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SC Court of Appeals

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Jack Waylon Kuykendall, #355988,

) Docket No. 19-ALJ-04-0306-AP  
)  
)

) Appellant,  
)

) vs.  
)

) **ORDER OF DISMISSAL**  
)

) South Carolina Department of Corrections,  
)

) Respondent.  
)  
)

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to the Notice of Appeal filed by Appellant (Appellant) above named, who is incarcerated with the South Carolina Department of Corrections (Department or SCDC). Appellant appeals the denial of his Step 2 Grievance, regarding his conviction for violating SCDC Policy OP-22:14, Offense 902, Class II Escape. Appellant was sanctioned with a loss of 100 days of accrued good time credits.

On July 22, 2017, the Department filed a Motion to Dismiss, in which it states that the Appellant has not served it with a copy of the Notice of Appeal and that the appeal should be dismissed for failure to comply with the rules of the Court.

A review of the Court's file shows that Appellant has failed to properly serve his Notice of Appeal that is before the ALC. Attached to Appellant's Notice of Appeal is a Certificate of Service which is blank. According to the South Carolina Supreme Court in Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000), an "inmate must file and serve a notice of appeal upon specified parties within thirty days of receipt of written notice of Department's final decision." Id. at 377, 527 S.E.2d at 754. SCALC Rule 59 further provides that "[t]he notice of appeal from the final decision to be heard by the Administrative Law Court shall be filed with the Court and a copy served on each party, including the agency, within thirty (30) days of receipt of the decision from which the appeal is taken."

Appellant failed to timely provide proof of service that the Notice of Appeal has been served on SCDC. Appellant received a copy of his Step 2 Grievance on May 17, 2019 and had until June 17, 2019 to properly file and serve a copy of his Notice of Appeal. However, as of the

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date of this order, the Court's file contains no record that Appellant has properly done so.

The failure to serve the Notice of Appeal on the Department within the appropriate time frame deprives the Court of its jurisdiction to hear Appellant's appeal. Therefore, for the foregoing reasons the decision appealed from is affirmed and this appeal is hereby **DISMISSED, WITH PREJUDICE.**

August 6, 2019  
Columbia, SC

  
Milton G. Kimpson, Judge  
South Carolina Administrative Law Court.

**CERTIFICATE OF SERVICE**

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

This 6 day of August, 2019

By: A. Shilim  
Judicial Law Clerk