

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from the Administrative Law Court  
The Honorable S. Phillip Lenski, Administrative Law Judge  
Docket No. 19-ALD-18-0047-AP

Case No. 2019-001835

Alonzo Jeter, III, ..... APPELLANT,

South Carolina Department of  
Social Services, ..... RESPONDENT.

FINAL BRIEF OF APPELLANT

**RECEIVED**

JUL 07 2020

SC Court of Appeals

Alonzo C. Jeter, III

Tyger River Correctional Institution  
200 Prison Road  
Enoree, South Carolina 29335  
APPELLANT / pro se

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## STATEMENT OF ISSUES ON APPEAL

- I The ALC did err in affirming the decision of the Department which deemed Appellant's request for a fair hearing as untimely.
- II The ALC did err in affirming the decision of the Department which deemed Appellant ineligible to receive SNAP food stamp benefits.
- III The ALC did err in affirming the decision of the Department which placed debt upon Appellant for past amount of SNAP benefits received.
- IV The ALC did err and abuse its discretion in denying Appellant equitable opportunity to file a Reply Brief, thereby violating Appellant's rights of Due Process.

## STATEMENT OF THE CASE

Appellant incorporates by reference the statement of the case as submitted within the Initial Brief of Appellant.

## STANDARD OF REVIEW

See S.C. Dep't of Corr. v Mitchell, 377 S.C> 256, 258, 659 SE2d 233, 234 (Ct. App. 2008) ("section 1-23-610 of the South Carolina Code sets forth the standard of review when the court of appeals is sitting in review of a decision by the [Administrative Law Court (ALC)] on appeal from an administrative agency."); S.C. Code Ann. §1-23-610(B) ("[This] court may not substitute its judgment for the judgment of the [ALC] as to the weight of the evidence on questions of fact."); id. (providing when reviewing an ALC decision, "[the] court of appeals may reverse or modify the decision if the substantive rights of the Appellant have been prejudiced because the finding, conclusion or decision is: (a) in violation of constitutional or statutory provisions; (b) in excess of the statutory authority of the agency; (c) made upon unlawful procedure; (d) affected by other error of law; (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion").

## ARGUMENTS

I The ALC did err in affirming the decision of the Department which deemed Appellant's request for a fair hearing as untimely.

The Respondent continues to argue that Appellant did not request a hearing within ninety (90) days of notice of the adverse action for Food Stamps. However, Appellant has shown that he did in fact request a hearing and through the Department's coercive actions, Appellant was denied and deprived of opportunity for fair hearing. This hearing's procedure and filing should have been initiated and brought forward and advanced as Appellant was clearly grieved, stressed, and distressed. Appellant's persistent invoke for help and assistance to rectify the matter was a clear plea for fair hearing. See 7 C.F.R. 273.15 (h).

The Department violated the Due Process rights of Appellant and Appellant's rights to a fair hearing by violating 7. C.F.R. 273.15 (f), (h), (i), (j) (2).

II The ALC did err in affirming the decision of the Department which deemed Appellant ineligible to receive SNAP food stamp benefits.

Respondent does not and cannot dispute the lack of savings clause. South Carolina's Legislature's reclassifying SC. Code Ann. § 44-53-375(A), possession of Crack - 1<sup>st</sup> offense

from a felony offense to a misdemeanor offense along with its decline to include a savings clause in the Act, reveals the legislative intent in regards of this matter. Keeping in mind the evolving standards of decency, the S.C. legislature clearly would not intend that offenders which were convicted of this offense before August 22, 1996, would be eligible to receive SNAP benefits, offenders which were convicted of this offense after June 7, 2005, would be eligible to receive SNAP benefits, but offenders whom were convicted of this offense within the nine (9) year period between August 22, 1996 and June 7, 2005 would not.

Simply put, this would be absurd to apply this in such a way. This would be repugnant to legislative intent and evolving standards of decency.

Department of Revenue of Montana v Kurth Ranch,  
511 US 767, 114 Sct 1937 (1994) - Criminal fines, civil penalties, civil forfeitures, and taxes all are sanctions subject to constitutional constraints.

Hudson v U.S., 522 U.S. 93, 118 Sct 488 (1997) - Due process and equal protection clauses protect individuals from sanctions which are downright irrational.

III The ALJ did err in affirming the decision of the Department which placed debt upon Appellant for past amount of SNAP benefits received.

The Respondent argues that the Department's Directive Memo dated May 19, 1997, provides sufficient authority for the Department to place debt upon Appellant and collect the debt claim.

This memo is simply what it claims to be, a memo. This Memo cites no authority, statute, regulation, etc which would provide this Memo any authority.

Galaviz v Arizona Department of Economic Security,  
2017 WL 6521060 - NAP is the Food Stamp Program's successor. See Food and Nutrition Act of 2008. 7 U.S.C § 2011 to 2036 (b) (2012).

The federal government and state agencies jointly administer SNAP. See, e.g., 7 C.F.R. § 273.2 (a) (governing how state agencies operate SNAP programs, including application processing).

S.C. Code Ann. Reg. 114-1395 - When the requirements of the State and federal regulations are not in agreement, the requirements of the federal regulations shall prevail.

S.C. Code Ann. Reg. 114-1300(a) - Certain parts of these regulations permit the State to select options regarding

FSP eligibility criteria. The State follows the federal regulations where no options are permitted.

S.C. Code Ann. Reg. 114-1300(3) - The State may also submit "waivers" of federal regulations to Food and Nutrition Services for approval that will permit the State to operate certain parts of the FSP according to regulations developed by the State and different than those specified in the code of Federal Regulations. Such "waivers" are approved for a certain period of time and must be resubmitted for renewal prior to the end of the approved time period.

S.C. Code Ann. Regs. 114-1010(B)(3)(e) provides, "The agency waives collection of overpayments from a recipient when the overpayment was caused wholly or partially by agency error." Also, see S.C. Code Ann. Regs. 114-1010(B)(3)(f) which states, "The agency waives collection of overpayments resulting from client error, when fraud does not exist, and the overpayment does not result in the recipient's becoming ineligible for financial assistance."

The State's regulations states the above and this is contrary to the "MEMO" which Respondent leans upon. However, the Code of Federal Regulations goes even further in making clear that debt should not be placed against and upon the Appellant under these circumstances. See 7 C.F.R. 273.18(e)(a), 7 C.F.R. 273.18(b)(2),

and 7 CFR, 273.18(6)(3).

Simply put, the "MEMO" Respondent relies upon provides no authority, the Respondent cites no authority, nor does Respondent provide the "waiver" as required by SC Code Ann. Reg. 114-1300.

### LACK OF ADMINISTRATIVE CONSENT AGREEMENT (ACA)

Appellant never signed nor was he ever offered to sign an Administrative Consent Agreement (ACA).

As stated above, Respondent cites no authority nor does Respondent provide any "waiver" which provides authority for the Department to not follow its own regulations and regulation of the federal code.

Proper presentation of the ACA would have afforded Appellant equitable opportunity along with the Department to request an Administrative Disqualification Hearing (ADH) or an Electronic Benefits Transfer (EBT) as both are provided for in SC Code Ann. Regs. 114-180(D), which also makes clear that Appellant should have been presented the ACA as Appellant has never agreed that he owed or that he would reimburse any amount which the Department deemed owed.

IV The ALC did err and abuse its discretion in denying Appellant equitable opportunity to file a Reply brief, thereby violating Appellant's rights of Due Process.

The Respondent has not and cannot provide an argument of merit or substance regarding this issue. The Respondent's attempt to do so is so lacking, it is unnecessary for Appellant to reply to its attempted argument in this regard.

### CONCLUSION

For these reasons, reasons incorporated by reference here, Appellant's Initial Brief, briefs and record which compose the Record on Appeal; this Court must reverse the decision of the ALC and Department and grant Appellant all relief sought.

Respectfully submitted, 

Alanzo C. Jeter, III  
APPELLANT / Pro se

Tyger River Correctional Institution  
200 Prison Road  
Euree, South Carolina 29335

This 1<sup>st</sup> day of July, 2020.

STATE OF SOUTH CAROLINA  
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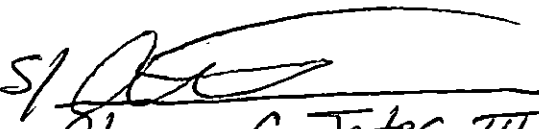
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Alonzo Jeter, III, . . . . . APPELLANT,

South Carolina Department of  
Social Services, . . . . . RESPONDENT.

CERTIFICATE OF COMPLIANCE

I, Alonzo C. Jeter, Pro se, hereby certify the Final Brief of Appellant is filed in compliance with Rule 211(b), SCACR.

  
Alonzo C. Jeter, III  
APPELLANT/Pro se

This 1<sup>st</sup> day of July, 2020.

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