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SC Court of Appeals

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Scott Hess,)
)
Appellant,)
)
vs.)
)
South Carolina Criminal Justice Academy,)
)
Respondent.)
_____)

Docket No. 21-ALJ-30-0132-AP

ORDER OF DISMISSAL

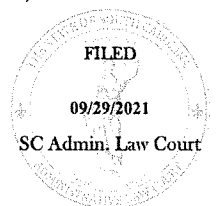
This matter is before the South Carolina Administrative Law Court (Court) pursuant to a Petition for Judicial Review of the Final Decision of the Law Enforcement Training Counsel of the South Carolina Criminal Justice Academy (Respondent). The Petition was filed on May 3, 2021, on behalf of Scott Hess (Appellant).

This appeal was assigned on May 5, 2021. Respondent filed the Record on Appeal (Record) on June 15, 2021. According to SCALC Rule 37, Appellant’s Brief was due within thirty (30) days after the Record’s filing date. Accordingly, Appellant’s brief was due on or before July 15, 2021. Respondent filed a Motion to Dismiss on September 13, 2021. Appellant submitted his brief on September 14, 2021, without an accompanying motion to allow late filing.¹ Appellant has not responded to the Motion to Dismiss.

The Court communicated with Appellant and Respondent on September 1, 2021, to inquire about the status of the case. Pursuant to an exchange of emails, the Court became aware that Appellant communicated with Respondent to obtain Respondent’s consent for an extension to file his brief.² Counsel for Appellant informed the Court on September 3, 2021, that he mistakenly thought he filed a Motion for Extension with the Court. He asserted that he had completed the brief.

¹ Appellant’s certificate of service shows that the brief was mailed to Respondent on September 13, 2021; however, it was delivered to the ALC after the clerk’s office was closed on September 13 and was stamped as received on September 14, 2021.

² According to Respondent’s Motion to Dismiss, the request for extension was made on July 26, 2021, some ten (10) days after the brief was due (on July 15, 2021).



In any event, Appellant did not timely file his brief, nor did he file a motion for an extension to file nor a motion to allow late filing.


Pursuant to SCALC Rule 37, the “party first noticing the appeal shall file . . . [his] brief within thirty (30) days after the filing of the Record on Appeal.” SCALC Rule 38 provides as follows:

Upon the motion of any party, or on its own motion, an administrative law judge may dismiss an appeal [for a party’s] failure to comply with any of the ALC rules of procedure for appeals, including the failure to comply with any of the time limits provided in these rules.

Because Appellant has not filed and served a brief in this matter within the time required by SCALC Rule 37(A), the Court finds that Respondent’s Motion to Dismiss should be **GRANTED** and this appeal should be **DISMISSED**.

AND IT IS SO ORDERED.

September 29, 2021
Columbia, South Carolina


H.W. Funderburk, Jr.
Administrative Law Judge



Docket No. 21-ALJ-30-0132-AP

CERTIFICATE OF SERVICE

I, Elizabeth A. Perkins, hereby certify that I have this date served this **Order of Dismissal** upon all parties to this cause by depositing a copy hereof by electronic mail to the addresses provided by these parties and/or their attorneys:

Ryan K. Hicks, Esquire
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Counsel for Respondent

September 29, 2021
Columbia, South Carolina

Elizabeth A. Perkins

Elizabeth A. Perkins
Judicial Law Clerk

