

SOUTH CAROLINA COURT OF APPEALS

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

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SC Court of Appeals

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Appellant response to the Respondent’s Motion to File Out of Time

Respondent presents to the Court four statements to excuse its failure to respond to the Matter on time. These four points are not factual and from the perspective of the Appellant, repeat themes falsely utilized by the Respondent to attempt to diminish the

appropriate, legal efforts made by the Appellant within the Court process, and therefore require to be refuted.

The Appellant did serve properly the "Initial Brief" as discussed with the assigned case manager for the SC Court of Appeals, Denesha, and was titled as such.

The Respondent failed to complete an Initial Brief, Designation of Matter, or communicate a reason to the SC Court of Appeals a reason for that failure, until only after the SC Court of Appeals sent written notice that they were out of compliance at that time.

The Respondent claimed that the "Initial Brief" was not served appropriately, "despite (Appellant) being fully aware of the correct address". The Respondent is motivated themselves to perpetuate a claim of false service, as fault of the Appellant, to double down on a tactic already utilized by SCDJJ (and fully listed as grounds for one of the arguments for this appeal) to shift responsibility from the "dubious lawyer tactics" employed by this legal defense team. Here specifically, SCDJJ has thrust no less than six lawyers (Elizabeth Hill, Margaret Williams, Sara Bunge, Shannon Davis, Nick Haigler, and Eugene Matthews) at the Appellant during his legal processes, cycling through those to sow confusion, deflect a direct process towards resolution for the employee, and to slow the processes, such that information is lost over time, the record is harder for the Appellant to access, and with the intent of wearing down the Appellant in his efforts towards resolution. Their client SCDJJ did the same with its various internal complaint processes, deflecting complaints with a rotation of just as many differently assigned contacts within the Human Resource Office. The EEOC gave specific instruction for Appellant to contact Attorney Sara Bunge as lawyer on record in

this case, which was how Appellant proceeded. Attorney, Gene Matthews, has misrepresented his knowledge about service to his client SCDJJ as grounds for dismissal in the lower Court, despite Appellant good faith effort to resolve the issue with him directly. Although Attorney Gene Matthews presented himself initially as also acting in good faith, when service was discussed not only with the Appellant by the Human Resource Grievance Facilitator, Heather Kever, he spoke not one word of this when giving his answer to the ALC inquiry, thus lying by omission. Here, Attorney Gene Matthews is doubling down (or more accurately tripling down on this tactic) with this Court by claiming that his client is not served properly. Additional evidence to this assertion came to the Appellant's address in the form of a letter (from Attorney Gene Matthews) arriving after postmark date Oct 2 2023 (letter dated September 27, 2023) as response to Appellant service to the SCDJJ respondent at their proper address of 220 Executive Center Drive (just as prior service given). It is not the responsibility of the Appellant to dictate to SCDJJ which member of their legal staff (or outside hired staff) are currently willing to discuss its legal matters, and as stated above that has changed indiscriminately from the perspective of the Appellant trying to communicate.

Nevertheless, it is the effort of the Appellant to honor the request of this letter with the filing of this certificate of service, as the request was to, "Please direct all future correspondence to me, and serve me with any and all filings that are made to the Court of Appeals". Today's filing will be the first since being given that request. Thus, the Attorney, Gene Matthews, cannot feign that Appellant acted, "despite being fully aware" when all his correspondence predated that letter. Ironically for the Appellant, who attempted to get clarity from Attorney Gene Matthews at the very first interaction with

him at the refused Grievance mediation, Attorney Gene Matthews deflected the Appellant inquiry by citing "Attorney client privilege" and remaining purposefully vague about his role. Of additional note, two other SCDJJ attorneys participated that day, further dispelling this "despite fully aware" notion presented by this attorney now. The final dismissive, inaccurate claim that the "Respondent did not understand that the Court considered what the Appellant filed as an actual "Initial Brief" also has no merit. If a legally served document titled Initial Brief with reference to the SC Appeals Court, and affixed with a case number is served to a client you intend to represent, the Attorney had no business later acting baffled by that type of document he is trained to handle, and has done so previously in his professional career. In contrast, when the same Appellant was previously working on a complaint to be filed with the SC District Court for the SCDJJ defendant (on many of the same issues), Attorney Gene Matthews was forceful and boastful with Appellant about his pre-knowledge of that case. In that instance it was before his client SCDJJ had even been served, so in totality it is he that is manipulating these circumstances to his advantage in his presentation with this Court, as he is being calculated, rather than confused, about the advantages his presentation is giving his client. As sad as that is (because it robs Appellant from the attention required for initial arguments and space for refuting other Respondent claims), and as difficult as it may be to find the proper words to explain (especially with no hearing in which to speak to an authority), it is the responsibility of the Appellant again to refute his position here. A copy of this Attorney notice is requested to be added to the final listing for evidence available for Court review. The net effect is that while not meeting his own Court deadlines, the Respondent Attorney falsely asserts that the Appellant did not

meet his timelines in the ALC. The Appellant continues to request the opportunity to correct the record as part of this Appeal, and did not fail to cite those areas that were errors of the lower Court, and those that were errors created by purposeful “dubious lawyer tactics” employed by the Respondent.

Incorrect presentation of Facts within Respondent’s Initial Brief

In response to Respondent’s claim that, “In April 2023, each of the agencies filed responses to the Appellant’s request.” This statement is not correct. Appellant did not receive correspondence representing a response from the Saluda Police Department. In fact, the name of the Saluda Police Department Attorney, John Boyd, was not made available to the Appellant until he pursued matching subpoena enforcement through the Worker’s Compensation Committee venue, also for the same Respondent. As described in the Initial Brief, the direct email attempts to communicate with the Saluda Police Chief, Kes Holmes were additionally ignored. This undermines the Respondent’s assertions that Appellant failed to communicate with the various subpoenaed parties, as obligated. The Administrative Law Court, Judicial Law Clerk, Ericka Easler, emails listed Attorney Ginny Bozeman as representative for the Saluda County Administrator, not Attorney John Boyd. This error on the part of the Clerk of Court, Jana E. Shealy, had the effect of putting the Appellant in a position of waiting reasonably for a response from the Saluda Police Department that never came prior to the finding of the Honorable Judge S. Philip Lenski, denying a hearing to Appellant.

The Respondent’s claim is additionally incorrect in that it omits that the Committee also issued a subpoena (and subsequent Motion To Compel) to the Saluda County Administrator, Sandra G. Padget. As discussed in the Appellant’s Initial Brief, an

apparent motive for the Respondent's omission of this information to the Court is that this additional subpoena had to be sought, due to an earlier misrepresentation by SCDJJ for their role in the supervision, maintenance, and access to video monitoring equipment at the Saluda County Office, when Appellant sought this information for SCDJJ investigation through its Inspector General department. The Appellant is justified in his attempt to seek full, honest, disclosure on this earlier deceit by SCDJJ. Appellant proposes it is the intent of the Respondent to purposefully "muddy the waters" on these facts to force the Appellant to work harder to best represent the truth to the court, and to themselves posture as being victimized by those efforts by the Appellant to have full Discovery (to include those areas the Respondent is uncomfortable to expose).

Attorney, Eugene Matthews is thus doubling down on this misdirection for the Court. This is one of the "dubious lawyer tactics", here, to further dismiss as "ad hominem attacks against the staff of the ALC, who Appellant baselessly accuses of attempting to 'mislead' him". In so stating, Attorney Matthews attempts to align himself with ALC staff for some higher moral ground he is not entitled. In fact, Appellant is claiming in the Initial Brief argument that it is the Attorney, Eugene Matthews that is accused of misleading the ALC with his response, not that ALC has intentionally misled the Appellant.

The errors listed by the Appellant that were made by the ALC staff, were responsibly described by Appellant as being understandable mistakes (for their outcomes) based upon the inaccurate information provided to them by the Respondent. That misleading information was subsequently delineated in the Initial Brief arguments of the Appellant. It is also annotated in the Appellant's Initial Brief that the attempt was made to communicate to the ALC that the facts of the Respondent's response was not accurate

or complete. It is at that time (April 3rd, 2023) that Erika Easler stated to Appellant that (A) There would be opportunity to discuss it at the later hearing, and (B) Verified that a written response to the Respondent's statement was not required, and (C) confirmed that Appellant had been erringly omitted from some communications, despite being a Court of Record. At this time, in response to (B) above, Appellant further described why it was not desirable for a continued back and forth conversation with the Respondent, as that had been unproductive for Appellant in numerous prior attempts to include by requested mediation, and the earlier stages of the grievance process. It was the observation of the Appellant that the Defendant used these earlier meetings to gather information (without giving any in return for Discovery) only to posture for later legal proceedings.

The Respondent, in its Initial Brief further attempts to direct the attention of the Court away from the wrongdoings of the Respondent by attributing the Appellant's lawful actions with pursuit of necessary Discovery materials. The alternative for the client would have been for the same attorney to later claim that the Appellant did not have sufficient evidence (referring to the same evidence now withheld). The Appellant has the expectation that the Courts are not only able to discern and enforce this issue of Discovery as a fundamental, routine element of the rules of the Court, but that this is certainly not the first time the Court has had to consider this type of concern as presented by a litigant in the Court. The Appellant has not asked for any unusual consideration on this topic, beyond what is entitled by the rules and processes of the Court itself. That is what was intended with the issuance of the Subpoenas, and reinforced by the subsequent Motion to Compel orders, and direct communications with

the associated organizations. The Respondent is incorrect when he claims that the Appellant made no direct communication attempts with the subpoenaed organizations to seek resolution, as the evidence presented by the Appellant supports.

Respondent's misuse of *ad hominem* claims, while denigrating Appellant

The righteous path for this process was to seek Subpoenas and Motion to Compel orders, relying on the rule of law for an ordered process. It is the Respondent who was dismissive of that right of the Appellant, and now explains the Appellant's choice as somehow malicious towards the Respondent. By stating, "... they exemplify Appellant's tendency to attribute ill motives or deeds to anyone who he regards as an adversary, or who do not respond to his requests as he wishes", is tantamount to faulting the Appellant for challenging the Respondent's Attorney or client through the Courts in the first place. It is still their misdeeds that must be examined by the Courts. Let it be known to the Court that this type of personal, character attack is another example of the previously cited "dubious lawyer tactics" named in the Initial Brief. These claims by the Respondent have been used previously by the Respondent to falsely discredit the employee when he used SCDJJ internal processes to request agency support with addressing criminal, corrupt, and abusive behaviors within its ranks. The Appellant remained professional with his participation in these limited allowed avenues for reporting and is hurt by the consequences levied by SCDJJ in response, to include termination, retaliation to filing with the EEOC, name calling and Bullying (to include a malicious attempt to label Appellant as a pedophile) and interfering with later attempts at state employment (black listing), falsifying employee Mental Health records and labeling Appellant Paranoid in its presentation to the EEOC. These behaviors (and

others) must be moderated by the Court, and further arguments by the Respondent's attorney to marginalize or slander the Appellant with this type of false labeling must cease. By marginalizing the Appellant, the Respondent seeks to make the Appellant's otherwise valid arguments unbelievable to the Court. Again, I will call this a "dubious lawyer tactic" without remorse, as they seem to adopt a "win at all costs" attitude despite the ongoing harms caused to the Appellant.

It appears that Attorney, Eugene Matthews, has honed his tactics previously with this whetstone, but that does not negate this Appellants ability to question those tactics (even if he successfully wielded them previously) to sway favor or advantage for his clients in Court. Again, the Appellant option of being demure or saying nothing is not an appropriate or healthy alternative for the Appellant. However, Appellant does not deserve additional malicious labeling by the Respondent, as he had only participated within the framework of the rules of a lawful process. Ironically for the Appellant, it was the reported workplace Bullying, name calling, and personal attacks by the Respondent towards the Appellant that originally prompted the Appellant to seek formal rebuke and relief of the Respondent's behaviors, beginning over three years ago. Unfortunately, the Respondent also held full control over those internal processes, and now seeks to hide its participation from proper Discovery in its attempt to continue to reduce its liability for those issues Appellant sought solutions for. It is thus a "dubious lawyer tactic" for the Respondent's Attorney to project those behaviors on the Appellant, who has acted professionally throughout. Even an untrained pro se litigant has enough wisdom to deflect this simplistic "I know you are, but what am I" rendition of a defensive lawyer tactic. Apparently, Attorney Matthews is banking on the Court to accept a lawyer's

statement as being truthful, over that of a non-lawyer litigant. Here, as in the lower court, the pro se litigant only had the expectation of vigilance with fact checking, which was lost with a dismissal before a review hearing was even held. As stated in the Initial Brief, that is still the request of the Appellant with this appeal.

The Respondent summarizes that, "In any event, there is no evidence in the record that the ALC erred in denying Appellant's motion to enforce the subpoenas at issue". Appellant doesn't believe the Respondent expects this statement to be read as; there is no evidence in the record, because there is no record, because there was no hearing. If that is what he means, Appellant would agree that his argument for having been shortchanged from a hearing being scheduled with the ALC, while waiting for that event to be scheduled by the Court is at the heart of his necessity for an Appeal in this Court venue. If that statement is to read alternatively; as a statement about the record presented in the Appellant's Initial Brief, the designation of matter, in fact, includes ample listing of evidence. This includes emails citing lacking inclusion of the Appellant in communication by the ALC. This is an element in the merit of the Argument One named by the Appellant in the Initial Brief. The Appellant's designation of matter also lists evidence for missing lawyer inclusion for the Saluda Police Department. Statements about the specific missteps by the ALC Judicial Law Clerk, Erika Easler, are provided to include phone contact (April 3rd, 2023 beginning at 11:32 AM) about missed inclusion in lawyer emails communications, statement to Appellant that there would be a scheduled hearing (only after all Attorneys provided responses), and hearing scheduling options provided to the Attorneys, but not offered for Appellant. This naturally resulted in the

reasonable belief that the Appellant had to wait patiently for the scheduling by the Court, and a subsequent mailed notice. That notice never came.

Respondent summarizes that the "Appellant enjoys no entitlement to a face-to-face hearing before the ALC to make his arguments." This may explain why the Respondent strategized to prevent this hearing by providing knowingly incomplete responses to the ALC, that Appellant has illustrated in his Initial Brief as "lying by omission" by the Respondent Attorney. Certainly in the case of an attorney lying to a Court in this manner the answer to his defensive query "Is the decision of the Administrative Law Court to deny a motion to enforce a subpoena appealable?" is an undeniable "Yes". The Courts are in a position to find on the truthful merits of an argument, and sanction those that misrepresent that truth to the Court. Maybe he believes that since the hearing was never convened, he was never sworn in to provide truthful testimonies. The appeal, hence, became only necessary because the weight of the attorney deception was great enough to prevent the ALC to move forward with the hearing being scheduled. Thus, the Attorney Gene Matthews, strategically blocked the Appellant from having a venue to voice his claims, or dispel the false representations made by the Respondent's Attorney. Of note, it was this same Attorney which requested by email for the scheduling of this hearing to be delayed, citing his own personal hardships. Again, being aware of this request, the Appellant reasonably had the message reinforced to him that the hearing would occur, but that he was not in control of the scheduling of the Courts. The Appellant correctly never believed that he was being granted any control or input over the scheduling of that hearing by the Court, and so did not attempt to engage the Court with that expectation, further reinforcing the action of patiently awaiting written

communication from the Court, as a reasonable person would do. In the legal circles Attorney Eugene Matthews and his powerful client SCDJJ operate, this may suffice as a coup or celebrated legal victory. To a lay person operating pro se, due to limited means, this is another vivid example of the “dubious lawyer tactics” referenced in the Initial Brief. This appeal is another lawful attempt by Appellant to seek enforcement of his rights, despite the disadvantages for the Appellant to engage this Respondent in this process. For this the Appellant asks for grace, regarding the difficulties inherent in navigating the process fluidly as a pro se litigant. In contrast to the Respondent projection of malicious intent upon the Appellant, it takes qualities of courageousness and desire to protect the citizens of the State of SC to be a whistleblower against the misdeeds of a corrupt state agency motivated to hide its own shortcomings. I am not unique in this, as my complaints, observations, and litigation are reflective of the same range of topics that came to the attention of the State leading to the ouster of SCDJJ Director Freddie Pough, and separate high-profile formal investigations of SCDJJ during the same timeframe Appellant witnessed his own hurtful responses from them. Granted those may involve separate legal processes, but it is important for the Court to have the perspective of the context in which the Appellant is viewing this Appeal process, as a microcosm of matching attempts to hold this Respondent accountable for its behaviors.

Reinforcing Argument Five of the Appellant’s Initial Brief

In paragraph Three of the statement of the case, Respondent states that the “Committee Exhibit # 1 in the still pending grievance appeal is currently now 321 pages long, the majority of which were submitted by the Appellant.” Respondent is using, here

the volume of evidence produced by the Appellant (not the Respondent, in response to legal Subpoena and Motion to Compel requests) to somehow give themselves credit for the production of these materials. The amount of evidence produced by the Appellant has absolutely no bearing on the requirement for the Respondent to be responsive to the legal subpoena requests. The Respondent here is intending to (A) Diminish the significance of the Appellant's evidence in the eyes of the Court, and (B) posture that it somehow satisfies their own responsibilities for full, Discovery. In the Initial Brief, Appellant was very clear to describe that the Respondent neither receives credit for providing volumes of unrequested materials (instead of required materials) as in the example of twice sending documents such as a copy of the employee's social security card. Not needed, required, or requested.

Again, this is called out as a "dubious lawyer tactic" meant to deceive the Court and discourage the Appellant. The Attorney lied by omission to the ALC, claiming to have been responsive to the subpoena requests, only by sending extraneous materials. The Saluda Police Department failed to respond at all (and this was not questioned by the ALC). While the Saluda County Administrator's Attorney, Ginny Bozeman, did respond, she did not follow through in writing as offered, and made a claim about having no County policy about video monitoring equipment in its facilities, when a copy was requested by Appellant. For these reasons, and the refusal to directly dispel collusion between the named organizations, Appellant chose to include this named organization for the veracity of its claims, unenforceable by the powerless Appellant alone. Appellant, in the Designation of Matter, shows evidence of documentation in which Appellant was courteous about receiving the extraneous, redundant materials while still maintaining

the expectation that the Respondent (and others) still provide the full materials requested. The “dubious lawyer tactic” here amounts to a bait and switch type presentation which made them feel justified in their responses to the ALC inquiry. The Appellant contends that the decision would have been dramatically different, as would the ongoing burden of the Appellants to seek appeals, had the Respondent not engaged in lying by omission.

When the Respondent states, “The information requested in the subpoena is duplicative or irrelevant – including all parts of his personnel file or ‘all contacts with the State Accident Fund’ – have no bearing on the matter before the State Employee Grievance Committee”, he is wrong in multiple ways.

First (1), this shows not only the active collaboration among multiple SCDJJ lawyers to quash the Appellant complaints in their various forums (while obligating Appellant to keep the forums distinct and separate), but it shows the willingness of SCDJJ to use additional “dubious lawyer tactics” of purposefully creating confusion by rotating lawyers throughout the processes for the Appellant. This tactic began with the early internal complaint and grievance processes, and continues now despite the Appellant naming this as a problem (giving the Respondent opportunity to rectify their mistake) in the Initial Brief. Instead, it appears that the Respondents would prefer to preserve the confusion for the courts and Appellant, because it allows them cover for why they claimed to the ALC to have not been properly served paperwork, when the Respondent was, in fact, not only properly served, but were served in the same manner mandated by the EEOC (as postal records confirm in evidence), and contacted in good faith by the Appellant, when their attempt at deception was recognized by the Appellant. This

information was selectively culled by the Respondent in its response to the ALC, again representing Lying by omission. Secondly (2) It is the prerogative of the State Employee Grievance Committee, not the Respondent (or its attorney) to determine what is admissible in that venue. He may not withhold Discovery prematurely based upon his own valuation, as he is clearly biased towards the needs of his client (in this case hiding the truth of their liable actions). Also (3), the Respondent (nor its attorney) is able to determine what bearing the arguments made to the State Employee Grievance Committee will have, as they are not the source of, nor participant to the arguments presented by the Appellant. Not only do they not have that control of the arguments, but those arguments have not even been made, as the State Employee Grievance hearing continues to be postponed due to the lack of compliance with the multiple, legal subpoena and Motion to Compel orders by the Respondent (and other named organizations). A direct way of saying this, is that Eugene Matthews does not represent arguments presented by both SCDJJ and the Appellant in that forum. Why would he believe that he is allowed to select/curate the evidence required for presentation by both opposing litigants, and do so in advance? His intrusion in this process and explanation is unwanted and feels like hubris, to a pro se litigant witnessing these circumstances for the first time. Again, the Appellants choice to push back on this point is not malicious, and is advisable over the alternative of allowing the respondent attorney to thus dictate those terms to the Court. I ask the Courts support at this time to find the necessary balance due.

The Respondent Attorney stated confusion as, "It is, frankly difficult to follow Appellant's arguments" about the named arguments of the Appellant's Initial Brief. (1)

The Attorney's confusion is not the responsibility of the Appellant, who has repeatedly articulated his concerns for the facilitation by the authority of the Courts. (2) The Attorney attempts to be dismissive of three of the Appellants arguments in his initial brief, rather than state a substantive argument against them. This fails to negate the validity of the arguments and is considered another "dubious lawyer tactic" to detract from the merits of the original points raised before the Court. If the Court itself was confused, that would have been an argument to proceed with the scheduling of the hearing to allow the Appellant a voice, as opportunity to answer the Court's questions. (3) The Respondent further disparages the facts contained in the presented Appellant Table of Authorities by claiming it to be "imagined evidence". The emails with the ALC Judicial Law Clerk were in fact indicative of the phone calls in which Appellant was notified (and immediately responded to the same) requesting to be included in all communications (having previously been omitted by the Court). Thus, the conclusion that "there is no evidence to substantiate the existence of content of those conversations" is false. The Respondent additionally seems to imply that since the ALC officials were unnamed in the Appellant's initial brief, this makes them "imagined evidence". In contrast, names are readily available in the email evidence record (and position Titles such as Clerk Of Court were utilized for brevity) attached by the Appellant in the Designation of Matter. Similarly, the conclusion, "By any event, Appellant, has presented no argument or evidence supporting the principle that he is entitled to an oral hearing before the ALC" is also false. The evidence clearly outlines a process by which Appellant was given the expectation of a hearing (email evidence from April 24, 2023 to Jun 19, 2023) that was being scheduled, and it was within the parameters given by the

Court that the Appellant chose not to submit a formal written response at that time. It is also false that the Order noted that Appellant had not “filed a reply nor responded to any of the emails from the court.” Appellant described in the Initial Brief what steps he did take to communicate with the Court, and was particular about the point that emails directed to other attorneys by name, such as with the example of scheduling requests for the hearing, were not inclusive of, or requesting a response from Appellant (email evidence from April 5, 2023 through April 24, 2023). This cannot be labeled by either the Court or repeated by this Respondent Attorney as amounting to a universal failure to respond. It is also significant to this point that the Appellant would not have been expected to draft a formal rebuttal to the various agencies subpoenaed until after receiving all their responses. The Saluda Police Department did not provide this response as claimed here by the Respondent’s Attorney, her in his Initial Brief. Appellant took care to describe in his Initial Brief arguments that this created peril for him in that a passage of time awaiting both the responses and Court scheduling created a scenario in which Appellant was relegated to waiting. It was not until the Initial Ruling arrived by mail, that Appellant realized that the tenuous passage of time did not serve him or his interests. Again, his response to the Court was immediate, with his communication in an attempt to explain the problems with the Court communications. It was during this subsequent call to the ALC Judicial Law Clerk, and later in- person visit to the Administrative Law Court, with ALC Clerk of Court, Jana E. Shealy, that Appellant was refused disclosure of all emails Appellant was not included in earlier, that might have clarified this for the present Court. A refusal by a Court official to amend their own error is not tantamount to the Attorney Eugene Matthews claim that it is “imagined”.

Coupled with his client's prior false claim that Appellant suffers from Paranoia, it is his own *ad hominem* attack, here that flies in the face of his claim about the Appellant's failure to address the substantive argument articulated by the Appellant. It is hurtful and distracting.

Reinforcing Argument Three of Appellant's Initial Brief

There is an intentional omission in the Respondents Initial Brief when stating the facts of the case, to hide that there is a specific request for Discovery from SCDJJ for its investigations through its IG (Inspector General) department. This has not been provided to date (in any form or partial manner) contrary to the Respondent claims to have honored the subpoenas already, and constitutes lying by omission in the lower Court. Respondent did not claim to the lower Court to have failed to meet the requirements of the multiple subpoena and Motion to Compel requests (except for items they considered to be irrelevant to the case, as discussed earlier in this response), but instead passed as completed without allowing the Court to make that determination of veracity. In contrast, when the Appellant has been given deposition by Respondent or interviewed for SCDJJ fact finding, the Appellant was not allowed to address only the questions he would have pre-screened as "needing to be answered". It was the intent of SCDJJ to receive full Discovery, just as the Appellant is now entitled. SCDJJ Human Resources department routinely maintains multiple personnel files, for the purpose of restricting Discovery attempts (claiming to have released the records when only one file was offered). This is why the language of the subpoena requests was specific to request all files to include personnel (supervisory) files, human resource files, and statements from supervisors and employee peers regarding Appellant. Relying on this

deceptive business tactic to deflect Discovery is not tantamount to protecting trade secrets (ex. KFC securing its secret spice recipe) and should be properly called into question by this Appeal Court. This subpoena language was ignored by Respondent in its actions and statements for its Initial Brief presentation and again in the Motion to Compel.

Conclusion

As a logical analogy, Appellant poses as in his Initial Brief, the following query: If subpoenaed to produce (A), (B), and (C), and you only produce part of (A), unrequested (D) twice, and (E), may you claim to have satisfied the subpoena already? Of Course, the best gauge for adherence to the Discovery request is to compare and contrast the produced materials to those requested in the multiple subpoenas. From this perspective, full Discovery has never been satisfied, despite Respondent claims otherwise. This is still a threshold requested of the Courts to consider and enforce in this Appeal.

RESPECTFULLY SUBMITTED,



Michael Carwane, pro se

302 The Heights Third Avenue

Saluda, SC 29138

This the 21st day of November 2023

PROOF OF SERVICE OF REPLY BRIEF

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

S. Phillip Lenski, Administrative Law Judge

Appellate Case No. 2023-001342

Michael Carwane ,

Appellant.

v.

South Carolina Department of
Juvenile Justice

Respondent.

PROOF OF SERVICE

I certify that I have served the Reply Brief to Be Included In The Record On Appeal, on South Carolina Department of Juvenile Justice by depositing a copy of it in the United States Mail, postage prepaid, on November 21, 2023 addressed to the attorney on record, Gene Matthews, Richardson Plowden & Robinson, P.O. Drawer 7788, Columbia SC 29202.

November 21, 2023



Michael Carwane, pro se

302 The Heights Third Ave


Saluda, South Carolina 29138

(828) 301-7106

Michael Caruane
302 The Heights Third Ave
Saluda, SC 29138



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