

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Stephen Roy Gratton #136090

Appellant

-VS-

South Carolina Department of
Probation, Parole, & Pardon Services,
Respondant.

SC Court of Appeals

MOTION FOR

RELIEF FROM

COURT ORDER

(EXHIBIT 1)

Case No. 2020-001532

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Comes Now, Appellant who seeks relief from this Honorable Court of Appeals "Order" dated December 15, 2020 pursuant to SCRPC Rule 60(B)(1&6) and will show this Honorable Court the following reasons relief should be granted:

Reason One: Did court unlawfully determine that appellant did not submit the "Notice of Appeal" filing fee?

Argument: According to Rule 7(B) the filing fee will be assessed only for the fourth or subsequent appeal from an inmate during a given calendar year.

In conclusion for reason one the court was unwarranted to dismiss "Motion to Appeal" because of failure to file a fee. therefore this reason should be null and void. (Rule 203(b)(iii))!!

Reason Two: Did Appellant have an extraordinary circumstances for not showing proof of service upon correct respondent or to correct the format of the "Notice of appeal" as required by Rule 23?

Argument: Appellant argues that extraordinary circumstances existed that prevented the appellant from correcting the "Motion of Appeal" (Rule 60(B)(6)).

This Court sent a letter which was dated November 24 2020 informing the appellant of corrections that needed to be completed; the heading was wrong. However, because of the quarantine the appellant did not receive this letter from the KCI mailroom until December 16, 2020, two (2) days before receiving the "Order" from this Court on December 18, 2020.

In conclusion, the appellant should not be penalized because of the KCI mailroom's neglect or the quarantine. I understand that because I had a minor stroke has no bearing because this Court only seeks to apply the rules no matter the circumstances. However this reason by the Court should be reversed because of Appellant's delay in getting courts letter.

appellant had just completed the

the corrections and had planned to put them in the mail on December 21, 2020.

Final Conclusions

Appellant has shown that because of extraordinary circumstances the "Order" of this Honorable Court of Appeals should be stayed. And this indigent inmate and appellant should not be subjected to the same standards as an experienced attorney. Especially when the records show and prove he has been denied his constitutional rights. Appellant prays that this Court would notice the good-faith attempts to present his claims to achieve justice and a fair hearing from the Courts. Appellant is only asking for a reasonable opportunity to present constitutional violations claims to the courts. Appellant has no control as to when his legal mail is delivered and should not be penalized for it.

Verification

Appellant, Stephen Roy Grotton, says and certifies that the above motion is true and correct to the best of his knowledge. Sworn to and stated this 21st day of December, 2020.

Stephen Roy Grotton

s/ Stephen Roy Grotton

Date: December 21, 2020

The South Carolina Court of Appeals

Stephen Gratton, #136990, Appellant,

v.

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

Appellate Case No. 2020-001532

The Honorable Shirley C. Robinson
Trial Court Case No. 2020ALJ150037AP

ORDER

Appellant has failed to submit the notice of appeal filing fee, show proof of service upon the correct respondent, and correct the format of the notice of appeal, as required by Rule 203 of the South Carolina Appellate Court Rules, and the Court's letter dated November 24, 2020. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY V. Claire Allen
CLERK

Columbia, South Carolina

FILED
Dec 15 2020

cc:
Stephen Roy Gratton, 136990
Matthew C. Buchanan, Esquire

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

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SC Court of Appeals

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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.	

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Stephen Roy Gratton #136990,
Appellant,

-VS-

South Carolina Department of
Probation, Parole, and Pardon Services,
Respondant.

"MOTION TO APPEAL"

Appellant's Case No.

2020-001532

JURISDICTION

Comes now, Appellant, Stephen Roy 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, thereby 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, 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" according to the thirty (30)

(1)

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 SCALS 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 21st day of December 2020 to all parties by depositing the same in the United States Mail Service, postage prepaid to the following:

South Carolina Dept. Probation, Parole, & Pardon Serv.
Deputy Director of Legal Services
P.O. Box 50666
Columbia SC 292501

South Carolina Court of Appeals
Jenny Abbott Kitchings, Clerk
P.O. Box 11629
Columbia SC 29211

VERIFICATION

I Stephen Roy Gratton do hereby certify that the above "Motion to Appeal" is true and correct this 21st day of December 2020

Stephen Roy Gratton
SI Stephen Roy Gratton

Certificate of service

I Stephen Roy Gratton, Appellant in this matter before this Honorable Court of Appeals, hereby certified to have mailed a complete copy of this motion - minus exhibit #1 to all other parties on this 21st day of December, 2020 by depositing the in the United States mail service, postage prepaid to the following:

South Carolina Court of Appeals
Jenny Abbott Kitchings, Clerk of Court
P.O. Box 11629
Columbia, South Carolina 29211

Division of Legal Services
SC Dept. of Probation, Parole, & Pardon Services
2221 Devine Street, Suite 600
P.O. Box 50666
Columbia, South Carolina 29250

Stephen Roy Gratton #136990
s/ Stephen Roy Heath
Date: December 21, 2020

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SC Court of Appeals

Stephen Roy Groatton 13679
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South Carolina Court of Appeals

Jenny Abbott Kitchings, Clerk of Court

P.O. Box 11629

Columbia, SC 29211

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DEC 22 2020

SC Court of Appeals

Date: December 21, 2020

Re: Appellant Case No. 2020-001532.

Honorable J.A. Kitchings:

Please find enclosed "Motion for Relief from Order" dated December 20, 2020. Also enclosed is completed "Motion to Appeal" as the correspondence from this Court had requested. I went ahead and sent it in in case a miracle happens and the Court grants my motion of relief.

Also enclosed is a pre-address stamped envelope to return the exhibits, since, I was unable to obtain copies.

Thank you for any consideration given concerning this matter. It is appreciated. Please excuse the bad handwriting, after the stroke my writing is worse.

Sincerely,

Stephen Roy Groatton

Stephen Roy Gratton #136990
SCDC Kirkland C.I. B2-4
4344 Broad River Rd.
Columbia, SC 29210

Interagency

SCDC
DEC 21 2020
MAIL ROOM

South Carolina Court of Appeals
Attn: Honorable Jenny A. Kitchings, Clerk of Court
P.O. Box 11629
Columbia, SC 29211

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