

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Charlton Davis, 231377

Appellant

v.

South Carolina Department
of Probation, Parole and
Pardon Services,

Respondent.

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APR 27 2020
SC Court of Appeals

Appeal from Administrative Law Court
Shirley C. Robinson, Administrative Law Judge
Docket Case No. 18-ALJ-15-0003-AP

Appellate Case No. 2018-000183
Unpublished Opinion No. 2020-UP-077

REPLY TO RESPONDENT'S RETURN TO
PETITION FOR REHEARING EN BANC

The Appellant received Respondent's Return on April 21, 2020, that is dated April 17, 2020. Appellant comes now to make his Reply pursuant to SCAC Rule for the moving party shall have five (5) days from the date of service of a return to file...of a reply with the clerk and serve on all parties a copy of the reply.

Appellant asserts that the proceeding involves a matter or question of exceptional importance because the ALC arbitrary or capriciously dismissed his Notice of Appeal as not timely filed. The Appellant's Notice of Appeal was deposited into the institution mailbox during the same date and time of the Respondent, on December 27, 2017. The Appellant has no control regarding when the institution mailroom official pick up the mail or send the outgoing mail to its destination. Appellant deposited both articles of Notice of Appeal for delivery to be served in a timely manner. If mailroom officials mail or send inter-agency or department mail is beyond his control, what is he to do when both were placed in the box together?

The Respondent argument that the prison mailbox rule does not applies to pro se inmate without considering his representation is not an abuse of discretion by the ALC and does not deprived the Appellant, an inmate his right to meaningful access to judicial process. (A question of exceptional importance).

Respondent will have this court to disregard Rule 53(A), SCALC, that provides in relevant part as follows: Filing Defined. "....; or (2) depositing the document in the U.S. Mail or in the mail room at the appellant's correctional institution, properly addressed to the Court, with sufficient first class postage attached."

The Appellant asserts that a document, pleading, or motion or other paper is deemed filed with the Court by the foregoing. SEE: Hooper v. Ebenezer, Senior Servs. & Rehab. Ctr., 687 S.E.2d 29, 32 (2009), and Martin v. Department of Corrections, 190 A.3d 237 (2018 ME 103).

CONCLUSION

Based on the foregoing reasons, the Appellant respectfully submits that this is a question of "exceptional importance" as required by SCACR 219(a)(2).

Respectfully submitted,

Charlton Davis

Charlton Davis, 231377

KER.CI/HC117

4848 Goldmine Hwy.

Kershaw, SC 29067

April 22, 2020

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Charlton Davis, 231337

Appellant

v.

South Carolina Department
of Probation, Parole and
Pardon Services,

Respondent

Appeal from Administrative Law Court
Shirley C. Robinson, ALJ
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CERTIFICATE OF SERVICE

I certify that I have served the Reply to Respondent's Return to Petition for Rehearing En Banc, dated April 22, 2020, on the Respondent April 22, 2020, by depositing a copy of the same in the U.S. Mail, postage prepaid, addressed to:

SCDPPPS
Matthew C. Buchanan
General Counsel
P.O. Box 207
Columbia, SC 29202

SC Administrative Law Court
Shirley C. Robinson, ALJ
Edgar A. Brown Bldg.
1205 Pendleton St., Ste. 224
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s/ *Charlton Davis*
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April 22, 2020

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SC Court of Appeals

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