

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Akeem Abdullah-Malik, #359150,)
)
 Appellant,)
)
 vs.)
)
 South Carolina Department of Corrections,)
)
 Respondent.)
)

Docket No. 16-ALJ-04-0058-AP

RECEIVED

ORDER OF DISMISSAL JUL 25 2016

SC Court of Appeals

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 Akeem Abdullah-Malik (Appellant), an inmate incarcerated with the Department.

On December 7, 2015, Appellant filed a Step 1 Grievance alleging religious discrimination. Specifically, Appellants requests an Islamic chaplain to visit and "beards, Kufir, oil, Jummah, and classes activated and reinstated." After the Warden denied the grievance, Appellant filed a Step 2 Grievance, which was also denied on the grounds of security issues at the prison. Appellant filed this appeal on January 20, 2016. The Notice of Assignment was filed on February 11, 2016. On March 22, 2016, Appellant filed a document entitled "Motions to Enlarge Time to File Initial Brief & Consolidate Brief." The Court denied these Motions by Order dated April 12, 2016. On April 20, 2016, the Department filed a Motion to Dismiss for failure to serve the Department with his Notice of Appeal under Rule 59 of the Rules of Procedure for the Administrative Law Court (ALC Rules). On May 11, 2016, Appellant filed a document entitled "Motion to Renew 'Enlargement'" to file his brief. On June 1, 2016, the Court issued an Order denying the Department's Motion to Dismiss and specifically setting forth the following deadlines:

- The Department was given 15 days from the date of the Order, or June 9, 2015, to file the Record on Appeal.
- Appellant was given until June 29, 2016 to file his brief.
- The Department was given until July 19, 2016 to file its brief.
- Appellant was given until July 29, 2016 to file a reply brief, if he wished to do so.

FILED

July 14, 2016

SC ADMIN. LAW COURT

As the Court noted in its June 1, 2016 Order, in light of the deadlines set forth in that Order, Appellant's Motion to Enlarge Time to file his brief became moot. The Court, therefore, later denied this Motion on June 13, 2016. On June 2, 2016, the Department filed the Record on Appeal. On July 5, the Department filed a Motion to Dismiss based on Appellant's failure to file his brief by the due date of June 29, 2016. On July 7, 2016, Appellant filed his Initial Brief and a document entitled "Petitioner's Leave to Amend Pursuant to F.R.Civ.P. & SCRCP." Also, on July 11, 2016, Appellant filed a letter apparently moving "to amend previously filed motion for leave to amend and in part initial 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). Accordingly, the rules under the Special Appeals section of the ALC Rules apply, pursuant to ALC Rule 51. Rule 60(A) sets forth the general time frames for filing an appellant's brief, respondent's brief, and appellant's reply brief, if any. However, these time frames are enforced as set forth in the rule "[u]nless otherwise ordered" (emphasis added) by the Court. In this case, the Court, in its June 1, 2016 Order, specifically set forth June 29, 2016 as the deadline for filing of Appellant's initial brief. Though the Court had denied Appellant's Motions to Enlarge Time, the result of the Order granted Appellant additional time to file his brief. However, Appellant failed to file his brief by June 29, 2016, or even by the time the Department filed its Motion to Dismiss – July 5, 2016.

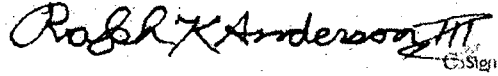
According to ALC Rule 62, "on its own motion, an Administrative Law Judge may dismiss an appeal . . . for failure to comply with any of the rules of procedure for appeals, including the failure to comply with any of the time limits provided by this section" The fact that Appellant chose to file other appeals in other courts in other matters has no bearing on his obligation to comply with the Court's Order in this matter.

¹ The Court is unaware of any rule allowing an appellant to amend the arguments in his brief, let alone to amend an amendment to a brief. But regardless, in light of the Court's disposition of this appeal, the Court need not address these motions, which are now moot and therefore denied.

ORDER

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

AND IT IS SO ORDERED.

A handwritten signature in black ink that reads "Ralph King Anderson, III". The signature is written in a cursive style. To the right of the signature, there is a small, faint stamp that appears to say "ESign".

Ralph King Anderson, III
Chief Administrative Law Judge

July 14, 2015
Columbia, South Carolina

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JUL 25 2016

CERTIFICATE OF SERVICE

SC Court of Appeals

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

July 14, 2015
Columbia, South Carolina