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SC Court of Appeals

APPELLANT'S MOTION FOR AN  
TEMPORARY RESTRAINING ORDER

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT

CAROLYN C. MATTHEWS, ADMINISTRATIVE LAW JUDGE

LOWER CASE NO. 2014-ALJ-04-0771-AP

APPELLATE CASE NO. 2015-000183

George Cleveland, III, #357770

VS.

SOUTH CAROLINA DEPARTMENT  
OF CORRECTIONS,

APPELLANT,

RESPONDENT.

MOTION FOR AN TEMPORARY RESTRAINING ORDER

1.

## MOTION FOR AN TEMPORARY RESTRAINING ORDER!

George Cleveland, III, the Appellant proceeding pro se respectfully moves this court for AN TEMPORARY RESTRAINING ORDER UNDER RULE 65(B) S.C.R.C.P. without notice to the Adverse Party because of the pattern of the denial of Access to the courts, and legal materials by the S.C.D.C. during prison lock-downs in violation of my first Amendment (Access to the courts) under the United States Constitution, and S.C.D.C. policy GA-01103 (Inmate Access to the courts).

2.

## JURISDICTION!

This court has JURISDICTION TO GRANT

L

my TEMPORARY RESTRAINING ORDER  
under Rule 224 (A) S.C.A.C.R.

(“this Rule governs All motions or  
petitions filed in the Appellate court...”)

3.

### RELEVANT CASE-HISTORY:

ON MARCH 07, 2015 AT 11:21 A.M., I  
emailed MRS. C. Hooks through the G.T.L.  
Inmate kiosk email system. Requesting  
Legal materials, i.e. Legal white paper,  
pens, and envelopes for Legal-deadlines,  
see attached AFFIDAVIT (hereinafter A.A.)  
AT PAR. 2.

EVANS CORRECTIONAL INST. (Assigned  
to this prison at that time,) locked  
down the entire institution from  
MARCH 26, 2015 - APRIL 13, 2015,  
see A.A. AT PAR. 3.

ON APRIL 17, 2015 forty-two (42) days later, MRS. C. Hooks AT 1:56 p.m. MRS. Hooks Responded stating:

"I will add your name to the list" ... see A.A. AT PAR. 4.

I receive the Legal materials on April 27, 2015 which caused me to miss my notice of Appeal filing deadline in another case in this court:

George Cleveland ~~JR~~ #357770 v. S.C.D.C.;  
Appellate case no. 2015-000957

causing me actual injury.

this court denied my motion to timely file my notice of Appeal; id.  
see A.A. AT PAR. 5.

ON Sept. 05-08, 2015, my current

Assigned prison; Turbeville Correctional Inst. was locked-down, and again on Sept. 10-14, 2015,<sup>1</sup>

The institutional LAW LIBRARY authorize me to conduct LEGAL RESEARCH, but due to the Lock-downs, I WAS unable to conduct this RESEARCH, MAIL OUT LEGAL-MAIL; RECEIVE LEGAL-MAIL which caused me actual injury because I missed multiple LEGAL DEADLINES, the relevant deadline in this case was the missed deadline of the filing of the RECORD ON APPEAL see A.A. AT PAR. 7.

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<sup>1</sup> My dorm was allowed out of our rooms in the afternoon on Sept. 10, 2015, whereas I emailed the LAW LIBRARY of LEGAL DEADLINES on 9-09-15 AND 9-10-15, but to no avail, see A.A. AT PAR. 6.

4.

## ARGUMENT:

the S.C.D.C. disfunctional operations prevented me access to the courts during the prison lock-downs by not requiring S.C.D.C. staff to stop by my room to pick-up my legal-mail, deliver my legal mail, provide legal material<sup>2</sup>.

this dysfunction caused me to miss not only my deadline in this case, but the following other legal deadlines:

George Cleveland, III v. S.C.D.C.  
Appellate Case No. 2015-000957

(disciplinary appeal)

Missed April 03, 2015 to file notice of appeal; AND

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2. Legal-Books, Legal-paper, ink pens or envelopes. There is also no way for me to communicate with the Law Library or the institution's mail-room while locked-down, see A.A. At PAR. 8,

5.

George Cleveland, III v. CLAYTON GA  
POLICE DEPARTMENT; No. 15-7277

FOURTH CIRCUIT COURT OF APPEALS  
OF THE UNITED STATES

missed Sept. 10, 2015 Deadline to file  
INFORMAL BRIEFS.

“Inmates within the S.C.D.C. will  
have Access to LAW MATERIALS<sup>ed.</sup>;  
S.C.D.C. Policy GA-01.03 §1  
(Inmate Access to the Courts)

This is a show-boating policy to the  
public and the courts, but it's a  
fog-of-lies that is duping the  
courts, and the general public,  
but the facts supported by AFFIDAVITS  
attached hereto show a pattern of  
FLAGRANT ATTACKS on my First Amendment  
CONSTITUTIONAL RIGHTS.

The S.C.D.C. prison Administration is depriving of this fundamental right that is enshrined in the Bill of Rights of our country.

Moreover, what was the Turberville Correctional Institution's prison staff doing or does when inmates are locked into cell rooms, sleeping telling jokes? there is one thing

Turberville staff and even Evans staff have not and at least Turberville is not doing that the constitution of the United States demands; Allow Access to the courts during prison lock-downs.

the S.C.D.C. is violating its own policy: "Inmates within the S.C.D.C. will have Access to Law Materials" id.

The S.C.D.C. can't follow its own policy which have been consistently failures, and judicial action is needed so my legal deadlines in this court are met.

5.

### LEGAL STANDARDS:

The United States Supreme Court reasoned; prisons must provide inmates with Law Libraries or Alternative sources of Legal Knowledge. *Bowds v. Smith*, 430 U.S. 817, 97 S.Ct. 1491, O.S. N.C. (1977), *id.*, at 1492-1493.

the court also reasoned the following:

In order to "prevent effectively foreclosed access" prisoners must be allowed to file legal papers, *id.* at 1495.

8.

However; Lewis v. Casey, 518 U.S.,  
343, 116 S.Ct., 2174, U.S., ARIZ (1996)  
NINETEEN (19) YEARS AFTER BOUNDS,  
SUPRA, THE COURT RESTRICTED JUDICIAL  
REVIEW TO INMATES WHO SUFFERED  
PREJUDICE BY REASONING THE FOLLOWING:

“AN INMATE ALLEGING A VIOLATION  
OF BOUNDS MUST SHOW ACTUAL  
INJURY”...; *id.*, AT 2179.

THIS COURT IS AUTHORIZED TO “REMEDY  
THE INADEQUACY THAT PRODUCED THE  
INJURY”...; *id.*, AT 2183, AND RULE 65  
(B) S.C.R.C.P. (WITHOUT NOTICE) REQUIRES  
THE FOLLOWING:

“SPECIFIC FACTS SHOWN BY AFFIDAVITS”...  
AND THE TWO (2) ELEMENTS OF:

1. "IRREPARABLE INJURY".

2. AND CONTINUED "DAMAGE...." WILL RESULT BEFORE NOTICE CAN BE SERVED AND A HEARING HAD THEREON, AND THE RESTRAINING ORDER TO EXCEED TEN (10) DAYS FOR GOOD CAUSE.

6.

LEGAL ANALYSIS;  
INADEQUATE ACCESS TO  
THE COURT;

The Bounds court id. that prison administration cannot "foreclose" my access to the courts, id. at 1495 but in the Lewis court, id. reasoned, I "must show ACTUAL INJURY," id. at 2179.

The ACTUAL INJURY is I missed my Sept. 10, 2015 deadline to file my RECORD ON APPEAL, PURSUANT TO

Rule 240, S.C.A.C.P., "within thirty (30) days after service of the last Brief, the Appellant shall serve a copy of the Record on Appeal"  
...

My Brief (Reply) was filed timely on August 11, 2015, see attached exhibit 1, since 30 days to file my Record on Appeal was Sept. 10, 2015, and the sole reason why I missed this deadline was because Turbeville Correctional staff failed to provide any reasonable alternative to me during the Sept. 10-14, 2015 prison lock-down, i.e., legal-mail pick-up, access to updated Appellate Court Rules, legal copies, and legal copies; accordingly, I suffered prejudice

under Lewis in Casey, id.

The Lewis court id. put limits on what courts are authorized to remedy only the "inadequacy that produced the injury," id. at 2183.

The inadequacy that produced the injury was:

- no communication line or access to the law library to conduct legal research during prison lock-downs, and

- no communication line or access to the tubercle unit-room staff during prison lock-downs so I can mail-legal papers to the courts and address packages, receive legal paper, pens, and envelopes.

Both of these inadequacy that produced my injury work side-by-side because it will not be advantageous to have access to the mail-room, OR LEGAL MATERIALS without the LEGAL RESOURCES in the LAW LIBRARY, e.g. RESEARCH CASE-LAW, COURT RULES AND READING RELEVANT STATUTES.

IN other words, they ARE both INSEPARABLE; consequently, NO ACCESS to the LAW LIBRARY, OR MAIL-ROOM during the Sept. 05-08, AND Sept 10-14, 2015 Turbeville Correctional Lock-down produced the ACTUAL INJURY.

**URGENT NEED FOR AN  
TEMPORARY RESTRAINING  
ORDER:**

UNDER Rule 65 (b) S.C.R.C.P. in order

FOR THIS COURT TO ISSUE AN  
TEMPORARY RESTRAINING ORDER  
WITHOUT NOTICE, I MUST PROVIDE  
"SPECIFIC FACTS SHOWN BY AFFIDAVIT"  
THAT WITHOUT THE RELIEF THE TWO  
(2) FOLLOWING ELEMENTS MUST APPLY:

1. "IRREPARABLE INJURY,"
2. AND "DAMAGE."

### IRREPARABLE INJURY:

THE IRREPARABLE HARM IS THE PATTERN  
OF THE S.C.D.C., NOT JUST HERE AT  
TURBEVILLE, BUT ALSO WHEN I WAS  
ASSIGNED TO EVANS, WHEREAS, I  
MISSED A COURT DEADLINE IN THIS  
COURT ON ANOTHER CASE AND THE  
MISSED DEADLINE TO FILE MY RECORD  
ON APPEAL, SEE A.A., I.D., THE  
INCONSISTENCY WHEN AND HOW LONG

PRISON lock-downs, and during  
PRISON lock-downs, my access  
to the courts, by legal research,  
proper legal supplies, and mail  
services are stopped will continue  
to cause me harm; accordingly,  
these irreparable injuries will  
continue.

### DAMAGE:

the second required element is  
DAMAGE, since a denial of access  
to the courts when there is a  
PRISON Lock-down, missed court  
deadlines have caused me DAMAGE  
and will continue without this  
restraining order; therefore DAMAGE  
will continue, if this restraining  
order is not granted.

## T. CONCLUSION:

The S.C.D.C. failed policies and a lack of leadership in the prison administration has lead to persistant and ongoing missed deadlines by no fault of my own. I'm locked behind a door with no communication to the Law LIBRARY OR MAIL-ROOM here, OR the outside world, i.e., I can't ever send a letter out to this COURT alerting you, the Reader, of the Reckless denial of my FEDERAL constitutional Right to Access the Courts,

the AFFIDAVITS, ATTACHED hereto, provide INCARCERATORY evidence that Turbeville CORRECTIONAL, AND STANIS CORRECTIONAL,

And the S.C.D.C. have viciously,  
MALICIOUSLY, AND SAVAGELY violated  
my Federally protected Fundamental  
Right to Access this Court even  
during prison lock-downs. I PRAY  
FOR the following immediate  
Relief, needed Respectfully.

8.

RELIEF REQUESTED:

8-1. WHEREFORE; GRANT my TEMPORARY  
Restraining order without notice to  
the Adverse party for thirty (30)  
days instead of ten (10) because  
of the sole reliance on the  
PRISON-MAIL-system to mail my  
legal papers out without delay, and  
I'm Required to hand-write ALL  
my legal documents, see A.A. AT PAR.  
9.

8-2. ENJOIN the SOUTH CAROLINA  
DEPARTMENT OF CORRECTION'S DIRECTOR.

17.

BRYAN P. STIRLING to ORDER TURBEVILLE  
CORRECTIONAL INSTITUTION'S STAFF  
AND/OR ANY OTHER S.C.D.C.  
CONTROLLED PRISON I'M TRANSFERRED  
TO, PROVIDE ME: GEORGE CLEVELAND,  
III, # 357770 WITH A REASONABLE  
COMMUNICATION LINE TO THE INSTITUTION  
LAW LIBRARY IF I PROVIDE AN  
IMMINENT LEGAL DEADLINE:

By providing me RELEVANT LEGAL  
BOOKS, e.g., COURT RULES, CASE-LAW,

8-3. AND AN REASONABLE COMMUNICATION  
LINE TO THE INSTITUTION MAIL-ROOM  
STAFF FOR LEGAL-MAIL-PICK-UP;  
LEGAL-MAIL-DROP-OFF;  
LEGAL PAPER, INK PENS, AND/OR  
LEGAL MAIL ENVELOPES.

8-4. MAIL this court's order to:

S.C.D.C.

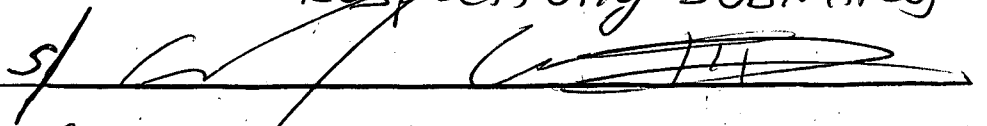
OFFICE OF GENERAL COUNSEL

P.O. BOX 21787

COLUMBIA S.C. 29221-1787

8-5. Any other Relief this court  
deems JUST AND/OR proper.

Respectfully submitted,



George Cleveland III #357770

TURBEVILLE CORRECTIONAL INST.

P.O. BOX 252

TURBEVILLE S.C. 29162

Dated: September 16, 2015

19.