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Jun 29 2026

SC Court of Appeals

SC Bar #THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Daniel Coble, Circuit Court Judge

Appellate Case No. 2025-002478
Case No. 2018-CP-40-4850

Randle Jackson as the Personal Representative of the
Estate of Dashaun Simmons, Respondent,

v.

South Carolina Department of Corrections, Appellant.

**APPELLANT'S MOTION TO STRIKE MATERIALS
DESIGNATED BY RESPONDENT FOR INCLUSION
IN RECORD ON APPEAL**

The Appellant South Carolina Department of Corrections ("SCDC") moves this Court pursuant to Rule 209(b) and Rule 210(c), SCACR, for an order directing that the following documents be excluded from the Record on Appeal when it is prepared:

Deposition of Evan Garriss (except limited excerpts in the record)

Deposition of Matthew Kennedy (except limited excerpts in the record)

Deposition of Holden Byrd (except limited excerpts in the record)

SCDC Policy/Procedure OP-22.06

Post Order 6 – Control Room/Communications

This is an action brought pursuant to the South Carolina Tort Claims Act by the Respondent Randle Jackson as the Personal Representative of the Estate of Dashaun Simmons against the Appellant SCDC. As required by Rule 209, SCACR, the Respondent filed a Designation of Matter to be Included in the Record on Appeal, together with the filing of his Initial Respondent’s Brief.

After a careful review of the lower court’s file (including the online Public Index for Richland County) and the transcript of the motion hearing, the Appellant submits that the following items as designated by the Respondent are *not* filed in the lower court record nor were presented to Judge Daniel Coble at the motion hearing held on August 4, 2025:¹

- (15) Deposition of Evan Garriss (except limited excerpts)
- (16) Deposition of Matthew Kennedy (except limited excerpts)
- (17) Deposition of Holden Byrd (except limited excerpts)
- (18) SCDC Policy/Procedure OP-22.06
- (26) Post Order 6 – Control Room/Communications

Rule 209(b), SCACR, provides that “the Designation may only propose to include portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal [See Rule 210(c)].” Rule 210(c), SCACR, then provides that “[t]he Record shall not, however, include matter which was not presented to the lower court or tribunal.

¹ The document number coincides with the number of the item as contained in the Respondent’s Designation of Matter to be Included in the Record on Appeal filed on May 12, 2026.

As for the depositions of Evan Garriss, Matthew Kennedy, and Holden Byrd, the Public Index reflects that there were only limited *excerpts* of those three depositions filed on August 1, 2025 and again on August 3, 2025, as attachments to the Plaintiff's Memorandum in Support of its Motion for Summary Judgment or, in the Alternative, Motion to Strike SCDC's Answer. The Public Index does not reflect that the *entirety* of those three depositions was ever filed or submitted to Judge Coble. The Record on Appeal should therefore only include those deposition excerpts filed on August 1, 2025 and again on August 3, 2025.

Additionally, the Respondent designated SCDC Policy Op-22.06 and Post Order 6, but the Public Index does not reflect that the policy or the post order was ever filed. There is a reference in the attachments to the Respondent's memorandum filed on August 1, 2025, that a redacted copy of the policy and post order would be filed under seal, but the Public Index does not reflect that any motion was made to file under seal or that the policy or the post order was ever filed under seal or submitted to Judge Coble.

The counsel for the Appellant attempted on multiple occasions to consult with the Respondent's counsel on this issue but never received any reply, which necessitated the filing of this motion. *See*, Emails from Andrew Lindemann to Respondent's Council dated June 12, 2026; June 16, 2026, and June 25, 2026 (attached).

The Appellant, therefore, requests that this Court issue an order directing that the designated materials as identified above be excluded from the Record on Appeal when it is prepared by the Appellant. The Court is also asked to direct that only the excerpts of depositions of Evan Garriss, Matthew Kennedy, and Holden Byrd filed as attachments to the Plaintiff's Memorandum in Support of its Motion for Summary Judgment or, in the Alternative, Motion to Strike SCDC's Answer be included in the Record on Appeal.

LINDEMANN LAW FIRM, P.A.

BY: s/ Andrew F. Lindemann

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*Counsel for Appellant South Carolina
Department of Corrections*

June 28, 2026

Andrew Lindemann

From: Andrew Lindemann
Sent: Thursday, June 25, 2026 12:21 PM
To: 'Josh Hawkins'; 'Helena Jedziniak'
Cc: 'W. Baker Allen'; 'André Rembert'; wdavidson@dml-law.com
Subject: RE: Jackson v. SCDC Appeal (2025-002478)

Helena, Josh, Baker and Andre:

I have still not heard from any of you. Please respond by Friday or I will need to file a motion. The Record on Appeal is due next week.

Thanks.

Andrew

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From: Andrew Lindemann
Sent: Tuesday, June 16, 2026 11:03 PM
To: 'Josh Hawkins' <josh@hjlsc.com>; 'Helena Jedziniak' <helena@hjlsc.com>
Cc: 'W. Baker Allen' <wbakerallen@rembertlaw.com>; 'André Rembert' <arembert@rembertlaw.com>; wdavidson@dml-law.com
Subject: RE: Jackson v. SCDC Appeal (2025-002478)

Helena, Josh, Baker and Andre:

I don't believe that I have received any reply to the below email about the Record on Appeal. Can one of you please reply? I would like to avoid filing a motion to get the clarification from the Court as to these few designations.

Thanks.

Andrew

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Direct Dial: 803-881-8921
Email: andrew@ldlawsc.com

From: Andrew Lindemann
Sent: Friday, June 12, 2026 11:17 AM
To: Josh Hawkins <josh@hjlsc.com>; Helena Jedziniak <helena@hjlsc.com>
Cc: W. Baker Allen <wbakerallen@rembertlaw.com>; André Rembert <arembert@rembertlaw.com>; wdavidson@dml-law.com
Subject: Jackson v. SCDC Appeal (2025-002478)

Folks:

I am starting work on preparing the Record on Appeal for this appeal, and I have some questions about several items in the Respondent's Designation of Matter to be Included in the Record on Appeal as follows:

1. You have designed the depositions of Evan Garriss, Matthew Kennedy, and Holden Byrd. I have found that there were only limited excerpts of those three depositions filed on August 1, 2025 and again on August 3, 2025, but I cannot find that the entire depositions of those three witnesses were ever filed. Can you show me in the Public Index where those depositions were filed. Or clarify that you only intended to designate the excerpts that were filed.
2. You have designated SCDC Policy Op-22.06. I could not find that policy in the record. There was a reference in your attachments to the Plaintiff's memorandum filed on August 1, 2025 and again on August 3, 2025, that the policy would be filed under seal but the Public Index does not reflect that any motion was made to file under seal or that the policy was ever filed under seal.
3. The same is true with Post Order 6. I could not find that Post Order in the record. There was a reference in your attachments to the Plaintiff's memorandum filed on August 1, 2025 and again on August 3, 2025, that the Post Order would be filed under seal but the Public Index does not reflect that any motion was made to file under seal or that the Post Order was ever filed under seal.

If you could provide clarification of those several items, I would definitely appreciate it.

Thanks.

Andrew

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Daniel Coble, Circuit Court Judge

Case No. 2018-CP-40-4850
Appellate Case No. 2025-002478

Randle Jackson as the Personal Representative of the
Estate of Dashaun Simmons, Respondent,

v.

South Carolina Department of Corrections, Appellant.

CERTIFICATE OF SERVICE

Pursuant to Section (d)(1) of the Supreme Court's Order Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules (As Amended April 24, 2024), the undersigned employee of Lindemann Law Firm, P.A., counsel for the Appellant, does hereby certify that service of the **Appellant's Motion to Strike Material Designated by Respondent for Inclusion in Record on Appeal** in the above-captioned appeal was made upon all counsel of record by email only this the 28th day of June 2026, as follows:

Joshua T. Hawkins, Esquire
Helena L. Jedziniak, Esquire
Hawkins & Jedziniak, LLC
Email: josh@hjllcsc.com
Email: helena@hjllcsc.com

W. Baker Allen, Esquire
André DuBose Rembert, Esquire
The Rembert Law Firm
Email: wbakerallen@rembertlaw.com
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William H. Davidson, II, Esquire
Davidson & Wren, P.A.
Email: wdavidson@dml-law.com

s/ Andrew F. Lindemann



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**Also Admitted in North Carolina*

June 28, 2026

Via Email Only

The Honorable Jenny Abbott Kitchings

Clerk of Court

South Carolina Court of Appeals

Email: ctappfilings@sccourts.org

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SC Court of Appeals

RE: Randle Jackson, individually and as the Personal Representative of the Estate of Dashaun Simmons v. South Carolina Department of Corrections
Appellate Case Number: 2025-002478
Civil Action Number: 2018-CP-40-4850
Claim Number: F5172
Our File Number: 106.20854

Dear Ms. Kitchings:

Pursuant to Section (b)(2) the Supreme Court's Order Re: Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules (As Amended April 24, 2024), please find attached for filing the **Appellant's Motion to Strike Material Designated by Respondent for Inclusion in Record on Appeal** with regard to the above-referenced appeal. By copy of this letter, I am serving a copy on all counsel of record by email only pursuant to Section (d)(1) of the same Supreme Court Order. I am not forwarding a filing fee because the moving party is a state agency.

If you have any questions, please advise. Thank you for your assistance.

Sincerely,

LINDEMANN LAW FIRM, P.A.

Andrew F. Lindemann

AFL/

Enclosure

cc: Joshua T. Hawkins, Esquire (w/ Enclosure, Via Email Only)
Helena L. Jedziniak, Esquire (w/ Enclosure, Via Email Only)
W. Baker Allen, Esquire (w/ Enclosure, Via Email Only)
André DuBose Rembert, Esquire (w/ Enclosure, Via Email Only)
William H. Davidson, II, Esquire (w/ Enclosure, Via Email Only)