

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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

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SEP 28 2026

SC Court of Appeals

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 MOTION TO STRIKE IMPROPER MATTER FROM
APPELLANT'S DESIGNATION OF MATTER**

Appellant replies to Respondent's Motion to strike improper matter from Appellant's Designation of matter, as untimely. 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 September 21st, 2026 Appellant has yet to receive notice of any ruling on any motions except Appellant's motion for extension of time. Appellant has only received a notice for additional **bound copies** of final briefs and Record on Appeal and Respondent's motion to strike dated September 18th, 2026. Appellant filed his Initial brief and Designation of matter on May 18th, 2026. Any Motions or petitions to strike should have been made within the (30) thirty days of appellants filing. The South Carolina Court of Appeals **will not entertain** a motion to strike matter without a governing rule because Rule 12(f) of the South Carolina Rules of Civil Procedure explicitly governs such motions.

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 actually 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.

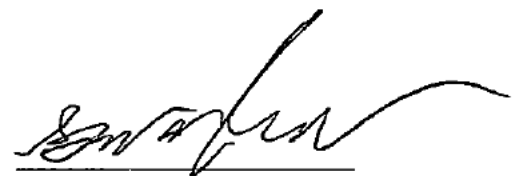
Structural Errors: Defects that affect the framework within which the trial proceeds, such as the total denial of counsel or *a biased judge*, rather than just an error in the trial process itself.

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.

Lastly, Appellant feels he must remind this Court that Appellant is Pro Se and is a ward of the State in a Correctional facility, is indigent, and cannot freely comply with some orders (filing fees, bound copies, etc) this Court has ordered. Appellant is attempting to comply by unorthodox means.

Therefore, appellant prays this Court **denies** Respondent's Motion to strike Improper Matter from Appellants Designation of matter and **Grant** appellant's filed motions.

Date: September 27, 2026



Gregory Pencille, #312332
Evans CI F1B118
610 Hwy 9 West
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

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SC Court of Appeals

Case no. 26-ALJ-04-0035-AP

Appellate Case No. 2026-001052

GREGORY PENCILLE

V.

South Carolina Department of Corrections

Appellant

Respondent

AFFIDAVIT OF SERVICE

I hereby certify that on 22 day of September, 2026 in Bennettsville, South Carolina, Appellant served the **REPLY TO MOTION TO STRIKE IMPROPER MATTER FROM APPELLANT'S DESIGNATION OF MATTER** 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

September 22 2026

SWORN to and subscribed before me
this 22 Day of Sept, 2026

Sarah Anne Outlaw (L.S.)
Notary Public

My Commission

Expires: 2/28/34



Gregory Pencille #312332

Evans CI F1B-118

610 Hwy 9 west

Bennettsville SC 29512

Appellant, Pro se

Gregory Penick 312332
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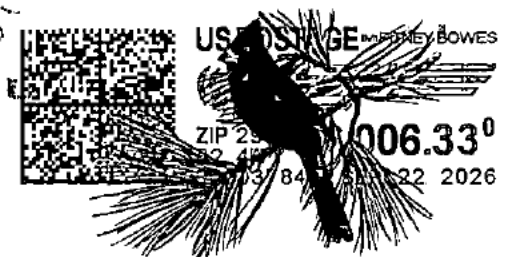
PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE
CERTIFIED MAIL



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

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