

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Willie Goodwin, #127396,

Appellant,

vs.

South Carolina Department of Probation,
Parole and Pardon Services,

Respondent.

Docket No. 15-ALJ-15-0065-AP

RECEIVED

JUL 25 2016

SC Court of Appeals

ORDER OF DISMISSAL

STATEMENT OF THE CASE

This case is before the Administrative Law Court (ALC or court) pursuant to the appeal of Willie Goodwin (Appellant), an individual incarcerated with the South Carolina Department of Corrections. On September 24, 2015, the South Carolina Department of Probation, Parole and Pardon Services (Department) notified Appellant that the South Carolina Parole Board (Board) had rejected him for parole. Appellant challenges the Board's denial of parole on the grounds that the denial did not provide sufficient individualized information relating his discussion with Board members during the parole hearing.

On April 8, 2016, this court issued an Order to Supplement the Record on Appeal, noting that the Appellant is part of a well-defined set of inmates who committed a violent crime prior to the enactment of the Omnibus Criminal Justice Improvement Act of 1986. The statute in effect at the time of the Appellant's conviction required only a majority of the Board vote in favor of parole. See S.C. Code Ann. § 24-21-645 and *Barton v. S.C. Dept. of Prob., Pardon Servs.*, 404 S.C. 395, 745 S.E. 2d 110 (2013). The Respondent submitted an Affidavit from the Supervisor in the Office of Board Support Services on April 12, 2016, indicating that all seven (7) members of the Parole Board voted to reject the Appellant for parole at his hearing held on September 23, 2015. The Appellant reiterated his original arguments and request for the audio recording of his hearing, and also objected to the Affidavit because it was not part of the record.

DISCUSSION

Upon review, the court can find no argument raised by the Appellant that falls within the jurisdiction of the ALC. Parole is a privilege, not a right. *State v. Dingle*, 376 S.C. 643, 649, 659 S.E.2d 101, 104 (2008) (citing *Sullivan v. S.C. Dep't of Corrs.*, 355 S.C. 437, 443 n.4, 586 S.E.2d

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124, 127 n.4 (2003)). The discretion to grant parole lies solely with the Board. *Id.*, 376 S.C. at 649, 659 S.E.2d at 104–05 (citing *State v. McKay*, 300 S.C. 113, 115, 386 S.E.2d 623, 623–24 (1989)). If, in denying parole, the Board follows proper procedure, then the ALC will summarily dismiss the case as a routine denial. *See Cooper v. S.C. Dep't of Prob., Parole & Pardon Servs.*, 377 S.C. 489, 500, 661 S.E.2d 106, 112 (2008); *see also Compton v. S.C. Dep't of Prob., Parole & Pardon Servs.*, 385 S.C. 476, 479, 685 S.E.2d 175, 177 (2009).

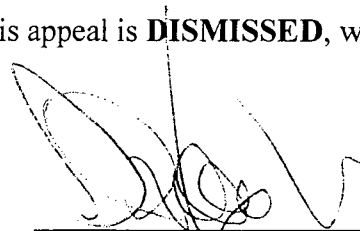
The proper procedure includes considering the factors outlined in South Carolina Code Section 24-21-640 and the factors listed in the Department's parole form. *Cooper*, 377 S.C. at 500, 661 S.E.2d at 112. Additionally, the Board must utilize an actuarial risk and needs assessment tool, known as COMPAS, as prescribed in South Carolina Code Section 24-21-10(F).¹

In this case, the Appellant challenges the denial of his parole on the grounds that the Board failed to provide him with specific individual grounds relating exclusively to his case in its Notice of Rejection. Specifically, the Appellant wanted to know the Board's findings regarding his prior arrest for indecent exposure, which prompted a revocation of his parole in 2014, and what changes in his attitude or habits would make the Board amenable to granting him parole again in the future. The Appellant couches these arguments in due process terms. However, where a denial is routine, there is no infringement upon a state-created liberty interest as would trigger due process review. *See Cooper*, 377 S.C. at 498–99, 661 S.E.2d at 111. The Board's Notice of Rejection lists all the steps required by law for a denial to be routine. Where a denial is routine, the ALC lacks subject matter jurisdiction. *See id.*, 377 S.C. at 500, 661 S.E.2d at 112. The court must therefore dismiss.

ORDER

IT IS THEREFORE ORDERED that this appeal is **DISMISSED**, with prejudice.

AND IT IS SO ORDERED.



S. Phillip Lenski, Judge
S.C. Administrative Law Court

¹ S.C. Code Ann. § 24-21-10(F) (Supp. 2015); *see also Spigner v. S.C. Dep't of Prob., Parole & Pardon Servs.*, 2015-UP-204, 2015 WL 1681270 *1 (S.C. Ct. App. dated April 15, 2015); *Ruff v. S.C. Dep't of Prob., Parole & Pardon Servs.*, 2015-UP-309, 2015 WL 3885638 *1 (S.C. Ct. App. dated June 24, 2015); and *Bagley v. S.C. Dep't of Prob., Parole & Pardon Servs.*, 2014-UP-326, 2014 WL 4217379 *1 (S.C. Ct. App. dated August 27, 2014) (unpublished opinions finding that failure to use the assessment tool is an error of law).

June 24, 2016
Columbia, South Carolina

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date
served this order in the above entitled action upon all
parties to this cause by depositing a copy hereof,
in the United States Mail, postage paid, or in the Interagency
Mail Service addressed to the party(ies) or their attorney(s).

This 24th day of June, 2016

Judicial Law Clerk