

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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SC Court of Appeals

APPEAL FROM THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Francis Ackerman #266928, Tyrone Aiken #244428, Tyrone Aiken #248367, Malik Aljalil #219551, Linsò Allen #269378, Frank Anderson #282800, Sherman Austin #300028, Henry Baker #263398, Quentin Baker #297868, Michael Baylor #265682, Jacob Beach #301270, Darryel Beasley #222388, Michael Benninger #264212, James Bogan #288111, Taurus Bowman #252745, Lazarus Brannon #227847, Ronald Brewer #285756, Frederick Brown #289602, Keith Brown #295762, Timothy Brown #238461, Edward Bryant #255998, Gary Bryant #258972, Pete Bryant #242370, Terrell Buchanan #277262, Douglas Bude #263537, Larry Burke #281911, Christopher Busch #300690, Michael Busques #191961, Richard Butler #162467, Thomas Butler #257552, Derek Carter #275938, Kenneth Carter #243538, Thomas Carter #249362, Rudy Cassady #238732, Leroy Choice #113990, Sheldon Clark #264772, Zawaski Cobb #187136, Baron Cobbs #280479, Kamathene Cooper #145333, Frank Corley #292975, Gladstone Cummings #267450, Patrick Curtis #175139, Quintin Daniels #196284, Curtis Davis #238776, Garry Davis #106144, Heyward Dempsey #134171, Phillip Denney #240678, Perry Deveaux #109601, Daniel Dewey #276678, Calvin Drummond #236322, Jerome Durham #270393, Paul Durham #219573, Harlan Edger #261866, Keith Eigner #299153, Willie Elder #246208, Rodney Elliott #251337, Anthony English #238474, James Enriquez #215539, Kirlan Etheredge #236635, Keith Eugene, unknown, James Evans #267837, David Feggins #287157, Bernard Felder #122099, Terry Ferguson #299080, Jose Flores #240563, James Foye #211523, Ray Gadsden #187527, Maxie Gamble #254413, Robert Garrett #291096, Jermaine Garriett #191274, Fred Gatewood #289775, Jammie Gaymon #208922, Reginald Geddis #183851, Marvin Gilbert #273934, Dennis Goff #177506, Charles Graham #294453, Richard Graham #228235, Gregory Grant #109656, Howard Grant #255473, Nehemiah Greene #243339, Gary Grooms #283860, Nelson Hampton #286427, Willie Hare #256641, Wayne Harlen #245705, David Harrell #260004, James Hartman #219770, Gary Hayes #263985, Johnny Hayes #267910, Steven Hickenbottom #196263, Johnny Holden #245199, Michael Hood #279897, Willie House #257820, Don Hughes #256862, Timothy Inman #151123, Chuck Jackson #266425, James Jackson #267718, Peter Jenkins #257321, Wilbur Jordan #272264, Alfred Joyner #260442, Keith Kelly #257556, Joseph Kelsey #217218, Michael Key #266890, Dennis Knight #286981, Nick Lambros #215080, Alain Lareau #128014, Nikia Law #260855, Stephen Lease #137016, Archie Lee #226354, Harry Leonard #249996, Rick Libby #274681, Quintin Linen #238553, Raymond Livingston #277133, Donald Lyles #296135, Earl Mack #216237, Lavanza Mack #189340, Percy Martin #270035, Cedric Martino #291396, Donald McAteer #292961, Larry McClam #282972, Herbert McFadden #184297, James McFadden #235419, Michael McFarland #266870, Tony McNeil #235846, Thomas Miles #246763, Darrin Miller #259593, Ernest Miller #235474, Wilbert Mills #244004, Roy Morris #288777, John Moultrie #276527, Matin Muntaqim #142282, Anthony Murphy #295893, Anthony Murray #237867, James Murray #165487, Robert Norris #266101, Chauncy Orr #177069, Joe Pannell #89592, Frank Patterson #283098, Tony Pitts

#280579, Kevin Poston #266083, Rodney Pressley #177947, Germaine Pringle #250390, Francis Prioleau #268813, Larkland Richards #281768, Gene Richardson #93614, Isaac Richardson #232574, Laron Richardson #258786, Dennis Richey #233472, Ignacio Rivera #300424, Henry Rivers #219118, Harold Roberson #117001, Donald Robinson #277520, Darrell Rochester #146731, Vondell Sanders #241308, James Sattler #235043, Joseph Schmitz #173987, Arthur Scott #251957, Isaiah Scott #228008, Jerome Scott #153381, Roosevelt Scott #275631, Ralph Sellers #164295, George Shine #292391, Archie Simmons #161419, Kenneth Simmons #278911, Ronald Simmons #267937, Samuel Simmons #302393, Stephone Simmons #300422, Edward Simpson #220017, Virgil Simpson #281888, David Sims #278067, Jonathan Singleton #287670, Kevin Smith #272440, Robert Smith #199324, Timothy Smith #296539, Jeffrey Spears #281697, Alvin Stewart #278595, Jeff Stinson #260047, Jeffrey Tevis #216442, William Thomas #272501, Curtis Thompson #266448, James Tino #145030, James Trumper #247429, James Wells #180458, Ray Wells #173651, Demetrius Wheeling #264976, Kenneth White #228409, Bobby Williams #261486, Darrell Williams #219730, Derrick Williams #272958, James Williams #282929, Leon Wilson #155867, Timothy Wilson #261971, Tony Witt #242918, John Wojcik #219463, Anthony Wright #199009, Robert Wydman #260331, Eric Youmous #281091, Rogelio Zavala #245106, Petitioners,

v.

South Carolina Department of Corrections, Respondent.

PETITION FOR A WRIT OF CERTIORARI

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CERTIFICATE OF COUNSEL

Counsel for petitioners certifies that the Petition for Rehearing was made and finally ruled on by the Court of Appeals on February 2, 2024.

QUESTION PRESENTED

Did the Court of Appeals err in holding that it did not have jurisdiction to consider the appeal?

STATEMENT OF THE CASE

Petitioners worked in a prison industries work program established under S.C. Code §24-3-430(A). Pursuant to Adkins, et al. v. SCDC 360 S.C. 413, 419, 602 S.E. 2d 51 (S.C., 2004) and §24-3-430(D), petitioners filed grievances for back wages. After appeal to the Administrative Law Court (ALC), and then to the Court of Appeals in Ackerman, et al. v. SCDC 415 S.C. 412, 421, 782 S.E. 2d 757, 762 (S.C. App., 2016), the case was remanded first to the ALC, and then to the Department of Corrections (SCDC).

On October 31, 2019, SCDC forwarded its "back pay calculations" for each petitioner, except Vondell Sanders. On October 28, 2022, petitioners filed with SCDC their Motion For SCDC To Find Liability, Constitutional Violations, And To Pay Full Damages. Petitioners contended SCDC's calculations violate the mode of procedure clause in S.C. Constitution, Article I, Sections 22, 23; and also substantive due process under S.C. Constitution, Article I, Section 3, and U.S. Constitution, Amendment 14, Section 1. See calculations in Appendix.

On July 25, 2023, petitioners filed notice of appeal to the Court of Appeals of SCDC's back wage calculations. On August 15, 2023, the Clerk, Court of Appeals, questioned the appealability of this matter, and asked the parties to file memoranda addressing that issue (Clerk's letter of August 15, 2023). In response, counsel filed memoranda, and undersigned counsel also filed a reply (Appellants' Memorandum, SCDC's Memorandum, and Appellants' Reply).

In an order dated November 14, 2023, the Court of Appeals dismissed the appeal, holding it did not have jurisdiction (Order of November 14, 2023). Petitioners mailed their Petition for Rehearing on November 21, 2023 (Petition for Rehearing). The Court of Appeals denied the Petition for Rehearing by its order dated February 2, 2024. See order in Appendix.

Petitioners seek a writ of certiorari to review the Court of Appeals' dismissal of appeal.

ARGUMENT

THE COURT OF APPEALS SHOULD HAVE HELD THAT IT HAD JURISDICTION TO CONSIDER THE APPEAL.

This appeal was filed in the Court of Appeals pursuant to S.C. Code §1-23-380, second and fourth sentences, and the following provisions of the South Carolina and United States Constitutions: (1) S.C. Constitution, Article I, Section 22 mode of procedure clause, and Section 23; (2) S.C. Constitution, Article I, Sections 22, 23, and S.C. Constitution, Article I, Section 3 due process clause, and U.S. Constitution, Amendment 14, Section 1 due process clause; and (3) S.C. Constitution, Article I, Section 3 due process clause, and U.S. Constitution, Amendment 14, Section 1 due process clause.

Petitioners contend these constitutional grounds for appeal are "other means of review" expressly authorized in §1-23-380, second sentence. Petitioners further contend that appellate jurisdiction is expressly given to the Court of Appeals in §1-23-380, fourth sentence, since appeal to another court is not "otherwise provided by law".

I. S.C. Code Section 1-23-380

Section 1-23-380, second and fourth sentences, state as follows:

..This section does not limit utilization of or the scope of judicial review available under other means of review, redress, relief, or trial de novo provided by law..Except as otherwise provided by law, an appeal is to the court of appeals.

Unlike the first sentence in §1-23-380, the second and fourth sentences do not require a final decision, or any decision, for judicial review. Here, the parties apparently agree that SCDC's calculations are incomplete and not final decisions (Appellants' Memorandum, p. 3; SCDC's Memorandum, pp. 2, 4, 10). As a result, the calculations were not appealable to the ALC (Al Shabazz v. State 338 S.C. 354, 376, 527 S.E. 2d 742 (S.C., 2000) (Inmate may seek review of SCDC's **final** decision by an ALJ in non-collateral or administrative matter); ALC Rule 51 (Rules in this section shall apply exclusively in matters heard on appeal from **final** decisions pursuant to Al Shabazz v. State)).

In support of its dismissal, the Court of Appeals cited §14-3-330, setting forth categories of judgments from which appeal may be taken; §14-8-200(a), defining appellate jurisdiction of the Court of Appeals to include final decisions of an administrative law judge with the same scope of review as the Supreme Court would appeal (sic) in a similar case; and §1-23-600(D), providing an administrative law judge shall preside over appeals from final decisions of contested cases, with limited exceptions (Court of Appeals' order of November 14, 2023). In pertinent part, these statutes require a **final** decision or order before an appeal may be taken (§14-3-330(3); §14-8-200(a); and §1-23-600(D)). Thus, SCDC's calculations, as non-final decisions, cannot be appealed to the Supreme Court, Court of Appeals, or ALC under these statutes.

By citing the above statutes, the Court of Appeals apparently believed no statute allowed appeal in these circumstances. If so, petitioners contend the court failed to adequately consider §1-23-380, second and fourth sentences, as these provisions expressly provide for "other means of review..provided by law" and appeal to the Court of Appeals "(E)xcept as otherwise provided by law".

Moreover, the Editor's Note following §1-23-380 states:

This act is intended to provide a uniform procedure for contested cases and appeals from administrative agencies and to the

extent that a provision of this act conflicts with an existing statute or regulation, the provisions of this act are controlling.

The Editor's Note is consistent with Bone v. U.S. Food Service 404 S.C. 67, 76, 744 S.E. 2d 552, 557 (S.C., 2013). In Bone, the court concluded that the meaning of "final judgment" in §1-23-390, an APA statute, is not defined by using the exceptions in §14-3-330, a general appealability statute. The court held §14-3-330, which allowed interlocutory appeals in certain instances, and its concepts did not apply since the APA statute controlled over the general statute (404 S.C. at 84, 744 S.E. 2d at 561).

Here, §1-23-380, second and fourth sentences, are parts of an APA statute. Thus, pursuant to Bone and the Editor's Note, petitioners submit that those provisions control over any general appealability statute requiring a final decision or order for appeal.

In addition, pursuant to §1-23-380(4), "(T)he review **must** be conducted by the court..". Because an appeal is not "otherwise provided by law" pursuant to §1-23-380, fourth sentence (See II below), petitioners submit that the Court of Appeals has no discretion to deny review.

Finally, petitioners contend this petition presents novel questions of law concerning the interaction between §1-23-380, second and fourth sentences; and S.C. Constitution, Article I, Sections 22, 23, and Section 3 due process, and U.S. Constitution, Amendment 14, Section 1 due process. In addition, petitioners contend the Court of Appeals' dismissal conflicts with the Supreme Court's decision in Bone v. U.S. Food Service (SCACR 242(b)(1)(3)).

II. Constitutional Grounds For Appeal

1. S.C. Constitution, Article I, Sections 22, 23

The first constitutional ground for appeal is S.C. Constitution, Article I, Sections 22, 23. Section 22 includes the express right to judicial review, as

recognized in League of Women Voters of Georgetown County v. Litchfield-by-the-Sea 305 S.C. 424, 409 S.E. 2d 378 (S.C., 1991). Article I, Section 22 states the following, in part:

..nor shall he be **deprived** of liberty or property unless by a mode of procedure prescribed by the General Assembly; and he **shall have in all such instances the right to judicial review.**

Section 22 does not require for appeal a final decision, or any decision, but that one is "deprived" of property. "Deprivation" means an act of taking away; a withholding of something (Black's Law Dictionary, 7th ed., p. 453). A "withholding" is the "..practice of deducting a certain amount from a person's salary, wages..usu. for tax purposes;" (Id, p. 1595). Petitioners contend SCDC back wage calculations take away, or withhold, monies due for their work. Because a final decision is not required under Section 22, appeal is not available under Al Shabazz, ALC Rule 51, or the general appealability statutes cited by the Court of Appeals.

Moreover, Section 22 does not designate a particular court to hear an appeal. Thus, appeal to a court other than the Court of Appeals is not "otherwise provided by law" (§1-23-380, fourth sentence). As a result, petitioners submit that appeal properly lies with the Court of Appeals under §1-23-380, fourth sentence.

S.C. Constitution, Article I, Section 23 states:

The provisions of the Constitution **shall** be taken, deemed, and **construed to be mandatory** and prohibitory, and not merely directory, except where expressly made directory, or permissory by its own terms.

Petitioners contend SCDC's back wage calculations violate Article I, Section 22. Thus, they have a mandatory right to appeal the calculations to the Court of Appeals pursuant to §1-23-380, second and fourth sentences, and Article I, Sections 22 and 23. For example, in League of Women Voters of Georgetown County, 305 S.C. at 426-7, 409 S.E. 2d at 380, the Supreme Court applied

Article I, Section 22's "superseding constitutional due process provisions" for hearing and judicial review to a **non-binding** "certification determination" of the Coastal Council which, as an administrative agency, must comport with the standards of due process in Article I, Section 22. The court so ruled because Council's non-binding determination may be accorded significant weight by the permitting agency in deciding whether or not to grant a permit (305 S.C. at 427, 409 S.E. 2d at 380).

Here, the cover sheet for SCDC's calculations states they are for "settlement and mediation purposes only" (SCDC calculations cover sheet). Moreover, the parties have had mediation discussions on and off since December 2021 without reaching settlement. The calculations were done by SCDC's Inmate Accounting department, and state for each petitioner the precise amount SCDC claims is "owed" and "due" (SCDC calculations). Petitioners submit, as in League of Women Voters of Georgetown County, SCDC may well accord significant weight to its calculations in deciding whether or not to settle, and if so, for what amount. As a result, appeal of SCDC's calculations to the Court of Appeals should be mandatory under §1-23-380, second and fourth sentences, S.C. Constitution, Article I, Sections 22, 23, and League of Women Voters of Georgetown County.

Petitioners further contend League of Women Voters of Georgetown County, and its implications for our case, are relevant to the Court of Appeals' jurisdiction. In its order, the Court of Appeals did not address that case. However, because a non-binding agency determination is not appealable under general appealability statutes, appeal to a court other than the Court of Appeals is not "otherwise provided by law" (§1-23-380, fourth sentence). Thus, petitioners submit that appeal properly lies with the Court of Appeals under §1-23-380, fourth sentence.

Finally, while the Court of Appeals did not expressly deny appealability,

petitioners contend it effectively did so by denying jurisdiction under §1-23-380, fourth sentence, when no other appeal options are available. As a result, petitioners contend the Court of Appeals' dismissal conflicts with League of Women Voters of Georgetown County (SCACR 242(b)(3)).

2. S.C. Constitution, Article I, Sections 22, 23
S.C. Constitution, Article I, Section 3 Due Process
U.S. Constitution, Amendment 14, Section 1 Due Process

The second constitutional ground for appeal is S.C. Constitution, Article I, Sections 22, 23; S.C. Constitution, Article I, Section 3 due process; and U.S. Constitution, Amendment 14, Section 1 due process. This ground involves application of the mandatory right to appeal in S.C. Constitution, Article I, Sections 22, 23 to the state and federal due process clauses, as recognized in S.C. Ambulatory Surgery Center Ass'n v. S.C. Workers Comp. Comm'n 389 S.C. 380, 699 S.E. 2d 146 (S.C., 2010). S.C. Constitution, Article I, Section 3 states the following, in part:

..nor shall any person be **deprived** of life, liberty, or property without due process of law..

U.S. Constitution, Amendment 14, Section 1 states the following, in part:

..nor shall any state **deprive** any person of life, liberty or property, without due process of law.

As with S.C. Constitution, Article I, Section 22, state and federal due process do not require a final decision, or any decision, but that a person is "deprived" of property. Petitioners contend SCDC's back wage calculations were arbitrary and capricious in taking away and withholding monies past due, in violation of state and federal due process. Because a final decision is not required, appeal is not available under Al Shabazz, ALC Rule 51, or the general appealability statutes cited by the Court of Appeals.

Also, as with S.C. Constitution, Article I, Section 22, state and federal due process clauses do not designate a particular court to hear an appeal. As

a result, appeal to a court other than the Court of Appeals is not "otherwise provided by law" (§1-23-380, fourth sentence). For these reasons, petitioners submit that appeal properly lies with the Court of Appeals pursuant to §1-23-380, fourth sentence.

In addition, petitioners note that state and federal due process violations carry the same protections as provided under S.C. Constitution, Article I, Section 22 (S.C. Ambulatory Surgery Center Ass'n v. S.C. Workers Comp. Comm'n, 389 S.C. 380, 699 S.E. 2d at 152). Petitioners contend S.C. Ambulatory Surgery Center Ass'n is relevant to Court of Appeals' jurisdiction here. In its order, the Court of Appeals did not address it. Petitioners contend that one of the protections applicable to state and federal due process is the mandatory right to appeal SCDC's non-final and non-binding wage calculations. This is because SCDC may well accord them significant weight in settlement negotiations (League of Women Voters of Georgetown County, 305 S.C. at 426-7, 409 S.E. 2d at 380).

This matter would not be appealable under general appealability statutes because SCDC's calculations are non-final and non-binding. Thus, appeal to a court other than the Court of Appeals is not "otherwise provided by law" (§1-23-380, fourth sentence). As a result, petitioners submit that appeal properly lies with the Court of Appeals under §1-23-380, fourth sentence.

Finally, while the Court of Appeals did not expressly deny appealability, petitioners contend it effectively did so by denying jurisdiction under §1-23-380, fourth sentence, when no other appeal options are available. As a result, petitioners contend the Court of Appeals' dismissal conflicts with S.C. Ambulatory Surgery Center Ass'n and League of Women Voters of Georgetown County (SCACR 242(b)(3)).

3. S.C. Constitution, Article I, Section 3 Due Process
U.S. Constitution, Amendment 14, Section 1 Due Process

The third constitutional ground for appeal is S.C. Constitution, Article I, Section 3 due process, and U.S. Constitution, Amendment 14, Section 1 due process. This ground involves the inherent right to appeal for constitutional violations, as recognized in Al Shabazz v. State 338 S.C. 354, 527 S.E. 2d 742 (S.C., 2000), Califano v. Sanders 430 U.S. 99, 97 S. Ct. 980 (1977), and other authorities. State and federal due process provisions are quoted, in part, herein related to the second constitutional ground for appeal.

As stated for the second constitutional ground, state and federal due process clauses do not require a final decision, or any decision, but that one is "deprived" of property without due process. Petitioners contend SCDC's calculations arbitrarily and capriciously take away and withhold money that is past due. Because a final decision is not required, appeal is not available under Al Shabazz, ALC Rule 51, or the general appealability statutes cited by the Court of Appeals. Al Shabazz does recognize **constitutional** appeals, see below.

In addition, the due process clauses do not designate the court to hear an appeal. Thus, appeal to a court other than the Court of Appeals is not "otherwise provided by law" (§1-23-380, fourth sentence). As a result, petitioners submit that appeal properly lies with the Court of Appeals under §1-23-380, fourth sentence.

Petitioners contend there is an inherent right of appeal for state and federal due process violations (C.J.S. (2014), Adm. Law & Procedure, §379 (Constitutionally required judicial review despite statutory provision to the contrary, in absence of clear legislative intent otherwise); Am Jur 2d (2014), Adm. Law, §388 (Judicial review as a matter of constitutional necessity despite a statute attempting to preclude review); Califano v. Sanders 430 U.S. 99, 109, 97 S. Ct. 980 (1977) (A presumption of judicial review for **constitutional questions**, unless Congress' intent to foreclose review is clearly manifested); Al

Shabazz v. State, 338 S.C. at 381 (Review **must** be made available to determine if confinement **violates the Constitution**, or prison officials have acted **arbitrarily and capriciously**).

Applied to our case, petitioners contend these authorities mean judicial review must be provided for the due process questions raised herein regardless of any state statute attempting to preclude review. Petitioners submit, since appeal of a non-final SCDC decision is not "otherwise provided by law" to another court, appeal properly lies with the Court of Appeals pursuant to §1-23-380, fourth sentence.

Finally, while the Court of Appeals did not expressly deny appealability, petitioners contend it effectively did so by denying jurisdiction under §1-23-380, fourth sentence, when no other appeal options are available. As a result, petitioners contend the dismissal conflicts with the Supreme Court's decision in Al Shabazz v. State, and also the U.S. Supreme Court's decision in Califano v. Sanders (SCACR 242(b)(3)(5)).

III. Supersession And Preemption

To the extent the statutes cited by the Court of Appeals, or any state statute, may attempt to preclude that court's jurisdiction, petitioners contend they are **superseded** by the constitutional due process provisions in S.C. Constitution, Article I, Sections 3, 22, 23, and in U.S. Constitution, Amendment 14, Section 1 (League of Women Voters of Georgetown County, 305 S.C. at 426-7, 409 S.E. 2d at 380) ("Superseding constitutional due process provisions" in S.C. Constitution, Article I, Section 22 applied to Coastal Council's non-binding certification determination); S.C. Ambulatory Surgery Center Ass'n, 699 S.E. 2d at 152) (Protections provided under S.C. Constitution, Article I, Section 22 are equivalent to those afforded by due process clauses of state and federal Constitutions).

Petitioners further contend that those statutes cited by the Court of Appeals, or any state statute, attempting to preclude that court's jurisdiction, are **preempted** by U.S. Constitution, Amendment 14, Section 1 due process, and the federal constitutional right to appeal stemming therefrom (U.S. Constitution, Article VI, Clause 2, Supremacy Clause; Kansas v. Garcia 140 S. Ct. 791, 801 (2020) (Pursuant to the Supremacy Clause, if a federal law confers rights and state law imposes restrictions conflicting with federal law, the state law is preempted)).

Petitioners further note that supersession and preemption are relevant to Court of Appeals' jurisdiction. This is because any state statute relied upon by the Court of Appeals to preclude jurisdiction is superseded and preempted, and thus of no effect.

Finally, petitioners contend the Court of Appeals' dismissal (1) conflicts with League of Women Voters of Georgetown County and S.C. Ambulatory Surgery Center Ass'n; (2) raises substantial federal and state constitutional issues under U.S. Constitution, Amendment 14, Section 1, and S.C. Constitution, Article I, Sections 3, 22, 23; and (3) raises a federal question of preemption under the Supremacy Clause of the U.S. Constitution, and conflicts with the U.S. Supreme Court's decision in Kansas v. Garcia (SCACR 242(b)(3)(4)(5)).

IV. Court Of Appeals Final Order

On February 2, 2024, the Court of Appeals issued its final order denying the petition for rehearing (February 2, 2024 order). The court again cited §14-3-330, §14-8-200(a), and §1-23-600(D). The court also cited §1-23-380, first sentence (providing for judicial review of agency decisions to "[a] party who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision"); and §1-23-380, third sentence (allowing for immediate review of "[a] preliminary, procedural, or intermediate agency

action or ruling..if review of the final agency decision would not provide an adequate remedy").

As previously stated herein, the first sentence in §1-23-380 does not apply because SCDC's calculations are not a final decision. More to the point, for the second and fourth sentences in §1-23-380, the scope of judicial review is **not limited** to final agency decisions, and appellate jurisdiction is **expressly granted** to the Court of Appeals "(E)xcept as otherwise provided by law". As discussed herein, appeal of this matter is not provided to a court other than the Court of Appeals. As a result, petitioners submit §1-23-380, second and fourth sentences, is an express APA statutory grant of jurisdiction to the Court of Appeals to hear this appeal.

Regarding the third sentence in §1-23-380, petitioners contend that provision also does not apply. First, SCDC's calculations are not a preliminary, procedural, or intermediate agency action as §1-23-380, third sentence, requires. They are incomplete SCDC decisions which arbitrarily and capriciously **omitted** six years of work from July 2007 until program termination in 2013 (SCDC calculations; SCDC November 29, 2017 letter). Second, SCACR 203(b)(6) states, for an incomplete agency decision, a party "need not" appeal until receipt of the more complete decision.

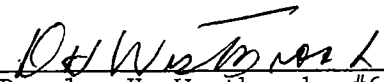
Finally, the Court of Appeals' order did not address petitioners' statutory and constitutional grounds for appeal or appellate jurisdiction in the Court of Appeals: The three constitutional grounds discussed herein are "other means of review" authorized in §1-23-380, second sentence; and appellate jurisdiction is expressly granted to the Court of Appeals in §1-23-380, fourth sentence, because appeal to another court is not "otherwise provided by law". The court also did not address petitioners' other contentions and authorities cited herein and in previous filings with the court.

CONCLUSION

For the reasons stated, petitioners ask the Court to grant the petition for a writ of certiorari.

Respectfully submitted,

February 16, 2024


Douglas H. Westbrook, #6039
3 Gamecock Ave., Ste. 304-B
Charleston, SC 29407
(843) 853-9600
Attorney for Petitioners

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In the Supreme Court

APPEAL FROM THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Francis Ackerman #266928, Tyrone Aiken #244428, Tyrone Aiken #248367, Malik Aljalil #219551, Linso Allen #269378, Frank Anderson #282800, Sherman Austin #300028, Henry Baker #263398, Quentin Baker #297868, Michael Baylor #265682, Jacob Beach #301270, Darryel Beasley #222388, Michael Benninger #264212, James Bogan #288111, Taurus Bowman #252745, Lazarus Brannon #227847, Ronald Brewer #285756, Frederick Brown #289602, Keith Brown #295762, Timothy Brown #238461, Edward Bryant #255998, Gary Bryant #258972, Pete Bryant #242370, Terrell Buchanan #277262, Douglas Bude #263537, Larry Burke #281911, Christopher Busch #300690, Michael Busques #191961, Richard Butler #162467, Thomas Butler #257552, Derek Carter #275938, Kenneth Carter #243538, Thomas Carter #249362, Rudy Cassady #238732, Leroy Choice #113990, Sheldon Clark #264772, Zawaski Cobb #187136, Baron Cobbs #280479, Kamathene Cooper #145333, Frank Corley #292975, Gladstone Cummings #267450, Patrick Curtis #175139, Quintin Daniels #196284, Curtis Davis #238776, Garry Davis #106144, Heyward Dempsey #134171, Phillip Denney #240678, Perry Deveaux #109601, Daniel Dewey #276678, Calvin Drummond #236322, Jerome Durham #270393, Paul Durham #219573, Harlan Edger #261866, Keith Eigner #299153, Willie Elder #246208, Rodney Elliott #251337, Anthony English #238474, James Enriquez #215539, Kirlan Etheredge #236635, Keith Eugene, unknown, James Evans #267837, David Feggins #287157, Bernard Felder #122099, Terry Ferguson #299080, Jose Flores #240563, James Foye #211523, Ray Gadsden #187527, Maxie Gamble #254413, Robert Garrett #291096, Jermaine Garriett #191274, Fred Gatewood #289775, Jammie Gaymon #208922, Reginald Geddis #183851, Marvin Gilbert #273934, Dennis Goff #177506, Charles Graham #294453, Richard Graham #228235, Gregory Grant #109656, Howard Grant #255473, Nehemiah Greene #243339, Gary Grooms #283860, Nelson Hampton #286427, Willie Hare #256641, Wayne Harlen #245705, David Harrell #260004, James Hartman #219770, Gary Hayes #263985, Johnny Hayes #267910, Steven Hickenbottom #196263, Johnny Holden #245199, Michael Hood #279897, Willie House #257820, Don Hughes #256862, Timothy Inman #151123, Chuck Jackson #266425, James Jackson #267718, Peter Jenkins #257321, Wilbur Jordan #272264, Alfred Joyner #260442, Keith Kelly #257556, Joseph Kelsey #217218, Michael Key #266890, Dennis Knight #286981, Nick Lambros #215080, Alain Lareau #128014, Nikia Law #260855, Stephen Lease #137016, Archie Lee #226354, Harry Leonard #249996, Rick Libby #274681, Quintin Linen #238553, Raymond Livingston #277133, Donald Lyles #296135, Earl Mack #216237, Lavanza Mack #189340, Percy Martin #270035, Cedric Martino #291396, Donald McAteer #292961, Larry McClam #282972, Herbert McFadden #184297, James McFadden #235419, Michael McFarland #266870, Tony McNeil #235846, Thomas Miles #246763, Darrin Miller #259593, Ernest Miller #235474, Wilbert Mills #244004, Roy Morris #288777, John Moultrie #276527, Matin Muntaqim #142282, Anthony Murphy #295893, Anthony Murray #237867, James Murray #165487, Robert Norris #266101, Chauncy Orr #177069, Joe Pannell #89592, Frank Patterson #283098, Tony Pitts

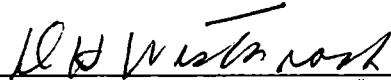
#280579, Kevin Poston #266083, Rodney Pressley #177947, Germaine Pringle #250390, Francis Prioleau #268813, Larkland Richards #281768, Gene Richardson #93614, Isaac Richardson #232574, Laron Richardson #258786, Dennis Richey #233472, Ignacio Rivera #300424, Henry Rivers #219118, Harold Roberson #117001, Donald Robinson #277520, Darrell Rochester #146731, Vondell Sanders #241308, James Sattler #235043, Joseph Schmitz #173987, Arthur Scott #251957, Isaiah Scott #228008, Jerome Scott #153381, Roosevelt Scott #275631, Ralph Sellers #164295, George Shine #292391, Archie Simmons #161419, Kenneth Simmons #278911, Ronald Simmons #267937, Samuel Simmons #302393, Stephone Simmons #300422, Edward Simpson #220017, Virgil Simpson #281888, David Sims #278067, Jonathan Singleton #287670, Kevin Smith #272440, Robert Smith #199324, Timothy Smith #296539, Jeffrey Spears #281697, Alvin Stewart #278595, Jeff Stinson #260047, Jeffrey Tevis #216442, William Thomas #272501, Curtis Thompson #266448, James Tino #145030, James Trumper #247429, James Wells #180458, Ray Wells #173651, Demetrius Wheeling #264976, Kenneth White #228409, Bobby Williams #261486, Darrell Williams #219730, Derrick Williams #272958, James Williams #282929, Leon Wilson #155867, Timothy Wilson #261971, Tony Witt #242918, John Wojcik #219463, Anthony Wright #199009, Robert Wydman #260331, Eric Youmous #281091, Rogelio Zavala #245106, Petitioners,

v.

South Carolina Department of Corrections, Respondent.

PROOF OF SERVICE

I certify that I have served petitioners' Petition for a Writ of Certiorari and Appendix on the S.C. Department of Corrections by depositing copies of them in the U.S. Mail, postage prepaid, on February 16, 2024, addressed to its attorney of record, Lake Summers, Esquire, of Malone, Thompson, Summers & Ott, LLC, 339 Heyward St., Ste. 200, Columbia, SC 29201.
February 16, 2024.



Douglas H. Westbrook, #6039
3 Gamecock Ave., Ste. 304-B
Charleston, SC 29407
(843) 853-9600
Attorney for Petitioners

DOUGLAS H. WESTBROOK

Attorney At Law

3 Gamecock Ave., Suite 304-B
Charleston, SC 29407
843.853.9600
douglas.h.westbrook@gmail.com

February 16, 2024

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SC Court of Appeals

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211


Re: Francis Ackerman, et al. v. SCDC
Appellate Case No. 2023-001204

Dear Ms. Kitchings:

Pursuant to SCACR 242(c), please find enclosed for filing with the Court a copy of petitioners Francis Ackerman, et al.'s Petition for a Writ of Certiorari and Proof of Service, which have been filed by mail this date in the Supreme Court.

Thank you for your assistance in this matter.

Sincerely,


Douglas H. Westbrook

DHW/
Encl.

cc: The Honorable Patricia A. Howard
Lake E. Summers, Esquire

DOUGLAS H. WESTBROOK

Attorney At Law

3 Gamecock Ave., Suite 304-B
Charleston, SC 29407
843.853.9600
douglas.h.westbrook@gmail.com

February 16, 2024

The Honorable Patricia A. Howard
Clerk of Court
Supreme Court of South Carolina
P.O. Box 11330
Columbia, SC 29211

Re: Francis Ackerman, et al. v. SCDC
Appellate Case No. 2023-001204

Dear Ms. Howard:

Pursuant to SCACR 242(c), please find enclosed for filing with the Court the original and six (6) copies of petitioners Francis Ackerman, et al.'s Petition for a Writ of Certiorari and Proof of Service. I also enclose two (2) copies of the Appendix, one (1) copy unbound, pursuant to SCACR 242(e). Finally, I enclose a check for the \$250 filing fee.

I have this date filed by mail a copy of the Petition and Proof of Service with the Clerk of the Court of Appeals. By copy of this letter, this date I also served by mail a copy of the Petition, Appendix, and Proof of Service on counsel for the Department of Corrections.

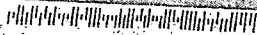
Thank you for your assistance in this matter.

Sincerely,


Douglas H. Westbrook

DHW/
Encl.

cc: The Honorable Jenny Abbott Kitchings
Lake E. Summers, Esquire



Retail



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DOUGLAS H. WESTBROOK
Attorney At Law
3 Gamecock Ave., Suite 304-B
Charleston, SC 29407

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FEB 20 2024

SC Court of Appeals

The Honorable Jenny Abbott Kitchings
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