

The South Carolina Court of Appeals

Administrative Law Court

S. Philip Lenski, Administrative Law Judge

Docket No: 24-ALJ-04-0610-IJ

Ben Robert Stewart, 223006,

v.

S.C.D.C.

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OCT 02 2025

SC Court of Appeals

Reply Brief Pursuant  
to Rule 269 SCACR

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Ben Robert Stewart  
100-200 Prison Rd  
Enoree S.C. 29335

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# Reply Brief Pursuant to Rule 269 South Carolina Appellate Court Rule

The Appellant, Ben Robert Stewart respectfully makes an reply brief pursuant to 269 of SCACR because the respondent is making a opposition to this instant appeal when respondent violated the rules govern the Administrative Law Court, pursuant to Rule, 60 SCALCR, by depriving and denying appellant the opportunity to appeal the Department's decision see; (Step 1. Grievance and Step 2. Grievance; attached))

Had respondent followed the rules govern Administrative Law Court and allowed appellant to file the Record

on Appeal the respondent would have reviewed that the Step 1 and 2 Grievance was filed and decided on; and pursuant to a "contested case, appeal, motion or defense" that is frivolous or taken solely for purposes of delay, the judge may impose such sanctions as the circumstances warrant to discourage similar conduct in the future" see; Rule 72 SCALCR, however, appellants case was improperly denied without a finding of fact and conclusion of law, see; S.C. Code Ann. 1-23-610 (B)(a)(c)(e); because this decision was made and should be reverse due to a constitutional and statutory violation; the Court decision in

Administrative Law Court was made upon a unlawful procedure e.g., (when respondent first filed its initial brief before the appellant) the decision was erroneous because the appellant filed the Step 1 and Step 2 Grievance and the notice of appeal to the Administrative Law Court as a required pursuant to the Rules to properly appeal a departments decision.

Pursuant to Rule 269 SCACR, "Where an appeal, petition, motion or return is frivolous or taken solely for the purpose of delay, or is not in compliance with these Rules, the appellate court may upon its own motion or that of a party

after ten (10) days notice impose upon offending attorneys or parties such sanctions as the circumstances of the case and discouragement of like conduct in the future may require;

The Appellant, respectfully contends that the respondent cannot rely on different affirmative defenses in different proceeding e.g., (in ALC respondent first raised that appellant did not exhaust the grievance procedure in SCDC and therefore the ALC lacked jurisdiction, see; Order of dismissal dated Nov. 2024 at last ps); also in the respondent's initial brief the respondent improperly changed its defense to appellant submitted a notice of appeal prior to receiving a final agency decision)) see; Respondent's Initial Brief at 4.))

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The Appellant points to five (5) improper actions by respondent: (1) Respondent did not follow the Rules of Court in ALC and South Carolina Court of Appeals; (2) Respondent changed their arguments in different proceedings; (3) Respondent Waived any challenges of appellate argument; (4) Respondent arguments are frivolous and taken solely for purpose of delay; and (5) Respondent actions are malicious because they received appellant's Step 1 and Step 2 Grievances when the notice of appeal was first filed and falsely implied in its arguments that appellant did not receive a final decision; see, Order of dismissal dated \_\_\_\_\_ at \_\_\_\_\_.

The Appellant proves the Respondent lacks standing in this instant appeal by providing Designation of Matter to be included in the Record on Appeal because respondent alleges in its initial brief that "appellant submitted a notice of appeal prior to receiving a final agency decision" see; Respondents initial brief at 4.

This is untrue because Appellant filed (2) step 1 Grievances prior to receiving a decision from the department, and received a final decision on August 29, 2024; regarding both Grievances dated May 7, 2024 and May 14, 2024 which was actually prior to a final agency decision proven that respondent's argument lack standing. see; Exhibit

attached Exhibit #21;

Also, see; Exhibit B20

Which reflects that appellant did in fact file a 1911  
request to staff member and a Kiosh request #  
23-03312811 Dated December 7, 2023.

Further, see; Exhibit C18

That reveals Respondent was notified on February 19,  
2024 regarding SCDC Policy OP.21-04; state and federal  
violations pursuant to Interstate Agreement on Detainers  
Act))

Furthermore, the appellant was unable to present this  
evidence due to respondent not following the

procedures in ALC see; 1-23-610 (B) (c) :

"made upon unlawful procedure".

Therefore Respondent lack standing to challenge this appeal and Pursuant to Rule 269 the Court should rule in favor of appellant; because the Respondent indeed violated the IAD, 18 USCA App2, Art VI (b) provision 17-11-10 S.C. code; and

SCDC policy O.P. 21-04; see;

Commonwealth v. Scott, 219 Pa Super 470, 281, A.2d 754 (1971); Com v. Montione 554 Pa. Super 121, 720 A.2d 738 (1998). The ALC decision was improper for failing to make a detailed finding of fact, see;

Equal Employment Opportunity Commission

v. United Virginia Bank/Seaboard Nat.

555 F.2d 403 (4<sup>th</sup> Cir 1977). This violated

Appellants' due process and equal protection of the

Laws; See; S.C. Const Art 1 § 3; fair trial Art 1

Sec 4; U.S. Const. 1<sup>st</sup> Amend. Amend, 14<sup>th</sup> Amend.

28 U.S.C.A. 1983; 28 USCA. 1331, 1334 (3)

and (4) see; Bush v. Muncy, (4<sup>th</sup> Cir

1981).

# Relief

The Appellant respectfully request that (1) the Appellant be granted release from custody and sent back to Pennsylvania, (2) this case be remanded to ALC to be reversed and vacated in appellants favor based on allegations raised in his initial step 1 and step 2 Grievances; including 1911 Request to Staff member form; (3) Vacate ALC decision based on Equal Employment Opportunity

Commission v. United Virginia Bank/Seaboard  
Nat. 555 F.2d 403 (4th Cir 1977) (4) Vacate  
ALC decision based on 1-23-610 (B) (a)  
(c) and (e) findings; (5), Vacate ALC  
decision based on 1-23-610 (B) (a) finding;  
(6) Vacate ALC decision based on 1-23-  
610 (B) (c) finding; (7) Vacate ALC finding  
based on 1-23-610 (B) (e) finding and find  
that respondent did not follow ALC Rules  
pursuant to Rule SCALCR.

In The South Carolina  
Court of Appeals

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SCDC.

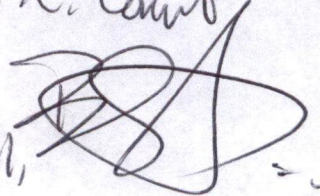
## PROOF OF SERVICE

I, Ben Robert Stewart, hereby swear that I am  
filing my reply to Respondent's initial brief and  
including designation matter on this appeal on Record

on the date of Sep. 26, 2025 to the S.C. Court  
of Appeals at

14 of 14 PO Box 11629

Columbia S.C. 29211,



Ben Robert Stewart, 223006

100-200 Prison Rd

Enoree S.C. 29335

South Carolina Court of Appeal

P.O. Box 11629

Columbia, S.C. 29211

Sep. 26, 2025

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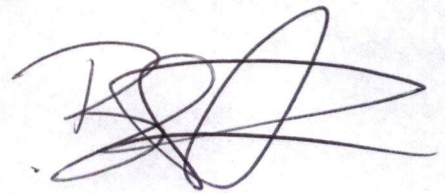
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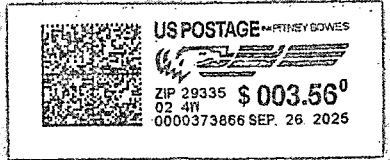
Re: Reply; Designation matters on appeal  
attached.

Dear Clerk:

I am the appellant in this case filing a reply to Respondent's initial brief. Due to my disability and handicap I was unable to rewrite my pleading because of a burden such as writing for a long time. Per my Disability Motion could you please forward respondent a copy and myself after filing in your office



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