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SC Court of Appeals

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

George Adams, 181283,)	Docket No.: 20-ALJ-15-0013-AP
)	
Appellant,)	
vs.)	ORDER GRANTING
)	RESPONDENT'S
South Carolina Department of Probation)	MOTION TO DISMISS
Parole and Pardon Services,)	
)	
Respondent.)	

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to the appeal filed by George Adams (Appellant), an inmate incarcerated with the South Carolina Department of Corrections. On December 21, 2012, the South Carolina Department of Probation, Parole and Pardon Services (Department) notified Appellant that he was ineligible for parole due to his prior conviction of a violent offense. Appellant filed a timely appeal with the ALC challenging the decision. The Honorable Ralph K. Anderson, III issued an order affirming the Department's decision. Appellant appealed the Judge Anderson's decision to the South Carolina Court of Appeals. On October 19, 2016, the Court of Appeals affirmed the ALC's decision.

On February 25, 2020, Appellant sent a letter to the Department regarding his parole eligibility. On March 6, 2020, the Department's General Counsel issued correspondence stating: "I am responding to your letter of February 25, 2020, in which you believe you should be parole eligible. Please be advised that I am enclosing a letter sent to you on December 21, 2012, informing you that you are ineligible for parole consideration. The Department's position has not changed."

On March 18, 2020, Appellant filed a Notice of Appeal with this Court seeking judicial review of the Department's March 6, 2020 correspondence. On April 13, 2020, Appellant filed a brief requesting that this Court reinstate his initial parole date and require the Parole Board to conduct bi-annual parole hearings on his parole eligibility under the law that existed when the crimes were committed. The Department now moves under ALC Rule 62 to dismiss the appeal with prejudice contending the Department has not issued a final decision that would have triggered Appellant's

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right to file an appeal pursuant to ALC Rule 59. Appellant has not filed a response to the Department's motion.¹

ALC Rule 62 allows for the dismissal of an appeal for failure to comply with any of the rules of procedure for appeals. *See* SCALC Rule 62.

ALC Rule 59 states:

"The 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."

SCALC Rule 59 (emphasis added).

Furthermore, pursuant to *Al-Shabazz v. State*, the ALC sits in an appellate capacity when reviewing final decisions of the Department regarding inmate matters, and to perfect an appeal.

"[t]he inmate must file and serve a notice of appeal upon specified parties within thirty days of receipt of written notice of [the] Department's final decision." 338 S.C. 354, 377, 527 S.E.2d 742, 754 (2000) (emphasis added).

After careful review and consideration of this matter, I find that the Department's March 6, 2020 correspondence does not constitute a final decision from which Appellant would have the right to appeal to this Court. The Department's correspondence is simply a response to Appellant's letter reiterating what was found in the December 21, 2012 decision and providing Appellant with another copy of that decision.

THEREFORE, IT IS HEREBY ORDERED that the Department's Motion to Dismiss is **GRANTED** and this appeal is **DISMISSED**.

AND IT IS SO ORDERED.

21 July 2020
[Signature]

[Signature]
SHIRLEY C. ROBINSON
Administrative Law Judge

July 29th 2020
Columbia, South Carolina

¹ The Court received a filing from Appellant on July 14, 2020; however, this filing was not a response to the Department's motion.