

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Milton G. Kimpson, Administrative Law Judge

ALC Case No: 19-ALJ-04-306-AP

Appellate case No: 2019-001566

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SC Court of Appeals

Jack Kuykendall,
#355988

Appellant,

v,

S.C. Dept. of Corrections,

Respondent.

DESIGNATION OF MATTER TO BE INCLUDED IN THE
RECORD ON APPEAL

Appellant proposes the following be included in the record on appeal:

1. Order of dismissal Aug. 6, 2019
2. Notice of appeal July 31, 2019
3. motion to Amend notice of appeal July 31, 2019
4. motion to file outside of timeline Aug 20, 2019

I certify that this designation contains no matter which is irrelevant to this appeal.

Feb. 18, 2020

Respectfully Submitted by:

Jack Kuykendall

Jack Kuykendall SIDC 355988
Evans CI 2A-196
660 highway 9 west
Barnetsville, S.C. 29512

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**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Jack Waylon Kuykendall, #355988,)
)
Appellant,)
)
vs.)
)
South Carolina Department of Corrections,)
)
Respondent.)

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

ORDER OF DISMISSAL

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. Stelm
Judicial Law Clerk

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

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SC Court of Appeals

Amendment

NOTICE OF APPEAL

Jack Kykendall)
)
Appellant,)
)
vs.)
)
South Carolina Department of Corrections,)
)
Respondent.)

DOCKET NO. -ALJ-04-
GRIEVANCE NO.: TRCI-0067-19

Notice is hereby given that Jack Kykendall does hereby appeal the final decision of the South Carolina Department of Corrections dated 6-5-19 and received on 5-18-19, a copy of which is attached. A general statement of the grounds for appeal is (See S.C. Code Ann. § 1-23-380(A)(6)):

- SCDC form 19-29A says the location of incident was: 056196 that's the officer Jordan Robinette employee ID number. So I never escaped from an employee ID number.
- SCDC form says my offense date was 12/12/18 and the SCDC form 19-29A says my offense date was 12/18/18. That's two different dates. These are technicalities and by these technicalities this charge should be dropped.

Jack Kykendall SCDC 353788
Appellant's Name
Evers CI - 2A-196
60 Highway 2 West
Mailing Address
Barnetsville, S.C. 29512
City, State, Zip Code

[Signature]
Signed
6-5-19
Dated

CERTIFICATE OF SERVICE

I hereby certify that I, Jack Kykendall (your name), on the 31 day of July, 2009, in Barnetsville (city), South Carolina, served a copy of the foregoing Notice of Appeal on all parties to this matter by depositing the same in the United States Mail, postage paid, or in the mail room of the undersigned's institution and addressed as follows:

Name of person/Agency served: Cheron Hess Administrative Asst. office of General Counsel

Address: S.C. Dept. of Corrections 4444 Broad River Road

City, State, Zip Code: P.O. Box 21787 Columbia, S.C. 29221

Print your name: Jack Kykendall
(See reverse side for instructions)

Sign your name: [Signature]

Jack Huykendall
Appellant,
vs.
S.C. Dept of Corrections
Respondent

Motion to Amend Notice of Appeal
Docket No: ALJ-04
Grievance No: TRCI-0067-19

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Comes here the appellant before this honorable court to Amend his notice of appeal Docket No: ~~ALJ~~ ALJ-04 Grievance No: TRCI-0067-19. Pursuant to Rule 59 S.C.R. Civil P.

Appellant being a lay person of law made an innocent mistake by not sending notice to the respondents involved in this matter. Therefore in accordance to S.C. sep rule (59)(E) Appellant respectfully request that the court denies respondents motion to dismiss and allow appellant to serve respondent in this matter in this case of Justice Any other party would not be prejudiced by this amendment.

July 31, 2019

Respectfully submitted by:

Jack Huykendall

Jack Huykendall-355888
Evans CI 2A-196
610 highway 2 west
Bennettsville, S.C. 29512

Jack Kuykendall
Appellant
US,
S.C. Dept of
Corrections
Respondent

Motion to file outside of Timeline
To Amend notice of Appeal
Docket No. ALS-04
Grievance No. TPCI 0067-19

Comes here the appellant before this Honorable Court to Amend
his Notice of appeal Docket No. ALS-04 Grievance No. TPCI 0067-19
Pursuant to Rule 59.

Any notice of appeal which is incomplete or not in compliance with this Rule
or Rule 71 will not be assigned to administrative law judge until all required
information is received and any applicable filing fee is processed within forty-five
days of the case is assigned to an administrative law judge (date of assignment)...

I'm filing pro-se to file copies on all parties and I'm uneducated
procedures and due to institution restrictions to access law library,
mail room, and copies. I'm filing force majeure.

~~Ask them to~~

Motions for Reconsideration
are Prohibited.
See ALC Rule 65

Aug 20, 2019

Respectfully submitted by

Jack Kuykendall SO# 355988
Evans CI 2A-146
610 Highway 9 west
Bennettsville, S.C. 29512

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AUG 21 2019

SC ADMIN. LAW COURT

Jack Keykendall SCDC 355988
Evans CT 2A-196
660 Highway 9 west
Bennetsville, S.C. 29512

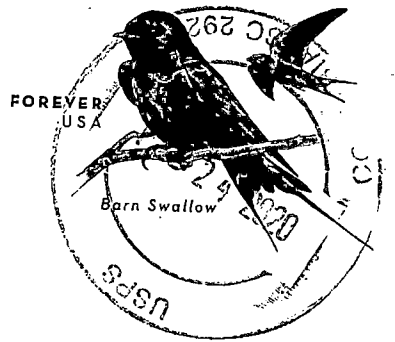
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SC Court of Appeals

FEB 21 REC'D

S.C. Court of Appeals
P.O. Box 11629
Columbia, S.C. 29211



SCDC
Christmas
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