

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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**RECEIVED**

APPEAL FROM ADMINISTRATIVE LAW COURT

DEC 02 2022

Administrative Law Judge Milton G. Kimpson

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**SC Court of Appeals**

ALC Case No. 21-ALJ-04-0292-AP  
Appellate Case No. 2022-001001

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Joseph McMorris, Jr., #264508.....Appellant,

v.

South Carolina Department of Corrections.....Respondent.

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**MOTION TO DISMISS**

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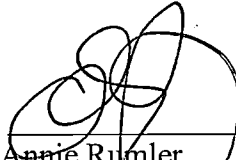
This matter is before the Court pursuant to Joseph McMorris's appeal of Administrative Law Court Judge Milton G. Kimpson's Ralph King Anderson's June 24, 2022 order.

On August 11, 2016, Appellant was sentenced to ten years' incarceration for Possession of Methamphetamine, Third Offense, in violation of S.C. Code § 44-53-375(A). *See* Appellant's August 11, 2016 sentencing sheet. Appellant's August 11, 2016 sentencing sheet. He began serving this sentence in SCDC custody on August 11, 2016 and was released to parole on October 17, 2018. *See* Appellant's Conviction Summary for conviction S00009 from the SCDC Offender Management System & Appellant's Movement History. His parole was revoked on November 18, 2020 and he was returned to SCDC custody. *See* Appellant's November 18, 2020 Parole Revocation Order. Appellant was given day for day credit for the time he spent on parole between October 17, 2018 and November 18, 2020. However, he was not given good time credits and earned work credits for that time period. Appellant asserts this was an error which caused his

sentence calculation to be incorrect. *See* Appellant's Initial Brief.

On May 24, 2021, Appellant filed a Step One Grievance asserting his sentence had been incorrectly calculated. This grievance was investigated and denied when it was determined that Appellant's sentence calculation was correct. Appellant filed a Step Two Grievance on June 25, 2021. This grievance was also investigated and denied. Appellant filed a Notice of Appeal in the Administrative Law Court on August 20, 2021. On June 24, 2022, the Honorable Milton G. Kimpton issued an order affirming the decision of the Department of Corrections. This appeal followed.

On October 3, 2022, Appellant was released from SCDC custody because he had completed his sentence. *See* Appellant's Movement History. Thus, any ruling in this case would have no practical effect. A case becomes moot when judgment, if rendered, will have no practical legal effect upon the existing controversy. *McDill v. Nationwide Mutual Insurance Co.*, 368 S.C. 29, 31, 629 S.E.2d 749, 750 (Ct. App. 2006). Therefore, SCDC considers this matter moot and respectfully requests this court dismiss it.



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Annie Rumler  
Deputy General Counsel  
S.C. Department of Corrections  
Post Office Box 21787  
Columbia, South Carolina 29221  
(803) 896-8508

**ATTORNEY FOR RESPONDENT**

November 28, 2022

STATE OF SOUTH CAROLINA

COUNTY OF UNION  
STATE VS.

JOSEPH MCMORRIS, JR.

AKA: [Redacted]  
Race: [Redacted] Sex: [Redacted] Age: [Redacted]  
DOB: [Redacted] SS: [Redacted]  
Address: [Redacted]  
City, State, Zip: [Redacted]  
DL# [Redacted] SID# [Redacted]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015-GS-44-0752  
A/W: 2015A4410200077  
Date of Offense: 05/16/2015  
S.C. Code §: 44-53-375(A)  
CDR Code #: 3017

SENTENCE SHEET

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment comes now the Defendant who was

CONVICTED OF or  PLEADS

TO: 3rd Degree Possession of Meth.  
In violation of § 44-53-375(A) of the S.C. Code of Laws, bearing CDR Code # 3017

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS (CSC w/minor 1<sup>st</sup> or Lowd Act)  §17-25-45

The charge is:  As indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury,  Negotiated Sentence,  Recommendation by the State.  
The plea is:  Without Negotiations or Recommendation,  (def.'s initials)

ATTEST:

John C. Anthony  
John C. Anthony, Deputy Solicitor

7116  
SC Bar #

Joseph Morris Jr.  
Defendant

Candice Lapham  
Attorney for Defendant

73714  
SC Bar #

WHEREFORE, the Defendant is committed to the  State Department of Corrections  County Detention Center,  
for a determinate term of 10 days/months/year or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and or payment  
of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_  
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which  
are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on:  
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State  
Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal  
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  
Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

Ordered PTUP  
\_\_\_\_\_ days/hours Public Service Employment  
Obtain GED

Payment Terms: \_\_\_\_\_

Set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_

*Fine:		\$
§14-1-206 (Assessments 107.5%)		\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ <u>100.00</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$ <u>150.00</u>
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(I) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)	\$	\$ <u>8.25</u>
<b>TOTAL</b>		\$ <u>283.25</u>

Attend Voc. Rehab. Or Job Corp. \_\_\_\_\_  
May serve W/E beginning \_\_\_\_\_  
Substance Abuse Counseling   
Random Drug/Alcohol Testing   
Fine may be pd. in equal consecutive weekly/monthly  
pmts. of \$ \_\_\_\_\_ Beginning \_\_\_\_\_  
\$ \_\_\_\_\_ Paid to Public Defender Fund  
Other: \_\_\_\_\_

Appointed PD or appointed other counsel,  
§47.12 requires \$500 be paid to Clerk  
during probation.

Clerk of Court/Deputy Clerk: Jessie H. Miller  
Court Reporter: \_\_\_\_\_  
CCA/217 (03/2011)

Presiding Judge: Carol O. Hill  
Judge Bar ID: \_\_\_\_\_ Judge Code: 2753  
Served on Appeal: 8-11-16

Case No: 264508

CMT1100D  
OMCOMITA

SCDC OFFENDER MANAGEMENT SYSTEM  
COMMITMENT APPLICATION  
CONVICTION SUMMARY

09/22/21  
C052640

SCDC# > 264508  
MCMORRIS JR, JOSEPH -

CURR LOC: MACDOUGA  
SCDC CLASSIFICATION...: NON-VIOL

OFFENDER TYPE: ADULT-STRAIGHT SENTENCE

NUM	CONVICTION OFFENSE	INCARC SENT	SENT	SENT	DATE	START	PROJ	COMP	STAT	IND	CONV	VIO
* S00009	POSS METH/COC BASE 3	010	00	000	08/11/16	08/08/16	10/03/2022	AC	N	N		

PAGE: 0001

MAKE A SELECTION AND PRESS <ENTER>...

PF3-ADD PF4-MODIFY/RVK PF5-ADD DUPL PF6-DISP CONSEC PF9-DETAIN PF12-SUMRPT

# Internal Inmate Search

November 28, 2022

- [Home](#)
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JOSEPH MCMORRIS JR (00264508)

Search Results [+/-]

Identification	Personal	Case History	Movement	Escapes	Credits	Programs	Transfer Requests
Movement							
<b>Movement Date</b>	<b>To Location</b>		<b>Reason</b>				<b>Status</b>
10/03/2022	UNK		EXPIRATION OF SENTENCE				RELEASE
06/10/2022	MANNING		WORK PROGRAM				WORK-RELEASE
04/15/2022	MANNING		LABOR CREW				INCARCERATED
10/04/2021	MACDOUGALL		ADMINISTRATIVE				INCARCERATED
10/04/2021	CENTRAL OFFICE ANNEX		MEDICAL				INCARCERATED
06/14/2021	MACDOUGALL		ADMINISTRATIVE				INCARCERATED
06/14/2021	KIRKLAND		MEDICAL				INCARCERATED
04/15/2021	MACDOUGALL		ADMINISTRATIVE				INCARCERATED
04/05/2021	LIEBER		MEDICAL				INCARCERATED
11/24/2020	KIRKLAND		PAROLE VIOLATOR				INCARCERATED
11/18/2020	UNION CO		LOCKUP-FRM EPA,SF,PAR,PRB				AUTH ABSENCE (AWL)
10/17/2018	UNION CO		PAROLE BOARD ACTION				PAROLE
09/26/2018	LIVESAY		WORK PROGRAM				WORK-RELEASE
09/26/2018	PERRY		COURT/PAROLE HEARING VIA				INCARCERATED
08/22/2018	LIVESAY		WORK PROGRAM				WORK-RELEASE
08/22/2018	LIVESAY		LABOR CREW				INCARCERATED
08/16/2018	LIVESAY		ADMINISTRATIVE				INCARCERATED
05/23/2018	MANNING		WORK PROGRAM				WORK-RELEASE
05/23/2018	KIRKLAND		MEDICAL				INCARCERATED
03/07/2018	MANNING		WORK PROGRAM				WORK-RELEASE
01/29/2018	MANNING		LABOR CREW				INCARCERATED
01/29/2018	KIRKLAND		MEDICAL				INCARCERATED
12/11/2017	MANNING		LABOR CREW				INCARCERATED
12/11/2017	KIRKLAND		MEDICAL				INCARCERATED
11/16/2017	MANNING		LABOR CREW				INCARCERATED
09/25/2017	CATAWBA WORK RELEASE CTR		LABOR CREW				INCARCERATED
04/24/2017	WATEREE RIVER		RETURN FROM COURT				INCARCERATED
04/18/2017	UNION CO		TO COURT				AUTH ABSENCE (AWL)
02/13/2017	WATEREE RIVER		RETURN FROM COURT				INCARCERATED
02/13/2017	UNION CO		TO COURT				AUTH ABSENCE (AWL)
10/17/2016	WATEREE RIVER		ADMINISTRATIVE				INCARCERATED
08/12/2016	KIRKLAND		NEW ADMISSION				INCARCERATED
03/31/2016	UNK		EXPIRATION OF SENTENCE				RELEASE
04/01/2014	UNION CO		COMMUNITY SUPERVISION				COMMUNITY SUPERVISION
12/12/2013	LIVESAY		WORK PROGRAM				WORK-RELEASE

<b>Movement Date</b>	<b>To Location</b>	<b>Reason</b>	<b>Status</b>
03/07/2011	LIVESAY	LABOR CREW	INCARCERATED
02/24/2011	KIRKLAND	ADMINISTRATIVE	INCARCERATED
11/13/2008	FAIRFIELD CO DF	ADMINISTRATIVE	INCARCERATED
11/13/2008	STEVENSON CORR INST	ADMINISTRATIVE	INCARCERATED
09/24/2008	LIVESAY	RETURN FROM COURT	INCARCERATED
09/24/2008	GREENVILLE CO	TO COURT	AUTH ABSENCE (AWL)
10/15/2007	LIVESAY	ADMINISTRATIVE	INCARCERATED
10/12/2007	KIRKLAND	RETURN FROM COURT	INCARCERATED
10/11/2007	UNION CO	TO COURT	AUTH ABSENCE (AWL)
06/30/2007	LIVESAY	ADMINISTRATIVE	INCARCERATED
06/05/2007	NORTHSIDE	ADMINISTRATIVE	INCARCERATED
10/18/2006	PERRY	ADMINISTRATIVE	INCARCERATED
10/17/2006	KIRKLAND	MEDICAL	INCARCERATED
10/02/2006	PERRY	MEDICAL	INCARCERATED
10/02/2006	RICHLAND CO	MEDICAL	AUTH ABSENCE (AWL)
07/24/2006	PERRY	MEDICAL	INCARCERATED
07/24/2006	RICHLAND CO	MEDICAL	AUTH ABSENCE (AWL)
07/18/2006	PERRY	MEDICAL	INCARCERATED
07/18/2006	ANDERSON CO	MEDICAL	AUTH ABSENCE (AWL)
07/17/2006	PERRY	MEDICAL	INCARCERATED
07/17/2006	RICHLAND CO	MEDICAL	AUTH ABSENCE (AWL)
07/11/2006	PERRY	MEDICAL	INCARCERATED
07/11/2006	RICHLAND CO	MEDICAL	AUTH ABSENCE (AWL)
03/06/2006	PERRY	ADMINISTRATIVE	INCARCERATED
02/07/2006	KIRKLAND	NEW SENT W/OUT PAROLE-REV	INCARCERATED
09/09/2004	UNION CO	PAROLE BOARD ACTION	PAROLE
08/25/2004	LIVESAY	ADMINISTRATIVE	INCARCERATED
08/25/2004	PERRY	COURT/PAROLE HEARING VIA	INCARCERATED
01/14/2004	LIVESAY	WORK PROGRAM	WORK-RELEASE
07/24/2003	LIVESAY	LABOR CREW	INCARCERATED
06/02/2003	CATAWBA WORK RELEASE CTR	LABOR CREW	INCARCERATED
05/30/2003	KERSHAW	ADMINISTRATIVE	INCARCERATED
05/29/2003	KIRKLAND	RETURN FROM COURT	INCARCERATED
05/28/2003	UNION CO	TO COURT	AUTH ABSENCE (AWL)
05/19/2003	CATAWBA WORK RELEASE CTR	LABOR CREW	INCARCERATED
12/18/2002	NORTHSIDE	RETURN FROM COURT	INCARCERATED
12/16/2002	UNION CO	TO COURT	AUTH ABSENCE (AWL)
04/30/2001	NORTHSIDE	ADMINISTRATIVE	INCARCERATED
09/05/2000	RIDGELAND	RETURN FROM COURT	INCARCERATED
08/28/2000	UNION CO	TO COURT	AUTH ABSENCE (AWL)
08/10/2000	RIDGELAND	RETURN FROM COURT	INCARCERATED
08/10/2000	GREENVILLE CO	TO COURT	AUTH ABSENCE (AWL)
07/20/2000	RIDGELAND	RETURN FROM COURT	INCARCERATED
07/13/2000	UNION CO	TO COURT	AUTH ABSENCE (AWL)
06/23/2000	RIDGELAND	RETURN FROM COURT	INCARCERATED
06/21/2000	UNION CO	TO COURT	AUTH ABSENCE (AWL)
03/29/2000	RIDGELAND	ADMINISTRATIVE	INCARCERATED

<b>Movement Date</b>	<b>To Location</b>	<b>Reason</b>	<b>Status</b>
02/23/2000	KIRKLAND	NEW ADMISSION	INCARCERATED

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SCDC#00264508  
SID#00899313

South Carolina

-vs-

Joseph McMorris, Jr.

**ORDER**

Whereas the above named Parolee has been charged with violating the conditions of parole ordered 10-17-18 by the South Carolina Board of Probation, Parole and Pardon Services, as set forth in the warrant or citation filed herein.

After hearing the evidence and being duly advised, we find the Parolee has violated one or more of the conditions of supervision as set forth in the affidavit filed herein and dated 9-3-20 of which is incorporated by reference.

The South Carolina Board of Probation, Parole and Pardon Services now finds that the Parolee has violated the conditions of Parole number:

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13

Special Conditions  Additional Conditions which were agreed to by the Parolee on the above date  16

In consequence whereof, the South Carolina Board of Probation, Parole and Pardon Services hereby orders the parole revoked and orders the above named Parolee be returned to the South Carolina Department of Corrections to serve the remainder of the original sentence imposed by the Court, said sentence to run from the date of commitment until the final date of expiration of the maximum active sentence.

The parole is revoked in the ( Presence  Absence  Waiver) of the Parolee by the panel of the full Board.

IT IS ORDERED that the above named Parolee is continued on parole as provided for in the sentence identified above and subject to the conditions set forth therein and not inconsistent with the order. This action is taken in the ( Absence  Presence  Waiver) of the Parolee.

Additional Conditions ordered by the Board.  
Additional Conditions:

Ordered this 18<sup>th</sup> day of November, 2020

*Kim Frederick*

Chairman

*Henry S. ...*

*Don L. ...*

This is to certify that I have read or have had read to me the Order and the Conditions set out therein. If I have been continued under supervision, I agree to comply with the above conditions and all conditions of my original parole order not inconsistent with this order.

Ordered this 18 day of NOV 2020

*Jim ...*  
Agent

*Joseph McMorris Jr*  
Parolee

CITATION

Indictment Number(s):  
15-08-44

SOUTH CAROLINA

v.

JOSEPH JR MCMORRIS

No. C-44-20-0054

County UNION

SCDC #  
264508

SID #  
00899313

Citation for Violation of

Parole  Emergency Powers Act Release  Supervised Re-entry Program

Community Supervision  Supervised Furlough

TO JOSEPH JR MCMORRIS

YOU ARE HEREBY NOTIFIED to appear in the above case at the time, date and place specified below.

Place

Room

Date

Time

YOU ARE HEREBY NOTIFIED that you are charged with violating the conditions of your supervision as stated below.

Violations Charged

The offender has knowingly and willfully violated Board ordered conditions 4, 6, 7, 9, 10. Due to said violations the offender is now subject to the issuance of an arrest warrant or citation pursuant to section 24-21-600 of the South Carolina Code of Laws.

YOU ARE HEREBY NOTIFIED that you have the rights listed below.

List of Rights:

You have the right at the preliminary hearing to question any person who appears as a witness against you and to have witnesses appear on your behalf. You may present evidence on your behalf. You may have an attorney represent you at the hearing at your expense. An attorney may be appointed to represent you in extraordinary circumstances. It is your responsibility to make arrangements for your witnesses and your attorney to appear at the hearing.

IF YOU FAIL TO APPEAR AT THE TIME, DATE AND PLACE SHOWN ABOVE, THE HEARING WILL BE HELD IN YOUR ABSENCE AND YOU MAY BE INCARCERATED.

UNION, South Carolina

Probation and Parole Agent - Agent #  
Gina C. Floyd - 0604

Date 9/3/2020

Gina C. Floyd

PROOF OF SERVICE

Date Served:

9/8/2020

Served On: (Print Name)

Joseph McMorris Jr

Place:

SCDPPTS

Served By: (Print Name)

Charles F. Koger

Title:

Agent

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct

Executed on:

9/8/2020

DATE

Signature of Server

Address of Server

200 S. Mountain St.

City

Union

State

SC

Zip

29379

STATE OF SOUTH CAROLINA

AFFIDAVIT

County of UNION

Personally appeared before me, Gina C. Floyd, who first being duly sworn, deposes and says that JOSEPH JR MCMORRIS did within this county and State on the 3 day of September, 2020, violate certain conditions of release in the following particulars:

DESCRIPTION OF VIOLATION

The offender has knowingly and willfully violated board ordered conditions 4, 6, 7, 9, 10. Due to said violations the offender is now subject to the issuance of an arrest warrant or citation pursuant to Section 24-21-880 of the South Carolina Code of Laws.

The Affiant states that there is probable cause to believe the defendant named committed the violations set forth and that such probable cause is based on the following facts:

There is probable cause to believe that the defendant did commit the crimes of DUI, Trafficking Methamphetamines/Cocaine Base > 10g 1st Offense, Possession of Nar-Schedule I/II/III/IV/ V 1st Offense, and Possession of a Firearm/Ammunition by a Violent Felon, as outlined in South Carolina Highway Patrol Report Number - SC0P31025668 (02). Failed to refrain from being in possession of a Firearm and ammunition, as a Handgun with a magazine with round, was found in the glove box of the defendant's vehicle during a traffic stop on August 31, 2020. Failed to contact agent of his arrest for DUI, Trafficking Methamphetamines/Cocaine Base > 10g 1st Offense, Possession of Nar-Schedule I/II/III/IV/ V 1st Offense, and Possession of a Firearm/Ammunition by a Violent Felon. Failed to follow the advice and instructions of agent. Failed to pay Supervision Fee as instructed by being \$50.00 in arrears as of September 3, 2020. Such actions constitute violation of conditions 4, 6, 7, 9, 10.

Sworn to and subscribed before me this 03 day of September 2020

Gina C. Floyd  
Affiant

Signature of Notary Public

12/21/2027

My Commission Expires

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

**RECEIVED**

DEC 02 2022

**SC Court of Appeals**

APPEAL FROM ADMINISTRATIVE LAW COURT

Administrative Law Judge Milton G. Kimpson

ALC Case No. 21-ALJ-04-0292-AP  
Appellate Case No. 2022-001001

Joseph McMorris, Jr., #264508.....Appellant,


v.

South Carolina Department of Corrections.....Respondent.

**CERTIFICATE OF SERVICE**

I hereby certify that I have served Appellant a copy of Respondent’s Motion to Dismiss and Motion to File out of Time by depositing a copy of same in the United States Mail, postage prepaid, November 28, 2022, addressed to the Appellant as follows:

Joseph McMorris, Jr.  
118 Edna Drive  
Carlisle, SC 29031



\_\_\_\_\_  
Annie Rumler  
Deputy General Counsel  
S.C. Department of Corrections  
Post Office Box 21787  
Columbia, South Carolina 29221  
(803) 896-8508

**ATTORNEY FOR RESPONDENT**

November 28, 2022



**SOUTH CAROLINA**  
DEPARTMENT OF CORRECTIONS  
*Safety, Service, and Stewardship*

HENRY McMASTER, Governor  
BRYAN P. STIRLING, Director

OFFICE OF GENERAL COUNSEL

November 28, 2022

**RECEIVED**

DEC 02 2022

SC Court of Appeals


The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

Reference: App. Case No.: 2022-00010001 (*Joseph McMorris, Jr., #264508*  
*v. South Carolina Department of Corrections*)

Dear Madam Clerk:

Enclosed, please find the original and seven copies of Respondent's Motion to Dismiss and Motion to File Out of Time. Please clock-stamp one copy of each and return them to me in the enclosed self-addressed stamped envelope. Thank you.

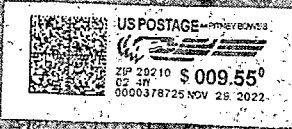
Sincerely,




Annie Laurie Rumler

Enclosure

cc: Joseph McMorris, Jr.



 **SOUTH CAROLINA**  
DEPARTMENT OF CORRECTIONS  
*Office of General Counsel*  
4444 Broad River Road - P.O. Box 21787 - Columbia, SC 29221-1787

**RECEIVED**  
DEC 02 2022  
**SC Court of Appeals**

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

