

STATE OF SOUTH CAROLINA  
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT  
The Honorable Carolyn Matthews, Administrative Law Judge  
13-ALJ-15-0042

Case No. 14-00773

KENNETH GREEN, #116020.....APPELLANT,

v.

S.C. DEPARTMENT OF PROBATION, PAROLE AND  
PARDON SERVICES,.....RESPONDENT.

**MOTION TO DENY APPELLANT’S DESIGNATION OF MATTER**

The Respondent, the South Carolina Department of Probation, Parole, and Pardon Services, respectfully requests this honorable court to deny in part the Appellant’s request to include certain items in the record on appeal.

Appellant is attempting to include an Affidavit by Senator Doug Jennings that in no way is relevant to his case. This affidavit describes the parole hearing of Mr. Gene Richardson and the Appellant’s name is not mentioned anywhere within this affidavit. The rules of the Appellate Court states that matters contained within the Record on Appeal shall only include matters presented to the lower court. Rule 210 SCACR. This affidavit cannot be included in the record because it does not reveal anything within the case presented to the Administrative Law Court.

Furthermore, on July 18, 2014, this Court denied Appellant’s motion to supplement the

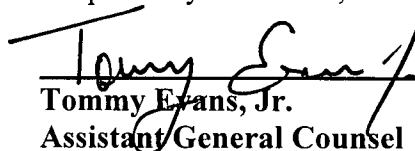
Record to include an Affidavit of a former Board Member, Marlene McClain, which also had no relevance to this case.

Furthermore, it is the opinion of the Respondent, that this affidavit should not be included in the Record on Appeal because it has no relevance to the case at bar. A party shall not include any matter in his Designation which is not relevant to the appeal. Rule 209(c) SCACR. Since this affidavit was not relevant and not introduced to the lower court it should not be included in the Record on Appeal.

The Appellant has also requested that the Secretary's Board minutes and a certified transcript of his parole hearing be included in the record on appeal. There exists no certified transcript or Board minutes from the hearing. All parole hearings are audio recorded, there is never a written transcript of testimony. This is due to the fact that monetary constraints restrict the Department's ability to hire a Court reporter for parole hearings. Therefore, Appellant's request to include a certified transcript should be denied.

Therefore, Appellant's Designation of Matter should be denied in part.

Respectfully submitted,

  
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August 7, 2014