

STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Shirley C. Robinson

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ALC Case No. 17-ALJ-04-0591-IJ  
Appellate Case No. 2018-000035

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**RECEIVED**  
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SC Court of Appeals

ISIAH JAMES, JR.,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

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**FINAL BRIEF OF RESPONDENT**

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**SOUTH CAROLINA DEPARTMENT  
OF CORRECTIONS**

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**TABLE OF CONTENTS**

TABLE OF AUTHORITIES .....ii

STATEMENT OF THE ISSUE ON APPEAL .....1

STATEMENT OF THE CASE ..... 2

STANDARD OF REVIEW .....3

ARGUMENT .....4

CONCLUSION.....5

**TABLE OF AUTHORITIES**

**CASES**

Creech v. S.C. Wildlife & Marine Dep't, 328 S.C. 24, 491 S.E.2d 571 (1997) ..... 4

Hendley v. S.C. Budget & Cntrl, 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996) ... 3

I'On v. Town of Mt. Pleasant, 338 S.C. 406, 526 S.E.2d 716 (2000) ..... 4

State v. Nelson, 331 S.C. 1, 501 S.E.2d 716 (1998) ..... 4

Staubes v. City of Folly Beach, 339 S.C. 406, 529 S.E.2d 543 (2000) ..... 4

**STATUTES AND RULES**

S.C. Code § 1-23-380 ..... 3

S.C. Code § 1-23-610..... 3

**STATEMENT OF ISSUE ON APPEAL**

**NONE OF THE ISSUES RAISED BY APPELLANT ARE PRESERVED FOR APPELLATE REVIEW BECAUSE THE ADMINISTRATIVE LAW COURT DISMISSED THE MATTER ON PROCEDURAL GROUNDS AND DID NOT RULE UPON THE MERITS OF ANY OF APPELLANT'S ISSUES.**

## STATEMENT OF THE CASE

This matter comes before the Court pursuant to the appeal of Isiah James, Jr., a former inmate of the South Carolina Department of Corrections (“SCDC”).<sup>1</sup> Appellant submitted a Step One Grievance on February 21, 2017, arguing that his release date had been improperly calculated. (See R. p. 6). Following the denial of his Step One, Appellant submitted a Step Two Grievance on April 10, 2017, which was denied on May 15, 2017. (See R. p. 7). Appellant submitted an appeal to the Administrative Law Court on November 21, 2017. On December 29, 2017, Administrative Law Judge Shirley C. Robinson issued an Order of Dismissal dismissing the appeal on procedural grounds. (See R. p. 13). Subsequently, on January 12, 2018, Judge Robinson issued a second Order dismissing the appeal on different procedural grounds; specifically, that Appellant was raising issues that were already decided in a previous appeal which resulted in an Order of Remand issued June 15, 2017. (See R. p. 8 & p. 14).

Appellant filed a Notice of Appeal in this Court dated January 7, 2018, along with a Motion to Proceed in Forma Pauperis. The Motion to Proceed in Forma Pauperis was denied on February 2, 2018. The appeal was dismissed on March 27, 2018, after Appellant failed to pay the appropriate filing fee. After his Motion to Reinstate was denied, Appellant filed a Petition for a Writ of Certiorari and Motion to Proceed in Forma Pauperis in the South Carolina Supreme Court. On May 13, 2019, the Supreme Court granted Appellant’s Motion to Proceed in Forma Pauperis and remanded the case to the Court of Appeals. Respondent filed a Motion to Remand to the Administrative Law Court on July 1, 2019. This motion was denied by Order dated August 30, 2019.

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<sup>1</sup> Appellant was released on parole in December of 2017, and his parole was transferred to the state of Georgia, where Appellant is currently residing. However, issues regarding his sentence calculation are arguably not moot because they could affect the end date of his parole and because these concerns would be reactivated if he were to violate the terms of his parole and return to the Department of Corrections.

## STANDARD OF REVIEW

S.C. Code Ann. § 1-23-610(B) provides the applicable standard of review:

The review of the administrative law judge's order must be confined to the record. The reviewing tribunal may affirm the decision or remand the case for further proceedings; or it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code Ann. § 1-23-380(5).

In an appeal of a final decision of an administrative agency, the standard of appellate review is whether the ALC's findings are supported by substantial evidence. S.C. Code Ann. § 1-23-610(B). "Substantial evidence" is evidence which, considering the record as a whole, would allow a reasonable mind to reach the same conclusion that administrative agency reached. Hendley v. S.C. State Budget & Control Bd., 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996). A reviewing court shall not substitute its own judgment for that of the ALC as to findings of fact, but it may reverse or modify decisions that are controlled by errors of law or that are clearly erroneous in view of the substantial evidence on the record as a whole. Id.

## ARGUMENT

**NONE OF THE ISSUES RAISED BY APPELLANT ARE PRESERVED FOR APPELLATE REVIEW BECAUSE THE ADMINISTRATIVE LAW COURT DISMISSED THE MATTER ON PROCEDURAL GROUNDS AND DID NOT RULE UPON THE MERITS OF ANY OF APPELLANT'S ISSUES.**

It is well-settled that an issue cannot be raised for the first time on appeal; instead, it must have been raised to and ruled upon by the lower court to be preserved for appellate review. See, e.g., Creech v. South Carolina Wildlife and Marine Resources Dep't, 328 S.C. 24, 33, 491 S.E.2d 571, 576 (1997). Error preservation requirements are intended “to enable the lower court to rule properly after it has considered all relevant facts, law, and arguments.” On v. Town of Mt. Pleasant, 338 S.C. 406, 422, 526 S.E.2d 716, 724 (2000); see also State v. Nelson, 331 S.C. 1, 5 n. 6, 501 S.E.2d 716, 718 n. 6 (1998) (“[T]he ultimate goal behind preservation of error rules is to insure that an issue raised on appeal has first been addressed to and ruled on by the trial court.”). Without an initial ruling by the lower court, a reviewing court is simply not able to evaluate whether the lower court committed error. Staubes v. City of Folly Beach, 339 S.C. 406, 412, 529 S.E.2d 543, 546 (2000).

In the case at bar, none of the issues being raised by Appellant on appeal were addressed by the Administrative Law Court below. Instead, the Administrative Law Court dismissed the matter on procedural grounds without reaching the merits. Accordingly, Appellant's issues cannot be reviewed on appeal by this Court.

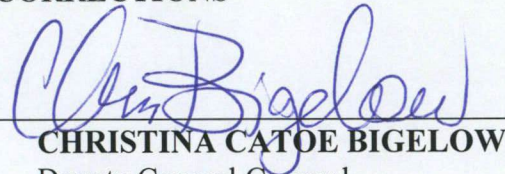
**CONCLUSION**

For the foregoing reasons, this Court cannot rule on the merits of Appellant's case. Therefore, this Court should either affirm on error preservation grounds or remand the matter to the Administrative Law Court so that the lower court can rule upon the merits of Appellant's issues.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT  
OF CORRECTIONS**

BY:



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November 7, 2019

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**CERTIFICATE OF COUNSEL**

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The undersigned hereby certifies that the **Final Brief of Respondent** complies with Rule 211(b), SCACR, and also complies with the South Carolina Supreme Court's April 15, 2014, order entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."



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