

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Marcus Skeeters, #19965,)
)
 Appellant,)
)
 vs.)
)
 South Carolina Department of Probation,)
 Parole and Pardon Services,)
)
 Respondent.)
 _____)

Docket No. 19-ALJ-15-0030-AP

ORDER OF DISMISSAL

RECEIVED
DEC 09 2019
SC Court of Appeals

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to an appeal filed by Marcus Skeeters (Appellant) from a decision of the South Carolina Department of Probation, Parole and Pardon Services (Department) denying him parole.

By letter dated September 8, 2014, the Parole Board notified Appellant that it had denied his request for parole due to the nature and seriousness of the current offense, an indication of violence in this or a previous offense, the use of a deadly weapon in this or a previous offense and a criminal record that indicates poor community adjustment.

Appellant filed a Notice of Appeal on June 25, 2019. The Notice of Assignment was filed and served July 25, 2019. On November 7, 2019, the Department filed a Motion to Dismiss (Motion) the appeal because Appellant failed to timely file his Notice of Appeal. As of the date of this Order, Appellant has not filed a response to the Motion.

The Court's jurisdiction to hear this matter is derived from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000) and *Furtick v. S.C. Dep't of Prob., Parole and Pardon Servs.*, 352 S.C. 594, 576 S.E.2d 146 (2003). Accordingly, the ALC enacted the Special Appeals section of the Rules of Procedure for the ALC (SCALC Rules) to apply to appeals filed pursuant to *Al-Shabazz v. State*. See SCALC Rule 51.

SCALC Rule 59 sets forth 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." In this case, Appellant received the agency's final decision in September 2014 and waited

over four years to file his notice of appeal in June 2019; therefore, Appellant failed to timely file his notice of appeal pursuant to SCALC Rule 59.

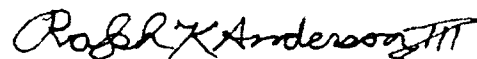
According to SCALC Rule 62, “on its own motion, an Administrative Law Judge may dismiss an appeal . . . for failure to comply with any of the rules of procedure for appeals, including the failure to comply with any of the time limits provided by this section” The South Carolina Supreme Court has also set forth that a court must dismiss an appeal where the appellant fails to file an appeal or serve a party with the notice of appeal in a timely manner. *See Southbridge Props., Inc. v. Jones*, 292 S.C. 198, 355 S.E. 2d 535 (1987) (applying appellate court rules and dismissing case for failure to serve a notice of intent to appeal in a timely manner); *Mears v. Mears*, 287 S.C. 168, 337 S.E. 2d 206 (1985) (applying appellate court rules and finding lack of jurisdiction for failure to serve a notice of intent to appeal in a timely manner).

Additionally, it is well-established that because the requirement of service of the notice of appeal is jurisdictional, an appellate body may not extend the time to appeal. *See Elam v. S.C. Dep’t of Transp.*, 361 S.C. 9, 14-15, 602 S.E.2d 772, 775 (2004) (“The requirement of service of the notice of appeal is jurisdictional, *i.e.*, if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to ‘rescue’ the delinquent party by extending or ignoring the deadline for service of the notice.”); *see also Burnette v. S.C. State Highway Dep’t*, 252 S.C. 568, 167 S.E. 2d 571 (1969) (holding that a court does not have the authority to extend the time for filing an appeal, or for serving notice of appeal, from a decision of an administrative agency).

In this case, Appellant was notified that his request for parole was denied on September 8, 2014. Appellant did not file his Notice of Appeal until June 25, 2019, more than four years after the Parole Board decision. Moreover, Appellant has not responded to the assertion that his appeal was not timely filed. Consequently, Appellant’s appeal is dismissed. For good cause,

IT IS THEREFORE ORDERED that Appellant’s appeal is **DISMISSED WITH PREJUDICE**.

AND IT IS SO ORDERED.



Ralph King Anderson, III
Chief Administrative Law Judge

November 22, 2019
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Stephanie Michelle Perez, 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, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).



Stephanie Michelle Perez
Judicial Law Clerk

November 22, 2019
Columbia, South Carolina