

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Bernard Bagley, #175851,)
)
Appellant,)
)
vs.)
)
South Carolina Department of Probation,)
Parole and Pardon Services,)
)
Respondent.)
_____)

Docket No. 20-ALJ-15-0009-IJ

ORDER ON WRIT OF
MANDAMUS

RECEIVED

APR 08 2020

SC Court of Appeals

This matter is before the South Carolina Administrative Law Court (Court or ALC) on a Motion to Declare the Law for Writ of Mandamus (Motion) filed by Bernard Bagley (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (SCDC).

On February 21, 2020, Appellant filed a Notice of Appeal based on an attached Motion for Writ of Mandamus.¹ In these documents, Appellant asserts he “was eligible for parole in 2010 and 2012 that was routinely denied parole when Respondents incorrectly calculated the votes necessary to parole.” Appellant also argues his “substantial rights were arbitrary or capriciously prejudiced in 2010 and 2012 parole hearing proceedings upon unlawful procedure.” On March 11, 2020, Appellant filed this Motion, in which he again seeks a Writ of Mandamus pursuant to Supreme Court opinion in *Rose v. SCDPPPS*, 2020 WL465696. On March 16, 2020, the South Carolina Department of Probation, Parole and Pardon Services (Respondent or Department) filed a Motion in Opposition for Writ of Mandamus (Response) arguing that Appellant has offered nothing in his motion that would equate his case to the Court of Appeal’s decision in *Rose*. On March 23, 2020, Appellant filed a Reply, in which he further argued that “the holding in *Rose* reopened the door for similar situated prisoners during the periods of 1986 through 2013, based on the Respondent’s own admissions within *Rose*, i.e. the vote count in accordance with 24-21-645

¹ The Court only addresses the Writ of Mandamus in this Order. The Court will address the appeal separately.

FILED
March 27, 2020

SC ADMIN. LAW COURT

and 30-4-10,” and that “the statute applies to [him] because he does not know whether he received votes correctly or incorrectly at his 2010 and 2012 parole hearings.”

DISCUSSION

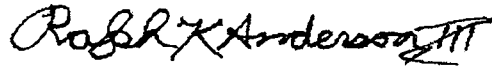
Section 1-23-630(A) of the South Carolina Code (2005) provides that Administrative Law Judges (ALJs) have “the same power at chambers or in open hearing as do circuit court judges and to issue those remedial writs as are necessary to give effect to its jurisdiction.” Thus, an ALJ has authority to issue a Writ of Mandamus involving a matter before the ALC or to preserve a matter that may ultimately be properly before the ALC.

“The primary purpose of a writ of mandamus is to enforce an established right and to enforce a corresponding imperative duty created or imposed by law.” *Wilson v. Preston*, 378 S.C. 348, 354, 662 S.E.2d 580, 582 (2008). “Mandamus is the highest judicial writ” *Miller v. State*, 377 S.C. 99, 101, 659 S.E.2d 492, 493 (2008). A writ of mandamus is “issued only to enforce a clear legal right requiring the performance of only ministerial duties.” *Midlands Util., Inc. v. S.C. Dep’t of Health & Envtl. Control*, 301 S.C. 224, 227-28, 391 S.E.2d 535, 537 (1989) (citing *Wiblen v. Long*, 262 S.C. 430, 205 S.E.2d 174 (1974)). To obtain a writ of mandamus requiring the performance of an act, the petitioner must show (1) a duty of respondent to perform the act, (2) the ministerial nature of the act, (3) the petitioner’s specific legal right for which discharge of the duty is necessary, and (4) a lack of any other legal remedy. *Sanford v. S.C. State Ethics Comm’n*, 385 S.C. 483, 494, 685 S.E.2d 600, 606 (2009), *opinion clarified*, 386 S.C. 274, 688 S.E.2d 120 (2009).

Here, Appellant provided no evidence to support his petition for a writ of mandamus. Appellant simply requested that the Court apply the holding in *Rose* to his case. However, he provided no information as to why his case is similar to *Rose*. In addition, Appellant has a legal remedy, and that remedy is the right to appeal the Department’s final decision. Appellant has exercised that remedy by filing an appeal with this Court. Therefore, Appellant has failed to show he meets the requirements to obtain a writ of mandamus. See *Sanford*, 385 S.C. at 494, 685 S.E.2d at 606, *opinion clarified*, 386 S.C. at 274, 688 S.E.2d at 120.

IT IS THEREFORE ORDERED that Appellant's Petition for a Writ of Mandamus is
DENIED.

AND IT IS SO ORDERED.



Ralph King Anderson, III
Chief Administrative Law Judge

March 27, 2020
Columbia, South Carolina