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APPELLANT'S MOTION FOR LEAVE TO FILE
OMNIBUS MOTION FOR SANCTIONS, JUDICIAL
ECONOMY ON THE MERITS, AND COMPEL
CERTAIN PROBATIVE EVIDENCE

SC Court of Appeals

THE 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. 2015-000-183

George Cleveland, III, #357770,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF
CORRECTIONS, (S.C.D.C.),

RESPONDENT.

APPELLANT'S OMNIBUS MOTION

George Cleveland, III, #357770
TURBEVILLE CORRECTIONAL INSTA
P.O. BOX 252
TURBEVILLE, S.C. 29162
PRO SE APPELLANT

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1.
APPELLANT'S OMNIBUS MOTION
APPELLATE CASE NO. 2015-000183

Appellant George Cleveland, III, proceeding pro se respectfully submits to this court an omnibus motion on three (3) separate judicial issues.

In an attempt to not burden this court with separate filings, and unnecessary judicial resources, accordingly, the 3 separate important issues should be ruled upon respectfully prior to this court ruling on the final briefs filed in this court.

This omnibus motion is submitted on the following grounds:

the final brief the respondent filed is frivolous under S.C. Code Ann. § 15-36-10;

JUDICIAL ECONOMY on the merits; and

compel certain probative evidence which is needed in my case.

I lack the internet capability, and printer to print the laws and/or policies from other states, and the inadequate law library material in my prison's institutional law library, and in the interest of judicial economy, the merits of this case should be ruled upon by this court after the court rules on the important jurisdictional issue of the Administrative Law Court (hereinafter A.L.C.).

2.

RELEVANT CASE-HISTORY
RESPONDENT'S FINAL
BRIEF IS FRIVOLOUS.

On or around October 02, 2015 the Respondent by and through Staff Attorney Daniel John Crooks ~~III~~ filed their final brief in this appeal from the A.L.C. court, more directly, my appeal from the A.L.C. order of dismissal of my argument:

2.

The S.C.D.C. HAS mis-calculated my
Good-Behavior credits under S.C. Code Ann.
§ 24-13-210 (A).

2-1

ARGUMENT:

The SOUTH CAROLINA FRIVOLOUS SANCTIONS PROCEEDING
Act (F.S.P.A) AS AMENDED § 15-36-10 (A)(3)(d)
states the following relevant part:

"A REASONABLE ATTORNEY IN THE CIRCUMSTANCES
WHO BELIEVE HIS DEFENSE IS NOT FRIVOLOUS,
INTERPOSED FOR DELAY OR BROUGHT FOR ANY PURPOSE
OTHER THAN SECURING PROPER ADJUDICATION
OF THE DEFENSE."

A. DEFENSE IS FRIVOLOUS:

Respondent wrote the following FRIVOLOUS ARGUMENT:
" there is simply no documentation that Appellant
provides that shows that the DEPARTMENT IS
INCORRECTLY CALCULATING HIS SENTENCE"

B.

see Appellant's Attached Exhibit 1 (herein - after A.A.E.), (page 4 of Respondent's filed Final BRIEF; hereinafter Respondent's Final BRIEF). I most certainly did provide documentation, but that's not the issue relevant to this PARTICULAR ARGUMENT.

The relevant issue is South CAROLINA LAW § 24-13-210 (A). This is the document, the LAW, the required argument the S.C. & C. must argue under F.S.P.A. id, but they failed to argue this LAW I'm challenging see A.A.E. 2 (page 6 of my Final BRIEF filed), and A.A.E. 3 (page 7 of my Final BRIEF filed). Both of these exhibits show my argument based on state LAW, id, furthermore the Respondent provided print-outs from their computer showing frivolous evidence of credits the computer shots awarded me, see A.A.E. 1, 5, and 6 (Respondent's Final BRIEF).

the Respondent's FINAL BRIEF is trivial and insignificant by making arguments miles apart from what the F.S.P.A. Requires. This BRIEF is a complete waste of this Court's resources, and my time. It's presented to this Court as:

WHATEVER I PLEASE TO TYPE+UP IS GOOD ENOUGH FOR ME OR US, but it does NOT please the F.S.P.A. which is intended to prevent the waste of judicial resources, so that this court can devote its' time to issues with merit, supported by evidence in this case, the Respondent filed its' FINAL BRIEF addresses nothing to my underlining argument under §24-13-210 (A)jd, which is Law; consequently, the Respondent's filed eleven (11) page FINAL BRIEF signed by S.C.D.C.'s STAFF ATTORNEY DANIEL

JOHN CROOKS, III IS FRIVOLOUS UNDER THE F.S.P.A., AND SANCTIONS SHOULD BE IMPOSED.

B. BRIEF NOT SECURING PROPER ADJUDICATION:

THE RESPONDENT'S FINAL BRIEF IS INTENDED TO DIVERT ATTENTION AWAY FROM A MONSTROSITY OF POTENTIALLY ADVERSE AFFECTS ON PUBLIC RELATIONS, THE HEAVY BURDEN OF INVESTIGATING PERHAPS THOUSANDS OF OTHER NON-VIOLENT SENTENCED INMATES IN S.C.A.C. CUSTODY MR. CROOKS IS TRYING TO COVER FOR OTHER S.C.A.C. EMPLOYEE(S) WHO PROGRAMED THEIR COMPUTERS. THESE ARE ALL MY LEGAL THEORIES, BUT THE ATTACHED EVIDENCE I PROVIDED TO THIS COURT ARE NOT THEORIES, THEY PROVIDE REAL EVIDENCE OF AN ATTEMPT BY MR. CROOKS TO SECURE AN IMPROPER ADJUDICATION IN MY CASE WHICH IS UNLAWFUL UNDER THE

F.S.P.A.; therefore, sanctions should be imposed.

2-2.

STANDARD - OF-REVIEW
LEGAL ANALYSIS.

Under the F.S.P.A. of South Carolina Code of Laws § 15-36-10 (A)(4)(A)(b), states the following: "making frivolous arguments a reasonable attorney would believe were not reasonably supported by the facts."

subsection (E) id, requires this court to decide "in determining if an attorney has violated the provisions of this section, the court shall take into account:

- 1) the number of parties;
- 2) the complexity of the claims and defenses;
- 3) the length of time available to the attorney, party, to investigate and conduct discovery

for alleged violations of the provisions;

- 4) Information disclosed or discovered to the Attorney party or pro se litigant through discovery and adequate investigation;
- 5) previous violations of the provisions of this section;
- 6) the response, if any, of the Attorney, to the allegation that he violated the provisions of this section;
- 7) other factors the court considers just, equitable, or appropriate under the circumstances...

Mr. Crooks signed, and typed up, and mailed to this court the Respondent's FINAL BRIEF.

I'm the only inmate named in this report, there are no complexities in my claim, it's simply my interpretation of § 24-13-210 (A) id. that I argued the language requires the S.C.D.C. to award me twenty (20) days credit for each month I'm sentenced too, and take the credits if I'm convicted of certain offenses under S.C.D.C. Policy OP-22.14 (Inmate disciplinary system), MR. Crooks, and the S.C.D.C. had over a year to investigate and review my grievances and the responses from the various S.C.D.C. staff members, but they failed to do this, see A.A.E. 4 (Administrative Law Court's filed Sept 11, 2014 Assignment sheet).

MR. Crooks also filed not one (1), but two (2) motions with this court "to

enlarge time to file initial Brief, and
Designation of matter [S] ...; see A.A.E.
7 (First motion), see A.A.E. 8 (second
motion), MR. CROOKS WAS EVEN THREE
(3) DAYS LATE TO FILE THE RESPONDENT'S
INITIAL BRIEF, AND DESIGNATION OF MATTER [S]
WHICH WERE DUE ON JULY 10, 2015, A DATE
HE CHOSE, AND THIS COURT GRANTED, BUT FILED
THE DOCUMENTS, ID., ON JULY 13, 2015, SEE
A.A.E. 9 (Respondent's motion to have
documents filed out of time), MR. CROOKS
ALSO HAD ACCESS TO MY STEP-1 AND
STEP-2 GRIEVANCES, SEE A.A.E. 9 (Response
to Grievances) WHICH I EXPLICITLY ARGUED
THE STATE LAW, ID., REQUIRED THE S.C.D.C. TO
CREDIT ME MORE GOOD BEHAVIOR CREDIT THAN THEY
HAVE THIS WAS IN EARLY MARCH OF 2014. AGTIN,
MR. CROOKS HAD ALL OF THIS EVIDENCE SINCE

At least the Filed notice of Appeal with the A.L.C. J.E., Sept 11, 2014, but failed to articulate my arguments into a non-frivolous arguments into a non-frivolous argument relevant to mine. It's unclear if MR. CROOKS has previously violated this statute, id., and it's unclear what response MR. CROOKS will file with this court, thus I will respectfully file a reply brief, if and when a response brief is filed with this court.

"A party who... raises a 'frivolous defense' has committed a more egregious act than one who merely acts without substantial justification," see *Father v. South Carolina Dept. of Social Services*, 353, S.C. 254, 578, S.E. 2d 11, S.C. 2003, id. at 13.

MR. CROOKS fits this mold because instead of reviewing my arguments and attacking that, he rejected my argument and made up his own in violation of the F.S.P.A., IBID.

Also, in order, . . . , "to prevent waste of JUDICIAL RESOURCES by cutting short . . . , [my argument by MR. CROOKS] based on A MISAPPREHENSION OF THE FACTS." PHILLIPS v. SOUTH CAROLINA STATE UNIVERSITY, S.E. 2d, 2005 WL 7084045 (S.C. App. 2005) id at p. 7. This COURT cannot make a rational decision on the merits of my argument which is based on South CAROLINA LAW, not computer print-outs that provide no substantial arguments remotely directed at my specific issues, MR. CROOKS FRIVOLOUS FINAL BRIEF is met by each of the determining

factors that do not require a response from Mr. Crooks; accordingly, Mr. Crooks an employee of the S.C.D.C. office of General Counsel must be sanctioned by this court under S.C. Code Ann. § 15-36-10 (9)(3)

"A directive of a nonmonetary nature, including injunctive relief, designed to deter a future frivolous action or an action in bad faith."

And report the violation [§] of the provisions of this section ".... must be reported to the South Carolina Supreme Court..." under S.C. Code Ann. § 15-36-10 (9)(3)(M).

3.
RULING ON THE MERITS
WOULD SAVE JUDICIAL RESOURCES!

this appeal is an clear-error of law by the Administrative Law court which

dismissed my case under STEZAK v.
S.C. Dept. of CORR., 361 S.C. 327, 605 S.E.
2d 506 (2004) because AS the A.L.C.

Reasoned, I failed to implicate A STATE
created liberty interest which is clearly
ERRONEOUS because of my continued argument
into the courts REGARDING A MIS-CALCULATION
in credits applied to my overall prison
sentence. My filed Final BRIEF ALREADY
filed in this court provides A MORE
consistent argument of why the A.L.C.
did have jurisdiction. IF it please
this court, I respectfully request A
decision by this court, i.e. S.C. CODE
ANN. § 24-13-210(A) INASMUCH AS DOES
this law put A CAP on the amount of
20 days of Good Behavior credit that
can reduce my prison sentence. I

Argued it does not, the Respondent does not even mention this Law, but instead Mr. Crooks introduces computer-print-outs of what a computer was programmed by humans to articulate. If this court rules in my favor that the A.L.C. did have jurisdiction to rule on my mis-calculation of time argument, I submit, every other non-violent inmates will benefit from this court's reasoning on the merits which in turn will save thousands in state resources, instead of my case being remanded back to the A.L.C. on the merits. The same S.C.D.C. computer system that erred in calculating my credits, erred in others, according to the S.C.D.C.'s own numbers I requested under the South Carolina Freedom of Information Act (F.O.I.A.), and relevant to this economic issue provides real numbers in terms of potential

GOVERNMENT WASTE:

The cost to house, feed, cloth, provide medical-care, and other services as required by S.C.D.C. policy, state and/or federal law is:

Forty-one-dollars (\$41.00) a day; one-thousand, two-hundred-thirty-dollars (\$1,230.00) a month; and a whopping fourteen-thousand-seven-hundred-sixty-dollars (\$14,760.00) a year for one inmate, see attached affidavit at PAR. 1.

I do not have the data to provide this court as to how many S.C.D.C. inmates are in fact serving non-violent² sentences.

IF it's 1,000 non-violent inmates now in S.C.D.C. custody and their prison sentence

1. the cost for inmates over the age of 55 is \$16,542.00 a year according to the state newspaper, data provided to me by the attached newsletter from a member of the S.C. BAR, see A.A.E. 10,

have been erroneously calculated for twelve (12) months; this presumptively have cost the state of South Carolina fourteen-million-seven-hundred-thousand-dollars (\$14,700,000.00), this is a lot of wasted state resources that this court can decide on the merits of my case whether the S.C.D.C. is/ or have properly calculating non-violent prison sentences of inmates; therefore, this court will save resources under Judicial Economy, State v. Hewins, 408 S.C. 93, 760 S.E. 2d. 814, (2014) (Supreme Court of South Carolina ruled on the Fourth Amendment violation under the Judicial Economy doctrine) saving judicial, and state resources is

2. The S.C.D.C. should provide an yearly average of the inmates who served non-violent prison sentences to me, and this court so there are accurate data for a determination into the economic impact on state resources.

the essence of my argument that is the fundamental nature of saving the state of south CAROLINA money, lessen the burden on the A.L.C., this court and the supreme court from countless Appeals of inmate miscalculation claims, and finally presumably reduce the burden on the S.C.D.C.'s Grievance which could all be settled in this one (1) case number; therefore, this court should grant my motion and hear this case on the merits in the interest of judicial economy

4.

RELEVANT EVIDENCE NEEDED:

Finally, if it pleases the court, I respectfully request this court to compel evidence that I cannot obtain from my Institutional's LAW LIBRARY because I cannot research other state-laws that's relevant to my miscalculation

Argument, see Attached Affidavit at PAR. 2, which is needed for this court to understand what the several state laws read, if this court GRANTS my motion to rule on the merits of my case under the judicial economy doctrine, SUPRA, at PAR. 3.

My grievances and appeal to the A.L.C. deals directly with the mis-calculation of my sentence, pursuant to STATE-LAW; according to the CALIFORNIA ORGANIZATION: CRITICAL RESISTANCE; 1904 FRANKLIN STREET, SUITE 504, OAKLAND, CA. 94612. One of their objectives is lobbying state and federal law-makers to amend laws that only send people to prison that are convicted of violent-crimes.

The data and research they have conducted, and is part of this motion as A.A.E. 11. This data sheet provides evidence of other

states that have passed laws to reduce sentences for non-violent offenses³. The relevant parts and specific states are:

MICHIGAN: "repeated DRACONIAN MANDATORY minimum drug sentences [for] some first-time, 'nonviolent drug offenders' ..."

MISSISSIPPI: "... has saved \$11.6 million that reduces mandatory prison sentences from 85 percent of the original sentence to 25 percent for certain 'nonviolent offenders' ..."

MISSOURI: "proposes to shut two prisons and release more than 1,000 'nonviolent offenders' early ..."

MONTANA: "... Bill would eliminate jailing of some drug users."

³ - This data sheet provides this court with how other states sentencing laws are distinguished between non-violent and violent convictions of crime.

NEVADA: ".... closure of 13 minimum-security facilities requiring early release of thousands of prisoners." and

NEW YORK: ".... About 1,300 'nonviolent' prisoners out of prison early".

S.C.D.C. policy GA 01.03 (Inmate Access to the Courts states the following relevant part:

1. GENERAL PROVISIONS: "Inmates within the S.C.D.C. will have access to LAW MATERIALS through established core satellite LAW LIBRARIES located within S.C.D.C. INSTITUTIONS".

This policy requires the S.C.D.C. to provide state laws to these specific states, id., but the only laws available in the Turbeville Correctional Institutional Law Library are South Carolina, and United States Law, see attached affidavit at par. 2 these laws are

inadequate in this PARTICULAR case because this court cannot understand the intent, and goal of these other states, id., in terms of nonviolent prison sentences in the amount of Good Behavior credits are applied to inmates' max-out dates, thus, reducing their overall prison-stay. Respectfully.

moreover; I have a constitutional right under the First Amendment (Access to the courts) to due process (Liberty interest), and Equal protection of laws under the Fourteenth Amendment of the United States constitution,

"The cost of protecting [one of my] constitutional right cannot justify its total denial..." Bounds v. Smith, 430 U.S. 818, 97 S. Ct. 1491 U.S., N.C. (1977) id at 828 by the restriction of the multiple states that have laws similar to our state laws (non-violent good behavior credits) this legal data will provide also probative evidence which

will be helpful in determining the intent of the south CAROLINA Legislative of S.C. code OF LAWS ANN. § 24-B-210 (A).

I have suffered actual injury by the TURBEVILLE CORRECTIONAL INSTITUTIONAL LAW LIBRARY by not being provided with these state LAWS, id., relevant to non-violent prison sentences in violation of my first and fourteenth Amendments of the united states constitution, and the S.C. D.C.'s own policy; GA-01,03 (Inmate Access to the courts); GENERAL PROVISIONS section one, and under Lewis v. Casey, 518 U.S. 343, 116 S.Ct. 2174 U.S. ARIZ (1996) id., at 2178-2179. IN this case (Lewis v. Casey), the supreme court of the united states reasoned that . . . , "the remedy must of course be limited to the inadequacy that the plaintiff has established, id., at 2183. IN this PARTICULAR MATTER, I respectfully request this court to order the S.C. D.C. to provide.

the non-violent state laws and/or policies of the following states:

Michigan; Mississippi; Missouri; Montana; Nevada; and New York; accordingly, this court should grant my instant motion to remedy these specific inadequacies.

5. CONCLUSION:

STAFF ATTORNEY DANIEL JOHN CROOKS III OF S.C.D.C. OFFICE OF GENERAL COUNSEL HAS WASTED JUDICIAL RESOURCES BY FILING THE FINAL BRIEF OF THE RESPONDENT THAT IS FRIVOLOUS; FAILED TO SECURE PROPER ADJUDICATION, BY DIVERTING THEIR ARGUMENT AWAY FROM MY UNDERLYING ARGUMENT, DESPITE AMPLE TIME TO REVIEW THE EVIDENCE IN MY CASE, I.E., GRIEVANCES, AND INFORMAL RESOLUTION, THESE JURISDICTIONAL ISSUES OF THE A.L.C. SHOULD BE CONCURRENT TO THIS COURT RULING ON THE MERITS OF MY CASE: IS THE S.C.D.C. MIS-CALCULATING MY TIME BY NOT CREDITING ME 20 DAYS A MONTH OF GOOD BEHAVIOR CREDITS FOR EVERY MONTH OF MY PRISON SENTENCE AS

this has been my argument from the beginning as the plain language of § 24-13-210 (A), *id.*, reads,

my argument will save millions in state resources if my legal theory is substantiated by this court, thousands upon thousands of dollars and hours, i.e., judicial resources will be saved if this court agrees to hear my case on the merits under the judicial economy doctrine, and finally, to assist this court in state laws and/or policies of the several states into how they are calculating non-violent prison sentences, and can help this court understand that the S.C.D.C. argument: I'm ... "serving" (parolable) 55-65% sentences ... (see A.A.E. 5 (page 5 of respondent's final filed brief)). which § 24-13-210 (A) mentions nothing about 55-65% or any percentage at all in the crediting of Good Behavior credits, but 20 days; Mr. Crooks seemed to be confused or bewildered

in what the law reads, the intent of this state-law, id, is to punish inmates who are convicted of violent crimes with longer prison terms than that of non-violent crimes, the same goes for the other states. I pray for the following relief:

6.

PRAYER FOR RELIEF:

WHEREFORE; GRANT my motion to sanction Attorney DANIEL JOHN CROOKS, III under S.C. Code Ann. § 15-36-10 (g.) (3): A directive of A nonmonetary nature, A stern warning not to file frivolous defense briefs, whereas A deterrent from future frivolous defense briefs in the future by mailing A copy of the order to:

S.C.D.C.
OFFICE OF GENERAL COUNSEL
%MR. DANIEL JOHN CROOKS, III

P.O. Box 21787
Columbia, S.C. 29221-1787, and A copy of the order to:

The Supreme Court of South Carolina
P.O. Box 11330
Columbia, S.C. 29211

26.

UNDER S.C. CODE OF LAWS ANN. § 15-36-10

ORDER THE S.C.D.C. TO PROVIDE ME WITH THE FOLLOWING NONVIOLENT GOOD-BEHAVIOR, GOOD-TIME, OR RELATED CREDITS STATUTES FOR THE FOLLOWING STATES:

MICHIGAN;

MISSISSIPPI;

MISSOURI;

NEVADA; AND

NEW YORK; THAT ARE CONSISTENT WITH THE ATTACHED DATA SHEET FROM OAKLAND, CA. BASED CRITICAL RESISTANCE ORGANIZATION.

GRANT MY MOTION TO RULE ON THE MERITS OF MY CASE UNDER THE JUDICIAL ECONOMY DOCTRINE AND A REASONABLE AMOUNT OF TIME FOR BOTH PARTIES TO FILE SUPPLEMENTAL BRIEFS CONSISTENT WITH THE NON-VIOLENT STATUTES OF THE STATES SUPRA.

ANY OTHER RELIEF THIS COURT SEEMS JUST AND/OR PROPER.

DATED: NOVEMBER 02, 2015
APPELLATE CASE NO. 2015-000183

28.

Respectfully Submitted,
~~George Cleveland, III~~
George Cleveland, III #357770
TURBEVILLE CORRECTIONAL INST.
P.O. Box 252
TURBEVILLE, S.C. 29162

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SC Court of Appeals

APPELLANT'S PROOF OF SERVICE

THE 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

. APPELLANT

v.

SOUTH CAROLINA DEPARTMENT OF

CORRECTIONS (S.C.D.C.)

. RESPONDENT

APPELLANT'S PROOF OF SERVICE

George Cleveland, III, #357770

Turbeville Correctional Inst.

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Turbeville, SC 29162

PRO SE APPELLANT

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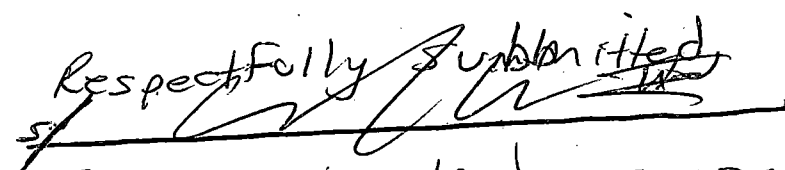
NOV 06 2015

APPELLANT'S PROOF OF SERVICE

SC Court of Appeals George Cleveland, III, certifies that on the date below, I personally handed-over to the TURBEVILLE CORRECTIONAL MAIL ROOM STAFF member, properly addressed to be mailed by united states mail the following:

APPELLANT'S OMNIBUS MOTION; EN BANC HEARING;
APPELLANT'S SUPPORTING AFFIDAVITS;
APPELLANT'S SUPPORTING APPENDIX (EXHIBITS), to the following parties:

S.C.D.C.
OFFICE OF GENERAL COUNSEL
MR. DANIEL JOHN CROOKS, III, Esquire
P.O. BOX 21787
COLUMBIA, S.C. 29221-1787

Respectfully Submitted,

George Cleveland III, #35770
TURBEVILLE CORRECTIONAL INST.
P.O. BOX 252
TURBEVILLE, S.C. 29162

DATED: November 04, 2015