

South Carolina Court of Appeals  
The Appeal From Administrative Law Court

Cases: 2012-213396 and 2012-213434

RECEIVED

MAY 15 2014

SC Court of Appeals

Billy Lee Lisenby JR;

Appellant,

v.

The South Carolina Department of Corrections,

Respondent

Appellant's Motion To Clarify his Motion To Compel In More Detail

Appellant recently received a Sworn Affidavit by L. T. Stanley Terrey From Respondents. In the affidavit he speaks about Appellant having access to his legal documents. That is not the issue at hand, now the issue is that the Respondents destroyed Appellant's legal boxes and documents and they don't dispute. Now Appellant doesn't have the documents to prepare a Supplemental Record of Appeal.

On March 8<sup>th</sup> 2014 Appellant ask to go in his legal boxes and duffel bag to obtain legal documents in this case requested by Shanika K. Johnson. (See Exhibit #1) On April 2<sup>nd</sup> 2014 he speaks on MRS. T. Miskinis mishandling his legal boxes on March 11<sup>th</sup> 2014 and April 1<sup>st</sup> 2014 (See Exhibit #2). See Exhibit #3 where Appellant writes Assoc. Warden Parker complaining his documents were missing from his duffel bag and legal boxes for several "lawsuits and criminal cases." This was based on the fact officers went in m/legal boxes and took all Appellant's legal documents out of his boxes, and threw legal documents, and legal boxes away without notifying Appellant. They did this in his absence See Exhibit #4 where Shanika Johnson contacted Appellant. See Exhibit #5 where Appellant complains that MRS. T Miskinis is mishandling his bags and legal boxes. See Exhibit #6 where Appellant tired to go in his legal boxes and bag. See Exhibit #7 Correspondence from Daniel J. Crooks III. See Exhibit #8 where Appellant wrote the Director, See Exhibit #9 to General Counsel and Exhibit #10 to the Grievance Clerk.

The Respondents have all the documents needed to make a supplemental record. Appellant ask this court to direct the Respondents or compel them to provide Appellant with the documents needed to file his supplemental Record on appeal.

Dated: May 8<sup>th</sup> 2014

Billy Lee Jr.  
Billy Lee Lisenby JR, #200273  
386 Redemption Way  
Mt Carmick C. I  
Mt Carmick S.C. 29899

South Carolina Court of Appeals

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SC Court of Appeals

Billy Lee Kiserby JR,

Appellant,

v.

The South Carolina Department of Corrections,

Respondent,

Certificate of Service

I hereby certify that I have served Respondent's a copy of Appellant's Motion To Clarify his Motion To Compel In more Detail," by depositing a copy of same in the United States Mail, postage prepaid, dated May 8<sup>th</sup>, 2014 addressed to the Respondent as follows:

Shanika K. Johnson  
Staff Attorney  
S.C. Dept. of Corrections  
PO Box 21787  
Columbia, S.C. 29221-1787

Billy Lee Kiserby JR.  
Billy Lee Kiserby JR, # 200273  
386 Redemption Way  
McCormick C. I  
McCormick S.C. 29899

LEGAL MAIL



NIKKI R. HALEY, Governor  
BRYAN P. STIRLING, Director

April 30, 2014

RECEIVED  
MAY 15 2014  
SC Court of Appeals

Ms. Jenny Kitchings  
Clerk, South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29201

Re: **Billy Lisenby, # 200273 v. SCDC**  
Case Tracking Nos.: 2012-213396 & 2012-213434

Ms. Kitchings,

Pursuant to this Court's Order, please find written proof that Appellant has been granted access to the documents needed to supplemental the record on appeal in the form of an affidavit from Lieutenant Stanley Terry.

Please stamp the extra copy "filed" and return it in the enclosed self-addressed envelope. Please do not hesitate to contact me with any questions. We greatly appreciate your assistance in this matter.

Sincerely,

Shanika K. Johnson  
Attorney for Respondent

Attachment

cc: File

Billy Lisenby, Jr., # 200273  
McCormick Correctional Institution  
386 Redemption Way  
McCormick, SC 29899

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF McCORMICK )

AFFIDAVIT OF STANLEY TERRY

Personally appeared before me, Lt. Stanley Terry, who being duly sworn, deposes and says:

1. I am currently a Lieutenant in the Special Management Unit (SMU) at McCormick Correctional Institution.
2. Billy Lisenby, #200273 is housed in the SMU at McCormick Correctional Institution.
3. Billy Lisenby has been given the opportunity to retrieve the legal documents he needs for his cases, and he is provided with legal materials on a weekly basis.
4. I personally spoke to Billy Lisenby and confirmed that he has been given the legal documents he needs for his cases and that he has a sufficient supply of legal materials.
5. I spoke with Shanika Johnson, an attorney in the Office of General Counsel, twice during March 2014 to confirm Billy Lisenby has access to all of his legal documents and access to legal materials to prepare for his court cases.

*Lt. S. Terry*  
Signature

SWORN to before me this

23 day of April 2014.

*Karen R. Wilkie*

Notary Public for South Carolina

My commission expires: 7-16-2023

Assoc. Warden Parker

March 8<sup>th</sup> 2014

Billy Lisenby

#200293

Mc Cormick C. I.

SMU 21

Shanika K. Johnson an attorney for the General Counsel contacted me this week demanding I turn over certain legal documents. I need to go in my legal boxes and duffel bag to obtain this. Also I need other court documents for other cases.

L.T. Terry will not let me go in my legal boxes and duffel bag. Will you please help me in this matter?

Thanking you in advance!

Billy

Exhibit #1

You were given access To your legal boxes on 4/01/14. *[Signature]* 4/02/14

REVIEWED

APR 02 2014

ASSOCIATE WARDEN  
PROGRAM & SERVICES

Grievance Clerk

April 2<sup>nd</sup> 2014

Billy Lee Lisenby JR,

#200273

M<sup>rs</sup> Corinn C. I

SMU 21

MRS. T. Miskins is mishandling my legal boxes. She did it on March 11<sup>th</sup> 2014 and I complained and nobody responded. On April 1<sup>st</sup> 2014 she did it again. When I came out my cell a inmate was standing next to my unsealed boxes and she was sitting in MRS. Saitbury's office. Note the inmate was in the SMU hallway near the kitchen with my legal boxes. She refuses to seal my legal boxes period. Policy OP 22.12 Section 13 Legal Materials States in part:

"When the inmate is finished with the excess legal material box, it will be re-sealed in the inmate's presence and returned to the property."

I have already complained about my legal documents being missing. Again I ask that someone look into this issue. A inmate is not suppose to be left unattended with my unseal legal boxes.

Thanking you in advance!

Billy J.

Exhibit #2

You need to address this with Ofc. Miskinis's supervisor.

4-7-14

L. Holmer

Exhibit #3

Assoc. Warden Parker

March 12<sup>th</sup> 2014

Billy Lisenby

#200273

Mc Cormick C. I

SMU 21

On March 11<sup>th</sup> 2014 I went through my legal box and duffel bag and numerous documents were missing, such as things dealing with "lawsuits and my criminal cases." This was based on the fact the officers took my legal boxes and threw them away, and dump my legal paperwork in my duffel bag. My boxes were suppose to be sealed in my presences. My legal paperwork was handled in my absences.

I explained to ofc. Miskinis that several of my documents were missing, she stated this is all I have. Also I have (2) legal boxes in properly control and I have no proof of this, because she put (0) zero boxes on my inventory. Also she didnt seal my legal boxes in my presences.

Will you please look into this?

Thanking you in advance.

The only things on your inventory are the things actually inside your bag. Since your boxes are not inside the bag they are not on your inventory.

Forwarded To Property Control for response.

Mr. Lisenby, The legal paperwork is all that I have received upon your arrival to this institution. It was brought to my attention that the legal boxes (2) you arrived with were in poor condition and the papers inside of them were put in your sealed green bag. This happened because the boxes fell apart. Therefore on 3/11/14 I ofc. T. Miskinis upon approval from warden Cartledge allowed you entry to your green bag to retrieve legal papers. I also provided you with new boxes to store your papers in. Before I left lock-up I re-inventoried your green bag and provided you a copy after I sealed it in your presents. Your excess

legal boxes are stored with restricted access it is not policy that I seal them for you. The boxes and contents are my responsibility until they are returned to you. If you are missing any documents I urge you to contact your previous institution because I have provided you with all

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS**

**Office of General Counsel**

**RESPONSE TO INMATE CORRESPONDENCE**

INMATE: Billy Lisenby, SCDC #200273  
INSTITUTION: McCormick Correctional Institution  
FROM: Shanika Johnson, Staff Attorney  
SUBJECT: Access to Court  
DATE: March 27, 2014

Mr. Lisenby,

I was forwarded your letters to Director Stirling regarding your access to the courts. I am also responding to the duplicate letters you sent to this office. You stated that you were being denied access to your legal materials. Additionally, you stated you were not being allowed the chance to call your attorney, access to the Westlaw computer, and access to legal supplies. I spoke with Lieutenant Terry on two occasions to make sure you received access to your legal materials and to address the other concerns you had. I informed him that you have pending litigation. Lieutenant Terry confirmed that he spoke with you and addressed your issues.

I hope this response satisfies your inquiry.


S/   
Shanika Johnson

Exhibit #4

Warden Cartledge

April 5<sup>th</sup> 2014

Billy hisenby

#200273

M<sup>c</sup>Caernick C. I

SMU 21

MRS. T. MisKinis is mishandling my legal boxes. She did it on March 11<sup>th</sup> 2014 and I complained and nobody responded. On April 1<sup>st</sup> 2014 she did it again. When I came out my cell a inmate was standing next to my unsealed boxes and she was sitting in MRS. Sailsbury's office. Note the inmate was in the SMU hallway near the kitchen, <sup>with my husband</sup> She refuses to seal my legal boxes period. Policy OP-22.12 section 18 Legal Materials states in part:

"When the inmate is finished with the excess legal material box, it will be re-sealed in the inmate's presence and returned to the property."

I have already complained about my legal documents being missing. Again I ask that someone look into this issue. A inmate is not suppose to be left unattended with my unseal legal boxes.

Thanking you in advance!

Billy

See Exhibit #5

A de novo review of the record indicates that the magistrate judge's report accurately summarizes this case and the applicable law. Accordingly, the magistrate judge's report and recommendation is **AFFIRMED**, respondent's motion for summary judgment is **GRANTED**, and the petition is **DISMISSED**.

**IT IS FURTHER ORDERED** that a certificate of appealability is denied because petitioner has failed to make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(b)(2).

**AND IT IS SO ORDERED.**



---

David C. Norton  
United States District Judge

March 20, 2014  
Charleston, South Carolina

**NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure

MRS. Jones (CPL)

March 7<sup>th</sup> 2014

Billy Lisenby

#200273

M<sup>c</sup>Coernick C.I.

SMU 21

The General Counsel Attorney Shanika Johnson wrote me yesterday requesting certain legal documents. Can you arrange for me to go in my legal boxes and bag to obtain these documents?

Thanking you in advance!

Billy L.

Exhibit #6

I have nothing to do with your property bag  
this request need to be redirected to property  
control. Thank you

3/7/14

CJ one

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
OFFICE OF GENERAL COUNSEL  
INMATE CORRESPONDENCE

TO: Billy Lisenby  
SCDC#: 200273  
INSTITUTION: McCormick CI  
FROM: Office of General Counsel  
SUBJECT: Legal materials  
DATE: April 7, 2014

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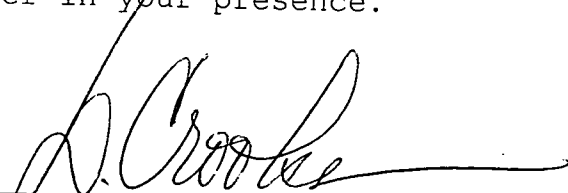
Inmate Lisenby:

It has come to this office's attention that you are sending multiple requests to staff about your legal boxes. Note that duplicate requests to staff will not be answered.

You will not be allowed to keep multiple legal boxes in your cell, per SCDC SMU policy (see section 17). As you are aware, you are entitled to have one box in your cell. Per this same policy, however, "[a]ny excess legal materials beyond an 15" x 12" x 10" box will be put into another box(es) (any size box may be used)." These excess boxes "will be stored in the property room"; when you need them, you must complete a "Request to Staff Member" form (SCDC Form 19-11).

Also remember that it is your responsibility to organize your boxes so that, when they are numbered, you know which box contains the information you need for a particular case. You will be allowed to keep a box for five (5) calendar days, but you will be allowed to have only one extra box at a time. Therefore, it is your responsibility to plan accordingly in light of your pending court deadlines. After you are finished with each legal box, it will be sealed by an SCDC staff member in your presence.

Exhibit #7

  
Daniel J. Crooks III  
Staff Attorney

Billy Lee Lisenby JR, #200273

McCormick Corr. Inst.

386 Redemption Way

McCormick S.C. 29899

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MAR 10 2014

DIRECTOR

Dated: March 7<sup>th</sup> 2014

Acting Director Bryan P. Sterling

4444 Broad River Rd.

Columbia S.C. 29221

Dear Director Sterling,

Yesterday I received a Renewed Motion to Compel from Attorney Shanika K. Johnson from the General Counsel's office. Well I cannot honor this because L.T. Terry will not let me go in my duffel bag nor legal boxes to obtain these documents.

I got here from Lee C.I on Feb. 27, 2014 I have been denied complete access to the courts by L.T. Terry, and CPL. Jones. They have denied me phone calls to my attorney, legal supplies, the Westlaw computer, and access to my legal boxes and duffel bag. I have made proper request. L.T. Terry has lost important documents from my attorneys verifying they are my attorney of record.

CPL. Jones has constantly denied me legal supplies, and I have received over 16 pieces of legal mail in the last few days. CPL. Jones passes out my legal mail.

Will you please help me in the above matters?

Thanking you in advance!

Billy L.

Exhibit 8

Billy Lee Lisenby JR, #200273

McCormick Correctional Inst.  
336 Redemption Way  
McCormick, SC. 29899

RECEIVED

MAR 10 2014

GENERAL COUNSEL

General Counsel  
4444 Broad River Rd.  
Columbia SC. 29221

Dated: March 7<sup>th</sup> 2014

Dear General Counsel,

Yesterday I received a Renewed Motion to Compel from Attorney Shanika K. Johnson from your office. Well I cannot honor this because L.T. Terry will not let me go in my duffel bag nor legal boxes to obtain these documents.

I got here from Lee C.I on Feb. 27, 2014 I have been denied complete access to the courts by L.T. Terry, and CPL. Jones. They have denied me phone calls to my attorney, legal supplies, the Westlaw computer, and access to my legal boxes and duffel bag. I have made proper request. L.T. Terry has lost important documents from my attorneys verifying they are my attorney of record.

CPL. Jones has constantly denied me legal supplies, and I have received over 16 pieces of legal mail in the last few days. CPL. Jones passes out my legal mail.

Will you please help me in the above matters?

Thanking you in advance!

Billy L.

Exhibit #9

Grievance Clerk

March 8<sup>th</sup> 2014

Billy Lisenby

#200297

McCormick C.I.

SMU 21

Shanika K. Johnson an attorney for the General Counsel contacted me this week demanding I turn over certain legal documents. I need to go in my legal boxes and duffel bag to obtain this. Also I need other court documents for other cases.

L.T. Terry will not let me go in my legal boxes and duffel bag. Will you please help me in this matter?

Thanking you in advance!

Billy

Exhibit #10

I spoke with Lt. Terry + Ofc. Miskinis + you will be allowed to go in your property. Any legal work in your duffel bag to need to get out.

3-10-14

L. Holmes