



# The South Carolina Court of Appeals

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November 30, 2020

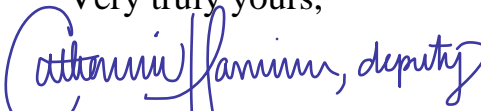
Robert William Wazney, 00363679  
Lee Correctional Inst.  
990 Wisacky Highway  
Bishopville SC 29010

Re: Robert Wazney, #363679 v. SCDC  
Appellate Case No. 2020-000910

Dear Mr. Wazney:

The Court is in receipt of your letter dated November 17, 2020 in regards to the order under appeal deficiency letter. The Court did receive your six page motion and the stated documents. The order under appeal received was not a photocopy but a conformed copy. A copy of the conformed copy is enclosed. The Court will not accept a conformed copy as the judge's actual signature and clerk of lower court's date stamp are not on it. A photocopy of the order under appeal complete with judge's signature and the clerk of lower court's date stamp must be served and filed within ten (10) days or this appeal will be dismissed.

Very truly yours,

  
CLERK

Enclosure

cc: Imani Diane Byas, Esquire

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SC Court of Appeals

<Conformed Copy>

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

ROBERT WILLIAM WAZNEY

)

Docket No. 20-ALJ-04-0136-AP

Appellant,

vs.

)

ORDER GRANTING

~~RESPONDENTS MOTION TO~~

S.C. Dept. of Corrections,

)

DISMISS

Respondent,

)

This matter is before the South Carolina Administrative Law Court pursuant to the Notice of Appeal filed on 3/1/20, by Robert William Wazney (Appellant), an inmate in the custody of the S.C. Dept. of Corrections (Respondent or Department). The Appellant is appealing the Departments return of his Step 2 grievance as unprocessed. the Department returned the Appellants grievance because inmates cannot file a grievance about a pending grievance. the Appellant is requesting the Department address in the issues in his Step 1 grievance, specifically his need for more library time due to pending court deadlines. the appellant is not appealing a disciplinary hearing conviction for which he lost good time credit or failed to get good time credit or because his sentence, sentence, sentence related credits or custody status have been erroneously calculated.

On 5/20/20, the Department filed a Motion to Dismiss for the Appellants failure to serve his notice of appeal on the department [1]. In support of its motion, the Department cited ALC Rules 54, 59, and 62, which provide that an appeal must be filed and served upon the parties to the case within thirty (30) days from the date of the written notice of the final decision of the Department. The appellant received the Departments Final Decision on 2/20/20. therefore the date for perfecting an appeal from the Departments decision was 3/23/20 [2]. The Appellant file his notice of appeal with the court on 3/1/20, however according to

[stamp "FILED Jun 04, 2020 ALC"]

[1] As of the date of this Order, the appellant has not responded to the Departments motion.

[2] Thirty days from 2/20/20 is 3/21/20, however, as that is a Saturday, pursuant to ALC Rule 52, the time for filing is extended to the following Monday, 3/23/20.

ALC 4-17-6

the notarized affidavit submitted with the Department's motion, the Appellant failed to serve his Notice of Appeal on the Department.

Timely filing and service of a notice of appeal is a jurisdictional requirement and this court does not have the authority to extend or expand the time for filing such appeal. See *Mears v. Mears*, 287 S.C. 168, 337 S.E.2d 206 (1985); *State v. Brown*, 344 S.C. 302, 543 S.E.2d 568 (Ct. App. 2001). Therefore, because the Appellant failed to timely serve his Notice of Appeal on the Department, this court does not have jurisdiction to hear it. Pursuant to the departments motion, this court concludes that this matter must be dismissed.

IT IS THEREFORE ORDERED that the Departments Motion to Dismiss is GRANTED and this appeal is hereby DISMISSED.  
AND IT IS SO ORDERED.

[signature of S. Phillip Lenski]  
Administrative law Judge

June 4, 2020  
Columbia, South Carolina

{Stamp "certificate of service": 6/6/2020 signed by law clerk (Illegible)}