

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from the Administrative Law Court
The Honorable Ralph King Anderson, III, Chief Administrative Law Judge

Appellate Case No.: 2022-000965

JOSEPH KELSEY, #217218.....APPELLANT

v.

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

**OBJECTION TO APPELLANT'S
MOTION TO SUPPLEMENT THE RECORD**

Respondent hereby objects to Appellant's Motion to Supplement the Record filed May 2, 2024, on the grounds that the proffered materials were not a part of the record of the Administrative Law Court. Rule 210(c), SCACR.

All proposed exhibits in Appellant's Motion were not included in the Administrative Law Court's record. Rule 210(c), SCACR, states that the Record "shall not ... include matter which was not presented to the lower court or tribunal."

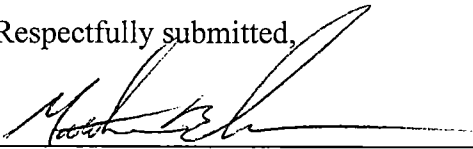
Respondent would also object because all items are materials created well after the issue on appeal. Appellant in his Motion is submitting a copy of his April 24, 2024 parole file (Exhibit 1) and his acknowledgment of receipt of same (Exhibit 2), both of which were clearly not in existence during the time of Appellant's hearing November 10, 2021.

Confoundingly, Appellant is also seeking to introduce a copy of the documents submitted to the Parole Board for his April 3, 2024 hearing (Exhibit 3) along with the letters of parole denial from his November 29, 2023 and April 24, 2024 hearings (Exhibit 4). As with the other exhibits, these clearly were not in existence during the appeal from Appellant's 2021 parole hearing, and therefore were not a part of the record of the Administrative Law Court.

Respondent would submit that these documents have no bearing over the issues before this Court, clearly raised years prior to the exhibits' existence.

Appellant may not raise new issues on appeal that have not been addressed at the lower court. Wilder Corp. v. Wilke, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998). Supplementing the record with materials created well after the hearing at issue would appear on its face that Appellant is seeking to raise and argue new issues. Consequently, Respondent would object to supplementing the record and would respectfully request that Appellant's Motion be denied.

Respectfully submitted,



Matthew C. Buchanan
General Counsel

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

Columbia, South Carolina
May 6, 2024

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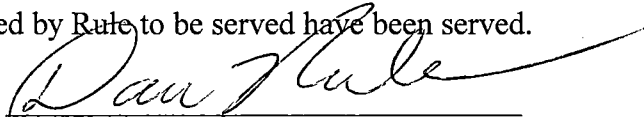
APPELLANT

CERTIFICATE OF SERVICE

I, Dawn K. Nichols, Executive Assistant, hereby certify that I have served the within *Objection to Appellant's Motion to Supplement the Record* dated May 6, 2024, on Appellant the 6th day of May, 2024, by depositing a copy of the same in the United States mail, postage prepaid, addressed to:

Allison Franz, Esquire
Justice 360
900 Elmwood Ave., Suite 200
Columbia, SC 29201

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



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

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

HENRY McMASTER
Governor



JODI GALLMAN
Acting Director

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

**Re: Joseph Kelsey v. SCDPPPS
22-000965**

Dear Ms. Kitchings:

Please find enclosed Respondent's Objections to Appellant's Motion to Supplement the Record dated May 6, 2024, along with proof of service in the above referenced case.

Sincerely,

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

Matthew C. Buchanan
General Counsel

MCB:dn

Enclosures

cc: Allison Franz, Esquire
Hannah Lyon Freedman, Esquire
Jonathan Ozmint, Esquire
John Blume, III, Esquire

State of South Carolina

Department of Probation, Parole, and Pardon Services

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