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SC Court of Appeals

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

James Daniel Jones, #210933,)	Docket No. 15-ALJ-04-0432-AP
)	
Appellant,)	
)	
vs.)	ORDER OF DISMISSAL
)	
South Carolina Department of Corrections,)	
)	
Respondent.)	
_____)	

This matter comes before the South Carolina Administrative Law Court (Court or ALC) pursuant to the South Carolina Department of Corrections' (Department or SCDC) motion to dismiss the appeal of James Daniel Jones (Appellant), an inmate incarcerated with the Department.

In April 2015, Appellant filed a Step 1 Grievance seeking to receive what he considers to be the "proper work credits under the SCDC guidelines in 1994 that was in effect when [he] was sentenced." After the Warden denied the grievance, Appellant filed a Step 2 Grievance, which was also denied. Appellant filed this appeal on August 10, 2015. The Notice of Assignment was filed August 13, 2015. The Record on Appeal was filed October 16, 2015. As of the date of this Order, Appellant has not filed a brief or a timely motion to extend time to file a brief.

On December 1, 2015, the Department filed a Motion to Dismiss (Motion) because of Appellant's failure to file a brief.¹

DISCUSSION

The Court's jurisdiction to hear this matter is derived from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). In *Al-Shabazz*, the Court held that the ALC's jurisdiction in inmate appeals is limited to state-created liberty interests typically involving: (1) cases in which an inmate contends that prison officials

¹ The Court received a letter from Appellant dated December 26, 2015, requesting that he be allowed to file a brief because he did not know he needed to file one within 90 days of filing the appeal. However, as noted the request was made after the time to file and was not served on the Department.

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January 7, 2016

SC ADMIN. LAW COURT

have erroneously calculated his sentence, sentence-related credits, or custody status; and (2) cases in which an inmate has received punishment in a major disciplinary hearing as a result of a serious rule violation. *Id.* at 382; 527 S.E.2d at 757. “The only way for the [ALC] to obtain subject matter jurisdiction over [an inmate’s] claim is if it implicates a state-created liberty interest.” *Sullivan*, 355 S.C. at 443, 586 S.E.2d at 127. Thus, in *Slezak v. S.C. Dep’t of Corr.*, 361 S.C. 327, 331, 605 S.E.2d 506, 508 (2004), *cert. denied*, 544 U.S. 1033, 125 S.Ct. 2266, 161 L.E.2d 1060 (2005), our Supreme Court explained that while the ALC has jurisdiction over properly filed inmate grievance appeals, summary dismissal is appropriate “where the inmate’s grievance does not implicate a state-created liberty or property interest.” *See also Skipper v. S.C. Dep’t of Corr.*, 370 S.C. 267, 633 S.E.2d 910 (Ct. App. 2006) (finding dismissal of inmate’s appeal appropriate because his grievance did not implicate a state-created liberty interest).

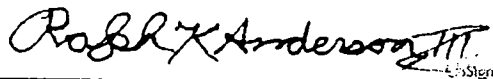
S.C. Code Ann. § 1-23-600 (2015) provides that: “An administrative law judge shall not hear an appeal from an inmate in the custody of the Department of Corrections involving the loss of the opportunity to earn sentence-related credits pursuant to Section 24-13-210(A) or Section 24-13-230(A).” Because Appellant has not otherwise alleged a deprivation of a state-created liberty or property interest in this matter, the Court finds that summary dismissal is appropriate.

Additionally, the Department moved to dismiss the appeal because Appellant has not filed a brief. Appellant’s brief was due ninety (90) days after the Notice of Assignment was filed, or November 11, 2015. *See* Rule 60(A) of the South Carolina Administrative Law Court Rules (ALC Rules). As of the date of this Order, the Court has received neither a brief nor a timely motion for an extension of time to file a brief.

Pursuant to ALC Rule 62, an Administrative Law Judge may dismiss an inmate’s appeal for failure to comply with the rules of procedure for appeals or for failure to comply with any time limits set forth in an appeal. Appellant’s delay is well beyond the time period set forth in the Rules of Procedure for the ALC. Since Appellant has been afforded ample time to file his Brief and has not notified the ALC of any extenuating circumstances regarding his failure to file, I conclude that this matter should be dismissed for this reason as well as the reason explained above. Accordingly,

IT IS HEREBY ORDERED that the Department's Motion to Dismiss is **GRANTED**,
and this appeal is therefore **DISMISSED WITH PREJUDICE**.

AND IT IS SO ORDERED.

Handwritten signature of Ralph King Anderson, III in cursive script.

Ralph King Anderson, III
Chief Administrative Law Judge

January 7, 2016
Columbia, South Carolina

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CERTIFICATE OF SERVICE

I, E. Harvin Belser Fair, 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).

E. Harvin Belser Fair

E. Harvin Belser Fair
Judicial Law Clerk

January 7, 2016
Columbia, South Carolina

Rec'd
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