

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Carolyn C. Matthews, *Administrative Law Judge*

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Lower Case No. 13-ALJ-04-0926-AP

Appellate Case No. 2014-001684

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Matthew C. Fullbright, # 349468,.....Appellant,

v.

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

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**RETURN TO APPELLANT'S MOTION TO REINSTATE**

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COMES NOW Respondent and submits this Return as requested by the Court's August 3, 2015 letter.

The Court dismissed this action by Order dated June 4, 2015, signed by Chief Judge Few. The Order of Dismissal denied Respondent's motion to remand and dismissed the action entirely because the order of remand from the Administrative Law Court (ALC) was "not final." *Order of June 4, 2015.*

Respondent urges the Court to deny Appellant's Petition for Rehearing and to affirm the conclusion contained in Chief Judge Few's order for the Court.

The ALC properly remanded the issue to the Department, so any subsequent action by Appellant could have been through grieving the Department's actions and taking the issue back up to the ALC. Moreover, the Department fully complied with the ALC's order of remand to the fullest extent practicable, as qualified by the Department's May 28, 2014 letter to Judge Matthews, which is hereby incorporated:

Dear Judge Matthews:

This letter is in response to the Court's May 21, 2014 Order of Remand in the above-referenced case. In the Order, the Court remanded the case as a Request to Staff to Ann Hallman. However, because the documents were sent directly to the Department's Correspondence Review Committee (CRC), Ms. Hallman was not privy to the contents of the mailing Mr. Fullbright received. Therefore, I have construed the Court's Order as one requiring the Department to respond to Mr. Fullbright's access to the materials taken on August 20, 2013. Please allow this letter to address this issue.

As an initial matter, and in response to Mr. Fullbright's allegations, the Department unequivocally denies withholding anything more than crime scene photographs and bank statements from the legal materials about which Mr. Fullbright filed his October 28, 2013 grievance. As the Court is aware, inmates are not permitted to maintain crime scene photographs in their cells; instead, the entire package containing the photographs is forwarded to the CRC.<sup>1</sup> Furthermore, inmates are not

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<sup>1</sup> PS-10.08, § 19.1.9 ("Crime Scene Photos.") provides:

- Legal materials containing crime scene and/or autopsy photos will be reviewed through the CRC process. Any crime scene photos and/or autopsy photos will be separated from the rest of the legal material by the CRC and denoted as such. The package of legal material will then be sent to the institution to the attention of the Warden.
- Upon arrival at the institution, the Warden will ensure that the denoted material is removed from the package and secured in such a way as to ensure confidentiality (i.e. Property Control, Warden's safe, etc.). . . . The Warden will ensure that a process is in place that allows the inmate to request access to the material.

permitted to maintain copies of bank statements in their cells.<sup>2</sup> In cases where the bank statements are sent as part of an inmate's legal material—as was the case here—these statements are forwarded to the CRC and, when sent back to the institution, maintained by the warden of the institution in the same secure location as the crime scene photographs. Finally, once the CRC has received the legal materials that include the photographs and bank statements, it has 60 days from receipt of the materials to render a decision as to what documents the inmate is permitted to receive.<sup>3</sup>

Here, the CRC received the materials on August 30, 2013, and the committee approved the materials on October 21, 2013, with two exceptions pursuant to SCDC Policy PS-10.08: (1) personal information was redacted, and (2) crime scene photographs and bank statements were removed and sent to the warden for safekeeping. On May 28, 2014, I asked Angela Hardin, the Department's Mailroom Coordinator, to provide me with exactly where these photographs and bank statements are presently being kept. She replied with the following:

The above inmate's crime scene photos (3 photos) and bank statements (showing debits from an account) are in the Warden's Area. Per Ms. Booser, [the warden's administrative assistant] she does not recall this inmate ever asking to review them, only asked where they would be stored when they were returned from the CRC.

Additionally, I have attached a copy of the CRC's October 21, 2013 approval of the materials, with the notes indicating that "personal information [was] redacted" and that "crime scene photos [were] separated and bank statements [were put with] crime scene [photos]." Exhibit "A". As the documentation shows, the CRC approved the legal materials on October 21, 2013. Id. These materials were sent back to the institution and received by Mr. Fullbright at approximately 10:53 a.m. on October 24, 2013. Exhibit "B".

To be sure, the Department acknowledges the importance of an

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<sup>2</sup> PS-10.08, § 6.1.13 provides:

Inmates will be prohibited from maintaining possession of any financial statements that show a balance of funds and/or provide information on financial assets that may be available to the inmate (bank deposit books; checking, savings, or other fund statements, credit reports, except for E. H. Cooper statements, and year-end statements for the purpose of filing tax returns, etc.).

<sup>3</sup> PS-10.08, § 19.4 provides:

Upon receipt, the CRC will have 60 working days to review the correspondence.

inmate's ability to timely communicate with the courts. Nevertheless, it is incumbent upon the inmate and the inmate's attorney (in this case, Scott D. Robinson, Esquire) to communicate as to those materials that are permitted and those that are prohibited. In the case of the latter, the inmate and inmate's counsel must bear in mind SCDC's policies and delays in processing of certain mail when attempting to coordinate filings in active court cases.

I hope that this letter has fulfilled the Court's Order and has answered any questions about this case that the Court may have. If there is any additional information the Court would like, I will be happy to provide that information upon request. I am copying Mr. Fullbright on this letter so he can maintain a copy for his records in the event that this issue or a similar one arises in the future.

Appellant raises a number of issues in his Petition for Rehearing that are outside the scope of the ALC's order of remand. Respondent submits that this Court did not overlook a material fact or point of law when it dismissed the appeal on June 4, 2015. Accordingly, Appellant's Petition for Rehearing should be denied. It should be noted that Appellant is not without other legal avenues to challenge his access to the courts vis-à-vis the Department's decisions in certain cases. Indeed, he has other available means of raising such issues in the courts of this State and of the United States. This Court, however, is not the proper forum for such litigation in this case based on the lack of a final order from the ALC.

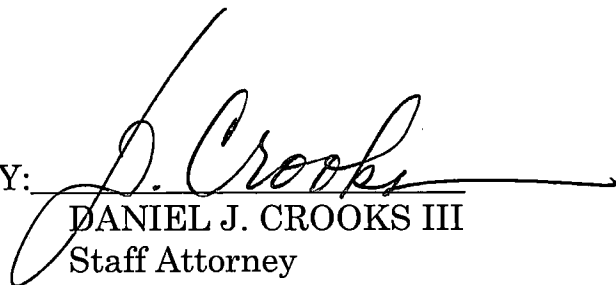
WHEREFORE, Respondent respectfully requests that the Petition for Rehearing be denied.

*[signature block on following page]*

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT  
OF CORRECTIONS**

BY:



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*Counsel for Respondent*

Columbia, South Carolina

August 7, 2015

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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**CERTIFICATE OF SERVICE**

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I certify that on today's date I placed a copy of the foregoing *Return* in the U.S. Mail, addressed to Appellant as follows: Matthew Fullbright, #349468, Lieber CI, P.O. Box 205, Ridgeville, S. C. 29472.

  
DANIEL J. CROOKS III, ESQ.  
Office of General Counsel  
S. C. Department of Corrections

DATED: August 7, 2015