

STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal from the Administrative Law
Court, Ralph K. Anderson, III, Administrative
Law Judge, Case No. 17-ALJ-15-0006-AP

Appellate Case No: 2017-001701

Marquis Edwards #328235

Appellant

v.

S.C. Department of Probation, Parole
and Pardon Services

Respondent

Reply Brief

Marquis Edwards #328235
Goodman Corr. Inst. 5-B-42B
4556 Broad River Rd
Columbia, S.C. 29210
Appellant

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SC Court of Appeals

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STATEMENT OF ISSUE ON APPEAL

1. When Appellant received Notice of Appeal enclosed with final decision of Respondent, was Appellant entitled to be informed as well that he has within (30) days to file Notice of Appeal?
2. Did the Court err in dismissing Appellant's appeal due to the fact Respondent failed to inform Appellant he has within (30) days to file Notice of Appeal?

Statement of the Case

On April 6, 2015, Appellant went before the Honorable Judge DE ANDREA BENJAMINI for PWID Cocaine^{3rd}, and two counts of Distributions of Cocaine within proximity of a school. Appellant was sentenced to 11 years for each offense. The Court also ordered that each of the sentences be served concurrent.

Argument

1. When Appellant received Notice of Appeal enclosed with final decision of Respondent, was Appellant entitled to be informed as well that he has within (30) days to file Notice of Appeal?
2. Did the Court err in dismissing Appellants Appeal due to the fact Respondent failed to inform Appellant he has within (30) days to file Notice of Appeal?

On September 20, 2016, General Counsel for Respondent, Matthew C. Buchanan, informed Appellant that due to prior drug conviction he is currently ineligible for parole. Appellant received final decision of Respondent on September 23, 2016. Enclosed with final decision was a Notice of Appeal. Appellant would like to state for the record that there was no information enclosed with final decision, nor was there any information on the Notice of Appeal informing Appellant that he has within (30) days to file Notice of Appeal. Appellant filed Notice of Appeal to the Administrative Law Court (ALC) on March 27, 2017. Within the Appeal Appellant stated that his denial of parole eligibility goes against the Omnibus Crime Reduction Act of 2010. Appellant requested the ALC to grant parole eligibility.

Respondent claimed in his Brief he argued to the Court Appellant failed to file his Notice of Appeal within the time limitations pursuant to the rules of the ALC Court. Respondent also requested Appeal should be subject to dismissal. As this Court can see Respondent knew Appellant had to file Notice within (30) days of final decision. Had Respondent properly informed Appellant with this information enclose with final decision or on back of Notice of Appeal that he has (30) days to file, Appellant would have filed within.. time required by ALC rule. On August 7, 2017, the Honorable Judge, Ralph K. Anderson, III, sent Order dismissing case due to Notice of Appeal filed untimely and the ALC lacked jurisdiction to consider Appeal

Conclusion

Based on the foregoing reasons Appellant respectfully request this Court take in consideration had Respondent properly informed Appellant he has within (30) days to file Notice of Appeal. Appellant also respectfully request that the final decision of the ALJ and Respondent be REVERSED AND VACATED.

September 25, 2017
Columbia, S.C.

Respectfully Submitted,
Marquis Edwards
MARQUIS EDWARDS #328235
GOODMAN CORR. INST. 5-B-42B
4556 BROAD RIVER RD
COLUMBIA, S.C. 29210
Appellant

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S.C. Department of Probation, Parole
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Respondent

Proof of Service

I certify that I have served a Reply Brief on Respondent
Tommy Evans, Jr. Esquire, SCDPPPS, P.O. Box 50666, Columbia, S.C. 29250
and on the Honorable Clerk, Jenny A. Kitchings, S.C. Court of Appeals
P.O. Box 11629, Columbia, S.C. 29211, by depositing 2 copies in the
United States Mail, postage prepaid, on Sept 25, 2017

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SC Court of Appeals

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