

**SOUTH CAROLINA COURT OF APPEALS**

Michael Carwane ) Case No. 2023-001342  
Appellant. )  
v. ) **INITIAL BRIEF**  
South Carolina Department of Juvenile )  
Justice, )  
Respondent. )  
\_\_\_\_\_)

**RECEIVED**  
**Sep 20 2023**  
**SC Court of Appeals**

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### **Statement Of Issues On Appeal**

-Appellant was not provided full Discovery, by Respondent (and other organizations) to multiple, legal Subpoena and Motion To Compel orders required for hearings in other Court venues.

-Appellant was not granted a hearing in the Administrative Law Court.

-Procedural Errors were made by the Administrative Law Court.

-Attorneys for the Respondent (and other organizations) misrepresented the actions of their clients to the Court, by utilizing the tactic of Lying by Omission when communicating to the Court. This had the effect of giving the Court a biased, incomplete set of facts, on which its judgement was made.

-The Attachments provided by the Appellant were mistakenly attributed, by the Court, as documents provided by the Respondent in response to materials requested in Subpoenas and/or Discovery requests. Thus, this evidence was not reviewed by the Court for the merits and purpose it was submitted by the Appellant to illustrate.

### **Statement Of The Case**

Pro se Petitioner Michael Carwane has sought Injunctive relief from the Administrative Law Court for the enforcement of a series of Subpoena and Motion to Compel Orders required for his presentation to the SC Human Resources Administration Internal Grievance review. Petitioner properly filed this claim for Injunctive Relief with this Court, and had the expectation of an opportunity to present further evidence in support of the claim at a hearing before the Court. Commencement of this case began on 3/31/2023, with Notice of Assignment to Administrative Law

Judge, Honorable Phillip Lenski. This expectation was reinforced by the Petitioner's communications with the Court. Petitioner has not had this opportunity granted, as it was never scheduled by the Court, despite the Petitioner's consistent, continued interest in having the Court make a hearing available to him. On June 19, 2023 the Court initially filed an Order of Dismissal. On July 19, 2023 the Court filed an Order Denying Motion For Reconsideration. Each Court decision has restricted the Petitioner from the opportunity to make a fair representation, as a pro se litigant, in a Court review. As a result of being denied access to full Discovery, Petitioner will also have an unequal, unfair, unbalanced path towards a Just finding in the subsequent SC Human Resource Administration venue. The Appellant believes this Court to be the proper venue to consider an Appeal, due to its earlier participation with the pro se Petitioner's claim, and his status as a citizen of the State of South Carolina. The Petitioner, thus respectfully requests at this time an Appeal to the Order of Dismissal and Order Denying Motion For Reconsideration previously filed by this Court. There exist procedural errors made by the Court, or agent of the Court. There are also errors made by the Court, due to failing to challenge the veracity and completeness of the deceptive responses given by the Respondents. There exist errors made by the Court in its understanding and interpretation of the evidence (exhibits) provided to the Court by the Petitioner, as evident in the finding of the Judge inaccurately labeling that material as being provided by the Respondents themselves. Additionally, the pro se Petitioner was misled by the Court, when told that a written rebuttal to the Respondent's response was optional. Petitioner, thus, opted to hold that debate for the Court's review date, as the Petitioner had been unsuccessful with all prior attempts to discuss the issue, now

needing the authority, protections, and facilitation skills of the Court. The Petitioner was also of the belief that he was deserving of this Court oversight to prevent further harms, as he had previously received as a result of prior interactions with the Defendant.

Appellant is asking in this Appeal for a reversal of the prior Dismissal and Denial by the Court. Appellant is asking for an opportunity to discuss the original claim for Injunctive Relief before the Court in a formal court review (remand to the lower tribunal). Appellant is asking the Court in its present consideration of this Appeal to review all documents previously submitted to the Court, to include all Attachments with the Petitioner's Motion For Reconsideration (as renamed by the Court). Ultimately, the Appellant is asking for the Appeal process to open the door for enforcement, by this Court, of the full range of materials (not a subset thereof) legally requested through this Injunctive Relief.

The Petitioner was given the expectation by the Court that a hearing would be held to review the facts of the initial petition to the Court seeking Injunctive Relief regarding a Grievance process to convene in the State Human Resources Administration authority. The Petitioner had made multiple reasonable, legal requests for Discovery that were not fully honored by the named organizations. Proof of these multiple requests were shown by the certified mail receipts submitted to the Court, and the documents provided at the filing of the initial Motion for Injunctive Relief. Recipients included the Defendant, South Carolina Department of Juvenile Justice (SCDJJ), the Saluda Police Department, the State Accident Fund, and the Saluda County Administrator. Each of the multiple organizations received multiple Subpoena and Motion to Compel notices, as they admit in their responses to this Court. This was done to seek compliance only, not to harass, as falsely put forth by a Respondent Attorney attempting to obfuscate, as evident by the

fact that no Subpoena was allowed to be issued without the prior ratification of the legal department of the reviewing SC Human Resource Administration. The pro se litigant could not act alone on this. The Petitioner made good faith efforts to work directly with the organizations to secure the requested Discovery materials required for presentation in the associated Grievance Hearing. That good faith effort was not matched by those organizations, nor represented fully to this Court in their responses to the Court. The Petitioner chose the Administrative Law Court to assist with enforcement of the legal Discovery requests, only after being thwarted by the representatives of those organizations with various dubious lawyer tactics. The Defense Lawyers have omitted several key points to this court in their email responses to the Clerk Of Court. The Petitioner trusted that there would be a process to include opportunity to present the facts to the court (to include those purposefully omitted by the Defense Lawyers), without having to reengage again in email banter with those attorneys. The Petitioner again humbly seeks from the Court the continuation of the facilitation of this process to include formal opportunity to communicate as expected in a hearing. The Petitioner humbly seeks the Court's enforcement of the full compliance toward the issued Subpoena and Motion to Compel documents.

### **Standard Of Review**

Motion to dismiss complaint for failure to state a claim. Review is de novo.

Dismissal of a complaint for lack of standing. Reviewed de novo.

Discovery rulings. Reviewed for "clear abuse of discretion".

Motion to compel discovery. Reviewed for abuse of discretion.

Erroneous exclusion of evidence. Reviewed under abuse of discretion standard.

Denial of a motion for new trial is reviewed for "a clear abuse of discretion".

## **Table Of Authorities**

- 1) Rules Of Procedure for the Administrative Law Court, General Provisions 5 Service, pg. 3. For Argument One.
- 2) Rules Of Procedure for the Administrative Law Court, General Provisions 8, pg. 6. For Argument One.
- 3) Rules Of Procedure for the Administrative Law Court, General Provisions 67, pg. 35. For Argument One.
- 4) Rules Of Procedure for the Administrative Law Court, General Provisions 11B, pg. 11. For Argument Two.
- 5) South Carolina Rules of Civil Procedure Rule 37. For Argument Five.
- 6) South Carolina Judicial Branch Rule 41.1. For Argument One.
- 7) South Carolina Judicial Branch Rule 21. For Argument One.
- 8) South Carolina Judicial Branch Rule 44. For Argument One.
- 9) South Carolina Code of Laws Title 14-5-10. For Argument One.
- 10) American Bar Association Rules 1.2, 1.6, 3.3, 4.1, and 8.4. For Argument Two and Three.
- 11) South Carolina Code of Laws 16-9-10 and 16-9-20. For Argument Three.
- 12) *In Re: Mt. Hawley Insurance Company* 2018 WL 3203033 United States Court of Appeals, Fourth Circuit (June 28, 2018). For Argument Three.
- 13) *Ricks v. Weinrauch* 293 S.C. 372 (1987). For argument Two.
- 14) *Curlee v. Howle*, 277 S.C. 377, 287 S.E. 2d 915 (1982). For Argument Five.

## **Argument One**

## **Procedural errors of the Court made by Clerk of Court in communications with Appellant**

The answer by the Court contains several errors that must be considered as merit for this appeal. The Court begins by stating that “On April 4, 2023, the court contacted the parties for dates of availability to schedule a hearing”, then concludes that same paragraph with the statement, “The Petitioner did not respond to the court’s email about dates of availability”. This is in error. It was the Respondent’s Attorneys, not the Petitioner that were granted that opportunity to give input about selection of dates for a Court hearing. The Court itself acknowledged that the Clerk of Court had not included the Petitioner to the initial emails. Thus, Petitioner never had the expectation that he was being asked to provide this feedback to the court, for communications he was not included. When the Petitioner responded to the phone contact from the Clerk of Court requesting to be added to all Court communication, the Petitioner was verbally instructed by the Clerk of Court that Petitioner would be informed of the date of the hearing. The Clerk of Court also agreed that the notice would be provided by conventional mail from the Court, due to the Petitioner explaining at that time to have no home internet service. As a result, Petitioner patiently awaited scheduling by the court, with the willingness to restructure his own schedule as needed, when the Court chose a date. Although some time did elapse prior to the Courts Dismissal, this was only a surprise to the Petitioner, as he never had the belief from the Court that he was in a position to chose that date himself. Due to the seriousness of the claim for the Petitioner, his perspective was that he was willing to prioritize a Court date over all other scheduled responsibilities, but was not compelled to presume to tell the Court when that

date was to be. As a pro se litigant with no experience in this Court setting, the Petitioner had no information to suggest that waiting patiently for that next instruction mailed from the Court was not the best course of action. Nor did the Plaintiff have information or expectation about the timeframe in which the scheduling would be set by the Court, other than accepting that the process could be lengthy and not in the control of the Petitioner. When subsequent emails (inclusive of the Petitioner) spoke of dates, two proposed May dates appeared to be rejected by the Respondent Attorney due to his scheduling conflicts. In contrast, the Petitioner endeavored to request both dates off work to remain available to participate in the hearing. As stated above, it was only a shock to Petitioner when another alternate date was never provided by the Court. Thus, the Court has misconstrued the patience and deference by the Petitioner to the Court, as a signal of disinterest in participation in the hearing itself.

Immediately upon receipt of the Order of Dismissal, June 19, 2023, Petitioner again called the Clerk of Court asking for that Court official to confirm for the reviewing Judge that the Petitioner was not included in the original emails, resulting in the erroneous conclusion that "As of the date of this Order, the Petitioner has not filed a reply nor responded to any emails from the court." The non-inclusion in the communication was initially a procedural error of the Court. When asked to confirm dates of all emails claimed to be sent to Petitioner, such that Petitioner could establish which communications were missing, the Clerk of Court refused assistance, stating that the only Petitioner option was an Appeal, due within ten days. It is clear that the Clerk of Court never clarified or took ownership for this procedural error with explanation to either the Judge or the Petitioner as this theme was not corrected in the subsequent

Order Denying Motion For Reconsideration, filed July 19, 2023. Just as significant, it is not accurate for the Court to dismiss that the conversations and several questions the Petitioner made of the Clerk of Court did constitute a response to the Court. For example, when the Clerk of Court notified Petitioner (for the first time) that the SCDJJ Attorney had responded by claiming “the Petitioner failed to timely serve the subpoena on the Respondent”, the Petitioner asked for opportunity to refute that false claim. The Clerk of Court responded by stating, that the Petitioner would “have your day in Court” as opportunity to dispute the statement. That opportunity for a hearing, thus, continued to be the Petitioners desire and expectation, but never was granted. Concurrently, Petitioner communicated to the Court that, “Rather than continue to fruitlessly debate back and forth with Defense Attorneys the Petitioner has no authority over, the Petitioner required the Injunctive oversight for proper resolution.” The Petitioner had specifically sought the support because prior attempts at direct communication/resolution/mediation with the Defendant’s Attorneys resulted in additional bullying towards the Petitioner. The Petitioner had concluded that he needed the protection, facilitation, and authority of the Court, which could be provided in the controlled environment of a Court review hearing. When the Petitioner explained this to the Clerk of Court, she acknowledged that a written response to the Defense Attorneys was optional. If providing a response to those Attorneys was truly optional, why was it subsequently given as an explanation by the Judge for Dismissal? As another example, when the Petitioner attempted to seek clarity from the Clerk Of Court regarding the Court’s expectation for a next step from the Petitioner, the Clerk responded that we had to wait patiently, as the Attorney for the Saluda Police Department had not even

responded yet. In fact, the Court not only misrepresented to Petitioner the name of that Attorney (providing Attorney Ginny Boseman, who Petitioner believed to be representative for Saluda County Administration), but then did not receive communication from the Attorney Mr. John Boyd, while patiently awaiting that contact. Neither was the Plaintiff aware of the timeframe the Courts would allow for the respondent to make its contact. Evidence was provided to the Court showing that his client (Saluda Police Department) also provided no response to email communication sent to the Saluda Police Chief in attempt to resolve this matter. Was this again a failing of the Clerk of Court to be inclusive of Petitioner in all communications with the Court, as requested by Plaintiff? The Clerk of Court would not answer that question when asked. The Clerk of Court's cumulative actions and answers, from the perspective of the pro se Petitioner unfamiliar with the Court processes and expectations, create a discrepancy that appears to be a procedural error, and certainly had an effect on the actions chosen by the Petitioner at that time. The Court now has the benefit of some hindsight in this Appeal to help rectify these errors and answer those questions in a manner that better protects and supports the Petitioner.

### **Argument Two**

#### **Factual Errors made by Court in its conclusion, based upon misleading statements presented by Respondent**

The Court cites in its answer that the Respondents had made statements to the court about previously providing documents to the Court as follows:

- “On April 5, 2023, the Saluda Police Department responded with an attachment of an incident report dated September 1, 2021 with the Petitioner as the named Complainant.”
- “On April 10, 2023, SAF informed that court that the Petitioner had served identical subpoenas on the SAF and the Respondent pursuant to the Worker’s Compensation Act and a complete response had already been provided to the Petitioner”.
- “On April 11, 2023 counsel for Saluda County informed the court that Saluda County has twice previously responded to the subpoena that it does not have any responsive materials. The Petitioner did not respond to any of the parties’ emails.”

The conclusion drawn here by the Court is in error due to the deceptive nature of the responses provided by the above respondent’s statements to the Court. The Petitioner did address the misrepresentations given by the various defense attorneys to the Court in his Motion for Reconsideration by providing evidence (in the form of twenty six exhibits) that the defense attorneys were using the various deceptive tactics of:

- Claiming to have already responded to the Subpoenas, when only having responded to a small portion of the requested documents.
- Claiming to have already responded to the Subpoenas, when in fact ignoring the Subpoena stated deadlines.
- Claiming to have already responded to the Subpoenas, when actually providing materials not requested by the Plaintiff, thus not actually responsive to the requested list of documents.

- Claiming to have already responded to the Subpoenas, when making available to the Petitioner documents created (authored) by the Plaintiff himself that had been previously provided to the Defendant (again not actually responsive to the requested list of documents).
- Claiming falsely that the “Petitioner did not respond to any of the parties’ emails”, when, in fact, the Petitioner travelled to the Town Hall seeking dialogue/resolution and made two phone contacts with the assigned Attorney (immediately when that contact information was made available to Petitioner), when the County Manager declined dialogue, in addition to email communication. The Petitioner was active with communication attempts, despite and in the face of organizations, that were not willing to match that effort in good faith, nor release the Discovery materials.

Petitioner notified the Court of these various dubious lawyer tactics and properly labeled them for the Court as lying by omission. Plaintiff reasonably requested for the review to be fair on this topic, and has not been provided a fair opportunity to substantially refute the deceptive nature of the Respondent’s claims, by being refused now by the Court an opportunity to do so. Petitioner would be remiss to not now emphasize that none of these efforts would currently burden either the Petitioner or this Court, if the Defendants had just complied with the multiple, legal Subpoenas and Motion to Compel orders. Instead, as reward, they have shifted the conversation away from their original deficiencies, and shifted the onus to the Petitioner to articulate his needs to the Court again, at peril of being denied a proper outcome. Those stakes are high for the Petitioner, as the merits of the original SCDJJ deficiencies reported include:

criminal behavior, racial attacks, violations that harmed juveniles in their care, nepotism, retaliation for reporting to SCHAC, bullying, slander, and most dangerously utilizing the local law enforcement community to intimidate and humiliate the Petitioner at their behest. Those are among the topics that now motivate the Respondent, and others, to obstruct and obfuscate the full Discovery process.

The answer provided by the Court in the Order Denying Motion For Reconsideration states as explanation for Denial that, "On April 14, 2023, the Respondent filed a response to the Petitioner's motion asking the Court to deny the Petitioner's motion for the Petitioner's failure to properly serve the Respondent as is required by ALC Rule 11B; because the Petitioner failed to timely serve the subpoena on the Respondent: and because the information requested in the subpoena has been provided to the Petitioner."

Again, the error made by the Court here is based solely upon the knowingly deceptive, incomplete information supplied to the Court by the SCDJJ Defense Attorney. Petitioner attempted to refute the deceptive information and provided a more thorough set of information in an attempt to offset the damage done here by the Attorney acting in bad faith. This pro se Petitioner has simply asked the court not to be disadvantaged by the unfair advantage gained by the Defense Attorney by blocking a review hearing.

- The SCDJJ Attorneys refused receipt of a properly sent (mailed USPS with tracking and return receipt service) subpoena.
- The SCDJJ Attorneys improperly forwarded (after receipt) an additional Subpoena properly sent by the Petitioner to another SCDJJ Attorney who falsely

used the second legal subpoena request as grounds to falsely claim that his client was thus being harassed (for a concurrent Worker's Compensation Claim), all the while never having fully responded to his original subpoena (relying on the previously listed tactics).

Upon recognition of the nearing SC Human Resource Administration deadline, Petitioner acted reasonably by following up both by contacting the USPS regarding tracking information of the sent documents and contacted the authorities in the SC Human Resource Administration for resolution. Petitioner was advised by the Human Resource Administration official to attempt direct contact with an alternate SCDJJ attorney (also on record in the case) by email to request his acceptance in that medium as an alternative, due to the looming deadline. Petitioner took this path for resolution, also confirmed by the Human Resource official, and did in fact provide the additional Subpoena request by the deadline. For the SCDJJ attorney to accept this form of communication in this Good Faith resolution, only to later omit that from his representation to the Court for the legal advantage it might gain his client is unethical, unfair, and must be reconsidered as a critical element of this Appeal process to restore balance for a pro se litigant, who himself chose to act in Good Faith and do as a reasonable person would, without expectation of being deceived.

### **Argument Three**

#### **Lying by Omission as a tool utilized by Respondent with result of Court error of conclusion**

Another Appeal argument made by the Petitioner is also evident for the Court to review with the SCDJJ response. The Petitioner provided for the Court evidence of not

one but two Subpoenas and a subsequent Motion to Compel Order to the SCDJJ defendant. The Motion To Compel additionally in its content cross-referenced the prior documents. If it is the final intent of the Court to substantiate its dismissal of one of those Subpoenas as a failure “as is required by ALC Rule 11C”, SCDJJ cannot use the same Bad Faith deception to ignore the other two legitimate legal requests for the same information. It is an error of the Court to deny the mandate of all three because of the SCDJJ deception for the ALC Rule 11C, regarding only one of the three. To support this Appeal argument, Petitioner included example of the Defense Attorney himself making reference to the SC Human Resources Administration and Petitioner that he was aware of and would be responsive to the Petitioner requests. Simple logic dictates that he could not give that response to appease the Petitioner and reviewing authority, unless he was actually aware of the received subpoena and Motion to Compel requests. The Respondent, thus, lied by omission, and failed to honor his earlier Good Faith presentation to the Petitioner and SC Human Resource Administration employees. It appears with the benefit of hindsight, that the defense attorney here was just buying time for his client, and further deflecting the release of requested documents that undermine his client’s positions. When Petitioner refers to acting in Good Faith herein, it is built on the premise that the Petitioner is making truthful statements to the Court, and that it is the mandate of the Court that the Defense Attorney do the same. Petitioner must restate here, that this is among the reasons he sought Injunctive relief from the authority of the Court in the first place. Petitioner is still seeking this restored balance and voice, from the Court in this current Appeal.

While engaged with the Administrative Law Court for Injunctive relief, the Petitioner was approved for exception to the deadline for modification to one subpoena by the State Human Resource Administration. The reason for this accommodation was due to a previous deception by the SCDJJ regarding which agency has authority/administration over video equipment in the County office. Again, Petitioner was motivated to reveal the Truth through Discovery, and use the video to refute the false claims made by SCDJJ about the case. Pictorial evidence was submitted by Petitioner, in exhibit. With the issuance of this Court's Dismissal, the SCDJJ Defense Attorney immediately sought to have that information also blocked from release, by this Court's decision. The net effect, as explained in the Petitioner's Motion for Reconsideration is that, "Attorney Gene Matthews doubled down on this behavior by contacting the Human Resources Administration (after the deadline) claiming that the approved revised Subpoena request was now moot too. Effectively, by falsely claiming to this court that his client had already provided full Discovery documents (which they had not) he gained an Order Of Dismissal, which allowed him to now not provide Discovery documents (to include those never provided in the past and others not yet received). This is an illogical circular defense that I choose to refute..." I contend now, as then, that this was an error of this Court (understandable due to the false claim by the Attorney), that led to an additional error by the Human Resource Administration Attorney in that venue as a consequence. Both errors harm the Petitioner and deserve scrutiny in this Appeal. Further harm now also comes to the Petitioner, due to the initial SCDJJ deception, when the video information was originally requested in September 2020, and again in January 2021, and again in 2022, as now all involved organizations are claiming to not have preserved

the video from that timeframe. It is deceptive to deny access when information is available only then to later claim the information is no longer available when compelled by Subpoenas. That is a No-Win situation purposely created by the authorities that want to conceal the Truth of their choices. They misrepresented and downplayed their role in this when matter-of-factly stating to the court, there is no video information available. They understood the significance of that evidence.

#### **Argument Four**

##### **Court Error in its interpretation and understanding of the Appellants exhibits**

As final argument for the error of the Court's answer in the Order Denying Motion For Reconsideration the Judge states, "The Petitioner's appeal includes 26 exhibits, which consist of documents provided to the Petitioner by Respondent, SAF, Saluda Police Department, and Saluda County Administrator in response to subpoenas and/or discovery requests." This is an erroneous statement that potentially does further harm to the Petitioner in later presentation (at the Internal Grievance hearing, for example) because it gives credit (on legal record) to the Respondents for providing those documents in compliance. I must question the accuracy of this Court summation. Of the 26 exhibits presented by the Petitioner as evidence, it is only the following exhibits that are materials provided as named on the Subpoena request:

- Exhibit Eight from the State Accident Fund.
- Exhibit Twenty-Two from the Saluda Police Department

The Court error in review of these documents is twofold. First, it secures on legal record false recognition of the documents as constituting documents provided in response to materials requested in Subpoenas and/or Discovery requests. Only two of

the twenty-six exhibits qualify as that. This severely undermines the significance or weight of the evidence provided in the other twenty-four exhibits which, if misunderstood by the court, could be better illuminated during a proper and fair review hearing, as requested then and now by the Petitioner. Secondly, the two aforementioned Exhibits were included by the Petitioner, not to ascribe credit to the Respondent, but to illustrate to the court that the material provided was responsive to only a portion (subset) of the requested materials. The Petitioner apologizes to the Court for any of his own misunderstandings of the Court processes based on his inexperience as a pro se litigant in the Courts, and for his failures to best illustrate the merits of his Exhibits. The Petitioner made the choice to attempt to keep the Motions to the Court concise, with the belief that later explanation could be more efficiently provided with face-to-face dialogue and questioning processes in front of the attending Judge. The Petitioner requests now in this Appeal that the consequence for these shortcomings does not culminate in a Court position where the Petitioner is unable to overcome his deficits in pursuit of Justice with the Court. The Petitioner had used the language “full response” throughout the communications with each request to the Respondents and the Court. It was not a concession of the Petitioner, to accept only a subset of the total requested materials, or to allow the Respondents to achieve compliance in the Court’s eyes by submitting only a fraction of the relevant requested materials. The evidence provided must be fairly recognized and labeled properly. It also must fairly be understood and evaluated by the Court for proper and Just resolution. Petitioner has suggested to both the Court and previously to the Respondent Attorneys that the best measuring stick to gauge this compliance is to compare what was sent, with what was listed on the request for each

Subpoena, as a starting point. At this time those listings do not match. In the rare instance that an Attorney did provide some form of explanation for providing no Discovery (such as with the Saluda County Administrator) this does not offset the desire for the Petitioner to have the Court investigate and arbitrate the veracity of those claims as part of the Subpoena Injunctive relief. For example, the Saluda County Administrator's Attorney claimed (when Petitioner requested a copy) that there was no County Policy regarding the video monitoring equipment it employs in Saluda County facilities. She also failed to put that statement in writing, as she had offered to Petitioner when speaking on the phone. Also of note, this attempt by Petitioner, exposes the false claim by that Respondent that the Petitioner did not respond to their communication attempts, as they falsely represented to the Court. As stated above, the SCDJJ defense has already provided ample example to the Petitioner for its willingness to lie, in its effort to mitigate its liability and ownership for the organization's choices. The Petitioner remains powerless over the non-compliance of the Respondent's organizations, without authority from the Court.

### **Argument Five**

#### **Lengthy Respondent history with noncompliance towards legal, valid Appellant requests for full Discovery materials**

The Respondent SCDJJ began the failure to exchange information with Petitioner on these topics dating back to its refusal to follow its own policy regarding the Formal Complaint submitted to their Human Resources office in September 2021. Petitioner provided the Court this policy for reference along with emails showing example of the SCDJJ refusal to comply with their own policy. SCDJJ again repeated

this by ignoring that element completely in its response to the parallel SC Human Affairs Complaint filed by the Petitioner. The tactic chosen by the attorneys for SCDJJ amounted to burying their heads in the sand, saying nothing on the topic, and gaining advantage by concealing the Truth of the improper SCDJJ behaviors. Due to the Petitioner presenting professionally his concerns internally, with the limited chain of command made available to him by SCDJJ, SCDJJ was able to control the message, investigate only what it chose, and document selectively. By circumventing the full Discovery process, they are also in control of what documents are released for consideration. It is high time for SCDJJ to be held responsible not only for the things they admit and reveal, but also those things they hide and disguise, as that is where the full Truth resides. This Court is being challenged to participate in that endeavor, not only for the sake of one wronged and harmed employee, but for the safety of the juveniles and families served by that agency, and the integrity of the SC state institution itself. Those were harmed too, as the Petitioner will present to the SC Human Resource Administration next. More recently in 2022, the Petitioner sought and was refused access to materials (again entitled by the SCDJJ Policy) through the course of his Step One and Two Internal Grievance processes. A range of tactics have been deployed by the Respondent and its representatives to deflect the legitimate and well-articulated, repeated requests. Whereby, Petitioner sought out Injunctive relief from the Authority of the Administrative Court, rather than continue to be harmed by the consequences of further refusal of documents prior to the SC Human Resources Administration, over which the Administrative Law Court has proper authority.

### **Conclusion**

Petitioner would like opportunity to further present these and other requested facts at a formal hearing to enforce the involved issues (remand to the lower tribunal), due to the errors made by the Court in its Dismissals. At this time, through issuance of this written formal Appeal, Appellant humbly pleads for that continuing support, review, and a reversal of the final judgement with instructions to hold a hearing. Petitioner would additionally request relief from the Court in enforcement of prior Subpoena and Motion To Compel Orders, to grant Petitioner full, proper Discovery, and assign damages as it sees fit.

RESPECTFULLY SUBMITTED,

s/ \_\_\_\_\_

Michael Carwane, pro se

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Saluda, SC 29138

This the 20th day of September 2023

RECEIVED

Sep 20 2023

SC Court of Appeals

PROOF OF SERVICE OF INITIAL BRIEF

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

S. Phillip Lenski, Administrative Law Judge

Appellate Case No. 2023-001342

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Michael Carwane , Appellant.

v.

South Carolina Department of Juvenile Justice Respondent.

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PROOF OF SERVICE

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I certify that I have served the Initial Brief on South Carolina Department of Juvenile Justice by depositing a copy of it in the United States Mail, postage prepaid, on September 20, 2023 addressed to the attorney on record, Gene Matthews, SC Dept. Of Juv. Justice, 220 Executive Center Dr., Columbia SC 29210.

September 20, 2023

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