

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal From The Administrative Law Court
Honorable Ralph K. Anderson III, Chief Administrative Law Judge

Appellate Case No. 2022-000965

JOSEPH KELSEY, # 217218..... APPELLANT,

V.

SOUTH CAROLINA DEPARTMENT OF
PROBATION, PAROLE AND PARDON SERVICESRESPONDENT.

MOTION TO CONSOLIDATE

Appellant Joseph Kelsey is an inmate serving a life-with-parole sentence in the South Carolina Department of Corrections. On July 12, 2022, Appellant filed a Notice of Appeal from an order of the Administrative Law Court (“ALC”), which was designated as the above-captioned case by this Court on July 14, 2022. Appellant hereby moves this Court for an Order pursuant to Rule 214, SCACR, to consolidate the instant case (“*Kelsey II*”) with a related proceeding, *Joseph Kelsey v. SCDPPPS*, Case No. 2020-001473 (“*Kelsey I*”), because the two matters involve common questions of fact and law. Counsel for Respondent does not object to consolidation of these matters.

Rule 214 gives this Court the authority to consolidate two or more appeals “where the same question is involved in two or more appeals in different cases.” South Carolina Appellate Court Rule 214. Consolidation here is proper and warranted because there are common questions of fact

and law at issue in both appeals. In the instant case, Appellant will ask this Court to examine the following questions that are already under consideration in *Kelsey I*:

- (1) the scope of the Administrative Law Court's jurisdiction in an appeal from the denial of parole, and the administrative remedy available;
- (2) whether the Parole Board exceeded its statutory authority and intruded on the judicial function by substituting its own opinion for the findings of the South Carolina Supreme Court;
- (3) whether the Parole Board must give putative parolees access to their parole files;
- (4) whether the ALC must otherwise allow supplementation of the record in appeals challenging the Board's decision-making process; and
- (5) whether the Board failed to consider the requisite criteria and thus acted arbitrarily and capriciously in denying parole to Appellant.

In addition to these questions common to both appeals, there are other independent questions in *Kelsey II* that are not at issue in *Kelsey I*, which will require briefing.

With respect to the issues listed above, the two appeals involve the same questions to the extent that if this Court rules in Appellant's favor in *Kelsey I*, the unique issues in the instant case will be rendered moot. In addition, consolidation will further the goal of judicial efficiency eliminating the risk that two different panels of this Court will decide the same issues, with the same facts, inconsistently in two separate cases. Therefore, where, as here, two appeals involve the same questions of facts and law and consolidation will ensure that only one Court of Appeals panel need consider these issues, consolidation is proper.

[Signature Block Appears on Following Page]

Respectfully submitted,

/s/ Allison Franz

John H. Blume
Cornell Law School
159 Charles Evans Hughes Hall
Ithaca, NY 14853
(607) 255-1030
jlb94@cornell.edu

Hannah Freedman
Allison Franz
Justice 360
900 Elmwood Ave., Suite 200
Columbia, SC 29201
(803) 765-1044

Jon Ozmint
The Ozmint Firm
5205 Forest Drive, Suite 1
Columbia, SC 29206
(803) 782-0042
jon@ozmint.com

September 23, 2022

RECEIVED

Sep 23 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from the Administrative Law Court

Judge Ralph K. Anderson, III, Chief Administrative Law Judge

Appellate Case No. 2022-000965

Joseph Kelsey.....Appellant,

v.

*South Carolina Department of Probation,
Parole, & Pardon Services*Respondent.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of Appellant’s Motion to Consolidate was served on opposing counsel by e-mail at the address provided in the Attorney Information System: Matthew.Buchanan@ppp.sc.gov. Service was made on September 23, 2022.

/s/Allison Franz

Allison Franz

Justice 360

900 Elmwood Ave., Suite 200

Columbia, SC 29201

(803) 765-1044

allison@justice360sc.org