

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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JUN 26 2023

Appeal from the Administrative Law Court
The Honorable Robert L. Reibold, Administrative Law Judge
Docket Number 23-ALJ-15-0001-AP

SC Court of Appeals

Appellate Case No.: 2023-000847

RONALD C. ALBRIGHT, #217218.....APPELLANT

v.

S.C. DEPARTMENT OF PROBATION, PAROLE AND
PARDON SERVICES,.....RESPONDENT

**MOTION TO STRIKE DESIGNATION
OF MATTER OF APPELLANT**

**Matthew C. Buchanan, #73740
General Counsel**

**South Carolina Department of Probation,
Parole and Pardon Services
P.O. Box 207
Columbia, South Carolina 20202
(803) 734-9220**

ATTORNEY FOR RESPONDENT

Now comes Respondent, through its counsel and pursuant to Rule 240, SCACR, respectfully objecting to and moving to strike Appellant's designation of matter.

Appellant's designation of matter consists entirely of items that were not presented to the lower court or tribunal; therefore, may not be included in the record on appeal and should be stricken from his designation of matter. Rule 210(c), SCACR ("The Record shall not, however, include matter which was not presented to the lower court or tribunal."). Not only has Appellant designated matter that was not presented to the lower court, in regard to certain items he is now, by way of that designation of matter, demanding production or creation of matter that has heretofore not been created, such as transcripts from hearings that are not the proper subject of this appeal. Indeed, Respondent respectfully submits that Appellant's designation of matter contains materials not relevant to the appeal in violation of Rule 209(b), SCACR.

1. The Designation of Matter contains materials not presented to the lower court.

Appellant proposes four categories of items to be included in the Designation of Matter. The first of which is, "Transcript of parolee's preliminary/probable cause hearing (the hearing prior to the revocation hearing.)" (Emphasis in original). This matter was not included before the Administrative Law Court because it does not exist. Respondent's record retention schedule for the recordings of preliminary hearings are for one year. Transcripts of the hearings are not made of the recordings. Appellant is only now requesting a transcript of a recording of a hearing that occurred roughly six years ago.

Appellant's next item for the Designation of Matter is, "any affidavits, teletypes, or other documents or evidence relied upon by the Respondant (sic), the S.C.D.P.P.P.S., to obtain the 'parole violation warrant', extradition, and subsequent revocation in the above referenced case."

Because the ALC granted Respondent's motion to dismiss pursuant to S.C. Code § 24-21-680, these documents were also not presented to the lower court by either party.

The third item in Appellant's motion is for the transcript of his parole revocation hearing. As stated earlier, the ALC dismissed the appeal for lack of jurisdiction because revocations of parole cannot be appealed per § 24-21-680. The transcript was also not before the lower court.

Appellant is also designating an "outstanding motion for designation from A.L.C. and its (sic) documents." Respondent submits that there should not be any outstanding motions before the ALC at this stage because the appeal was dismissed, so this item cannot be complied with.

Rule 210(c) states clearly that, "The Record shall not, however, include matter which was not presented to the lower court or tribunal." Therefore, Respondent respectfully objects to and respectfully asks this Court to strike Appellant's Designation of Matter.

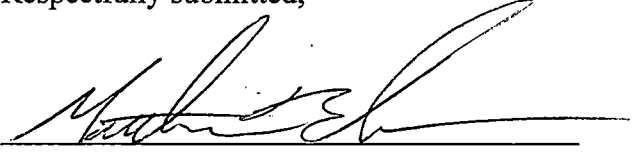
2. The proposed matter is not relevant to the appeal.

Respondent respectfully submits that this appeal should be limited to the grounds for which the ALC dismissed Appellant's action. The ALC judge dismissed the action for lack of jurisdiction because § 24-21-680 does not allow for appeals from revocations of parole. Instead, § 17-27-20(A)(5) allows for Post-Conviction Relief actions to address challenges to a revocation of parole.

Because the ALC dismissed the appeal on jurisdictional grounds, the only matter before this Court is whether the ALC erred in doing so. Appellant's materials all go to his challenge of his 2017 parole revocation, not to the ALC's dismissal of his current appeal for lack of jurisdiction. Consequently, his designation of matter should be stricken as including matter irrelevant to his appeal.

For all of these reasons, Respondent respectfully objects to the Appellant's Designation of Matter and asks that it be stricken.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Matthew C. Buchanan', written over a horizontal line.

Matthew C. Buchanan
General Counsel

South Carolina Department of Probation,
Parole and Pardon Services
P.O. Box 293
Columbia, South Carolina 29202
(803) 734-9220

Columbia, South Carolina
June 20, 2023

STATE OF SOUTH CAROLINA
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Appeal from the Administrative Law Court
The Honorable Robert L. Reibold, Administrative Law Judge
Docket Number 23-ALJ-15-0001-AP

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SC Court of Appeals

Appellate Case No.: 2023-000847

RONALD C. ALBRIGHT, #211533, APPELLANT

v.

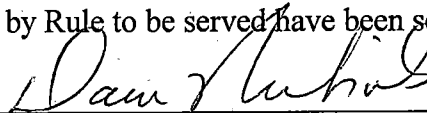
S.C. DEPARTMENT OF PROBATION, PAROLE AND
PARDON SERVICES, RESPONDENT

CERTIFICATE OF SERVICE

I, Dawn K. Nichols, Executive Assistant, hereby certify that I have served the within
Initial Brief of Respondent, Designation of Matter, and Motion to Strike on Appellant this 20th
day of June, 2023, by depositing a copy of the same in the United States mail, postage prepaid,
addressed to:

Ronald Albright, #211533
Lieber Correctional Institution
PO Box 205
Ridgeville, S.C. 29472

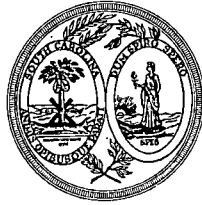
I further certify that all parties required by Rule to be served have been served.



Dawn K. Nichols
Executive Assistant
South Carolina Department of Probation,
Parole, and Pardon Services
P. O. Box 207
Columbia, South Carolina 29202

State of South Carolina
Department of Probation, Parole and Pardon Services

HENRY McMASTER
Governor



JERRY B. ADGER
Director

293 GREYSTONE BLVD
POST OFFICE BOX 207
COLUMBIA, SOUTH CAROLINA 29202
Telephone: (803) 734-9220
Facsimile: (803) 734-9440
www.dppps.sc.gov/

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SC Court of Appeals

June 20, 2023

The Honorable Jenny Kitchings
Clerk of the S.C. Court of Appeals
P. O. Box 11629
Columbia, South Carolina 29211

Re: **Ronald Albright, #211533 v. SCDPPPS**
23-000847

Dear Ms. Kitchings:

Please find enclosed the Initial Brief of Respondent, Designation of Matter and Motion to Strike Appellant's Designation of Matter dated June 20, 2023, along with proof of service in the above referenced case.

Sincerely,

A handwritten signature in black ink, appearing to read "Mathew C. Buchanan".

Mathew C. Buchanan
General Counsel

MCB:dn

Enclosures

cc: Ronald Albright, #211533

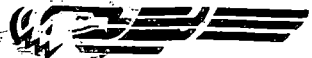
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