

Ms. Tanya A. Gee, Clerk of Court  
S.C. Court of Appeals  
1015 Sumter St.  
Columbia, S.C. 29201

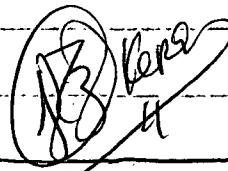
RE: Okera v SCDC, Jr. #2009135046: NOTICE AND INQUIRY

Ms. Gee,

This letter is to notify Your Court that I am no longer at Kershaw Corr. Inst. I am now housed at Broad River Corr. Inst. at the address below. Also, I would like to know the status of my case.

August 4, 2011

sl



Jake D.B. Okera, #228442

cc: Lake E. Summers

Broad River Corr. Inst.

Malone, Thompson, Summers + DH, LLC

4460 Broad River Rd.

339 Heyward St., Ste. 200

Columbia, S.C. 29210

Columbia, S.C. 29201

(803) 254-3300

File

**RECEIVED**  
AUG 08 2011  
SC Court of Appeals

Lake E. Summers

Attorney at Law

339 Heyward St., Ste. 200

Columbia, S.C. 29201

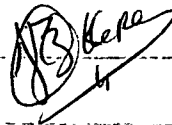
RE: NOTICE OF TRANSFER: OKera v SCDC, Tr. # 2009135046

Mr. Summers,

This letter is to inform you that I am no longer at Kershaw Corr. Inst. I am now housed at Broad River Corr. Inst. at the address below.

August 4, 2011

st

 J. D. B. OKera

cc: Clerk of Court

S.C. Court of Appeals

1015 Sumter St.

Columbia, S.C. 29201

File

JaSa D. B. OKera, # 228442

Broad River Corr. Inst.

4460 Broad River Rd.

Columbia, S.C. 29210

THE STATE OF SOUTH CAROLINA

In The Court of Appeals  
APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Administrative Law Judge, Carolyn C. Matthews  
Trial Court Case # 08-ALJ-04-00887

Ja Ja D.B. Olera, # 228442, . . . . APPELLANT,

vs

South Carolina Dept. of Corrections, . . . . RESPONDENT,

CERTIFICATE OF MAILING / SERVICE

I certify that on August 4, 2011, I mailed an original copy of the attached NOTICE AND INQUIRY to the Clerk of Court of the S.C. Court of Appeals + served a copy of the same on Lake E. Summers; and I mailed an original copy of the attached NOTICE OF TRANSFER to Lake E. Summers + served a copy of the same on the S.C. Court of Appeal's Clerk of Court by depositing all in the institutional mailroom to be mailed by way of the U.S. Postal Service, postage prepaid, at the following addresses:

• Ms. Tanya A. Gee, Clerk of Court  
S.C. Court of Appeals  
1015 Sumter St.  
Columbia, S.C. 29201

Lake E. Summers  
Malme, Thompson, Summers + Ott, LLC  
339 Heyward St., Ste. 200  
Columbia, S.C. 29201

\$1 

Ja Ja D.B. Olera, # 228442  
Broad River Com. Inst.  
4460 Broad River Rd.  
Columbia, S.C. 29210

**RECEIVED**  
AUG 08 2011  
SC Court of Appeals

Ms. Tanya A. Gee, Clerk of Court  
S.C. Court of Appeals  
1015 Sumter Street  
Columbia, S.C. 29201

**RECEIVED**  
SEP 10 2010  
SC Court of Appeals

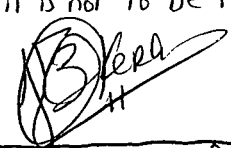
RE: OKera v SCDC, Jr. #2009135046: EXPLANATION FOR FINAL BRIEF WITH A "SUPPLEMENTAL  
RECORD ON APPEAL" COVER

Ms. Gee,

Enclosed are two (2) copies of the above explanation, CERTIFICATE OF MAILING / SERVICE, and this cover letter. I ask that you file the same with your court, and return to me the additional copies in the SASE. Also enclosed is the "ORIGINAL" copy of the Supplemental Record on Appeal that you returned to me requesting the attached explanation for its filing. Please place back in my file if the explanation is accepted.  
(Note that I already have a copy of it, therefore, a copy of it is not to be returned.)

September 8, 2010

cc: Lake E. Summers  
Malone, Thompson, Summers, & Ditt, LLC  
339 Heyward St., Ste. 200  
Columbia, S.C. 29201  
(803) 254-3300  
File

  
s/ Jaja Dumisani Baako OKera, #228442  
Pro se  
Kershaw C.I.  
4848 Goldmine Hwy.  
Kershaw, S.C. 29067

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Administrative Law Judge, Carolyn C. Matthews  
Trial Court Case # 08-AL-04-DD887

RECEIVED  
SEP 10 2010  
SC Court of Appeals

Jaja D. B. Okeru, # 228442, . . . . . APPELLANT,

vs.

South Carolina Dept. of Corrections, . . . . . RESPONDENT.

EXPLANATION FOR FINAL BRIEF WITH A "SUPPLEMENTAL RECORD ON APPEAL" COVER

After receiving Respondent's Initial Brief and Designation of Matters on Appeal on June 1<sup>st</sup>, 2010, I submitted an Initial Reply Brief (w/Designation of Matters on Appeal) on June 10<sup>th</sup>, 2010. In my initial reply, I countered some of the Respondent's claims by referencing my final brief. The SCRPC, Rule 200(h) states that "except as provided by Rule 212 and Rule 208(b)(1)(c) and (2), the appellate court will not consider any fact which does not appear in the Record on Appeal." Now I did not (and still do not) know whether my Final Brief was (is) considered apart of the Record on Appeal, so to cover myself, I introduced it (my final brief) as apart of the Record on Appeal.

With that, I return it to you, because in my Final Reply Brief, I make reference to parts of my Final Brief as "Supp. R." without reference to final brief's pages as in initial reply brief. As you know, I am not an attorney, and I am doing the best I presently know how. Please forgive my ignorance, and any non-compliance with court rules.

September 8, 2010

  
SI  
Jaja Dumisani Baako Okeru, # 228442  
Pro se,  
Kershaw C.I.  
4848 Goldmine Hwy,  
Kershaw, S.C. 29067

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Administrative Law Judge, Carolyn C. Matthews  
Trial Court Case # 08-AL-04-00887

RECEIVED

SEP 10 2010

SC Court of Appeals

JaJa P. B. Okera, # 228442, APPELLANT,

vs.

South Carolina Dept. of Corrections. RESPONDENT.

CERTIFICATE OF MAILING/SERVICE

I certify that on September 8, 2010, I mailed two (2) copies of the attached cover letter, and EXPLANATIONS FOR FINAL BRIEF WITH A "SUPPLEMENTAL RECORD ON APPEAL" COVER to the Court of Appeals' Clerk of Court (Ms. Tanya A. Gee) at S.C. Court of Appeals, 1015 Sumter Street, Columbia, S.C. 29201, by way of "INTER-AGENCY MAIL", no postage necessary; and a copy of the same was served on opposing counsel (Lake E. Summers) at Malone, Thompson, Summers, and Dtt, LLC, 339 Heyward St., Ste. 200, Columbia, S.C. 29201 by way of U.S. Postal Service, postage prepaid. I also returned to Your Court the original copy of my Supplemental Record on Appeal with the above documents.



5/  
JaJa Pumisani Baako Okera, # 228442  
Pro se  
Kershaw Co. I.  
4848 Goldmine Hwy.  
Kershaw, S.C. 29067



## The South Carolina Court of Appeals

TANYA A. GEE  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

August 26, 2010

Ja Ja D. B. Okera # 228442  
Kershaw Correctional  
Institution  
4848 Gold Mine Hwy  
Kershaw, SC 29069

Re: Okera, Ja Ja D. B. v. SCDC  
**2009135046**

Dear Mr. Okera:

We have received a copy of your Final Brief with a cover titled Supplemental Record on Appeal in the above case. We have already received your Record on Appeal, Final Brief and Final Reply Brief. Please provide this Court with a written explanation for the filing of these documents within fourteen (14) days of the date of this letter.

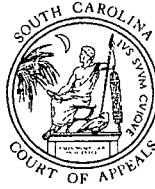
Therefore, these documents are herewith being returned to you.

Very truly yours,

*V. Claire Allen, Deputy*  
CLERK

TAG/mpm

cc: David M. Tatarsky, Esquire  
Lake Eric Summers, Esquire



## The South Carolina Court of Appeals

TANYA A. GEE  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

August 12, 2010

Ja Ja D. B. Okera # 228442  
Kershaw Correctional  
Institution  
4848 Gold Mine Hwy  
Kershaw, SC 29069

Re: Okera, Ja Ja D. B. v. SCDC  
**2009135046**

Dear Mr. Okera:

Enclosed is a copy of an Order of the Court regarding your Motion in the above case. Please be advised that the Record on Appeal and the Appellant's Final Brief have been accepted as filed.

Very truly yours,

*Tanya A. Gee*  
CLERK

TAG/mpm

cc: David M. Tatarsky, Esquire  
Lake Eric Summers, Esquire

# The South Carolina Court of Appeals

Ja Ja D. B. Okera,

Appellant,

v.

South Carolina Department of  
Corrections,

Respondent.

The Honorable Carolyn C. Matthews  
Richland County  
Trial Court Case No. 2008-AL-04-00887

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## ORDER

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Appellant has filed a motion requesting this Court waive the requirements set forth in Rule 267(e), SCACR, concerning the covers to the Record on Appeal and briefs. Appellant's motion is hereby granted. However, Appellant must provide a cover page to the Record and his brief. The covers may be of any material and in any color, and must contain only the caption.

AND IT IS SO ORDERED.

K. Bruce Wilson, Jr.

Columbia, South Carolina

August 11, 2010

cc: Ja Ja D. B. Okera # 228442  
David M. Tatarsky, Esquire  
Lake Eric Summers, Esquire

**FILED**  
8/12/10

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
~~APPEAL FROM THE ADMINISTRATIVE LAW COURT~~  
~~Administrative Law Judge, Carolyn C. Matthews~~  
Trial Court Case # 08-AL-04-00887

RECEIVED  
JUL 19 2010  
SC Court of Appeals

Jaja D. B. Okera, # 228442, . . . APPELLANT,

vs.

South Carolina Dept. of Corrections, . . . RESPONDENT.

MOTION TO WAIVE COVER  
REQUIREMENT OF SCACR  
RULE 267(c)

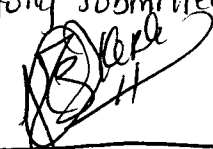
I (Appellant) am a prisoner within South Carolina Department of Corrections (SCDC), and SCDC does not provide, nor make available covers pursuant to Rule 267(c) of the South Carolina Appellate Court Rules, so I am not able to comply. Therefore, I ask that the requirement of this rule be waived.

July <sup>14<sup>th</sup></sup> ~~22<sup>nd</sup>~~, 2010

Respectfully submitted,

cc: Lake E. Summers

Malone, Thompson, Summers & DTH, LLC  
339 Heyward St., Ste. 200  
Columbia, S.C. 29201  
(803) 254-3300  
File

  
Jaja D. B. Okera, # 228442  
Pro Se  
Kershaw Co. I.  
4848 Goldmine Hwy.  
Kershaw, S.C. 29067

Ms. Tanya A. Gee, Clerk of Court  
S.C. Court of Appeals  
1015 Sumter Street  
Columbia, S.C. 29201

RECEIVED

JUL 19 2010

SC Court of Appeals

RE: DKera v SCDC, Tr. # 2009135046: APPELLANT'S FINAL REPLY BRIEF, and  
SUPPLEMENTAL RECORD ON APPEAL; and MOTION TO WAIVE COVER REQUIRE-  
MENT OF SCACR, RULE 267(c).

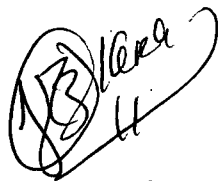
Ms. Gee,

Enclosed are two (2) copies of each of the above, including certificates of  
counsel for the reply + record, and cert.s of mailing/service. I ask that  
you file the same with your Court, and return to me the additional copies in the SASE.

Also, when the copies of my final brief were made for the Supp. al record on  
app., my unit was locked down, so I was not present when they were copied. When  
returned, they were stapled. However, I removed the staple from the Court's  
copy.

14<sup>th</sup>  
July ~~18<sup>th</sup>~~, 2010

cc: Lake E. Summers  
Malone, Thompson, Summers + Ott, LLC  
339 Heyward St., Ste. 200  
Columbia, S.C. 29201  
(803) 254-3300  
File

51  
  
Jack P. B. DKera, # 228442  
Pro Se  
Kershaw Co.  
4848 Goldmine Hwy.  
Kershaw, S.C. 29067

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Administrative Law Judge, Carolyn C. Matthews  
Trial Court Case # 08-AL-04-06887

RECEIVED  
JUL 19 2010  
SC Court of Appeals

JaJa D. B. OKera, # 228442, APPELLANT,

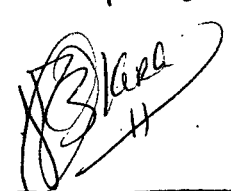
vs.

South Carolina Dept. of Corrections, RESPONDENT.

CERTIFICATE OF MAILING/SERVICE

I certify that on July ~~17<sup>th</sup>~~<sup>14<sup>th</sup></sup>, 2010, I mailed two (2) copies of my APPELLANT'S FINAL REPLY BRIEF + CERTIFICATE OF COUNSEL, SUPPLEMENTAL RECORD ON APPEAL + CERTIFICATE OF COUNSEL, and MOTION TO WAIVE COVER REQUIREMENT OF SCACR, RULE 267(c) to the S.C. Court of Appeals' Clerk of Court, Ms. Tanya A. Gee, at 1015 Sumter Street, Columbia, S.C. 29201; and I served individual copies on the same on opposing counsel, Lake E. Summers at Malone, Thompson, Summers + DH, LLC, 339 Heyward St., Ste. 200, Columbia, S.C. 29201, by way of the U.S. Postal Service, all postages prepaid.

51

  
JaJa D. B. OKera, # 228442  
Pro Se  
Kershaw C. I.  
4848 Goldmine Hwy.  
Kershaw, S.C. 29067

LAW OFFICES  
**MALONE, THOMPSON, SUMMERS & OTT LLC**

339 HEYWARD STREET

SUITE 200

COLUMBIA, SOUTH CAROLINA 29201

TELEPHONE: (803) 254-3300

FACSIMILE: (803) 254-0309

E-MAIL: firm@mtsolvlawfirm.com

WEB: www.mtsolvlawfirm.com

MICHAEL D. MALONE\*\*  
CHARLES F. THOMPSON, JR.\*\*  
LAKE R. SUMMERS°  
MICHAEL K. OTT\*  
KATHERINE A. PHILLIPS°

SPECIAL COUNSEL  
LAWRENCE J. NEEDLE°  
IMMIGRATION

°ADMITTED IN TX & SC  
°ADMITTED IN NC & SC  
\*CERTIFIED SPECIALIST IN  
LABOR & EMPLOYMENT LAW (SC)  
°ADMITTED ONLY IN SC

LABOR & EMPLOYMENT LAW  
EMPLOYEE BENEFITS  
IMMIGRATION

NORTH CAROLINA OFFICE  
3600 ARCO CORPORATE DRIVE  
SUITE 125  
CHARLOTTE, NC 28273  
TELEPHONE (704) 522-2824  
FACSIMILE (704) 522-2032

H. FRANK MALONE  
1930-2002

July 19, 2010

VIA HAND DELIVERY

**RECEIVED**

JUL 19 2010

**SC Court of Appeals**

The Honorable Tonya A. Gee  
Clerk of Court  
South Carolina Court of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29201

Re: Filing of Respondent's Final Brief in Accordance with the Order of the Court dated May 17, 2010 and filed May 18, 2010 and Resubmission of Respondent's Supplemental Record on Appeal in Accordance with Letter dated July 12, 2010 in *Ja Ja D.B. Okera v. S.C. Dep't of Corrections*, Case Tracking No. 2009135046, Trial Court Case No. 2008-AL-04-00887

Dear Ms. Gee:

In accordance with the above-referenced order issued by the Court in the above-captioned case, I hereby file the Respondent's Final Brief.

By its order dated May 17, 2010 and filed May 18, 2010, the Court provided as follows:

Respondent has until May 24, 2010 to serve and file an initial brief and designation of matter. Thereafter, Appellant has ten days, if he so chooses, to file an initial reply brief. Thirty days after service of Respondent's initial brief, Respondent shall serve and file a supplemental record on appeal that contains the documents listed in its designation of matter. Respondent's final brief and Appellant's final reply brief, if he chooses to file one, will be due twenty days thereafter.

Despite my best efforts, I was not able to serve and file the Respondent's initial brief and designation of matter on May 24, 2010, and, consequentially, I moved the Court on May 24, 2010 for a 72-hour extension by which to serve and file the Respondent's initial brief and designation of matter.

Page 2 of 2

July 19, 2010

Re: Filing of Respondent's Final Brief in Accordance with the Order of the Court dated May 17, 2010 and filed May 18, 2010 and Resubmission of Respondent's Supplemental Record on Appeal in Accordance with Letter dated July 12, 2010 in *Ja Ja D.B. Okera v. S.C. Dep't of Corrections*, Case Tracking No. 2009135046, Trial Court Case No. 2008-AL-04-00887

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In light of my May 24, 2010 motion, I served and filed the Respondent's initial brief and designation of matter on May 27, 2010. The Court, by an order it issued on June 3, 2010, granted my May 24, 2010 motion for a 72-hour extension by which to serve and file the Respondent's initial brief and designation of matter. On June 28, 2010, I filed the Respondent's Supplemental Record on Appeal.

Thus, under the terms of the Court's order dated May 17, 2010 and filed May 18, 2010, I now file and, of course, serve the Respondent's Final Brief

In accordance with South Carolina Appellate Court Rule 211, I am filing the Respondent's original Final Brief without any binding, and I am also filing 15 bound copies of the Respondent's Final Brief. I am further submitting an extra bound copy, and I respectfully request that a member of your staff file stamp and return this extra bound copy to the representative from our office who delivered these materials.

Finally, in accordance with your office's letter dated July 12, 2010, I am resubmitting 15 copies of the Respondent's Supplemental Record on Appeal, all of which now have white covers.

Please don't hesitate to contact our office should you have any questions regarding our effort to file the Respondent's Supplemental Record on Appeal.

As always, I remain

Very respectfully yours,



Lake E. Summers  
Outside Counsel for SCDC

Cc:

Inmate Ja Ja D.B. Okera, # 228442

LAW OFFICES

**MALONE, THOMPSON, SUMMERS & OTT LLC**



## The South Carolina Court of Appeals

TANYA A. GEE  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

July 12, 2010

David M. Tatarsky, Esquire  
S.C. Dept. of Corrections  
P.O. Box 21787  
Columbia, SC 29221-1787

Lake Eric Summers, Esquire  
Malone Thompson Summers & Ott, LLC  
339 Heyward St.  
Ste. 200  
Columbia, SC 29201

Re: Okera, Ja Ja D. B. v. SCDC  
**2009135046**

Dear Counsel:

We have received your Supplemental Record on Appeal in the above matter. However, this Supplemental Record on Appeal was filed with gray covers. It will be necessary that you or someone authorized by you come to the Court to replace the gray covers with white covers within ten (10) days of the date of this letter.

Very truly yours,

*V. Claire Allen, Deputy*  
CLERK

TAG/mpm  
cc: Ja Ja D. B. Okera # 228442

LAW OFFICES  
**MALONE, THOMPSON, SUMMERS & OTT LLC**

339 HAYWARD STREET

SUITE 200

COLUMBIA, SOUTH CAROLINA 29201

TELEPHONE: (803) 254-3300

FACSIMILE: (803) 254-0309

E-MAIL: [firm@mtsollawfirm.com](mailto:firm@mtsollawfirm.com)

WEB: [www.mtsollawfirm.com](http://www.mtsollawfirm.com)

LABOR & EMPLOYMENT LAW  
EMPLOYEE BENEFITS  
IMMIGRATION

NORTH CAROLINA OFFICE  
3600 ARCO CORPORATE DRIVE  
SUITE 125

CHARLOTTE, NC 28273  
TELEPHONE (704) 522-2824  
FACSIMILE (704) 522-2032

H. FRANK MALONE  
1930-2002

June 28, 2010

VIA HAND DELIVERY

RECEIVED

JUN 28 2010

SC Court of Appeals

The Honorable Tonya A. Gee  
Clerk of Court  
South Carolina Court of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29201

Re: Respondent's Supplemental Record on Appeal in Accordance with Order of the Court dated May 17, 2010 and filed May 18, 2010 in *Ja Ja D.B. Okera v. S.C. Dep't of Corrections*, Case Tracking No. 2009135046, Trial Court Case No. 2008-AL-04-00887

Dear Ms. Gee:

In accordance with the above-referenced order issued by the Court in the above-captioned case, I hereby file the Supplemental Record on Appeal on behalf of the Respondent, the South Carolina Department of Corrections.

By its order dated May 17, 2010 and filed May 18, 2010, the Court provided as follows:

Respondent has until May 24, 2010 to serve and file an initial brief and designation of matter. Thereafter, Appellant has ten days, if he so chooses, to file an initial reply brief. Thirty days after service of Respondent's initial brief, Respondent shall serve and file a supplemental record on appeal that contains the documents listed in its designation of matter. Respondent's final brief and Appellant's final reply brief, if he chooses to file one, will be due twenty days thereafter.

Despite my best efforts, I was not able to serve and file the Respondent's initial brief and designation of matter on May 24, 2010, and, consequentially, I moved the Court on May 24, 2010 for a 72-hour extension by which to serve and file the Respondent's initial brief and designation of matter.

In light of my May 24, 2010 motion, I served and filed the Respondent's initial brief and designation of matter on May 27, 2010.

Page 2 of 2  
June 28, 2010

Re: Respondent's Supplemental Record on Appeal in Accordance with Order of the Court dated May 17, 2010 and filed May 18, 2010 in *Ja Ja D.B. Okera v. S.C. Dep't of Corrections*, Case Tracking No. 2009135046, Trial Court Case No. 2008-AL-04-00887

---

The Court, by an order it issued on June 3, 2010, granted my May 24, 2010 motion for a 72-hour extension by which to serve and file the Respondent's initial brief and designation of matter.

Thus, under the terms of the Court's order dated May 17, 2010 and filed May 18, 2010, I now file and, of course, serve the Respondent's supplemental record on appeal which contains the documents listed in the designation of matter I filed on behalf of the Respondent on May 27, 2010.

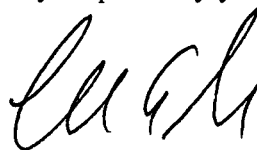
In accordance with South Carolina Appellate Court Rule 210, I am filing the Respondent's original supplemental record on appeal without any binding. Additionally, I am filing 15 bound copies of the Respondent's supplemental record on appeal. Finally, I am submitting an additional bound copy, and I respectfully request that a member of your staff file stamp and return this additional bound copy to the representative from our office who delivered these materials.

Finally, under the terms of the Court's order dated May 17, 2010 and filed May 18, 2010, I will serve and file the Respondent's final brief within twenty days of today's date, June 28, 2010.

Please don't hesitate to contact our office should you have any questions regarding our effort to file the Respondent's Supplemental Record on Appeal.

As always, I remain

Very respectfully yours,



Lake E. Summers  
Outside Counsel for SCDC

Cc:  
Inmate Ja Ja D.B. Okera, # 228442

RECEIVED

JUN 25 2010

SC Court of Appeals

Tanya A. Gee, Clerk of Court  
S.C. Court of Appeals  
1015 Sumter Street  
Columbia, S.C. 29201

Lake E. Summers  
Malone, Thompson, Summers & OTT  
339 Heyward St., Ste. 200  
Columbia, S.C. 29201

RE: TRANSFERRED, OKera v SCDC, Tra. # 2009135046

Ms. Gee/L. E. Summers,

This letter is to inform you that I am no longer at Ridgeland C.I.. I am now at Kershaw C.I., and the address is below.

June 23, 2010

cc: Lake E. Summers  
Malone, Thompson, Summers & OTT, LLC  
339 Heyward St., Ste. 200  
Columbia, S.C. 29201, (803) 254-3300  
~~████████████████████████████████████████~~  
File

s/   
J. D. B. OKera, #228442  
Pro Se  
Kershaw C.I.  
4848 Goldmine Hwy.  
Kershaw, S.C. 29067

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Administrative Law Judge, Carolyn C. Matthews  
Trial Court Case # 08-AL-04-00887

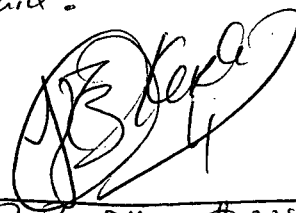
JaJa D. B. Okera, # 228442, . . . . . APPELLANT,

vs.

South Carolina Dept. of Corrections, . . . . . RESPONDENT.

CERTIFICATE OF MAILING/SERVICE

I certify that on June 23, 2010 I mailed/served a copy (originals) of the attached transfer notice to opposing counsel, Lake E. Summers at Malone, Thompson, Summers, & Ditt, LLC, 339 Heyward St, Ste. 200, Columbia SC 29201, & to the Clerk of Court, Tanya A. Gee, at S.C. Court of Appeals, 1015 Sumter St., Columbia SC 29201, both by way of the U.S. Postal Service, postages prepaid.

S/   
JaJa D. B. Okera, # 228442  
Pro Se  
Kershaw Co. I.  
4848 Goldmine Hwy.  
Kershaw, S. C. 29067

**RECEIVED**

JUN 25 2010

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
~~APPEAL FROM THE ADMINISTRATIVE LAW COURT~~  
~~Administrative Law Judge, Carolyn C. Matthews~~  
Trial Court Case # 08-AL-04-00887

RECEIVED

JUN 14 2010

SC Court of Appeals

Jasa D. B. Okera, #228442, . . . . . APPELLANT,

VS.

South Carolina Dept. of Corrections, . . . . . RESPONDENT,

SUPPLEMENTAL  
DESIGNATION OF MATTERS TO  
BE INCLUDED IN THE RECORD  
ON APPEAL

Appellant proposes the following to be supplemented into the Record on Appeal (if not already included):

FINAL BRIEF received by Your Court April 19<sup>th</sup>, 2010:

p. 2, Ins. 8-20;

p. 2, ln. 21 - p. 3, ln. 5;

p. 3, Ins. 8-22;

p. 5, Ins. 5+6, p. 6, ln. 11; and

p. 7 - CONCLUSION - Ins. 7-16.

RECORD ON APPEAL received by Your Court March 25<sup>th</sup>, 2010:

p. 7, Ins. 14-16; and

p. 16-20

CERTIFICATE OF CONTENT

I certify that this designation contains no matter which is irrelevant to

this appeal.

June 10, 2010

SI

Jasa P. B. OKera, # 228442

Pro Se

RCI

POB 2039

Ridgeland SC 29936

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
~~APPEAL FROM THE ADMINISTRATIVE LAW COURT~~  
~~Administrative Law Judge, Carolyn C. Matthews~~  
Trial Court Case # 08-AL-04-00887

RECEIVED  
JUN 14 2010  
SC Court of Appeals

JaJa D. B. OKera, # 228442, APPELLANT,

vs.

South Carolina Dept. of Corrections, RESPONDENT.

CERTIFICATE OF MAILING/SERVICE

I declare that on June 10<sup>th</sup>, 2010, I mailed an original copy of my APPELLANT'S REPLY BRIEF, and DESIGNATION OF MATTERS TO BE INCLUDED IN THE RECORD ON APPEAL (SUPPLEMENTAL), in the above captioned case to the S.C. Court of Appeals' Clerk of Court at 1015 Sumter St., Columbia SC 29201; and I served a copy of each of the same on opposing counsel, Lake E. Summers at Malone, Thompson, Summers + Dtt, LLC, 339 Heyward St., Ste. 200, Columbia SC 29201, all by way of the U.S. Postal Service; postages prepaid.

SI   
JaJa D. B. OKera, # 228442  
Pro Se  
RC1  
POB 2039  
Ridgeland SC 29936

Clerk of Court  
S.C. Court of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29201

RECEIVED

JUN 14 2010

SC Court of Appeals

RE: OKera v SCDC, Tra. # 2009135046: REPLY BRIEF + SUPPLEMENTAL  
DESIGNATION OF MATTERS

Mrs. Gee,

Enclosed are my reply brief, and supplemental designation of matters.  
I ask that you file the same with your Court, and return to me a filed  
copy of the same in the SASE.

I thank you in advance.

June 10, 2010

Sincerely,



cc: LaKe E. Summers,

Malone, Thompson, Summers + OH, LLC

339 Heyward St., Ste. 200

Columbia, S.C. 29201

(863) 254-3300

File

JaJa D.B. OKera, # 228442

Pro Se

RC1

PDB 2039

Ridgeland SC 29936

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Administrative Law Judge, Carolyn C. Matthews  
Trial Court Case # 08-AL-04-00887

RECEIVED

JUN 14 2010

SC Court of Appeals

JaJa D. B. Okera, # 228442, . . . . . APPELLANT,

vs.

South Carolina Dept. of Corrections, . . . . . RESPONDENT.

APPELLANT'S REPLY BRIEF

JaJa D. B. Okera, #228442  
Pro Se  
RCI  
POB 2039  
Ridgeland SC 29936

Lake E. Summers,  
Malone, Thompson, Summers + OH, LLC  
339 Heyward St., Ste. 200  
Columbia, South Carolina 29201  
(803) 254-3300

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## STATEMENT OF CASE

In this matter, the Respondent motioned this Court for leave to file initial brief and designation of matters out of time, dated April 22, 2010. On May 18, 2010, an order issued by Your Court granted motion, giving Respondent until May 24, 2010 to file + serve initial brief + designation of matters. However, on May 24, 2010 (the deadline date), the Respondent motioned the Court for an additional 72 hours to file the initial brief + designation of matters. Then on June 1, 2010, I received Respondent's initial brief + designation of matters.

## ARGUMENT

A. On page 23 of Respondent's initial brief at "C", the Respondent wishes to confuse this Court. I (Appellant) am not challenging the validity of the 15-day statute of limitations. I argued three (3) reasons why it is not applicable in this case:

① Whether it is July, 2008 "Inmate Grievance System" policy, GA-01.12, section (§) 13.10, or the November, 2004 edition of the same policy at § 13.9, the exception is the same: "Exceptions to the 15-day time limit requirement will be made for grievances concerning policies/procedures." And as pointed out in my final brief, the wages paid to Evans C.I. (ECI) prison industry (P.I.) "participants" are policy (see Appellant's final brief, p. 2, lns. 8-20) which is an EXCEPTION to the 15 day statute of limitations, thereby, making it inapplicable in this case. (see also SCDC policy, GA-01.12, § 13.9 (2004), AND same policy, 2008 edition at § 13.10).

② Wicker v SCDC, 360 SC 241, 602 SE2d. 56 (2004) created a cause of action in relation to P.I. wages at ECI. However, because SCDC discontinued Southeastern Reporters prior to the decision in Wicker; and because SCDC

did not notify its prison population of the decision in Wicker, I had no way of knowing about this cause of action, thereby, denying me access to the courts. That is why I assert that the 15-day statute of limitations is inapplicable in this case. (See Appellant's final brief, p. 2 ln. 21 - p. 3, ln. 5); and

③ I asserted that the 15-day statute of limitations was inapplicable in this case, because I was a part of a class action in relation to ECI's P.I. wages. (see Appellant's final brief, p. 3, lns. 8-22). Therefore, the Respondent's claim that I assert that the SCDC statute of limitations procedure is invalid is incorrect. My claim is that it is not applicable in this case.

B. On page 27 of Respondent's initial brief at "B", the Respondent is now attempting to deceive the Court. I am not asserting that SCDC should have notified me of the South Carolina Supreme Court's decision in Adkins et. al v SCDC, 360 SC 413, 602 SE2d. 51 (2004) + Wicker "since" it posted flyers of Williams v SCDC + Williams Technologies, Inc., 372 SC 255, 641 SE2d. 885 (2007) case after the S.C. Supreme Court's decision. It (the "flyer") was presented as an example of the procedure that should have been followed by SCDC with the decision in Wicker.

Granted, I am "presumed" to know, and conform/comply with the law etc.; and that does validate applying the 15-day deadline to my conclusion in the P.I. "project." However, it cannot be justly applied to the S.C. Supreme Court's decision in Wicker (a cause of action) simply because SCDC did not make the knowledge of Wicker's decision available to SCDC prisoners because of its discontinuation of Southeastern Reporters, and its failure to adhere to the same procedure as it did in the case of Williams supra. (My assertion, of course.)

I am not blessed with ESP (extra-sensory-perception) to KNOW the

S.C. Supreme Court's decisions. So contrary to the Respondent's claim, ... SCDC DOES have a "duty" to notify me of case law that affects me (as a SCDC prisoner), ESPECIALLY when it (SCDC) chooses to use it against me. (see Tr. p:7, lns. 14-16).

C. On page 28 of Respondent's initial brief, at "C", the Respondent argues that I failed to show how the ALC's late response to my inquiries about the brief I submitted "affects the merits of the ALC's June 29, 2009 order... or otherwise constitutes reversible error pursuant to § 1-23-610 (B)".

Well, within my brief in the case of 08-ALJ-04-00887-AP, I produced evidence that was not available during the case of 06-ALJ-04-00173-AP in relation to the statute of limitations issue. (see Tr. pp. 16-20). And if the ALC would have timely informed me that it had not received my brief, I would have motioned the court requesting to resubmit my brief with just reason. This is the prejudice created by the ALC's late response to my inquiries concerning my brief.

D. On page 29 of Respondent's initial brief at "D", the Respondent, again, wishes to confuse this Court. Issue six (6) of my final brief to this Court simply shows this Court that I was entitled, but moreso, OBLIGATED, to file a brief in the case of 08-ALJ-04-00887-AP. Therefore, the ALJ's decision should have been based on the merits of that brief, not the brief of the previous case number in this matter. Additionally, the Respondent is asking this Court to make moot an issue/claim that does not exist. The Respondent's interpretation of this ground is in error, and should be disregarded by this Court.

E. In Respondent's conclusion on p. 30, it is argued that I provided no authority in support of my "argument" that I 'was denied due process guaranteed by the 5<sup>th</sup> and 14<sup>th</sup> Amendments to the U.S. Constitution, and liberty and property interests created by S.C. Code Ann. § 24-3-430(D) [7], thereby, abandoning the issue.

Lets begin by viewing the "section" of my final brief "entitled 'CONCLUSION' [7]" on page 7-the Respondent's point of reference. For some reason, the Respondent chose to exclude the first three (3) words of the above referenced sentence, which are: "As shown, I...," meaning, proven through the argument(s) (AND authorities) presented above, I was denied due process + state created interests. (Id. at p. 7, ln. 8). And due process claims were made within my brief. (See Appellant's final brief, p. 5, lns. 5+6; p. 6, ln. 11). Also, the statement was not "conclusory", because the section was close out with the relief I seek. (Id. at p. 7, lns. 10-16). Additionally, the conclusion is not a section to present argument as the Respondent implies that it should have been. (see SCACR, Rule 208(b)(1)(E)).

### CONCLUSION

Based on the foregoing, I (Appellant) request that this Court deny the Respondent's request(s) to dismiss my case, and instead, grant me the relief I seek.

June 10, 2010

51

  
Ja Ja D. B. D Kera, #228442  
Pro Se

RCI

POB 2039

Ridgeland SC 29936



## The South Carolina Court of Appeals

TANYA A. GEE  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

June 14, 2010

Ja Ja D. B. Okera # 228442  
Ridgeland Correctional  
Institution  
P.O. Box 2039  
Ridgeland, SC 29936

David M. Tatarsky, Esquire  
S.C. Dept. of Corrections  
P.O. Box 21787  
Columbia, SC 29221-1787

Lake Eric Summers, Esquire  
Malone Thompson Summers & Ott, LLC  
339 Heyward St.  
Ste. 200  
Columbia, SC 29201

Re: Okera, Ja Ja D. B. v. SCDC  
**2009135046**

Dear Counsel:

All parties are advised that the originals of all records on appeal and final briefs filed with the appellate courts are scanned. Therefore, in accordance with the May 1, 2008 Amendments to the South Carolina Appellate Court Rules, DO NOT staple, spiral bind, velobind, or otherwise permanently bind the ORIGINALS of these documents. The original brief(s) and record on appeal should still have front and back covers in compliance with Rule 267(e) of the South Carolina Appellate Court Rules, but should not be bound. You may secure the originals with paper clips, binder clips, rubber bands, by placing them in large envelopes, or by any other similar means that will keep the pages together without binding or hole-punching. All COPIES of the record on appeal and final briefs should be bound as specified in the South Carolina Appellate Court Rules.

Please be further advised that opposing party information should not appear on the covers of the briefs, only on the Record on Appeal.

If you have any questions, please do not hesitate to contact this office.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

TAG/mpm

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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MAY 27 2010

SC Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

Carolyn C. Matthews, Administrative Law Judge

Trial Court Case No. 2008-AL-04-00887

Ja Ja D.B. Okera, ..... Appellant,

v.

South Carolina Department of Corrections, ..... Respondent.

**DESIGNATION OF MATTER  
TO BE INCLUDED IN THE RECORD ON APPEAL**

In addition to the materials included by the Appellant in the Record on Appeal he filed with this Court on or about March 22, 2010, the Respondent, the South Carolina Department of Corrections ["SCDC"], proposes the following matter to be included in the Record on Appeal in the instant case:

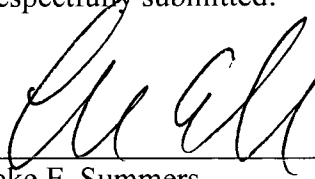
1. Order issued by the Administrative Law Court ["ALC"] for matter designated as Docket Number 06-ALJ-04-00173-AP, bearing grievance number ECI-2087-05, dated and filed July 17, 2008.
2. Respondent's "Record on Appeal and Response the Court's Order dated July 17, 2008" filed December 29, 2008 for matter designated as 08-ALJ-04-00887-AP and grievance number ECI-2087-05 with the following supporting exhibits:
  - 2.1 Exhibit A: Order Issued by the ALC for matter designated as Docket Number 06-ALJ-04-00173-AP, bearing grievance number ECI-2087-05, dated and filed July 17, 2008;
  - 2.2 Exhibit B: Appellant's Step 1 grievance form dated July 11, 2005 and filed with Respondent, designated as grievance number ECI-2087-05 and reflecting Respondent's response to the claims articulated by the Appellant within his Step 1 grievance, and Appellant's Step 2 appeal form dated October 10, 2005 and filed with Respondent, designated as grievance number ECI-2087-05 and reflecting

Respondent's response to the claims articulated by the Appellant within his Step 2 appeal;

- 2.3 Exhibit C: Appellant's Notice of Appeal to the ALC dated October 28, 2008 regarding Respondent's denial of grievance number ECI-2087-05;
  - 2.3.1 Attachment: Order issued by this Court on October 13, 2008 for matter designated as Docket Number 2006-AL-04-00173; and
- 2.4 Exhibit D: Appellant's prison industries private sector account transaction record generated December 2, 2008.
3. Appellant's Brief to the ALC dated January 20, 2009 for matter designated as ALJ Docket No. 08-ALJ-04-00877-AP with the following supporting exhibits:
  - 3.1 Exhibit A: SCDC Form 19-11 entitled "Request to Staff Member" completed by the Appellant and dated October 17, 2008;
  - 3.2 Exhibit B: SCDC Form 19-11 entitled "Request to Staff Member" completed by the Appellant and dated September 26, 2008;
  - 3.3 Exhibit C: Letter to Appellant dated May 30, 2007 from Helen T. McFadden, Esquire; and
  - 3.4 Exhibit D: Document entitled "NOTICE TO ALL INMATES WHO CURRENTLY PARTICIPATE OR AT ONE TIME PARTICIPATED IN THE SCDC/WILLIAMS TECHNOLOGIES, INC., PRISON INDUSTRIES PROJECT AT LIEBER CI" bearing the date October 20, 2008.
4. Order issued by the ALC for matter designated as Docket Number 06-ALJ-04-00173-AP and grievance number ECI-2087-05 dated and filed June 2, 2009.
5. Order issued by the ALC for matter designated as Docket Number 08-ALJ-04-00887-AP entitled "FINAL ORDER," bearing grievance number ECI-2087-05, dated and filed June 29, 2009.
6. Appellant's Notice of Appeal to this Court regarding ALC's order dated and filed June 29, 2009, designated as Docket Number 08-ALJ-04-00887-AP entitled "FINAL ORDER" and bearing grievance number ECI-2087-05.

I certify that this designation contains no matter which is irrelevant to this appeal.

Respectfully submitted:



May 27, 2010

Lake E. Summers

Katherine Phillips

**Malone, Thompson, Summers & Ott LLC**

339 Heyward Street, Suite 200

Columbia, South Carolina 29201

Office: (803) 254-3300

Fax: (803) 254-0309

E-mail: summers@mtsolvlawfirm.com  
phillips@mtsolvlawfirm.com

Counsel for Respondent SCDC

*Pro se* Appellant:

Ja Ja D.B. Okera, # 228442

P.O. Box 2039

Ridgeland Correctional Institution

Ridgeland, South Carolina 29936

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MAY 27 2010

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

Carolyn C. Matthews, Administrative Law Judge

Trial Court Case No. 2008-AL-04-00887

Ja Ja D.B. Okera, ..... Appellant,

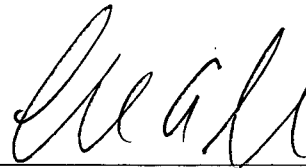
v.

South Carolina Department of Corrections, ..... Respondent.

PROOF OF SERVICE

I certify that I have served a copy of the Respondent **Initial Brief and Designation of Matter to be Included in the Record on Appeal** on the above named *pro se* Appellant by mailing a copy of it to the *pro se* Appellant at the following address:

Ja Ja D.B. Okera, # 228442  
P.O. Box 2039  
Ridgeland Correctional Institution  
Ridgeland, South Carolina 29936



Lake E. Summers

May 27, 2010

Number GA-01.12. Furthermore, in *Williams v. S.C. Dept. of Corr. and Williams Technologies, Inc.*, 372 S.C. 255, 641 S.E.2d 885 (2007), our Supreme Court held that inmates could not bring a private right of action against either SCDC or a prison industries private industry sponsor under our state's Payment of Wages Act. The *Williams* Court, 641 S.E.2d at 886, n. 1, also recognized that, pursuant to *Wicker*, inmates were directed to litigate prison industries back wage claims within the forum established by SCDC Policy Number GA-01.12.

Thus, *Adkins*, *Torrence*, *Wicker*, and *Williams* all recognized that Policy Number GA-01.12 provides the proper forum in which inmates may challenge SCDC's prison industries pay practices, and none of these decisions invalidated or even called into question the applicability of the 15-day filing deadline articulated within the policy. In light of these decisions, the ALC, by its June 29, 2009 order, correctly affirmed SCDC's decision which denied the prison industries back pay claim articulated by the Appellant in his administrative grievance, because the Appellant failed to timely file his administrative grievance in accordance with the applicable SCDC policy. Accordingly, SCDC respectfully submits that this Court should deny the Appellant's appeal and affirm the ALC's ruling.

## **II. THE APPELLANT ARTICULATED NO OTHER LEGITIMATE ISSUES IN HIS INSTANT APPEAL**

### **A. THE ALC, BY NOT ADDRESSING SOME OF THE ISSUES RAISED BY THE APPELLANT IN HIS JANUARY 20, 2009 BRIEF IN THE ORDER IT ISSUED JUNE 29, 2009 FOR THE MATTER DESIGNATED AS 08-ALJ-04-00887-AP, DID NOT ABUSE ITS DISCRETION**

In the third issue on appeal he identified in his April 14, 2010 final brief to this Court, the Appellant claimed that the ALC abused its discretion by not addressing some of the issues he raised in the brief he submitted to the ALC dated January 20, 2009 in the order it issued June 29, 2009. In the order it issued June 29, 2009 bearing docket number 08-ALJ-04-00887-AP, the

ALC affirmed SCDC's decision to deny the Appellant's prison industries back pay claim, because the Appellant failed to timely file his administrative grievance designated as ECI-2087-05. The ALC rendered its final decision after considering the materials submitted by SCDC on December 29, 2009, materials which supplemented the Record on Appeal in this matter as directed by the ALC in the order it issued July 17, 2008 bearing docket number 06-ALJ-04-00173-AP.

ALC Rule 65 is entitled "opinion" and provides, in relevant part, as follows:

The Administrative Law Judge may affirm any ruling, order or judgment **upon any ground(s) appearing in the Record.** [emphasis supplied].

The 2009 Revised Notes accompanying ALC Rule 65 provide as follows:

Rule 65 incorporates the portion of Rule 220,<sup>30</sup> SCACR, which allows the judge to affirm **upon any ground appearing in the Record** and to **decline to address points which are without merit.** [emphasis supplied].

Thus, the ALC was entitled, pursuant to ALC Rule 65, to affirm SCDC's decision denying the Appellant's prison industries back pay claim based solely upon the portions of the record which revealed that the Appellant failed to file his administrative grievance designated as ECI-2087-05 within the 15-day filing deadline provided in Policy Number GA-01.12. Moreover, the Appellants arguments that the ALC failed to address the issues he raised within his multiple filings with the ALC are completely without merit, because the ALC was not required to address every issue raised by the Appellant in his multiple filings.

Likewise, this Court may, pursuant to SCACR 220(c), affirm the ALC's July 29, 2009 order which affirmed SCDC's denial of the Appellant's prison industries back pay claim based upon the same material from the Record on Appeal, and, this Court need not address every

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<sup>30</sup> SCACR 220(c) is entitled "Affirmance on Any Ground Appearing in Record" and provides as follows:

The appellate court may affirm any ruling, order, decision or judgment **upon any ground(s) appearing in the Record on Appeal.** [emphasis supplied].

meritless point raised by the Appellant within his final brief. Accordingly, SCDC respectfully submits that this Court should deny the Appellant's appeal and affirm the ALC's ruling.

**B. SCDC DID NOT DENY THE APPELLANT ACCESS TO THE COURTS BY FAILING TO PROVIDE HIM WITH NOTICE OF THE DECISIONS IN *Adkins* AND *Wicker* OR BY THE MANNER IN WHICH IT MAINTAINS ITS LAW LIBRARIES**

In the fifth issue on appeal he identified within the April 14, 2010 final brief he submitted to this Court, the Appellant contended that SCDC denied him access to the courts and "knowledge" of a cause of action recognized in *Wicker*, because it discontinued the Southeastern Reporter in SCDC's libraries. Therefore, according to the Appellant's logic, the 15-day deadline by which he was required to file his administrative grievance designated as ECI-2087-05 did not apply. The Appellant also argues that SCDC should have notified him of the Supreme Court's decisions in *Adkins* and *Wicker* since SCDC posted a "Notice Flyer" after the Supreme Court's decision in *Williams*.<sup>31</sup>

Prisoners, like the Appellant, and other citizens, "are presumed to know the requirements of the law and act in conformity with them." *Terrell*, # 2345852 v. *S.C. Dep't of Corr.*, 2006 WL 1430146 (ALJD 2006). *See also American Legion Post 15 v. Horry County*, 381 S.C. 576, 674 S.E.2d 181, 185 (Ct. App. 2009) ("Citizens are presumed to know the law and are charged with exercising reasonable care to protect their interests.").

Moreover, the Appellant filed his Step 1 grievance over eight (8) years after he started participating in the prison industries project operated by SCDC at Evans in which ESCOD was the private industry sponsor, six (6) years after he concluded his participation in this project, and over 11 months after our Supreme Court issued its decisions in *Adkins* and *Wicker*. Therefore, under the authorities cited above, the Appellant was charged with knowledge of § 24-3-430(D),

---

<sup>31</sup> See note 11 above.

the so-called "prevailing wage" provision, *Adkins*, and *Wicker*, and, thus, SCDC did not have a duty to notify him of any provision of the law, or of any cases interpreting that law.

**C. THE ALC DID NOT ABUSE ITS DISCRETION BY NOT RESPONDING TO THE APPELLANT'S CORRESPONDENCE UNTIL AFTER THE ALC ISSUED ITS JUNE 29, 2009 ORDER BEARING DOCKET NUMBER 08-ALJ-04-00887-AP**

In the fourth issue on appeal he identified within the April 14, 2010 final brief he submitted to this Court, the Appellant contended that the ALC abused its discretion by purportedly not responding to inquiries he forwarded to the ALC after it issued his June 29, 2009 order.

The Appellant filed his brief in support of his appeal designated by the ALC Clerk of Court as 08-ALJ-04-00887-AP on or about January 20, 2009. According to the Appellant, he sent numerous letters to the ALC after he did not receive a file-stamped copy of his January 20, 2009 brief, and the Appellant further contended that the ALC did not respond to his inquiries regarding his January 20, 2009 brief until after it issued its June 29, 2009 order bearing docket number 08-ALJ-04-00887-AP. In addition, the Appellant contends that the ALC informed him that it had not received his January 20, 2009 brief.

However, by his above articulated argument, the Appellant failed to raise any issue for appellate review. Specifically, the Appellant failed to articulate how a purported lack of response from the ALC to his correspondence regarding whether or not the ALC received his January 20, 2009 brief, a brief in which the Appellant articulated nearly identical arguments to those he raised in the brief he originally submitted to the ALC in May 2006 regarding SCDC's denial of his administrative grievance designated as ECI-2087-05, affects the merits of the ALC's June 29, 2009 order bearing docket number 08-ALJ-04-00887-AP or otherwise

constitutes reversible error pursuant to § 1-23-610(B). Consequently, SCDC respectfully submits that this Court should deny the Appellant's appeal and affirm the ALC's ruling.

**D. THE APPELLANT'S ARGUMENT THAT HE SHOULD HAVE BEEN ALLOWED TO FILE A BRIEF WITH THE ALC IS MOOT IN LIGHT OF THE REALITY THAT HE ACTUALLY DID FILE A BRIEF WITH THE ALC IN SUPPORT OF HIS APPEAL**

Regarding the sixth issue on appeal he identified in the April 14, 2010 final brief he submitted to this Court, the Appellant contended that the order issued by this Court on October 13, 2008 authorized him to file a second appeal with the ALC after this Court remanded his appeal back to the ALC. Again, the ALC's original order dated July 17, 2008, which reflected ALC docket number 06-ALJ-04-0173-AP, remanded the Appellant's prison industries back pay claim back to SCDC with a directive to SCDC to precisely determine the chronology associated with when the Appellant voluntarily participated in the prison industries project at issue in relation to when the Appellant filed his administrative grievance. For some reason, therefore, the Appellant contends that he was required to submit his January 20, 2009 brief, pursuant to ALC Rule 60(A).

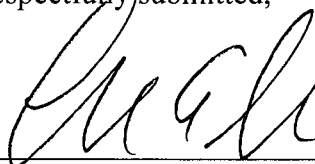
However, the Appellant's argument that he was entitled to file a brief to the ALC in support of his appeal designated as 08-ALJ-04-00887-AP is irrelevant, without merit, and, ultimately, moot, because the Appellant submitted a brief to ALC on or about January 20, 2009. Consequently, the Appellant's argument on this issue should be dismissed.

## CONCLUSION

Finally, in the section of the April 14, 2010 final brief he submitted to this Court entitled "Conclusion," the Appellant argued that he "was denied due process guaranteed by the 5th and 14th Amendments to the U.S. Constitution; and liberty and property interests created by S.C. Code Ann. § 24-3-430(D)." However, since the Appellant provided no authority in support of his conclusory argument that SCDC or any representative of SCDC denied him due process rights secured to him by the 5th and 14th Amendments to the United States Constitution, SCDC respectfully argues that the Appellant abandoned this issue in his instant appeal. *See In re McCracken*, 346 S.C. 87, 92, 551 S.E.2d 235, 238 (2001) (holding an issue is abandoned on appeal if the argument is not supported by authority or is conclusory).

As SCDC's above-provided analysis negates the Appellant's argument that he was denied liberty and property interests created by § 24-3-430(D), this Court should affirm the ALC's June 29, 2009 order bearing docket number 08-ALJ-04-00887-AP.

Respectfully submitted,



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Lake E. Summers  
Katherine A. Phillips  
**Malone, Thompson, Summers & Ott LLC**  
339 Heyward Street, Suite 200  
Columbia, South Carolina 29201  
Office: (803) 254-3300  
Fax: (803) 254-0309  
E-mail: summers@mtsolvlawfirm.com  
phillips@mtsolvlawfirm.com

Counsel for Respondent SCDC

Columbia, South Carolina  
May 27, 2010

From June 25, 1997 to August 9, 1999, I was employed at Evans Correctional Institution's Prison Industry.<sup>1</sup> For a designated period of time (determined by the amount of hours worked) [I] was paid a 'training pay' of .25¢ an hour, and then an increase to \$1.00 an hour. Most of my 'training pay' hours were completed during overtime hours when there was a high demand for products. After the stipulated training pay hours were met, my pay was increased to \$5.25 an hour. (Please See Attachment for Basis of Grievance). (R. p. \_\_\_\_).

By written response dated September 27, 2005, the warden at Evans CI denied the claim articulated by the Appellant in his Step 1 grievance, because the warden determined that the Appellant's Step 1 grievance was untimely. (R. p. \_\_\_\_). Specifically, the warden determined that the Appellant did not file his Step 1 grievance within the 15-day deadline established by paragraph 13.1 of the November 1, 2004 edition of SCDC's Inmate Grievance System Policy Number GA-01.12.<sup>2</sup>

The Appellant acknowledged receipt of the warden's written denial of his grievance on October 7, 2005, and the denial served upon the Appellant advised him that he could appeal the warden's decision within five (5) days of his receipt of the decision. (R. p. \_\_\_\_).

#### **B. THE APPELLANT'S STEP 2 APPEAL AND SCDC'S REPLY**

On or about October 10, 2005, the Appellant filed a Step 2 appeal by which he challenged the warden's denial of his Step 1 grievance. (R. p. \_\_\_\_). In his Step 2 appeal, the Appellant challenged the warden's conclusions that the Appellant was required to file his

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<sup>1</sup> SCDC respectfully argues that any claim by the Appellant that he "was employed" either by SCDC or by the private industry sponsor which participated in the prison industries project operated by SCDC at Evans CI, ESCOD, Inc., is flatly negated by the South Carolina Supreme Court's decision in *Williams, et al., v. S.C. Dep't of Corr. and Williams Technologies, Inc.*, 372 S.C. 255, 641 S.E.2d 885, 887 – 88 (2007).

<sup>2</sup> Policy Number GA-01.12 is the SCDC policy that establishes the procedure by which an inmate must file and prosecute an administrative grievance, and the edition of Policy Number GA-01.12 issued by SCDC on November 1, 2004 applied to the processing and adjudication of the Appellant's Step 1 grievance and Step 2 appeal. Paragraph 13.1 of the November 1, 2004 edition of Policy Number GA-01.12 provided as follows:

If an informal resolution is not possible, the grievant will complete Form 10-5, Step 1 ... and will submit the Form to an employee designated by the Warden (not the Inmate Grievance Coordinator) **within 15-days of the alleged incident. An Inmate will submit a grievance within the time frames established in this policy.** [emphasis supplied].

grievance within the 15-day deadline established by Policy Number GA-01.12. (R. p. \_\_\_\_).

Specifically, the Appellant contended that the 15-day deadline did not apply to his grievance, because his grievance fell within one of the exceptions to the 15-day deadline established by paragraph 13.9 of Policy Number GA-01.12.

By written decision dated January 13, 2006, SCDC's General Counsel, David M. Tatarsky, Esquire, denied the Appellant's Step 2 appeal, and, in affirming the denial of the Appellant's Step 1 grievance, SCDC's General Counsel concluded as follows: (R. p. \_\_\_\_).

As stated in the response to your Step 1 grievance, two (2) 2004 decisions of the South Carolina Supreme Court apply to both your Step 1 grievance and your Step 2 appeal, Adkins, et al. v. SCDC and Wicker v. SCDC. Both of these cases discussed S.C. Code Section 24-3-40, 24-3-310, et seq. and, specifically, 24-3-430(D). Therefore, contrary to the statements you made in your Step 2 appeal, Adkins and Wicker clearly apply to your grievance.

I conclude, after again reviewing your Step 1 grievance and your Step 2 appeal in light of Adkins, Wicker, the deadline established by paragraph 13.1 of Policy Number GA-01.12, and the exceptions to this deadline recognized by paragraph 13.9 of Policy Number GA-01.12, that you did not submit your Step 1 grievance by the deadline set forth in this policy.

The 15 day deadline established in this policy applies to nearly every aspect of inmate activity, and no special exception applies to prison industries pay disputes. Consequently, the 15 day deadline applies to your grievance.

Moreover, you filed your Step 1 grievance over eight (8) years after you first started participating in the project located at Evans CI, and nearly 11 months after the South Carolina Supreme Court issued Adkins and Wicker. Clearly, you exceeded any reasonable time frame associated with filing a grievance under SCDC's applicable policy.

**II. THE APPELLANT'S FIRST APPEAL TO THE ALC RELATED TO SCDC'S DECISION TO DENY HIS PRISON INDUSTRIES BACK PAY CLAIM, DESIGNATED BY THE ALC CLERK OF COURT AS 06-ALJ-04-00173-AP**

**A. THE ALC'S JULY 17, 2008 ORDER IN THE MATTER DESIGNATED AS 06-ALJ-04-00173-AP**

The Appellant appealed SCDC's decision to deny the prison industries back pay claim he articulated in his administrative grievance designated as ECI-2087-05 to the ALC. On or about May 2, 2006, the Appellant submitted a brief with supporting documents to the ALC in support of his appeal, which the ALC Clerk of Court's Office designated as docket number 06-ALJ-04-00173-AP. (R. pp. \_\_\_\_ - \_\_\_\_).

By an order dated and filed July 17, 2008, the ALC considered the Appellant's appeal of SCDC's decision to deny the prison industries back pay claim he articulated in his administrative grievance designated as ECI-2087-05. (R. pp. \_\_\_\_ - \_\_\_\_). Ultimately, the ALC neither affirmed nor reversed SCDC's denial of the Appellant's prison industries back pay claim. Instead, the ALC remanded the dispute back to SCDC with the following directive:

IT IS HEREBY ORDERED that [SCDC] **shall** determine if Appellant filed his grievance in the instant matter while he was employed under the prison industries program relating to the instant matter, or if Appellant filed his grievance within 15 days of the time he completed, terminated, or ceased employment under the prison industries program. [SCDC's] decision to deny Appellant's grievance **must be affirmed** if it is determined that Appellant did not file within the fifteen-day time period, as stated above. [emphasis supplied]. (R. p. \_\_\_\_).

**B. THE APPELLANT'S APPEAL OF THE ALC'S JULY 17, 2008 ORDER IN THE MATTER DESIGNATED AS 06-ALJ-04-00173-AP TO THIS COURT AND THIS COURT'S ORDER DATED OCTOBER 13, 2008**

The Appellant appealed the order issued by the ALC on July 17, 2008, an order which reflected ALC docket number 06-ALJ-04-00173-AP, to this Court, and, by an order dated and filed October 13, 2008, this Court transferred the Appellant's appeal of the ALC's July 17, 2008 order back to the ALC pursuant to South Carolina Appellate Court Rule ["SCACR"] 204. (R. pp. \_\_\_\_ - \_\_\_\_).

In its October 13, 2008 order, this Court determined that the ALC's July 17, 2008 order was not immediately appealable, because the ALC's order remanded the Appellant's prison

industries back pay claim back to SCDC with a directive to SCDC to precisely determine the chronology associated with when the Appellant voluntarily participated in the prison industries project at issue in relation to when the Appellant filed his administrative grievance. (R. p. \_\_\_\_). This Court also determined that, once SCDC made its determination regarding the chronology associated with the Appellant's back pay claim, the Appellant was entitled to "appeal again to the ALC." (R. p. \_\_\_\_). Thus, this Court declined to consider the merits of the Appellant's appeal of the ALC's July 17, 2008 order, and, instead, transferred the Appellant's appeal back to the ALC. (R. pp. \_\_\_\_ - \_\_\_\_).

**III. THE APPELLANT'S SECOND APPEAL TO THE ALC RELATED TO SCDC'S DECISION TO DENY HIS PRISON INDUSTRIES BACK PAY CLAIM, DESIGNATED BY THE ALC CLERK OF COURT AS 08-ALJ-04-00887-AP**

**A. THE APPELLANT'S SECOND NOTICE OF APPEAL**

After this Court issued its October 13, 2008 order transferring the Appellant's appeal of the ALC's July 17, 2008 order back to the ALC, the Appellant filed a second notice of appeal with the ALC on or about October 28, 2008. The ALC Clerk of Court assigned the following docket number to the Appellant's second appeal: 08-ALJ-04-00887-AP.<sup>3</sup> (R. p. \_\_\_\_).

In the second Notice of Appeal he filed with the ALC on or about October 28, 2008, the Appellant requested that the ALC, in light of the order issued by this Court on October 12, 2008, again consider his appeal of SCDC's decision to deny the prison industries back pay claim he raised in the grievance designated as ECI-2087-05, and, within this second Notice of Appeal, the Appellant argued as follows:

In violation of State statutory provisions, [SCDC] did not pay me the required wages during the period I worked for Evans C.I.'s Prison Industry, depriving me of state created liberty/property interests, thereby,

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<sup>3</sup> As a consequence of this action, the following two (2) ALC docket numbers correspond to the Appellant's appeal of SCDC's decision to deny the prison industries back pay claim raised by the Appellant in his administrative grievance designated as ECI-2087-05: 06-ALJ-04-173-AP and 08-ALJ-04-00887-AP.

denying me due process guaranteed by S.C. Const. Art. I. § 3, and U.S. Const. 14th Amendment. **I assert that the 15 day statute of limitations is not applicable in this case.** And the administrative findings prejudiced me, because it violates constitutional and statutory provisions; exceeds the statutory authority of the agency; arbitrary; and an abuse of discretion. [emphasis supplied]. (R. p. \_\_\_\_).

**B. SCDC'S RESPONSE TO THE ALC'S ORDER DATED JULY 17, 2008 IN LIGHT OF THIS COURT'S ORDER DATED OCTOBER 13, 2008**

In light of the order issued by this Court on October 13, 2008, SCDC, on December 29, 2008, filed materials with the ALC which were responsive to the directive issued by the ALC in its July 17, 2008 order. (R. pp. \_\_\_\_ - \_\_\_\_).

Specifically, SCDC supplemented the Record on Appeal with the Appellant's prison industries pay records. (R. pp. \_\_\_\_ - \_\_\_\_). These pay records reflected that the Appellant began voluntarily participating in the prison industries project operated by SCDC at Evans CI on or about August 29, 1997, and they also reflected that the Appellant's voluntary participation in the prison industries project ended on or about September 1, 1999. (R. p. \_\_\_\_ and p. \_\_\_\_).

As the Appellant filed his Step 1 grievance with SCDC on July 11, 2005, the Appellant's prison industries pay records confirmed that the Appellant filed his Step 1 grievance nearly eight (8) years after the Appellant began voluntarily participating in the prison industries project at issue and, critically, nearly six (6) years after the Appellant concluded his voluntary participation in the prison industries project at issue.

Thus, SCDC argued to the ALC that its decision to deny the prison industries back pay claim raised by the Appellant in his administrative grievance designated as ECI-2087-05 must be affirmed, because, under the terms of the ALC's July 17, 2008 order, SCDC demonstrated that the Appellant filed his grievance more than 15 days after he concluded his voluntary participation in the prison industries project operated by SCDC at Evans CI. (R. pp. \_\_\_\_ - \_\_\_\_).

**C. THE APPELLANT'S JANUARY 20, 2009 BRIEF IN SUPPORT OF HIS SECOND APPEAL TO THE ALC, DESIGNATED BY THE ALC CLERK OF COURT AS 08-ALJ-04-00887-AP**

In support of his second appeal to the ALC of SCDC's denial of the prison industries back pay claim he articulated in the grievance designated as ECI-2087-05, which the ALC Clerk of Court designated as docket number 08-ALJ-04-00887-AP, the Appellant filed his "Appellant's Brief" and allied documents with the ALC on or about January 20, 2009. (R. pp. \_\_\_\_ - \_\_\_\_). In his brief, the Appellant presented the following "Statement of Issues on Appeal:"

- 1) Does the 15 day [statute] of limitations apply to policy/procedure?
- 2) If I was denied access to the courts because of [SCDC's] discontinuation of needed law material, is the 15 day [statute] of limitation applicable?
- 3) Did SCDC's discontinuation of Southeastern Reporters deny me knowledge of a 'cause of action' created by Wicker vs. SCDC, 360 SC 421, 602 SE.2d 56 (2004) decision?
- 4) Does the notice given to me by prisoner Thomas Torrence, # 094651, constitute a cause of action?
- 5) Did the agency's failure to comply with South Carolina Code Annotation § 24-3-430(D)<sup>4</sup> deny me due process?
- 6) Am I entitled to prevailing, and overtime wages?
- 7) Is it legal for SCDC to create policy/procedure(s) that violates or conflicts with State [statutes] denying me the liberty/property interests created by the [statutes]? (R. p. \_\_\_\_).

In the portion of his brief entitled "Statement of the Case," the Appellant alleged the following:

July 22, 2008, I received Judge Matthews' FINAL ORDER (in the case of 06-ALJ-04-00173-AP) allowing the agency to determine if I filed my grievance timely. **If so, my grievance must be REVERSED; if not, the decision must be AFFIRMED.**

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<sup>4</sup> S.C. Code Ann. § 24-3-430(D) provides that "[n]o inmate participating in the [prison industries] program may earn less than the **prevailing wage** for work of similar nature in the private sector." [emphasis supplied].

August 22, 2008, I timely submitted a Notice of Appeal, and Motion [and] Affidavit To Proceed In Forma Pauperis, and Memo. In Support with the Court of Appeals, arriving on August 27/08. September 8/08 I was given notice of the assigned case tracking number. However, September 18/08, I received a letter from Deputy Clerk, Ms. V. Claire Allen, requesting a memo addressing the issue of appealability, which was timely submitted and received by the Ct. of App.s September 29/08.

An ORDER was issued October 13, 2008, and received by me on October 15/08 holding that “. . . the ALC’s order was not immediately appealable as it merely remanded the matter to [SCDC].” *Id.* But since [SCDC] has now ruled, I am entitled to reappeal to the ALC. *Id.* With that being so, I timely submitted a notice of appeal, filed Oct. 28/08, and assigned, again, to Judge Matthews on November 13, 2008. [emphasis supplied]. (R. p. \_\_\_\_).

In the section of his brief entitled “Argument,” the Appellant separately addressed each of the issues he presented in his “Statement of Issues on Appeal.” In support of his first argument,<sup>5</sup> the Appellant articulated the following:

Section (§) 13.10 of SCDC Policy, GA-01.12, “Inmate Grievance System” (July 1, 2008), states, in part, that “[e]xceptions to the 15 day time limit requirement will be made for grievances concerning Policy/Procedure.”

SCDC has been paying prisoners [employed] in Evans Prison Industry (P.I.) minimum wage since at least 1997 (the year of my employment), and still does to date, . . . over 11 years later. (see EXHIBIT A). As EXHIBIT A reveals, the payment of minimum wage at [Evans CI] P.I. is policy/procedure, which is an exception to the 15 day limitations requirement established by SCDC grievance policy, *supra*, at § 13.10.<sup>6</sup> Therefore I request that SCDC’s decision be REVERSED, and relief sough, granted. (R. pp. \_\_\_\_ - \_\_\_\_).

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<sup>5</sup> Echoing the first issue on appeal he identified to the ALC, the Appellant prefaced his first argument as follows: “The 15 day [statute] of limitations does not apply to SCDC policy/procedure.”

<sup>6</sup> Paragraph 13.10 of the January 1, 2006 edition of Policy Number GA-01.12 provided exceptions to the 15-day deadline. The November 1, 2004 edition of Policy Number GA-01.12 was in effect when the Appellant filed his Step 1 grievance. Paragraph 13.9 of the November 1, 2004 edition provided the following exceptions to the 15-day deadline:

Exceptions to the 15-day time limit requirement will be made for grievances concerning policies/procedures. Exceptions may also be made for incident grievances by the Chief/designee, Inmate Grievance Branch, provided that documented reasonable cause can be demonstrated as to why the original time frame was not met, e.g., inmate physically unable to initiate grievance due to hospitalization, court appearance, etc. The waiver must be requested by the grievant.

In support of his second argument,<sup>7</sup> the Appellant articulated the following:

The agency is relying on two (2) cases [Adkins], and [Wicker] that it and/or the General Counsel has/have denied me access to. Adkins et. al and Wicker are 2004 cases that are contained in 602 SE 2d. However, the last Southeastern Reporter received by ECI's institutional law library is 578, 2nd edition, (see EXHIBIT B). The agency's decision to discontinue Southeastern Reporters for its institutional law libraries denied me access to the courts by the fact that I had no way of knowing about Wicker, nor Adkins et. al.

The decision of Wicker created a 'cause of action' enabling me to file a grievance at that time, but as stated above, I could not have known. For that reason, the 15 day [statute] of limitation is inapplicable, and the relief sought should be granted. (R. p. \_\_\_\_).

In support of his third argument,<sup>8</sup> the Appellant articulated the following:

For the sake of judicial economy, I incorporate here, verbatim, the argument presented in issue 2a above. Further, Rumpf v. Massechusetts Mut. 357 SC 386, 593 SE2d. 183 (2004) ("Under the discovery rule, a cause of action accrues for purposes of the [statute] of limitations when a plaintiff has notice that he might have a remedy for a harm."). Here I was denied that notice. (R. pp. \_\_\_\_ - \_\_\_\_).

In support of his fourth argument,<sup>9</sup> the Appellant articulated the following:

I was [a part] of a class action suit in relation to P.I.'s prevailing wage (Torrence, Ward et. al v. SCDC, and the State of South Carolina, C/A # 01-CP-40-3409),<sup>10</sup> however, in July, 2005, before my transfer from Lieber C.I., Torrence, #094651, informed me that the case might be dismissed, so I should file a grievance concerning the prevailing wages. So days later, I filed my initial grievance, (July 11, 2005).

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<sup>7</sup> Echoing the second issue on appeal he identified to the ALC, the Appellant prefaced his second argument as follows: "The [statute] of limitations is inapplicable because SCDC denied me access to the courts by discontinuing needed law material."

<sup>8</sup> Echoing the third issue on appeal he identified to the ALC, the Appellant prefaced his third argument as follows: "[SCDC'S] discontinuation of Southeastern Reporters denied me knowledge of a cause of action created by Wicker's decision."

<sup>9</sup> Echoing the fourth issue on appeal he identified to the ALC, the Appellant prefaced his fourth argument as follows: "The notice given to me by T. Torrence constitute a cause of action."

<sup>10</sup> The Appellant referenced the South Carolina Supreme Court's opinion in *Torrence v. S.C. Dep't of Corr.*, 373 S.C. 586, 646 S.E.2d 866 (2007).

In June, 2007 (almost 2 yrs. after filing my initial grievance; and more than 1 yr. after I filed my brief in [the ALC]) I received a letter from Torrence's lawyer, Ms. Helen T. McFadden, Esquire, informing me that she told Torrence and Ward to inform us to "... file a Wicker type claim ...". (see EXHIBIT C). So as advised by his lawyer, Torrence advised me to do so – a cause action.

Unlike in this instance, a notice was posted at ECI on 10-20-08 concerning a class action lawsuit filed by Darryl Williams on behalf of prisoners currently participating in, or once participated in the SCDC/Williams Technologies, Inc. P.I. Project at Lieber CI.<sup>11</sup> (see EXHIBIT D). The suit was dismissed relying on Adkins et. al. and Wicker, but the notice states, in part, that "[i]nmates who participate or participated in this project may, if they have not already done so, file Step 1 grievances and Step 2 appeal against SCDC ...". emphasis added. This is the same scenario as with my case ... my grievance was filed before I was legally notified that I should. (see EXHIBIT C). The same legal principle applies. Therefore, the SCDC's decision should be REVERSED, and relief sought, granted. (R. pp. \_\_\_\_ - \_\_\_\_).

In support of his fifth argument,<sup>12</sup> the Appellant articulated the following:

South Carolina Code Ann. § 24-3-430(D) states that "[n]o inmate participating in the program may earn less than the prevailing wage for work of similar nature in the private sector." This [statute] is perfectly clear in its language, creating liberty/property interest in the wages I seek. The denial of said wages denied me the protection of liberty and property interests created by the state, and protected under due process – state and federal constitutions. Therefore, the SCDC's decision should be REVERSED, and relief granted. (R. p. \_\_\_\_).

In support of his sixth argument,<sup>13</sup> the Appellant articulated the following:

Wicker did not seek prevailing wages. He sought minimum wage for the training pay hours. That is not my request. I seek to be paid the

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<sup>11</sup> By referencing "a notice was posted," the Appellant referenced a "Notice Flyer" consisting of a two (2) page document posted throughout SCDC institutions by SCDC officials in October 2008. SCDC posted this two (2) page document pursuant to the order of dismissal issued by the circuit court in *Williams v. S.C. Dept. of Corr. and Williams Technologies, Inc.*, 372 S.C. 255, 641 S.E.2d 885 (2007). As stated in the very last point of this posting's first page, "[t]he information and deadline appearing on this notice apply only to inmates who participate or at one time participated in the SCDC/Williams Technologies PI project located at [Lieber Correctional Institution]." Obviously, the Appellant did not participate in any prison industries project operated by SCDC at Lieber CI.

<sup>12</sup> Echoing the fifth issue on appeal he identified to the ALC, the Appellant prefaced his fifth argument as follows: "The Agency's failure to comply with South Carolina code annotation § 24-3-430(D) denied me due process."

<sup>13</sup> Echoing the sixth issue on appeal he identified to the ALC, the Appellant prefaced his sixth argument as follows: "I am entitled to prevailing and overtime wages."

prevailing wages paid to the private sector for similar work done by me while [employed] at P.I. as required by S.C. Code Ann. §24-3-430(D).

I am entitled to overtime wages, because SCDC paid me overtime (time & ½) of \$7.86 based on the \$5.25 hourly wage. So if SCDC would have complied with § 24-3-430(D) initially, my overtime pay would have been based on the prevailing hourly wage.

[SCDC's] failure to comply with S.C. Code Ann. § 24-3-430(D) denied me due process guaranteed by the 14th Amendment to the U.S. Constitution, and Article I § 3 of the S.C. Constitution. Therefore, the SCDC's decision should be REVERSED, and relief sought, granted. (R. pp. \_\_\_\_ - \_\_\_\_).

In support of his seventh and final argument,<sup>14</sup> the Appellant articulated the following:

South Carolina Code Annotation § 24-1-30<sup>15</sup> states: "There is hereby created as an administrative agency of the State government the Department of Corrections. The functions of the Department shall be to implement and carry out the policy of the State with respect to its prison system, as set forth in § 24-1-20,<sup>16</sup> and the performance of such other duties and matters as may be delegated to it pursuant to law."

Administrative agencies are required to formulate and promulgate rules and regulations governing their activities and the activities of those whom they regulate. However, ALL agencies must comply with the [statutes] that originally brought them into existence. Here legislation, has not given [SCDC] power to create policies/procedures that conflicts with state law. (see § 24-1-30 supra). The agency may not confer power upon itself. Louisiana Public Service Com'n v. F.C.C., \_\_\_\_ US \_\_\_\_, 106 S.Ct. 1890, 1901 (1986).

Therefore, SCDC, in this instance, has acted beyond its authority. For that reason, I ask that the wages I seek be granted, reversing the agency's decision. (R. pp. \_\_\_\_ - \_\_\_\_).

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<sup>14</sup> Echoing the seventh issue on appeal he identified to the ALC, the Appellant prefaced his seventh argument as follows: "It is illegal for SCDC to create policy/procedure that violates (or overrides) state [statute]."

<sup>15</sup> Section 24-1-30 is entitled "Department of Corrections created; functions."

<sup>16</sup> Section 24-1-20 is entitled "Declaration of policy," and provides as follows:

It shall be the policy of this State in the operation and management of the Department of Corrections to manage and conduct the Department in such a manner as will be consistent with the operation of a modern prison system, and with the view of making the system self-sustaining, and that those convicted of violating the law and sentenced to a term in the State Penitentiary shall have humane treatment, and be given opportunity, encouragement and training in the matter of reformation.

In the section of his brief entitled "Conclusion," the Appellant offered the following general demand for relief:

As shown above, I was denied due process guaranteed by the 5th, and 14th Amendments to the U.S. Const.; and liberty and property interests created by S.C. Code Ann. § 24-3-430(D).

For such, I request to be paid the difference between the wages actually paid to me, and the prevailing wages that should have been paid to me for each hour, and fraction of an hour, worked by me, to include the overtime wages, and the interest earned on same wages. (R. p. \_\_\_\_).

**IV. THE ORDERS ISSUED BY THE ALC IN JUNE 2009 REGARDING THE APPELLANT'S GRIEVANCE DESIGNATED AS ECI-2087-05**

**A. THE ALC'S JUNE 2, 2009 ORDER, BEARING DOCKET NUMBER 06-ALJ-04-00173-AP, WHICH AFFIRMED SCDC'S DENIAL OF THE APPELLANT'S PRISON INDUSTRIES BACK PAY CLAIM**

By an order issued June 2, 2009 and bearing docket number 06-ALJ-04-00173-AP, the ALC denied the Appellant's appeal of SCDC's decision to deny the prison industries back pay claim raised by the Appellant's grievance designated as ECI-2087-05. (R. pp. \_\_\_\_ - \_\_\_\_).

The ALC accepted the argument articulated by SCDC in its December 29, 2008 filing that the Appellant failed to timely file his Step 1 grievance under the provisions of Policy Number GA-01.12 by ruling as follows:

This matter was dismissed by final order dated June 17, 2008 on the basis that the Department was to determine if the Appellant filed his grievance in the instant matter while he was employed under the prison industries program or within fifteen days of the time he completed, terminated, or ceased employment under the prison industries program. That Order was appealed to the South Carolina Court of Appeals. **In the Department's memorandum to the South Carolina Court of Appeals, it informs them that Appellant'[s] last day of work in the prison industries was many years prior to his filing of a grievance and therefore was not timely.**

This matter is now before me pursuant to an Order dated October 13, 2008 which remitted this case to the ALC from the South Carolina Court of Appeals. Based on the Department's memorandum, this appeal must be

dismissed because Appellant failed to file his grievance in the instant matter while he was employed under the prison industries program, or within fifteen days of the time he completed, terminated, or ceased employment under the prison industries program.

The Supreme Court of South Carolina has unequivocally held in Wicker v. South Carolina Dep't of Corrections, 360 S.C. 421, 602 S.E.2d 56 (2004) that: (1) an inmate is entitled to file a grievance when not being paid the prevailing wage; (2) the ALC has jurisdiction to review the Department's failure to pay the prevailing wage; and, (3) an inmate is entitled to be paid the prevailing wage while working in the private sector program. Id. at 421, 602 S.E.2d at 56.

In addition to the requirement that an inmate must file a grievance within fifteen days of an alleged incident, SCDC Policy Number GA-01-12, paragraph 13.1 states that "[i]nmates will only be allowed to submit one grievance per incident or circumstance." [emphasis supplied]. (R. pp. \_\_\_\_ - \_\_\_\_).

**B. THE ALC'S JUNE 29, 2009 ORDER, BEARING DOCKET NUMBER 08-ALJ-04-00887-AP, WHICH AFFIRMED SCDC'S DENIAL OF THE APPELLANT'S PRISON INDUSTRIES BACK PAY CLAIM**

By a subsequent and nearly identical order issued June 29, 2009, and bearing docket number **08-ALJ-04-00887-AP**, the ALC again denied the Appellant's appeal of SCDC's decision to deny the prison industries back claim. (R. pp. \_\_\_\_ - \_\_\_\_).

The ALC again accepted the argument articulated by SCDC in its December 29, 2008 filing that the Appellant failed to timely file his Step 1 grievance under the provisions of Policy Number GA-01.12 by ruling as follows:

This matter was remanded to the Department on July 17, 2008 to determine if the Appellant filed his grievance in the instant matter while he was employed under the prison industries program or within fifteen days of the time he completed, terminated, or ceased employment under the prison industries program. The Record on Appeal was supplemented on December 29, 2008. **In the record, it appears that Appellant failed to file his step one grievance six years after his last day of work in the prison industries. Therefore, Appellant's Appeal was untimely.**

Based on the Record on Appeal, this appeal must be dismissed because Appellant failed to file his grievance in the instant matter while he was

employed under the prison industries program, or within fifteen days of the time he completed, terminated, or ceased employment under the prison industries program.

The Supreme Court of South Carolina has unequivocally held in Wicker v. South Carolina Dep't of Corrections, 360 S.C. 421, 602 S.E.2d 56 (2004) that: (1) an inmate is entitled to file a grievance when not being paid the prevailing wage; (2) the ALC has jurisdiction to review the Department's failure to pay the prevailing wage; and (3) an inmate is entitled to be paid the prevailing wage while working in the private sector program. Id. at 421, 602 S.E.2d at 56.<sup>17</sup>

In addition to the requirement that an inmate must file a grievance within fifteen days of an alleged incident, SCDC Policy Number GA-01-12, paragraph 13.1 states that "[i]nmates will only be allowed to submit one grievance per incident or circumstance." [emphasis supplied]. (R. pp. \_\_\_\_ - \_\_\_\_).

**V. THE APPELLANT'S INSTANT APPEAL TO THIS COURT OF THE ALC'S JUNE 29, 2009 ORDER, BEARING DOCKET NUMBER 08-ALJ-04-00887-AP, HIS RECORD ON APPEAL, AND HIS APRIL 14, 2010 FINAL BRIEF**

The Appellant submitted his Notice of Appeal of the ALC's second order, issued June 29, 2009 and bearing docket number 08-ALJ-04-00887-AP, to this Court on or about July 29, 2009.<sup>18</sup> (R. p. \_\_\_\_).

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<sup>17</sup> The ALC has also affirmed SCDC's application of the 15-day filing deadline established by paragraph 13.1 of Policy Number GA-01.12 in the following cases, all of which involved prison industries back pay claims raised by SCDC inmates:

- *Cramer*, #251406, v. SCDC, ALC Docket No. 08-ALJ-04-00577-AP;
- *Daughtry*, #250139, v. SCDC, ALC Docket No. 04-ALJ-00783-AP;
- *Grimmett, Jr.*, #102226, v. SCDC, ALC Docket No. 05-ALJ-04-00757-AP;
- *Larrimore*, #238126, v. SCDC, ALC Docket No. 09-ALJ-04-00470-AP;
- *McLemore*, #127966, v. SCDC, ALC Docket No. 09-ALJ-04-00023-AP;
- *Manigault*, #280550, v. SCDC, ALC Docket No. 05-ALJ-04-00756-AP;
- *Pipkin*, #283616, v. SCDC, ALC Docket No. 05-ALJ-04-00733-AP;
- *Sapp*, #218694, v. SCDC, ALC Docket No. 05-ALJ-04-00732-AP;
- *Sumter*, #242379, v. SCDC, ALC Docket No. 05-ALJ-04-00749-AP;
- *Smiley*, #262734, v. SCDC, ALC Docket No. 08-ALJ-04-00571-AP.
- *Wright*, #200123, v. SCDC, 2001 WL 1430140 (ALJD 2006);
- *Williams*, #187203, vs. SCDC, ALC Docket No. 06-ALJ-04-622-AP.

<sup>18</sup> No material exists within the Record on Appeal submitted by the Appellant to this Court in the instant matter that the Appellant ever filed a Notice of Appeal regarding the ALC's first order dated June 2, 2009 and bearing docket number 06-ALJ-04-00173-AP.

On or about March 22, 2010, the Appellant submitted his "Record on Appeal" to this Court in support of his appeal of the ALC's July 29, 2009 order. (R. pp. \_\_\_\_ - \_\_\_\_).

The Appellant filed his "Final Brief" with this Court on or about April 14, 2010, and the Appellant articulated the following "Statement of Issues on Appeal" in his "Final Brief," which are either identical or very similar to the issues he identified within the brief he filed with the ALC on or about January 20, 2009:<sup>19</sup>

- 1) Did the ALC [err] in upholding the agency's claim that the 15 day [statute] of limitations applies in this case?
- 2) Does the 15 day [statute] of limitations apply in this case?
- 3) Did the ALJ Abuse her discretion by not addressing the points/issues of the Appellant's brief in her final order?
- 4) Did the ALC Abuse its discretion by [not] responding to appellant's inquiries after the issuing of the final order?
- 5) Did [SCDC] deny me access to the courts by denying me knowledge of causes of action in Wicker v SCDC, and Adkins et.al. v. SCDC by discontinuing needed law materials from institutional law libraries?
- 6) Was appellant entitled to submit a brief in this case?

In the portion of his brief entitled "Statement of the Case,"<sup>20</sup> the Appellant argued as follows:

Appellant (I) filed Step 1 grievance July 11/05. October 7/05, denial was received stating that [Adkins], nor [Wicker] required that I nor any other "inmate" in my "position" be paid overtime wages, and that grievance was not timely filed. Step 2 was timely filed, and its denial was received January 24/06. Notice of Appeal was timely submitted, and was filed February 22/06 with the ALC. A FINAL ORDER, filed July 17/08, ordered SCDC to make a determination that was not included in its brief. August 22, 2008, I appealed to the S.C. Court of Appeals; but in an Oct. 13/08 ORDER, the Court determined that the case was not appealable, and allowed me to appeal again to the ALC. The ALC filed my Notice of

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<sup>19</sup> See pp. 7 – 8 above.

<sup>20</sup> See Appellant's April 14, 2010 Brief, pp. 1 – 2.

Appeal Oct. 28/08, and assigned it to Judge Matthews. She issued a FINAL ORDER dismissing my case. I timely appealed to the S.C. Court of Appeals, and received by the Court August 3/09. I later requested an extension, and was given to January 4/10. But because of Evans C.I.'s warden's abuse(s), I missed my deadline, but I submitted a motion to reinstate my case on Jan. 21/10. On February 1, 2010, an Order was issued construing my Motion to Reinstate as a motion for an extension giving me to March 4, 2010 to serve and file Initial Brief and Designation of Matters on Appeal.

Much like he did in the brief he submitted to the ALC on or about January 20, 2009, the Appellant, in the portion of his brief to this Court entitled "Argument," separately argued each of his six (6) "Statements of Issue on Appeal." The Appellant, with regard to his first issue on appeal,<sup>21</sup> argued as follows:

I asserted (as I do now) that the 15 day [statute] of limitations does not apply in this case for the following reasons:

In my Appellant's Brief (08-ALJ-04-00887-AP). . . I argued that the rate of pay paid to Evans Correctional Institution's (ECI's) prison industry (PI) workers is policy/procedure practiced by [SCDC], and proven to be so with evidence from P.I.'s SCDC official who stated that " . . . the Federal min wage Rate is \$6.55/hr." and that they " . . . Comply with all Federal Wage Requirements." . . .

Pursuant to SCDC inmate (I/M) Grievance System policy, GA 01.12, § 13.10 (July 1/08), "[e]xceptions to the 15 day time limit requirement will be made for grievances concerning policy/procedure." (emphasis added). Therefore, I asserted (as I do here) that the 15 day [statute] of limitations is inapplicable. (*Id.*)

In Point 2a . . . , I argued (as I do now) that SCDC denied me access to the courts by discontinuing needed law material. It points out that respondent relied on Adkins et al., and Wicker – two (2) cases that were not available to ECI's prison population. . . . As shown, the last Southeastern Reporter received by ECI's law library is 578. And with Adkins et. al., and Wicker being in 602 Southeastern Reporter, I had no way of knowing the decisions of Adkins et. al., nor Wicker. And as substantiated by SCDC/General Counsel, Adkins et. al. & Wicker were causes of action . . . that SCDC denied me the knowledge of.

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<sup>21</sup> Echoing the first issue on appeal he identified to this Court, the Appellant prefaced his first argument as follows: "The ALJ erred [sic] by upholding the Agency's clam that the 15 day [statute] of limitations applies to this case." See Appellant's April 14, 2010 Brief, pp. 2 – 3.

Point/issue 3a simply provided case law supporting the cause of action in point/issue 2a supra. . . .

Point/issue 4a . . . revealed that I was also [a part] of a class action in the case of Torrence, Ward et. al. v. SCDC & the State of South Carolina,<sup>22</sup> C/A# 01-CP-40-3409. . . . And evidence that I did not have in the case of 06-ALJ-04-00173-AP to prove this point was presented in this case. . . . I argued that it also was a cause of action. I gave an example of a cause of action initiated by Darryl Williams' class action against Williams Technologies Inc. at Lieber Corr. Inst<sup>23</sup>. . . . I argued that the scenarios were similar (with the exception of me filing my grievance as informed by T. Torrence long before I received the letters from Ms. McFadden.)

So as shown by the arguments readdressed above, the 15 day [statute] of limitations does not apply in this case.

The Appellant, with regard to his second issue on appeal,<sup>24</sup> argued as follows:

For the sake of judicial economy, I incorporate here, verbatim, the argument presented in issue 1a supra.

With regard to his third issue on appeal,<sup>25</sup> the Appellant argued as follows:

In an order from the S.C. Court of Appeals filed Oct. 13/08 concerning the [appealability] of case # 06-ALJ-04-00173-AP, I was “. . . entitled to appeal again to the ALC,” because “. . . the Department . . . “had finally ruled. . . . October 28/08, my Notice of Appeal was filed with the ALC, and assigned a new docket number. . . . On January 20/09, I deposited my brief into the institutional mailbox. . . . However, instead of addressing the points of my brief, the ALJ only addressed respondent's [statute] of limitations claim that was supplemented Dec. 29/08. . . .

Because I was allowed to appeal again to the ALC, and given a new docket #, I was entitled, . . . REQUIRED! to submit a new brief. (see ALC Rules § V. Special Appeals # 60(A) which states in part that “[u]nless

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<sup>22</sup> See note 10 above.

<sup>23</sup> See note 11 above.

<sup>24</sup> Echoing the second issue on appeal he identified to this Court, the Appellant prefaced his second argument as follows: “Does the 15 day [statute] of limitations apply in this case?” See Appellant's April 14, 2010 Brief, pp. 3 – 4.

<sup>25</sup> Echoing the third issue on appeal he identified to this Court, the Appellant prefaced his third argument as follows: “The ALJ Abused her discretion by not addressing the issues of Appellant's Brief in her Final Order.” See Appellant's April 14, 2010 Brief, pp. 4 – 5.

otherwise ordered, the party first noticing the appeal shall file an original brief within sixty-five (65) days after the date of assignment.” (emphasis added). (Note that there was not an order issued otherwise.)

In my brief, I addressed the same points/issues I argued in my previous case . . . with two (2) additional points/issues . . . ; evidence NOT PREVIOUSLY AVAILABLE . . . I assert that all seven (7) points have merit, and should have been addressed by Judge Matthews in her final order.

At this point, for the sake of judicial economy, I incorporate here, verbatim, the argument presented in point/issue 1a supra.

As shown, all seven (7) points/issues addressed supra have substantially more merit than the respondent’s claim. But yet, the ALJ saw fit to disregard them all, thereby, abusing her discretion, denying me due process.

The Appellant argued as follows regarding his fourth issue on appeal:<sup>26</sup>

My filing deadline fell on a weekend, therefore, I had to mail it the following business day. Monday, Jan. 19th/09 was an official holiday, so Tuesday, Jan. 20th/09 was the next business day. But when I reported to the mailroom, it was closed. Not knowing whether inauguration day was an official holiday, I added the last sentence to my certificate of service, and placed my Appellant’s Brief in the institutional mailbox. . . . After weeks of not receiving my return copy, I forwarded a letter of inquiry dated Feb. 16/09, but mailed Feb. 17/09. After no response, I sent a second letter of inquiry dated April 3/09. . . . AGAIN!, after no response on June 15/09, I sent a third letter of inquiry. . . But I still did not receive my return copy – not even a response. Then on or about June 30th/09, I received the FINAL ORDER dismissing my case. But then finally, approx. 16 days AFTER receiving my case’s dismissal, and five (5) months AFTER my first inquiry, on July 16/09, I received an unsigned (unofficial) memo from the “Clerk’s Office” stating that there “is not a copy of a brief filed.” . . .

I assert that the ALC purposely delayed its response to my inquiries. And because of it, I might have been unjustly denied redress. However, I am of the opinion that had Judge Matthews not received my brief, she would have dismissed my case on that basis. (see ALC Rules, § V. Special Appeals # 60(A) & 62). Additionally, opposing counsel would have motioned to have my case dismissed. Again, my opinion.

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<sup>26</sup> Echoing the fourth issue on appeal he identified to this Court, the Appellant prefaced his fourth argument as follows: “The ALC Abused its discretion by not responding to my inquiries after the issuing of the final order.” See Appellant’s April 14, 2010 Brief, pp. 5 – 6.

I do not know whether there was a conspiracy or not, but I know that proper procedure was not followed. And for that reason, I was denied due process.

The Appellant then argued as follows regarding his fifth issue on appeal:<sup>27</sup>

For the sake of judicial economy, I incorporate here, verbatim line 21 (ln. 22 of initial brief) of page two (2) thru to line 5 (ln. 6 of initial brief) of page three (3) supra.

Therefore, SCDC/General Counsel denied me access to the courts in relation to this matter.

Finally, the Appellant argued as follows regarding his sixth issue on appeal:<sup>28</sup>

Because the South Carolina Court of Appeals allowed me to appeal again to the ALC, it allowed me to reargue my case. My case was given a new docket number (08-ALJ-04-00887-AP), an assigned date, an assigned judge, and I was forwarded the court rules for special appeals. Also, there was not an order enclosed stating that I could not submit a brief in this case. Therefore, I adhered to the rules. And Rule 60(A) states in part that “. . . . the party first noticing the appeal shall file an original brief within sixty-five (65) days after the date of assignment.” (emphasis added). Therefore, I was entitled, . . . REQUIRED to submit a brief.

In the section of his brief entitled “Conclusion,” the Appellant offered the following general demand for relief:

As shown, I was denied due process guaranteed by the 5th and 14th Amendments to the U.S. Constitution; and liberty and property interests created by S.C. Code Ann. § 24-3-430(D). For such, I request that the ALJ’s decision be REVERSED, and that I be paid the difference between the wages actually paid to me, and the prevailing wages that should have been paid to me for each hour, and fraction of an hour worked by me, to include the overtime wages, and the interest earned on same wages. And any other relief that the Court deems warranted.

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<sup>27</sup> Echoing the fifth issue on appeal he identified to this Court, the Appellant prefaced his fifth argument as follows: “SCDC denied me access to the courts by denying me knowledge of causes of action in Wicker, and Adkins et al. by discontinuing needed law material from institutional law libraries?” See Appellant’s April 14, 2010 Brief, p. 6.

<sup>28</sup> Echoing the sixth issue on appeal he identified to this Court, the Appellant prefaced his sixth argument as follows: “I was entitled to submit a brief in this case.” See Appellant’s April 14, 2010 Brief, pp. 6 – 7.

## STANDARD OF REVIEW

In *S.C. Dep't of Corr. v. Mitchell*, 377 S.C. 256, 258, 659 S.E.2d 233, 234 (Ct. App. 2008), this Court recognized that S.C. Code Ann. § 1-23-610 (1976 as amended) establishes the appropriate standard of review for its consideration of a decision by the ALC concerning an appeal from an administrative agency. Section 1-23-610(B) provides that:

The review of the administrative law judge's order must be confined to the record. The court may not substitute its judgment for the judgment of the administrative law judge as to the weight of the evidence on questions of fact. The court of appeals may affirm the decision or remand the case for further proceedings; or, it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

## ARGUMENT

### **I. THE ALC PROPERLY AFFIRMED SCDC'S DECISION TO DENY THE APPELLANT'S PRISON INDUSTRIES BACK PAY CLAIM BY CONCLUDING THAT THE APPELLANT FAILED TO FILE HIS GRIEVANCE WITHIN THE 15-DAY FILING DEADLINE ESTABLISHED BY PARAGRAPH 13.1 OF THE NOVEMBER 1, 2004 EDITION OF POLICY NUMBER GA-01.12**

SCDC addresses the first two (2) issues identified by the Appellant in his April 14, 2010 final brief to this Court immediately below.

#### **A. KEY PARAGRAPHS FROM THE ALC'S JUNE 29, 2009 FINAL ORDER**

In its June 29, 2009 order, the ALC affirmed SCDC's denial of the Appellant's prison industries back pay claim as follows:

In the record, it appears that Appellant failed to file his step one grievance six years after his last day of work in the prison industries. Therefore, Appellant's Appeal was untimely.

Based on the Record on Appeal, this appeal must be dismissed because Appellant failed to file his grievance in the instant matter while he was employed under the prison industries program, or within fifteen days of the time he completed, terminated, or ceased employment under the prison industries program.

The Supreme Court of South Carolina has unequivocally held in Wicker v. South Carolina Dep't of Corrections, 360 S.C. 421, 602 S.E.2d 56 (2004) that: (1) an inmate is entitled to file a grievance when not being paid the prevailing wage; (2) the ALC has jurisdiction to review the Department's failure to pay the prevailing wage; and (3) an inmate is entitled to be paid the prevailing wage while working in the private sector program. Id. at 421, 602 S.E.2d at 56.<sup>29</sup>

In addition to the requirement that an inmate must file a grievance within fifteen days of an alleged incident, SCDC Policy Number GA-01-12, paragraph 13.1 states that "[i]nmates will only be allowed to submit one grievance per incident or circumstance." (R. pp. \_\_\_\_ - \_\_\_\_).

**B. OUR SUPREME COURT'S DECISIONS IN *Al-Shabazz* AND *Wicker* ESTABLISHED THAT THE APPELLANT'S CLAIM FELL UNDER THE 15-DAY FILING DEADLINE PROVIDED IN POLICY NUMBER GA-01.12**

As properly determined by the ALC, our Supreme Court's decision in *Wicker v. S.C. Dep't of Corr.*, 360 S.C. 421, 602 S.E.2d 56 (2004), as well as its decision in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000), establish that the prison industries back pay claims articulated by the Appellant in his Step 1 grievance and Step 2 appeal fall under the 15-day filing deadline provided in paragraph 13.1 of the November 1, 2004 edition of Policy Number GA-01.12. Paragraph 13.1 of the November 1, 2004 edition of Policy Number GA-01.12 required that inmates file Step 1 grievances "**within 15 days of the alleged incident.**" [emphasis supplied].

In *Wicker*, our Supreme Court considered the proper method by which an inmate may litigate a prison industries back pay claim. In *Wicker's* companion case, *Adkins v. S.C. Dep't. of*

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<sup>29</sup> See note 17 above.

*Corr.*, 360 S.C. 413, 602 S.E.2d 51 (2004), our Supreme Court held that inmates do not possess a private right of action in circuit court under the applicable prison industries statutes by which to litigate prison industries back pay claims. Instead, the *Wicker* Court, 602 S.E.2d at 57, held as follows:

However, simply because *Wicker* may not file a civil claim for damages in circuit court does not mean he is without any remedy. There are numerous issues relating to inmates which, although not giving rise to a private, civil cause of action, **are nonetheless grievable through [SCDC's] internal grievance processes**. ... Accordingly, we hold that although *Wicker* has no claim for civil damages, he properly filed a grievance with [SCDC]. [emphasis supplied].

Thus, the *Wicker* Court directed inmates to pursue their prison industries back pay claims through SCDC Policy Number GA-01.12.

Furthermore, the *Wicker* Court, 602 S.E.2d at 57, after examining *Al-Shabazz*, held that SCDC's adjudication of an inmate's grievance articulating a prison industries back pay claim is reviewable by the ALC.

In *Al-Shabazz*, our Supreme Court considered whether an inmate may challenge an internal disciplinary action through a post conviction relief action. The *Al-Shabazz* Court, 527 S.E.2d at 754, held that SCDC's decisions concerning non-collateral or administrative matters, such as inmate disciplinary matters, are reviewable by the ALC. In reaching this holding, the *Al-Shabazz* Court, 527 S.E.2d at 751 – 52, reviewed the internal process by which SCDC adjudicated inmate disciplinary infractions. As recognized by the *Al-Shabazz* Court, 527 S.E.2d at 751, SCDC's Manual for Operations, Inmate Disciplinary System, No. OP-22.14 established the procedures by which SCDC may impose disciplinary action on inmates. In its review of the provisions encompassed by SCDC's Inmate Disciplinary System, the *Al-Shabazz* Court, 527 S.E.2d at 752, recognized the following:

The warden reviews the disciplinary hearing officer's decision, and may approve, modify or reverse it. Manual for Operations, Inmate Disciplinary System, No. OP-22.14. If an inmate is dissatisfied with the decision, he must file an appeal **within fifteen days** of receiving the written decision of the disciplinary hearing officer. *Id.* Department requires the disciplinary hearing officer to inform an inmate of the right to appeal a finding of guilt and the penalty imposed. *Id.* [emphasis supplied].

After concluding its review of the provisions encompassed by SCDC's Inmate Disciplinary System, the *Al-Shabazz* Court, 527 S.E.2d at 752, then recognized that an inmate may appeal a decision rendered by SCDC under its Inmate Disciplinary System by initiating an administrative grievance under the provisions of SCDC's Inmate Grievance System Policy Number GA-01.12, the same policy under review in the ALC's June 29, 2009 order:

An inmate appeals the decision by initiating a grievance. [Policy Number GA-01.12]. The matter is reviewed by the institutional inmate grievance coordinator, who recommends a course of action to the prison warden after interviewing affected employees and inmates. The warden must respond to the inmate in writing within a specified period. The inmate may appeal the warden's decision to the appropriate deputy director, inspector general, or general counsel of [SCDC]. That person's response is [SCDC's] final decision in the matter.

The *Al-Shabazz* Court, 527 S.E.2d at 752, then provided the following holding:

We hold that [SCDC's] disciplinary and grievance procedures are consistent with the standards delineated by the Supreme Court in [*Wolff v. McDonnell*, 418 U.S. 539 (1974)]. **[SCDC] also prepared its grievance procedures in compliance with the Civil Rights of Institutionalized Persons Act, 42 U.S.C.A. §§ 1997-1997j (1994 & Supp.1999); see also 28 C.F.R. §§ 40.1 to 40.22 (1998) (standards for inmate grievance procedures).** [emphasis supplied].

**C. NO ASPECT OF OUR SUPREME COURT'S DECISIONS IN *Adkins*, *Al-Shabazz*, *Torrence*, *Wicker*, OR *Williams* INVALIDATES OR EVEN CALLS INTO QUESTION THE 15-DAY FILING DEADLINE ESTABLISHED BY POLICY NUMBER GA-01.12.**

Ultimately, SCDC respectfully argues that the provisions of Policy Number GA-01.12 apply to all inmate grievances regardless of whether the inmate is challenging a disciplinary

action or prison industries pay practices. Thus, as the *Al-Shabazz* Court concluded that SCDC's grievance procedures comply with federal law, the application of common sense and the absence of any authority to the contrary yield that the conclusion that the 15-day filing deadline from paragraph 13.1 of Policy Number GA-01.12 is valid, and consequentially, the 15-day filing deadline applies to the prison industries back pay grievance filed by the Appellant.

As recognized by the ALC in its June 29, 2009 order, the Appellant obviously exceeded the 15-day filing deadline established by paragraph 13.1 of the November 1, 2004 edition of Policy Number GA-01.12 when he filed his Step 1 grievance nearly six (6) years after he concluded his voluntary participation in the prison industries project at issue. (R. p. \_\_\_\_). Moreover, as determined by SCDC's General Counsel in his denial of the Appellant's Step 2 appeal, the record in this matter reveals that the Appellant obviously exceeded the 15-day filing deadline established by paragraph 13.1 of the November 1, 2004 edition of Policy Number GA-01.12 since he filed his Step 1 grievance nearly eight (8) years after he began voluntarily participating in the prison industries project at issue. (R. p. \_\_\_\_).

Again, our Supreme Court in *Al-Shabazz* held that SCDC's Inmate Grievance System Policy Number GA-01.12 complied with federal law governing inmate grievances, and, thus, common sense dictates that the provisions of Policy Number GA-01.12, including the 15-day filing deadline established in paragraph 13.1 of the policy, are valid. In *Torrence v. S.C. Dept. of Corr.*, 373 S.C. 586, 646 S.E.2d 866, 870 (2007), our Supreme Court held that, "like inmates, the victim and dependent beneficiaries shall be able to maintain their own claims through [SCDC's] **internal grievance procedure.**" [emphasis supplied]. The *Adkins* Court, 602 S.E.2d at 55, held that inmates may not bring a private right of action to challenging the payment of wages, while the *Wicker* Court directed inmates to litigate prison industries back pay claims via SCDC Policy

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

Carolyn C. Matthews, Administrative Law Judge

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Trial Court Case No. 2008-AL-04-00887

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Ja Ja D.B. Okera, ..... Appellant,

v.

South Carolina Department of Corrections, ..... Respondent.

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**INITIAL BRIEF OF RESPONDENT**

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Lake E. Summers  
Katherine Phillips  
**Malone, Thompson, Summers & Ott LLC**  
339 Heyward Street, Suite 200  
Columbia, South Carolina 29201  
Office: (803) 254-3300  
Fax: (803) 254-0309  
E-mail: summers@mtsolvlawfirm.com  
phillips@mtsolvlawfirm.com

Counsel for Respondent

*Pro se* Appellant:  
Ja Ja D.B. Okera, # 228442  
P.O. Box 2039  
Ridgeland Correctional Institution  
Ridgeland, South Carolina 29936

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## STATEMENT OF ISSUES ON APPEAL

The Respondent, the South Carolina Department of Corrections ["SCDC"], respectfully submits the following Statement of Issues on Appeal:

- I. Did the Administrative Law Court properly affirm SCDC's decision to deny all of the prison industries pay claims raised by the Appellant in his administrative grievance when it concluded that the Appellant failed to file his grievance within the 15-day filing deadline established by paragraph 13.1 of SCDC's Inmate Grievance System Policy Number GA-01.12?
- II. Did the Appellant articulate any other legitimate issues in his instant appeal?

## STATEMENT OF THE CASE

By an order dated and filed June 29, 2009 and bearing docket number 08-ALJ-04-00887-AP, the Honorable Carolyn C. Matthews, Administrative Law Judge ["ALJ"] of the South Carolina Administrative Law Court ["ALC"], considered the Appellant's appeal of a final decision issued by SCDC by which the agency denied a prison industries back pay claim articulated by the Appellant, Inmate Ja Ja D.B. Okera (also known as Michael Burns), in an administrative grievance he filed in 2005. (R. pp. \_\_\_\_ - \_\_\_\_).

### **I. THE ADMINISTRATIVE GRIEVANCE, DESIGNATED AS ECI-2087-05, FILED BY THE APPELLANT WITH SCDC UNDER ITS POLICY NUMBER GA-01.12**

#### **A. THE APPELLANT'S STEP 1 GRIEVANCE AND SCDC'S RESPONSE**

The Appellant filed a Step 1 grievance on or about July 11, 2005, and the responsible SCDC official assigned the Appellant's grievance the following number: ECI-2087-05. (R. pp. \_\_\_\_ - \_\_\_\_). In his Step 1 grievance, the Appellant articulated the following claim(s) for relief:



## The South Carolina Court of Appeals

TANYA A. GEE  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

June 4, 2010

Lake Eric Summers, Esquire  
Malone Thompson Summers & Ott, LLC  
339 Heyward St.  
Ste. 200  
Columbia, SC 29201

Re: Okera, Ja Ja D. B. v. SCDC  
**2009135046**

Dear Mr. Summers:

The following Order has been endorsed on your Motion for 72-hour Extension in the above entitled case on appeal.

"Granted until June 10, 2010.

John Cannon Few C.J.  
For the Court

By s/ V. Claire Allen  
Deputy Clerk

June 03, 2010."

Please be advised that the Respondent's Initial Brief and Designation of Matter must be served and filed no later than June 10, 2010.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Tanya A. Gee". Below the signature, the word "CLERK" is printed in a small, sans-serif font.  
CLERK

TAG/mpm

cc: Ja Ja D. B. Okera # 228442  
David M. Tatarsky, Esquire

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MAY 24 2010

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

SC Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

Carolyn C. Matthews, Administrative Law Judge

Trial Court Case No. 2008-AL-04-00887

Ja Ja D.B. Okera, ..... Appellant,

v.

South Carolina Department of Corrections, ..... Respondent.

**RESPONDENT'S MOTION FOR 72-HOUR EXTENSION  
BY WHICH TO FILE ITS INITIAL BRIEF AND DESIGNATION OF MATTER**

By order dated May 17, 2010 and filed May 18, 2010, this Court granted the Respondent's motion for leave to file out of time its initial brief and designation of matter to be included in the record on appeal in the above captioned appeal. The Respondent's undersigned counsel filed the aforementioned motion with the Court on April 22, 2010.

As requested by the Respondent in its April 22, 2010 motion, this Court established a deadline of May 24, 2010 by which it had to serve and file its initial brief and designation of matter.

The Respondent, by and through its undersigned counsel, now respectfully moves the Court for a 72-hour extension of the deadline by which to file its initial brief and designation of matter in the instant appeal. The Respondent's undersigned counsel so moves for a 72-hour extension of the deadline in light of other matters to which they has devoted their attention since they filed their April 22, 2010 motion.

The Respondent's undersigned counsel filed their April 22, 2010 motion the same day they filed a petition for rehearing on behalf of the Respondent in *S.C. Dep't of Corr. v. George Lee Tomlin*, \_\_\_ S.C. \_\_\_, \_\_\_ S.E.2d \_\_\_, 2010 WL 1439104 (April 5, 2010). The Respondent's undersigned counsel filed a petition for rehearing on behalf of the Respondent in a matter nearly identical to *Tomlin*, *S.C. Dep't of Corr. v. Billy Joe Cartrette*, \_\_\_ S.C. \_\_\_, \_\_\_ S.E.2d \_\_\_, 2010 WL 143098 (April 5, 2010), on April 20, 2010.

05/24/10  
06/10/10

On April 26, 2010, this Court issued an unpublished per curium opinion in *S.C. Dep't of Corr. v. Isiah James, Jr.*, Opinion No. 2010-UP-251 (April 26, 2010), and, consequentially, the Respondent's undersigned counsel filed a petition for rehearing on behalf of the Respondent on May 11, 2010.

James filed his own petition for rehearing regarding the Court's April 26, 2010 opinion, and, in accordance with the directive issued in a letter from the Court dated May 6, 2010, the Respondent's undersigned counsel filed a return to James petition for rehearing on May 17, 2010.

The Respondent's undersigned counsel also worked toward the resolution of another matter which is currently pending before the Court, *S.C. Dep't of Corr. v. Thierry Nettles*, Administrative Law Court Docket No. 08-ALJ-30-0348-AP (Trial Court Case No. 2009141307), since it filed its April 22, 2010 motion in the instant appeal. As a consequence of this effort, the Respondent's undersigned counsel filed with this Court a motion to dismiss the Respondent's appeal with prejudice in *Nettles* on May 20, 2010.

Additionally, the Respondent's undersigned counsel prepared a record on appeal, motion to dismiss, and initial brief on behalf of the Respondent in the matter of *Joseph Hugo Gibbs, # 185709, v. S.C. Dep't of Corr.*, Administrative Law Court Docket No. 10C0266, and the Respondent's undersigned counsel filed these materials on May 14, 2010.

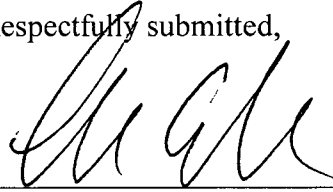
The Respondent's undersigned counsel also prepared a proposed order in the matter of *James "Cal" Bell, et al., v. S.C. Dep't of Corr. and Palmetto Unified School District No. 1*, Administrative Law Court Docket No. 09-ALJ-30-0103-AP. In this matter, 20 certified educators who were formerly employed by the Respondent or who are still employed by the Respondent challenged a reduction-in-force implemented by the Respondent effectively June 1, 2003.

The Respondent's undersigned counsel submitted the proposed order to the Administrative Law Court on May 5, 2010, and, the educators in *Bell* submitted their "response" to the proposed order on May 14, 2010. Consequentially, the Respondents' undersigned counsel prepared a rebuttal to the educators' response, and they submitted the Respondent's rebuttal to the Administrative Law Court on May 20, 2010.

Thus, in light of the above-described events, the Respondent's undersigned counsel seek a 72-hour extension to file the Respondent's initial brief and designation of in the instant appeal so that they may have the opportunity to deliberately and precisely prepare an initial brief that addresses the factual, procedural, and legal aspects which are unique to the instant appeal.

Should the Court grant this motion, the Respondent's initial brief and designation of matter would be due no later than Thursday, May 27, 2010.

Respectfully submitted,



Lake E. Summers

Katherine A. Phillips

**Malone, Thompson, Summers & Ott LLC**

339 Heyward Street, Suite 200

Columbia, South Carolina 29201

Office: (803) 254-3300

Fax: (803) 254-0309

E-mail: summers@mtsolvlawfirm.com  
phillips@mtsolvlawfirm.com

Counsel for Respondent SCDC

Columbia, South Carolina

May 24, 2010

*Pro se* Appellant:

Ja Ja D.B. Okera, # 228442

P.O. Box 2039

Ridgeland Correctional Institution

Ridgeland, South Carolina 29936

GRANTED *until June 10, 2010.*  
JOHN CANNON FEW, C.J.  
FOR THE COURT

By: *V. Claire Allen*  
(Clerk) (Deputy Clerk)  
*6/3/10*

*6/4/10* **FILED**

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

Carolyn C. Matthews, Administrative Law Judge

Trial Court Case No. 08-ALJ-04-00887

Ja Ja D.B. Okera, #228442, ..... Appellant,

v.

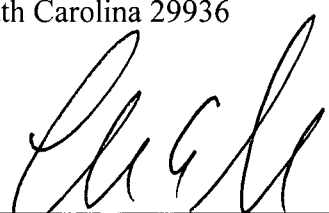
South Carolina Department of Corrections, ..... Respondent.

PROOF OF SERVICE

I certify that I have served the Respondent's **MOTION FOR 72-HOUR EXTENSION BY WHICH TO FILE ITS INITIAL BRIEF AND DESIGNATION OF MATTER** on the above named *pro se* Appellant by mailing a copy of it him at the following address:

Ja Ja D.B. Okera, # 228442  
Ridgeland Correctional Institution  
P.O. Box 2039  
Ridgeland, South Carolina 29936

May 24, 2010

  
Lake E. Summers



## The South Carolina Court of Appeals

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CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

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1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
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May 18, 2010

Lake Eric Summers, Esquire  
Malone Thompson Summers & Ott, LLC  
339 Heyward St.  
Ste. 200  
Columbia, SC 29201

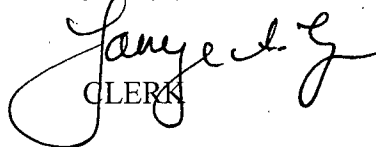
David M. Tatarsky, Esquire  
S.C. Dept. of Corrections  
P.O. Box 21787  
Columbia, SC 29221-1787

Re: Okera, Ja Ja D. B. v. SCDC  
**2009135046**

Dear Counsel:

Enclosed is a copy of an Order of the Court regarding your Motion in the above case. Please be advised that the Respondent's Initial Brief and Designation of Matter must be served and filed no later than May 24, 2010.

Very truly yours,

  
CLERK

TAG/mpm

cc: Ja Ja D. B. Okera #228442

# The South Carolina Court of Appeals

Ja Ja D. B. Okera,

Appellant,

v.

South Carolina Department of  
Corrections,

Respondent.

The Honorable Carolyn C. Matthews  
Richland County  
Trial Court Case No. 2008-AL-04-00887

---

## ORDER

---

Respondent filed a motion seeking to file its initial brief and designation of matter out of time. Respondent argues that due to the confusion regarding the dismissal and subsequent reinstatement of the appeal, Respondent received the record on appeal and Appellant's final brief before realizing it had failed to file an initial brief. No return was filed.

The motion is granted. Respondent has until May 24, 2010 to serve and file an initial brief and designation of matter. Thereafter, Appellant has ten days, if he so chooses, to file an initial reply brief. Thirty days after service of Respondent's initial brief, Respondent shall serve and file a supplemental record on appeal that contains the documents listed in its designation of matter. Respondent's final brief and Appellant's final reply brief, if he chooses to file one, will be due twenty days thereafter.

AND IT IS SO ORDERED.

Jasper W. Cretton A.S.

Columbia, South Carolina

May 17, 2010

cc: Ja Ja D. B. Okera # 228442  
David M. Tatarsky, Esquire  
Lake Eric Summers, Esquire

**FILED**  
5/18/10 

Ms. Tanya A. Gee, Clerk  
S.C. Court of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29201

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MAY 11 2010  
SC Court of Appeals

RE: Okera v SCDC, Tracking # 2009-135046: REQUESTED 14 COPIES OF  
FINAL BRIEF

Ms. Gee,

Enclosed are the 14 copies of my FINAL BRIEF You instructed me to forward to Your Court. Also enclosed are two (2) copies of this letter, and certificate of mailing/service. I ask that You file them both with Your Court, and return to me the additional copy in the SASE.

I truly apologize for any inconveniences; and I thank You.

May 6, 2010

Sincerely,



cc: Lake E. Summers

Malone, Thompson, Summers & Ott, LLC

339 Heyward St., Ste. 200

Columbia, S.C. 29201

(803) 254-3300

File

JaJa Domisani Baako Okera, #228442  
Pro Se

Ridgeland C.J.

DOB 2039

Ridgeland, S.C. 29936

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Administrative Law Judge, Carolyn C. Matthews  
Tracking # 2009-135046

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MAY 11 2010  
SC Court of Appeals

Jaja D. B. Okera, #228442, . . . APPELLANT,

vs.

South Carolina Dept. of Corrections, . . . RESPONDENT.

CERTIFICATE OF MAILING/SERVICE

I declare that on May 6, 2010, I forwarded fourteen (14) copies of my FINAL BRIEF (in the above case tracking #) to the South Carolina Court of Appeals in care of Ms. Tanya A. Gee, Clerk, at 1015 Sumter St., Columbia, S.C. 29201; and I served a copy of the attached letter (titled REQUESTED 14 COPIES OF FINAL BRIEF) on opposing counsel, Lake E. Summers at 339 Heyward St., Ste. 200, Columbia, S.C. 29201, ALL by way of the U.S. Postal Service, postages prepaid.



S/  
Jaja D. B. Okera, #228442  
Pro Se

REI

DOB 2039

Ridgeland, S.C. 29936



## The South Carolina Court of Appeals

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POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

April 29, 2010

Ja Ja D. B. Okera # 228442  
Ridgeland Correctional  
Institution  
P.O. Box 2039  
Ridgeland, SC 29936

Re: Okera, Ja Ja D. B. v. SCDC  
Tracking # 2009135046

Dear Mr. Okera:

We have received your Appellant's Final Brief in the above matter. However, only one unbound copy was filed. Please provide this Court with fourteen (14) bound copies of the Appellant's Final brief within fourteen (14) days of the date of this letter.

Very truly yours,

  
CLERK

TAG/mpm

cc: David M. Tatarsky, Esquire  
Lake Eric Summers, Esquire

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APR 22 2010

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

Carolyn C. Matthews, Administrative Law Judge

Trial Court Case No. 08-ALJ-04-00887

Ja Ja D.B. Okera, #228442, ..... Appellant,

v.

South Carolina Department of Corrections, ..... Respondent.

**RESPONDENT SCDC'S MOTION FOR LEAVE TO FILE  
ITS INITIAL BRIEF AND DESIGNATION OF MATTER  
OUT OF TIME**

The Respondent, the South Carolina Department of Corrections ["SCDC"], by and through its undersigned outside counsel, respectfully moves the Court for leave to file its initial brief and designation of matter to be included in the record on appeal in the above captioned case within 30 days of the date of its instant request.

In early August 2009, the Appellant served SCDC's undersigned counsel with a copy of his Notice of Appeal. Throughout the remainder of 2009 and into early 2010, SCDC's undersigned counsel intermittently received copies of materials filed by the Appellant with the Clerk of Court. SCDC's undersigned counsel also received copies of deficiency memoranda issued by the Clerk to the Appellant.

Ultimately, the Court dismissed the Appellant's appeal, but, by an order issued February 1, 2010, the Court granted the Appellant's Motion to Reinstate his appeal.

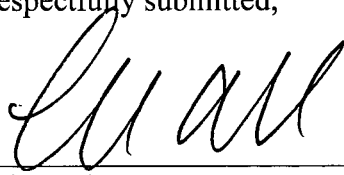
On March 25, 2010, SCDC's undersigned counsel received a copy of the Record on Appeal submitted by Appellant to the Court. On April 2, 2010, SCDC's undersigned counsel received a copy of a letter from the Clerk to the Appellant dated April 1, 2010, and, within this letter, the Clerk advised the Appellant that SCDC had not served and filed an initial brief and designation of matter. The Clerk's letter of April 1, 2010 further advised the Appellant to file and serve his final brief within 20 days.

On Monday, April 19, 2010, SCDC's undersigned counsel received a copy of the Appellant's Final Brief.

Obviously, SCDC desires to file a brief responsive to the Final Brief received by SCDC's undersigned counsel. Accordingly, SCDC's undersigned counsel, in light of the confusion associated with the dismissal and subsequent reinstatement of the Appellant's appeal, respectfully moves the Court for leave to file its initial brief and designation of matter to be included in the record on appeal in the above captioned case.

Should the Court grant this motion, SCDC's initial brief and designation of matter would be due no later than Monday, May 24, 2010.

Respectfully submitted,



---

Lake E. Summers

Katherine A. Phillips

**Malone, Thompson, Summers & Ott LLC**

339 Heyward Street, Suite 200

Columbia, South Carolina 29201

Office: (803) 254-3300

Fax: (803) 254-0309

E-mail: [summers@mtsolvlawfirm.com](mailto:summers@mtsolvlawfirm.com)  
[phillips@mtsolvlawfirm.com](mailto:phillips@mtsolvlawfirm.com)

Counsel for Respondent SCDC

Columbia, South Carolina  
April 22, 2010

*Pro se* Appellant:  
Ja Ja D.B. Okera, # 228442  
Ridgeland Correctional Institution  
P.O. Box 2039  
Ridgeland, South Carolina 29936

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

Carolyn C. Matthews, Administrative Law Judge

Trial Court Case No. 08-ALJ-04-00887

Ja Ja D.B. Okera, #228442, ..... Appellant,

v.

South Carolina Department of Corrections, ..... Respondent.

PROOF OF SERVICE

I certify that I have served the Respondent's **MOTION FOR LEAVE TO FILE ITS INITIAL BRIEF AND DESIGNATION OF MATTER OUT OF TIME** on the above named *pro se* Appellant by mailing a copy of it him at the following address:

Ja Ja D.B. Okera, # 228442  
Ridgeland Correctional Institution  
P.O. Box 2039  
Ridgeland, South Carolina 29936

April 22, 2010

  
\_\_\_\_\_  
Lake E. Summers

Clerk of Court  
S. C. Court of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29201

RECEIVED

APR 19 2010

SC Court of Appeals

RE: FINAL BRIEF; Dkera v SCDC, Tracking # 2009-135046

Dear Clerk,

Enclosed are two (2) copies (one is original) of my final brief, certificate of mailing/service, and certificate of counsel in the above captioned case. I ask that you file the same with Your Court, and return to me the additional copy in the SASE.

I thank you in advance.

April 14, 2010

cc: Lake E. Summers

Malone, Thompson, Summers + Ott, LLC

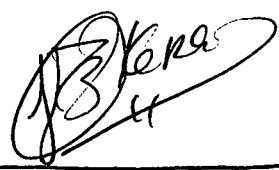
339 Heyward St., Ste. 200

Columbia, S.C. 29201

(803) 254-3300

File

sl

  
Jada D.B. Dkera, #228442

Pro Se

RCI

POB 2039

Ridgeland SC 29936



## The South Carolina Court of Appeals

TANYA A. GEE  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

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April 1, 2010

Ja Ja D. B. Okera # 228442  
Ridgeland Correctional  
Institution  
P.O. Box 2039  
Ridgeland, SC 29936

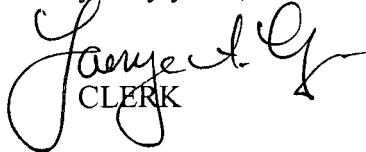
Re: Okera, Ja Ja D. B. v. SCDC  
**2009135046**

Dear Mr. Okera:

Please be advised our records indicate that respondent has not served and filed an initial brief and designation of matter, as provided for in Rules 208 (a) (2) and 209 of the South Carolina Appellate Court Rules.

Therefore, you should proceed to serve and file your final brief, as provided for in Rule 211 (a) within twenty (20) days of the date of this letter, since the Record on Appeal was already filed.

Very truly yours,

  
CLERK

TAG/mpm

cc: David M. Tatarsky, Esquire  
Lake Eric Summers, Esquire

Clerk of Court  
S.C. Court of Appeals  
1015 Sumter Street  
Columbia, S.C. 29201

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MAR 29 2010

SC Court of Appeals

RE: RETURN COPY; DKera vs SCDL, Tracking # 2009135046

Dear Clerk,

On March 22, 2010, I submitted my Record on Appeal, and Certificate of Counsel in the above case. I also enclosed an extra copy to be returned to me in a SASE sent at a later date. Well enclosed is that SASE. So would you please return the extra copy?

I thank you in advance.

March 25, 2010

cc: Lake E. Summers

Malone, Thompson, Summers + Ott, LLC

339 Heyward St., Ste. 200

Columbia, S.C. 29201

(803) 254-3300

File

s/



Jaja D.B. DKera, #228442

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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Administrative Law Judge, Carolyn C. Matthews  
Tracking # 2009135046

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SC Court of Appeals

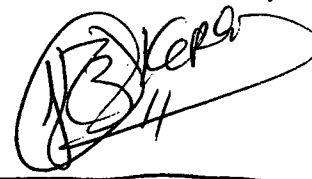
Jaja D. B. Okera, # 228442, v. o. o. o. APPELLANT,

vs

South Carolina Dept. of Corrections, o. o. RESPONDENT.

CERTIFICATE OF MAILING/SERVICE

I declare that on March 25, 2010, I mailed an original copy of a letter concerning my return copy of my Record on Appeal + Cert. of Counsel, in the above case, to the Clerk of Court at S.C. Court of Appeals at 1015 Sumter St., Col., S.C. 29201; and I served a copy of the same on opposing counsel, Lake E. Summers at Malone, Thompson, Summers + Dtt, LLC, 339 Heyward St., Ste. 200, Col., S.C. 29201 all by way of the U.S. Postal Service, postages prepaid.

sl/ 

Jaja D. B. Okera, # 228442  
Pro Se  
RCI  
POB 2039  
Ridgeland, S.C. 29936

Clerk of Court  
S.C. Court of Appeals  
1015 Sumter St.  
Columbia, South Carolina 29201

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MAR 25 2010

SC Court of Appeals

RE: RECORD ON APPEAL; DKera v SCPC, Tracking # 2009135046

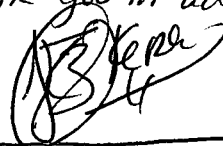
Dear Clerk,

Enclosed are two (2) copies of my Record on Appeal, certificate of mailing/service, and certificate of counsel in the above case. I ask that You file the same with Your Court; and when I forward You the needed SASE (at a later date), I ask that You return to me the extra copy.

I apologize for any inconveniences, and I thank You in advance.

March 22, 2010

s/



Jaja D.B. Okeru, #228442

Pro Se

Ridgeland Co.

POB 2039

Ridgeland SC 29936

Tanya A. Gee, Clerk  
S.C. Court of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29201

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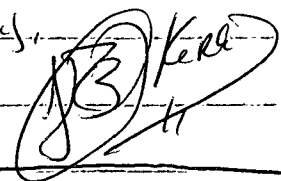
RE: RETURN COPY; DKera v SCD, # 2009135 SC Court of Appeals

Ms. Gee,

I received your letter (dated 3.2.10) on March 4<sup>th</sup>, 2010 concerning my return copy. You said that to receive the extra copy back I have to "send a stamped envelope." Well, enclosed are three (3) stamped envelopes, because I know that one will not cover postage. I ask that you place the postage on the brown clasp envelope that I previously sent. I thank you in advance.

March 8<sup>th</sup>, 2010

Sincerely,



cc: Lake E. Summers

Malone, Thompson, Summers & Ott, LLC J. B. DKera, #228442

339 Heyward St., Ste. 200

Pro Se

Columbia SC 29201

Ridgeland Comm. Inst.

(803) 254-3300

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Ridgeland, S.C. 29936

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
~~APPEAL FROM THE ADMINISTRATIVE LAW COURT~~  
Administrative Law Judge, Carolyn C. Matthews  
Tracking # 2009135046

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SC Court of Appeals

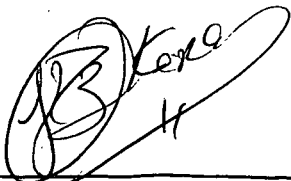
Jaja D. B. Okera, # 228442 . . . . . APPELLANT,

vs.

South Carolina Dept. of Corrections, . . . . . RESPONDENT.

CERTIFICATE OF MAILING/SERVICE

I certify that on March 8<sup>th</sup>, 2010, I mailed an original copy of the attached letter concerning my RETURN COPY in the above captioned case to Ms. Tanya A. Gee, Clerk, at The S.C. Court of Appeals, 1015 Sumter Street, Columbia, S.C. 29201; and I served an original copy of the same on opposing counsel, Lake E. Summers at Malone, Thompson, Summers & DTH, LLC, 339 Heyward St., Ste. 200, Columbia, S.C. 29201, all by way of the U.S. Postal Service, postages prepaid, by delivery to the institutional mailroom.

51 

Jaja D. B. Okera, # 228442

Pro Se

Ridgeland Corr. Inst.

POB 2039

Ridgeland SC 29936



## The South Carolina Court of Appeals

TANYA A. GEE  
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V. CLAIRE ALLEN  
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COLUMBIA, SOUTH CAROLINA 29201  
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March 2, 2010

Ja Ja D. B. Okera # 228442  
Ridgeland Correctional  
Institution  
P.O. Box 2039  
Ridgeland, SC 29936

Re: Okera, Ja Ja D. B. v. SCDC  
**2009135046**

Dear Mr. Okera:

We have received your Appellant's Initial Brief and Designation of Matter in the above matter. Our letter of February 2, 2010 granting a thirty-day extension was mailed to you at the Ridgeland Correctional Institution.

The extra copy of the Appellant's Initial Brief and Designation of Matter cannot be returned to you without a stamped envelope. If you wish to receive this extra copy back, please send a stamped envelope.

Please be advised that the tracking # 2009135046 is only for use in correspondence with the Court. It should not be on the covers of briefs or the Record on Appeal.

Very truly yours,

*V. Claire Allen, Deputy Clerk*  
CLERK

TAG/mpm

cc: David M. Tatarsky, Esquire  
Lake Eric Summers, Esquire

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Administrative Law Judge, Carolyn C. Matthews  
Docket # 2009-135046

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SC Court of Appeals

Ja Ja D. B. Okeru, # 228442, . . . APPELLANT,  
vs.

South Carolina Dept. of Corrections, . . . RESPONDENT.

DESIGNATION OF MATTERS TO  
BE INCLUDED IN THE RECORD  
ON APPEAL

Appellant proposes the following to be included in the Record on Appeal:

- 1) ORDER of October 13, 2008 - second page - Ins. 9 and 10;
- 2) FINAL ORDER of June 29, 2009 - Ins. 1, 2, 3, 4, 5, 6, 7, 8, and 9 (1<sup>st</sup> + 2<sup>nd</sup> paragraph);
- 3) APPELLANT'S BRIEF (08-ALJ-04-00887-AP) - whole brief to include its exhibits, affidavit, and certificate of service;
  - EXHIBIT A - SCDC RTSm of October 17, 2008 - Gene Baker's disposition - Ins. 5 + 6;
  - EXHIBIT B - SCDC RTSm of Sept. 26, 2008 - B. Miller's disposition - Ins. 1;
  - EXHIBIT C - letter from attorney Helen T. McFadden of April 30, 2007 - Ins. 1, 2, 26, 27, and 28;
  - AFFIDAVIT - Ins. 5, 6, 7, and 8; and
  - CERTIFICATE OF SERVICE of January 20<sup>th</sup>, 2009 - Ins. 7, and 8;
- 4) APPELLANT'S BRIEF (06-ALJ-04-00173-AP) - issues 1, 2, 3, and 4;
- 5) Step 2 Grievance of ~~October 10, 2005~~ - RESPONSIBLE OFFICIAL'S DECISION AND REASON - Ins. 14 and 15 (i.e., paragraph # 5);
- 6) Notice of Appeal of October 28, 2008 - docket number;
- 7) Letter of Inquiry of June 15, 2009 - whole letter (Ins. 1 thru 24);
- 8) MEMORANDUM of July 15, 2009 - Ins. 22, 23, and 24;

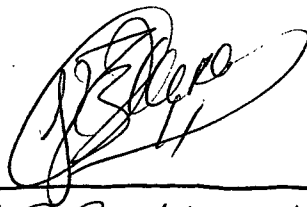
9) SCDC RTSM of January 28, 2009 to D. Bundy - Ins. 1, 2, 3, 4, and 5; and  
10) AFFIDAVIT of January 5, 2010 - Ins. 1-p. 2, ln. 17 (whole affidavit).

---

CERTIFICATE OF CONTENT

I certify that this designation contains no matter which is  
irrelevant to this appeal.

February 23<sup>rd</sup>, 2010

  
s/ Jaja D.B. Okera, #228442  
Pro Se  
Ridgeland Co.  
POB 2039  
Ridgeland SC 29936

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
~~APPEAL FROM THE ADMINISTRATIVE LAW COURT~~  
Administrative Law Judge, Carolyn C. Matthews  
Docket # 2009-135046

RECEIVED  
FEB 26 2010  
SC Court of Appeals

Jaja D.B. Okena, #228442 . . . APPELLANT,

VS

South Carolina Dept. of Corrections, . . . RESPONDENT.

CERTIFICATE OF MAILING/SERVICE

I declare that on February 23<sup>rd</sup>, 2010, I mailed two (2) original copies of my INITIAL BRIEF and DESIGNATION OF MATTERS TO BE INCLUDED IN THE RECORD ON APPEAL (for one (1) of each to be returned to me) in the above captioned case to the S.C. Court of Appeals' Clerk of Court at 1015 Sumter St., Columbia, S.C. 29201; and I served a copy of each of the same on opposing counsel, Lake E. Summers at Malone, Thompson, Summers & Dtt, LLC, 339 Heyward St., Ste. 200, Columbia, S.C. 29201 ALL by way of the United States Postal Service, postages prepaid.

51   
Jaja D.B. Okena, #228442  
Pro Se  
Ridgeland C. I.  
POB 2039  
Ridgeland SC 29936

Ms. Jeanette F. Barber, Clerk  
S.C. Court of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29201

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FEB 26 2010  
SC Court of Appeals

RE: DKena v SCDC, Docket # 2009-135046

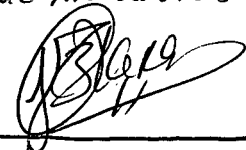
Ms. Barber,

Enclosed are two (2) original copies of my INITIAL BRIEF (and its CERTIFICATE OF MAILING/SERVICE), and two (2) original copies of my DESIGNATION OF MATTERS TO BE INCLUDED IN THE RECORD ON APPEAL (and its CERTIFICATE OF CONTENT). I ask that You file the same with Your Court, and return to me the extra copy filed with Your Court in the SAE. Please forgive me for not including postage on the SAE, but I do not have the funds.

Additionally, I have been transferred from Evans C.I. to Ridgeland C.I. on January 13/10; and on Jan. 15/10, I mailed a letter to Your Court informing It of my transfer. However, the ORDER giving me an extension to March 4/10 was still sent to ECI, and I just received it Feb. 11/10. So again, I am now at the address below.

February 23<sup>rd</sup>, 2010

cc: Lake E. Summers @  
Malone, Thompson, Summers + OTH, LLC  
339 Heyward St., Ste. 200  
Columbia, S.C. 29201  
(803) 254-3300  
File

5/   
J. D. B. Dkera, #228442  
Pro Se  
Ridgeland C.I.  
POB 2039  
Ridgeland SC 29936

THE STATE OF SOUTH CAROLINA

RECEIVED

In The Court of Appeals

FEB 26 2010

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge, Carolyn C. Matthews

SC Court of Appeals

Docket # 2009-135046

Jaja D. B. Okera, #228442, . . . APPELLANT,

vs

South Carolina Dept. of Corrections, . . . RESPONDENT.

INITIAL BRIEF OF APPELLANT

Jaja D. B. Okera, #228442

Pro Se

Ridgeland Cor. Inst.

Post Office Box 2039

Ridgeland, S.C. 29936

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Statement of Case . . . . . 1

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2) DOES THE 15 DAY STATUE OF LIMITATIONS APPLY IN THIS CASE? . . . 4

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4) DID THE ADMINISTRATIVE LAW COURT (ALC) ABUSE ITS DISCRETION BY RESPONDING TO APPELLANT'S INQUIRIES AFTER THE ISSUING OF THE FINAL ORDER? . . . 5

5) DID SOUTH CAROLINA DEPARTMENT OF CORRECTIONS (SCDC) DENY ME ACCESS TO THE COURTS BY DENYING ME KNOWLEDGE OF CAUSES OF ACTION IN WICKER v SCDC, AND AD-KINS, et. al. v SCDC BY DISCONTINUING NEEDED LAW MATERIAL FOR INSTITUTIONAL LAW LIBRARIES? . . . . . 6

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### STATEMENT OF ISSUES ON APPEAL:

- 1) DID THE ALC ERROR IN UPHOLDING THE AGENCY'S CLAIM THAT THE 15 DAY STATUTE OF LIMITATIONS APPLIES IN THIS CASE?
- 2) DOES THE 15 DAY STATUTE OF LIMITATIONS APPLY IN THIS CASE?
- 3) DID THE ALC ABUSE HER DISCRETION BY NOT ADDRESSING THE POINTS/ISSUES OF APPELLANT'S BRIEF IN HER FINAL ORDER?
- 4) DID THE ALC ABUSE ITS DISCRETION BY RESPONDING TO APPELLANT'S INQUIRIES AFTER THE ISSUING OF THE FINAL ORDER?
- 5) DID SOUTH CAROLINA DEPARTMENT OF CORRECTIONS DENY ME ACCESS TO THE COURTS BY DENYING ME KNOWLEDGE OF CAUSES OF ACTION IN WICKER v SCDC, AND ADKINS et. al. v SCDC BY DISCONTINUING NEEDED LAW MATERIAL FROM INSTITUTIONAL LAW LIBRARIES?
- 6) WAS APPELLANT ENTITLED TO SUBMIT A BRIEF IN THIS CASE?

### STATEMENT OF CASE:

Appellant (I) filed Step 1 grievance July 11/05. October 7/05, denial was received stating that Adkins et. al. v SCDC, 360 SC 413, 602 SE2d. 51 (2004), nor Wicker v SCDC, 360 SC 421, 602 SE2d. 56 (2004) required that I nor any other "inmate" in my "position" be paid overtime wages, and that grievance was not timely filed. Step 2 was timely filed, and its denial was received January 24/06. Notice of Appeal was timely submitted, and was filed February 22/06 with the ALC. A FINAL ORDER, filed July 17/08, ordered SCDC to make a determination that was not included in its brief. August 22, 2008, I appealed to the S.C. Court of Appeals; but in an Oct. 13/08 ORDER, the Court determined that the case was not appealable, and allowed me to appeal again to the ALC. The ALC filed my Notice of Appeal Oct. 28/08, and assigned it to Judge Matthews. She issued a FINAL ORDER dismissing my case. I timely appealed to the S.C. Court of Appeals, and received by the Court August 3/09. I later requested an extension, and was given to January 4/10. But because of Evans C. I.'s warden's abuses, I missed my

deadline, but I submitted a motion to reinstate my case on Jan. 21/10. On February 1, 2010, an Order was issued constraining my Motion to Reinstate as a motion for an extension giving me to March 4, 2010 to serve and file Initial Brief and Designation of Matters on Appeal.

### ARGUMENT:

1a) THE ALJ ERRORED BY UPHOLDING THE AGENCY'S CLAIM THAT THE 15 DAY STATUTE OF LIMITATIONS APPLIES TO THIS CASE.

I asserted (as I do now) that the 15 day statute of limitations does not apply in this case for the following reasons:

In my APPELLANT'S BRIEF (08-ALJ-04-00887-AP) at page 2 in 1a, I argued that the rate of pay paid to Evans Correctional Institution's (ECI's) prison industry (PI) workers is policy/procedure practiced by South Carolina Department of Corrections (SCDC), and proven to be so with evidence from P.O.'s SCDC official who stated that "...the Federal min wage Rate is \$6.55/hr. and that they "...Comply with All Federal Wage Requirements." (see APPELLANT'S BRIEF'S (08-ALJ-04-00887-AP) EXHIBIT A-SCDC REQUEST TO STAFF MEMBER (RTSM), Gene Baker's disposition).

Pursuant to SCDC Inmate (I/m) Grievance System policy, GA 01.12, §13.10 (July 1/08) "exceptions to the 15 day time limit requirement will be made for grievances concerning policy/procedure." (emphasis added). Therefore, I asserted (as I do here) that the 15 day statute of limitations is inapplicable (Id.)

In Point 2a (Id. at p.3), I argued (as I do now) that SCDC denied me access to the courts by discontinuing needed law material. It points out that respondent relied on Adkins et. al., and Wicker-two (2) cases that were not available to ECI's prison population, (see APPELLANT'S BRIEF'S (08-ALJ-04-00887-AP) EXHIBIT B-SCDC RTSM, B. Miller's disposition; see also APPELLANT'S BRIEF (06-ALJ-04-00173-AP)

pp. 2+3). As shown, the last Southeastern Reporter received by ECI's law library is 578. And with Adkins et al and Wicker being in 602 Southeastern Reporter, I had no way of knowing the decisions of Adkins et al., nor Wicker. And as substantiated by SCDC/General Counsel, Adkins + Wicker were causes of action - (see Step 2 Grievance's (ECI-2087-05) RESPONSIBLE OFFICIAL'S DECISION AND REASON, at paragraph #5) - causes of action that SCDC denied me the knowledge of.

Point/issue 3a simply provided case law supporting the cause of action in point/issue 2a supra. (Id. at pp. 3+4).

Point/issue 4a (at pp. 4+5) revealed that I was also apart of a class action in the case of Terrence Ward et al. v SCDC + The State of South Carolina, (CA # 01-CP-40-3409. (see also APP. BRIEF (06-ALJ-04-00173-AP), pp. 3+4). And evidence that I did not have in the case of 06-ALJ-04-00173-AP to prove this point was presented in this case. (see APP's BRIEF's EXHIBIT C - letter from Ms. Helen T. McFadden Esq.). I argued that it also was a cause of action. (). I gave an example of a cause of action initiated by Darryl Williams' class action against Williams Technologies Inc. at Lieber Corr. Inst. (see APP's BRIEF, p. 4, #4a). (NOTE: EXHIBIT D concerning Williams Technologies is not included in brief, because I only had 3 copies, but the education official here at ECI would not make a copy of it. And of the 3 copies, one (1) was forwarded with the brief served on opposing counsel, and the other two (2) were forwarded with the two (2) briefs forwarded to the ALJ (one return copy), but the return copy was never returned.) I argued that the scenarios are similar (with the exception of me filing my grievance as informed by T. Torrence long before I received the letter from Ms. McFadden.)

So as shown by the arguments readdressed above, the 15 day statute of limitations does not apply in this case.

2a) DOES THE 15 DAY STATUTE OF LIMITATIONS APPLY IN THIS CASE?

For the sake of judicial economy, I incorporate here, verbatim, the argument presented in issue 1a supra.

3a) THE ALJ ABUSED HER DISCRETION BY NOT ADDRESSING THE ISSUES OF APPELLANT'S BRIEF IN HER FINAL ORDER.

In an order from the S.C. Court of Appeals filed Oct. 13/08 concerning the appealability of case # 06-ALJ-04-00173-AP, I was "...entitled to appeal again to the ALC," because "...the Department..." had finally ruled. (see ORDER). October 28/08, my Notice of Appeal was filed with the ALC, and assigned a new docket number. (see Notice of Appeal's docket #). On Jan. 20/09, I deposited my brief into the institutional mailbox. (see App's BRIEF's (08-ALJ-04-00887-AP) CERTIFICATE OF SERVICE, and SCDC RTSM, O. Bundy). (NOTE: I placed it in the mailbox, because the mailroom was not open, and I did not know if inauguration day was a recognized holiday (see RTSM supra). However, instead of addressing the points of my brief, the ALJ only addressed respondent's statute of limitations claim that was supplemented Dec. 29/08 (see FINAL ORDER - Griev. # EC1-2087-05).

Because I was allowed to appeal again to the ALC, and given a new docket #, I was entitled, "...REQUIRED!" to submit a new brief. (see ALC Rules, § V, SPECIAL APPEALS, #60(A) which states in part that "unless otherwise ordered, the party first noticing the appeal shall file an original brief within sixty-five (65) days after the date of assignment." (emphasis added). (Note that there was not an order issued otherwise.)

In my brief, I addressed the same points/issues I argued in my previous case. (see App's BR. (08-ALJ-04-00887-AP) p. 1, #s 2, 4, 5, and 6; and App's BR. (06-ALJ-04-00173-AP) p. 1, #s 1, 2, 3, + 4); with two (2) additional points/issues

4

(See APP's BR (08-ALJ-04-00887-AP) p.1 #s 1+7; evidence NOT PREVIOUSLY AVAILABLE (Id. at EXHIBIT A-SCDC RTSm, Gene Baker; Ex. B-SCDC RTSm, B. Miller; and Ex. C- letter from attorney Helen T. McFadden Esq., and an affidavit. I assert that all seven (7) points have merit, and should have been addressed by Judge Matthews in her final order.

At this point, for the sake of judicial economy, I incorporate here, verbatim, the argument presented in point/issue 1a supra.

As shown, all seven (7) points/issues addressed supra have substantially more merit than the respondent's claim. But yet, the ALJ saw fit to disregard them all, thereby, abusing her discretion, denying me due process.

4a) THE ALJ ABUSED ITS DISCRETION BY RESPONDING TO MY INQUIRIES AFTER THE ISSUING OF THE FINAL ORDER.

My filing deadline fell on a weekend, therefore, I had to mail it the following business day. Monday, Jan. 19<sup>th</sup>/09 was an official holiday, so Tuesday, Jan. 20<sup>th</sup>/09 was the next business day. But when I reported to the mailroom, it was closed. Not knowing whether inauguration day was an official holiday, I added the last sentence to my certificate of service, and placed my APPELLANT'S BRIEF in the institutional mailbox. (see APP'S BR's (08-ALJ-04-00887-AP) CERTIFICATE OF SERVICE; see also SCDC RTSm, D. Bondy). After weeks of not receiving my return copy, I forwarded a letter of inquiry dated Feb. 16/09, but mailed Feb. 17/09. After no response, I sent a second letter of inquiry dated April 3/09. (see AFFIDAVIT at number 5). A G A I N! after no response, on June 15/09, I sent a third letter of inquiry. (see Letter of Inquiry). But I still did not receive my return copy - not even a response. Then on or about June 30<sup>th</sup>/09, I received the FINAL ORDER dismissing my case. But then finally, approx. 16 days AFTER receiving my case's dismissal, and five (5) months AFTER my first inquiry, on

July 16/09; I received an unsigned (UNOFFICIAL) memo from the "Clerk's Office" stating that there "is not a copy of a brief filed." (see MEMORANDUM). I went as far as asking opposing counsel to forward me a copy of the brief I served him (see AFFIDAVIT at number 6), but to no avail, because he did not respond to my request.

I assert that the ALC purposely delayed its response to my inquiries. And because of it, I might have been unjustly denied redress. However, I am of the opinion that had Judge Matthews not received my brief, she would have dismissed my case on that basis. (see ALC, Rules § V. SPECIAL APPEALS, # 60 (A) and 62). Additionally, opposing counsel would have motioned to have my case dismissed. Again, my opinion.

I do not know whether there was a conspiracy or not, but I do know that proper procedure was not followed. And for that reason, I was denied due process.

5) SCOC DENIED ME ACCESS TO THE COURTS BY DENYING ME KNOWLEDGE OF CAUSES OF ACTION IN WICKER AND ADKINS et.al. BY DISCONTINUING NEEDED LAW MATERIAL FROM INSTITUTIONAL LAW LIBRARIES.

For the sake of judicial economy, I incorporate here, verbatim, line 22 of page two (2) thru to line 6 of page three (3) supra.

Therefore, SCOC/General Counsel denied me access to the courts in relation to this matter.

6) I WAS ENTITLED TO SUBMIT A BRIEF IN THIS CASE.

Because the South Carolina Court of Appeals allowed me to appeal again to the ALC, it allowed me to reargue my case. My case was given a new docket number (08-ALW-04-00887-AP), an assigned date, an assigned judge, and I was forwarded the court rules for special appeals. Also, there

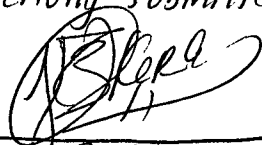
WAS NOT an order enclosed stating that I could not submit a brief in this case. Therefore, I adhered to the rules. And Rule 60CA states in part that "...the party first noticing the appeal shall file an original brief within sixty-five (65) days after the date of assignment." (emphasis added). Therefore, I was entitled, ... REQUIRED to submit a brief.

### CONCLUSION:

As shown, I was denied due process guaranteed by the 5<sup>th</sup> and 14<sup>th</sup> Amendments to the U.S. Constitution; and liberty and property interests created by S.C. Code Ann. § 24-3-430 (D). For such, I request that the ALJ's decision be REVERSED, and that I be paid the difference between the wages actually paid to me, and the prevailing wages that should have been paid to me for each hour, and fraction of an hour worked by me, to include the overtime wages, and the interest earned on same wages. And any other relief that the Court deems warranted.

February 23<sup>rd</sup>, 2010

Respectfully submitted,



Jaja D. B. Okera, #228442  
Pro Se

Ridgeland C1

PDB 2039

Ridgeland SC 29936

Ms. Jeanette F. Barber, Clerk  
S.C. Court of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29201

RECEIVED  
FEB 26 2010  
SC Court of Appeals

RE: Okera v SCDC, Docket # 2009-135046

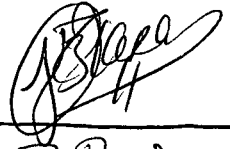
Ms. Barber,

Enclosed are two (2) original copies of my INITIAL BRIEF (and its CERTIFICATE OF MAILING/SERVICE), and two (2) original copies of my DESIGNATION OF MATTERS TO BE INCLUDED IN THE RECORD ON APPEAL (+ its CERTIFICATE OF CONTENT). I ask that You file the same with Your Court, and return to me the extra copy filed with Your Court in the SAE. Please forgive me for not including postage on the SAE, but I do not have the funds.

Additionally, I have been transferred from Evans C.I. to Ridgeland C.I. on January 13/10; and on Jan. 15/10, I mailed a letter to Your Court informing It of my transfer. However, the ORDER giving me an extension to March 4/10 was still sent to ECI, and I just received it Feb. 11/10. So again, I am now at the address below.

February 23<sup>rd</sup>, 2010

cc: Lake E. Summers @  
Malone, Thompson, Summers + Ott, LLC  
339 Heyward St., Ste. 200  
Columbia, S.C. 29201  
(803) 254-3300  
File

SI   
JaJa D. B. Okera, #228442  
Pro Se  
Ridgeland C.I.  
POB 2039  
Ridgeland SC 29936

Lake E. Summers

Malone, Thompson, Summers, & Ott, LLC

339 Heyward St., Ste. 200

Columbia, S.C. 29201

RECEIVED

FEB 26 2010

SC Court of Appeals

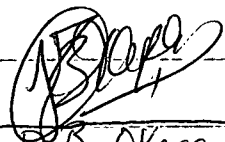
RE: NOTICE OF TRANSFER

Okem v SCD, Docket # 2009-135046

L. Summers:

this is a notice that I am no longer at Evans C.I. in  
Bennettsville, S.C. So please forward all correspondences  
to me here at Ridgeland C.I. at POB 2039, Ridge-  
land, S.C. 29936.

5/

  
Ja Ja B. Okem, # 228442  
Pro Se

Ridgeland C.I.

POB 2039

Ridgeland S.C. 29936

February 23<sup>rd</sup>, 2010

cc: S.C. Court of Appeals

File

THE STATE OF SOUTH CAROLINA

RECEIVED

In The Court of Appeals  
APPEAL FROM THE ADMINISTRATIVE LAWS COURT  
Administrative Law Judge, Cardyn C. Matthew  
Docket # 2009-135046

FEB 26 2010

SC Court of Appeals

Jaja D. B. Dkera, #228442 . . . APPELLANT,

vs.

South Carolina Dept. of Corrections . RESPONDENT.

CERTIFICATE OF MAILING/SERVICE

I certify that on February 23<sup>rd</sup>, 2010, I mailed an original copy of the attached NOTICE OF TRANSFER to opposing counsel, Lake E. Summers at Malone, Thompson, Summers, + DH, LLC, 339 Heyward St., Ste. 200, Columbia, S.C. 29201; and I served an original copy on the S.C. Court of Appeals' Clerk of Court (Mrs. Jeannette F. Barber) at 1015 Sumter St., Columbia SC 29201, both by way of the U.S. Postal Service, postages prepaid, by depositing both into this institution's mailroom.

s/

Jaja D. B. Dkera, #228442  
Pro Se  
Ridgeland Co.  
POB 2039  
Ridgeland SC 29936



## The South Carolina Court of Appeals

TANYA GEE  
ACTING CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
www.sccourts.org

February 2, 2010

Ja Ja D. B. Okera # 228442  
Ridgeland Correctional  
Institution  
P.O. Box 2039  
Ridgeland, SC 29936

Re: Okera, Ja Ja D. B. v. SCDC  
2009135046

Dear Mr. Okera:

The following Order has been endorsed on your Motion to Reinstate in the above entitled case on appeal.

"Construed as a motion for an extension. Thirty-day extension is hereby granted.

s/ Jasper M. Cureton A.J.

February 01, 2010."

Please be advised that the Appellant's Initial Brief and Designation of Matter must be served and filed no later than March 4, 2010.

Very truly yours,

*Tanya A. Gee*  
ACTING CLERK

TAG/mpm

cc: David M. Tatarsky, Esquire  
Lake Eric Summers, Esquire

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge, Carolyn C. Matthews

Docket # 2009-135046

**RECEIVED**

JAN 25 2010

SC Court of Appeals

JaJa D. B. Okera, #228442,

APPELLANT,

vs.

South Carolina Dept. of Corrections,

RESPONDENT.

MOTION TO REINSTATE

Pursuant to SCACR, Rule 260(a), I submit this motion to reinstate the above captioned case based on the pleadings of the attached memorandum in support.

Construed as a motion for an extension. Thirty-day extension is hereby granted.

Respectfully submitted,



JaJa D. B. Okera, #228442

Pro Se

Ridgeland C.I.

POB 2039

Ridgeland SC 29936

 A.J.

Feb. 1, 2010

January 21, 2010

**FILED**

2/2/10 

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
~~APPEAL FROM THE ADMINISTRATIVE LAW COURT~~  
Administrative Law Judge Carolyn C. Matthews  
Docket # 2009-135046

JaJa D.B. DKera, # 228442, . . . APPELLANT,

vs.

South Carolina Dept. of Corrections, . . . RESPONDENT.

MEMORANDUM IN SUPPORT  
OF  
MOTION TO REINSTATE

The week of December 7, 2009, I received a Court Order granting me a 30 day extension. So because vocation would be closed for two weeks (Dec. 21<sup>st</sup>/09 to Jan. 4<sup>th</sup>/10) I decided to complete my initial brief, and designation of matters on appeal during that time. (I was a tutor in the barbering vocation.)

While in the law library (on Dec. 21<sup>st</sup>/09) concluding my research in this matter, Corporal Brenda Miller informed me that I was being moved from Waxhaw unit to Cheraw unit. After moving, I spent the remainder of that day getting situated in the assigned cell. But on December 22<sup>nd</sup>, 2009, I began formulating my initial brief. However, around 1pm, Sgt. Smith informed me that "the warden" wanted me in operations. (NOTE: Warden Willie Eagleton (of Evans C.I.) tends to create institutional rules that supercedes SCDC policy; and that violates state laws and constitutional provisions. And I tend to challenge and expose his abuses (thru grievances, public notices (media), contacting senators, the Lt. Governor etc.)). After entering operations, warden Eagleton appeared and called me into an office with him and shift lieutenant, Lt. Ford (as a witness), closed the door, and asked me have I

"ever heard the phrase 'you don't believe shit stank'?" He then began telling me he is tired of my "sh\_t"; that how HE is the warden, and I don't run anything, and that he has a place for me. He then instructed Lt. Ford to "pack" (lock) me up, and told me to "get out and go to the holding cell!", and that I should write someone and ask for a transfer (see EXHIBIT A).

After warden Eagleton left, I asked Lt. Ford would he allow me to return to the unit and pack my own property, but he informed me that it was already packed. However, he still allowed me to go to the unit and clear out my locker. When I reached the unit, all of my property that was not locked inside of my locker was in a buggie in the officer's office (including my legal work). After reaching SMU (Special Management Unit (i.e., lock-up)) I located all that I could, and placed it in the legal box that I was taking with me. (I have 2 legal boxes). After several days, I realized that I did not have the order granting me the extension. I informed Sgt. Purvis that I needed to go into my other legal box, but he informed me that Lt. Graves (SMU's lieutenant) was on vacation, and that I have to wait until she return. Knowing that I received the order the week of Dec. 7<sup>th</sup>/09, and remembering seeing a number "10", I thought that my deadline was Jan. 10. However, I intended to submit it on Jan. 5<sup>th</sup>/10.

January 4<sup>th</sup>, 2010, Lt. Graves was back, and on Jan. 5<sup>th</sup>/10, I was allowed to go into my other legal box, I located the order and learned that my deadline was Jan. 4<sup>th</sup>/10. (The # "10" that I remembered was 20 "10"). Fortunately, the mailroom official did not come to my cell (as expected) on Jan. 5<sup>th</sup>/10 (as requested), because I would have mailed my initial brief, and designation of matters on appeal after my deadline.

I have diligently worked on this case. Not only did I complete my

initial brief, and designation of matters on appeal on Saturday, Jan. 2<sup>nd</sup>/10, I had already made copies of the record on appeal (see EXHIBITS B and C) costing me \$15.50. (see EXHIBIT C).

Granted, it is my error in thinking I had until Jan. 10/10 to submit the initial brief and matters on appeal, however, if warden Eagleton had not unjustly locked me up for exercising my rights (another policy violation - "REPRISAL" - SCDC policy GA-01.12 § 3) the order would not have gotten misplaced, and it would have been readily available for review as needed. (see EXHIBIT A).

I was placed in SMU by warden Eagleton under the pretense that I was a "threat to the physical safety of other inmates or staff" (however, I was never charged with anything) and spitefully transferred more than 4 hours away from home (in violation of my hardship).

So as shown, there were circumstances and situations that were beyond my control that caused my non-compliance. For those reasons, I ask that this case be reinstated, allowing me to submit my initial brief, and designation of matters on appeal.

Respectfully submitted,



---

Ja Ja D. B. Dkera, #228442

Pro Se

Ridgeland C.I.

P.O.B. 2039

Ridgeland SC 29936

January 21, 2010

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
INMATE GRIEVANCE FORM**

**STEP 1**

INMATE NAME: Jaja D.B. Okera  
 SCDC NUMBER: 228442  
 INSTITUTION: Evans Corr. Inst.  
 HOUSING UNIT: SMU-228B  
 WORK ASSIGNMENT: —

BY: S.T.

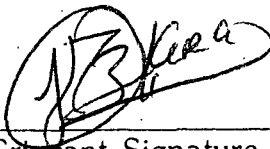
Office Use Only  
 Grievance No. EC1/2051-09  
 Code: General ✓  
 Policy \_\_\_\_\_  
 Disc. Hear. \_\_\_\_\_  
 Class. \_\_\_\_\_  
 Date Received 11/4/09  
 IGC Initials AG

**STATE GRIEVANCE** (include documentation, and date of incident; if SCDC Policy, indicate which policy) On Tuesday, Dec. 22/09 Sgt. Smith informed me that Warden Eagleton wanted me in Operations. After reaching Operations, Warden Eagleton appeared + called me into an office with him + Lt. Ford. Eagleton closed the door and asked me, "Have you ever heard the phrase 'you don't believe shit stank'?" After asking "What did I do now?" Warden Eagleton - in a loud + threatening voice told me that I don't know who I'm messing with, how this is his institution, how he's fed up with me + that he has a place for my "ass", and then told Lt. Ford to "pack [me] up". I asked for what but he told me to "get out", and go to the holding cell. He then told me to write someone and ask for a transfer, I asked what did he say, + tried to ask what was going on, but he (Eagleton) aggressively walked upon me and said "Write someone and ask for a transfer". My name ain't you! Get your ass in that holding cell! He then yelled other things, but I couldn't understand it. Lt. Ford witnessed everything, and Col. Gibbons, + Col. Harris witnessed the incident outside of the office. I can only assume as to why I am here. And if it's because of grievances I filed, then there will be more incidents like this, because I have more grievance to file. Or if it's about me being moved to Cheraw unit, I don't control unit moves. I charge Warden Willie L. Eagleton with reprisal. Additionally, I charge him with violating numbers 610 (INAPPROPRIATE BEHAVIOR, UNBECOMING A SCDC EMPLOYEE), 620 (UNPROFESSIONAL CONDUCT), 130 (GROSS MISCONDUCT + INTENTIONAL IMPROPER BEHAVIOR), + 320 (THREATENING AN INMATE) of the "EMPLOYEE CORRECTIVE ACTION" policy, Adm. 11.04 (Aug. 1/04).

**ALSO SEE THE ATTACHED AFFIDAVIT**

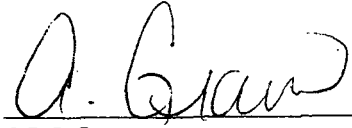
**ACTION REQUESTED:** TO BE RELEASED FROM SMU AND PLACED BACK IN CHERAW UNIT, AND FOR MY JOB TO BE REINSTITATED. HOWEVER, IF WARDEN EAGLETON INSISTS ON HARASSING ME, I ASK TO BE TRANSFERRED TO WATERKEE COM. INST., ALSO, I WANT DISCIPLINARY ACTIONS TAKEN AGAINST WARDEN EAGLETON PURSUANT TO THE VIOLATIONS LISTED ABOVE.

**SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:** I TRIED TO TALK TO W. EAGLETON AT THE TIME, BUT HE WOULDN'T LET ME SAY ANYTHING. LATER THAT DAY, I SPOKE WITH Adm. Asst., Betty Woodard, AND SHE INFORMED HIM THAT I WANTED TO SPEAK TO HIM, BUT IT NEVER HAPPENED.

  
 Grievant Signature 12.26.09  
Date

**ACTION TAKEN BY IGC:**

In accordance "a grievance concerning the performance of any institutional warden shall be referred to the Chief, Inmate Grievance Branch, for investigation and response." This grievance has been forward accordingly.

  
 IGC Signature 1/4/10  
Date

- ☒ I accept the action taken by the IGC and consider the matter closed.  
☐ I do not accept the action taken and wish to appeal.

Grievant Signature Date

**EXHIBIT A**

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
EVANS CORRECTIONAL INSTITUTION

Jaja D.B. Dkera, # 228442  
GRIEVANT,

vs.

Willie L. Eagleton, ECI Warden  
DEFENDANT.

**AFFIDAVIT**

TO GRIEVANCE ON WARDEN  
WILLIE L. EAGLETON - DATED  
DECEMBER 26, 2009

I, Jaja D.B. Dkera, #228442, declare that:

- 1) I am the grievant in this case;
- 2) the content of said grievance is true and correct to the best of my recollection;
- 3) I in no way verbally, nor physically threatened or assaulted Warden Eagleton;
- 4) I in no way disrespected Warden Eagleton; and
- 5) I do not know why Warden Eagleton placed me in SMU.

I swear, under the penalty of perjury, that the above is true and correct to the best of my knowledge, sworn to on this 26<sup>th</sup> day of December, 2009.

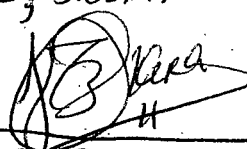
51   
Jaja D.B. Dkera, #228442

EXHIBIT A cont. ...

TO : B. Miller - Education  
FROM : Jaja D. B. Dkera - #228442  
UNIT : SMU - 228 B  
DATE : Dec. 28<sup>th</sup> /09

i need legal copies of evidence  
that i will be submitting as  
"record on appeal." i ask that  
u stop by my cell to get them.

5/13/09  
4

RECEIVED  
DEC 8 8 2009  
EVANS  
LIBRARY

EXHIBIT B

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
Division of Inmate Services

**AGREEMENT TO DEBIT E.H. COOPER ACCOUNT**

|                                 |         |               |          |
|---------------------------------|---------|---------------|----------|
| Inmate's Name:                  | SCDC #: | Housing Unit: | Date:    |
| Burns, Michael<br>(Okera, Saja) | 228442  | SMU-228       | 12-29-09 |

**GENERAL MATERIAL**

\*\* Inmate must have the funds in his/her account to pay for the materials.

To be completed by  
SCDC staff:

| Item              | Amount |
|-------------------|--------|
| Envelope          |        |
| Pen               |        |
| Paper             |        |
| Postage           |        |
| Tape              |        |
| Box               |        |
| Electronic Repair |        |
| Other             |        |

| Cost |
|------|
|      |
|      |
|      |
|      |
|      |
|      |
|      |
|      |
|      |
|      |

Sub-Total:

**LEGAL MATERIAL**

\*\* Inmate is not required to have the funds in his/her account to pay for the materials; however, his/her account must be debited for all materials s/he elects to receive.

To be completed by  
SCDC staff:

| Item     | Amount |
|----------|--------|
| Envelope |        |
| Pen      |        |
| Paper    |        |
| Postage  |        |
| Other    |        |

Copies

62.68

| Cost |
|------|
|      |
|      |
|      |
|      |
|      |
|      |
|      |
|      |
|      |
|      |

Sub-Total:

.25

**PHOTOCOPIES**

\*\* Inmate may be required to have funds in his/her account. See SCDC Procedure GA-01.03(OP), "Inmate Access to the Courts," to determine if inmate may receive copies with/without funds.

To be completed by  
SCDC staff:

| Item        | Amount |
|-------------|--------|
| Photocopies |        |

68.62

| Cost     |
|----------|
| \$ 15.50 |
| \$ 17.00 |

**TOTAL**

Inmate's Signature

*CPI Burns*

Mailroom/Canteen Signature (Request filled by)

12-29-09  
Date

White - Inmate

Canary - Mailroom/Canteen Employee

**EXHIBIT C**

Ms. Jeanette Barber, Clerk  
S.C. Court of Appeals  
1015 Sumter Street  
Columbia SC 29201

RECEIVED  
JAN 25 2010  
SC Court of Appeals

RE: Okerav SCDC, CA# 2009-135046: MOTION TO REINSTATE, and MEMORAN-  
DUM IN SUPPORT

Ms. Barber,

Enclosed are my MOTION TO REINSTATE, MEMORANDUM IN SUPPORT OF  
MOTION TO REINSTATE, and CERTIFICATE OF MAILING/SERVICE. As of this  
writing, I have yet to receive your order of dismissal. I do not know if  
the order was issued, or if Evans C.I.'s Adm. is holding it, but it has  
been too long. So I submit the above, because I rather be premature than  
too late. Therefore, I ask that you file the same with your Court.

January 21, 2010

Respectfully submitted,

cc: Lake E. Summers,

Malone, Thompson, Summers & Ott, LLC  
339 Heyward St., Ste. 200  
Columbia SC 29201  
(803) 254-3300  
File

  
Ja Ja D. B. Okerav, # 228442  
Pro Se  
Ridgeland Corro Inst.  
POB 2039  
Ridgeland SC 29201

Ms. Jeanette F. Barber  
Clerk of Court  
S. C. Court of Appeals  
1015 Sumter Street  
Columbia, S.C. 29201

RECEIVED

JAN 21 2010

SC Court of Appeals

RE: Okera v SCDC, CIA# 2009-135046 - ORDER OF DISMISSAL - NEW ADDRESS

Ms. Barber,

I have been waiting for your order of dismissal in the above case so I can submit my motion to reinstate explaining how I was prevented from meeting my deadline for filing my initial brief and designation of matters on appeal. I am waiting for your order.

Also... I AM NO LONGER at Evans C.I. in Bennettsville, S.C. As of Jan. 13<sup>th</sup>, 2010, my new mailing address is:

Ridgeland C.I.  
POB 2039  
Ridgeland SC 29936

cc: Lake E. Summers

Malone, Thompson, Summers, Ott, LLC  
339 Heyward St., Ste. 200  
Columbia, S.C. 29201  
(803) 254-330  
File

SI/   
Ja Ja D. B. Okera, #228442  
Ridgeland C.I.  
POB 2039  
Ridgeland, SC 29936  
January 15, 2010

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Administrative Law Judge Carolyn C. Matthews  
Docket # 2009-135046

JaJa D. B. Dkera, #228442 . . . . . APPELLANT,  
vs.

South Carolina Dept. of Corrections, . . . . . RESPONDENT.

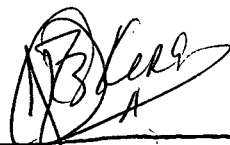
CERTIFICATE OF MAILING/SERVICE

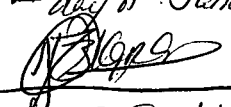
I certify that on January 15, 2010, I mailed an original copy of a letter to the S.C. Court of Appeal's Clerk, Ms. Barber, inquiring about the order of dismissal (of the above case), and informing her of my address change, at 1015 Sumter St., Columbia, S.C. 29201; and I served a copy of the same on opposing counsel, Lake E. Summers at Malone, Thompson, Summers & BTH, LLC, 339 Heyward St., Ste. 200, Columbia, S.C. 29201 all by way of the United States Postal Service, postages prepaid.

Sworn or affirmed to and subscribed before me this \_\_\_\_\_  
day of \_\_\_\_\_,

\_\_\_\_\_  
(Notary Public of South Carolina)

My Commission Expires \_\_\_\_\_

s/   
JaJa D.B. Dkera, #228442  
Pro Se  
Ridgeland C.I.  
POB 2039  
Ridgeland SC 29936

I declare under the penalty of perjury that I reported to the mailroom at 10 o'clock am movement to have this certificate notarized, but mailroom operator Ms. Boles refused to notarize it stating that I should place it in the mailbox. Therefore, on this 15<sup>th</sup> day of January 2010, this was place in the institutional mailbox. s/ 

JaJa D.B. Dkera, #228442

Clerk, Jana Shealy  
Administrative Law Court  
Edgar A. Brown Bldg.  
1205 Pendleton St., Ste. 224  
Columbia SC 29201

RECEIVED

DEC 23 2009

SC Court of Appeals

RE: REQUESTED DOCUMENT

Okera v SCDC, Docket # 08-ALJ-04-00887-AP; (Ct. of App. Doc. # 2009135046)

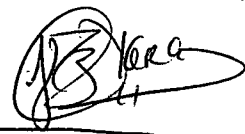
To Clerk, and Chief Judge:

In response to the attached memo from Your Court to me, the letter dated Oct. 21/09 was not a request for documents. It was a copy of the letter I forwarded to the Court of Appeals informing it that Your Court had not forwarded me the requested document made on August 7, 2009.

But to reiterate my request, I need a copy of my APPELLANT'S BRIEF deposited in the institutional mailbox on Jan. 20/09, but mailed to Your Court (+ opposing counsel) on Jan. 21/09. The docket # is cited above.

December 22, 2009

cc: Jeanette Barber, Clerk,  
S.C. Court of Appeals  
Lake E. Summers,  
(Opposing Counsel)  
File

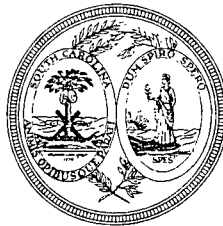
s/   
JaJa D. B. Okera, # 228990  
Pro Se

Evans Corro Insto  
610 Hwy 9 West  
Bennettsville SC 29512

STATE OF SOUTH CAROLINA  
**Administrative Law Court**

RALPH K. "TRIPP" ANDERSON, III  
*Chief Judge*

JANA E. SHEALY  
*Clerk*



(803) 734-0550  
FAX: (803) 734-6400  
WEB: WWW.SCALC.NET

MEMORANDUM

TO: Appellant

FROM: Clerk's Office

DATE: November 2, 2009

---

Our office is in receipt of your letter dated October 21, 2009, in which you are requesting production of documents in 2009135046. However, these documents are being returned you for failure to provide a **docket number** associated with an appeal filed with the South Carolina Administrative Law Court.

Once we receive the docket number, we will be able to further assist you with the documents.

**RECEIVED**

DEC 23 2009

**SC Court of Appeals**

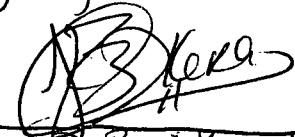
THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
APPEAL FROM ADMINISTRATIVE LAW COURT  
Administrative Law Judge, Carolyn C. Matthews  
Docket # 2009135046

JaJa D. B. OKera, # 228442 . . . . . APPELLANT,  
vs.

South Carolina Department of Corrections . . . . . RESPONDENT.

CERTIFICATE OF MAILING/SERVICE

I certify that on this 22<sup>nd</sup> day of December 2009, I mailed a letter to the Adm. Law Court reiterating my request (that was made in a letter dated Aug. 7/09) for a copy of my APPELLANT'S BRIEF (mailed Jan. 21/09 to the ALC); and I served a copy on opposing counsel, Lake E. Summers, at Malone, Thompson, Summers, and Ott, LLC, 339 Heyward St., Ste. 200, Columbia SC 29201, and Jeanette Barber, Clerk, S.C. Court of Appeals, 1015 Sumter St., Columbia SC 29201, all postages prepaid, by way of the United States Postal Service.

  
s/ JaJa D. B. OKera, #228442  
Pro Se Evans C.I.  
610 Hwy 9 West  
Bennettsville SC 29512

RECEIVED  
DEC 23 2009  
SC Court of Appeals



## The South Carolina Court of Appeals

JEANETTE F. BARBER  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
WWW.SCCOURTS.ORG

December 3, 2009

Jaja D. B. Okera # 228442  
Evans Correctional Institution  
610 Highway #9, West  
Bennettsville, SC 29512

Re: Okera, Ja Ja D. B. v. SCDC  
**2009135046**

Dear Mr. Okera:

The following Order has been endorsed on your Motion Requesting an Extension and Memorandum in Support to be considered as Motion to Serve and File the Appellant's Initial Brief and Designation of Matter Late in the above entitled case on appeal.

"Granted for a period of thirty (30) days. It is appellant's responsibility to obtain his material from the Administrative Law Court.

s/ Jasper M. Cureton A.J.

December 03, 2009."

Please be advised that appellant's must serve and file the Appellant's Initial Brief and Designation of Matter no later than January 4, 2010.

Very truly yours,

*V. Claire Allen, Deputy*  
CLERK

JFB/mpm

cc: David Tatarsky, Esquire  
Lake Eric Summers, Esquire

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
APPEAL FROM ADMINISTRATIVE LAW COURT  
Administrative Law Judge, Carolyn C. Matthews  
Case # 2009-135046

RECEIVED  
NOV 02 2009  
SC Court of Appeals

Jaja D. B. Okera, # 228442 . . . . . APPELLANT,

vs.

South Carolina Department of Corrections . . . . . RESPONDENT.

MOTION REQUESTING AN EXTENSION  
AND  
MEMORANDUM IN SUPPORT

Pursuant to South Carolina Appellant Court Rules, Rule 224(c) (2008),  
i motion this Court requesting an extension of time to submit my initial  
brief in the above captioned case.

MEMORANDUM IN SUPPORT

i received approval to proceed in forma pauperis from Your Court on Octo-  
ber 22, 2009 giving me ten (10) days "...to serve and file a motion request-  
ing the appropriate relief... from the date of [the] letter." (see EX-  
HIBIT A).

Within 10 days after service of my Notice of Appeal in the above caption-  
ed case, i requested material from the Administrative Tribunal pursuant to  
SCACR, Rule 207. (see EXHIBITS B1+B2). However, i have yet to receive the material  
requested. And in a letter to Your Court dated and mailed on October  
21, 2009, i informed Your Court of the Adm. Tribunal's failure to send  
the requested material. (NOTE: The educational official here at  
Evans C.I. (Cpl. Brenda Miller) refused to make a copy of my date-stamped  
letter and notarized certificate of mailing/service of the same (to mail

as evidence) stating that i can recreate it. After informing her that i cannot re-create a date-stamp, or a notarization, she replied: "That's your personal problem." But yet, she copied exhibit B which is the same circumstance.) But nonetheless, the Adm. Tribunal has yet to forward me the requested material. Without it, i am not able to adequately prepare my initial brief.

Additionally, because of my poverty, i requested to proceed in forma pauperis (see Notice of Appeal Okera v SCDC, docket # 08-ALJ-04-00887-AP-received by Your Court on August 3, 2009.) It would have been premature to submit my initial brief before being approved to proceed in forma pauperis (AND before receiving requested material from the Adm. Tribunal).

For the above reasons, i ask that i be granted an extension of time to submit my initial brief in the above captioned case based on my reception of the requested material from the Adm. Tribunal.



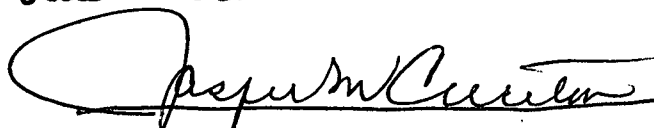
s/ Jaja D. B. Okera, # 228442  
Pro Se

Evans C. I.

610 Hwy 9 West  
Bennettsville SC 29512

October 28, 2009

Granted for a period of thirty (30) days. It is appellant's responsibility to obtain his material from the Administrative Law Court.

, A.J.

FILED

12/3/09

(2)

December 3, 2009



## The South Carolina Court of Appeals

JEANETTE F. BARBER  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
www.sccourts.org

October 19, 2009

Jaja D. B. Okera # 228442  
Evans Correctional Institution  
610 Highway #9, West  
Bennettsville, SC 29512

Re: Okera, Ja Ja D. B. v. SCDC  
Case Tracking Number 2009-135046

Dear Mr. Okera:

The following Order has been endorsed on your Motion and Affidavit to Proceed in Forma Pauperis and Memorandum in Support in the above entitled case on appeal.

"GRANTED.

Thomas E. Huff A.J.  
For the Court

By s/ Jeanette F. Barber  
Clerk

September 8, 2009."

According to our records, your Appellant's Initial Brief and Designation of Matter should have been served and filed no later than August 8, 2009. If you would like to file and serve the Brief out of time, it will be necessary for you to serve and file a motion requesting the appropriate relief within ten (10) days from the date of this letter or this appeal shall be dismissed. Any motions or petitions presented to this Court must be in compliance with Rule 240 of South Carolina Appellate Court Rules.

Very truly yours,

*V. Claire Allen, Deputy*  
CLERK

JFB/pd

cc: David Tatarsky, Esquire  
Lake Eric Summers, Esquire

**EXHIBIT A**

Clerk, Jana Shealy  
Administrative Law Court  
Edgar A. Brown Bldg.  
1205 Pendleton St. Ste. 224  
Columbia SC 29201

August 7, 2009

RECEIVED

RECEIVED

AUG 7 2009

AUG 7 2009

RE: REQUEST PURSUANT TO SCACR, RULE 207(b)(1)  
Dikera v SCDC, Docket # 08-ALJ-04-00887-AP

Ms. Shealy,

Pursuant to the above Rule, I make this request, however, this is not a request for a transcript (because there isn't one), but for a copy of my APPELLANT'S BRIEF deposited in the institutional mailbox on January 20<sup>th</sup>, 2009, but mailed to your Court (and opposing counsel) on January 21<sup>st</sup>, 2009. I ask that you get back with me in the near future.

*(Signature)*

cc: Ms. Jeanette Barber, Clerk

S.C. Court of Appeals

Post Office Box 11629

Columbia SC 29211

Lake E. Summers

Attorney at Law

339 Heyward St., Ste. 200

Columbia SC 29201

(803) 254-3300

File

sl

Jaja P. B. Dikera, #228442

Pro Se

Evans Corr. Inst.

610 Hwy 9 West

Bennettsville SC 29512

RECEIVED

NOV 02 2009

SC Court of Appeals

EXHIBIT B1

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
APPEAL FROM ADMINISTRATIVE LAW COURT  
Administrative Law Judge, Carolyn C. Matthews  
Docket # 08-ALJ-04-00887-AP

RECEIVED  
NOV 02 2009  
SC Court of Appeals

Jasa D.B. Oken, # 228442 . . . . . APPELLANT,

vs.

South Carolina Department of Corrections . . . . . RESPONDENT.

CERTIFICATE OF SERVICE/MAILING

I certify that on this 7<sup>th</sup> day of August 2009, I mailed a letter to the Administrative Law Court (pursuant to SCALC, Rule 207 (b)(1) requesting a copy of my APPELLANT'S BRIEF) by way of the United States Postal Service, postage prepaid, to the name and address listed below; and I served a copy of the same (by the same means) ~~on~~ the opposing counsel, also listed below:

① Clerk, Jana Shealy  
Adm. Law Court  
Edgar A. Brown Bldg.  
1205 Pendleton St., Ste. 224  
Columbia SC 29201

② Lake E. Summers  
Attorney at Law  
339 Heyward St., Ste. 200  
Columbia SC 29201

Sworn to and subscribed before me

this 07 day of AUGUST 2009

Opew Bunt  
(Notary Public of South Carolina)

My Commission Expires 07-13-2019

JB Oken  
s/ Jasa D.B. Oken, #228442  
Pro Se  
Evans C.I.  
610 Hwy 9 West  
Bennettsville SC 29512

EXHIBIT B2

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
APPEAL FROM ADMINISTRATIVE LAW COURT  
Administrative Law Judge Carolyn C. Matthews  
Case # 2009-135046

RECEIVED  
NOV 02 2009  
SC Court of Appeals

JaJa P. B. Dkera, #228442 . . . . . APPELLANT,

VS.

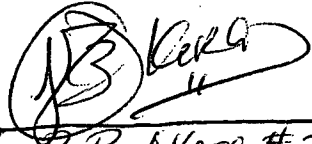
South Carolina Department of Corrections . . . . . RESPONDENT.

AFFIDAVIT

I, JaJa P. B. Dkera, declare that:

- 1) I am the appellant in the above captioned case;
- 2) the Evans Corr. Inst. educational official, Cpl. Brenda Miller, refused to make me copies of the letter and certificate of mailing/service that I forwarded to Your Court on October 21, 2009 informing You that the Adm. Tribunal failed to send me the requested material, replying that it's my "... personal problem.";
- 3) the content of my memo in support of motion for an extension of time is true, and the EXHIBITS are unaltered; and
- 4) Evans Corr. Institutional law library does not have a 2009 edition of the South Carolina Rules of Court.

On this 28<sup>th</sup> day of October, 2009, I swear that the above is true and correct to the best of my knowledge.

s/   
JaJa P. B. Dkera, #228442  
Pro Se

Evans Corr. Inst.  
610 Hwy 9 West  
Bennettsville SC 29512

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
APPEAL FROM ADMINISTRATIVE LAW COURT  
Administrative Law Judge, Carolyn C. Matthews  
Case # 2009-135046

Jaja D. B. Okera, #228442 . . . . . APPELLANT,

vs.

South Carolina Department of Corrections . . . . . RESPONDENT.

CERTIFICATE OF MAILING/SERVICE

I certify that on October 28, 2009, I mailed the attached MOTION REQUESTING AN EXTENSION AND MEMORANDUM IN SUPPORT, and cover letter to Clerk, Ms. Jeanette F. Barber, at S.C. Court of Appeals, 1015 Sumter Street, Columbia, S.C. 29201; and served the same on opposing counsel, Lake E. Summers at Malone, Thompson, Summers, and Ott, LLC, 339 Heyward Street, Ste. 200, Columbia, S.C. 29201 all by way of the United States Postal Services, postages prepaid, by depositing the same in the Evans C.I. institutional mailroom. (This mailing/serving also includes an AFFIDAVIT.)

Sworn to and subscribed before me  
this 28 day of OCT 2009

Oscar W. Bruner  
(Notary Public of South Carolina)

My Commission Expires 07-13-2019

s/ [Signature]  
Jaja D. B. Okera, #228442  
Pro Se

Evans Cor. Inst.  
610 Hwy 9 West  
Bennettsville SC 29512

Ms. Jeanette F. Barber, Clerk  
S.C. Court of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29201

RECEIVED  
NOV 02 2009  
SC Court of Appeals

RE: DKera v SCDC, case # 2009-135046

Ms. Barber,

Enclosed, you will find my MOTION REQUESTING AN EXTENSION  
AND MEMORANDUM IN SUPPORT + EXHIBITS; AFFIDAVIT; and CERTIFI-  
CATE OF MAILING/SERVICE. Please file the same with your Court.

Also, I do not know who David Tatarsky is. Apparently, he is  
an attorney, but he is not the opposing counsel in this matter.

Sincerely,

 Jada B. O'Kera

cc: Lake E. Summers

Malone, Thompson, Summers, +

DH, LLC

339 Heyward St., Ste. 200

Columbia, SC 29201

(803) 254-3300

File

Jada B. O'Kera, # 228442  
Pro Se

Evans Corr. Inst.

610 Hwy 9 West

Bennettsville SC 29512

October 28, 2009

Ms. Jeanette Barber, Clerk  
S.C. Court of Appeals  
1015 Sumter Street  
Columbia SC 29201

RECEIVED

RE: FAILURE TO RECEIVE REQUESTED DOCUMENT

OCT-22-2009

Okera v SCDC, case # 2009135046

SC-Court-of-Appeals

Ms. Barber,

This letter is to inform your Court that the Administrative Law Judge Division's time to forward me the requested material expired 10-16-09, and the 10 day waiting period for a notice of extension expired 10-16-09. However, I have yet to receive what I requested from the Administrative Law Court; nor have I received a notification of an extension from the ALL.

SI

Judge D. B. Okera, #228442  
Pres. Sec.

cc: Clerk, Jana Shealy

Adm. Law Court

Evans C. I.

Edgar A. Brown Bldg.

610 Hwy 9 West

1205 Pendleton St., Ste 224

Bennettsville SC 29512

Columbia SC 29201

October 21, 2009

Lake E. Summers

Malone, Thompson, Summers, and Dtt LLC

339 Heyward St., Ste 200

Columbia SC 29201

(803) 254-3300

File

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
APPEAL FROM ADMINISTRATIVE LAW COURT  
Administrative Law Judge, Carolyn C. Matthews  
Case # 2009

Jana D. B. DKera, # 228442 . . . . . APPELLANT,

vs.

South Carolina Department of Corrections . . . . . RESPONDENT.

CERTIFICATE OF MAILING/SERVICE

I certify that on October 21<sup>st</sup>, 2009, I mailed the attached letter to The S.C. Court of Appeals at 1015 Sumter Street, Columbia, S.C. 29201 notifying the Court of my failure to receive requested material from the Administrative Law Court pursuant to SC ACR, Rule 207 (2008); and I served copies of the same on the following, all by way of the United States Postal Service, postages prepaid:

- |                              |                                     |
|------------------------------|-------------------------------------|
| ① Jana Shealy, Clerk         | ② Lake E. Summers                   |
| Adm. Law Court               | Malone, Thompson, Summers & DTH LLC |
| Edgar A. Brown Bldg.         | 339 Heyward St., Ste. 200           |
| 1205 Pendleton St., Ste. 224 | Columbia, S.C. 29201                |
| Columbia SC 29201            |                                     |

Sworn to and subscribed before me  
this 21 day of October 2009  
Pamela Dreyer McDowell  
(Notary Public of South Carolina)  
Commission Expires 08-18-2018

sl. [Signature]  
Jana D. B. DKera, # 228442  
Pro Se  
Evans C.I.  
610 Hwy 9 West  
Bennettsville SC 29512

**RECEIVED**

OCT 22 2009.

SC Court of Appeals



## The South Carolina Court of Appeals

JEANETTE F. BARBER  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
www.sccourts.org

October 19, 2009

Jaja D. B. Okera # 228442  
Evans Correctional Institution  
610 Highway #9, West  
Bennettsville, SC 29512

Re: Okera, Ja Ja D. B. v. SCDC  
Case Tracking Number 2009-135046

Dear Mr. Okera:

The following Order has been endorsed on your Motion and Affidavit to Proceed in Forma Pauperis and Memorandum in Support in the above entitled case on appeal.

"GRANTED.

Thomas E. Huff A.J.  
For the Court

By s/ Jeanette F. Barber  
Clerk

September 8, 2009."

According to our records, your Appellant's Initial Brief and Designation of Matter should have been served and filed no later than August 8, 2009. If you would like to file and serve the Brief out of time, it will be necessary for you to serve and file a motion requesting the appropriate relief within ten (10) days from the date of this letter or this appeal shall be dismissed. Any motions or petitions presented to this Court must be in compliance with Rule 240 of South Carolina Appellate Court Rules.

Very truly yours,

*V. Claire Allen, Deputy*  
CLERK

JFB/pd

cc: David Tatarsky, Esquire  
Lake Eric Summers, Esquire

Renee S. Johnson  
Administrative Specialist  
1015 Sumter Street  
Columbia SC 29201

RECEIVED

OCT 16 2009

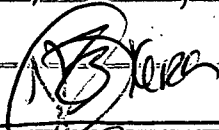
SC Court of Appeals

RE: 2006-CP-16-0526: LETTER OF INQUIRY

Ms. Johnson:

I received your letter dated September 17, 2009 stating that I did not file a Notice of Appeal with your Court. Ms., to the contrary, yes I did. Now what Kenneth Richstad did with it is beyond me. In fact, if a file of my inquiries concerning its status was kept, you will see that I made numerous inquiries. However, K. Richstad never responded. My first response came from Ms. Barber. Now what's the logic of forwarding copies of my Notice of Appeal to opposing counsel & previous court (pursuant to the Court rules), but not file it with the "intended court"? Ms., again, I did, in fact, submit a Notice of Appeal to your Court.

With that said, I would like to know where do I go from here?

s/ 

J. B. Oliva, # 228442  
Pro Se

Evans C.I.  
610 Hwy 9 West  
Bennettsville SC 29562

October 13, 2009

P.S. There is not a comma  
in my last name.

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
APPEAL FROM DARLINGTON COUNTY  
Court of Common Pleas, Chief Adm. Judge, Paul M. Burch  
Case # 2006-CP-16-0526

Jaja D. B. Okera, # 228442 . . . . . APPELLANT,

vs.

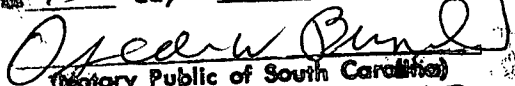
Willie L. Eagleton . . . . . RESPONDENT.

CERTIFICATE OF MAILING

I certify that on this 13<sup>th</sup> day of October, 2009, I forwarded a copy of the attached LETTER OF INQUIRY to the S.C. Court of Appeals' Administrative Specialist, Ms. Renee S. Johnson, at 1015 Sumter Street, Columbia SC 29201, by way of the United States Postal Service, postage prepaid.

SL   
Jaja D. B. Okera, # 228442  
Pro Se  
Evans C1  
610 Hwy 9 West  
Bennettsville SC 29512

Sworn to and subscribed before me  
this 13 day of OCT 2009

  
(Notary Public of South Carolina)

My Commission Expires 07-13-2019

RECEIVED  
OCT 16 2009  
SC Court of Appeals

TO : Mr. Benjamin - Administrative Official  
FROM : Jaja D. B. Okera, # 228442  
UNIT : 4B-214  
DATE : 8.26.09

RECEIVED  
SEP 2 2009  
SC Court of Appeals

Mr. Benjamin

Monday, Aug. 24/09, Lt. Taylor spoke with you about me needing legal envelopes (env.) for my pending court cases, and the fact that I had previously requested some from Mrs. Hooks, but she hasn't been here for some time. Lt. Taylor told me you said y'all (i guess adm.) normally wait until you get a certain amount before you send out legal material to the requesting prisoners. With all due respect Sir, i understand that that just might be your practice, but... the Courts are not gonna excuse my noncompliance with meeting deadlines, or failure to serve opposing parties because this administration doesn't have enough requests for legal material to act on.

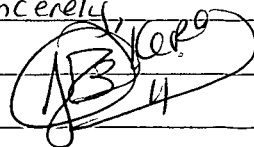
While on SMU, i requested 15 legal env.s, but i was released before i could get them. However, i now need more b/c i have 2 cases in the Court of Appeals, and willfully soon, there will be a third. So my request has increased to approx. 30 legal env.s.

So if possible, in this instance, i ask that you make an exception, and grant my request as soon as possible.

i apologize for any inconvenience, and i thank you for your consideration.

cc: Ms. Jeanette Barber, Clerk;  
S.C. Court of Appeals  
File

Sincerely,

 4

RESPONSE:

Ms. Jeanette Barber, Clerk,  
S.C. Court of Appeals  
1015 Sumter Street  
Columbia SC 29201

RECEIVED

SEP 02 2009

SC Court of Appeals

RE: Okena v SCDC, case # 2009136087; DOCUMENT RECEIVED

Ms. Barber,

This letter is to inform you that on Monday, August 24<sup>th</sup>, 2009, I received the material (document) I requested from the Administrative Law Court (pursuant to SCACR, Rule 207(b)(1)) in the above captioned case. Also enclosed is a copy of a request that I forwarded to an adm. official here at Evans C.I. concerning legal envelopes.

August 27<sup>th</sup>, 2009

Respectfully submitted,

cc: General Counsel

S.C. Dept. of Corr.

POB 21787

Columbia SC 29221-1787

(803) 896-8555

File

JaJa P. B. Okena, # 228442  
Proc Se

Evans Corro Inst.

610 Hwy 9 West

Bennettsville SC 29512

RECEIVED  
SEP 2 2009  
SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
APPEAL FROM ADMINISTRATIVE LAW COURT  
Administrative Law Judge, Deborah B. Durden  
Docket # 2009136087

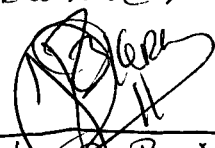
Jaja D. B. Okena, #228442 . . . . . APPELLANT,

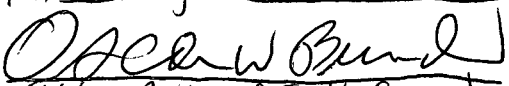
VS.

South Carolina Department of Corrections . . . . . RESPONDENT.

CERTIFICATE OF SERVICE

I certify that on this 27<sup>th</sup> day of August, 2009, I forwarded a copy of the enclosed letter (informing your court of me receiving the requested document from the ALC) to opposing counsel (General Counsel) at SCDC, P.O. Box 21787, Columbia SC 29221-1787 by way of Interdepartmental Mail, no postage necessary.

5/   
Jaja D. B. Okena, #228442  
Pro Se  
Evans C. I.  
610 Hwy 9 West  
Bennettsville SC 29512

Sworn to and subscribed before me  
this 27 day of AUGUST 2009  
  
(Notary Public of South Carolina)  
My Commission Expires 07-13-2019

Ms. Jeanette Barber, Clerk  
S.C. Court of Appeals  
POB 11629  
Columbia SC 29211

RECEIVED

RECEIVED

AUG 24 2009

AUG 19 2009 SC Court of Appeals

ECI MAILROOM

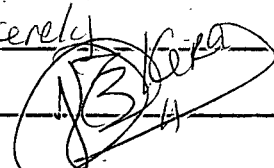
RE: CERTIFICATE OF SERVICE: DKem v SCDL, 2009135046

Ms. Barber,

I was not aware of the fact that I had to send the opposing party a copy of the Motion and Affidavit to Proceed In Forma Pauperis, however, enclosed is my proof (certificate) of service in the above cited case.

August 19, 2009

Sincerely,



cc: Lake E. Summers

Malone, Thompson, Summers, and

DH LLC

339 Heyward St., Ste. 200

Columbia SC 29201

(803) 254-3300

File

Jada D.B. DKem, #228442  
Pro Se

Evans Comm. Inst.

610 Hwy 9 West

Bennettsville SC 29512

Lake E. Summers

Malone, Thompson, Summers, and DTH LLC

339 Heyward St., Ste. 200

Columbia SC 29201

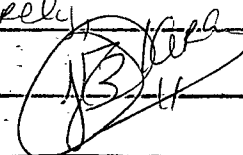
RE: SERVICE: Okeru vs SCDC, 2009135046

Mr. Summers,

I was not aware that I had to send you a copy of the Motion and Affidavit to Proceed In Forma Pauperis, however, enclosed is a copy of the same in the above captioned case.

August 19, 2009

Sincerely,



cc: Ms. Jeanette Barber, Clerk

S.C. Court of Appeals

PoB 11629

Columbia, SC 29211

(803) 734-1890

File

JaSg D. B. Okeru, #228442  
Pro Se

Evans Corr. Inst.

610 Hwy 9 West

Bennettsville SC 29512

Clerk, Jana Shealy  
Administrative Law Court  
Edgar A. Brown Bldg.  
1205 Pendleton St., Ste. 224  
Columbia SC 29201

August 7, 2009

RECEIVED

AUG 12 2009

SC Court of Appeals

RE: REQUEST PURSUANT TO SCAPER, RULE 207 (b)(1)

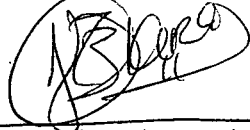
Okera v SCDC, Docket # 08-ALJ-04-00887-AP

Ms. Shealy,

Pursuant to the above Rule, I make this request, however, this is not a request for a transcript (because there isn't one), but for a copy of my APPELLANT'S BRIEF deposited in the institutional mailbox on January 20<sup>th</sup>, 2009, but mailed to your Court (and opposing counsel) on January 21<sup>st</sup>, 2009. I ask that you get back with me in the near future.

cc: Ms. Jeanette Barber, Clerk  
S.C. Court of Appeals  
Post Office Box 11629  
Columbia SC 29211  
Lake E. Summers  
Attorney at Law  
339 Heyward St., Ste. 200  
Columbia SC 29201  
(803) 254-3300  
File

sl

  
J. D. B. Okera, #228442  
Pro Se

Evans Corr. Inst.

610 Hwy 9 West

Bennettsville SC 29512

Enter letter as memo.

he states in letter dated 8/10/09 that there was no trans. AIB/ DOM due 30 days after service of NDA.

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
APPEAL FROM ADMINISTRATIVE LAW COURT  
Administrative Law Judge, Carolyn C. Matthew  
Docket # 08-ALJ-04-00887-AP

RECEIVED  
AUG 12 2009  
SC Court of Appeals

JaJa D. B. Okera, #228442 . . . . . APPELLANT,

VS

South Carolina Department of Corrections . . . . . RESPONDENT,

CERTIFICATE OF MAILING/SERVICE

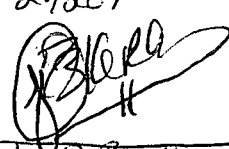
I certify that on this 7<sup>th</sup> day of August 2009, I mailed a letter to the Administrative Law Court (pursuant to SCALC, Rule 207(b)(1)) requesting a copy of my APPELLANT'S BRIEF by way of the United States Postal Service, postage prepaid, to the name and address listed below; and I served a copy of the same (by the same means) on the opposing counsel, also listed below:

① Clerk, Jana Shealy  
Adm. Law Court  
Edgar A Brown Bldg,  
1205 Pendleton St., Ste. 224  
Columbia SC 29201

② Lake E. Summers  
Attorney at Law  
339 Heyward St., Ste. 200  
Columbia SC 29201

Sworn to and subscribed before me  
this 07 day of AUGUST 2009  
Oscar B. Bland  
(Notary Public of South Carolina)

My Commission Expires 07-13 2019

  
s/ JaJa D. B. Okera, #228442  
Pro Se  
Evans C.I.  
610 Hwy 9 West  
Bennettsville SC 29512



## The South Carolina Court of Appeals

JEANETTE F. BARBER  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

August 11, 2009

Jaja D. B. Okera # 228442  
Evans Correctional Institution  
610 Highway #9, West  
Bennettsville, SC 29512

Re: Okera, Ja Ja D. B. v. SCDC  
2009135046  
2008-AL-04-00887

Dear Mr. Okera:

We have received your Notice of Appeal in the case noted above. This case will be docketed in the Court of Appeals and all communications concerning this case, including motions and petitions, initial and final briefs, and the Record on Appeal, should be directed to and filed in this Court. For all filings, please note the requirements of Rule 267(a) of the South Carolina Appellate Court Rules, and be further advised that Court of Appeals policy requires the firm name of any counsel shown must be included in his or her address.

**We have also received your Motion and Affidavit to Proceed In Forma Pauperis in the above matter. However, we have not received proof that you serve this motion to opposing party. Please provide this Court with proof of service for this Motion within ten (10) days of the date of this letter.**

We suggest that large parcels such as copies of final briefs and the Record On Appeal be sent directly to the Court via the street address: 1015 Sumter Street, Columbia, S.C. 29201. Thank you for your attention to this. Failure to file in the proper court may result in the dismissal of your appeal.

PLEASE BE ADVISED that, pursuant to Rule 207 of the South Carolina Appellate Court Rules, the transcript must be ordered within ten (10) days of the proof of service of the Notice of Appeal and you must provide this Court, opposing counsel, and the Office of Court

Administration with all correspondence regarding the transcript. It is also Appellant's responsibility to make satisfactory arrangements (including agreement regarding payment for the transcript) with the Court Reporter for furnishing the transcript. You are reminded of the notification requirements of Rule 207(a)(5), SCACR. also, please advise the Court in writing upon receipt of the transcript.

**NOTE: If you believe this case has been improperly filed in the Court of Appeals, by reason of the limitations set forth in S.C. Code Ann. Section 14-8-200(b)(1998), as amended June 1, 1999, notify the Clerk's office of the Court of Appeals immediately. The cited Code Section prohibits the Court of Appeals from hearing appeals in seven classes of cases:**

- 1) any final judgment from the circuit court which includes a sentence of death;
- 2) any final judgment from the circuit court setting public utility rates pursuant to Title 58;
- 3) any final judgment involving a challenge on state or federal grounds to the constitutionality of a state law or county or municipal ordinance where the principal issue is the constitutionality of the law or ordinance;
- 4) any final judgment from the circuit court involving the authorization, issuance, or proposed issuance of general obligation debt, revenue, institutional, industrial, or hospital bonds of the state, its agencies, political subdivisions, public service districts, counties, and municipalities or any other indebtedness now or hereafter authorized by Article X of the Constitution of this state;
- 5) any final judgment from the circuit court pertaining to elections and election procedure;
- 6) any order limiting an investigation by a State Grand Jury under S.C. Code Ann. Section 14-7-1630;
- 7) any order of the family court relating to an abortion by a minor under S.C. Code Ann. Section 44-41-33.

Very truly yours,

  
Jeanette F. Barber  
CLERK

JFB/mpm

cc: David Tatarsky, Esquire  
Lake Eric Summers, Esquire  
Jana Shealy



## The South Carolina Court of Appeals

JEANETTE F. BARBER  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE (803) 734-1890  
FAX (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

August 11, 2009

Jaja D. B. Okera # 228442  
Evans Correctional Institution  
610 Highway #9, West  
Bennettsville, SC 29512

Re: Okera, Ja Ja D. B. v. SCDC  
**2009135046**  
**2008-AL-04-00887**

Dear Mr. Okera:

This office has received your Notice of Appeal in the above matter. It has been assigned the Case Tracking Number that appears above. Please use this number on all future correspondence relating to this matter.

I wish to call the attention of the parties to the order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will not review filings for redaction or to determine if materials should be sealed.

Very truly yours,

*V. Claire Allen, Deputy*  
CLERK

JFB/mpm

cc: David Tatarsky, Esquire  
Lake Eric Summers, Esquire  
Jana Shealy

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge, Carolyn C. Matthews

Docket # 08-ALJ-04-00887-AP

RECEIVED

AUG 07 2009

SC Court of Appeals

JaJa D. B. Okera, # 228442 . . . . . APPELLANT,

vs.

South Carolina Department of Corrections . . . . . RESPONDENT.

CERTIFICATE OF SERVICE

I certify that on this 4<sup>th</sup> day of August, 2009, I served a copy of the notice of appeal in the above captioned case on Lake E. Summers (opposing counsel) at 339 Heyward Street, Ste 200, Columbia S.C. 29201, by way of the United States Postal Service, postage prepaid.

Sworn to and subscribed before me  
this 04 day of AUGUST 2009

D. Oscar Brund  
(Notary Public of South Carolina)

My Commission Expires 08-13-2019

5/   
JaJa D. B. Okera, #228442  
Pro Se  
Evans C. I.  
610 Hwy 9 West  
Bennettsville SC 29510

Lake E. Summers  
Attorney @ Law  
339 Heyward St., Ste 200  
Columbia SC 29201

RECEIVED

AUG 07 2009

SC Court of Appeals

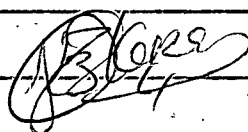
RE: SERVICE OF NOTICE OF APPEAL

Dkera v SCDC, Docket # 08-ALJ-04-00887-AP

Mr. Summers,

In error, instead of serving you, I served the General Counsel with the notice of appeal. Enclosed is a copy of that notice.

August 4<sup>th</sup>, 2009

  
sl

J. D. B. Dkera #228442  
Pro Se

cc: Ms. Jeanette Barber, Clerk  
S.C. Court of Appeals  
Post Office Box 11629  
Columbia SC 29211  
File

Erans C. I.

610 Hwy 9 West  
Bennettsville SC 29512

RECEIVED

AUG 07 2009

SC Court of Appeals

Mrs. Jeannette Barber, Clerk  
S.C. Court of Appeals  
POB 11629  
Columbia SC 29211

RE: NOTICE OF NOTICE: Okera v SCDC, Docket # 08-ALJ-04-00887-AP

Ms. Barber

So much is going on in my life right now, to say it's chaos would be an understatement. Instead of sending my notice of appeal to opposing counsel, I mistakenly sent it to the General Counsel, confusing it with case # 09-ALJ-04-00537-AP that was dismissed before counsel was employed. My question is, . . . is this a costly error? Mind you, the notice was sent in good faith, just to the wrong counsel. But once I realized the error, I corrected it.

I ask that you please get back with me on this matter.

August 4<sup>th</sup>, 2009

Sincerely,



cc: File

Jada D.B. Okera, #228442  
Pro Se

P.S. Enclosed is a copy of the letter I forwarded to Mr. Summers, and a certificate of service.

Evans C.I.

6010 Hwy 9 West  
Bennettsville SC 29512

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
APPEAL FROM ADMINISTRATIVE LAW COURT  
Administrative Law Judge, Carolyn C. Matthews  
Docket # 08-AWS-04-00887-AP

RECEIVED  
AUG 07 2009  
SC Court of Appeals

Jaja D.B. DKera, # 228442 . . . . . APPELLANT,

VS

South Carolina Department of Corrections . . . . . RESPONDENT.

AFFIDAVIT

I declare, under the penalty of perjury, that the following are true:

- 1) I am the Appellant in the above captioned case;
- 2) on Wednesday, July 15/09, I requested a financial statement from Evans Corc. Inst.'s mailroom operator, Ms. Mc Dowell;
- 3) that the financial statement returned (the 2<sup>nd</sup> time) on Wednesday, July 29/09;
- 4) on Wednesday, July 29/09, I forwarded said financial statement to Corporal B. Miller for copies expecting their return on Thursday, July 30<sup>th</sup>, 2009;
- 5) however, I received the original + copies back on August 3<sup>rd</sup>, 2009, AFTER the collection of the mail by mailroom operator, D. Burady; and
- 6) the above delays were beyond my control.

August 4<sup>th</sup>, 2009

  
s/ Jaja D.B. DKera, # 228442  
Pro Se

CERTIFICATE OF MAILING

I certify that on this 4<sup>th</sup> day of August, 2009, I mailed a copy of the required financial statement (i.e., "IN-

MATE TRUST FUND ACCOUNT REPORT for SOUTH CAROLINA COURT FILING FEES"), by way of the United States Postal Service, postage prepaid, to Ms. Jeanette Barber, Clerk of the South Carolina Court of Appeals, at the following address:

Post Office Box 11629  
Columbia, South Carolina 29211



s/ J. D. B. Dkera, #228442  
Pro Se  
Evans Corr. Inst.  
610 Hwy 9 West  
Bennettsville SC 29512

RECEIVED

RECEIVED

IN THE TRUST FUND ACCOUNT REPORT  
for SOUTH CAROLINA COURT FILING FEES

JUL 15 2009

JUL 29 2009

INSTRUCTIONS TO INMATE: Complete top portion then give to your mailroom. When returned from Accounting, you must mail this form with any payment to the Court.

MAIL ROOM

By signing my name below, I am asking the Financial Accounting Office of the South Carolina Department of Corrections to complete this report. In accordance with SC Code of Laws §24-27-100 and 150, I authorize payment of the full filing fee. If I have insufficient funds in my account at this time to pay the court's full filing fee, I authorize SCDC to deduct the initial and subsequent payments until payment is completed.

INMATE NAME (print) JaJa P. B. DKerr (Michael Briggs)

SCDC # 228442

INMATE SIGNATURE: [Signature]

I plan to file this action in the SC County of Richland Co.

The section below is for SCDC - Financial Accounting Branch's use ONLY.

- (1) Total deposits to inmate's account for preceding six months' period \* ..... \$ 20.00
- (2) Twenty percent (20%) of line 1 ..... \$ 4.00
- (3) Account balance - current date ..... \$ 6.46
- (4) PAYMENT AMOUNT \*\*  
(lesser of line 2 or line 3)  
Enclosed check # ..... \$ 0

\*\*NOTE to COURT: If payment is for partial fee, Court must notify SCDC once case is accepted and filed. Send notice with case # and balance owed to address below. SCDC will NOT process any additional payments until notification is received from Court.

South Carolina Department of Corrections  
Financial Accounting - Room 234  
PO Box 21787  
Columbia, SC 29221-1787

\*Admission date is noted here if inmate incarcerated less than six months

[Signature]

7/28/09

RECEIVED

AUG 07 2009

SC Court of Appeals

Ms. Jeanette Barber, Clerk  
S.C. Court of Appeals  
Post Office Box 11629  
Columbia SC 29211

RE: FINANCIAL STATEMENTS: Docket # 08-ALJ-04-00887-AP; and  
09-ALS-04-00537-AP

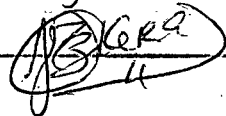
Ms. Barber,

Enclosed are two (2) AFFIDAVITS, CERTIFICATES OF MAILING,  
and financial statements - one (1) each for the above cited  
cases (08-ALJ-04-00887-AP, filed 7.29.09; and 09-ALS-04-00537-  
AP, filed 8.3.09). Please forgive their delays, but the circum-  
stances were beyond my control.

I thank you for your patience.

August 4<sup>th</sup>, 2009

Sincerely,



cc: General Counsel

SCDC

Post Office Box 21787

Columbia SC 29221-1787

(803) 896-8508

Lake E. Summers

Attorney @ Law

339 Heyward St. Ste., 200

(803) 254-3300

JaJa P. B. Okeru # 228442  
Pro Se

Evans Comm. Inst.

610 Hwy 9 West

Bennettville SC 29512

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
APPEAL FROM ADMINISTRATIVE LAW COURT  
Administrative Law Judge, Carolyn C. Matthews  
Docket # 08-AW-04-00887-AP

RECEIVED

AUG 03 2009

SC Court of Appeals

Jada P.B. Okera #228442 . . . . . APPELLANT,

vs.

South Carolina Department of Corrections . . . . . RESPONDENT.

MOTION AND AFFIDAVIT TO PROCEED  
IN FORMA PAUPERIS AND  
MEMORANDUM IN SUPPORT

Come now, Jada P.B. Okera (Appellant), hereby, apply for leave to proceed without prepayment of fees, cost, or security thereof. In support of my application, I declare, under the penalty of perjury, that the following are true:

- 1) I am the appellant in this action, and I believe I am entitled to redress;
- 2) I am an indigent prisoner in the SCDC, and I do not have funds available to pay the cost of said proceeding, or give security thereof;
- 3) July 14<sup>th</sup> or 15<sup>th</sup>, 2009, I requested a financial statement that returned uncompleted on July 22/09. However, upon its second return, I will forward it to Your Court;
- 4) Pursuant to Article 1 § 22, S.C. Constitution, appellant has a Constitutional right to judicial review;
- 5) Pursuant to S.C. Code Ann. §§ 1-23-610 (B), and 1-23-380 (2008 Supp.), "Appeal in this matter is by right"; and
- 6) Appellant has a right to be heard as a matter of law, and I understand that my account can be debited if the Court deems it necessary. However, such fee(s) may be waived by the Court, given that one's case involves "fundamental rights."

MEMORANDUM IN SUPPORT

This matter comes by way of an appeal of the court order of Judge Carolyn C. Matthews filed June 29, 2009, but received by Appellant on July 1, 2009. (See ATTACHMENT B).

I assert that I am entitled to proceed in forma pauperis, because I have alleged a state created liberty/property interests (i.e., wages owed to me by SCDC for participating in the Prison Industry's (PI) private sector program. As stated supra, appeal from the Adm. Law Court is by right pursuant to the statutory provisions cited supra.

In Sullivan v SCDC, 586 SE2d. 124 (2003) the Court held: "Where certain fundamental rights are involved, the Constitution requires that an indigent be allowed access to the Court."

The requirement that the Appellant resort to, the judicial process is entirely a state created matter. The State may not, consistent with the obligations imposed on it by the Due Process Clause of the 14<sup>th</sup> Amendment, pre-empt the right to dissolve this legal relationship without affording all citizens access to the means it has prescribed for doing so." U.S. v Kras, 93 S.Ct. 631 (1973). To interpose any financial consideration, an indigent person of the State, and his exercise of a state right... is to deny that prisoner the equal protection of the law. Smith v Bennett, 81 S.Ct. 895 (1961).

The U.S. Supreme Court has consistently invalidated a filing fee as applied to indigents, see Burns v Ohio, 79 S.Ct. 1164 (1959) ("once the State chooses to establish appellate review... it cannot foreclose indigents from access to any phase of the procedure because of their poverty.") see also U.S. v MacCollom, 96 S.Ct. 2086 (1976) (when the State grants a right to... review, it may not deny that right to an indigent simply because of his inability to pay the required filing fee."

In Wicker v. SCDC, 602 SE2d. 56 (2004), the S.C. Supreme Court explained that "procedural due process is guaranteed when an inmate is deprived of an interest encompassed by the Fourteenth Amendment's protection of... property." In the case at bar, the Appellant is similarly situated with the inmate in Wicker, and thus is entitled to judicial review of a "fundamental right."

For the foregoing reasons, the Court should grant to proceed in forma pauperis.



S/  
Jaja D. B. Okera, # 228942  
Pro Se  
Evans Corr. Inst.  
610 Hwy 9 West  
Bennettsville SC 29512

July 29, 2009

GRANTED Thomas E. Huff  
~~FOR THE COURT~~  
FOR THE COURT  
By: J. J. Huber  
(Clerk) (Deputy Clerk)  
September 8, 2009

**FILED**

3 of 3 98-09 NB

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
APPEAL FROM ADMINISTRATIVE LAW COURT  
Administrative Law Judge, Carolyn C. Matthews  
CASE # 2009135046

RECEIVED

AUG 24 2009

SC Court of Appeals

JaJa D. B. Okeru, # 228442 . . . . . APPELLANT,

vs.

South Carolina Department of Corrections . . . . . RESPONDENT.

CERTIFICATE OF SERVICE

I certify that on this 19<sup>th</sup> day of August, 2009, I forwarded a copy of my Motion and Affidavit to Proceed In Forma Pauperis (in the above captioned case) to opposing counsel, Lake E. Summers at Malone, Thompson, Summers, and Dtt LLC, 339 Heyward St. Ste. 200, Columbia SC 29201 by way of the United States Postal Service, postage prepaid.

Sworn to and subscribed before me  
on this 19 day of AUGUST 2009

Oscar B. Bunn  
(Notary Public of South Carolina)

My Commission Expires 07-13-2019

s/ JaJa D. B. Okeru  
A

JaJa D. B. Okeru, # 228442  
Pro Se

Evans Comm. Inst

610 Hwy 9 West

Bennettsville SC 29512

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT  
Adm. Law Judge, Carolyn C. Matthews

Docket # 08-ALS-04-00887 - AP  
GRIEVANCE # ELI-2087-05

RECEIVED

AUG 03 2009

SC Court of Appeals

Jaja D. B. Okera, # 228442 . . . . . APPELLANT,

VS.

South Carolina Department of Corrections . . . . . RESPONDENT.

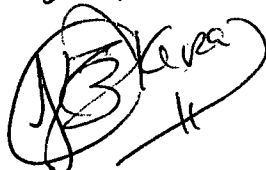
NOTICE OF APPEAL

I, Jaja D. B. Okera, appeal the court order of Judge Carolyn C. Matthews, filed June 29, 2009, but received by Appellant on July 1, 2009.

This appeal involves issues of fundamental rights, (i.e., due process, property, and liberty interests.) Appeal in this matter is by right pursuant to South Carolina Code Annotation, § 1-23-60 (B).

cc: General Counsel  
POB 21787  
Columbia SC 29221  
(803) 896-8508

• Adm. Law Court  
Edgar A. Brown Bldg.  
1205 Pendleton St., Ste. 224  
Columbia SC 29201

5/   
Jaja D. B. Okera, # 228442  
Pro Se  
Evans C. J.  
610 Hwy 9 West  
Bennettsville SC 29512  
July 29, 2009

FILED

JUL 29 2009

SC ADMIN. LAW COURT

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT  
Admin Law Judge, Carolyn C. Matthews

Docket # 08-ALS-04-00887-AP

RECEIVED

AUG 03 2009

SC Court of Appeals

JaJa P.B. Olera, #228442 . . . . . APPELLANT,

vs.

South Carolina Department of Corrections . . . . . RESPONDENT.

CERTIFICATE OF SERVICE

I certify that I have (pursuant to SCACR, Rule 203(b)(6))  
served a copy of the enclosed Notice of Appeal on SCDC, and the  
Administrative Law Court by way of the United States Postal Ser-  
vice, postage prepaid, on July 29, 2009 to the addresses listed below:

① General Counsel  
POB 21787  
Columbia SC 29221

② Ms. Jana Shealy, Clerk  
Adm. Law Court  
Edgar A. Brown Bldg.  
1205 Pendleton St., Ste. 224  
Columbia SC 29201

  
s/ JaJa P.B. Olera, #228442  
Pro Se  
Evans C.J.  
610 Hwy 9 West  
Bennettsville SC 29512

~~Sworn to and subscribed before me  
this \_\_\_\_\_ day of \_\_\_\_\_~~

~~(Notary Public of South Carolina)  
My Commission Expires \_\_\_\_\_~~

DM 07/29/09  
POS 07/29/09  
**RECEIVED**

AUG 03 2009

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
APPEAL FROM ADMINISTRATIVE LAW COURT  
Adm. Law Judge, Carolyn C. Matthews  
Docket # 08-ALJ-04-00887-AP

Jaja D.B. Okena, # 228442 . . . . . APPELLANT,  
vs.

South Carolina Department of Corrections . . . . . RESPONDENT.

NOTICE OF APPEAL

I, Jaja D.B. Okena, appeals the court order of Judge Carolyn C. Matthews, filed June 29, 2009, but received by Appellant on July 1, 2009. This appeal involves issues of fundamental rights, (i.e., due process, property, and liberty interests.) Appeal in this matter is by right pursuant to South Carolina Code Annotation, § 1-23-610 (B).

July 29, 2009

cc: • General Counsel  
POB 21787  
Columbia SC 29221  
(803) 896-8508  
• Adm. Law Court  
Edgar A. Brown Bldg.  
1205 Pendleton St., Ste. 224  
Columbia SC 29201

sl  
Jaja D.B. Okena, # 228442  
Pro Se  
Evans C. I.  
610 Hwy 9 West  
Bennettsville SC 29512

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
APPEAL FROM ADMINISTRATIVE LAW COURT  
Adm. Law Judge, Carolyn C. Matthews  
Docket # D8-ALJ-04-00887-AP

JaJa P. B. Okera, #228442 . . . . . APPELLANT,  
vs.

South Carolina Department of Corrections . . . . . RESPONDENT.

CERTIFICATE OF SERVICE

I certify that I have (pursuant to SCACR, Rule 203(b)(6))  
served a copy of the enclosed Notice of Appeal on SCDC, and the  
Administrative Law Court by way of the United States Postal Ser-  
vice, postage prepaid, on July 29, 2009 to the addresses listed below:

① General Counsel  
POB 21787  
Columbia SC 29221

② Mrs. Jana Shealy, Clerk  
Adm. Law Court  
Edgar A. Brown Bldg.  
1205 Pendleton St., Ste. 224  
Columbia SC 29201

Sworn to and subscribed before me

this 29 day of JULY 2009

[Signature]  
(Notary Public of South Carolina)

My Commission Expires 07-13-2019

s/ [Signature]  
JaJa P. B. Okera, #228442  
Pro Se  
Evans Co. I.  
610 Hwy 9 West  
Bennettsville SC 29512  
July 29, 2009

RECEIVED

AUG 03 2009

SC Court of Appeals

Ms. Jeanette Barber, Clerk  
S.C. Court of Appeals  
POB 11629  
Columbia SC 29211

RECEIVED  
AUG 03 2009  
SC Court of Appeals

RE: NOTICE OF APPEAL: Okera v SCDL, docket #08-AW-04-00887-AP

Ms. Barber,

Enclosed for filing with Your Court in the above case are:

- 1) Two (2) notices of appeals;
- 2) two (2) motions and affidavits to proceed in forma pauperis and memoranda in support;
- 3) two (2) copies of the order that is being challenged on appeal;
- 4) two (2) certificates of service;
- 5) a self-addressed stamped envelope. However,...
- 6) on Tuesday, July 14/09 or Wednesday July 15/09, I requested a financial certificate. But it was returned on Wednesday, July 22/09 uncompleted, because I did not list the county Your Court is in. I do not see why it prevented its completion, but upon its return, I will forward it to Your Court.

I ask that you please return to me the additional copies in the SASKE after filing the same with Your Court.

July 29, 2009

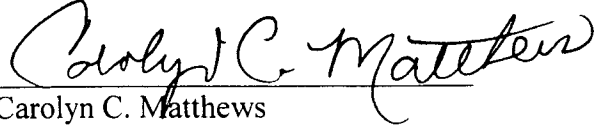
cc: File

  
51 J. B. Okera, #228442  
Pro Se  
Evans Corr. Inst.  
610 Hwy 9 West  
Bennettsville SC 29512

**ORDER**

**IT IS THEREFORE ORDERED** that this matter is dismissed.

**AND IT IS SO ORDERED.**



Carolyn C. Matthews  
Administrative Law Judge

June 29, 2009  
Columbia, South Carolina

**CERTIFICATE OF SERVICE**

This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or in the Interagency Mail Service addressed to the party(ies) or their attorney(s).

This 29<sup>th</sup> day of June, 2009  
By: Shelly L. K.  
Judicial Law Clerk

**ATTACHMENT B cont. ...**