

[NAME OF ATTORNEY OR PRO SE PLAINTIFF] [ADDRESS] [CITY, STATE, ZIP]

[PHONE NUMBER] [EMAIL ADDRESS]

IN THE SUPREME COURT OF THE STATE OF [STATE]

Bryan K. Murry
~~Plaintiff~~, Plaintiff and Petitioner,

RECEIVED

APR 13 2026

SC Court of Appeals

OFFICER ONE, OFFICER TWO, OFFICER THREE, OFFICER FOUR, OFFICER FIVE,

and OFFICER SIX, *Defendants and Respondents.*

Case No.: [SUPREME COURT CASE NO.] Appellate Case No.: [APPELLATE CASE NO.] *2024-00895*
2018-CO-35009
NO.] Superior Court Case No.: [TRIAL COURT CASE NO.]

PETITION TO RECALL REMITTITUR

(1) NOTICE OF MOTION (2) MEMORANDUM OF POINTS AND AUTHORITIES

(3) DECLARATION OF [NAME]

TO THE HONORABLE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE

SUPREME COURT OF [STATE]:

PLEASE TAKE NOTICE that Petitioner *Bryan K. Murry* ~~Plaintiff~~ hereby moves this Court for an order recalling the remittitur issued by the Court of Appeal on [DATE OF REMITTITUR] in the above-captioned matter. *11-5-2024*

This Petition is made on the grounds that the remittitur was issued through **inadvertence** and under a **mistake of fact**, and not due to judicial error. Specifically, the appellate record failed to incorporate material evidence regarding the Defendants' intent and the Plaintiff's documented mental incapacity, resulting in an erroneous reduction of the jury's verdict. Furthermore, Plaintiff's severe mental incapacity prevented him from timely objecting or petitioning for rehearing prior to the issuance of the remittitur.

This Petition is based on this Notice, the attached Memorandum of Points and Authorities, the Declaration of *Bryan K. Murry* [NAME], the record on appeal, and such other evidence and argument as may be presented.

3/28/2024
DATED: ~~February 10~~, 2026

Respectfully submitted,

[Signature] [PRINT NAME] Attorney for Petitioner / Petitioner Pro Se

Bryant Lewis Murray

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Bryant Lewis Murray
Petitioner ~~Isaiah~~ obtained a jury verdict in the Superior Court awarding damages for battery and excessive force committed by six police officers. On appeal, the Court of Appeal reduced this award and issued a remittitur on ¹¹⁻⁵⁻²⁰²⁴ [DATE], deeming the verdict excessive.

Petitioner seeks to recall this remittitur. The reduction of the verdict was not a result of a legal determination on the merits based on a complete record, but rather the result of **inadvertence and mistake of fact**. The appellate court was not made aware of crucial facts regarding the Plaintiff's mental incapacity—which tolled relevant timelines and contextualized the damages—nor did it consider the specific evidence of the officers' malicious intent found in the trial record. Because the remittitur was issued under a misapprehension of the facts and while the Petitioner was legally incapacitated and unable to protect his rights, this Court has the inherent power and duty to recall it to prevent a miscarriage of justice.

II. LEGAL STANDARD FOR RECALLING REMITTITUR

A remittitur may be recalled by the reviewing court on its own motion, or on motion or petition supported by affidavits. While the court generally loses jurisdiction once the remittitur issues, an exception exists where the issuance was caused by **fraud, mistake, or inadvertence**.

In *People v. Randazzo*, the Supreme Court held: > “Other than for the correction of clerical errors, the recall may be ordered on the ground of fraud, mistake or inadvertence. The recall may not be granted to correct judicial error.” *People v. Randazzo*, 48 Cal. 2d 484, 493 (1957). Similarly, in *Davis v. Basalt Rock Co.*, the court affirmed that recall is appropriate where the decision results from oversight, neglect, or accident, as distinguished from judicial error. *Davis v. Basalt Rock Co.*, 114 Cal. App. 2d 300 (1952).

III. ARGUMENT

A. The Remittitur Was Issued Through Inadvertence and Mistake of Fact.

A motion to recall a remittitur is the proper remedy where a judgment is improvidently granted under a false suggestion or a mistake as to the facts of the case. *Haydel v. Morton*, 28 Cal. App. 2d 383 (1938).

Here, the remittitur was issued based on the appellate court’s finding that the damage award was unsupported by evidence. However, this finding was a **mistake of fact** resulting from an incomplete record. The court inadvertently failed to consider the evidence of the officers’ intentional and malicious conduct, which legally justified the punitive aspects of the original award. This was not a re-weighing of evidence (judicial error), but an oversight of the existence of the evidence entirely (inadvertence).

B. Plaintiff’s Mental Incapacity Prevented Timely Objection, Rendering the Issuance Inadvertent.

The jurisdiction of the court generally ends when a remittitur is regularly issued. *Herrlich v. McDonald*, 83 Cal. 505 (1890). However, a remittitur is not “regularly issued” if the court lacks knowledge of a party’s incapacity that prevents them from participating.

At the time the remittitur was issued, Petitioner was suffering from severe mental incapacity/insanity, as detailed in the attached Declaration. He was unable to communicate with counsel or understand the proceedings to authorize a petition for rehearing.

While *In re Estate of Levinson*, 108 Cal. 450 (1895), notes that the court loses jurisdiction absent fraud or mistake, the inability of a party to participate due to mental incapacity creates a scenario of “constructive mistake” or “imposition” upon the court. Had the Court known of the Petitioner’s incapacity, it would have stayed proceedings or appointed a guardian ad litem before issuing a mandate that prejudiced his rights. The issuance of the remittitur while the Petitioner was legally invisible to the court due to disability constitutes inadvertence.

C. Recall is Necessary to Prevent Injustice.

The purpose of the remittitur is to correct an excessive judgment, not to shield defendants from liability supported by the record. *Southwestern Investment Corp. v. City of Los Angeles*, 38 Cal. 2d 623 (1952). To allow the current remittitur to stand, given the mistake of fact regarding the evidence and the Petitioner’s inability to object, would result in a grave injustice.

IV. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant the petition, recall the remittitur issued on [DATE], and reinstate the original judgment or set the matter for rehearing.

DATED: ¹¹⁻⁵⁻²⁰²³ ~~11-5-2023~~ 3/1/28 2026

Respectfully submitted,

[Signature] [PRINT NAME] Attorney for Petitioner

[Handwritten Signature]

DECLARATION OF [NAME] IN SUPPORT OF PETITION

[Handwritten Signature]
I, [NAME], declare as follows:

1. I am the [Petitioner / Guardian of Petitioner / Attorney for Petitioner] in this action.

2. I have personal knowledge of the facts set forth herein, except as to those stated on information and belief, and as to those, I believe them to be true.
3. **Mental Incapacity:** From [DATE] to the present, Petitioner ~~John Doe~~ ^{DOZ-2000} ^{Bayanbekov marry} has suffered ^{AD/PT/MA/BI-PS/A-2/8/27/20ph/ohf} from [DIAGNOSIS], a severe mental condition that renders him unable to manage his affairs or understand legal proceedings.
4. **Inability to Participate:** During the appellate process leading to the issuance of the remittitur on [DATE], ^{11/5/2024} Petitioner was hospitalized/incapacitated and could not communicate with legal counsel or authorize the filing of a petition for rehearing.
5. **Mistake of Fact:** The appellate record relied upon by the Court was incomplete. It omitted ^{BASED ON FRAUD DESIGNATION OF MATTER NOT RECALLED} [DESCRIBE OMITTED EVIDENCE, e.g., Exhibit 12 regarding officer intent], which was material to the calculation of damages.
6. This declaration is submitted to establish that the remittitur was issued through inadvertence and mistake of fact regarding the Petitioner's ability to participate and the completeness of the evidentiary record.

I declare under penalty of perjury under the laws of the State of [STATE] that the foregoing is true and correct.

EXECUTED on ^{3/28/} ~~3/28/~~ 2026, at [CITY], [STATE]. ^{Greenwood S-c}

[Signature] [PRINT NAME]



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

November 5, 2024

The Honorable Gwendolyn D. Chiles
133 S Mine St Suite 102
McCormick SC 29835-8357

REMITTITUR

Re: Bryantavious K. Murray v. SCDC
Lower Court Case No. 2018CP3500074
Appellate Case No. 2023-001375

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,


CLERK

Enclosure

cc: Bryantavious K. Murray
Steven Michael Pruitt, Esquire
The Honorable R. Lawton McIntosh

Bryantavious K. Murray
Steven Michael Pruitt, Esquire
The Honorable Gwendolyn D. Chiles
The Honorable R. Lawton McIntosh

FILED
Jan 13 2025

RECEIVED

Nov 05 2024

SC Court of Appeals

From: [Bryantavious Murray](#)
To: [Court Of Appeals Filings](#)
Subject: Re: SCACRIIFORM07
Date: Tuesday, November 5, 2024 9:59:19 PM

***** EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

How do I file a petition for appeal

On Fri, Oct 11, 2024, 8:29 AM Court Of Appeals Filings <ctappfilings@sccourts.org> wrote:

The Court has received your filing. A stamped copy is attached for your records.

Thank you.

From: Bryantavious Murray <murraybryantavious@gmail.com>
Sent: Thursday, October 10, 2024 7:32 PM
To: Court Of Appeals Filings <ctappfilings@sccourts.org>
Subject: Re: SCACRIIFORM07

***** EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

On Fri, Aug 23, 2024 at 11:35 AM Court Of Appeals Filings <ctappfilings@sccourts.org> wrote:

The Court has received your filing. A stamped copy is attached for your records.

Thank you.

From: Bryantavious Murray (via Google Docs) <murraybryantavious@gmail.com>
Sent: Friday, August 23, 2024 11:26 AM
To: Court Of Appeals Filings <ctappfilings@sccourts.org>
Cc: spruitt@mcdonaldpatrick.com
Subject: SCACRIIFORM07

***** EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

The South Carolina Court of Appeals

Bryantavious K. Murray, Appellant,

v.

Lt. Geoffrey Rice, Lt. Ronald Cook, Lt. James
Thompkins, Sgt. Jeremy McCary, Major Frank Mursier,
Joseph Stevens, Leroy Cartledge, Vera Courson, and
South Carolina Department of Corrections, Defendants,

of whom South Carolina Department of Corrections is the
Respondent.

Appellate Case No. 2023-001375

ORDER

This Court dismissed this appeal on October 18, 2024, after Appellant failed to file an amended record on appeal that complied with this court's May 21, 2024 order and Rule 210 of the South Carolina Appellate Court Rules. No timely motion to reinstate was received and the remittitur was properly sent on November 5, 2024. Appellant has now filed a motion to recall the remittitur. A remittitur cannot be recalled except upon "a very strong showing . . . that the remittitur was sent down through some mistake or inadvertence on the part of this Court or its officer." *State v. Keels*, 39 S.C. 553, 17 S.E. 802 (1893). Appellant has failed to make such a showing. Appellant's motion, therefore, is denied.



FOR THE COURT

Columbia, South Carolina

cc:

New Case

STATE OF SOUTH CAROLINA

CASE NO. 2018CP3574

COUNTY OF MCCORMICK

IN THE COURT OF COMMON PLEAS

116 3 28 F 2117

STATE OF SOUTH CAROLINA

Bryantavious Minton
PLAINTIFF(S)

SCDC
DEFENDANT(S)

CHECK ALL THAT APPLY:

RE: INMATE FILING OF CIVIL SUITS:

() THE PLAINTIFF, AN INMATE WITH THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, (HAS/HAS NOT) COMPLIED WITH SECTION 24-27-100.

() THE CLERK OF COURT IS HEREBY ORDERED (TO FILE/NOT TO FILE) THE WITHIN ACTION.

(X) THE SCDC SHALL DEDUCT THE FILING FEE FROM THE PRISONER'S TRUST ACCOUNT PURSUANT TO SECTION 24-27-100 AND SHALL FORWARD THE FUNDS TO THE CLERK OF COURT FOR MCCORMICK COUNTY, SOUTH CAROLINA. *This includes court fees.*

Dated at Mccormick, SC, this 28th day of August, 2018

Al Bruce Lee
Chief Ad.

Attorney(s) for Plaintiff

Attorney(s) for Defendant

Entered &
Mailed to
Judge Utilation
3/16/18

Bobby Adams
Clerk of Court
Deputy

~~RECEIVED~~
~~Dec 02 2024~~
~~SC Court of Appeals~~

FORM 7

PROOF OF SERVICE IN NOTICE TO RECALL
REMITTUR

THE STATE OF SOUTH CAROLINA
In The Court of Appeals
[In The Supreme Court]

APPEAL FROM MCCORMICK COUNTY
Court of Common Pleas

Lawton r mcintosh, Circuit Court

Judge

Case No. 2023 CP-1375-0000

L.t ronald cook, sgt jeremy mccary,
l.t geoffery rice, l.t james thompkins,
joseph stevens frank mursier, leroy cartledge,
vera courson, whom scdc in the respondent,

v.

Bryantavious murray, Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of recall remittur on the above said respondents by depositing a copy of it in the United States Mail, postage prepaid, on december 2, 2024 addressed to his attorney of record, steven m pruiit, Post Office Box 414, Greenwood, South Carolina 29646 [by personally delivering a copy of it to his attorney of record, Steven m pruiit, at his office at 414 main street, Greenwood, South Carolina 29646, on december 2 2024].

december 2 2024

bryantavious Murray
~~2156 orchhill drive~~ 208 Palola Avenue
~~columbia sc 29223~~ Greenwood, S.C 29646
~~8644079924~~
attn: for appellant



THE STATE OF SOUTH CAROLINA

In the ~~State~~ *Appeals Court*

APPEAL FROM mccormick COUNTY

Case no. ~~2018-001375~~ *2023-001375*

s/r lawton mcintosh, Circuit Court Judge

Bryantavious murray, (appeallant),

v.

l.t .Geoffrey rice, lt. ronald
Cook, l.t James Thompkins,
sgt Jeremy Mccary, major
Frank Mursier, joseph
Stevens, Leroy Cartledge,
Vera Courson, and south
carolina department of
corrections, defendants, of
whom south carolia
department of correcctions is
the respondents
Respondent,
..... (respondent).

RECORD ON APPEAL

Table of contents "index"

page

order filed 7-20-2023A-2

complaint filed 3-16-2018A-2

Answer filed 6-12-2023A-2

order dated 6-12-2023A-1

Order dated
2-25-2019A-1

motion to dissmis filedA-2
6-12-2023

transcript filed A 7-17-2023 A-2

memorandum in support
to dissmis filed 6-16-2023

dormat file notice filed
2-1-2029.....

affidavitt of service
filed5-25-2023.....

certificate of service filed
5-28-2024.....

Letter from appeallant filed
4-22-2021.....

defendants motion to dissmis,
A-8 memo & supporting
Documents filed

6-12-2023.....

filed 6-12-2024

Exhibit A:already submitted to court:vera courson 1-19-2024.....

Exhibit B:already submitted to court:lt geoffrey rice 1-19-24.....

Exhibit C:already submitted to court:lt ronald cook 1-19-24.....

Exhibit D:already submitted to court:lt james thompkins 1-19-24.....

Exhibit E: already submitted to court: sgt jeremy mccary 1-19-24.....

This document is a duplicate of a document previously incorporated into the joint appendix. The duplicate has not been incorporated and referenced is made to the first age of the copy previously incorporated into this joint appendix.

2.

“Table of Authorities “

	page(s)
1.aliea v. thomas 815 f.3d 283 (7th circuit,2016).....	b-1
2.anderson v myers, I 82 F. 223(c.c.d.m.d (910).....	b-1
3.Beckwith v bean 98 u.s. 266(1878).....	b-1
4.Brosseau v. haugen 543 u.s 194 (2004).....	b-1.
5.casey v. city of fed, heights, 509 f. 3d 1278(10th cir 2007).....	b-1

6. *Ciolino v Gikas*, 861 F.3d 296 (1st Cir. 2017).....b-1

7. James E. Pfander & Jonathan L. Hunt, *Public Wrongs and Private Bills*.....

8. *Indemnification, and Government Accountability in the Early Republic*, 85 N.Y.U.L. Rev. 1862 (2010).....

9. Joanna Schwartz, *The Case Against Qualified Immunity*, 93 Notre Dame L. Rev. 1799.....

10. *John v. Jeffries Jr.*, *What's Wrong With Qualified Immunity?*, 62 Fla. L. Rev.

851.....

11. William Baude, *Is Qualified Immunity Unlawful?*, 106 Cal. Rev. 45 (2018).....

3.

12. *District of Columbia v. Wesby*, 138 S. Ct.

577 (2018).....

13. *Dyal v. Adams*, No. 16-cv-2133, 2018 WL 2103202 (E.D.N.Y. May 7

2018).....

14. Edrei v. Maguire 892 F.3d 525 (2d Cir. 2018).....

9. Constitutional provisions U.S. Const. Amend.iv

1. Statutes 28 U.S.C. 1254 (i).....

2. 42 U.S.C. 1983.....passim

3. Neb. Rev. Stat. 28-201(4)(f).....

4. Neb. Rev. Stat. 28-901.....

5. Neb. Rev. Stat. 28-1322.....

4.

1. Other authorities.....

2. Brief for plaintiff in error, Myers v. Anderson ;
238 U.S. 368 (1915).....

3. David E. Engdahl, Immunity and Accountability for Positive Governmental Wrongs 44 U. Colo. L. Rev. 1 (1972).....

4.

The state of south carolina
In the court of appeals

In the supreme court

Appeal from mccormick county
Court of common pleas

Circuit court judge
Case no. 2018-cp-35-00074

Steven m pruiit,
Respondent.,

V
Bryantavious murray
Appellant.,

Amended designation of matter to be included in the record on appeal
Appellant proposed the following be included in the record on appeal

1. Order of 7-20-2023
2. order :2-25-2019
3. 2. Complaint 3-16-2028
4. Answer 6-16-2023
5. Transcript of proceeding 7-7-2023; 18-22; 22-25; 1-6; 10-15; 16-19; 21-25; 5-7;10-14;
7-10;.
- 6.Defendants exhibits:5-4-2017, already submitted with complaint check back....

I certify that this designation contains no matter which is irrelevant to this appeal

Date 6-4-2024

/s/ bryantavious murray

B.k.m
2156 cresthill drive
Columbia sc 29223

Jun 04 2024

[NAME OF ATTORNEY OR PRO SE APPELLANT] [ADDRESS] [CITY, STATE, ZIP]

[PHONE NUMBER] [EMAIL ADDRESS]

IN THE SUPERIOR COURT OF THE STATE OF [STATE] IN AND FOR THE
COUNTY OF [COUNTY] - *McCormick*.

~~_____~~ an individual, Plaintiff/Appellant, *Brian Antonio Murray*
Tera Carter *Nancy Cook* *James Thompson* *Jerome McLean* *Debra Rex* *12/11/18*
OFFICER ONE, OFFICER TWO, OFFICER THREE, OFFICER FOUR, OFFICER FIVE,
Frank Muzier *Joseph Stevan* *Rita Vera* *Comptroller*
and OFFICER SIX, individually and in their official capacities as Police Officers,

Defendants/Appellees.

2018 CP 35-00074 *2023-001375*
Case No.: [TRIAL COURT CASE NO.] Appellate Case No.: [IF ASSIGNED]

APPELLANT'S DESIGNATION OF RECORD ON APPEAL

TO THE CLERK OF THE SUPERIOR COURT AND TO APPELLEES:

PLEASE TAKE NOTICE that Plaintiff/Appellant JOHN DOE, pursuant to [Applicable Rule of Appellate Procedure, e.g., Rule 8.120 / Rule 10(b)], hereby designates the following documents, exhibits, and transcripts to be included in the Record on Appeal in the above-captioned matter.

Appellant appeals from the [Judgment/Order] entered on [Date of Order], and requests that the Clerk of the Superior Court prepare and certify the record containing the items listed below for transmission to the Court of Appeals.

I. DESIGNATION OF DOCUMENTS

Appellant designates the following filings to be included in the Clerk's Record:

1. **Complaint** filed by Plaintiff on [Date], including all exhibits attached thereto. *3/16/18 - 3/5/17 - 4/8/2008*
2. **Summons and Return of Service** for all Defendants.
3. **Defendants' Motion to Dismiss** filed on [Date]. ~~_____~~ *4/12/2023*
4. **Plaintiff's Opposition to Motion to Dismiss** filed on [Date]. ~~_____~~ *7/12/2017*

5. **Plaintiff's Motion for Summary Judgment** filed on ~~[[Date]]~~ ^{NOV} including the Statement of Undisputed Material Facts.
6. **Defendants' Opposition to Plaintiff's Motion for Summary Judgment** filed on [Date].
^{NOV}
7. **Plaintiff's Reply in Support of Motion for Summary Judgment** filed on [Date].
^{NOV}
8. **The Court's Order/Judgment** granting/denying [Motion Name] entered on [Date]. - 7/23/2017
9. **Notice of Appeal** filed by Appellant on [Date]. 8/28/2017
10. **This Designation of Record on Appeal.**
11. [Any other relevant motions, orders, or minute entries].

II. DESIGNATION OF ORAL PROCEEDINGS (TRANSCRIPTS)

Appellant designates the Reporter's Transcript of the following proceedings:

1. **Hearing on Motion to Dismiss** held on [Date]. 7-17-2017
2. **Hearing on Motion for Summary Judgment** held on [Date]. NOV
3. [Any other relevant hearings]. NOV

Appellant [has made/will make] arrangements with the Court Reporter for the preparation of these transcripts and payment of any required fees.

III. STATEMENT OF ISSUES ON APPEAL

(Required in some jurisdictions if less than the full record is designated or under rules like Fed. R. Bankr. P. 8009 / Fed. R. App. P. 10(b)(3))

Appellant intends to present the following issues on appeal:

1. Whether the Trial Court erred in dismissing Plaintiff's claims for battery and excessive force based on qualified immunity where Plaintiff alleged facts showing a violation of clearly established law.
2. Whether the Trial Court erred in failing to apply statutory tolling for the statute of limitations due to Plaintiff's mental incapacity.

3. Whether the Trial Court erred in ruling that Plaintiff's Petition for Guardianship could not be heard in conjunction with the civil tort claims.
4. Whether the Trial Court erred in denying Plaintiff's Motion for Summary Judgment on the issue of liability.

IV. CERTIFICATION

Appellant requests that the Clerk of the Court assemble, certify, and transmit the designated record to the Court of Appeals in accordance with the applicable rules of appellate procedure.

DATED: ³~~10~~²⁸, 2026

Respectfully submitted,

[Signature] [PRINT NAME] Attorney for Plaintiff/Appellant / Pro Se

— ### CERTIFICATE OF SERVICE

I hereby certify that on this 3 day of 28, 2026, a true and correct copy of the foregoing **APPELLANT'S DESIGNATION OF RECORD ON APPEAL** was served via [Method of Service, e.g., U.S. Mail / Electronic Filing] upon:

[NAME OF DEFENDANTS' ATTORNEY] [FIRM NAME] [ADDRESS] [CITY, STATE, ZIP] Attorney for Defendants/Appellees

[Signature]

*Bryant Davis Murray
208 Parkside Avenue
Greenville S.C. 29616*

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INCIDENT REPORT**

Page 1 of 1

Institution/Center: <i>McCormick</i>				Date of Report: <i>4.8.16</i>	
Reporting Official (Full Name): <i>John E. Cannon (R)</i>				Time of Report: <i>1100</i>	
Employee ID #: <i>D4323</i>				Date of Incident: <i>4.8.16</i>	
Location of Incident: <i>RHU</i>				Time of Incident: <i>Approx 10:10</i>	
Inmate(s)/Resident:	SCDC #	Age:	Sex:	Race:	Employee(s)/Witnesses Involved:
1. <i>Murray, Chantavia</i>	<i>39248</i>	<i>22</i>	<i>M</i>	<i>B</i>	1.
2.					2.
3.					3.
4.					4.
5.					5.
On the above date and approximate time: <i>The above inmate was seen on RHU after use of force (approx 1 inch laceration) behind left ear and several small lacerations above right (hand) with bruising noted. He also had lines running to left chest. He was alert and oriented. During assessment he began vomiting and had decreased level of consciousness. He was easily aroused with verbal stimuli. He had an odor of alcohol.</i>					
Signature: <i>John E. Cannon</i>				Title: <i>R</i>	
Evidence:					
Disposition of Evidence:					
Supervisor's Comments:				STG Related - Refer to STG Committee	
				<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Unknown	
Printed Name:				This incident is DRUG related	
Signature: _____ Title: _____ Date/Time: _____				<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown	
Major/Responsible Authority:				Responsible Authority	
				Action Taken	
				<input type="checkbox"/> Informal Resolution	
				<input type="checkbox"/> Administrative Resolution	
Printed Name:				<input type="checkbox"/> Refer to Disciplinary Hearing	
Signature: _____ Title: _____ Date/Time: _____					

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT COURT OF SOUTH CAROLINA

Bryantavious Murray, #356248,)	C/A No.: 1:17-220-RBH-SVH
)	
Plaintiff,)	
)	
vs.)	AFFIDAVIT OF JEREMY McCARY
)	
Geoffrey Rice, Rank Lt.; Jeremy)	
McCary, Rank Sgt.; Ronald Cook, Rank)	
Lt.; and James Tompkins, Rank Lt., each)	
being sued in their individual capacity,)	
)	
Defendants.)	

PERSONALLY APPEARED BEFORE ME, Jeremy McCary, who being first duly sworn, deposes and says:

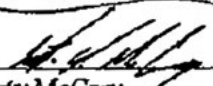
1. I am an employee of the South Carolina Department of Corrections (hereinafter referred to as "SCDC").
2. I am a Sergeant at McCormick Correctional Institution (hereinafter referred to as "MCCI").
3. I recall an incident that occurred on April 8, 2016 at MCCI. On that date, I was a First Responder, who are officers who respond to emergency situations in the prison. I heard a call on the radio for First Responders needed in Unit F-4 and immediately proceeded to that Unit. As I was approaching Unit F-4, I saw the Plaintiff coming out of the Unit. As I continued to approach, Plaintiff was standing outside the Unit waving a knife and stating that he was not going anywhere and would kill anyone who tried to make him. Plaintiff was cursing and belligerent. As I and the other First Responders were approaching the Plaintiff, he threw the knife on the top of the building, but continued to curse and us. Plaintiff appeared to be bleeding when we approached him. The Plaintiff also resisted when we approached him, and it took all of us to restrain him and place him in handcuffs. While we were trying to restrain him, the Plaintiff was yelling "tat-tat-tat," which is a

gang call for the Bloods. Essentially, he was asking other Bloods to come and help him. Thankfully, no other individuals came to assist the Plaintiff against the officers. It was a very dangerous situation because it was meal time and there were around 50-60 inmates on the Yard.

4. We were able to place the Plaintiff in handcuffs, but even after he was placed in handcuffs he continued to resist. After the Plaintiff was placed in handcuffs, he was taken to the Restricted Housing Unit and was subsequently seen by medical personnel. The Plaintiff appeared to be very intoxicated and was slurring his words.

5. I did not strike the Plaintiff and did not observe any of the officers strike him, but we were required to use force because he continued to resist. At no time did I observe any officer use excessive force or improper force on the Plaintiff. We used the minimal amount of force necessary to control and restrain the Plaintiff.

6. I acted appropriately in my dealings with the Plaintiff. At no time did I violate any clearly established constitutional rights of the Plaintiff of which I am aware.


Jeremy McCary

Sworn to and Subscribed before me
this 16 day of June, 2017.

Raven Wilkie L.S.
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 7-16-22

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT COURT OF SOUTH CAROLINA

Bryantavious Murray, #356248,)	C/A No.: 1:17-220-RBH-SVH
)	
Plaintiff,)	
)	
vs.)	AFFIDAVIT OF RONALD COOK
)	
Geoffrey Rice, Rank Lt.; Jeremy)	
McCary, Rank Sgt.; Ronald Cook, Rank)	
Lt.; and James Tompkins, Rank Lt., each)	
being sued in their individual capacity,)	
)	
Defendants.)	

PERSONALLY APPEARED BEFORE ME, Ronald Cook, who being first duly sworn, deposes and says:

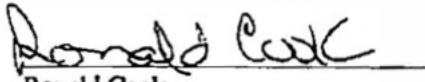
1. I am an employee of the South Carolina Department of Corrections (hereinafter referred to as "SCDC").
2. I am a Lieutenant at McCormick Correctional Institution (hereinafter referred to as "MCCT").
3. I recall an incident that occurred on April 8, 2016 at MCCI. On that date, I was a First Responder, who are officers who respond to emergency situations in the prison. I heard a call on the radio for First Responders needed in Unit F-4 and immediately proceeded to that Unit. As I was approaching Unit F-4, I saw the Plaintiff standing outside the Unit waving a knife and stating that he was not going anywhere and would kill anyone who tried to make him. Plaintiff was cursing and belligerent. As I and the other First Responders were approaching the Plaintiff, he threw the knife on the top of the building, but continued to curse and us. The Plaintiff also resisted when we approached him, and it took all of us to restrain him and place him in handcuffs. While we were trying to restrain him, the Plaintiff was yelling "tat-tat-tat," which is a gang call for the Bloods.

Essentially, he was asking other Bloods to come and help him. Thankfully, no other individuals came to assist the Plaintiff against the officers.


4. We were able to place the Plaintiff in handcuffs, but even after he was placed in handcuffs he continued to resist. After the Plaintiff was placed in handcuffs, he was taken to the Restricted Housing Unit and was subsequently seen by medical personnel. The Plaintiff appeared to be very intoxicated.

5. I did not strike the Plaintiff and did not observe any of the officers strike him, but we were required to use force because he continued to resist. At no time did I observe any officer use excessive force or improper force on the Plaintiff. We used the minimal amount of force necessary to control and restrain the Plaintiff.

6. I acted appropriately in my dealings with the Plaintiff. At no time did I violate any clearly established constitutional rights of the Plaintiff of which I am aware.


Ronald Cook

Sworn to and Subscribed before me
this 4th day of April, 2017.


L.S.
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 7-14-2023

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT COURT OF SOUTH CAROLINA

Bryantavious Murray, #356248,
Plaintiff,
vs.
Geoffrey Rice, Rank Lt.; Jeremey
McCary, Rank Sgt.; Ronald Cook, Rank
Lt.; and James Tompkins, Rank Lt., each
being sued in their individual capacity,
Defendants.

C/A No.: 1:17-220-RBH-SVH

AFFIDAVIT OF GEOFFREY RICE

PERSONALLY APPEARED BEFORE ME, Geoffrey Rice, who being first duly sworn, deposes
and says:

1. I am an employee of the South Carolina Department of Corrections (hereinafter referred to as "SCDC").
2. I am a Lieutenant at McCormick Correctional Institution (hereinafter referred to as "MCCI").
3. I recall an incident that occurred on April 8, 2016 at MCCI. On that date, I was a First Responder, who are officers who respond to emergency situations in the prison. I heard a call on the radio for First Responders needed in Unit F-4 and immediately proceeded to that Unit. As I was approaching Unit F-4, I saw the Plaintiff standing outside the Unit waving a knife and stating that he was not going anywhere and would kill anyone who tried to make him. Plaintiff was cursing and belligerent. As I and the other First Responders were approaching the Plaintiff, he threw the knife on the top of the building, but continued to curse and us. The Plaintiff also resisted when we approached him and it took all of us to restrain him and place him in handcuffs. While we were trying to restrain him, the Plaintiff was yelling "tat-tat-tat," which is a gang call for the Bloods.

Essentially, he was asking other Bloods to come and help him. Thankfully, no other individuals came to assist the Plaintiff against the officers.

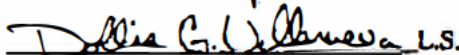
4. We were able to place the Plaintiff in handcuffs, but even after he was placed in handcuffs he continued to resist. After the Plaintiff was placed in handcuffs, he was taken to the Restricted Housing Unit and was subsequently seen by medical personnel. The Plaintiff appeared to be very intoxicated.

5. I did not strike the Plaintiff and did not observe any of the officers strike him, but we were
required to use force because he continued to resist. At no time did I observe any officer use
excessive force or improper force on the Plaintiff. We used the minimal amount of force necessary
to control and restrain the Plaintiff.

6. I acted appropriately in my dealings with the Plaintiff. At no time did I violate any clearly established constitutional rights of the Plaintiff of which I am aware.


Geoffrey Rice

Sworn to and Subscribed before me
this 20 day of April, 2017.


Dalia G. Villanueva, L.S.
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 7-26-2026

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT COURT OF SOUTH CAROLINA

Bryantavious Murray, #356248,)	C/A No.: 1:17-220-RBH-SVH
)	
Plaintiff,)	
)	
vs.)	AFFIDAVIT OF JAMES THOMPCKINS
)	
Geoffrey Rice, Rank Lt.; Jeremy)	
McCary, Rank Sgt.; Ronald Cook, Rank)	
Lt.; and James Tompkins, Rank Lt., each)	
being sued in their individual capacity,)	
)	
Defendants.)	
)	

PERSONALLY APPEARED BEFORE ME, James Thompkins, who being first duly sworn,
deposes and says:


1. I am an employee of the South Carolina Department of Corrections (hereinafter referred to as "SCDC").
2. I am a Captain at McCormick Correctional Institution (hereinafter referred to as "MCCI").
3. I recall an incident that occurred on April 8, 2016 at MCCI. On that date, I was a First Responder and heard a call on the radio for First Responders needed in Unit F-4 and immediately proceeded to that Unit. As I was approaching Unit F-4, I saw the Plaintiff standing outside the Unit waving a knife and stating that he was not going anywhere and would kill anyone who tried to make him. Plaintiff was cursing and belligerent. As I and the other First Responders were approaching the Plaintiff, he threw the knife on the top of the building, but continued to curse at us. Plaintiff appeared to be bleeding when we approached him. The Plaintiff also resisted when we approached him, and it took all of us to restrain him and place him in handcuffs. While we were trying to restrain him, the Plaintiff was yelling "tat-tat-tat," which is a gang call for the Bloods. Essentially,

he was asking other Bloods to come and help him. Thankfully, no other individuals came to assist the Plaintiff against the officers.

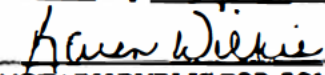
4. We were able to place the Plaintiff in handcuffs, but even after he was placed in handcuffs he continued to resist. After the Plaintiff was placed in handcuffs, he was taken to the Restricted Housing Unit and was subsequently seen by medical personnel. The Plaintiff appeared to be very intoxicated and was slurring his words.

5. I did not strike the Plaintiff and did not observe any of the officers strike him, but we were required to use force because he continued to resist. At no time did I observe any officer use excessive force or improper force on the Plaintiff. We used the minimal amount of force necessary to control and restrain the Plaintiff.

6. I acted appropriately in my dealings with the Plaintiff. At no time did I violate any clearly established constitutional rights of the Plaintiff of which I am aware.


James Thompkins

Sworn to and Subscribed before me
this 13 day of April, 2017.

 Karen Wilkie L.S.
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 7-14-23

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT COURT OF SOUTH CAROLINA

Bryantavious Murray, #356248,)	C/A No.: 1:17-220-RBH-SVH
)	
Plaintiff,)	
)	
vs.)	AFFIDAVIT OF JOSEPH STEVENS
)	
Geoffrey Rice, Rank Lt.; Jeremey)	
McCary, Rank Sgt.; Ronald Cook, Rank)	
Lt.; and James Tompkins, Rank Lt., each)	
being sued in their individual capacity,)	
)	
Defendants.)	
)	

PERSONALLY APPEARED BEFORE ME, Joseph Stevens, who being first duly sworn, deposes and says:

1. I am an employee of the South Carolina Department of Corrections (hereinafter referred to as "SCDC").
2. I am the Major at McCormick Correctional Institution (hereinafter referred to as "MCCI"). In April of 2016, I was a Unit Manager at MCCI.
3. I recall an incident that occurred on April 8, 2016 at MCCI. On that date, I was the Unit Manager in Unit F-4. I saw the Plaintiff in the common area of Unit F-4, and though I did not know his name, I knew that he did not live in that Unit. MCCI, as well as other Level 3 institutions in SCDC, have controlled movement. With controlled movement, inmates are not allowed to be in living units or other areas of the prison unless there is a specific reason and they have been authorized to do so. Controlled movement is in place for security purposes in order to have better control over the inmates and to decrease transfer of contraband along with other reasons.
4. I approached the Plaintiff to find out why he was in this Unit. As I approached the Plaintiff, he became louder and somewhat belligerent and I instructed him to step into the Unit Manager's office. When an inmate is acting in this nature, it is imperative to separate and isolate him from other inmates. There is always a concern that inmates acting in this matter will incite other inmates which can create a dangerous situation for both officers and inmates. Correctional officers are outnumbered often as much as 100 to 1, and it is important to separate inmates acting

in this matter from other inmates to avoid other inmates becoming involved and the situation getting out of hand.

5. The Plaintiff went into the Unit Manager's office. We spoke with Plaintiff about being out of place and that he would be placed in the Restricted Housing Unit. Plaintiff began cursing and stated "I ain't going no f----- where" and "get the f--- out of my way mother f-----." I also noted the smell of alcohol on the Plaintiff when I approached him. Inmates in SCDC are not allowed to have alcoholic beverages, but inmates will use fruit in order to make homemade alcohol. SCDC stopped using sugar in order to try and stop inmates from making alcohol, but they have used other substitutes, such as Jolly Rancher candy or jelly, for sugar.

6. The Plaintiff pushed me and then attacked me. I initially attempted to back away and de-escalate the situation, but the Plaintiff continued to come toward me, and I was involved in an altercation with the Plaintiff. During the altercation, the Plaintiff pulled a homemade knife and attempted to stab me with the knife. Another officer called for First Responders, but I fought with the Plaintiff for a couple of minutes before any assistance arrived. Before assistance arrived, the Plaintiff disengaged and ran out of the Unit. After I was able to collect myself briefly, I went out of the Unit after the Plaintiff.

7. When I next saw the Plaintiff, he was standing outside the Unit waving the knife and stating that he was not going anywhere and would kill anyone who tried to make him. By this time, the First Responders were approaching the Plaintiff, and as they did, he threw the knife on the top of the building, but continued to curse and threaten officers. The Plaintiff also resisted when the officers approached him, and it took all of the officers to restrain him. While they were trying to restrain him, the Plaintiff was yelling "tat-tat-tat," which is a gang call for the Bloods. Essentially, he was asking other Bloods to come and help him. Thankfully, no other individuals came to assist the Plaintiff against the officers.

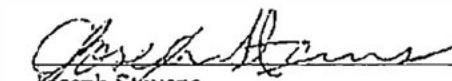
8. The First Responders were able to place the Plaintiff in handcuffs, but even after he was placed in handcuffs he continued to resist. I cannot recall if the Plaintiff was bleeding when he exited Unit F-4, but it is very possible because we were fighting for a couple of minutes. During the time that we were fighting in Unit F-4, I was fighting for my life as the Plaintiff had a knife and was trying to stab me, and it is very possible that he was injured during this altercation.

9. After the Plaintiff was placed in handcuffs, he was taken to the Restricted Housing Unit and was subsequently seen by medical personnel. The Plaintiff appeared to be very intoxicated.

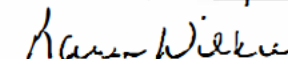
10. The First Responders restrained the Plaintiff while placing him in handcuffs as he continued to resist, but I did not observe any of the officers strike him. At no time did I observe any officer use excessive force or improper force on the Plaintiff.

11. Plaintiff was charged with Assault and Battery of an SCDC Employee with Means and/or Intent to Kill or Injure and Possession of a Weapon. Plaintiff was convicted of both of these charges, and the convictions have not been reversed or overturned in any way.

12. I acted appropriately in my dealings with the Plaintiff. At no time did I violate any clearly established constitutional rights of the Plaintiff of which I am aware.


Joseph Stevens

Sworn to and Subscribed before me
this 15 day of April, 2017.

 L.S.
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 7-16-23

DUE 5/2/17

ADA

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

MAY 1 2017

Office Use Only
MCCI-0220-16

INMATE NAME: Bryantawins Murray
SCDC NUMBER: 356248
INSTITUTION: Lee CF
HOUSING UNIT: F7-88
WORK ASSIGNMENT: _____

INMATE GRIEVANCE CODE: _____
Grievance No. EX 1 F 5
Policy _____
Disc. Hear. _____
Class. _____
Date Received 5/2/17
IGC Initials LC TH

MAY 01 2017

VBS

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

inmate finds dissatisfaction on Warden's decision based on inquiry's substituted which violated plaintiff's 8th part 14th U.S. Const. see use of force policy No. 1500.2-1, Page 2. Of No. 7 only time a SCDC officer's involved or uses a use of force each officer must do two carbon copy's one to be at institution and one to be "wadded" and one will be distributed to DCU's staff the next day see a. b. and c. of use of force 1500.2-1. Plaintiff fields deliberate indifference to medical needs by 6 officers see case: MARSH V. BUTTER COUNTY, 225 F3d 1243 (11th Cir. 2000) Policy of deliberate indifference by prison officials to serious medical needs of inmate violation of Eighth or Fourteenth Amendment, necessarily precludes finding of qualified immunity. see LT. Rice, LT. Cook, LT. Thompson's incident reports time of use of force happened at 9:00 am. Counter incident report KAPOX says she beat me at 10:30 AM hrs. see attachments. also plaintiff states in his 1st appearance that the use of force happened in front of the chapel on DATE 5-2-16. Defendants state it happened in front of #4 which is not the case. see camera's from 9:00 AM to 9:30 AM 4-16, in front of chapel right side of brass. see camera on side MARK 4 & 2-2-16. Plaintiff being walked up side walk in front of chapel to operations and being outgassed by Mercury. See case: GONZALES V. DENA, 213 F3d 1358 (11th Cir. 2000) Excessive use of force must comply with the procedural requirements imposed by statute. Court and understand Ash-shurney State v. Crumbl (1969) Bryanawins Murray 4-25-17 SC Supreme Court. Debra Fouda v. State, 2016 WL 303, 333 (S.C. 2016) Bryanawins Murray 4-25-17 An agency is not free to reach a conclusion simply by ignoring evidence contrary to the conclusion. 1500.40 (use of force camera)

Grievant Signature _____ Date _____

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

I have reviewed your concern. In your grievance, you stated that on April 8, 2016, you were assaulted and taken to a local hospital as a result of excessive force used by SCDC Staff. You have requested that the SCDC Staff involved be reprimanded and you be compensated in the amount of \$200,000.00. The Warden responded to your concern on SCDC 10-5, Inmate Grievance Form Step 1, dated April 12, 2017. The concern that you raised was investigated by SCDC Division of Police Services. Your concern was further investigated by local staff at McCormick Correctional Institution. As noted in the Warden's Decision, there was no evidence found to substantiate your allegations of SCDC Staff misconduct. Your possession of dangerous contraband and your behavior of waving a knife in a threatening manner are unacceptable. You are advised to follow SCDC policies, rules and procedures so that you may take advantage of all the services offered by SCDC.

Therefore, your grievance is denied.

You may appeal this decision under the South Carolina Administrative Procedures Act to the South Carolina Administrative Law Court. In order to appeal, you must complete the attached Notice of Appeal Form (Form) and submit it as instructed on the Form within thirty (30) days of receipt.

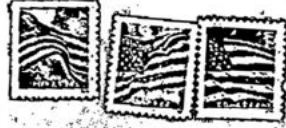
Brenda W. Nishe 5/17/17
Signature _____ Date _____

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

Bryantawins Murray 6-5-17
Grievant Signature _____ Date _____

L. Rice 6/5/17
IGC Signature _____ Date _____

Bryan Adams P. Murray
208 Powell Avenue
Greenwood, S.C. 29646



RECEIVED
APR 13 2026
SC Court of Appeals

Appeals Court
1220 Senate Street
Columbia, S.C. 29201

