

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Curtis Dale Richardson, #269166)
)
 Petitioner,)
)
 v.)
)
 South Carolina Department of Probation,)
 Pardon and Parole,)
)
 Respondent.)
 _____)

Docket No. 13-ALJ-15-0002-AP

ORDER

This matter is before the Administrative Law Court (ALC or Court) pursuant to the appeal of Curtis Dale Richardson (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (Department). On January 23, 2013, Appellant filed a Notice of Appeal with this Court.

BACKGROUND

Appellant received a letter from legal counsel for South Carolina Department of Probation, Parole and Pardon Services (PPPS) dated December 7, 2012, informing Appellant that he was scheduled for parole consideration on February 27, 2013. In his Notice of Appeal, Appellant asserts that his parole hearing should have been in June 2012 and that by scheduling his parole hearing in February 2013, PPPS denied him a hearing and eligibility in addition to extending his hearing date for nine (9) months.

DISCUSSION

The Court's jurisdiction to hear this matter is derived from the decisions 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 Probation, Parole and Pardon Servs., 352 S.C. 594, 576 S.E.2d 146 (2003). The Court is authorized to dismiss inmate appeals that do not implicate a state-created liberty or property interest. See Skipper v. S.C. Dep't of Corr., 370 S.C. 267, 279 n.5, 633 S.E.2d 910, 917 n.5 (Ct. App. 2006).

The U.S. Supreme Court has held that "[t]here is no constitutional or inherent right of a convicted person to be conditionally released before the expiration of a valid sentence." Greenholtz v. Nebraska Penal Inmates, 442 U.S. 1, 7 (1979). In other words, "given a valid

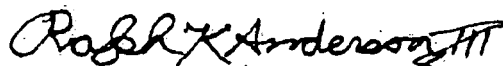
conviction, the criminal defendant has been constitutionally deprived of his liberty.” Meachum v. Fano, 427 U.S. 215, 224 (1976). Thus, if Appellant has a liberty interest in parole, then it must emanate from state law. See Ellis v. District of Columbia, 84 F.3d 1413, 1415 (D.C. Cir. 1996).

Moreover, before seeking review of a decision by PPS, an appellant is required to exhaust his administrative remedies prior to filing an appeal. Steele v. Benjamin, 362 S.C. 66, 606 S.E.2d 499 (Ct. App. 2004). S.C. Code Ann. § 1-23-380 (Supp. 2012) (“A party who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision in a contested case is entitled to judicial review pursuant to this article and Article 1.”). Here, there is no evidence in this matter that the Appellant allowed PPS to hear his request for parole before filing his appeal. In fact, Appellant admits in his Notice of Appeal that PPS will not hear his request for parole until February 2013.

The letter from PPS dated December 7, 2012 is not a final decision. Appellant, therefore, has not exhausted his administrative remedies prior to filing this appeal, so this matter must be dismissed. Ward v. State, 343 S.C. 14, 538 S.E.2d 245 (2000) (“The failure to exhaust administrative remedies goes to the prematurity of a case, not subject matter jurisdiction.”).

IT IS THEREFORE ORDERED that this matter is DISMISSED.

AND IT IS SO ORDERED:



Ralph King Anderson, III
Chief Administrative Law Judge

January 31, 2013
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, E. Harvin Belser Fair, 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, in the Interagency Mail Service, or by electronic mail to the address provided by the party(ies) and/or their attorney(s).

E. Harvin Belser Fair

E. Harvin Belser Fair
Judicial Law Clerk

January 31, 2013
Columbia, South Carolina

Kershaw

FINANCIAL CERTIFICATE FOR THE DISTRICT OF SOUTH CAROLINA

(for use in § 1983, Bivens, and non-habeas civil actions filed by prisoners)

I request that an authorized officer of the institution in which I am confined, or other person designated to review financial information in relation to inmate trust funds, complete this Certificate. If I have insufficient funds in my account that prohibit me from paying the full filing fee required by 28 U.S.C. § 1914 (currently \$350.00), I will send with my complaint an initial installment payment, required by 28 U.S.C. § 1915, equal to the amount calculated and entered on line four by the authorized officer signing this form.

I recognize that by filing this case, I am required to pay the full filing fee (or the remaining unpaid portion of the filing fee by installments if necessary) under 28 U.S.C. § 1915(b) even though I am requesting to proceed *in forma pauperis*. I authorize and consent to collection of the filing fee in accordance with 28 U.S.C. § 1915 until the filing fee is paid in full.

CURTIS DALE RICHARDSON
INMATE NAME (PRINTED)

269166
INMATE (PRISONER) NUMBER

Curtis Dale Richardson
INMATE SIGNATURE

KERSHAW C I
PLACE OF CONFINEMENT

- ◆ (1) Average monthly deposits to the inmate's account.....\$ 0
- ◆ (2) Average monthly balance in the inmate's account calculated for the prior six months period.\$ 3.75
- ◆ (3) Current Balance\$ 3.59
- ◆ (4) Initial Installment Payment (Take 20 percent of the greater of lines 1 or 2).....\$ 0

RECEIVED
MAR 26 10 2013

I hereby certify that as of this date, the above financial information is accurate for the above named inmate.

J. Smith Fin. Act.
Authorized Officer's Signature
J. Smith Fin. Act.
Authorized Officer's Name and Title

10/5/12
Date

Bal 2/27/13 0024

RECEIVED
MAR 04 2013
SC Court of Appeals

PLEASE PROVIDE ME A
FILED clocked-in copy FOR
MY RECORDS

Curtis Rubenstein