

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Appeal from the Administrative Law Court
The Honorable S. Phillip Lenski, Administrative Law Judge
Docket No. 19-ALJ-18-0047-AP
SEP 10 2020
SC Court of Appeals

Case No. 2019-001835

Alonzo Jeter, III, APPELLANT,

South Carolina Department of
Social Services, RESPONDENT.

APPELLANT'S REPLY TO
FINAL BRIEF OF RESPONDENT

ALONZO C. JETER, III

Tyger River Correctional Institution
200 Prison Road

Enoree, South Carolina 29335

APPELLANT / prese

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STATEMENT OF ISSUES ON APPEAL

- I The ALC did err in affirming the decision of the Department which deemed Appellants' 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 with the Initial Brief of Appellant.

STANDARD OF REVIEW

See S.C. Dept 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.

Appellant emphasizes the great confusion which existed and that does exist in the practice and actions of Respondent.

Appellant stopped receiving SNAP food stamp benefits in the month of March of 2013, (approximately March 13, 2013). See Initial Brief of Respondent, page 6 and Final Brief of Respondent, page 6.

Appellant did not receive the Overpayment Demand Letter and Denial Letter until at least December 19, 2019. (See ROA pg. 86, Appellant's discharge date from psychiatric hospital) cf. ROA pg. 88, Appellant's admittance into hospital on December 10, 2013; ROA pgs. 5-6, Overpayment Demand Letter and Denial Letter.

These Letters were mailed to Appellant. See ROA pg 108. To illuminate confusion further, Appellant emphasizes the format of the Letters in conjunction with the fact that Appellant spoke with higher authority at Respondent Office of Administrative Hearing by and through a phone call that was placed by Appellant's Cherokee County OSS caseworker. See ROA pgs. 5-6.

The Overpayment Demand Letter states, "An appointment to discuss this overpayment and repayment options has been scheduled for you with on at"

at the County Department of Social Services."

As Respondent failed to explain to Appellant that he still had Fair Hearing rights, failed to invoke the process of Fair Hearing as Respondent was in the Respondent office and clearly grieved, stressed and discombobulated, and failed to provide Appellant information for researching Respondent's policies and its authoritative statutes and Codes of Regulations, and failed to direct Appellant to pro bono legal aid which could assist him; Respondent failed Appellant totally, violated Respondent's and Federal Government policy in these regards as well as Due process rights of Appellant and all ethics of humanities.

Medical records which are included in the Record of this case would provide unquestionable evidence that Appellant was grieved at this time. (ROA pgs. 88, 5, 6, 86)

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

Respondent still does not as it cannot dispute the lack of a savings clause within 2005 Act. No. 127 § 5. See also Supplemental Record on Appeal, page 1, which would support and reveal the understanding of men of common knowledge and South Carolina attorneys in this regard. (Supp. ROA pg. 1)

Further, see Sullivan v State, 504 SE2d 110 (1998) - Defendant

Could be denied parole based on subsequent conviction for violent crime, even though crime for which he was previously convicted was not classified as a violent crime at time of prior conviction.

The ruling and logic in Sullivan should be considered and its logic compared to this case at bar.

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

Respondent still fails to offer and cite any authority which provides the SCDSS memo proper and sufficient authority to collect and place SNAP applicants in debt for, "All agency error claims established after August 23, 1996..."

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

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.

Moreover, S.C. Code Ann. Regs. 114-1010 (B)(3)(f) states, "The agency waives collection of overpayments from a recipient when the overpayment was caused wholly

or partially by agency error."

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.

Respondent alleges that Appellant filed a Reply Brief and a motion for rehearing on September 25, 2019. (See Final Brief of Respondent, pg. 8). However, Respondent does not and cannot point to any Reply Brief in the Record of this case.

The Appendix and Record in this case clearly shows that Respondent did not file a Reply Brief to the ALC, due to the ALC's failure to allow equitable opportunity to do so. (ROA. pg. 127).

Appellant filed a Motion for Rehearing on September 25, 2019, (ROA pg. 2019) seeking to bring to the attention of the ALC the court's err and abuse of discretion in failing to provide Appellant equitable opportunity to file a Reply Brief.

The ALC issued its Order denying Appellant's Motion for Rehearing, on October 16, 2019. Within its Order denying the Motion for Rehearing, the ALC concentrated on the equitable opportunity for Appellant to file his Initial Appellant's Brief rather than the Reply Brief. (ROA pg 132, 133). The err of the ALC in this regard is stark and clear as

as the Record clearly shows the ALC's error in failing to give effect to the "shall" in Rule 34, ALC, which states that a motion to dismiss an appeal shall stay the time limits until the motion is decided.

Rather, the ALC did not stay the time limits as required by Rule 34, SCALC and the filing of Appellant's Motion to Dismiss/Motion for Summary Judgment which was filed on August 2, 2019.

The ALC rather, ultimately did not make a ruling on Appellant's Motion to Dismiss/Motion for Summary Judgment which he filed on August 2, 2019 (ROA pg. 96), and Appellant's Return to Motions To Amend Record On Appeal And To File Brief Late (ROA pg. 117-121), whereby Appellant opposed these motions made by Respondent.

It was not until the ALC issued its Final Order, dated September 20, 2019, (ROA pg. 123), that the ALC did and thereby GRANT Respondent's Motions to Amend the ROA and to File Brief Late. (ROA pg. 125).

It was in and by way of this Final Order that the ALC issued a blanket denial and Mother Hubbard within a footnote of the Final Order, that Appellant's Motion to Dismiss/Motion for Summary Judgment was denied. (ROA pg. 125). The ALC affirmed the Department's decision within this Final Order, thereby failing to provide Appellant opportunity to file a

Reply Brief.

The ALC erred and abused its discretion and did also violate Appellant's rights to due process thereby.

CONCLUSION

While it is true that all crimes have consequences, society in keeping in mind the evolving standards of decency, realizes that the consequence which is associated with the crime must serve the true purpose for which the consequence was put in place.

The collateral consequence of deeming convicted drug offenders ineligible to receive SNAP benefits was thought to serve the purpose of a means to deter a person from committing a drug crime. However, it is proven that the exact opposite results especially and particularly when the convicted drug offender was actually convicted for possession of a small amount of drugs for their personal use rather than possessing a large amount of drugs for selling or trafficking.

Therefore, the South Carolina Legislature took advantage of the grand opportunities to right the inequity which results if a person is denied SNAP food stamp benefit for a drug conviction, when the offender possessed a small amount for personal use, rather than sell.

Justice is better served if this person is committed for drug treatment rather than place a life-time ban on this offender.

Further, in realizing that persons whom are convicted of murder, robbery, pedophilia, Kidnapping, Serial Killers, or any other heinous crimes would not have any type of ban placed on this offender which deems the offender ineligible to receive SNAT benefits for any length of time; one must realize why the ban would rather be only placed on drug offenders.

Simply put, it would not be the possession of drugs, but the reasoning and collateral consequences would be intended for the selling or trafficking.

For this reason, South Carolina chose to separate the user from the seller and trafficker by opting out of the life-time ban by declaring and classifying the small amount possessed by the user a misdemeanor rather than felony.

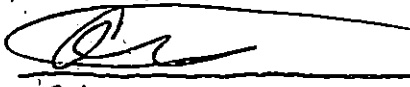
As the unreasonableness which would result if a savings clause would have been placed in the 2005 Act No. 127 §5, would occur as the savings clause would support the notion that all offenders which were convicted of the drug offense before August 22, 1996, and all offenders which were convicted of the drug offense after June 7, 2005, would be eligible for SNAT benefits; but all offenders whom were convicted of this drug offense within the nine (9) year period between August 22, 1996 and June 7, 2005 would not be eligible. This would be absurd!

Therefore, the South Carolina Legislature rightfully chose not to include a savings clause, to prevent the such absurd result, and to clearly illuminate legislative intent in that regard.

As Respondent supports this particular consequence, Respondent and this Court must also reason if the denial to be employed as a colleague would also be supported.

As this is considered this Court must then consider recidivism and the cause of recidivism as it is this such support that is the engine and driving force of recidivism, as is also the reason Appellant files this very pleading today from behind prison walls.

For these reasons and reasons stated in each of Appellant's previous filings and which also circumstances the Record in this case reveals, the decision of the ALC and Department should be REVERSED and Relief GRANTED.

Respectfully submitted, 
Alonzo C. Jeter, III
APPELLANT/pro se

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

This 8 day of September, 2020.

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CERTIFICATE OF COMPLIANCE

I, Alonzo C. Jeter, pro se, hereby certify the Appellant's Reply To Final Brief Of Respondent is filed in compliance with Rule 211 (b), SCACR.

s/ [Signature]
Alonzo C. Jeter, III
APPELLANT / pro se

This 8 day of September, 2020.