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SC Court of Appeals
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STATE OF SOUTH CAROLINA
COURT OF APPEALS

Appeal from the Administrative Law Court
Deborah B. Durden, Administrative Law Judge

Case No. 15-ALC-15-0038

Bobby Ruff, #185024,

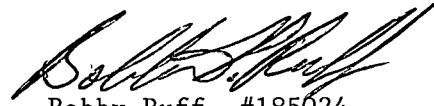
Appellant,

v.

South Carolina Department of Probation,
Parole and Pardon Services,

Respondent.

REPLY BRIEF OF APPELLANT



Bobby Ruff, #185024
Ker.CI/HA250
4848 Goldmine Hwy.
Kershaw, SC 29067

pro se

LEGAL

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STATEMENT OF ISSUE ON APPEAL

1. WHETHER THE ALC ERR IN DECIDING TO DISMISS THE APPELLANT'S APPEAL DUE TO THE FACT THE ALC DID NOT HAVE JURISDICTION TO REVIEW THE DECISION OF THE COURT OF APPEALS.

STATEMENT OF THE CASE

The Court of Appeals issued an unpublished opinion reversing in part and remand, on June 24, 2015. After the Court sent the remittitur to the court below (ALC) as required, the Appellant filed another notice of appeal before the ALC. On September 1, 2015, Judge Durden, issued an order of dismissal prior to the Respondent filed its motion to dismiss. Within this order Judge Durden determined that this remedy is unavailable to the Appellant. The Court of Appeals did not have jurisdiction upon remittitur sent to the ALC, and could not entertain a petition for rehearing because it would not have finally decided the Appellant's appeal. The Appellant filed his appeal pursuant to ALC Special Appeals Rules 2009 Revised Notes, "These Rules are based upon the Court's existing general procedural and appellate rules, with adaptations for this specific type of appeal."

ARGUMENT

1. THE ALC DID HAVE JURISDICTION TO REVIEW THE ISSUE BEFORE THE COURT UPON RECEIPT OF THE REMITTITUR.

The Appellant asserts that he is not requesting that the ALC review a decision made by the Court of Appeals, because his issue was not ruled on by the ALC, in which the ALC initially had subject matter jurisdiction to review such issue properly raised in its court. The Respondent will have this Court to believe he relinquished issues he failed to raise in the original case when it's an on-going matter with both parties. In addition, once a case has been decided by the ALC and reviewed by the Court of Appeals and the case have been reversed and remand the ALC can and must review the case again. So, in essence, when the Court of Appeals reversed and remand cases to the ALC they do not review them again, and just place them on the shelf?

The Appellant have a liberty interest right to be duly considered for parole and not to be denied parole arbitrarily, and such rights cannot exist in any practical sense unless there also exists a remedy against such abrogation.

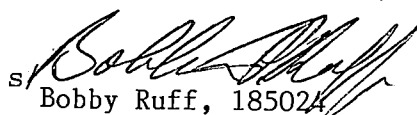
In the Appellant's case, the Parole Board's decision in denying parole did not reflect individualized consideration of all relevant facts and factors in his favor, because the ultimate decision is determination of current dangerousness.

The immutable fixed factors must be shown by the Parole Board that the circumstances of the offense demonstrate that he still poses an unreasonable risk to public safety, in which his post-incarceration history, or his current demeanor, and mental state does not indicate the implications of dangerousness from the immutable fixed factors. The ALC is capable of reviewing and adjudicating this matter within its given power..of adaptions for this specific type of appeal.

CONCLUSION

Based on the foregoing reasons the ALC arbitrarily dismissed the appeal; therefore, the Appellant respectfully requests the final decision of the ALC be reversed and remand.

Respectfully submitted,


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December 10, 2015

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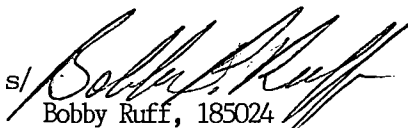
South Carolina Department of Probation,
Parole and Pardon Services,

Respondent.

CERTIFICATE OF SERVICE

I, Bobby Ruff, the Appellant, certify that I have served the within Reply Brief of Appellant, dated December 10, 2015, by depositing a copy of the same in the U.S. Mail, post-age prepaid, this 10th day of December, 2015, addressed to: Tommy Evans, Jr.

Assistant General Counsel
SCDPPPS
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s/ 

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The Honorable Jenny Kitching
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