

State of South Carolina
In The Court of Appeals

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OCT 12 2026
SC Court of Appeals

Appellate Case No. 2026-002016
ALC Docket Case No. 26-ALJ-04-0390-AP

Shannon McGee #147120
Appellant,

✓
S.C. Department of Corrections,
Respondent.

INITIAL BRIEF

Shannon McGee, #147120
Pro SE,
Attendale Correctional Institution
1057 Revolutionary Trl.
Fairfax SC 29827

Statement of Issues

1. Did the ALC err in Dismissing for failure to file a response to the Department's Motion to Dismiss when Appellant suffered a documented medical emergency constituting excusable neglect under SCALC Rule 38 and SCACR Rule 203?
2. Did the ALC err in affirming a Retaliatory Disciplinary Conviction where the Reporting officer, Lt. Samuel Drayton, falsified a PREA Charge on 3-5-26 from the Incident Report, was Reprimanded, then one month later filed a false 809 Threatening Charge on 4-7-26 that fails to meet the elements of 809 and violates due process?

Statement of the Case

Appellant is serving life without parole and is not arguing good-time credits under S.C. Code Ann. 24-13-210. He is ineligible. His liberty interest is in avoiding punitive segregation, classification increase, loss of property, and sabotage of his pending motion for reconsideration in circuit court.

On March 5, 2026 Lt. Samuel Drayton authored Incident Report 3-5-26 stating a Confidential Informant told her inmate Christopher Carroll was given K2 by inmates Jonathan Green and Shannon McGee for oral sex, refused, was slammed causing neck/shoulder injury while intoxicated on homemade wine in the flood zone on the bottom tier, and she "do believe what my informant told me because I waited hours to hear various stories and all of them were the same."

She recommended 857 Assault with intent to kill. This Report was then used to file a false PREA charge against McGee, publish it on the Internet/SCDC Database, and Drayton was Reprimanded by superiors for falsifying.[ES] On April 7, 2026, one month after Reprimand, Drayton entered the unit. Inmate Andrew Dixon, white male, reported his roommate was depriving him of Restroom use and He feared him, that everyone on wing fears him, and he had reported to Captain Anthony Catherbutson three times. When McGee entered the office and said he was not moving, that if moved he would call his people and that Drayton was picking on him, Drayton ordered separation pending Classification. Drayton then claims McGee got "Very Aggressive" said "he will not put up with it," "launched towards me," yelled he is not moving out of his cell and Drayton better pack his property, making statements "as if he was going to hurt me," and admitting "I feel that he would hit me for something that wasn't even said." McGee was ordered to holding cell in front of Cafeteria and said to Captain Marvin Bryant "don't touch me y'all going to keep playing with me." Drayton recommended 809 Threatening to Inflict Harm. McGee could not file a Response to the Department's Motion to Dismiss Because He Was Suffering a Serious medical Emergency - Prostate Bleeding Requiring Immediate Care. which cause him not to meet the timeline to Respond to the Department's motion to Dismiss.

ARGUMENT

- 1.) THE FAILURE TO FILE RESPONSE BRIEF WAS DUE TO MEDICAL EMERGENCY AND EXCUSABLE NEGLECT- ALC ABUSED DISCRETION.

SCALC Rule 38 and SCACR Rule 203(B)(6) Allow Reinstatement for Excusable Neglect. Appellant was not defaulting. He was suffering a serious medical emergency- prostate bleeding requiring immediate care. See White v. SCDHEC, 392 S.C. 247 (Ct. App. 2011)- Time for Appeal from ALC is based on Receipt and Fairness Requires Flexibility. To deny Review on timeliness alone violates due process under Article I, § 3 of the SC Constitution and S.C. Code Ann. 1-23-380(5)(C). The ALC should have considered his medical records, Sick Call slips, and granted an extension.

The ALC ERRED AS A MATTER OF LAW under S.C. Code Ann. 1-23-380(5)(A), (D) and SC Const. Art I § 22 by dismissing without considering Appellant's medical emergency. Dismissal for Good-time Ineligibility was ERROR because Appellant never claimed 24-13-210 credits. See Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000)- ALC Retains Jurisdiction over disciplinary actions implicating liberty interest beyond sentence credits.

- 2.) The March 5, 2026 and April 7, 2026 REPORTS SHOWS RETALIATION, FALSE EVIDENCE, AND FAILURE TO MEET 809- VIOLATING FEDERAL AND STATE CONSTITUTIONS.

A) FIRST AMENDMENT RETALIATION - 4TH CIRCUIT LAW.

A Prison OFFICIAL may not Retaliate for protected speech. *Booker v. South Carolina Dep't of Corr*, 855 F.3d 533, 540 (4th Cir. 2017); *Martin v. Duffy*, 977 F.3d 294 (4th Cir. 2020) - Inmate stating intent to FILE grievance or call Family Counsel is Protected speech. Threat to sue is protected *Adams v. RICE*, 40 F.3d 72, 75 (4th Cir. 1994).

Timeline proves Retaliation March 5, 2026 Lt. Drayton falsifies PREA → REPRIMANDED; APRIL 7, 2026 Same officer FILES 809 ONE MONTH LATER AFTER APPELLANT SAYS "I'M CALLING MY PEOPLE SAYING THAT I'M PICKING ON HIM". THIS IS PROTECTED GRIEVANCE SPEECH UNDER SCDC GA-06.04 AND U.S. CONST. AMEND 1. *WOODS v. SMITH*, 60 F.3d 1161 (4TH CIR. 1995) HOLDS TEMPORAL PROXIMITY PLUS OFFICER'S PRIOR ADVERSE ACTION ESTABLISHES RETALIATION.

B) FOURTEENTH AMENDMENT DUE PROCESS FAILURE.

NO EVIDENCE FOR 809

Wolff v. McDonnell, 418 U.S. 539, 556 (1974) Require impartial decision-maker and Substantial Evidence. Lt Drayton was not impartial - she had just been Reprimanded for falsifying a Charge against Same Inmate. SC Const. Art 183 provides Greater due process protection than Federal: No Person shall be deprived of Liberty without due process.

SCDC defines 809 as: "Threatening to inflict harm on an Employee... by communication verbal or written by an Inmate to an individual that he/she intends to injure that person or commit a violent and / or unlawful act dangerous to human life presently or in the future."

Elements Required: (1) A specific verbal or written threat, (2) stating Intent to Injure that Employee, (3) Presently or in the Future.

What Lt. Drayton Actually wrote shows No Threat:

- "He was not moving if I move him he was telling his people saying that I'm picking on him". This is a Grievance statement/ Request to call family/ lawyer, Not A Threat to Injure Lt. Drayton. Protected speech under GA-01.12

- "He will and he is not going to put up with it" Threat to Sue is not A Threat to Inflict physical harm. It is legal Redress.

- "I Fear that he would hit me for something that wasn't even said" - Lt Drayton admits Nothing threatening was even said. Fear is subjective, Not an objective Threat.

- "making Statements as if he was going to hurt me" - As if " is not a direct Threat. No quoted Threat is in the Report.

- "he's not going to be moved out of his cell and that I better start packing his property" - Refusing a cell move is disobedience at most, Not 809 Threatening.

- No physical Act: "Launched towards me and I step back" - No Contact, No Assault, No weapon, No strike. [SUE]

under *Al-Shabazz v. State*, 338 S.C. 354 (2000) and S.C. Code Ann. 1-23-380(5)(E), A disciplinary Conviction must be supported by Substantial Evidence. A charge where Lt. Drayton Admits "Something that wasn't even said" Cannot be Substantial. under *Gullistan v. SCDC*, 355 S.C. 437, 586 S.E.2d 124 (2003) - ALC must Reverse if Finding Not Supported.

C. State Crimes - Perjury and Misconduct

S.C. Code Ann. 16-9-10 - Perjury: Knowingly Falsifying PREA Report that was Published online for Appellant Family/Lawyer could see. S.C. Code Ann. 8-1-80 - Misconduct in office by Public officer falsifying official Report. This violates SC Const. Art 1 § 2 equal protection and Art 1 § 22 Impartial Tribunal.

The March 5, 2026 Report itself shows Fabrication: Based solely on unnamed Informant, "Various stories were the same," No drugs Recovered, No Medical Report for Carroll's Neck/Shoulder, No PREA Audit, No Video from Flood Zone. It was Reprimanded as false. Piggybacking the two Reports shows pattern: After false PREA Reprimand, Lt Drayton Retaliated with False 809 to Justify Segregation and Destroy Appellant's Circuit Court Reconsideration. After the False 809 Lt. Drayton was Awarded with a Promotion of Captain.

Conclusion

Appellant Asks this Court to Reverse ALC Dismissal, Find Excusable Neglect due to Medical Emergency, Vacate the 809 Conviction for Lack of Substantial Evidence and Retaliation and Restore Appellant's Privileges; And Remand with order to expunge both False PREA and 809 Charges From SCDC Records and Internet. The Appellant has not had a Charge in 18yrs and needs This Court to hand down its order to help the Appellant with his Reconsideration in the Circuit Court.

Respectfully submitted,

Date 7 - October 2026

Mr. Shannon D. Mc Gee Sr.

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Allendale Correctional Institution

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Shannon McGee Sr.
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Proof of Service

I Shannon McGee, #147120, Hereby Certify that on this
~~Day~~ 7 Day of October, 2026, I served a copy of the
Foregoing Initial Brief, upon the Following Parties by depositing
the same in the United States Mail, First-Class postage prepaid,
Addressed as follows:

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2. South Carolina Department of Corrections
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