

APPELLANT'S RULE 240 MOTION TO
COMPEL CIRCUIT COURT REPORTER:
SUSAN W. HUDGINS TO PROVIDE
TRIAL TRANSCRIPT

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
APPEAL FROM GREENVILLE COUNTY
JAMES R. BARBER, III, CIRCUIT COURT JUDGE
APPELLATE CASE NO.: 2015-000697

George Cleveland, III, APPELLANT,
v.
GREENVILLE COUNTY
SHERIFF'S OFFICE, RESPONDENT.
RECEIVED
APR 27 2015
SC Court of Appeals

APPELLANT'S RULE 240 MOTION TO
COMPEL CIRCUIT COURT REPORTER:
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TRIAL TRANSCRIPT

GROUNDS FOR MOTION:

PURSUANT to Rule 240 of the SOUTH CAROLINA Appellate Rules, George CLEVELAND, III, the Appellant in the Above captioned case Respectfully files motion to Compel Circuit Court Reporter SUSAN W. HUDGINS, P.O. Box 273, Moore, S.C. 29369 to provide the motion to Dismiss hearing of JANUARY 27, 2015 TRANSCRIPT with the TRANSCRIPT fee in ten percent payments from my SOUTH CAROLINA Department of Corrections, (S.C.D.C.) Inmate Trust Fund Account under South Carolina Code § 24-27-150 AS Amended when funds become available "ON the following grounds":
DUE PROCESS VIOLATION under the UNITED STATES Constitution AND A Denial OF EQUAL Access to the Courts ON the basis of my inability to pay the entire TRANSCRIPT fee before it's produced.

CASE BACKGROUND:

1. ON October 14, 2014, my civil case was filed in Greenville County Court of Common Pleas under the South Carolina Tort Claims Act § 15-78-10 AS Amended with the following claims:

- A. FALSE ARREST;
- B. ASSAULT;
- C. BATTERY; AND
- D. FALSE IMPRISONMENT.

2. ON OR AROUND November 26, 2014, the defendant by AND through their Attorney filed a motion to DISMISS on the relevant ground of: LACK OF PERSONAL JURISDICTION.

3. ON JANUARY 27, 2015, the Greenville County Common Pleas Court heard a motion to Dismiss. The hearing was presided by the Honorable JAMES R. BARBER, III in the case of: George Cleveland ~~III~~ v. Greenville County Sheriff's Office; c/A No.: 2014 CP-23-05661
2.

4. the issue deals directly with Rule-4 S.C.R.P. with first-class mail to serve the summons and complaint when the rule's language does not specify certified mail.
5. The order granting defendant's motion to dismiss was filed in the Greenville County clerk of the court's office on February 19, 2015 because of as the court wrote: "the plaintiff's service and process attempts were insufficient".
6. ON OR AROUND MARCH 19, 2015, I filed my notice of appeal in the South Carolina Court of Appeals with the case assigned appellate case no.: 2015-000697 (George Cleveland, III v Greenville County Sheriff's office).

7. ON OR AROUND April 01, 2015, my "MOTION FOR AN ENLARGEMENT OF TIME" WAS FILED IN THE SOUTH CAROLINA COURT OF APPEALS REQUESTING A DEADLINE OF APRIL 09, 2015 TO FILE RULE 207 S.C.A.C.P. BECAUSE OF MULTIPLE INMATE'S SICKEN WITH HIGH FEVERS. SEE SUPPORTING AFFIDAVIT WITH THIS MOTION.
8. HOWEVER, THE S.C.D.C. DID NOT ALLOW NORMAL OPERATIONS UNTIL APRIL 13, 2015.
9. WHILE ON LOCK-DOWN, I COULD NOT GET MY DOCUMENTS NOTARIZED, CONDUCT LEGAL RESEARCH, AND I HAD INSUFFICIENT SUPPLY OF LEGAL PAPERS; THEREFORE, I COULD NOT MEET THE APRIL 09, 2015 DEADLINE I ORIGINALLY REQUESTED.
10. THIS MOTION IS IN REGARDS OF THE RULE 207 S.C.A.C.P. WHICH STATES IN RELEVANT PART!

"transcript of proceeding must make satisfactory arrangement within 10 days after the service of notice of appeal in common Pleas court."

11. MRS. SUSAN W. HUDGINS who was the court reporter for the motion to dismiss JANUARY 27, 2015 hearing in the Greenville County Court of common Pleas.
12. Her response to my request for the total cost of the JANUARY 27, 2015, she wrote: "I have checked my record... this record is approximately 25 pages at \$3.25 per page for a total cost of \$81.25, see Appellant attached Exhibit 1 (letter from Mrs. Hudgins)"
13. I submit, I'm unable to pay the \$81.25 transcript fee to comply with Rule 207 S.C.A.C.P. because

I lack the funds to pay for the transcript, thus, Mrs. Huggins will not provide the record based solely on my inability to pay the required cost in violation of the Equal Protection and Due Process clauses of the United States Constitution property clause.

INMATE LITIGATION:

14. The South Carolina General Assembly aware of the inmate(s) lack of funds to pay for legal cost including transcripts in the Inmate Litigation Section of the South Carolina Code of Laws two (2) sections and their relevant part: S.C. Code § 24-27-110 as amended "COURT COST".... "the court shall order the prisoner to pay a partial first-time payment of twenty-percent.... from the prisoner's trust account administered by the Department of Corrections and thereafter monthly payments of ten percent."
15. I have \$0.02 currently in my trust fund, see Appellant's Co. Attached

Exhibit 2 (Trust Account statement)
therefore; I have insufficient funds
to cover the \$81.25 transcript fee,

16. S.C. code § 24-27-150 AS Amended
"INSUFFICIENT TRUST ACCOUNT FUNDS"
states in relevant part: "IF A
PRISONER does not have PRISONER
TRUST ACCOUNT THE PRISONER SHALL
REMAIN RESPONSIBLE FOR FULL PAYMENT."

17. IN MRS. HUDGINS' letter, she wrote:
". . . "UPON RECEIPT OF YOUR CERTIFIED
CHECK OR MONEY ORDER (NO PERSONAL
CHECKS) IN THE AMOUNT OF \$81.25
. . . . 60 DAYS WILL NOT COMMENCE
UNTIL RECEIPT OF PAYMENT" . . . , SEE APPELLANT'S
ATTACHED EXHIBIT 1. THIS PREPARING
THE TRANSCRIPT UNTIL PAYMENT IS
RECEIVED RUNS AFOUL WITH THE
GENERAL ASSEMBLY'S INTENT WHICH
IS NOT TO PROVIDE A FREE TRANSCRIPT
OR OTHER COURT COST, IT SIMPLY REQUIRES
THE S.C.D.C. TO SEIZE A PORTION OF
NEWLY DEPOSITED FUNDS AND FORWARD
TO THE APPLICABLE STATE AGENCY. IN

this case, MRS SUSAN W. HUDGINS who is employed with the South CAROLINA COURT ADMINISTRATION which is AN AGENCY with our state

18. It makes no logical sense to grant me access to the court to file my complaint or in this case, my notice of appeal which is granting me only partial access to the courts and then slamming the door when an indigent prisoner can't afford to produce the record.
19. Rule 210 S.C.A.C.P. "Record on Appeal" states in relevant part, "... (H) "Review Limited to Record on Appeal."
20. This rule restricts this court's attention to solely the record.
21. There is no record in this case without a transcript of my argument, the defendant's argument, and the trial judge's decision.

22. It would be a complete waste of \$100,000 I'm still responsible in paying pursuant to §§24-27-110 24-27-400 AS Amended, supra because there would be a denial of full access to the court since my merits cannot be reviewed, and reasoned by this court without a record just as a doctor cannot determine proper medical care without a record, e.g. blood work, medical observation etc.

23. Based on the inmate litigation statute of our state: §§24-27-100; 24-27-150, the JANUARY 27, 2015 motion to dismiss hearing must be provided without full payment and the S.C.D.C. will mail payment(s) once funds are available; therefore, state law requires MRS. SUSAN W. HUDGINS circuit court reporter to prepare and forward the complete transcript to me, and deduct the \$81.25

TRANSCRIPT Fee from the "ten percent"
... statutory requirement from
... the proceeding months' income
of ... [my] ... trust account,
quoting § 24-27-150, SUPRA.

when funds are available; consequently,
the Inmate Litigation statute

§§ 24-27-150; 24-27-110 requires
the court reporter to produce the
complete transcript, and notify the

S.C.D.C. FINANCIAL ACCOUNTING OFFICE
SO PAYMENTS CAN BE FORWARDED TO
MRS. HUDGINS OR THE S.C. COURT
ADMINISTRATION when funds become
available.

EQUAL PROTECTION AND DUE PROCESS:

24. The fourteenth Amendment section 1
of the United States Constitution
says the following relevant part:
"All persons born or naturalized
in the United States ... ARE
CITIZENS OF THE UNITED STATES
(0.)

AND the state wherein they Reside
"... NOR SHALL Any state deprive
Any person... property without
due process of LAW, NOR deny
to Any person within its jurisdiction
the equal protection of the LAWS."

25. The door to the TRANSCRIPT cannot
be closed to me on the basis
that I'm poor.

26. The due process AND Equal
protection clause require MRS.
HUDGINS to accept what funds
I do have, wait on the statutory
percent payment to be mailed
to her by the S.C.D.C. as funds
become available, but produce my
TRANSCRIPT that is the only
thing that is blocking full
Access to this court

27. This court CAN'T make its Ruling
based on: he SAID, she SAID, unless
he SAID, she SAID CAN be supported
16

by evidence And in this PARTICULAR CASE, it's A TRANSCRIPT.

28. The 60-day deadline to produce the transcript "until Receipt of Payment "ID. AT APPELLANT'S Exhibit 2 is A due process property interest violation because I allege the Greenville County Sheriff's office employees violated state LAW by unauthorized touching, and unauthorized imprisonment since I'm asking for monetary DAMAGES. This amounts to a property interest because the compensatory DAMAGES will result in purchasing of property I lost because of the intentional torts, and in violation of the Equal protection clause based solely on my inability to pay.

29. A wealthy person would have NO problem forking over \$81.25 for A transcript

FOR A COURT PROCEEDING IN THE
LOWER COURT, BUT THIS WEALTH
CANNOT BE THE SOLE BASIS FOR
THE TRANSCRIPT DOOR TO OPEN, BUT
IF THE TRANSCRIPT DOOR ~~CLOSES~~
CLOSES BECAUSE I'M NOT WEALTHY
ENOUGH TO PAY \$ 81.25 FOR A
TRANSCRIPT, I'M NOT BEING TREATED
EQUALLY. THE EQUAL PROTECTION
CLAUSE DOESN'T JUDGE BASED ON
HOW LARGE OR SMALL MY BANK
ACCOUNT IS, BUT IT'S JUDGED BY
THE AMOUNT I CAN PAY. IN MY
CASE NOTHING AT THIS TIME, BUT
STATE LAW IS A PREVENTIVE MEASURE
THAT I'M STILL TREATED LIKE THE
WEALTHY PERSON, BUT JUST OVER
TIME TO PAY THE TRANSCRIPT FEE
IN PAYMENTS INSTEAD OF ONE PAYMENT.

30. MRS. HUGHINS MUST OPEN THE TRANSCRIPT
DOOR, PRODUCE MY JANUARY 27, 2015
TRANSCRIPT, AND BE PATIENT ON THE
PAYMENT.

ARIZONA, 333 U.S. 196, 201, 68 S.Ct. 514, 517, 92, L.Ed. 644 (1948) See also GRIFFIN v. ILLINOIS 351 U.S. 12, 76 S.Ct. 585, 103 L.Ed. 891 (1956)

32. The appellate stage in my case is central to a full review of the entire proceedings at my hearing and the equal protection and due process clause protects me from "INVIDIOUS DISCRIMINATION" See Cole v. ARIZONA, 333 U.S. 196, 201, 68 S.Ct. 514, 517, 92, L.Ed. 644 (1948)

M.L.B. v. S.L.T., 519 U.S. 103 (117, 555, S.Ct. 1996)

33. Wealth can not be the basis for equal access to judicial proceedings because the equal protection and due process clauses of the United States Constitution knocks the wealthy class down with the un-wealthy see

33. The RIVAL intent by the
GENERAL Assembly not to
close the TRANSCRIPT DOOR
because I'm indigent comes
IN S.C. code § 24-27-400
AS Amended, STATES IN RELEVANT
PART: "this chapter is inapplicable
to any case in which the
constitution... Requires...
AN indigent person be allowed
access to the courts..."

34. Even if state law prohibited
A TRIAL TRANSCRIPT be paid in
full, it would still be unconstitutional
under the constitutions of the
United States, AND SOUTH CAROLINA,
because even state LAW-MAKERS
concede it would not stand a
chance in A battle against either
constitutions; therefore, the United
States Constitution equal protection,
AND Due process clauses provides

me the same Access to the courts
even though I'm poor instead of
wealthy to perfect an appeal

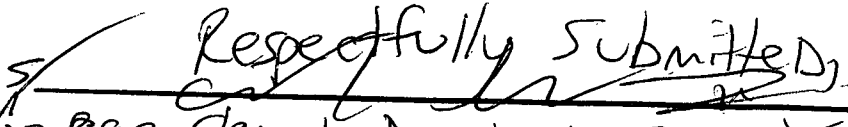
CONCLUSION:

35 South Carolina Law provides no
free transcript, but it does
provide payment options that gives
the S.C.D.C. Authority to provide
the funds to Mrs. Hudgins when
deposits are made to my trust
fund account, *IBID*.

36. The United States Constitution Due
Process, and equal protection
clauses reinforces state law and
requires Mrs. Susan W. Hudgins
to treat my transcript order as
if it was from a wealthy plaintiff
because at the end of the day,
the applicable state law, and the
United States Constitution provides
the same safeguards to us both
equality 16. And

Due process of the law which
MRS HUGGINS is depriving me of
in violation of these two (2) clauses;
Accordingly, the JANUARY 27, 2015
TRANSCRIPT must be provided with
delayed payment.

37. Wherefore; ORDER MRS. SUSAN W.
HUGGINS OF P.O. BOX 273, MOORE
S.C. 29369 to provide the transcript
for the JANUARY 27, 2015 "motion
to dismiss" hearing in the
Greenville County COURT of Common
Pleas: George Cleveland, III v.
Greenville County Sheriff's office;
CIA No. 2014-CP-23-05661 with
delayed payments, and for no
initial fee AS I do not have
the funds to cover the initial
fee, see Appellant's Exhibit 2 (trust
fund statements).

Respectfully Submitted,

George Cleveland, III #357770F4A258
EVANS CORRECTIONAL INSTITUTION
610 Hwy 9 West
Bennettsville SC 29512
17.

Dated: April 24, 2015

*SUSAN W. HUDGINS
CIRCUIT COURT REPORTER
P.O. BOX 273
MOORE, S.C. 29369*

February 23, 2015

George Cleveland #357770
ECI
610 Hwy. 9 West
Bennettsville, SC 29512

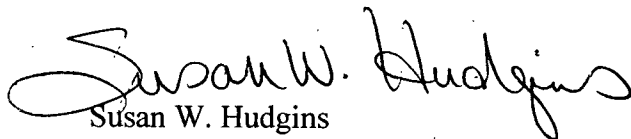
RE: George Cleveland, III v. Greenville County Sheriff's Office, et al.
2014-CP-23-05661

Dear Mr. Cleveland:

I have received your request for the transcript of record in the above-mentioned case. Such transcripts cost \$3.25 per page. I have checked my records and have estimated that this record is approximately 25 pages at \$3.25 per page, for a total cost of \$81.25.

Upon receipt of your certified check or money order (no personal checks) in the amount of \$81.25, I will forward the transcript to you when it has been completed. I am given 60 days in which to prepare the record. Extensions of time may be granted if necessary. The 60 days will not commence until receipt of payment.

Sincerely,


Susan W. Hudgins
13th Circuit Court Reporter
At-Large

cc: SC Court Administration
1015 Sumter Street, Suite 200
Columbia, SC 29201-3739
Attn: Desiree Allen

APPELLATE'S EXHIBIT 1
Appellant CASE NO. 1
2015-000697

4A 258

INMATE TRUST FUND ACCOUNT REPORT
for SOUTH CAROLINA COURT FILING FEES

Avam
FEB 04 2015

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.

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): George Cleveland III

SCDC# 357770

INMATE SIGNATURE: [Signature]

I plan to file this action in the SC County of Richland

RECEIVED

APR 27 2015

SC Court of Appeals

The section below is for SCDC - Financial Accounting Branch's use ONLY.

(1) Total deposits to inmate's account for preceding six months' period*	\$	<u>0.09</u>
(2) Twenty percent (20%) of line 1	\$	<u>0</u>
(3) Account balance - current date	\$	<u>0.02</u>
(4) PAYMENT AMOUNT ** (lesser of line 2 or line 3) Enclosed check # _____	\$	<u>0</u>

****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 1-1

[Signature]
Prepared by Financial Accounting Branch - SCDC

2/13/15
Date 2/13/15 edit's trust (prepared 7/97)

APPELLATE
CASE NO. 2015-000697 APPELLANT'S EXHIBIT 2

APPELLANT'S AFFIDAVIT IN SUPPORT
OF COMPELLING COURT REPORTER
SUSAN W. HUDGINS TO PROVIDE
TRIAL TRANSCRIPT AND REASON FOR
LATE FILING

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
APPEAL FROM GREENVILLE COUNTY
JAMES R. BARBER, III, CIRCUIT COURT
JUDGE

APPELLATE CASE NO. 2015-000697

RECEIVED

George Cleveland, III **APPELLANT,**
v. **SC Court of Appeals**

Greenville County
SHERIFF'S OFFICE, **RESPONDENT.**

APPELLANT'S AFFIDAVIT IN
SUPPORT, etc.

REASON FOR LATE FILING:

1. PRISON ADMINISTRATION here AT EVANS CORRECTIONAL INSTITUTION ORDERED ALL INMATE'S INCLUDING ME LOCKED IN OUR ROOMS FROM MARCH 21, 2015 - APRIL 13, 2015 BECAUSE OF MULTIPLE INMATES SICKEN WITH HIGH FEVERS.
2. DURING THIS TIME, I WAS NOT ALLOWED TO GO TO THE PRISON LAW LIBRARY, RECEIVE LEGAL PAPER FOR PREPARING LEGAL DOCUMENTS; THEREFORE, I COULD NOT FILE THIS MOTION OR COMPLY WITH RULE 202, S.C.A.C.P..
3. WHY THE APRIL 13, 2015 - APRIL 24, 2015 TIME GAP? BECAUSE I'M REQUIRED TO COMMUNICATE WITH PRISON STAFF THROUGH THE KIOSK SYSTEMS IN MY DORM, WANT TO STAFF RESPOND, AND THEN CANNOT WALK THE PRISON YARD UNTIL I RECEIVE AN ORDER-TO-REPORT (O.T.R.) OR MY NAME APPEARS ON THE PRISON'S OUT-COUNT LIST. I COULD NOT RECEIVE LEGAL PAPER, OR RESEARCH RELEVANT LEGAL ISSUES.

4. I HAD to HANDWRITE A Rough-DRAFT AND TWO (2) FINAL DRAFTS WHICH ARE SEVENTEEN (17) PAGES EACH. ONE COPY TO THIS COURT, AND THE OTHER COPY TO THE DEFENDANT'S ATTORNEY.

5. I HAD to ALSO catch up on MULTIPLE other legal cases AS WELL, eg. My P.C.R. motion for RECONSIDERATION (60) PAGES, AND ANOTHER case filing in this court.

6. AFTER waiting FOR AN (O.R.) to get my AFFIDAVITS NOTARIZED, the ending result happened APRIL 24, 2015


NO PRISON JOB:

7. I have NO PRISON JOB THAT PAYS A MONETARY WAGE.

SWORN to before me this

24th DAY of April 2015

South
Notary Public of SOUTH
CAROLINA


APPELLANT'S SIGNATURE

My commission Expires
AFFIDAVIT PAGE 3. of 3