

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Honorable S. Phillip Lenski, Administrative Law Court Judge

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Case No. 14-ALJ-04-0273-AP  
**Appellate Case No. 2014-001592**

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Michael Richard Higgins, #247499. . . . . Appellant

v.

South Carolina Department of Corrections . . . . . Respondent

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**APPELLANT’S REPLY TO RESPONDENT’S MOTION TO DISMISS  
APPEAL, OR ALTERNATIVELY TO SUMMARILY AFFIRM PURSUANT  
TO RULE 220(c), SCACR**

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Michael Richard Higgins  
#247499  
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**APPELLANT, *Pro se***

Other counsel of record:

Daniel J. Crooks, III, Esquire  
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Attorney for Respondent

Michael Richard Higgins, the *pro se* Appellant in the afore-captioned appeal from the Administrative Law Court (“ALC”), respectfully moves this Honorable Court, pursuant to Rule 240, South Carolina Appellate Court Rules, to deny Respondent’s Motion to Dismiss or Summarily Affirm the instant Appeal where the appeal challenges the constitutionality on its face and as applied of a South Carolina statute (§1-23-600(D)) where it conflicts with the South Carolina Constitution and deprives Appellant of due process procedures clearly established by United States Supreme Court precedent [*Wolff v. McDonnell*].

Appellant submits that the instant appeal is ripe for review pursuant to S.C. Code Ann. §1-23-610 (Supp. 2010).

Appellant challenges the constitutionality of §1-23-600(D) as amended on its face and as applied as it contravenes Article I, §22 of the South Carolina Constitution and the Due Process and Equal Protection Clauses of the Fourteenth Amendment of the United States Constitution where Appellant was denied judicial review of a final agency decision wherein the agency deprived Appellant of minimum due process safeguards to present witnesses and evidence relevant to the disciplinary hearing and no findings were made on the record to support those denials. The Department relies upon §1-23-600(D) to unconstitutionally deprive prisoners of judicial review of final agency decisions that deprive those prisoners of judicial review of due process violations regardless of whether the loss of “good time credits” is involved (where since 1995 sentence-related credits are no longer applicable to any South Carolina prisoner sentenced thereafter) where such deprivation is in violation of Article I, §22 of the South Carolina Constitution.

Appellant submits that this Court must settle the question currently before the Court as it affects the interest of justice and public policy.

**CONCLUSION**

**WHEREFORE**, based on the foregoing, the Appellant prays this Honorable Court grant this Motion for leave to proceed *in forma pauperis* in the afore-captioned appeal.

Respectfully submitted,



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Dated January 6, 2015

**APPELLANT, *Pro se***