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RECORD ON APPEAL
THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM
South Carolina Administrative Law Court
Deborah Brooks Durden, Judge

Case No. 2018-000949

RECEIVED
SEP 17 2018
SC Court of Appeals

Elvis G. Groce,Appellant,

v.

South Carolina Public Employee Benefit Authority,
South Carolina Retirement Systems,Respondent.

RECORD ON APPEAL

Elvis G. Groce
220 Yorkswell Lane
Greenville, SC 29607
803-556-32020
Appellant

Justin R. Werner
Deputy General Counsel
South Carolina Public Employee Benefit
Authority
202 Arbor Lake Drive
Columbia, South Carolina 29223
(803) 737-6830

Attorneys for Respondent

Melissa Alexander, Asst.
General Counsel,
Representative for S C Public
Authority, South Carolina
Retirement System
202 Arbor Lake Drive
Columbia, SC 29223
(803) 737-6830

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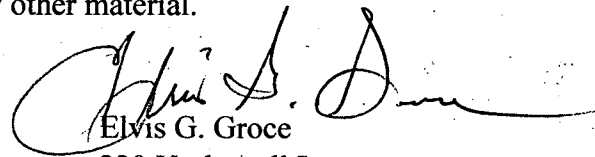
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Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

September 5, 2018



Elvis G. Groce
220 Yorkswell Lane
Greenville, South Carolina 29607
(803) 556-3020

The South Carolina Public Employee Benefit Authority
ATTN: Peggy G. Boykin, CPA, Executive Director
202 Arbor Lake Drive
Columbia, SC 29223

September 12, 2017

SUBJECT: Appeal of determination letter denying monthly benefits from the South Carolina Retirement System, dated August 8, 2017.

Dear Ms. Boykin,

I am appealing the decision by your organization to deny monthly benefits to me based on a date that was established by the Social Security Administration. This date is more than one year after my last day of employment with the South Carolina Department of Revenue.

My last day of employment with the South Carolina Department of Revenue was October 1, 2015 due to being unable to work anymore. On October 13, 2015 I applied for Social Security disability benefits which was denied on February 12, 2016 and reconsidered on May 6, 2016. In early June 2016 I filed a written request for hearing. I appeared and testified at a hearing held on September 14, 2016 represented by an attorney.

After reviewing all the evidence to include vital medical records it was concluded by the reviewing judge that I did not meet the requirements for disability benefits by letter dated October 5, 2016. Upon receiving this information I reapplied for benefits not realizing that all previous request and information regarding any previous request would not apply. The complete process started over on October 6, 2016, and I was awarded disability benefits just 5 days after the one year date of my last employment.

Therefore, I am being denied my retirement benefits based on a date that was established by the Social Security Administration granting disability benefits. This date just happens to fall slightly outside the window of a 12 month South Carolina Code of Law which establishes the date of disability must be within one year of the last day of employment by an employer covered by the South Carolina Retirement System.

By denying my retirement benefits it seems I am being punished because I became disable and unable to work. Not sure if I understand the rationale of having to be disabled within a 12 month period after employment to be eligible for retirement benefits I so desperately need.

Please consider granting my benefits as the 5 day delay could have been due to processing time. Thank you for your consideration in this matter.

Elvis G. Groce

①



Serving those who serve South Carolina

January 29, 2018

Elvis G. Groce
220 Yorkswell Lane
Greenville, South Carolina 29607

RE: Your Claim Regarding Your Disability Retirement Application

Dear Mr. Groce:

Please find enclosed Final Agency Determination No. 18-002, issued in response to your appeal of the denial of your application for disability retirement benefits under the South Carolina Retirement System. The Determination concludes that your request was properly denied.

If you disagree with the Determination, you may, in accordance with S.C. Code Ann. § 9-21-60 (Supp. 2017), request a contested hearing on the Determination before an administrative law judge by filing a Request for a Contested Case Hearing with the Administrative Law Court within thirty (30) consecutive calendar days after your receipt of this Final Agency Determination. **However, if you fail to respond within this time limitation, your right to appeal the Final Agency Determination will end.** I have enclosed with this letter two copies of the Administrative Law Court's "Request for Contested Case Hearing" form. If you choose to request a contested case hearing in this matter, you must file the Request for a Contested Case with the Court, along with a copy of the Final Agency Determination and a filing fee of Fifty Dollars (\$50.00), at the following address:

Clerk
Administrative Law Court
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, South Carolina 29201

In addition, a copy of the request for a contested case hearing must be sent to me at 202 Arbor Lake Drive, Columbia, South Carolina 29223. If you are unable to pay the required filing fee, you may request a waiver of the fee by filing a completed Request for Waiver and Affidavit and a Financial Statement form with the Clerk at the same time the request for a contested case hearing is filed with the Court. For more information about requesting a contested case before the Administrative Law Court, you may contact the Clerk of Court at (803) 734-0550.

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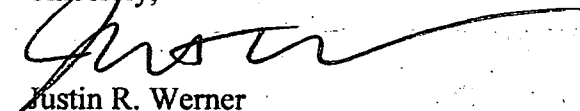
Executive Director Peggy G. Boykin, CPA
803.737.6800 | 888.260.9430 | www.peba.sc.gov
202 Arbor Lake Dr., Columbia, SC 29223

Elvis G. Groce
January 29, 2018
Page 2

Once you have filed a request for a contested case hearing with the Court, all further proceedings will be before the Administrative Law Court and will be conducted in accordance with its rules of procedure.

If you have any questions concerning this matter, you may call me at (803) 737-6894 or my program coordinator, Rebecca Haltiwanger, at (803) 737-6811.

Sincerely,



Justin R. Werner
Deputy General Counsel

Enclosures: Final Agency Determination No. 18-002
Two (2) Request for Contested Case Hearing forms

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FINAL AGENCY DETERMINATION

NO. 18-002

In Re: Elvis G. Groce, SSN XXX-XX-4696

This Final Agency Determination is issued in accordance with the South Carolina Retirement Systems Claims Procedures Act set out at S.C. Code Ann. §§ 9-21-10 et seq. (Supp. 2017) and the South Carolina Retirement Systems Claims Procedure (2005). In this matter, Elvis G. Groce (“Claimant”) requests that the South Carolina Public Employee Benefit Authority (“PEBA”) reconsider its decision that he is not eligible to receive disability retirement benefits from the South Carolina Retirement System.

BACKGROUND

Claimant Elvis Groce is an inactive member of the South Carolina Retirement System (“SCRS” or “System”) who has approximately nine years of service in the System. During his active membership in SCRS, Claimant was most recently employed as a training coordinator with the South Carolina Department of Revenue. On April 22, 2015, Claimant submitted an application for SCRS disability retirement benefits to PEBA. By a letter to Claimant dated that same day, PEBA acknowledged receipt of the application and informed Claimant that, among other things, in order to be approved for disability retirement benefits from SCRS, not only must he be approved for disability benefits from the Social Security Administration, but also “[t]he date of disability established by the Social Security Administration must be within one year of your last day of employment covered by the South Carolina Retirement System.” Claimant subsequently terminated from covered employment with the Department of Revenue on October 1, 2015.

Approximately a year and a half later, Claimant visited PEBA on July 24, 2017, to submit a Notice of Award letter reflecting his approval for the receipt of disability benefits from the Social Security Administration. In the Notice of Award letter, the Social Security Administration informed Claimant that “[w]e found that you became disabled under our rules on October 6, 2016” and that “[t]he date we found you disabled is different from the date you gave us on the application.” In response to the receipt of the Notice of Award letter, PEBA obtained confirmation

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of Claimant's termination of covered employment with the Department of Revenue in an Employer's Disability Employment Status Report and a Final Payroll Certification. On both of those forms, the Department certified that Claimant had terminated from covered employment on October 1, 2015. In particular, the Department reported on the forms that Claimant had resigned from employment on October 1, 2015, with over eight days of unused annual leave and over fifteen days of unused sick leave. Based upon that employer certification, PEBA wrote to Claimant on August 8, 2017, to inform him that his application for SCRS disability retirement benefits could not be approved because the date on which he became disabled, as established by the Social Security Administration, was more than one year after the last day he was employed by a covered employer in SCRS. By a letter received September 18, 2017, Claimant wrote to PEBA's Executive Director to seek review of the denial of his application for disability retirement benefits. This Final Agency Determination is issued in response to that request for review.

DISCUSSION

In this matter, Claimant requests that PEBA approve his application for disability retirement benefits from SCRS, even though the date of disability established for his receipt of Social Security disability benefits was more than one year after the date he had terminated from all covered employment under the System. In particular, he notes that he had to refile his application for Social Security disability benefits after his initial claim was denied and that the date of disability established for his disability benefits from the Social Security Administration fell only a year and five days after his termination from covered employment. However, for the reasons set forth below, I find that PEBA properly determined that Claimant is not eligible to receive disability retirement benefits from SCRS.

The procedural and substantive requirements for the issuance of disability retirement benefits to members of the South Carolina Retirement System who apply for benefits after December 31, 2013, are found in Section 9-1-1540(B) of the Code of Laws. See S.C. Code Ann. § 9-1-1540(B) (Supp. 2016). This section provides that a member of SCRS who has timely applied for disability retirement benefits

is considered disabled if the member qualifies for the payment of Social Security disability benefits and is eligible for benefits pursuant to this section upon proof of the disability, provided that the date of disability established by the Social Security Administration falls within one year after the last day the member was employed by a covered employer in the system.

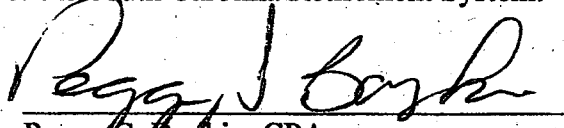
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Id. § 9-1-1540(B)(2) (emphasis added). Consequently, if a member is approved for Social Security disability benefits, but the date of disability established by the Social Security Administration falls more than one year after the last day the member was employed by a covered employer in the System, the member's disability is not considered connected to the period of the member's covered employment and the member is not eligible for disability retirement benefits from SCRS based upon that disability. Id.

In the instant matter, Claimant terminated from all covered employment under SCRS when he resigned from employment with the Department of Revenue on October 1, 2015. However, when the Social Security Administration approved his claim for Social Security disability benefits, it found that Claimant did not become disabled until October 6, 2016, over a year after his termination from covered employment. Accordingly, under the plain terms of Section 9-1-1540(B)(2) of the Code of Laws, Claimant is not eligible for disability retirement benefits from SCRS based upon his receipt of those Social Security disability benefits. And, while PEBA is sympathetic to Claimant's circumstances, including the fact that the onset date determined by the Social Security Administration for his disability fell only a few days past the statutory limit, it has no authority to waive or ignore that statutory requirement. See generally S.C. Tax Comm'n v. S.C. Tax Bd. of Rev., 278 S.C. 556, 560, 299 S.E.2d 489, 491-92 (1983) (holding that an administrative agency "may not validly act in excess of its powers, nor has it any discretion as to the recognition of or obedience to a statute," but rather the agency "must obey a law found upon the statute books") (quoting 2 Am. Jur. 2d Administrative Law § 188 (1962)).

CONCLUSION

Therefore, for the foregoing reasons, I affirm the determination that Claimant is not eligible to receive disability retirement benefits under the South Carolina Retirement System.


Peggy G. Boykin, CPA
Executive Director

1/29, 2018
Columbia, South Carolina

**South Carolina Administrative Law Court (SC ALC)
Request for Contested Case Hearing FORM**

Last Name: Groce		First: Elvis	Middle: Gene	<input checked="" type="checkbox"/> Mr. <input type="checkbox"/> Mrs.	<input type="checkbox"/> Miss <input type="checkbox"/> Ms.	Docket No. (To Be Completed by ALC)
Mailing Address: 220 Yorkswall Lane			City: Greenville	State and Zip: 29607 South Carolina		
Home Number: 803-479-0181	Work Number: NA	Cell Number: 803-86-3020		*E-Mail Address: elvis.groce@eharter.net		
*By providing your e-mail address, you consent to receive court orders and notices via electronic transmission						
REPRESENTATION						
Are you representing yourself? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			If No, please complete the following:			
Are you represented by an Attorney? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			Are you represented by a CPA? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
Name of Attorney:			Name of CPA:			
Mailing Address:			Mailing Address:			
City, State and Zip:			City, State and Zip:			
Work Number, Cell Number and E-mail Address:			Work Number, Cell Number and E-mail Address:			
CASE INFORMATION						
Name of the Agency that issued the decision: (Example - Dept. of Revenue, Dept. of Insurance, DHEC) SC PEBA						
In order to have your case processed, you must attach the agency decision. Is it attached?: <input type="checkbox"/> Yes <input type="checkbox"/> No			If no, please explain:			
Date the decision was issued: January 29, 2018			Date the decision was received: February 3, 2018			
Please provide a brief statement regarding why the hearing is being requested and the relief sought: Filed in response to an appeal of the denial of my application for disability retirement benefits under the South Carolina Retirement System.						
Payment via <input checked="" type="checkbox"/> Check <input type="checkbox"/> Money Order <input type="checkbox"/> Cash for \$ submitted today to the Administrative Law Court via			(applicable filing fee pursuant to ALC Rule 71) is being <input type="checkbox"/> U.S. Postal Service <input type="checkbox"/> Hand-delivery			
Elvis G. Groce <input checked="" type="checkbox"/> Your Signature or Signature of Attorney/CPA			February 8, 2018 Date			

CERTIFICATE OF SERVICE (MUST BE COMPLETED)			
Your Name: Elvis Groce	Date: February 8, 2018	City: Greenville	State: SC
I hereby certify that on the date and place listed above, I served a copy of the foregoing Request for Contested Case Hearing on all other parties to this matter by depositing the same in the United States Mail, postage paid, and addressed as follows (use the reverse side for any additional names):			
SC, PEBA	202 Arbor Lake Drive	Columbia, SC	29223
Name and/or Agency	Address	City, State and Zip	
Elvis G. Groce		February 8, 2018	
<input checked="" type="checkbox"/> Your Signature or Signature of Attorney/CPA		Date	

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Elvis G. Groce,

Petitioner,

vs.

South Carolina Public Employee Benefit
Authority, South Carolina Retirement Systems,

Respondent.

Docket No. 18-ALJ-30-0064-CC

**ORDER DENYING
PETITIONER'S MOTION
FOR RECONSIDERATION**

This matter is before the Administrative Law Court (ALC or Court) pursuant to the motion of Petitioner, Elvis G. Groce, seeking reconsideration of the Court's Order issued on April 17, 2018. In his motion, Groce is seeking to appear before this Court concerning the above-captioned matter. On March 27, 2018, Respondent South Carolina Public Employee Benefit Authority, South Carolina Retirement Systems (SCRS) filed a Notice of Motion and Motion for Summary Judgment, and on April 9, 2018, it filed its Memorandum in Support of Respondent's Motion for Summary Judgment. In Respondent's motion, it moved this Court for Summary Judgment stating there is no genuine issue as to any material fact to be determined at a hearing in this case. In Groce's Motion for Reconsideration, he explained why he was unable to respond to Respondent's motion, however, the facts remain undisputed that the date of disability established for Groce's receipt of Social Security disability benefits was more than one year after the date he had terminated from all covered employment under the SCRS, and, thus, he is not eligible to receive disability retirement benefits from SCRS. This motion does not seek to correct manifest errors of law or fact or to present newly discovered evidence. Therefore,

IT IS HEREBY ORDERED that Petitioner's Motion for Reconsideration is **DENIED**.
AND IT IS SO ORDERED.

Deborah Brooks Durden

Deborah Brooks Durden
Administrative Law Judge

May 9, 2018

Columbia, South Carolina

FILED

May 9, 2018

SC ADMIN. LAW COURT

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CERTIFICATE OF SERVICE

I, Robin E. Coleman, 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).



Robin E. Coleman
Judicial Aide to Deborah Brooks Durden

May 9, 2018
Columbia, South Carolina

FILED

May 9, 2018

SC ADMIN. LAW COURT

(9)

STATEMENT FOR COURT APPEARANCE

YOUR HONOR I AM APPEARING HERE BEFORE YOU TODAY NOT TO CONTEST THE SOUTH CAROLINA CODE OF LAWS SECTION 9-1-1540(B). I AM MERELY HERE TO ASK THAT MY REQUEST FOR RETIREMENT BENEFITS FROM THE SOUTH CAROLINA RETIREMENT SYSTEM BE RECONSIDERED FOR APPROVAL BASED ON THE FOLLOWING INFORMATION:

YOUR HONOR I ORIGINALLY APPLIED FOR DISABILITY BENEFITS WITH THE SOUTH CAROLINA RESTIREMENTS SYSTEM ON APRIL 22, 2015. I WAS INFORMED BY SOMEONE AT THE SCRS THAT IN ORDER FOR ME TO BE APPROVED FOR DISABILITY RETIREMENT BENEFITS FROM THE SCRS THAT I MUST BE APPROVED FOR DISABILTIY BENEFITS FROM THE SOCIAL SECURITY ADMINISTRATION. I DO NOT RECALL EVER BEING TOLD THAT THE DATE OF DISABILITY ESTABLISHED BY THE SOCIAL SECURITY ADMINISTRATION MUST BE WITHIN ONE YEAR OF YOUR LAST DAY OF EMPLOYMENT COVERED BY THE SCRS. THE REASON I SAY THAT IS BECAUSE I HAVE A VERY INQUISITIVE NATURE AND I WOULD HAVE ASK WHY, AND IM SURE

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THE GENTLEMAN WOULD HAVE EXPLAINED IT TO ME IN DETAIL AT THE TIME.

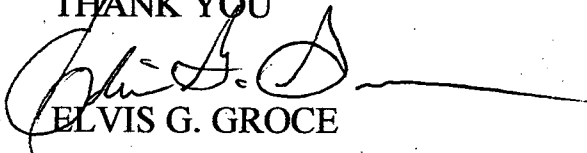
MY LAST DAY OF EMPLOYMENT WITH THE SOUTH CAROLINA DEPARTMENT OF REVENUE WAS OCTOBER 1, 2015 DUE TO BEING UNABLE TO WORK ANY LONGER. ON OCTOBER 13, 2015 I APPLIED FOR SOCIAL SECURITY DISABILITY BENEFITS WHICH WAS DENIED ON FEBRUARY 12, 2016 AND RECONSIDERED ON MAY 6, 2016 WHICH WAS ALSO DENIED. IN EARLY JUNE 2016 I FILED A WRITTEN REQUEST FOR HEARING. I APPEARED AND TESTIFIED AT A HEARING HELD ON SEPTEMBER 14, 2016 REPRESENTED BY AN ATTORNEY.

AFTER REVIEWING ALL THE EVIDENCE TO INCLUDE VITAL MEDICAL RECORDS IT WAS CONCLUDED BY THE REVIEWING JUDGE THAT I DID NOT MEET THE REQUIREMENTS FOR DISABILITY BENEFITS BY LETTER DATED OCTOBER 5, 2016. UPON RECEIVING THIS INFORMATION I REAPPLIED FOR BENEFITS NOT REALIZING THAT ALL PREVIOUS REQUEST AND INFORMATION REGARDING ANY PREVIOUS REQUEST WOULD NOT APPLY. THE COMPLETE PROCESS STARTED OVER ON OCTOBER 6, 2016, AND I WAS AWARDED DISABILITY BENEFITS JUST 5 DAYS AFTER THE ONE YEAR DATE OF MY LAST EMPLOYMENT.

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YOUR HONOR I AM CURRENTLY A DISABLED MILITARY VETERAN WITH 23 AND A HALF YEARS OF HONORABLE SERVICE. I HAVE WORKED IN SOME COMPACTY IN THE WORK FORCE SINCE I WAS 13 YEARS OF AGE AND MY INTERGITY HAS NEVER COME INTO QUESTION. I WOULD PROBABLY STILL BE WORKING HAD I NOT START TO EXPERIENCE DECLINING HEALTH ISSUES IN 2015. AGAIN, I AM NOT QUESTIONING THE LAW, I AM SIMPLY ASKING THAT MY REQUEST FOR RETIREMENTS BENEFITS BE RECONSIDERED BECAUSE I BELIEVE THAT IT IS HIGHLY POSSIBLE THAT THE DECISION MAY OR COULD HAVE BEEN DECIDED PRIOR TO THE ONE YEAR CUT OFF DATE BUT SIMPLY NOT PROCESSED IN A TIMELY MANNER.

THANK YOU


ELVIS G. GROCE

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**South Carolina Administrative Law Court (SC ALC)
Request for Contested Case Hearing FORM**

Last Name: Groce		First: Elvis	Middle: Gene	<input checked="" type="checkbox"/> Mr. <input type="checkbox"/> Mrs.	<input type="checkbox"/> Miss <input type="checkbox"/> Ms.	Docket No. (To Be Completed by ALC)
Mailing Address: 220 Yorkswell Lane			City: Greenville	State and Zip: South Carolina 29607		
Home Number: 803-479-0181	Work Number: NA	Cell Number: 803-556-3020		*E-Mail Address: elvis.groce@charter.net		

*By providing your e-mail address, you consent to receive court orders and notices via electronic transmission

REPRESENTATION

Are you representing yourself? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		If No, please complete the following:	
Are you represented by an Attorney? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Are you represented by a CPA? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Name of Attorney:		Name of CPA:	
Mailing Address:		Mailing Address:	
City, State and Zip:		City, State and Zip:	
Work Number, Cell Number and E-mail Address:		Work Number, Cell Number and E-mail Address:	

CASE INFORMATION

Name of the Agency that issued the decision: (Example - Dept. of Revenue, Dept. of Insurance, DHEC) SC PEBA	
In order to have your case processed, you must attach the agency decision. Is it attached? <input type="checkbox"/> Yes <input type="checkbox"/> No	If no, please explain:
Date the decision was issued: January 29, 2018	Date the decision was received: February 3, 2018
Please provide a brief statement regarding why the hearing is being requested and the relief sought: Filed in response to an appeal of the denial of my application for disability retirement benefits under the South Carolina Retirement System.	
Payment via <input checked="" type="checkbox"/> Check <input type="checkbox"/> Money Order <input type="checkbox"/> Cash for \$ submitted today to the Administrative Law Court via	(applicable filing fee pursuant to ALC Rule 71) is being <input type="checkbox"/> U.S. Postal Service <input type="checkbox"/> Hand-delivery
Elvis G. Groce <input checked="" type="checkbox"/> Your Signature or Signature of Attorney/CPA	February 8, 2018 Date

CERTIFICATE OF SERVICE (MUST BE COMPLETED)

Your Name: Elvis Groce	Date: February 8, 2018	City: Greenville	State: SC
I hereby certify that on the date and place listed above, I served a copy of the foregoing Request for Contested Case Hearing on all other parties to this matter by depositing the same in the United States Mail, postage paid, and addressed as follows (use the reverse side for any additional names):			
SC, PEBA	202 Arbor Lake Drive	Columbia, SC 29223	
Name and/or Agency	Address	City, State and Zip	
Name and/or Agency	Address	City, State and Zip	
Elvis G. Groce		February 8, 2018	
<input checked="" type="checkbox"/> Your Signature or Signature of Attorney/CPA		Date	

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Elvis G. Groce,

Petitioner,

v.

South Carolina Public Employee Benefit
Authority, South Carolina Retirement
Systems,

Respondent,

**RESPONDENT'S NOTICE OF MOTION
AND MOTION FOR SUMMARY
JUDGMENT**

DOCKET NO. 18-ALJ-30-0064-CC

TO: ELVIS G. GROCE, PETITIONER *PRO SE*

PLEASE TAKE NOTICE that Respondent South Carolina Public Employee Benefit Authority, South Carolina Retirement Systems ("PEBA"), by and through its undersigned counsel, hereby moves before the Honorable Deborah Brooks Durden, for an order granting summary judgment in the above-captioned matter in favor of PEBA pursuant to Rule 56 of the South Carolina Rules of Civil Procedure and Rules 19(A) and 68 of the Rules of Procedure for the Administrative Law Court. This motion is based upon the pleadings, documents of record, and the law of this State, and shall be supported by the filings in this case and a memorandum of law and supporting materials to be filed prior to a hearing. PEBA makes this motion on the following grounds:

1. There is no genuine issue as to any material fact in this case and PEBA is entitled to a judgment in its favor as a matter of law. Rule 56(c), SCRPC; see also, e.g., Brandt v. Gooding, 368 S.C. 618, 626, 630 S.E.2d 259, 263 (2006). In particular, the undisputed facts in this matter demonstrate that the date of disability established for Petitioner's receipt of Social Security disability benefits was more than one year after the date he had terminated from all covered employment under the South Carolina Retirement System ("SCRS") and, thus, he is not eligible to receive disability retirement benefits from SCRS. PEBA properly determined that Petitioner is not eligible to receive disability retirement benefits under SCRS and is entitled to a

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Elvis G. Groce,

Petitioner,

v.

South Carolina Public Employee Benefit
Authority, South Carolina Retirement
Systems,

Respondent.

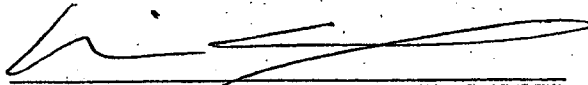
Docket No. 18-ALJ-30-0064-CC

NOTICE OF APPEARANCE

PLEASE TAKE NOTICE that I, Melissa Alexander, intend to appear before the Administrative Law Court on behalf of the South Carolina Public Employee Benefit Authority, South Carolina Retirement Systems in the above-captioned matter. I am an active member of the South Carolina Bar, No. 79861, in good standing.

This Notice of Appearance is being filed pursuant to Rule 8(B) of the Rules of Procedure for the Administrative Law Court.

Respectfully submitted,


Melissa Alexander
Assistant General Counsel
Justin R. Werner
Deputy General Counsel
South Carolina Public Employee Benefit
Authority
202 Arbor Lake Drive
Columbia, South Carolina 29223
Phone: (803) 737-6830
Fax: (803) 740-1376
E-mail: malexander@peba.sc.gov

March 27, 2018
Columbia, South Carolina

judgment in its favor as a matter of law pursuant to Section 9-1-1540(B) of the South Carolina Code of Laws. S.C. Code Ann. § 9-1-1540(B) (Supp. 2017).

WHEREFORE, for the foregoing reasons, and such other reasons as may be timely presented to the Court, Respondent PEBA respectfully petitions that summary judgment be granted in its favor and for such other and further relief as this Court may deem appropriate.

Respectfully Submitted,



Melissa Alexander
Assistant General Counsel
Justin R. Werner
Deputy General Counsel
South Carolina Public Employee Benefit Authority
202 Arbor Lake Drive
Columbia, South Carolina 29223
Telephone: (803) 737-6830
E-mail: malexander@peba.sc.gov

March 27, 2018

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Serving those who serve South Carolina

April 9, 2018

The Honorable Deborah Brooks Durden
South Carolina Administrative Law Court
1205 Pendleton Street, Suite 224
Columbia, South Carolina 29201


RE: Elvis G. Groce v. S.C. Public Employee Benefit Authority, S.C. Retirement Systems, Docket No. 18-ALJ-30-0064-CC

Dear Judge Durden:

Please find enclosed for filing a Memorandum in Support of Respondent's Motion for Summary Judgment in the above-referenced case. Enclosed with the Memorandum are an affidavit from PEBA's Director of Retirement Systems Finance and seven exhibits.

If you have any questions or concerns regarding this motion, please feel free to call me at (803) 737-6830.

Sincerely,



Melissa Alexander
Assistant General Counsel

Enclosures

cc: Elvis G. Groce

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Executive Director Peggy G. Boykin, CPA
803.737.6800 | 888.260.9430 | www.peba.sc.gov
202 Arbor Lake Dr., Columbia, SC 29223

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Elvis G. Groce,)
)
 Petitioner,)
)
 v.)
)
 South Carolina Public Employee Benefit)
 Authority, South Carolina Retirement)
 Systems,)
)
 Respondent.)
)

**MEMORANDUM IN SUPPORT OF
RESPONDENT'S MOTION FOR
SUMMARY JUDGMENT**

DOCKET NO. 18-ALJ-30-0064-CC

The above-captioned matter is before the Administrative Law Court upon the request of Petitioner Elvis Groce ("Petitioner") for a contested case hearing to challenge Final Agency Determination No. 18-002 issued by Respondent South Carolina Public Employee Benefit Authority, South Carolina Retirement Systems ("PEBA") on January 29, 2018. In this matter, Petitioner requests that PEBA reconsider its decision that he is not eligible to receive disability retirement benefits from the South Carolina Retirement System. By a motion filed on March 27, 2018, PEBA moved for summary judgment in its favor in this case pursuant to Rule 56 of the South Carolina Rules of Civil Procedure and Rules 19(A) and 68 of the Rules of Procedure for the Administrative Law Court on the grounds that there is no genuine issue as to any material fact in this case and that PEBA is entitled to a judgment in its favor as a matter of law. In particular, based upon the record, it is clear that PEBA properly determined that Petitioner is not eligible to receive disability retirement benefits under SCRS in accordance with the applicable statutes as a matter of law. This memorandum is submitted in support of that motion.

PETITIONER'S CLAIM

Petitioner Elvis Groce is an inactive member of the South Carolina Retirement System ("SCRS" or "System") who has approximately nine years of service in the System. During his active membership in SCRS, Petitioner was most recently employed as a training coordinator with the South Carolina Department of Revenue. (Ex. #1.) On April 22, 2015, Petitioner submitted an application for SCRS disability retirement benefits to PEBA. (Ex. #1.) By a letter to Petitioner dated that same day, PEBA acknowledged receipt of the application and informed

Petitioner that, among other things, in order to be approved for disability retirement benefits from SCRS, not only must he be approved for disability benefits from the Social Security Administration, but also “[t]he date of disability established by the Social Security Administration must be within one year of your last day of employment covered by the South Carolina Retirement System.” (Ex. #2.) Petitioner subsequently terminated from covered employment with the Department of Revenue on October 1, 2015. (Ex. #4, Ex. #5.)

Approximately a year and a half later, Petitioner visited PEBA on July 24, 2017, to submit a Notice of Award letter reflecting his approval for the receipt of disability benefits from the Social Security Administration. (Ex. #3.) In the Notice of Award letter, the Social Security Administration informed Petitioner that “[w]e found that you became disabled under our rules on October 6, 2016” and that “[t]he date we found you disabled is different from the date you gave us on the application.” (Ex. #3, at 1.) In response to the receipt of the Notice of Award letter, PEBA obtained confirmation of Petitioner’s termination of covered employment with the Department of Revenue in an Employer’s Disability Employment Status Report and a Final Payroll Certification. (Ex. #4, Ex. #5.) On both of those forms, the Department certified that Petitioner had terminated from covered employment on October 1, 2015. (Ex. #4, Ex. #5.) In particular, the Department reported on the forms that Petitioner had resigned from employment on October 1, 2015, with over eight days of unused annual leave and over fifteen days of unused sick leave. (Ex. #4, Ex. #5.) Based upon that employer certification, PEBA wrote to Petitioner on August 8, 2017, to inform him that his application for SCRS disability retirement benefits could not be approved because the date on which he became disabled, as established by the Social Security Administration, was more than one year after the last day he was employed by a covered employer in SCRS. (Ex. #6.) Petitioner sought review of that determination before the PEBA Executive Director, and, on January 29, 2018, PEBA issued Final Agency Determination No. 18-002, which affirmed the determination that Petitioner is not eligible to receive disability retirement benefits under SCRS. (Ex. #7.) Petitioner now challenges that Final Agency Determination in this contested case proceeding.

SUMMARY JUDGMENT ON PETITIONER’S CLAIM

The Court should grant summary judgment in favor of PEBA in this matter. Summary judgment is appropriate when it is clear that there is no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law. Rule 56(c), SCRCP; see also, e.g.,

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Brandt v. Gooding, 368 S.C. 618, 626, 630 S.E.2d 259, 263 (2006). The purpose of summary judgment is to expedite the disposition of cases that do not require fact-finding at an evidentiary hearing. Austin v. Beaufort County Sheriff's Office, 377 S.C. 31, 34, 659 S.E.2d 122, 123 (2008). As set forth below, there is no genuine dispute regarding the material facts of this case and PEBA is entitled to judgment in its favor as a matter of law based upon the eligibility requirements for disability retirement benefits under S.C. Code Ann. § 9-1-1540 (Supp. 2017).

The procedural and substantive requirements for the issuance of disability retirement benefits to members of the South Carolina Retirement System who apply for benefits after December 31, 2013, are found in Section 9-1-1540(B) of the Code of Laws. See S.C. Code Ann. § 9-1-1540(B) (Supp. 2017). This section provides that a member of SCRS who has timely applied for disability retirement benefits

is considered disabled if the member qualifies for the payment of Social Security disability benefits and is eligible for benefits pursuant to this section upon proof of the disability, provided that the date of disability established by the Social Security Administration falls within one year after the last day the member was employed by a covered employer in the system.

Id. § 9-1-1540(B)(2) (emphasis added). Consequently, if a member is approved for Social Security disability benefits, but the date of disability established by the Social Security Administration falls more than one year after the last day the member was employed by a covered employer in the System, the member's disability is not considered connected to the period of the member's covered employment and the member is not eligible for disability retirement benefits from SCRS based upon that disability. Id.

In the case at hand, the record plainly demonstrates that Petitioner is not eligible to receive disability retirement benefits under SCRS. Petitioner terminated from all covered employment under SCRS when he resigned from employment with the Department of Revenue on October 1, 2015. However, when the Social Security Administration approved his claim for Social Security disability benefits, it found that Petitioner did not become disabled until October 6, 2016, over a year after his termination from covered employment. Accordingly, under the plain terms of Section 9-1-1540(B)(2) of the Code of Laws, Petitioner is not eligible for disability retirement benefits from SCRS based upon his receipt of those Social Security disability benefits. Put simply, the undisputed facts in this matter demonstrate that the date of disability established by the Social Security Administration falls more than one year after the last day Petitioner was employed by a covered employer in the System and, thus, Petitioner is not

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eligible for disability retirement benefits under the System. See S.C. Code Ann. § 9-1-1540(B)(2) (Supp. 2017)

However, in this matter, Petitioner does not contest the fact that the date of disability established by the Social Security Administration falls more than one year after the last day Petitioner was employed by a covered employer in the System. Rather, Petitioner contends that because the date of disability established by the Social Security Administration happened to fall only slightly more than one year after the last day Petitioner was employed by a covered employer in the System, he should be found eligible to receive disability retirement benefits. Unfortunately, this argument does not raise issues of fact that would affect the conclusion that, as a matter of law, Petitioner is not eligible for disability retirement benefits under the System. While PEBA is sympathetic to Petitioner's circumstances, including the fact that the onset date determined by the Social Security Administration for his disability fell only a few days past the statutory limit, neither PEBA nor this Court has the authority to waive or ignore that statutory requirement. cf. Anderson v. S.C. Budget & Control Bd., S.C. Ret. Sys., Docket No. 06-ALJ-30-0008-CC, slip op. at 14 (S.C. Admin. Law Ct. Aug. 21, 2006) (en banc) (recognizing that the Administrative Law Court could not "invade the province of the South Carolina Legislature by expanding the terms of [Section 9-1-1540] beyond its plain meaning" to allow members who are no longer "in service" with a participating employer to apply for disability retirement benefits); See generally S.C. Tax Comm'n v. S.C. Tax Bd. of Rev., 278 S.C. 556, 560, 299 S.E.2d 489, 491-92 (1983) (holding that an administrative agency "may not validly act in excess of its powers, nor has it any discretion as to the recognition of or obedience to a statute," but rather the agency "must obey a law found upon the statute books") (quoting 2 Am. Jur. 2d Administrative Law § 188 (1962)).

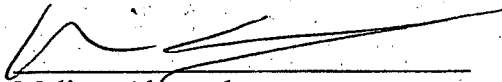
In sum, because the undisputed facts in this case clearly establish that the date of disability established by the Social Security Administration falls more than one year after the last day Petitioner was employed by a covered employer in the System, it is further clear that, as a matter of law, Petitioner is not eligible for disability retirement benefits under the System. Consequently, summary judgment should be granted in favor of PEBA in this case.

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CONCLUSION

For the reasons set forth above, Respondent South Carolina Public Employee Benefit Authority hereby requests that the Court issue an order granting summary judgment in its favor in the above-captioned case.

Respectfully Submitted,



Melissa Alexander
Assistant General Counsel
Justin R. Werner
Deputy General Counsel
South Carolina Public Employee Benefit Authority
202 Arbor Lake Drive
Columbia, South Carolina 29223
Telephone: (803) 737-6830
E-mail: malexander@peba.sc.gov

April 9, 2018

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**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**


Elvis G. Groce,)
)
) Petitioner,)
)
) v.)
)
) South Carolina Public Employee Benefit)
) Authority, South Carolina Retirement)
) Systems,)
)
) Respondent.)
)

AFFIDAVIT

DOCKET NO. 18-ALJ-30-0064-CC

PERSONALLY appeared before me, Tammy B. Nichols, who first being duly sworn, states:

1. I, Tammy B. Nichols, am the Director of Retirement Systems Finance of the South Carolina Public Employee Benefit Authority ("PEBA"), the agency responsible for the administration of the South Carolina Retirement System.
2. As Director of Retirement Systems Finance, I am familiar with the regular practices by which PEBA maintains records of its activities, including records related to the participation of members in the South Carolina Retirement System.
3. I hereby certify that the attached documents in Exhibits 1 through 7 are true and accurate copies of records contained in the South Carolina Retirement System's file for Petitioner Elvis G. Groce, with certain personal data identifiers redacted for identity protection purposes.



Tammy B. Nichols
Director of Retirement Systems Finance
South Carolina Public Employee Benefit Authority

Sworn to and subscribed before me this
9th day of April 2018.



Notary Public for the State of South Carolina

My commission expires: 11/24/2021

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FOR DATES OF RETIREMENT OF JANUARY 1, 2014, OR AFTER

Form 6151S
Revised 2/7/2014
Page 1

SCRS DISABILITY RETIREMENT APPLICATION
SC Public Employee Benefit Authority
South Carolina Retirement Systems
P.O. Box 11960, Columbia, SC 29211-1960

OFFICE USE ONLY

- SCRS**
- Correlated _____
- Date first eligible for disability retirement _____
- Service application on file _____

"Disability applications are due by date terminated, but must be received by the Retirement Systems no later than 90 days after termination." If you are unable to complete this application, a designee (employer, legal counsel, power of attorney) may complete the application on your behalf, but may not complete method of payment or beneficiary information. Please see the reverse side for information about retirement effective dates.

Section I (Attach Your Birth Certificate) PERSONAL INFORMATION TYPE OR PRINT IN BLUE INK

LAST NAME & SUFFIX (Jr., Sr., etc.) GROCE		FIRST/MIDDLE NAME ELVIS G		SOCIAL SECURITY NUMBER [REDACTED]	
Address 108 KINGSTON FOREST DRIVE				Date of Birth (proof required) [REDACTED]	Sex <input checked="" type="checkbox"/> M <input type="checkbox"/> F
City IRMO	State SC	ZIP+4 29063	Home Phone 803-556-3020	Work Phone	

Section II SCRS RETIREMENT PLAN ELECTION AND BENEFICIARY DESIGNATION

YOUR PAYMENT PLAN MAY NOT BE CHANGED ONCE BENEFITS HAVE BEGUN AFTER RETIREMENT, except as noted on the reverse side. If designating more than three beneficiaries, complete and attach an additional Form 6151S. For all plans, attach a copy of your birth certificate and your current driver's license or special identification card issued by your state Department of Transportation or Public Safety. For any joint retiree-survivor plan, attach your beneficiary's birth certificate.

- OPTION A (Maximum-Retiree Only)** **OPTION B (100% - 100% Joint Retiree-Survivor)** **OPTION C (100% - 50% Joint Retiree-Survivor)**
- Check here if payments are to be paid through a trust and attach a completed Form 1113, Certification of Trust.

Payments are made by direct deposit. Please complete Form 7204 (Direct Deposit Authorization).

1. Name of Beneficiary Shirley Groce	Social Security #/Federal ID# [REDACTED]	Sex <input type="checkbox"/> M <input checked="" type="checkbox"/> F	Date of Birth [REDACTED]	Relationship (Check one) <input checked="" type="checkbox"/> Spouse <input type="checkbox"/> Daughter <input type="checkbox"/> Son <input type="checkbox"/> Other
2. Name of Beneficiary	Social Security #	Sex <input type="checkbox"/> M <input type="checkbox"/> F	Date of Birth	Relationship (Check one) <input type="checkbox"/> Spouse <input type="checkbox"/> Daughter <input type="checkbox"/> Son <input type="checkbox"/> Other
3. Name of Beneficiary	Social Security #	Sex <input type="checkbox"/> M <input type="checkbox"/> F	Date of Birth	Relationship (Check one) <input type="checkbox"/> Spouse <input type="checkbox"/> Daughter <input type="checkbox"/> Son <input type="checkbox"/> Other

Section III INCIDENTAL DEATH BENEFIT
 CHECK IF SAME BENEFICIARY(IES) AS IN SECTION II

1. Name of Beneficiary	Social Security #/Federal ID#	Sex <input type="checkbox"/> M <input type="checkbox"/> F	Date of Birth	Relationship (Check one) <input type="checkbox"/> Spouse <input type="checkbox"/> Daughter <input type="checkbox"/> Son <input type="checkbox"/> Other
2. Name of Beneficiary	Social Security #	Sex <input type="checkbox"/> M <input type="checkbox"/> F	Date of Birth	Relationship (Check one) <input type="checkbox"/> Spouse <input type="checkbox"/> Daughter <input type="checkbox"/> Son <input type="checkbox"/> Other
3. Name of Beneficiary	Social Security #	Sex <input type="checkbox"/> M <input type="checkbox"/> F	Date of Birth	Relationship (Check one) <input type="checkbox"/> Spouse <input type="checkbox"/> Daughter <input type="checkbox"/> Son <input type="checkbox"/> Other

Section IV EMPLOYMENT INFORMATION

Current/Former Employer(s) S.C. Department of Revenue	Your Position Title Training Coordinator
<input checked="" type="checkbox"/> Currently on employer's payroll in a paid capacity.	<input type="checkbox"/> If disability is the result of a job-related injury, check this box and attach employer's first report of injury form. <input type="checkbox"/> If receiving workers' compensation benefits check here.
<input type="checkbox"/> Currently on employer's payroll in an unpaid capacity. My unpaid leave of absence began: _____	
<input type="checkbox"/> Last day on payroll was: _____	

Section V SIGNATURE STATEMENT

Please read the Authorization section of the instructions on the reverse (Page 2) before signing this form IN BLUE INK.

I hereby certify I have read and understand the information on the reverse side (Page 2), including the authorization, and I agree to the terms stated. My signature indicates that I understand it is my responsibility to contact my employer or health insurance provider regarding my eligibility for retiree health insurance, if applicable.

MEMBER'S SIGNATURE Elvis G. Groce **DATE** 04/21/15

(Certified copy of legal authorization required with signature other than applicant's)

WITNESS _____ **DATE** _____

(Required only when signed by mark)

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS AND DOES NOT CREATE A CONTRACT BETWEEN THE MEMBER AND THE SOUTH CAROLINA RETIREMENT SYSTEMS. THE SOUTH CAROLINA RETIREMENT SYSTEMS RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT.

Please contact Customer Services with any questions: (803)737-6800, (800)868-9002 (within SC only), or www.retiree

EXHIBIT

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(24)

South Carolina Retirement Systems

THIS DOCUMENT CONTAINS IMPORTANT INFORMATION ABOUT YOUR BENEFITS. DO NOT DISCARD.

NOTICE OF APPLICATION STATUS: HELD

ELVIS G GROCE
108 KINGSTON FOREST DRIVE
IRMO SC 29063

SSN: XXX-XX-
Appl ID: XXXXX
System: SCRS
Type: Disability
Date: April 22, 2015

We have received your application for disability retirement benefits as a member of the South Carolina Retirement System. If you have at least five years of earned service or your disability is work-related, you are considered disabled if you qualify for the payment of Social Security disability benefits. The date of disability established by the Social Security Administration must be within one year of your last day of employment covered by the South Carolina Retirement System. You must therefore provide our office with written certification of your date of entitlement for Social Security disability benefits. Your date of retirement will be your date of entitlement for Social Security disability benefits, or the day after your last day of employment covered by the South Carolina Retirement System, whichever is later.

Please note that we are unable to complete processing your disability application at this time. On the enclosed checklist, we have indicated the reason(s) why and specified the appropriate action you should take.

We have also enclosed a turnaround and verification document that reproduces the information you provided on your retirement application. On the turnaround document, we have highlighted the section(s) (if any) you must complete. If we have highlighted any section(s) of the turnaround document, please complete the section(s), sign the turnaround document, and return it to South Carolina Retirement Systems without delay using the enclosed envelope. If we have highlighted any section(s) of the turnaround document, we will not be able to process your retirement application until you return the turnaround document to our office.

In addition, please carefully read the remaining information on the turnaround document. If any of the information on the document is incorrect, please make the necessary corrections on the turnaround document when you return it to our office.

If you have any questions or would like any further assistance, please call Customer Services at 800-868-9002 (within S.C. only) or 803-737-6800.

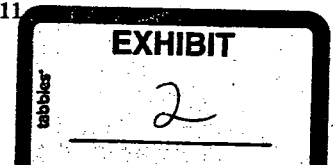
Enclosures

SC Public Employee Benefit Authority • South Carolina Retirement Systems

202 Arbor Lake Drive • Post Office Box 11960 • Columbia, South Carolina 29211

803-737-6800 • 800-868-9002 (within S.C. only)

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Information About Representative's Fees

We have approved the fee agreement between you and your representative

Your past-due benefits are \$4,836 00 for April 2017 through June 2017 Under the fee agreement, the representative cannot charge you more than \$1,209 00 for his or her work The amount of the fee does not include any out-of-pocket expenses (for example, costs to get copies of doctors' or hospitals' reports) This is a matter between you and the representative

How To Ask Us To Review The Determination On The Fee Amount

You, the representative or the person who decided your case can ask us to review the amount of the fee we say the representative can charge

If you think the amount of the fee is too high, write us within 15 days from the day you get this letter Tell us that you disagree with the amount of the fee and give your reasons Send your request to this address

Social Security Administration
Office of Disability Adjudication and Review
Attorney Fee Branch
5107 Leesburg Pike
Falls Church, Virginia 22041-3255

The representative also has 15 days to write us if he or she thinks the amount of the fee is too low

If we do not hear from you or the representative, we will assume you both agree with the amount of the fee shown

Information About Past-Due Benefits Withheld To Pay A Representative

Based on the law, we must withhold part of past-due benefits to pay an appointed representative We cannot withhold more than 25 percent of past-due benefits to pay an authorized fee We withheld \$1,209 00 from your past-due benefits to pay the representative

We are paying the representative from the benefits we withheld Therefore, we must collect a service charge from him or her The service charge is 6 3 percent of the fee amount we pay, but not more than \$91, which is the most we can collect in each case under the law We will subtract the service charge from the amount payable to the representative.

The representative cannot ask you to pay for the service charge If the representative disagrees with the amount of the service charge, he or she must write to the address shown at the top of this letter. The representative must tell us why he or she disagrees within 15 days from the day he or she gets this letter

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Other Social Security Benefits

This benefit is the only benefit you can receive from us at this time. In the future, if you think you might qualify for another benefit from us, you will need to apply again.

Your Responsibilities

We based our decision on information you gave us. If this information changes, it could affect your benefits. For this reason, it is important that you report changes to us right away.

We have enclosed a pamphlet, "What You Need To Know When You Get Social Security Disability Benefits." It tells you what you must report and how to report. Please be sure to read the parts of the pamphlet that tell you what to do if you go to work or your health improves.

A vocational rehabilitation or employment services provider may contact you to help you in going to work. The provider may be from a State agency or work under contract with Social Security.

If you go to work, we have special rules that let us continue your cash payments and health care coverage. To learn more about how work and earnings affect disability benefits, visit our website at www.socialsecurity.gov/work/. You may also call or visit any Social Security office to ask for the following publications:

- Social Security - Working While Disabled . How We Can Help (SSA Publication No. 05-10095)
- Social Security - If You Are Blind-How We Can Help (SSA Publication No. 05-10052)

Your Benefits May Be Taxed

You may have to pay taxes on the benefits you get from us. Part of your Social Security benefits may be taxed if:

- you are single and your total income is more than \$25,000 or
- you are married and you and your spouse have total income of more than \$32,000

You can decide if you want to have federal taxes withheld from your benefits. If you want taxes withheld, you need to complete and return a Form W-4V, Voluntary Withholding Request. You can get Form W-4V from the Internal Revenue Service by calling 1-800-829-3676. You can also get this form at www.socialsecurity.gov/planners/taxes.htm on our website. After you complete and sign the form, return it to your local Social Security office by mail or in person.

You can find more information on paying taxes in the enclosed pamphlet, "What You Need To Know When You Get Social Security Disability Benefits"

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Other Information

We are sending a copy of this notice to JOHN BAGNAL DUGGAN

Do You Disagree With The Decision?

If you do not agree with this decision, you have the right to appeal. We will review your case and look at any new facts you have. A person who did not make the first decision will decide your case. We will review the parts of the decision that you think are wrong and correct any mistakes. We may also review the parts of our decision that you think are right. We will make a decision that may or may not be in your favor.

- You have 60 days to ask for an appeal.
- The 60 days start the day after you receive this letter. We assume you received this letter 5 days after the date on it unless you show us that you did not receive it within the 5-day period.
- You must have a good reason if you wait more than 60 days to ask for an appeal.
- You can file an appeal with any Social Security office. You must ask for an appeal in writing. Please use our "Request for Reconsideration" form, SSA-561-U2. You may go to our website at www.socialsecurity.gov/online/ to find the form. You can also call, write, or visit us to request the form. If you need help to fill out the form, we can help you by phone or in person.

Things To Remember For The Future

Doctors and other trained staff decided that you are disabled under our rules. However, we must review all disability cases. Therefore, we will review your case in 5 to 7 years. We will send you a letter before we start the review. Based on that review, your benefits will continue if you are still disabled, but will end if you are no longer disabled.

Suspect Social Security Fraud?

Please visit <http://oig.ssa.gov/r> or call the Inspector General's Fraud Hotline at 1-800-269-0271 (TTY 1-866-501-2101)

If You Have Questions

We invite you to visit our website at www.socialsecurity.gov on the Internet to find general information about Social Security. If you have any specific questions, you may call us toll-free at 1-800-772-1213, or call your local Social Security office at 1-877-326-0105. We can answer most questions over the phone. If you are deaf or hard of hearing, you may call our TTY number, 1-800-325-0778. You can also write or visit any Social Security office. The office that serves your area is located at.

SOCIAL SECURITY
319 PELHAM RD
GREENVILLE SC 29615

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If you do call or visit an office, please have this letter with you. It will help us answer your questions. Also, if you plan to visit an office, you may call ahead to make an appointment. This will help us serve you more quickly when you arrive at the office.

Nancy A Berryhill
Acting Commissioner

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PAYMENT SUMMARY

Your Payment Of \$3,627.00

Here is how we figured your first payment.

Benefits due for April 2017 through June 2017, less monthly rounding of benefits \$ 4,836.00

Amount we subtracted because of

- money to pay your representative 1,209 00

This equals the amount of your first payment \$ 3,627.00

Your Regular Monthly Payment

Here is how we figured your regular monthly payment effective July 2017

You are entitled to a monthly benefit of \$ 1,612.30

Amount we subtracted because of

- rounding (we must round down to a whole dollar)30

This equals the amount of your regular monthly payment \$ 1,612.00

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Form 6253
Revised 7/9/2012
Print or type in black ink

EMPLOYER'S DISABILITY EMPLOYMENT STATUS REPORT

To Be Completed by Applicant's Payroll/Benefits Officer
SC Public Employee Benefit Authority
South Carolina Retirement Systems
Attention: Customer Services Annuity Claims
PO Box 11960, Columbia, SC 29211-1960

SCRS
 PORS
 GARS

The individual indicated below has applied for disability retirement benefits. Please complete the information on the remainder of this form, and return it to the address listed above as soon as possible. Upon receipt of this completed form, the employee's application will be processed.

Employee Name Elvis G. Groce	Social Security Number [REDACTED]
Employer SCDOR	Employer Code 502

Position Title
Instructor/Training Coord II

1 Is the position title shown above correct? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (please explain) Employee is no longer w/ SCDOR	2 Annual salary on date of disability. \$ 37213
---	---

3a Is the employee currently working? <input checked="" type="checkbox"/> No (last day physically worked) 10/01/2015 (skip to Question 4a) <input type="checkbox"/> Yes (proceed to Question 3b) MM-DD-YYYY	3b Is the employee performing all regular duties? <input type="checkbox"/> Yes (skip to Question 6a) <input type="checkbox"/> No (proceed to Question 3c)
---	---

3c In what capacity is the employee currently working? <input type="checkbox"/> Light duty* <input type="checkbox"/> Diminished capacity* <input type="checkbox"/> Reduced hours <input type="checkbox"/> Other (please explain) _____ <input type="checkbox"/> Leave without pay (not terminated) (attach copy of Personnel Policy)	3d Date member was placed in status shown at left _____ MM DD-YYYY
*Attach letter explaining current duties in relation to normal work functions	

4b Last day compensation was earned (including pay continuation, using annual and sick leave) 10/01/2015 MM DD-YYYY	4c Amount of lump-sum payments for unused leave Annual leave \$ 1230.09 Sick leave \$ 0.00	4d Number of days of unused leave (complete and proceed to Question 6a) Annual leave 8.5 Sick leave 15
--	--	--

5 Employee's current payroll status (check one and indicate appropriate date)

On annual leave (date leave began) _____

On sick leave (date leave began) _____

On leave without pay (date leave began) _____

Applied for leave under sick leave bank (date leave begins) _____

Other (please explain) **Employee resigned end of day 10/01/2015**

6a Was this employee injured on the job? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes (date of injury) _____ MM-DD-YYYY	6b Is employee on leave without pay (not terminated) pending settlement of a Workers' Compensation claim? <input checked="" type="checkbox"/> No <input type="checkbox"/> Claim settled (date) _____ <input type="checkbox"/> Yes MM-DD-YYYY
--	---

I hereby certify that to the best of my knowledge, the information above correctly reflects the records of the employing entity.

Prepared by Wendy A. Bonnette Title Benefits Manager

Signature *Wendy A. Bonnette* Date 07/24/2017 Telephone 803-698-5452

Return completed form to the SC Retirement Systems (address above)
Please call SC Retirement Systems Customer Service with any questions (800) 868-9002 (in state) or (803) 737-6800

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EXHIBIT
tabbies
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SOUTH CAROLINA RETIREMENT SYSTEMS
FINAL PAYROLL CERTIFICATION

ELVIS G GROCE SCRS
Emp. Code: 502.00 DEPT OF REVENUE & TAXATION

DOR: 10-06-2016
Confirmation Code: 09342D2E499E84D425

Dates
Last day earned: 10-01-2015
Date of termination: 10-01-2015
Date of final paycheck: 10-16-2015

Final Payroll
Contracted/Budgeted days: 260
Contract days completed: 0.00
Budgeted Annual Salary: \$37,213.00
Hourly rate of pay: \$0.00
Hours in a shift: 0.00
Paychecks per year: 24
Position Title: Instructor/Trng Coord II
This member was an hourly employee: No

Annual & Sick Leave
Annual Leave days paid: 8.99
Annual Leave payment: \$1,230.09
Contribution amount: \$100.38
Check Date: 10-16-2015
Unused sick leave days: 15.56

Quarterly Data
Next to Last Quarter: 07-01-2015 thru 09-30-2015

Active Period Compensation: \$0.00
Annual Leave Payment:
Total Active Compensation: \$0.00
Active Period Contributions: \$0.00
Annual Leave Contributions:
Total Active Contributions: \$0.00
Contract Length: 0
Months Paid: 0
Furlough reported separately for this quarter: No

Last Quarter: 10-01-2015 thru 12-31-2015

Active Period Compensation: \$3,101.08
Annual Leave Payment: \$1,230.09
Total Active Compensation: \$4,331.17
Active Period Contributions: \$253.04
Annual Leave Contribution: \$100.38
Total Active Contributions: \$353.42
Contract Length:
Months Paid:
Furlough reported separately for this quarter: No

Payroll Verification

FY 2016
Budgeted Salary Date Effective
\$37,213.00 07-01-2015
C/B Days Date
Days Complete Effective
Add. Pay Desc. Amount
No additional pay reported.
No overtime pay reported.

FY 2015
Budgeted Salary Date Effective
\$37,213.00 07-01-2014
C/B Days Date
Days Complete Effective
Add. Pay Desc. Amount
No additional pay reported.
No overtime pay reported.

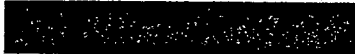
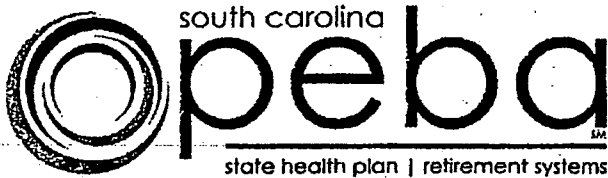
FY 2014
Budgeted Salary Date Effective
\$31,182.00 07-01-2013
\$37,213.00 06-02-2014
C/B Days Date
Days Complete Effective
Add. Pay Desc. Amount
No additional pay reported.
No overtime pay reported.

FY 2013
Budgeted Salary Date Effective
\$31,182.00 07-01-2012
C/B Date
Days Complete Effective
Add. Pay Desc. Amount
No additional pay reported.
No overtime pay reported.

Budgeted Salary Date Effective
C/B Days Date
Days Complete Effective
Add. Pay Desc. Amount

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EXHIBIT
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Serving those who serve South Carolina

August 8, 2017

Mr. Elvis G. Groce
220 Yorkswell Lane
Greenville, SC 29607-4964

Dear Mr. Groce:

You recently provided our office with a notice of award from the Social Security Administration indicating that you are entitled to Social Security disability benefits. Although you are entitled to Social Security disability benefits, we have determined that you are not eligible to receive monthly benefits from the South Carolina Retirement System. The date on which you became disabled, as established by the Social Security Administration, is more than one year after your last day of employment covered by the South Carolina Retirement System.

Subsection 9-1-1540(B)(2) of the South Carolina Code of Laws provides that the date of disability established by the Social Security Administration must be within one year of the last day that the member was employed by an employer covered by the South Carolina Retirement System. Your notice of award from the Social Security Administration states, "We found that you became disabled under our rules on October 6, 2016." Your most recent employer, the South Carolina Department of Revenue, has indicated that your last day of employment was October 1, 2015. Because the date on which you became disabled (October 6, 2016) is more than one year after your last day of employment (October 1, 2015), you are not eligible for South Carolina Retirement System disability benefits. *The disability retirement statute does not provide for any exceptions to the one-year limit regarding a member's date of disability.* We are therefore unable to continue processing your application for disability retirement benefits.

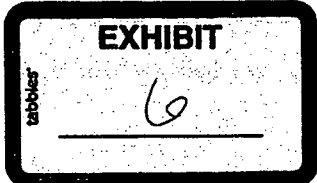
I deeply regret having to inform you of this determination, but I hope that you will understand why we must honor the requirements of the disability retirement statute. If you disagree with this determination, the South Carolina Retirement Systems Claims Procedures Act provides that you may appeal the determination within one year by writing to Peggy G. Boykin, Executive Director of the South Carolina Public Employee Benefit Authority, at the address shown below.

Sincerely,

Chris Pastelak

Chris Pastelak
Refunds and Annuities Manager

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Executive Director Peggy G. Boykin, CPA
803.737.6800 | 888.260.9430 | www.peba.sc.gov
202 Arbor Lake Dr., Columbia, SC 29223



FINAL AGENCY DETERMINATION

NO. 18-002

In Re Elvis G Groce SSN XXX-XX-XXXX

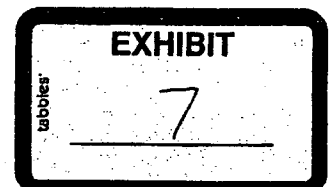
This Final Agency Determination is issued in accordance with the South Carolina Retirement Systems Claims Procedures Act set out at S C Code Ann §§ 9-21-10 et seq (Supp 2017) and the South Carolina Retirement Systems Claims Procedure (2005) In this matter, Elvis G Groce ("Claimant") requests that the South Carolina Public Employee Benefit Authority ("PEBA") reconsider its decision that he is not eligible to receive disability retirement benefits from the South Carolina Retirement System

BACKGROUND

Claimant Elvis Groce is an inactive member of the South Carolina Retirement System ("SCRS" or "System") who has approximately nine years of service in the System During his active membership in SCRS, Claimant was most recently employed as a training coordinator with the South Carolina Department of Revenue On April 22, 2015, Claimant submitted an application for SCRS disability retirement benefits to PEBA By a letter to Claimant dated that same day, PEBA acknowledged receipt of the application and informed Claimant that, among other things, in order to be approved for disability retirement benefits from SCRS, not only must he be approved for disability benefits from the Social Security Administration but also "[t]he date of disability established by the Social Security Administration must be within one year of your last day of employment covered by the South Carolina Retirement System" Claimant subsequently terminated from covered employment with the Department of Revenue on October 1, 2015

Approximately a year and a half later, Claimant visited PEBA on July 24, 2017, to submit a Notice of Award letter reflecting his approval for the receipt of disability benefits from the Social Security Administration In the Notice of Award letter, the Social Security Administration informed Claimant that "[w]e found that you became disabled under our rules on October 6, 2016" and that "[t]he date we found you disabled is different from the date you gave us on the application." In response to the receipt of the Notice of Award letter, PEBA obtained confirmation

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of Claimant's termination of covered employment with the Department of Revenue in an Employer's Disability Employment Status Report and a Final Payroll Certification. On both of those forms, the Department certified that Claimant had terminated from covered employment on October 1, 2015. In particular, the Department reported on the forms that Claimant had resigned from employment on October 1, 2015, with over eight days of unused annual leave and over fifteen days of unused sick leave. Based upon that employer certification, PEBA wrote to Claimant on August 8, 2017, to inform him that his application for SCRS disability retirement benefits could not be approved because the date on which he became disabled, as established by the Social Security Administration, was more than one year after the last day he was employed by a covered employer in SCRS. By a letter received September 18, 2017, Claimant wrote to PEBA's Executive Director to seek review of the denial of his application for disability retirement benefits. This Final Agency Determination is issued in response to that request for review.

DISCUSSION

In this matter, Claimant requests that PEBA approve his application for disability retirement benefits from SCRS, even though the date of disability established for his receipt of Social Security disability benefits was more than one year after the date he had terminated from all covered employment under the System. In particular, he notes that he had to refile his application for Social Security disability benefits after his initial claim was denied and that the date of disability established for his disability benefits from the Social Security Administration fell only a year and five days after his termination from covered employment. However, for the reasons set forth below, I find that PEBA properly determined that Claimant is not eligible to receive disability retirement benefits from SCRS.

The procedural and substantive requirements for the issuance of disability retirement benefits to members of the South Carolina Retirement System who apply for benefits after December 31, 2013, are found in Section 9-1-1540(B) of the Code of Laws. See S.C. Code Ann. § 9-1-1540(B) (Supp. 2016). This section provides that a member of SCRS who has timely applied for disability retirement benefits

is considered disabled if the member qualifies for the payment of Social Security disability benefits and is eligible for benefits pursuant to this section upon proof of the disability, provided that the date of disability established by the Social Security Administration falls within one year after the last day the member was employed by a covered employer in the system.

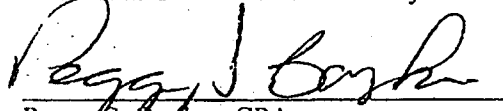
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Id. § 9-1-1540(B)(2) (emphasis added) Consequently, if a member is approved for Social Security disability benefits, but the date of disability established by the Social Security Administration falls more than one year after the last day the member was employed by a covered employer in the System, the member's disability is not considered connected to the period of the member's covered employment and the member is not eligible for disability retirement benefits from SCRS based upon that disability Id.

In the instant matter, Claimant terminated from all covered employment under SCRS when he resigned from employment with the Department of Revenue on October 1, 2015. However, when the Social Security Administration approved his claim for Social Security disability benefits, it found that Claimant did not become disabled until October 6, 2016, over a year after his termination from covered employment. Accordingly, under the plain terms of Section 9-1-1540(B)(2) of the Code of Laws, Claimant is not eligible for disability retirement benefits from SCRS based upon his receipt of those Social Security disability benefits. And, while PEBA is sympathetic to Claimant's circumstances, including the fact that the onset date determined by the Social Security Administration for his disability fell only a few days past the statutory limit, it has no authority to waive or ignore that statutory requirement. See generally S.C. Tax Comm'n v. S.C. Tax Bd. of Rev., 278 S.C. 556, 560, 299 S.E.2d 489, 491-92 (1983) (holding that an administrative agency "may not validly act in excess of its powers, nor has it any discretion as to the recognition of or obedience to a statute," but rather the agency "must obey a law found upon the statute books") (quoting 2 Am. Jur. 2d Administrative Law § 188 (1962)).

CONCLUSION

I therefore, for the foregoing reasons, I affirm the determination that Claimant is not eligible to receive disability retirement benefits under the South Carolina Retirement System.


Peggy G. Boykin, CPA
Executive Director

1/29, 2018
Columbia, South Carolina

(37)

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Elvis G. Groce,

Petitioner,

vs.

South Carolina Public Employee Benefit
Authority, South Carolina Retirement Systems,

Respondent.

Docket No. 18-ALJ-30-0064-CC

ORDER GRANTING
RESPONDENT'S MOTION
FOR SUMMARY JUDGMENT

Appearances: For Petitioner: Elvis G. Groce, *Pro se*
For Respondent: Melissa Alexander, Esquire

STATEMENT OF THE CASE

This contested case arises from the January 29, 2018 decision of the South Carolina Public Employee Benefit Authority, South Carolina Retirement Systems (Department) that Petitioner is not eligible to receive disability retirement benefits under the South Carolina Retirement System (SRCS). The Department's Decision was issued pursuant to S.C. Code Ann. § 9-1-1540(B)(2).

PROCEDURAL HISTORY

Respondent has moved for summary judgment on the ground that there is no genuine issue of material fact to dispute its decision denying disability retirement benefits. This Court did not receive any response to the motion. After reviewing the motion, memoranda, exhibits, statutory and case law, I conclude, as a matter of law, that Respondent's motion for summary judgment should be granted.

SUMMARY JUDGMENT STANDARD OF REVIEW

Under Administrative Law Court (ALC or Court) Rule 68, this Court may apply the South Carolina Rules of Civil Procedure in contested case proceedings where no ALC rule applies and when practicable. Therefore, Rule 56(c), SCRPC, applies in determining whether summary judgment is proper in this case. Summary judgment is proper when there is no issue as to any material fact and the moving party is entitled to a judgment as a matter of law. Quality Towing, Inc. v. City of Myrtle Beach, 340 S.C. 29, 530 S.E.2d 369 (2000); Rule 56(c), SCRPC. Summary judgment should not be granted, even when there is no dispute as to evidentiary facts, if there is disagreement concerning the conclusions or inferences to be drawn from those facts: Moriarty v. Garden Sanctuary Church of God, 341 S.C. 320, 534 S.E.2d 672 (2000); Fleming v. Rose, 338 S.C. 524, 236 S.E.2d 732 (2000). To determine whether any triable issues of fact exist, the reviewing

FILED

April 17, 2018

SC ADMIN. LAW COURT

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court must consider the evidence and all reasonable ambiguities and inferences in the light most favorable to the non-moving party. Ferguson v. Charleston Lincoln Mercury, Inc., 349 S.C. 558, 563, 564 S.E.2d 94, 96 (2002). However, when plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted. Trico Surveying, Inc. v. Godley Auction Co., 314 S.C. 542, 431 S.E.2d 565 (1993).

“The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder.” George v. Fabri, 345 S.C. 440, 452, 548 S.E.2d 868, 874 (2001). “A court considering summary judgment neither makes factual determinations nor considers the merits of competing testimony; however, summary judgment is completely appropriate when a properly supported motion sets forth facts that remain undisputed or are contested in a deficient manner.” David v. McLeod Reg'l Med. Ctr., 367 S.C. 242, 250, 626 S.E.2d 1, 5 (2006). A party may not rest upon the mere allegations or denials of his pleadings. Rule 56(e) SCRPC. A party opposing summary judgment must come forward with affidavits or other supporting documents demonstrating the existence of a genuine issue for trial. Doe v. Batson, 345 S.C. 316, 321, 548 S.E.2d 854, 856 (2001). One may not create a genuine issue of material fact and, thus, avoid summary judgment by asserting that the trier of fact may disbelieve uncontradicted evidence. Hoard ex rel. Hoard v. Roper Hosp., Inc., 387 S.C. 539, 694 S.E.2d 1 (S.C. 2010).

DISCUSSION

Respondent asserts that the following facts are undisputed and entitle the Department to a summary judgment ruling that the date of disability established for Petitioner's receipt of Social Security disability benefits was more than one year after the date he had terminated from all covered employment under the SCRS, and, thus, he is not eligible to receive disability retirement benefits from SCRS:

1. Petitioner was recently employed as a training coordinator with the South Carolina Department of Revenue (DOR). On April 22, 2015, Petitioner submitted an application for SCRS disability retirement benefits to the Department.
2. On April 22, 2015, the Department sent a letter to Petitioner acknowledging receipt of the application and advising Petitioner that to be approved for disability retirement benefits from SCRS, he must be approved for disability benefits from the Social Security Administration (SSA), and the date of disability established by SSA must be within one year of his last day of employment covered by the SCRS.
3. Petitioner terminated from covered employment with the DOR on October 1, 2015.

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4. On July 24, 2017, Petitioner submitted to the Department a Notice of Award letter reflecting his approval for the receipt of disability benefits from the SSA. In the Notice of Award letter, the SSA advised Petitioner that he became disabled under its rules on October 6, 2016, which was a different date Petitioner provided on the application.

5. The Department obtained confirmation that Petitioner's termination from covered employment with the DOR date is October 1, 2015 in an Employer's Disability Employment Status Report and a Final Payroll Certification.

A party seeking summary judgment has the burden of clearly establishing the absence of a genuine issue of material fact. Once that initial burden of showing an absence of evidentiary support for the opponent's case is met, the opponent cannot simply rest on mere allegations or denials in the pleadings, but must come forward with affidavits or specific factual evidence demonstrating the existence of a disputed fact. Rule 56(e), SCRPC; Mulherin-Howell v. Cobb, 362 S.C. 588, 608 S.E.2d 587 (Ct. App. 2006). Applying those standards, I find the support for the Department's motion to be sufficient. The Memorandum in Support of Respondent's Motion for Summary Judgment set out with particularity the facts it contends are not in dispute and provided seven exhibits documenting those facts. Thus, the burden shifted to Petitioner to produce affidavits or other evidence demonstrating the existence of a disputed fact. Rule 56(e), SCRPC. The Petitioner did not respond to the motion for summary judgment, thus has not met his burden of establishing a disputed fact.

Here, the following relevant facts are undisputed:

1. On April 22, 2015, Petitioner submitted an application for SCRS disability retirement benefits to the Department;
2. Petitioner terminated from covered employment with the DOR on October 1, 2015;
3. In the Notice of Award letter, the SSA advised Petitioner that he became disabled under its rules on October 6, 2016.

Respondent is entitled to summary judgment because the undisputed facts in this matter demonstrate that the date of disability established for Petitioner's receipt of Social Security disability benefits was more than one year after the date he had terminated from all covered employment under the SCRS.

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Accordingly, I find that Respondent's Motion for Summary Judgment should be granted.

ORDER

IT IS THEREFORE ORDERED that Respondent's Motion for Summary Judgment is **GRANTED**.

IT IS ALSO ORDERED that the hearing scheduled for Thursday, April 26, 2018 is cancelled.
AND IT IS SO ORDERED.

Deborah Brooks Durden

Deborah Brooks Durden, Judge
S.C. Administrative Law Court

April 17, 2018
Columbia, South Carolina

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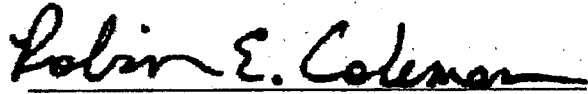
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SEP 17 2018

SC Court of Appeals

CERTIFICATE OF SERVICE

I, Robin E. Coleman, 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).



Robin E. Coleman
Judicial Aide to Deborah Brooks Durden

April 17, 2018
Columbia, South Carolina

FILED

April 17, 2018

SC ADMIN. LAW COURT



E.G.

Deborah Brooks Durden, Judge
S.C. Administrative Law Court

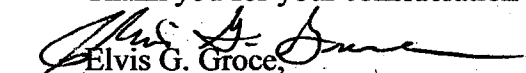
April 20, 2018

Dear Judge Durden,

I would like to request a Notice of Reconsideration of my case, Docket No. 18-ALJ-30-0064-CC for the following reasons:



- I am just a regular citizen trying to appear before you to make a statement concerning my case. Please excuse my ignorance but unlike the Respondent in this case I am not a lawyer and am not familiar with Motions For Summary Judgement. To be totally honest I really don't understand what a lot of this means. I read each and every document that was sent to your office by the Respondent and didn't realize that I was responsible for responding to your office within a certain amount of time to contest their motion. When I submitted my appeal in this case along with a \$50.00 check I thought that it would assure me my day in court to be heard.
- My daughter experienced 2 ruptured brain aneurisms within the last 3 and a half months. She experienced her first ruptured aneurism on January 9th, 2018 and the other on February 16, 2018. I have been at the Greenville Memorial hospital every day since caring for her. She is currently at the Roger C. Peace Rehabilitation Hospital in Greenville, SC and we still have a long road ahead. During this time I really didn't have much time to examine and understand all the SC Administrative Court rules. I understand that was my own fault but as you can see I was dealing with a life and death situation with my daughter. I'm asking that you please reconsider your decision and please allow me to present my case.

Thank you for your consideration in this matter.


Elvis G. Groce,
Petitioner

cc:

South Carolina Public Employee Benefit Authority, South Carolina Retirement Systems

 E. G.


**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Elvis G. Groce,

Petitioner,

vs.

South Carolina Public Employee Benefit
Authority, South Carolina Retirement Systems,

Respondent.

Docket No. 18-ALJ-30-0064-CC

**ORDER DENYING
PETITIONER'S MOTION
FOR RECONSIDERATION**

This matter is before the Administrative Law Court (ALC or Court) pursuant to the motion of Petitioner, Elvis G. Groce, seeking reconsideration of the Court's Order issued on April 17, 2018. In his motion, Groce is seeking to appear before this Court concerning the above-captioned matter. On March 27, 2018, Respondent South Carolina Public Employee Benefit Authority, South Carolina Retirement Systems (SCRS) filed a Notice of Motion and Motion for Summary Judgment, and on April 9, 2018, it filed its Memorandum in Support of Respondent's Motion for Summary Judgment. In Respondent's motion, it moved this Court for Summary Judgment stating there is no genuine issue as to any material fact to be determined at a hearing in this case. In Groce's Motion for Reconsideration, he explained why he was unable to respond to Respondent's motion, however, the facts remain undisputed that the date of disability established for Groce's receipt of Social Security disability benefits was more than one year after the date he had terminated from all covered employment under the SCRS, and, thus, he is not eligible to receive disability retirement benefits from SCRS. This motion does not seek to correct manifest errors of law or fact or to present newly discovered evidence. Therefore,

IT IS HEREBY ORDERED that Petitioner's Motion for Reconsideration is **DENIED**.
AND IT IS SO ORDERED.

Deborah Brooks Durden

Deborah Brooks Durden
Administrative Law Judge

May 9, 2018

Columbia, South Carolina

FILED

May 9, 2018

SC ADMIN. LAW COURT

44 E.G.

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CERTIFICATE OF SERVICE

I, Robin E. Coleman, 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 Interregional Mail Service, or by electronic mail to the address provided by the party(ies) and/or their attorney(s).

Robin E. Coleman

Robin E. Coleman
Judicial Aide to Deborah Brooks Durden

May 9, 2018
Columbia, South Carolina

FILED

May 9, 2018

SC ADMIN. LAW COURT

(45)
(E.G.)