

The STATE OF South CAROLINA  
IN The COURT OF Appeals

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Appeal From ADMINISTRATIVE LAW COURT  
ADMINISTRATIVE LAW Judge Carolyn C. Matthews  
CASE NO. 12-ALJ-04-0798-IJ

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APPELLATE CASE NO. 2013-002231

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Michael Jones, # 237769 . . . . . Appellant,

v.

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

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Appellant's Petition For Rehearing

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February 10<sup>th</sup>, 2015

Bishopville, South Carolina

Mr. Michael L. Jones # 237769  
LEE C.I.  
990 WISACKY HWY  
Bishopville, SC 29010

Mr. Daniel J. Crooks, III, Esq.  
P.O. Box 21787  
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SC Court of Appeals

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## Citations of Authority

AL-SHABAZZ V. STATE, 527 S.E.2d 742 (2000)

BROWN V. BRAYTON, 373 F.3d 501 (4th Cir. 2004)

McKune V. Lile, 142 S.Ct. 2017 (2002)

NIX V. EVATT, 850 F.Supp. 455 (D.S.C. 1994)

PEE V. AVM, INC., 543 S.E.2d 232 (S.C. App. 2001)

ROSS V. MEDICAL UNIVERSITY OF S.C., 492 S.E.2d 62 (S.C. 1997)

STATE V. BACCUS, 625 S.E.2d 201 (Ct. App. 2008)

STATE V. MILLER, 652 S.E.2d 444, 449 (S.C. App. 2007)

NOLFF V. McDONNELL, 94 S.Ct. 2963 (1974)



## STANDARD OF REVIEW

COURT OF APPEALS MUST NOT AFFIRM AGENCY'S FINDING IF THEY ARE CONTROLLED BY LEGAL ERROR. PEE V. AVM, INC., 543 S.E. 2d 232, 234 (S.C. App. 2001).

THE APPELLATE COURT SITS TO REVIEW ERRORS OF LAW ONLY. STATE V. BACCUS, 625 S.E. 2d 216, 220 (2006). ERROR IS ONLY HARMLESS BEYOND A REASONABLE DOUBT WHERE IT DID NOT CONTRIBUTE TO THE VERDICT OBTAINED IF IT DOES NOT PRESUDICE THE DEFENDANT. AN ERROR IS REVERSIBLE WHEN IT IS PRESUDICIAL TO THE SUBSTANTIAL RIGHTS OF THE APPELLANT. STATE V. LYLES, 665 S.E. 2d 201, 204-205 (S.C. App. 2005).

## ARGUMENT and Citations of Authority

I) Did Appellate Court ERROR in Finding SCDC DENIAL OF CALLING Witness Requested By prisoner Jones Did NOT Violate HIS RIGHT To Due process?

Procedural Due process IS GUARANTEE OF FAIR PROCEDURES. ROSS V. MEDICAL UNIVERSITY OF S.C., 492 S.E.2d 62 (S.C. 1997). In WOLFF V. McDONNELL, 94 S. Ct. 2978-82 The Supreme Court outlined Bedrock due process procedures to be adhered to one of which is The I/M should be allowed to call witnesses and present documentary evidence, provided there is no undue hazard to institutional safety or correctional goals. The I/M is also allowed the assistance of a counsel substitute to provide adequate assistance in preparing a defense and taking requested witnesses statement. NIX V. EVATT, 850 F. Supp. 455 (D.S.C. 1994). The appellant was denied his right to call his one and only vital witness an SCDC employee which highly prejudiced him and crippled his defense resulting in a guilty verdict where the requested SCDC employee would have testified the phone was not his and I/M Brockman claimed ownership of cell phone. The denial of this SCDC witness highly prejudiced the appellant and had a direct effect on guilty verdict amounting to a clearly reversible due process violation. BROWN V. BRAXTON, 373 F.3d 501 (4th Cir. 2004) The denial of SCDC obligated employee witness without valid reason being assigned leaves the substantive evidence of the record as a whole incompetent. Evidence is incompetent if it could create dangers such as prejudice, confusion of the issues, tendency to mislead. STATE V. LYLES, 665 S.E.2d at 206 C.S.C. App. 2008).

II) Did Appellate court error in Deciding that Appellant Jones did not RAISE his Fifth Amendment violation in Lower Court proceedings.

A prisoner is NOT stripped of his constitutional protections when he is imprisoned for crime. The prisoner is entitled to due process protections to safeguard his state-created liberty interest of Good-Time. AL-SHA BAZZ V. State, 527 S.E.2d 742 (2000). Privilege AGAINST SELF-INCRIMINATION DOES NOT TERMINATE AT Jail house door. Privilege AGAINST Compelled SELF-INCRIMINATION is violated if adverse consequences I/m Faces constitute Atypical and significant hardship in relation to ordinary incidents of prison life. Adverse consequences faced by a state prisoner affecting his Eligibility for Good-Time credits and substantial loss thereof amount to Compelled self-incrimination. McKune V. Lile, 122 S.Ct. 2017, 2026-2027 (2002). Appellant has asserted since his step one grievance appeal he was denied his witness and that he wrote no confession statement. Appellant has raised this issue with the ALJD. From the initial SCOC disciplinary hearing through all appeal phases the Appellant have raised he wrote no statement and state used was forgery and not voluntarily made. A statement is not admissible unless it was voluntarily made. State v. Miller, 652 S.E.2d 444, 449 (S.C. App. 2007). Appeal stated on record at hearing and in every appeal brief THAT he never wrote any statement.

Conclusion

wherefore, The Above Forementioned The Appellant Respectfully Request  
That This Court Rehear The Issues of Due process violations And Reconsider  
That The Appellant has Raised his self-incrimination violation on All  
Levels of appeal.

Respectfully Submitted,

February 10<sup>th</sup>, 2013

Bishopville, South Carolina

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The State of South Carolina

In The Court of Appeals

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Appeal From Administrative Law Court  
Administrative Law Judge Carolyn C. Matthews.

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Appellate Case No. 2013-002231

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Michael Jones, # 237769 - - - - - Appellant,

v.

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

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Certificate of Service

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I, hereby certify that I have served Respondent a copy of Appellant's  
petition for rehearing by depositing a copy of same in United States Mail

This 10<sup>th</sup> day of February 2014 addressed to the Respondent as follows:

MR. DANIEL JOHN CROOKS, III, ESQ.

P.O. Box 21787

Columbia, SC 29210

MR. Michael L. Jones #237769

MR. Michael L. Jones #237769

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In The State of South Carolina

Court of Appeals

Appeal From Administrative Law Court

Administrative Law Judge Carolyn C. Matthews

Case No. 12-ALJ-04-0798-15

Appellate Case No. 2013-002231

Michael Jones, # 237769 - - - - - Appellant,

v.

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

Proof of Service

I, certify that on this 10<sup>th</sup> day of ~~March~~ <sup>February</sup>, 2015, I did serve Appellant's Petition for Rehearing upon the following:

- 1) S.C. Court of Appeals, Jenny A. Kitchings, Clerk P.O. Box 11629 Columbia, SC 29221
- 2) MR. DANIEL S. CRACKS, III, Esq. P.O. Box 21787 Columbia, SC 29210

Mr. Michael Spry #237269

Mr. Michael L. Jones #237769

LEE C.I.

February 10, 2014

Bishopville, South Carolina

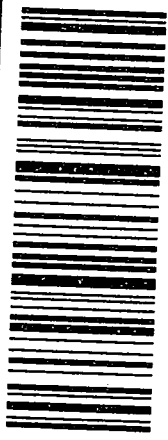
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FEB 19 2015 Bishopville, SC 29010

Court of Appeals

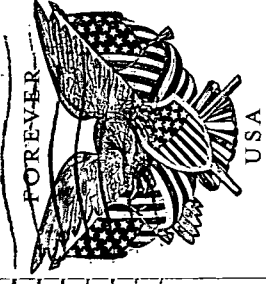
MR. MICHAEL L. JONES # 237769  
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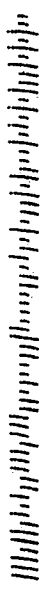
The S.C. Court of Appeals  
The Honorable Jenny A. Kitchings, Clerk  
P.O. Box 11629  
Columbia, SC 29211

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