



Rule 62 states that:

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 . . . .

Here, although Appellant has filed a Notice of Appeal, pursuant to Rule 60, Appellant was required to file and serve an original brief "within ninety (90) days after the date of assignment." This case was assigned on December 3, 2015; therefore, Appellant's brief was due by March 2, 2016. Rule 62 provides that "upon motion of any party, or on its on motion, an Administrative Law Judge may dismiss an appeal for failure to comply with any of the rules of procedure, including the failure to comply with any time limits provided by this section. R. Admin. L. Ct. 62.

Here, Appellant had an obligation to advance his position and has been given ample time to do so. Moreover, Appellant has not notified SCDC of any extenuating circumstances regarding his failure to file a brief. As of today's date, March 7, 2016, Appellant has failed to file a brief in support of his appeal.

CONCLUSION

**WHEREFORE**, SCDC respectfully requests the Court dismiss this appeal.

Respectfully submitted,



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#### 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