

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Deborah Brooks Durden, Administrative Law Judge

Case No. 16-ALJ-15-0002-AP

South Carolina Department of Probation,  
Parole and Pardon Services

Respondent,

RECEIVED

v.

MAR 10 2016

Billy Rice, 0083744

SC Court of Appeals

Appellant.

NOTICE OF APPEAL

Billy Rice appeals the decision of the Honorable Deborah Durden, dated February 8, 2016. Appellant recieved a copy of this decision on February 11, 2016.

Date: February 7, 2016

s/ Billy Rice  
Billy Rice, 008374, Pro Se  
Lee County Institution  
990 Wisacky Hwy, F6B  
Bishopville, SC 29010

Other Counsel of Record:  
Deputy Director of Legal Services  
Dep't of Probation, Parole & Pardon Services  
Post Office Box 50666  
Columbia, SC 29250

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South Carolina Department of Probation,  
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Appellant.

MAR 10 2016

PROOF OF SERVICE

SC Court of Appeals

I, Billy Rice, hereby certify that copy of Appellant's Notice of Appeal; and Order of Dismissal, was served upon State of South Carolina Administrative Law Court, Post Office Box 11667, Columbia, SC, 29211; and Deputy Director of Legal Services, Department of Probation, Parole and Pardon Services, PO Box 50666, Columbia, SC, 29250, by United States Postal Service, postage prepaid.

Date: February 7, 2016

s/ Billy Rice  
Billy Rice, 008374, Pro Se  
Lee County Institution  
990 Wisacky Hwy, F6B  
Bishopville, SC 29010

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Billy Rice, 0083744, )  
Appellant )  
 )  
v. )  
 )  
SC Dept. of Probation, )  
Parole, and Pardon )  
Services, )  
Respondent. )  
\_\_\_\_\_ )

Case No. 16-P-002-Durden

APPELLANT'S NOTICE OF MOTION, AND  
RULE MOTION(S) 52, 59(e), & 60(b), SCRCP

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SC Court of Appeals

TO: JUDGE DURDEN, ADMINISTRATIVE LAW COURT

PLEASE TAKE NOTICE, that Appellant Pro Se, will move before the Honorable Durden, to alter or amend the judgement entered February 8, 2016. A copy of Order of Dismissal were received February 11, 2016.

COMES NOW, the Appellant submits the following grounds in support of his Motion(s) pursuant to Rules 52, 59(e), and 60(b), SCRCP.

STANDING

Pursuant to SC Code Ann. Sec. 1-23-380(B); Sec. 1-23-150(a); Sec. 18-1-30; Rule 201(b), SCRCP; and Rules 52/59(e), SCRCP; and South Carolina Administrative Procedures Act, and the Administrative Law Judge Division's Rules of Procedure. See, Biales v Young, 432 SE 2d 482; Lindsay v Lindsay, 491 SE 2d 583.

THEORY OF THE CASE

This Honorable Court respectfully overlooks the motive of the Appellant's complaint, clearly stated ". . . he is not challenging the denial of parole, or routine denial of parole (emphasis added)." The ALC erred, and erroneously formed conclusion about the subject matter of the appeal was the

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denial of appeal on October ~~22~~, 2015. The Appellant herein hereof incorporates as if verbatim Appellant's (Request for Reconsideration) "Review and Re-Examination for Parole", dated November 25, 2015, and Respondent's ("SC Dept of Probation, Parole & Pardon Services/Parole Board, hereafter "Board") reply dated December 9, 2015, alleging ". . . there is no appeal process, however see Respondent's reply dated October 18, 2015 regarding "Appellant's request for Reconsideration" alluding that request fro reconsideration, "A request for a rehearing should be submitted in writing to this agency within thirty (30) days of your parole rejection." Clearly request for rehearing was timely filed, thereby Appellant was not grieved until the Board issued objection to his request dated December 9, 2015, See, Exhibit A & B, "Mandatory required informal resolution" marking the date of incident, requirement prior to filing grievance, time for filing grievance is legally postponed. Subsequent grievance was properly filed December 17, 2015, and final Agency decision dated January 5, 2016, See, Exhibit(s) C,    , recieved Appellant January 11, 2016, and Notice of Appeal was then properly filed January 25, 2016. The Appellant is bound by state law doctrines of exhaustion, thus toll period in time.

Therefore, grievance and Notice of Appeal was properly filed. The ALC's misconception or erroneous belief formed untrue conclusion about subject matter of appeal, and order should be reversed and rendered void, and issues on appeal advance.

## I.

The Appellant hereby herein hereafter incorporates his grievance dated December 17, 2015 as if verbatim. The gist of Appellant's grievance are based upon procedural violations; promulgation of regulations, etc. violations; erroneously calculated sentence-related credits, custody status, and sentence expiration; State-created liberty interest violations; Constitutional and due process violations; and irregularities in procedures. The Appellant submits that he was unduly prejudiced where the ALC failed to address issues brought properly before the Court, SC Const. art 1, Sec. 22.

## II.

The Appellant seeks for issues on appeal be squarely address that they may be preserved for appellate review, See, Pruitt v State, \_\_\_ SC \_\_\_, 423 SE 2d 127; Nolsettle v Ismail, 403 SE 2d 122.

ISSUES ON APPEAL:

1. Whether Appellant was denied due process when the Board fail to promulgate new parole criteria, and/or give notice prior to using related [SC Code Sec. 24-21-10(F)(1)] Statute in rejection letter; and warrant new parole hearing.
2. Whether Appellant was denied due process when the Board failed to perform non-discretionary legislated ministerial duty command pursuant to Sec. 24-21-640 ". . . to create criteria for granting parole"; and Sec. 24-21-10(F)(1) (History, 2010, 2011, & 2012) ". . . create a tool for assessment of parole candidate."
3. Whether Appellant was denied a protected liberty interest when the Board failed to perform ministerial duty, or meet mandatory statutory requirement pursuant to Sec. 24-21-10(F)(1).
4. Whether the Board erred in construing Appellant's 1976 Felony Offender classification and custody status as Violent Offender under SC Code Sec. 16-1-60(1986).
5. Whether the Board erred in calculating Appellant's sentence, sentence related credits, actual days served towards 1976 ten (10) years paroleable life sentence that has expired pursuant to SC Code of Law Sections 55-611, and 55-611.1.
6. Whether the Board erred, and abused its discretion when denying Appellant sentenced prior to 1981 annual parole review hearings without any controlling authority to do so; and denying some of same class annual parole review hearings.
7. Whether the Board erred, and abused its discretion, and denied Appellant's right to exercise his First Amendment freedom of speech, when arbitrarily, capriciously enlarged time frame between parole review hearings.

Therefore, based upon the foregoing the Appellant's prayer is that this Honorable Court, alter and amend, and/or rescind its Order; squarely address his claims; and grant just relief.

Date: February 15, 2016

s/ Billy Rice  
Billy Rice, 0083744, Pro Se  
Lee County Institution  
990 Wisacky Hwy, F6B  
Bishopville, SC 29010

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Billy Rice, 0083744, )  
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Parole, and Pardon )  
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\_\_\_\_\_ )

Case No. 16-P-002-Durden

CERTIFICATE OF SERVICE;  
AND NOTICE OF APPEAL

**RECEIVED**

MAR 10 2016

TO: THE HONORABLE D. DURDEN, ADMINISTRATIVE LAW JUDGE **SC Court of Appeals**

I, Billy Rice, Pro Se, hereby certify that copy of, Appellant's Notice of Motion, and Rule Motion(s) 52, 59(e), and 60(b), SCRCP; and Notice of Appeal to Judge Durden's Order of Dismissal, was served upon Respondent by United States Postal Service, postage prepaid at: Deputy Director of Legal Services, Department of Probation, Parole, and Pardon Services, Post Office Box 50666, Columbia, SC 292501. [... and Exhibits A, B, etc].

Date: February 15, 2015

s/ Billy Rice  
Billy Rice, 0083744, Pro Se  
Lee County Institution  
990 Wisacky Hwy, F6B  
Bishopville, SC 29010

Billy Rice #083744

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SC Court of Appeals

Lee Correctional Inst.  
990 Wisacky Highway  
Bishopville, S.C.  
29010

march 7, 2016

JENNY ABBOTT KITCHINGS  
RE: Filing FEE

Please take notice that my sister  
will be sending the one hundred (\$100.)  
Filing Fee Dollars

Billy Rice

BILLY RICE #0083744  
LEE CORRECTIONAL INSTITUTION  
990 WISACKY HIGHWAY  
BISHOPVILLE, S.C.  
29010

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MAR 10 2016

SC Court of Appeals

SOUTH CAROLINA COURT OF APPEALS  
JENNY ABBOTT KITCHINGS CLERK  
POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA  
29211