

**RECEIVED**

**Nov 18 2022**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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On Writ of Certiorari to Aiken County  
Honorable R. Scott Sprouse, Circuit Court Judge  
Appellate Case No. 2018-001674

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JOHN UPSON,

Respondent,

vs.

THE STATE,

Petitioner.

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**RETURN IN OPPOSITION TO  
THIRD PETITION FOR APPEAL BOND**

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Petitioner (“the State”), through its undersigned counsel, would respectfully show unto the Court as follows:

**I.**

On November 14, 2022, Respondent John Upson filed a petition seeking for this Court to grant him an appeal bond. Upson’s latest petition is—again—a successive one, and it follows strikingly-similar appeal bond petitions that were filed with the South Carolina Supreme Court in November of 2018 and this Court in April of 2020. Both were denied.

**II.**

Just like at the time his last petition was filed, Upson is presently serving an aggregate twenty-year sentence with the South Carolina Department of Corrections after he was convicted by a jury of his peers of one count of armed robbery and two counts of kidnapping. Inmate

Search Detail Report for John L. Upson, <https://public.doc.state.sc.us/scdc-public/inmateDetails.do?id=%2000229134>. As before, Upson is currently still being housed at Lee Correctional Institution, and he has remained there except for when he has been transported elsewhere for medical purposes. Id.

### III.

As was previously noted in the State's last return to one of Upson's appeal bond petitions, Upson's convictions stem from an armed robbery committed by several individuals with their faces *partially* covered at a Captain D's restaurant located in Aiken, South Carolina. (App'x pp. 52-99). During the robbery, the robbers held the restaurant's employees at gunpoint, demanded the restaurant's cash, forced the terrified employees into a freezer, and then were able to get away. (App'x pp. 52-99). However, because the robbers' faces were partially uncovered, one of the victims recognized one of the robbers—Upson—as an individual who had come into the restaurant a few days earlier, and she subsequently alerted law enforcement of Upson's involvement in the robbery after ascertaining his identity through independent internet research. (App'x pp. 55-58; p. 61; p. 65; pp. 72-77; pp. 102-103). Ultimately, based on the victim's identification coupled with other evidence uncovered in the investigation into the robbery, Upson—who had placed several calls to the restaurant shortly before the robbery was committed, including one in which he attempted to mask his caller identification information—was arrested, indicted for several highly-serious offenses, and convicted as indicted. (App'x pp. 102-103; pp. 151-152; pp. 257-258).

### IV.

Subsequent to his trial and following an unsuccessful appeal, Upson filed an application seeking post-conviction relief. (App'x pp. 352-364). After conducting an evidentiary hearing on

the matter, the post-conviction relief judge granted relief and awarded Upson a new trial. (App’x pp. 475-493). In doing so, he concluded defense counsel was deficient for: (1) failing to either seek a pre-trial hearing to determine the admissibility of eyewitness identification evidence or challenge the admission of that evidence during trial; (2) failing to challenge the victim’s testimony about her belief Upson had a “lazy eye” on cross-examination; and (3) failing to challenge the State’s testimony discrediting Upson’s alibi defense with an expert of his own. (App’x pp. 475-493). Furthermore, he determined Upson’s suffered some undefined prejudice because of defense counsel’s deficient performance. (App’x p. 483; p. 493).

#### V.

Following the grant of relief, the State sought reconsideration, and that reconsideration request was summarily denied by the post-conviction relief judge. (App’x pp. 494-508). The State then timely initiated an appeal of the final order granting relief.

#### VI.

Currently, the State’s appeal is pending before this Court. On November 12, 2021, the State’s petition for a writ of certiorari was granted. At present, all briefing has been completed, and the matter is fully ready to be considered, orally argued if so desired, and decided.

#### VII.

Pursuant to South Carolina’s appellate court rules, a post-conviction relief applicant “may” be admitted to bail during the pendency of an appeal of a trial court order by either the applicant or the State. Rule 243(k), SCACR. Importantly though, an applicant has no right to an appeal bond, and a court will only issue one in an “exceptional” case. See id. (“The authority to grant bail will be exercised with caution and only in exceptional cases.”); Nichols v. Patterson, 202 S.C. 352, \_\_\_, 25 S.E.2d 155, 156 (1943) (instructing the allowance of bail after a conviction

is *not* a matter of right). In cases—like Upson’s—in which an applicant was originally sentenced to a term of imprisonment exceeding ten years, South Carolina’s appellate courts alone have discretion to decide whether an appeal bond should be issued. Rule 243(k), SCACR; see Rule 243(l), SCACR (“If transferred, the Court of Appeals shall proceed with the case in the same manner as the Supreme Court would have done under this rule[.]”). When deciding whether to exercise that discretion, an appellate court should consider the following factors: (1) the probability of success on appeal; (2) the nature of the relief the applicant will receive if successful in his or her case; (3) the seriousness of the criminal offense committed; (4) the danger the applicant may pose to the community if he or she is released; (5) the likelihood the applicant may flee if released; and (6) the character and circumstances of the applicant. Rule 243(k), SCACR. However, our legislature has demonstrated a strong preference for an appeal bond *not* to be granted in a case in which a convicted offender has been sentenced to a term of imprisonment exceeding ten years. See S.C. Code Ann. § 18-1-90 (“Bail may be allowed to the defendant in all cases in which the appeal is from the trial, conviction, or sentence for a criminal offense. However, bail is not allowed when the defendant has been sentenced to death, life imprisonment, or imprisonment for more than ten years.”); see also *State v. Whitener*, 225 S.C. 244, 248, 81 S.E.2d 784, 786 (1954) (concluding—in a divided opinion—the Supreme Court could “grant bail, in its discretion, where the sentence exceeds ten years” despite the existence of a statutory provision prohibiting a grant of bail under such circumstances).

### VIII.

Through his most recent petition seeking an appeal bond, Upson identifies several points he contends constitute changed circumstances since his last two appeal bond petitions were filed and rejected. First, Upson alleges—as he did in his second appeal bond petition—the

coronavirus pandemic has significantly impacted the state’s prison system and, this time, contends the impact is making it more difficult for him to rehabilitate. Second, Upson concedes he committed a disciplinary infraction while incarcerated but notes he only did so on one prior occasion. Third, Upson—as he did in his second appeal bond petition—maintains he has been diagnosed with glaucoma, again expresses a desire to obtain “outside” medical treatment for that condition, and claims such outside medical treatment is currently “almost impossible to obtain” such that he is still fearful of losing his vision. Likewise, as part of that third identified point, Upson adds an allegation of a recent diagnosis of diabetes, concedes the Department of Corrections has diabetic meals available for diabetic inmates, and asserts it is nonetheless “difficult for him to control his sugar levels” because the special diabetic meals are purportedly “loaded with bread, rice and other carbohydrates.” Fourth, Upson indicates his father is ninety-two years old with failing health and his mother has onset Alzheimer’s disease while expressing a desire to be released so he can assist them. Fifth and finally, Upson—just as he did in *both* his earlier appeal bond petitions—claims he is not a flight risk while noting he is a lifelong resident of Aiken County. Significantly, while identifying those points, Upson has provided no evidence or information of any kind to support them aside from his own unsubstantiated claims.

## IX.

Regarding Upson’s first identified change in circumstances, the South Carolina Department of Corrections—despite issues caused by the pandemic and understaffing—continues to have some programs available to inmates, including a work program in which Upson is participating.<sup>1</sup> Therefore, Upson’s concerns about the current unavailability of *some*

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<sup>1</sup> A letter sent by Deputy General Counsel Christina C. Bigelow from the South Carolina Department of Corrections addressing—amongst other things—the availability of the COVID-19

rehabilitative programs in the Department of Corrections does not render his case an “exceptional” one warranting the grant of an appeal bond. Like the earlier ones before it, Upson’s latest petition for an appeal bond should once again be denied.

**X.**

Regarding Upson’s second identified change in circumstances, Upson’s self-admitted commission of a disciplinary infraction *after* he was convicted of and punished for multiple highly-serious criminal offenses demonstrates a continuing unwillingness on Upson’s part to fully conform his behavior to the rules, laws, and expectations of society. See Nichols, 202 S.C. at \_\_, 25 S.E.2d at 156 (recognizing a defendant’s character, reputation, and attitude toward society and government are relevant considerations when determining whether to grant an appeal bond to a convicted offender). Therefore, Upson’s blemished behavioral record in prison is not something that warrants a grant of an appeal bond simply because it is not *more* blemished. Yet again, Upson’s latest petition for an appeal bond should be denied.

**XI.**

Regarding Upson’s third identified change in circumstances, the South Carolina Department of Corrections does, in fact, provide—and has expressly *again* confirmed it provides—medical care for all its inmates.<sup>2</sup> Notably, that medical care includes care for inmates diagnosed with glaucoma and *diabetes*. Therefore, assuming the diagnostic information reported by Upson is accurate, the Department of Corrections will provide Upson with any medical treatment he needs for his conditions. Meanwhile, based on information provided by the

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vaccine to inmates along with the continued availability of some programs despite issues caused by the pandemic and understaffing has been included with the State’s return as Attachment “A.”

<sup>2</sup> The previously-referenced letter from Deputy General Counsel Bigelow included with the State’s return as Attachment “A” also contains information about the availability of medical care for inmates with conditions like glaucoma and diabetes.

Department of Corrections concerning Upson’s recent purchasing habits, the sincerity of Upson’s reported concerns about the sugar content of the diabetic meals available for inmates appears to be at least somewhat questionable since he has made multiple purchases of soda and candy from the prison canteen in the last few months.<sup>3</sup> As a result, neither Upson’s glaucoma diagnosis nor his diabetes diagnosis renders his case an “exceptional” one such that the grant of an appeal bond is warranted. Again, Upson’s latest petition for an appeal bond should be denied.

## XII.

Regarding Upson’s fourth identified change in circumstances, Upson’s separation from aging family members experiencing health troubles is—as opposed to being an extraordinary or exceptional circumstance—a sad but common issue facing numerous incarcerated inmates throughout South Carolina and the nation as a whole. Cf. United States v. Allen, 87 F.3d 1224, 1225 (11th Cir. 1996) (explaining a convicted defendant being the primary caretaker of an infirmed parent is “not extraordinary” since it is something experienced by innumerable defendants and, therefore, reversing a downward sentencing departure that had been based on the fact “Allen [wa]s the primary caretaker of her seventy-year-old father, who suffers from both Alzheimer’s and Parkinson’s diseases”). Accordingly, while unfortunate if accurate, Upson’s claim about his parents’ health do not render his case an “exceptional” one warranting a grant of an appeal bond. Once again, Upson’s latest petition for an appeal bond should be denied.

## XIII.

Regarding Upson’s fifth and final identified change in circumstances, Upson’s claim he does not personally consider himself to be a flight risk due to the fact he is a longtime Aiken

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<sup>3</sup> Inmate information that includes Upson’s individual prison canteen purchase records for the time period from September 1, 2022, until November 18, 2022, has been included with the State’s return as Attachment “B.”

County resident is not, in fact, truly a change in circumstances since Upson included that claim in both his earlier appeal bond petitions. Accordingly, since that claim does not actually represent a change in anything, it cannot and does not warrant a different outcome on the latest appeal bond petition from the outcome of the earlier ones that both contained the same claim. Like the other two before it, Upson's latest appeal bond petition should be denied.

#### **XIV.**

Beyond his claims purportedly related to changed circumstances, Upson also once again alleges in his latest petition the pertinent factors identified in our appellate court rules warrant the grant of an appeal bond in his case. However, as support for that particular allegation, Upson simply repeats in a nearly word-for-word fashion the arguments he has previously twice presented before through his earlier two appeal bond petitions. In fact, the vast majority of the substance of Upson's latest appeal bond petition is indistinguishable from his earlier petitions outside of the changed circumstances he has now identified, and several of those purportedly changed circumstances have themselves previously been advanced before in his appeal bond petitions. Functionally, the only changes made in his latest petition are Upson: (1) has now dropped his earlier references to an affidavit from his father; (2) has omitted one twice-previously-referenced job prospect while identifying the other twice-previously-referenced job prospect with less specificity than earlier provided; (3) has updated his age; and (4) has made some minor punctuation changes. Aside from that, Upson's petition for an appeal bond once again remains largely the same as his earlier two petitions seeking the same relief.

#### **XV.**

Since those same grounds for an appeal bond have already been advanced to and rejected by both our Supreme Court and this Court on two earlier occasions in Upson's case, those

unchanged grounds should not now be found to warrant the grant of an appeal bond simply by virtue of being repeated and then repeated yet again. Moreover, when considered on the merits, those grounds—just as our Supreme Court and this Court have already recognized—do not warrant the grant of an appeal bond in Upson’s case. Specifically, for the reasons articulated in both its petition for a writ of certiorari *and* the brief of petitioner it filed following this Court’s grant of that petition, the State believes its appellate arguments will be meritorious in Upson’s case, which weighs against a grant of an appeal bond. (Pet. for Cert. pp. 1-24; Pet. Br. pp. 1-29). However, even if the State’s appeal is unsuccessful, Upson will—as the State has previously noted—still be facing another trial on the same charges, which weighs against a grant of an appeal bond. Additionally, Upson’s charges of armed robbery and kidnapping are—as the State has previously noted—highly-serious charges, and the fact a jury unanimously convicted him of those offenses supports a conclusion he poses a danger to the community. See State v. Johnson, 350 S.C. 543, 547, 567 S.E.2d 486, 488 (Ct. App. 2002) (“[F]ew would argue that first-degree burglary, *armed robbery*, and *kidnapping* are anything other than grave offenses of the ‘most serious’ nature.” (emphasis added)). Furthermore, even if the State’s appeal is ultimately unsuccessful, Upson will—as the State has previously noted—still be facing a potential maximum sentence of ninety years, which is factor creating a strong incentive for flight if he is released. See S.C. Code Ann. § 16-3-910 (mandating a person convicting of kidnapping “must be imprisoned for a period not to exceed thirty years”); S.C. Code Ann. § 16-11-330 (mandating a person convicted of armed robbery “must be imprisoned for a mandatory minimum term of not less than ten years or more than thirty years, no part of which may be suspended or probation granted”). Accordingly, because the circumstances of Upson’s case do not warrant the grant of

an appeal bond, Upson’s petition for an appeal bond should be denied just like his earlier—and highly-similar—two petitions.

**XVI.**

Finally, although the State firmly believes this Court should do just as both it and our Supreme Court have already done and—for a third time in Upson’s case—deny Upson’s petition for an appeal bond, this Court should impose reasonable bond conditions to protect the community and ensure Upson does not abscond in the event it determines Upson’s case is somehow now so exceptional it warrants the grant of an appeal bond when it previously did not on multiple earlier occasions. See Rule 243(k), SCACR (“If bail is granted, the court may require the posting of a bond and impose other conditions.”). Specifically, due to the “violent” and “most serious” nature of Upson’s crimes, this Court should—at a minimum—order Upson to remain on home detention pursuant to the county home detention program during the pendency of the State’s appeal, require Upson to submit to electronic monitoring at his own expense, preclude Upson from changing his address without prior court approval, direct Upson to surrender any passport he may have to the Aiken County Clerk of Court, and mandate Upson to refrain from applying for any new passports until his case is finally resolved. See S.C. Code Ann. § 16-1-60 (identifying armed robbery and kidnapping as “violent” crimes); S.C. Code Ann. § 17-25-45(C)(1) (classifying armed robbery and kidnapping as “most serious” offenses).

**WHEREFORE**, Petitioner prays this Court will deny Upson’s latest successive Petition for Appeal Bond; and grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON  
Attorney General

MARK R. FARTHING  
Senior Assistant Attorney General



By: \_\_\_\_\_  
Mark R. Farthing  
S.C. Bar Number 76901

November 18, 2022

**ATTACHMENT "A"**



OFFICE OF GENERAL COUNSEL

November 18, 2022

Mark R. Farthing, Esquire  
S.C. Attorney General's Office  
Post Office Box 11549  
Columbia, South Carolina 29211

**RE: John L. Upson, SCDC # 229134**

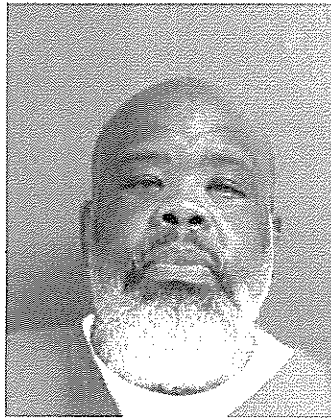
Dear Mr. Farthing:

Inmate John L. Upson is currently serving sentences for kidnapping and armed robbery. His current projected maxout date is November 28 2030, and he is housed at Lee Correctional Institution. SCDC provides medical care for inmates with glaucoma and for inmates with diabetes. Diabetic meals are provided to inmates who are medically determined to be in need of such meals. Also, COVID-19 vaccines are available to all inmates who wish to receive them. Although COVID-19 and understaffing have affected the availability of certain programs and activities in SCDC, there are still some programs and activities available to inmates. Also, inmates are still allowed to participate in work and work programs. Inmate Upson is currently employed as a full-time general worker at Lee Correctional. He works eight hours per day, five days per week.

Sincerely,

Christina C. Bigelow  
Deputy General Counsel  
South Carolina Department of Corrections

**ATTACHMENT "B"**



INMATE DESCRIPTION		INMATE SENTENCE AND LOCATION	
SEX:	MALE	SCDC ID:	00229134
RACE:	BLACK	SID:	SC00926172
HEIGHT:	5' 07"	OFFENDER TYPE:	ADULT-STRAIGHT SENTENCE
WEIGHT:	315 lbs.	ADMISSION DATE:	04/25/2014
AGE:	51	LOCATION:	LEE
CITIZENSHIP:	CITIZEN - NATIVE BORN	DORM-ROOM-BUNK:	F2B-1213-T
BUILD:	MEDIUM	EWC LEVEL:	2F5
COMPLEXION:	MEDIUM BROWN	EEC LEVEL:	
HAIR COLOR:	BLACK	PROJECTED RELEASE DATE:	11/28/2030
EYE COLOR:	BROWN	PROJECTED PAROLE ELIGIBILITY:	NOT ELIGIBLE
PICTURE DATE:	07/05/2019	SUP. FURLOUGH ELIGIBILITY:	NOT ELIGIBLE
		SUP. RE-ENTRY DATE:	NOT ELIGIBLE

**CURRENT OFFENSES**

OFFENSE	SENTENCE TYPE	YRS	MOS	DYS	COUNTY	START DATE	V/NV	CAT	INDICT	STATUS
ARMED ROBBERY	ADULT-STRAIGHT SENTENCE	20	0	0	AIKEN	12/02/2013	V	4	14GS0200074	ACTIVE
KIDNAPPING	ADULT-STRAIGHT SENTENCE	20	0	0	AIKEN	12/02/2013	V	5	14GS0200079	ACTIVE

**ESCAPES**

NO ESCAPES DURING CURRENT INCARCERATION

**DISCIPLINARY SANCTIONS** SANCTIONS NOT AVAILABLE IN THE AUTOMATED SYSTEM PRIOR TO JANUARY 2009

DATE	DESCRIPTION
09/24/2018	POSS. OR/ATTEMPT TO POSSESS CELL PHONE
	LOSS OF CANTEEN PRIVILEGES FOR 110 DAYS
	DISC. DETENTION FOR 20 DAYS
	LOSS OF PROPERTY PRIVILEGES FOR 110 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 110 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 110 DAYS

**MOVEMENT**

MOVEMENT DATE	TO LOCATION	STATUS	REASON
08/31/2022	LEE	INCARCERATED	ADMINISTRATIVE
08/31/2022	CENTRAL OFFICE ANNEX	INCARCERATED	MEDICAL
08/10/2022	LEE	INCARCERATED	ADMINISTRATIVE
08/10/2022	CENTRAL OFFICE ANNEX	INCARCERATED	MEDICAL
06/02/2022	LEE	INCARCERATED	ADMINISTRATIVE
06/02/2022	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
05/18/2022	LEE	INCARCERATED	ADMINISTRATIVE
05/18/2022	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
03/17/2022	LEE	INCARCERATED	ADMINISTRATIVE
03/17/2022	CENTRAL OFFICE ANNEX	INCARCERATED	MEDICAL
11/17/2021	LEE	INCARCERATED	ADMINISTRATIVE
11/17/2021	KIRKLAND	INCARCERATED	MEDICAL

MOVEMENT			
MOVEMENT DATE	TO LOCATION	STATUS	REASON
09/02/2021	LEE	INCARCERATED	ADMINISTRATIVE
09/02/2021	KIRKLAND	INCARCERATED	MEDICAL
06/25/2020	LEE	INCARCERATED	ADMINISTRATIVE
06/26/2020	CENTRAL OFFICE ANNEX	INCARCERATED	MEDICAL
05/26/2020	LEE	INCARCERATED	ADMINISTRATIVE
05/26/2020	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
03/09/2020	LEE	INCARCERATED	ADMINISTRATIVE
03/09/2020	KIRKLAND	INCARCERATED	MEDICAL
12/30/2019	LEE	INCARCERATED	ADMINISTRATIVE
12/30/2019	OUTSIDE MEDICAL	AUTH ABSENCE (AWL)	MEDICAL
10/31/2019	LEE	INCARCERATED	ADMINISTRATIVE
10/31/2019	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
10/10/2019	LEE	INCARCERATED	MEDICAL
10/09/2019	OUTSIDE MEDICAL	AUTH ABSENCE (AWL)	MEDICAL
09/25/2019	LEE	INCARCERATED	ADMINISTRATIVE
09/25/2019	KIRKLAND	INCARCERATED	MEDICAL
07/03/2019	LEE	INCARCERATED	ADMINISTRATIVE
07/03/2019	KIRKLAND	INCARCERATED	MEDICAL
11/29/2018	LEE	INCARCERATED	ADMINISTRATIVE
11/29/2018	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
11/05/2018	LEE	INCARCERATED	ADMINISTRATIVE
10/29/2018	MCCORMICK	INCARCERATED	ADMINISTRATIVE
10/29/2018	KIRKLAND	INCARCERATED	MEDICAL
09/26/2018	MCCORMICK	INCARCERATED	ADMINISTRATIVE
09/26/2018	OUTSIDE MEDICAL	AUTH ABSENCE (AWL)	MEDICAL
07/18/2018	MCCORMICK	INCARCERATED	ADMINISTRATIVE
07/18/2018	KIRKLAND	INCARCERATED	MEDICAL
05/08/2018	MCCORMICK	INCARCERATED	RETURN FROM COURT
05/08/2018	AIKEN CO	AUTH ABSENCE (AWL)	TO COURT
02/27/2018	MCCORMICK	INCARCERATED	ADMINISTRATIVE
02/27/2018	KIRKLAND	INCARCERATED	MEDICAL
02/26/2018	MCCORMICK	INCARCERATED	ADMINISTRATIVE
02/26/2018	KIRKLAND	INCARCERATED	MEDICAL
01/30/2018	MCCORMICK	INCARCERATED	ADMINISTRATIVE
01/30/2018	KIRKLAND	INCARCERATED	MEDICAL
12/21/2017	MCCORMICK	INCARCERATED	ADMINISTRATIVE
12/21/2017	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
10/17/2017	MCCORMICK	INCARCERATED	ADMINISTRATIVE
10/17/2017	KIRKLAND	INCARCERATED	MEDICAL
09/22/2017	MCCORMICK	INCARCERATED	ADMINISTRATIVE
09/22/2017	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
09/19/2017	MCCORMICK	INCARCERATED	RETURN FROM COURT
09/19/2017	AIKEN CO	AUTH ABSENCE (AWL)	TO COURT
08/29/2017	MCCORMICK	INCARCERATED	ADMINISTRATIVE
08/29/2017	KIRKLAND	INCARCERATED	MEDICAL
06/13/2017	MCCORMICK	INCARCERATED	ADMINISTRATIVE

MOVEMENT			
MOVEMENT DATE	TO LOCATION	STATUS	REASON
06/13/2017	KIRKLAND	INCARCERATED	MEDICAL
04/24/2017	MCCORMICK	INCARCERATED	ADMINISTRATIVE
04/24/2017	KIRKLAND	INCARCERATED	MEDICAL
03/13/2017	MCCORMICK	INCARCERATED	ADMINISTRATIVE
03/13/2017	KIRKLAND	INCARCERATED	MEDICAL
11/02/2016	MCCORMICK	INCARCERATED	ADMINISTRATIVE
11/02/2016	KIRKLAND	INCARCERATED	MEDICAL
10/03/2016	MCCORMICK	INCARCERATED	ADMINISTRATIVE
10/03/2016	KIRKLAND	INCARCERATED	MEDICAL
08/31/2016	MCCORMICK	INCARCERATED	ADMINISTRATIVE
08/30/2016	KIRKLAND	INCARCERATED	MEDICAL
08/01/2016	MCCORMICK	INCARCERATED	ADMINISTRATIVE
08/01/2016	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
06/01/2016	MCCORMICK	INCARCERATED	ADMINISTRATIVE
06/01/2016	KIRKLAND	INCARCERATED	MEDICAL
05/20/2016	MCCORMICK	INCARCERATED	ADMINISTRATIVE
05/20/2016	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
04/27/2016	MCCORMICK	INCARCERATED	ADMINISTRATIVE
04/26/2016	KIRKLAND	INCARCERATED	MEDICAL
04/13/2016	MCCORMICK	INCARCERATED	ADMINISTRATIVE
04/13/2016	KIRKLAND	INCARCERATED	MEDICAL
03/24/2016	MCCORMICK	INCARCERATED	ADMINISTRATIVE
03/24/2016	KIRKLAND	INCARCERATED	MEDICAL
03/21/2016	MCCORMICK	INCARCERATED	ADMINISTRATIVE
03/21/2016	KIRKLAND	INCARCERATED	MEDICAL
03/10/2016	MCCORMICK	INCARCERATED	ADMINISTRATIVE
03/10/2016	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
01/05/2016	MCCORMICK	INCARCERATED	ADMINISTRATIVE
01/05/2016	KIRKLAND	INCARCERATED	MEDICAL
11/04/2015	MCCORMICK	INCARCERATED	ADMINISTRATIVE
11/04/2015	KIRKLAND	INCARCERATED	MEDICAL
09/29/2015	MCCORMICK	INCARCERATED	ADMINISTRATIVE
09/29/2015	KIRKLAND	INCARCERATED	MEDICAL
09/09/2015	MCCORMICK	INCARCERATED	ADMINISTRATIVE
09/08/2015	KIRKLAND	INCARCERATED	MEDICAL
09/01/2015	MCCORMICK	INCARCERATED	ADMINISTRATIVE
09/01/2015	KIRKLAND	INCARCERATED	MEDICAL
08/13/2015	MCCORMICK	INCARCERATED	ADMINISTRATIVE
08/13/2015	KIRKLAND	INCARCERATED	MEDICAL
08/05/2015	MCCORMICK	INCARCERATED	ADMINISTRATIVE
08/05/2015	KIRKLAND	INCARCERATED	MEDICAL
06/10/2015	MCCORMICK	INCARCERATED	ADMINISTRATIVE
06/03/2015	PERRY	INCARCERATED	ADMINISTRATIVE
06/02/2015	KIRKLAND	INCARCERATED	MEDICAL
04/23/2015	PERRY	INCARCERATED	ADMINISTRATIVE
04/23/2015	KIRKLAND	INCARCERATED	MEDICAL

**MOVEMENT**

MOVEMENT DATE	TO LOCATION	STATUS	REASON
04/01/2015	PERRY	INCARCERATED	ADMINISTRATIVE
04/01/2015	KIRKLAND	INCARCERATED	MEDICAL
01/15/2015	PERRY	INCARCERATED	ADMINISTRATIVE
01/15/2015	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
12/17/2014	PERRY	INCARCERATED	ADMINISTRATIVE
12/17/2014	KIRKLAND	INCARCERATED	MEDICAL
12/03/2014	PERRY	INCARCERATED	ADMINISTRATIVE
12/02/2014	KIRKLAND	INCARCERATED	MEDICAL
10/07/2014	PERRY	INCARCERATED	ADMINISTRATIVE
10/07/2014	KIRKLAND	INCARCERATED	MEDICAL
06/02/2014	PERRY	INCARCERATED	ADMINISTRATIVE
04/25/2014	KIRKLAND	INCARCERATED	NEW ADMISSION

**EARNED WORK CREDITS**

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LEVEL
GENERAL WORKER	11/09/2022			2F5
MACHINE OPERATOR	03/18/2022	11/08/2022	LATERAL TRANSFER	2F5
GENERAL WORKER	02/18/2020	03/17/2022	LATERAL TRANSFER	2F5
GENERAL WORKER	12/26/2019	02/17/2020	POLICY CHANGE 2020	3F5
ACADEMY OF HOPE	05/28/2019	12/25/2019	LATERAL TRANSFER	3F5
GENERAL WORKER	02/22/2019	05/27/2019	LATERAL TRANSFER	3F5
GENERAL WORKER	04/12/2018	11/05/2018	INSTIT TRANSFER	2F5
FOOD SERVICE AIDE	02/23/2017	04/11/2018	INMATE REQUEST	2F5
BARBER	07/21/2015	02/22/2017	INMATE REQUEST	2F5
GENERAL WORKER	07/20/2015	07/20/2015	INMATE REQUEST	2F5
BARBER	06/24/2015	07/19/2015	INMATE REQUEST	2F5
GENERAL WORKER	06/16/2015	06/23/2015	INMATE REQUEST	2F5
WARDKEEPER ASSISTANT	05/21/2015	06/10/2015	INSTIT TRANSFER	2F5
WARDKEEPER ASSISTANT	03/20/2015	05/20/2015	INMATE REQUEST	2P5
GENERAL WORKER	11/05/2014	03/03/2015	LATERAL TRANSFER	2F5
WARDKEEPER ASSISTANT	09/04/2014	11/04/2014	INMATE REQUEST	2P5
FOOD SERVICE AIDE	06/26/2014	09/03/2014	LATERAL TRANSFER	2F5
WARDKEEPER ASSISTANT	06/03/2014	06/25/2014	LATERAL TRANSFER	2P5

**EARNED EDUCATION CREDITS**

EEC DESCRIPTION	START DATE	END DATE	TERMINATION REASON
BONUS 15 OR MORE	07/05/2016	05/31/2017	POOR ATTENDANCE
BONUS 15 OR MORE	08/03/2015	07/01/2016	COMPLETED EDUC PROGRAM

**CERTIFICATES**

CERTIFICATE DESCRIPTION	RECEIVED DATE
OJT CULINARY ARTS II	01/12/2018
OJT CULINARY ARTS I	06/30/2017
VOCATIONAL CARPENTRY IV	10/27/2016
VOCATIONAL CARPENTRY III	06/30/2016

**CERTIFICATES**

CERTIFICATE DESCRIPTION	RECEIVED DATE
WORKKEYS - BRONZE - ABE	06/08/2016
VOCATIONAL CARPENTRY II	05/17/2016
VOCATIONAL CARPENTRY I	11/19/2015
VOCATIONAL BASIC 10 HOUR SAFETY	06/09/2015
HS DIPLOMA EARNED OUTSIDE SCDL	05/30/1991

**PROGRAMS**

NO PROGRAMS DURING INCARCERATION(S)

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
INDIVIDUAL INMATE PURCHASES

INMATE: JOHN L UPSON (00229134)  
PURCHASE DATES: 09/01/22 - 11/18/22

LOCATION DESCRIPTION	DATE	PRODUCT CODE	PRODUCT DESCRIPTION	UNIT PRICE	QUANTITY	SALES
LEE CANTEEN EAST	09-07-2022	30010	CANDY,SKITTLES,2.17OZ	\$ 1.23	3	\$ 3.69
LEE CANTEEN EAST	09-07-2022	30023	CANDY,SNICKERS,2.07OZ	\$ 1.23	5	\$ 6.15
LEE CANTEEN EAST	09-07-2022	41026	CHIPS,FRITOS,CHILI	\$ 0.67	2	\$ 1.34
LEE CANTEEN EAST	09-07-2022	60807	SOAP,DIAL,ANTI-	\$ 1.20	10	\$ 12.00
LEE CANTEEN EAST	09-20-2022	30023	CANDY,SNICKERS,2.07OZ	\$ 1.23	1	\$ 1.23
LEE CANTEEN EAST	09-20-2022	51204	CEREAL BRAN FLAKES, 20 OZ.	\$ 4.15	1	\$ 4.15
LEE CANTEEN EAST	09-20-2022	41012	CHIPS,CHEESE & BACON POTATO SKIN,1.75OZ	\$ 0.69	2	\$ 1.38
LEE CANTEEN EAST	09-20-2022	41026	CHIPS,FRITOS,CHILI	\$ 0.67	10	\$ 6.70
LEE CANTEEN EAST	09-20-2022	60409	DEODORANT,MENNEN SPORT TALC,3OZ	\$ 3.62	1	\$ 3.62
LEE CANTEEN EAST	09-20-2022	21018	DRINK MIX,LEMON LIME,GATORADE,2.12OZ	\$ 0.98	2	\$ 1.96
LEE CANTEEN EAST	09-20-2022	20007	DRINK,SODA,DR PEPPER,CAN,12OZ	\$ 0.65	5	\$ 3.25
LEE CANTEEN EAST	09-20-2022	20009	DRINK,SODA,GINGERALE,CAN,1 2OZ	\$ 0.65	6	\$ 3.90
LEE CANTEEN EAST	09-20-2022	42000	MOON PIE,CHOCOLATE,2.75OZ	\$ 0.57	1	\$ 0.57
LEE CANTEEN EAST	09-20-2022	60910	PAPER,TOILET,CORELESS,2 PLY,500 SHIT/ROLL	\$ 0.65	5	\$ 3.25
LEE CANTEEN EAST	09-20-2022	60206	RAZOR,DISPOSABLE,TWIN BLADE,10/PAC	\$ 0.24	10	\$ 2.40
LEE CANTEEN EAST	09-20-2022	60807	SOAP,DIAL,ANTI-	\$ 1.20	20	\$ 24.00
LEE CANTEEN EAST	09-20-2022	60812	SOAP,JERGENS,4.5OZ	\$ 0.62	1	\$ 0.62
LEE CANTEEN EAST	09-27-2022	51204	CEREAL BRAN FLAKES, 20 OZ.	\$ 4.15	1	\$ 4.15
LEE CANTEEN EAST	10-04-2022	60624	HAIR MOISTURIZER,LUSTER PINK OIL,8OZ	\$ 7.03	1	\$ 7.03
<b>TOTALS</b>					<b>87</b>	<b>\$ 91.39</b>

**RECEIVED**

**Nov 18 2022**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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On Writ of Certiorari to Aiken County  
Honorable R. Scott Sprouse, Circuit Court Judge  
Appellate Case No. 2018-001674

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JOHN UPSON,

Respondent,

vs.

THE STATE,

Petitioner.

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**PROOF OF SERVICE**

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I, Mark R. Farthing, certify I have served the within Return in Opposition to Third Petition for Appeal Bond on Respondent by sending an electronic copy via email to the address listed in AIS for the following individual:

Tommy A. Thomas, Esq.  
Post Office Box 88  
Irmo, SC 29063

I further certify all parties required by Rule to be served have been served.  
This 18th day of November, 2022.



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MARK R. FARTHING  
Senior Assistant Attorney General  
Office of the Attorney General

**From:** [Mark Farthing](#)  
**To:** [thomaslaw@me.com](mailto:thomaslaw@me.com)  
**Cc:** [Jackie Miller](#); [Megan Jameson](#)  
**Subject:** John Upson v. State -- Appellate Case # 2018-001674 -- Return in Opposition to Third Petition for Appeal Bond  
**Date:** Friday, November 18, 2022 6:30:00 PM  
**Attachments:** [Upson.Return to Third Pet for Appeal Bond \(03159189xD2C78\).PDF](#)  
[image001.png](#)

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Mr. Thomas,

Attached is the State's return to the petition for appeal bond recently filed in the [John Upson v. State](#) appeal. I will be submitting a copy of the return to the Court of Appeals shortly via the electronic filing system. Thanks, and, if you have any questions or need anything from me, please just let me know.

Sincerely,  
Mark

**MARK R. FARTHING**, Senior Assistant Attorney General  
South Carolina Attorney General's Office  
Criminal Appeals | Office 803-734-4117 | [mfarthing@scag.gov](mailto:mfarthing@scag.gov)  
P.O. Box 11549 | Columbia, SC 29211  
[scag.gov](http://scag.gov)



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