings, Clerk

I inmate Narow R. Willis 322761 is asking CAD I be allowed to file an appeal with the South Carolina Court of Appeals on a charge of (855) smuggling / conspiracy to smuggle, I was wrongfully convicted of on April 13, 2015. I filed a step(1) grievance with the Ridgeland Correctional Institution on April 17, 2015, which was denied. I then file a step(2) grievance with SCDC Head Quarters on May 3, 2015, which was also denied. On July 9, 2015 I filed an Appeal with the Administrative Law Court. On July 27, 2015 I received a memorandum from (ALC), which stated I failed to send a copy of my final decision from the Department of Corrections. And gave me (30) days to return my Notice of Appeal with a copy of the final decision from the Department of Corrections. I made a mistake and sent the final decision to the Office of General Counsel, which my only copy. I've wrote numerous request to the Institution Grievance Officer, asking for a copy of my final decision. I was told, I wouldn't be granted with another copy. So therefore I couldn't file my Appeal with the (ALC).

I really appreciate your time in this matter Miss Jenny A. Kitchings. Enclosed with this letter is a memorandum from the (ALC), and a copy of my Notice of Appeal.

RECEIVED

SEP 17 2015

SC Court of Appeals

Sincerely,

151 Narow R. Willis

Narow R. Willis

Alledale C.I.

RH 204-A

P.O. Box 1151

Fairfax, SC. 29027

Harold R. Willis 323761
RHU-A 204
ACI - P.O. Box 1151
Fairfax, SC. 29827

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SEP 14 2015

MAILROOM
ACI

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SEP 17 2015

SC Court of Appeals

South Carolina Court of Appeals
Terry Abbott Kitchings, Clerk,
Post Office Box 11629
Columbia, SC 29211

LEGAL MAIL

THE DEPARTMENT OF CORRECTIONS HAS
NOT INSPECTED OR CENSORED THIS ITEM.
THEREFORE, THE DEPARTMENT DOES NOT
ASSUME RESPONSIBILITY FOR ITS CONTENTS -
ALLENDALE CORRECTIONAL INSTITUTION,
S.C. DEPARTMENT OF CORRECTIONS.'