

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Matthew B. Fullbright,

Appellant,

v.

S.C. Dep't of Corrections,

Respondent.

Appeal From The Administrative Law Court
Carolyn C. Matthews, ALJ

RECEIVED

JUN 23 2015

Case No. 2014-001684

SC Court of Appeals

PETITION FOR REHEARING

On June 4, 2015, This Court dismissed this appeal (named, numbered above). Appellant asks This Court to rehear this matter in light of the significant points overlooked and/or misapprehended by This Court in rendering its opinion, as explained below.

It appears This Court dismissed this appeal according to S.C. Code Ann. § 1-23-610(A)(1)(Supp. 2014), referencing and emphasizing only a part of that statute, particularly: "judicial review may only be sought from a final decision of the ALC."

Appellant respectfully points out the following:

ALJ Carolyn C. Matthews ("ALJ"), gave a final decision by way of Order To Remand, Dated May 21, 2014. The "ALJ" also reiterated that final decision by way of letter Dated July 7, 2014. According to S.C. Code § 1-23-610 and its sub-parts, This Court may REVERSE or MODIFY the decision IF THE SUBSTANTIVE RIGHTS OF THE PETITIONER HAVE BEEN PREJUDICED BECAUSE THE FINDING, CONCLUSION, OR DECISION IS:

Now, before listing the sub-parts of the statute and how they apply, I will first show that the ALJ did render a final finding, conclusion, and/or decision.

Let's turn our attention to the ALJ's Order Of Remand ("May 21 Order"). On Page one the ALJ makes a FINAL CONCLUSION in the bottom paragraph, the ALJ states: "The Appellant claims that the grievance qualifies as an 'emergency grievance.' However according to SCDC Policy..."

Another ALJ FINAL CONCLUSION is found at the bottom of page one continuing into page two. The ALJ states: "The Appellant states that he has his underlying criminal caser before the South Carolina Court of Appeals and needs access to his complete record

in order to effectively argue his case to the Court of Appeals."

On page two the ALJ FINDS and CONCLUDES that "While the Court does understand that the case before the Court of Appeals is a matter of utmost importance to the Appellant, the allegations of withholding papers does not meet the level of an 'emergency grievance' as the Appellant's health, safety, or welfare is not being threatened,

Another FINAL CONCLUSION of the ALJ, also on page two: "Although the grievance filed by the Appellant does not rise to an 'emergency grievance', the issue does require a prompt conclusion.

The ALJ makes a FINAL DECISION to remand the case back to the SCDC to have Grievance Branch Chief Ann Hallman read and process the grievance, and determine what all Appellant is entitled to have legally by law.

Also, on page two, the ALJ clearly makes a FINAL DECISION/CONCLUSION when she states: "A timely decision is necessary to make certain the Appellant has access to everything he is entitled to, in order allow him the ability to proficiently argue his case to the Court of Appeals.

On May 28, 2014, SCDC wrote a letter to the ALJ, and basically misconstrued the ALJ's order, refusing to do what the ALJ ordered to be done. Appellant wrote to the ALJ on June 8, 2014 asking the ALJ to enforce the order because SCDC was not complying with it. After a few weeks went by with no answer, Appellant once again wrote to the ALJ asking if the ALJ was going to enforce the order. The ALJ replied via letter dated July 7, 2014. In that letter the ALJ stated this FINAL CONCLUSION: "It is the Court's understanding that the South Carolina Department of Corrections has provided you with all the legal materials you requested except for crime scene photographs and bank statements." The ALJ made this FINAL FINDING: "THE COURT RECOGNIZES YOUR NEED TO HAVE ACCESS TO ALL OF YOUR LEGAL MATERIAL to perfect your appeal with the South Carolina Court of Appeals."

The ALJ also made this finding, "While you may not have possession of everything, you do have access to all of your legal material."

Appellant thus appealed these conclusions, findings and decisions of the ALJ directly.

Appellant respectfully points out that This Court has overlooked the controlling provision(s) within S.C. Code § 1-23-610(B) which states:

[This Court] 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 substantive evidence on the whole record; or

(f) arbitrary, or capricious, or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Appellant/Petitioner's substantive rights have been prejudiced because the conclusions, findings, and decisions of the ALJ listed above meet and/or fall into the criteria of some of the sub-parts, (a)-(f).

This case involves access to the courts/constitutional issues.

I provided the ALJ reliable, probative, and substantive evidence that clearly showed that:

1. SCDC illegally seized Appellant's legal case file, violating U.S. Supreme Court precedence as set forth in Turner v. Safely, 482 U.S. 78, 107 S.Ct. 2254; and Wolff v. McDonnell, 418 U.S. 539, 94 S.Ct. 2963.

2. That SCDC used an illegal "form" that does not have a form number and is obviously not an official SCDC form. In fact the language of the "form" is nowhere in SCDC Policy.

3. Appellant showed the ALJ multiple inconsistencies and falsities in almost every SCDC argument and motion.

4. Appellant made clear that the seized legal case file is NOT needed solely for the underlying criminal appeal in the S.C. Court of Appeals, but also that the case file is pertinent to other legal endeavors.

5. Appellant clearly showed the ALJ that my trial attorney sent the legal case file with thousands of photographs, yet after SCDC returned the case file to Appellant after SCDC censored, copied, redacted, and removed large portions of it, that SCDC said that there were three (3) photographs, and yet another SCDC employee said that there were six (6) photographs. When Appellant went to review these photographs, both of those numbers were incorrect.

6. Appellant provided the ALJ with a substantial amount of evidence showing that Appellant did not receive all of the legal case file back.

7. The legal case file contained attorney/client privileged information that is beyond inspection, tampering with, discovery, privacy, etc.

Appellant could make here an extensive list of much evidence, and point out several additional reasons why this appeal is ripe for review.

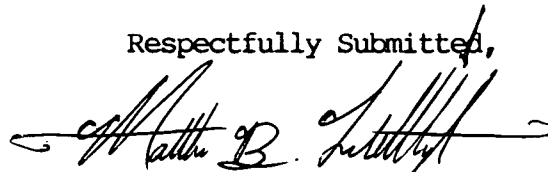
As it now stands, Appellant is prejudiced in several respects because of the decisions, findings and conclusions of the ALJ violate several of Appellant/Petitioner's substantive rights.

The ALJ's decisions, conclusions, and findings did not correct the constitutional violations, get back Appellant's missing legal mail, correct the breach of the attorney client privilege, leaves Appellant without the means to litigate, undergo legal endeavors, attach documents to Appellant's Post-conviction relief application, leaves open the issue as to where all parts of the legal case file was sent to around the State, and other issues and matters.

PP This Court therefore should reverse and modify the decisions, conclusions, and findings of the ALJ which were clearly FINAL, because those, as made by the ALJ were in violation of constitutional/statutory provisions, were affected by other error of law, clearly erroneous in view of the reliable, probative, and substantive evidence on the whole record, and they were arbitrary, capricious, and characterized by abuse of discretion/clearly unwarranted exercise of discretion.

PPP For the reasons stated, Appellant respectfully requests This Court rehear the matter pursuant to Rule 221(a), SCACR, and reverse and modify the final decisions, findings and conclusions that the ALJ chose to make that violates Appellant/Petitioner's substantive rights, and leaves him prejudiced in several ways, and to grant Appellant the relief he seeks.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Matthew B. Fullbright", with a stylized flourish extending to the left.

Matthew B. Fullbright

Appellant, Pro Se

#349468

This 13th day of June, 2015

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal From The Administrative Law Court
Carolyn C. Matthews, ALJ

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Matthew B. Fullbright,

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v.

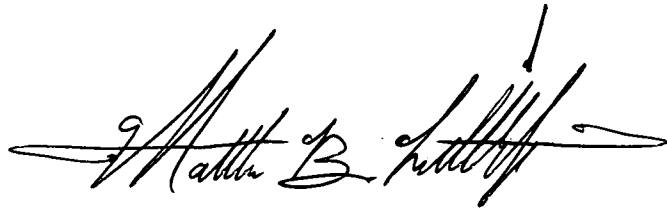
SC Court of Appeals

S.C. Dep't of Corrections,

Respondent.

CERTIFICATE OF SERVICE

The undersigned Appellant hereby certifies that a true copy of the Petition for Rehearing in the above-entitled case has been served upon SCDC/General Counsel, at 4444 Broad River Rd. Columbia, S.C. 29221. Also, a copy has been sent to Power-of-Attorneys Marshall H. Fullbright, at 106 Dogwood Dr., Belton, S.C. 29627, and Wanda M. Shearer, at P.O. Box 212243, Columbia, S.C. 29211. All sent via U.S. Mail on the below date, by hand delivery to the institutional mail system.®



Matthew B. Fullbright

Appellant, Pro Se

#349468

On This 13th day of June, 2015

Jenny Abbott Kitchings, Clerk
P.O. Box 11629
Columbia, S.C. 29211

June 13, 2015

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SC Court of Appeals

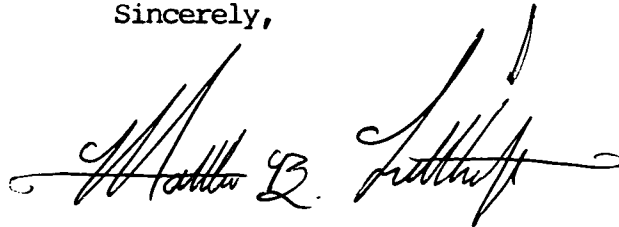
Re: Matthew B. Fullbright v. SCDC;
Appellate Case No. 2014-001684

Dear Ms. Kitchings:

Please find enclosed Appellant's Petition For Rehearing. The date of This Court's Order Of Dismissal was June 4, 2015. However SCDC withheld the order from me until June 12th 2015. I Hope this makes it to you in the 15 day window.

Be Well.

Sincerely,

A handwritten signature in cursive script, appearing to read "Matthew B. Fullbright".

Matthew B. Fullbright
Appellant, Pro Se
#349468

cc:SCDC/Office of General Counsel,
P.O.A. Marshall H. Fullbright,
P.O.A. Wanda M. Shearer,
File.

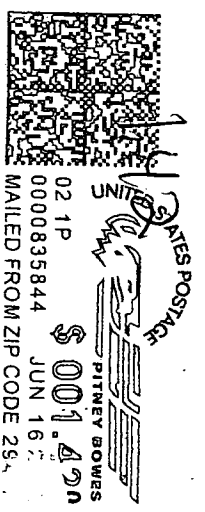
Matthew B. Fullbright, SCOC # 349468
Lieber Correctional Institution, Dnrvi: Edisto - B-56
P.O. Box 205
Ridgeville, S.C. 29472

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JUN 16 2015

MAILROOM
LIEBER CI

The Honorable
Serving Abbott Kitchings, Clerk
Post Office Box 11629
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