

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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JUL 27 2026
SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Hon. Ralph K. Anderson III

Case No. 26-ALJ-04-0035-AP
Appellate Case No. 2026-001052

Gregory Pencille, #312332, Appellant

V.

South Carolina Department of Corrections, Respondent

**REPLY TO OBJECTION TO MOTION TO SUPPLEMENT THE RECORD
ON APPEAL**

Appellant Replies to Respondent's Objection to Appellant's motion to supplement the Record On Appeal. Appellant filed his MOTION FOR LEAVE TO SUPPLEMENT THE RECORD ON APPEAL as well as others motions on June 24th, 2026 and these were filed on record on June 29th, 2026. As of July 09th, 2026 the ten (10) days to file a Return expired. Respondent dated their RETURN (OBJECTION) on July 14th, 2026. (see Respondent's Return).

Under Rule 240(b) SCACR, the filing of a motion or petition does not stay time limits unless specifically ordered by the court.

The only exceptions that automatically stay time limits are:

- A motion to dismiss an appeal.
- A motion to relieve counsel.

For all other motions, parties **must** adhere to the standard timelines:

Returns (Objections): *Opposing parties have ten (10) days from service to file a return (Rule 240e).*

Replies: The moving party has five (5) days from service of a return to file a reply (Rule 240(f)). Failure to comply with these deadlines may result in the motion being deemed abandoned or *the opposing party's failure to file a return being deemed consent to the relief sought (Rule 240(g) and (e)).*

A filing deficiency (see Respondent's Return, footnote pg.1) does **not** stay the timeframe for a reply or objection in the South Carolina Appellate Court. Therefore, Respondent's Objection should be denied as "**consent to the relief sought**".

Record On Appeal has not been filed yet. Under Rule 212 (b), *a party may supplement the Record on Appeal at any time before argument commences.* Making Appellant's motions timely and not premature.

Appellant has further preserved **all** matter requested in his designation of matter (DOM) because it *was included* in all earlier grievance/ appeal filings. Respondent's mention that DOM matters 1,2, and 5-8 should be stricken, is ridiculous. Matters 1 and 2 are required for a grievance process to be initiated, and 5-8 are the agency's grieved policies, also included earlier.

As for the requested supplemental matter, the Respondent asserts in its initial brief that *denials* of "*specific items*" did not occur and *requests* were not made. Appellant intends to show this court that those assertions are patently false and the requested matter proves this And is preserved in response to Respondent's assertions. Appellant also, cannot produce these documents due to the requests being made on an automated kiosk system that he has **no** ability to print them out and/or compel a response.

Furthermore, Appellant asserts that, due to the *lower court or tribunal's* erroneous and premature dismissal of Appellant's Appeal, his fundamental due process rights were violated and in South Carolina, the ***fundamental error exception doctrine*** should be applied as it allows an appellate court to review an issue not preserved at the trial level when the error fundamentally undermines the fairness of the entire proceeding.

Fundamental error is defined as an error that goes to the foundation of the case or the merits of the cause of action, effectively denying a party their due process rights. The South Carolina courts apply this exception where the interests of justice present a compelling demand for intervention.

Denial of Due Process are errors that deprive a party of the *right to be heard*, testify, or call witnesses.

Jurisdictional Defects: Situations where the lower court ruled it lacked subject matter jurisdiction when in actuality it had subject-matter jurisdiction see **Furtick v. S.C. Dep't of Corrections**, 374 S.C. 334 (2007) and agreed upon by this court in, **Pencille v. SC Dep't of Corrections**, no. 2023-UP-321, 2023 WL6292550 (Nov. 1, 2023), at footnote 10.

Structural Errors: Defects that affect the framework within which the trial proceeds, such as the total denial of counsel or *a biased judge*, rather than just an error in the trial process itself.

Unlike "harmless error," which may be overlooked if it did not affect the outcome, fundamental error is considered inherently harmful because it compromises the integrity of the judicial process itself.

Therefore, appellant prays this Court **denies** Respondent's Objection to Supplement Record on Appeal and **Grants** appellant's filed motions.

Date: July 23, 2026



Gregory Pencille, #312332
Evans CI F1B118
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Bennettsville, S.C. 29512
Appellant, Pro Se

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph K. Anderson, III, Administrative Law Judge

Case no. 26-ALJ-04-0035-AP
Appellate Case No. 2026-001052

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GREGORY PENCILLE

Appellant

V.

South Carolina Department of Corrections

Respondent

AFFIDAVIT OF SERVICE

I hereby certify that on 23 day of July, 2026 in Bennettsville, South Carolina Appellant served the REPLY TO OBJECTION TO MOTION TO SUPPLEMENT THE RECORD ON APPEAL to ALL parties by depositing a copy of the same in the United States mail, postage prepaid, or in the mailroom of the undersigned's institutional mailroom addressed as follows;

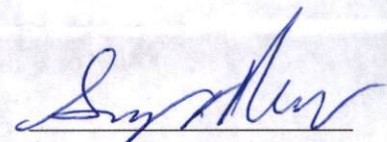
Jenny A Kitchings, Clerk
SC Court of Appeals
P.O.Box 11629
Columbia SC 29211

SCDC
General counsel
P. O. Box 21787
Columbia SC 29221

July 23, 2026

SWORN to and subscribed before me
this 28 Day of July, 2026
Sandra Dutton (L.S.)
Notary Public

My Commission
Expires: 2/28/24


Gregory Pencille #312332
Evans CI F1B-118
610 Hwy 9 west
Bennettsville SC 29512
Appellant, Pro se

signature



SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS

Office of General Counsel

4444 Broad River Road - P.O. Box 21787 - Columbia, SC 29221-1787

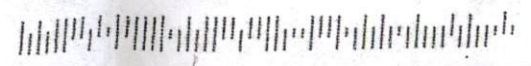
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EVANS CI
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PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE
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Hon. Jenny A. Kitchings
Clerked Court
SC. Court of Appeals
PO Box 11629
Columbia, SC 29211

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