

IN THE COURT OF APPEALS
FOR THE STATE OF SOUTH CAROLINA

Stephen Roy Gratton ----- Appellant,

-VS-

South Carolina Department of Probation,
Parole and Pardon Services----- Respondent.

Appeal from Administrative Law Court
The Honorable Shirley Robinson, ALJ

From Order of Dismissal
Case No.: 20-ALJ-15-0037-AP
Filed October 29, 2020

Stephen Roy Gratton #136990
SCDC Kirkland Corr. Inst. B2-4
4344 Broad River Road
Columbia, South Carolina 29210

PRO-SE

RECEIVED

NOV 18 2020

SC Court of Appeals

Table of Contents

	Page
Jurisdiction Statement-----	1
ISSUES-----	1-2
Factural/Procedure History-----	2-4
Discussion of Issues-----	5-7
Conclusion-----	7
Certificate of Service-----	8
Verification-----	8
Order of Dismissal-----	Exhibit 1
Motion for relief, Rule 60-----	Exhibit 2
Hand-written Parole Board Rejection-----	Exhibit 3
Information from ALC clerk-----	Exhibit 4
Copy of Appeal Application to ALC was sent to ALC with Motion for Relief and was not returned as requested.	

IN THE COURT OF APPEALS
FOR THE STATE OF SOUTH CAROLINA

Stephen Roy Gratton #136990, ||
Appellant, ||

MOTION TO APPEAL

-VS-

|| Administrative Law Court's
|| "ORDER OF DISMISSAL"

The State of South Carolina, ||
Administrative Law Court, ||
Respondant. ||

Case No: 20-ALT-15-0037-AP

RECEIVED

NOV 18 2020

SC Court of Appeals

JURISDICTION

Comes now Appellant, Stephen Gratton, who Appeals the decision of the Administrative Law Judge, the Honorable Shirley Robinson, who issued an "Order of Dismissal" on the 29th day of October 2020, therefore denying the Appellant due process of law under the Fourteenth Amendment of U.S. Constitution. Hence, the Appellant files this "motion to Appeal" pursuant to Code 1976 §1-23-610(B)(a, c, d, e, and f) to the South Carolina Court of Appeals according to Code 1976 §12-60-338 from the final decision of the S.C. Administrative Law Court.

ISSUES

ISSUE 1: Did the Administrative Law Judge error by making the decision to deny Appellant's "Motion to Appeal" due to the thirty (30) day

time limit pursuant to Rule 59 S.C.A.L.C., thereby violating Appellant's guaranteed rights to due process of law under the Fourteenth Amendment of United States Constitution by:

- a) being in violation of constitutional and statutory provisions 14th Amendment, Section 1 and Administrative Law Courts Procedure 15A.
- b) making a final decision that was clearly erroneous in view of the reliable probative and substantial evidence of the whole record.
- c) making a decision that was arbitrary or capricious and was characterized by abuse of discretion, which was clearly unwarranted.
- d) making a decision that was made upon unlawful procedure Rule 12 and 17-27-70.
- e) making a decision that was effected by error of law, SCALC Rule 59(c).
- f) willfully denying Appellant's of an opportunity to appeal a parole rejection, which was a denial of due process and ex post fact o laws, and because of abuse of discretion.

FACTURAL/PROCEDURAL HISTORY

On October 19, 1986 Appellant was convicted of a crime which occurred on April 30, 1986. He was then sentenced to life for First Degree Burglary and thirty (30) years each for two counts of Criminal Sexual Conduct in the First Degree, these were

actually the same crime. At the time of crime a person was eligible for parole after the completion of ten (10) years. After twenty-six attempts of parole and being continually denied because of "Nature and Seriousness" of the offense, Appellant filed to appeal the decision of the Parole Board, which occurred on 8-19-2020, to ALC. Appellant mailed his "Notice of Appeal to the S.C.

Administrative Law Court on the 19th day of September 2020. Appellant had waited almost to the last day of the thirty (30) day time limit according to Rule 59, which was 9-24-2020, for I had received notice from KCI mailroom on 8-24-2020. Appellant could wait no longer to obtain copies, so the "Notice of Appeal" was mailed out with a hand-written copy of the Parole rejection letter (exh. #4) attached pursuant to SCALC Rule 59(c) on 8-19-2020.

Then on the 1st day of October 2020 a memorandum dated 9-25-2020 was received from the ALC clerk saying my "Notice of Appeal" was incomplete because of hand-written copy and I had until 10-5-2020 to send in an original copy of the rejection letter received from the Parole Board. Appellant remailed out the "Notice of Appeal" fully complete on the 2nd day of October 2020. On the 23rd day of October 2020 Appellant received an answer from the ALC clerk that "Notice of Appeal" had been filed on 10-5-2020 case No.: 20P0037. What had happened to the original date of 9-18-2020?

After going through all the correct procedures according to Rule 59 to make sure appellant made the time limit, it was quite a shock and surprise to receive from the ALJ a "Notice of Dismissal" dated October 29, 2020. The order was because Appellant had apparently missed the thirty (30) day time limit by eleven days. Knowing this order was not based on facts and unlawful; since the clerk had not accepted the original application which was received on time, and was completely unfair and a denial of due process of law.

Hence, Appellant filed a "Motion of Relief" from the judgement pursuant to Code 1976, Rule 6D and of course this motion was also denied by the ALC Judge on October 10, 2020. However, this Notice of Dismissal does confirm that the ALC did receive Appellant's "Notice of Appeal" on time; it was just incomplete by clerk see the document exhibit 2. Having made a very good-faith attempt to meet the time limit and also being denied due to unavailability to obtain the original copies of Parole rejection letter is clearly unlawful.

According to Rule 56 the hand-written copy was sufficient, since it was not illegible; see the document exhibit 3. The original application of appeal was sent to ALJ, since I couldn't get copies.

Therefore, because of this action by the ALJ, the appellant is appealing to this Honorable Court of Appeals to correct an unlawful decision, which denied due process of law. The exhibits 1, 2, 3, and 4 are only being sent to this Honorable Court, because of not being able to obtain copies, because of the virus quarantine.

DISCUSSION

ISSUE NO.1:

The Administrative Law Judge, the Honorable Shirley C. Robinson ruled that Appellant received the Parole Board's final decision on August 21, 2020, but did not file his "Notice of Appeal" until October 5, 2020, therefore the filing was clearly outside the thirty day time frame set forth in SCALC Rule 59 by fourteen days. Appellant will show this Honorable Court of Appeals that based on the above he was clearly denied due process of law.

The facts of the whole record shows that the information used by the ALJ was false and misleading. Appellant actually mailed in his "Notice of Appeal" on September 19, 2020 and was received by the ALC clerk on 9-22-2020. But, because the Appellant's "Notice" did not contain an original copy of the Parole Board's rejection letter (a hand-written copy of rejection letter was sent instead, with verification it was true and correct), according to SCALC Rule 56 this copy should of been sufficient, however, the ALC clerk rejected it and sent a memorandum saying the application needed to contain an original copy of letter and I had until the 5th day of October 2020 to return the completed application.

According to this it was Appellant's understanding that the deadline was now 10-5-2020, completely false, although the clerk had received the original application on time, which means I still meet the thirty day time limit. I then deposited completed application in U.S. Mail on 10-02-2020 even though not receiving clerk's memo until the

1st day of October 2020. According to SCALC Rule 56 the hand-written copy should of been accepted and more importantly, why did the ALJ send Appellant's application back since according to law Judge the timelimit had already passed? And why send the information that application had been filed (exhibit 4)? Could it be that the clerk knew 9-19-2020 was file date?

Even though Appellant acted in good faith to meet the deadline he was penalized, because he had no access to copies. ALJ was so eager to reject the motion for any reason she unlawfully failed to apply Rule 56^{properly} and also consider the whole record nor consider Code 1976 § 1-23-610 which requires clerk of court to keep a full and complete record of all proceedings. This includes the Appellant's original application that met the Rule 59 timelimit.

Therefore by making this decision without viewing the whole record denied the Appellant due process of law; was clearly erroneous; was clearly an abuse of discretion; was based upon unlawful procedure; and most importantly denied the appellant an opportunity to correct a Constitutional violation by the Parole Board. Pursuant to Code 1976 § 1-23-600 (c) a full and complete record must be kept, thus the ALJ had the original "Notice of Appeal" filed by Appellant on 9-19-2020 and the memo sent to Appellant on 9-25-2020. This action could almost be considered a violation of Rule 501 SCACR Code of Jud. Conduct Canon 3 § B(5).

According to Rule 12 the appellant received

an insufficient process by the ALJ, even though the appellant made a good-faith attempt to meet the time limit. Where is the fairness that should be awarded to a pro-se Appellant pursuant to Rule 38? The ALC information sheets shows the facts and allegations the Appellant is arguing are true and correct.

CONCLUSION

Appellant prays that this Honorable Court of Appeals will grant this petition and rule that the ALJ dismissal was an abuse of discretion and denied Appellant the due process of law. Also to stay the "Notice of Dismissal" ordered by the Honorable Shirley Robinson. Appellant hopes this Honorable Court of Appeals will review the account of substance of the whole record pursuant to 17-27-70 and Rule 12. Appellant is only seeking a fair and just chance of having his appeal from the Parole Board heard and to correct constitution violations.

Respectfully Submitted,
this 17 day of November 2020
Stephen Roy Gratton
s/ Stephen Roy Gratton

CERTIFICATE OF SERVICE

I, Stephen Roy Gratton, Appellant in this matter before this Honorable COURT OF APPEALS, hereby certify to have mailed a complete copy of this motion minus Exhibits 1 through 4 on the 17 day of November, 2020 to all parties by depositing the same in the United States Mail Service, postage prepaid to the following:

Clerks Office
South Carolina Administrative Law Court
1205 Pendleton St., Suite 224
Columbia, South Carolina 29201

The Honorable Alan Wilson
South Carolina Attorney General
P.O. Box 11549
Columbia, South Carolina 29211

VERIFICATION

I, Stephen Roy Gratton, do hereby certify that the above "Motion to Appeal" is true and correct 17 day of November, 2020
sf. Stephen Roy Gratton

Stephen Grotton #136990
SCDC Kirkland Ct. B2-4
4344 Broad River Rd.
Columbia, SC 29210

S.C. Court of Appeals
Honorable Jenny A. Kitchings, Clerk
P.O. Box 11629
Columbia, SC 29211

RECEIVED
NOV 18 2020
SC Court of Appeals

RE: Motion To Appeal

Date: 11-17-2020

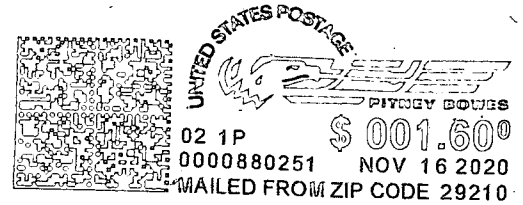
Dear Clerk of Court:

Please find enclosed my "Motion to Appeal" with four exhibits. Thank you for any consideration concerning this matter. Was not able to obtain copies so the other parties did not receive the exhibits.

Respectively Submitted,
s/ Stephen R. Grotton

PS. would you please ^{return} my copies of exhibits if possible.

Stephen Roy Gratton # 736990
SCDC KIRKLAND CORR. INST. B-2-4
4344 Broad River Road
Columbia, South Carolina 29210



RECEIVED

NOV 18 2020

SC Court of Appeals

Honorable Jenny A. Kitchinas, Clerk
South Carolina Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211

SCDC

NOV 18 2020

MAIL ROOM

"LEGAL MAIL"

LEGAL
MAIL
ONLY