

APPELLANT'S APPENDIX IN
SUPPORT OF OMNIBUS
MOTION

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 APPENDIX

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

APPELLANT'S INDEX OF APPENDIX

EXHIBIT (5)

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ARGUMENT**THE ADMINISTRATIVE LAW COURT PROPERLY DISMISSED THE APPEAL BELOW PURSUANT TO *SLEZAK V. S.C. DEP'T OF CORR.***

This Court should affirm the ALC's January 15, 2015 order of dismissal because the ALC properly dismissed the appeal pursuant to *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 605 S.E.2d 506 (2004).

The Department interprets *Slezak* as encouraging, for the sake of judicial economy, the ALC to summarily dismiss inmate cases that do not involve a state-created liberty or property interest. This Court has interpreted *Slezak* to mean that where a state-created liberty interest is not implicated in a prisoner appeal, a judge of the ALC "should" dismiss the appeal. *Skipper v. S.C. Dep't of Corr.*, 370 S.C. 267, 633 S.E.2d 910 (Ct. App. 2006). The ALC properly dismissed this case under *Slezak* and *Skipper*.

Here, Appellant challenged what he perceives to be his inability to earn good-time credits. However, all of the sentences for which Appellant is serving time are those to which the 20-days-per-month good-time credit rule applies. Nothing that Appellant produced at the ALC indicated that the Department was improperly applying the applicable law in calculating sentences similar to Appellant's. The Department gave detailed responses in both the Step 1 and Step 2 responses, and there is simply no documentation that Appellant provides that shows that the Department is incorrectly calculating his sentence. Instead, as the ALC correctly noted below, while "it appears that Appellant is arguing that his sentence has been calculated incorrectly . . . Appellant is actually presenting [an] argument that the

EXHIBIT 2

ON JANUARY 21, 2015, I signed for and received the dismissal order from the Evans' Correctional Institution's mail-room.

ON FEBRUARY 02, 2015, my appeal was assigned case number 2015-000183, in this court, and this brief follows:

c.

ARGUMENT

THE ALJ.D. ERRED IN RULING IT LACKED JURISDICTION OVER MY MIS-CALCULATION GOOD BEHAVIOR CREDITS

The South Carolina code § 24-13-210 (A) reads in relevant part:

“An inmate convicted of an offense against this state, except a no parole offense as defined in § 24-13-100 and sentenced to the custody of the Department of Corrections... whose record of conduct shows that he has not [become] subjected to punishment for

EXHIBIT 3

misbehavior is entitled to A deduction from the term of his sentence beginning with the day on which the service of his sentence commences to run, computed at the rate of twenty (20) days for each month served...

I provide the A.L.J.D. with a copy of my sentence sheet which shows a non-violent sentence, thus, a pardonable offense of:

poss. of stolen vehicle s.c. code.

Ann. § 16-21-0080, see A.R. At p. 8

The A.L.J.D. reasoned that I was arguing the method of the S.C.D.C. calculations, but separated my argument that the S.C.D.C. has been calculating my sentence related credits incorrectly see A.R. At p. 11

Dear Appellant:

Below is information regarding your case which has been filed with the ALC. Please refer to the Rules of Procedure (enclosed) for the time frames on filing briefs and other matters.

Case Number	Inmate Number	Inmate First Name	Inmate Last Name	Grievance No	Respondent	Filing Date	Date Assigned	Judge Last Name
14C0728	357770	GEORGE	CLEVELAND	ECI 210-14	DOC	9/9/2014	9/11/2014	ROBINSON

FILED

SEP 11 2014

ADMIN. LAW COLL

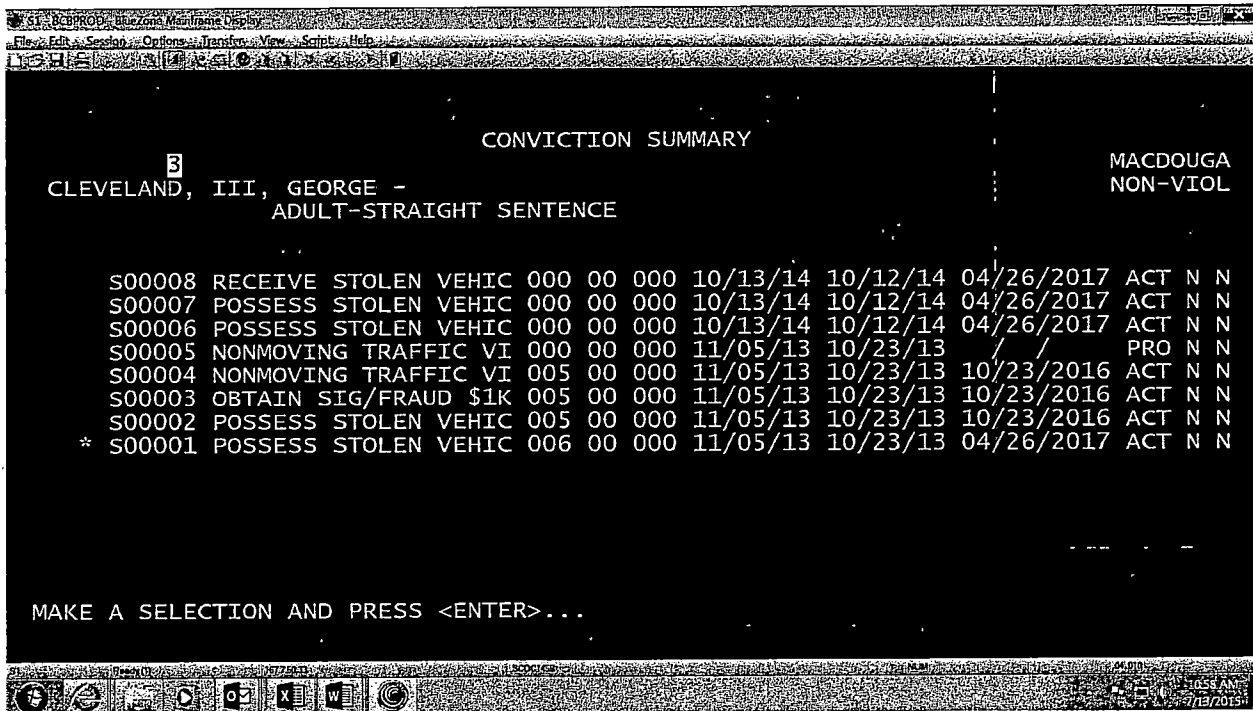
EXHIBIT 4

You must file all original documents and correspondence regarding this case directly with the above-named Judge and serve a copy on the Dept. of General Counsel, S.C. Dept. of Corrections, PO Box 21787, Columbia, SC 29221.

Department's method of calculation as a whole is incorrect, and that [the Department's] staff is improperly trained and ignorant of the law." (R. at 1).

Appellant, in essence, argues that the Department is not crediting him with the 20 days of Good Time Credit to which he is entitled due to his serving "parolable" 55-65% sentences.

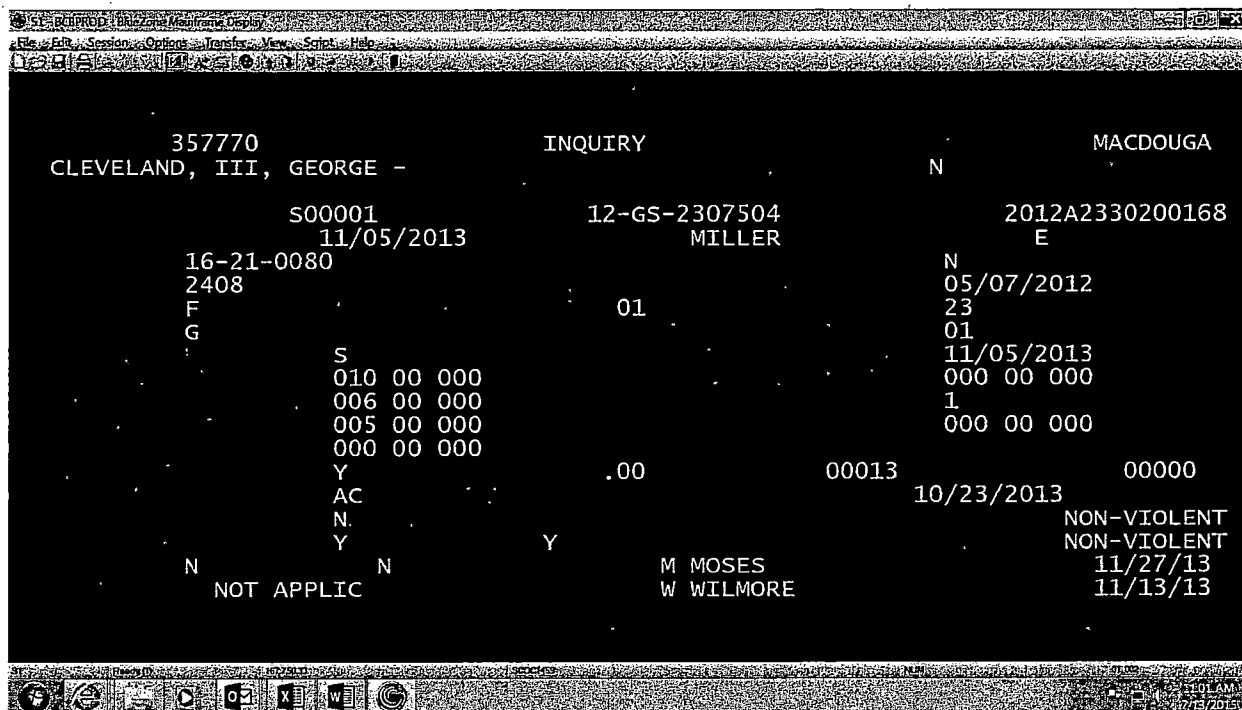
Several real-time screen shot images from the Department's internal Offender Management System shows why Appellant must be incorrect. The first image displays all of Appellant's active sentences; the sentence with the asterisk beside it is the measuring sentence because it is the longest in duration.



What follows in the next image is the page of details related to the measuring sentence of Possession of a Stolen Vehicle (indictment 12-GS-2307504). Appellant received only 13 days of Jail Time Credit, meaning that his sentence start date is actually October 23, 2013.

EXHIBIT 6

Without a job, an inmate serving a "parolable" sentence will serve approximately 65% of the actual incarcerative sentence *provided that the inmate also remains disciplinary free during the entire period of incarceration.* Here, Appellant's longest parolable offense is for the Possession of a Stolen Vehicle conviction listed below, as Appellant was given a total of 6 years of incarcerative time to serve.



The following image proves that Appellant has, indeed, earned Good Time Credit since the beginning of his sentence start date, as it shows he has earned 300 days of such credit. In addition, he has earned 11 days of Earned Education Credit since his incarceration.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Carolyn C. Matthews, *Administrative Law Judge*

App. Case No: 2015-000183

ALC Case No. 2014-ALJ-04-0771-AP

George Cleveland, #357770.....Appellant,

v.

S.C. Department of Corrections.....Respondent.

**RESPONDENT'S FIRST MOTION TO ENLARGE TIME TO FILE INTIAL
BRIEF AND DESIGNATION OF MATTER**

COMES NOW Respondent, through its undersigned attorney, and moves this Honorable Court for an order enlarging the time for filing of Respondent's initial brief and designation of matter until Friday, June 26, 2015. This request is made in light of the fact that the Court granted IFP status to Appellant on May 27, 2015, and Respondent was awaiting the outcome of that ruling before proceeding to file its initial brief and designation of matter.

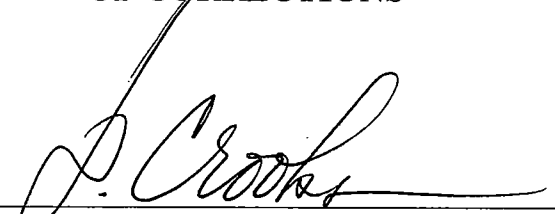
WHEREFORE, Respondent requests until Friday, June 26, 2015 to file its initial brief and designation of matter.

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EXHIBIT 7

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

By:



DANIEL J. CROOKS III
Staff Attorney
Office of General Counsel
P.O. Box 21787
Columbia, S.C. 29221
Crooks.Daniel@doc.sc.gov
(803) 896-1355 [direct dial]

Columbia, South Carolina
June 2, 2015

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Carolyn C. Matthews, *Administrative Law Judge*

App. Case No. 2015-000183
ALC Case No. 2014-ALJ-04-0771-AP

George Cleveland, #357770.....Appellant,

v.

S.C. Department of Corrections.....Respondent.

**RESPONDENT'S SECOND MOTION TO ENLARGE TIME TO FILE INTIAL
BRIEF AND DESIGNATION OF MATTER**

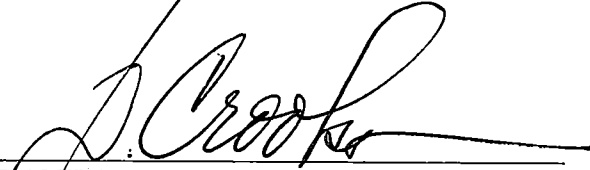
COMES NOW Respondent, through its undersigned attorney, and moves this Honorable Court for an order further enlarging the time for filing of Respondent's initial brief and designation of matter until Friday, July 10, 2015. This request is made in light of the fact that the undersigned was out of the office for the majority of the week of June 15, 2015 and will be out of the office the remainder of Wednesday, June 24, 2015 through Friday, June 26, 2015 for medical reasons.

WHEREFORE, Respondent requests until Friday, July 10, 2015 to file its initial brief and designation of matter.

[signature block on following page]

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

By: _____


DANIEL J. CROOKS III
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P.O. Box 21787
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Columbia, South Carolina
June 24, 2015

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.....Respondent.

**RESPONDENT'S DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

Respondent designates the following to be included in the Record on Appeal:

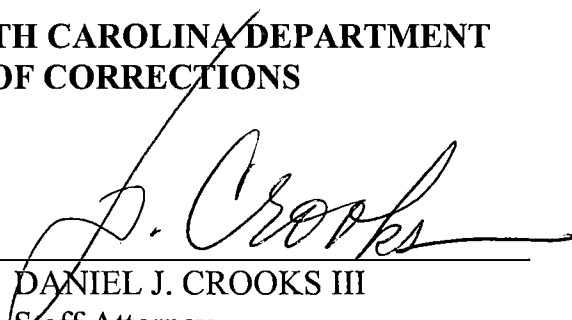
- (1) SCDC Step 1 Grievance, ECI-0221-14;
- (2) SCDC Step 2 Grievance, ECI-0221-14;
- (3) SCDC's December 17, 2014 Motion to Dismiss in ALC case 14-ALJ-04-0771-AP; and,
- (4) ALC's January 15, 2015 Order of Dismissal in ALC case 14-ALJ-04-0771-AP.

Counsel for Respondent hereby certifies that this Designation of Matter includes no matter that is irrelevant to the appeal before this Court.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

BY: _____


DANIEL J. CROOKS III

Staff Attorney

Office of General Counsel

Post Office Box 21787

Columbia, South Carolina 29221

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Columbia, South Carolina
July 13, 2015

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.....Respondent.

**MOTION TO FILE INITIAL BRIEF AND DESIGNATION OF MATTER
OUT OF TIME**

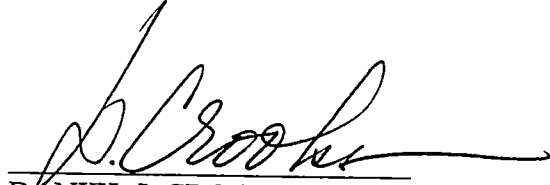
COMES NOW, Respondent, South Carolina Department of Corrections, and requests that this Honorable Court grant Respondent leave to file its Initial Brief and Designation of Matter out of time. The deadline for these filings was Friday, July 10, 2015, but the undersigned was out of the office on sick leave on that date. Therefore, the Department respectfully requests that the Court accept its Initial Brief and Designation of Matter by permitting the Department to file these documents out of time.

[signature block on following page]

EXHIBIT 9

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

A handwritten signature in black ink, appearing to read "D. Crooks III", written over a horizontal line.

DANIEL J. CROOKS III
Staff Attorney
Office of General Counsel
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(803) 896-1355 [direct]

Counsel for Respondent

Columbia, South Carolina
July 13, 2015

News

Tommy Thomas
Attorney at Law
 PO Box 88 Irmo, SC 29063
 803.732.5507 or 803.732.6542
www.paroleme.com

update

Holiday 2014

We are pleased to bring you the holiday edition of our newsletter.

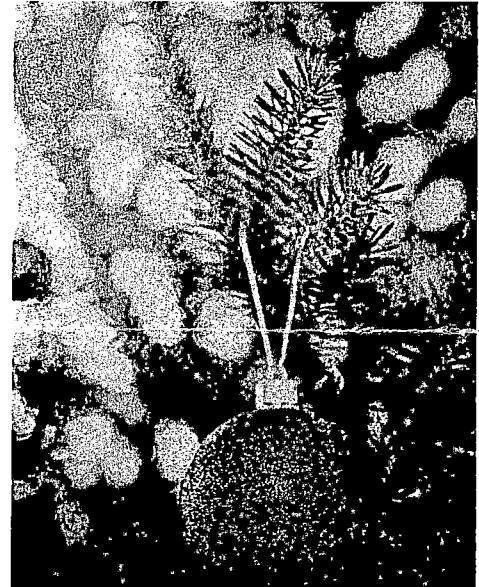
As always, our goal with this newsletter is to keep you and your loved ones up to date on policies that affect you, while separating rumor from fact.

Please remind your family members that a great deal of information is available on our website, www.paroleme.com, including forms that are available for download.

We count it a privilege to represent you and we value the confidence you have placed in our office — and we are grateful when you refer us to others as well.

We remind you that this newsletter is not intended to be construed as legal advice. If we can be of service to you, please contact us.

We wish you and your family a wonderful 2015!



Aging inmates

A recent news story published by *The State* has brought increased focus on South Carolina's aging inmate population. According to the story and information provided by SCDC, the number of South Carolina inmates age 55 and older has more than doubled in the past decade. About 9 percent of South Carolina inmates now are 55 or older. In 2013, the average cost to incarcerate an inmate was \$16,542 a year, up from \$12,353 in the past 10 years.

According to the story, the national

cost to incarcerate an inmate who is older than 50 is about double that of those younger than 50.

As the South Carolina inmate population continues to age, we are keeping an eye on any changes related to this issue.

As of the writing of this newsletter, of the 14 medical parole applications since 2010, five were granted parole and two of those have been released.

Look for more information about medical parole in our next newsletter.

Crimes of Violence vs. Violent Crimes

In South Carolina, those convicted of "crimes of violence" are required to surrender their driver's license, pay a fee and have their new license affixed with a code that identifies them as having been convicted of a crime of violence.

Though it seems both confusing and challenging, this category of crimes is not the same as South Carolina's statutory violent crimes. In establishing the driver's license law, the South Carolina legislature deliberately chose the term "crimes of violence," one that in fact,

includes some offenses that are no longer listed under South Carolina law.

As a result, it is possible that the term "crimes of violence" could be interpreted to include the broad term "rape," which includes varying degrees of sexual assault, and the term "burglary," which could include even those deemed non-violent under law.

We are looking into this issue further, but wanted to begin to clarify it since so many are confused about its application. If you have additional questions, please contact our office.

Law Update

In *Wimison v. State* (Opinion No. 27454, 2014), the S.C. Supreme Court considered the question of whether a guilty plea precluded PCR relief based on after-discovered evidence. The Court stated: "Although we find that a guilty plea does not preclude post-conviction relief following a guilty plea in all circumstances, we nonetheless conclude that the traditional, five-factor newly discovered evidence test is not the proper test for analyzing whether a PCR applicant is entitled to relief on the basis of newly discovered evidence following a guilty plea. ...Indeed, the traditional, newly discovered evidence factors are 'difficult, if not impossible to apply when the moving party pleaded guilty instead of standing trial.'"

The Court further held that "when a PCR applicant seeks relief on the basis of newly discovered evidence following a guilty plea, relief is appropriate only where the applicant presents evidence showing that (1) the newly discovered evidence was discovered after the entry of the plea and, in the exercise of reasonable diligence, could not have been discovered prior to the entry of the plea; and (2) the newly discovered evidence is of such a weight and quality that, under the facts and circumstances of that particular case, the "interest of justice" requires the applicant's guilty plea to be vacated."

MICHIGAN	Michigan Legislature Repealed Draconian Mandatory Minimum Drug Sentences. On March 1, some first-time, "nonviolent drug offenders" sentenced under Michigan's mandatory minimum law were freed. Lenawee County commissioners agreed to try again for a state grant to launch a community corrections program aimed at reducing the number of people sent to prison and jail.
MISSISSIPPI	Mississippi has saved \$11.6 million since July 1, 2001, from a 11/2-year-old law that reduces mandatory prison sentences from 85 percent of the original sentence to 25 percent for certain "nonviolent offenders." Some prisoners could earn a day off for every day they work, rather than a day off for every three days worked, under a plan the House OK'd.
MISSOURI	Proposes to shut two prisons and release more than 1,000 "nonviolent offenders" early. Considering not opening Jefferson City Correctional Center next year. Senate Advances Bill That Would Revise Criminal Laws, Shrink Prison Population.
MONTANA	Corrections has 68 job vacancies, its budget cut by \$1.6 million. Bill would eliminate jailing of some drug users.
NEBRASKA	Proposes to close a youth prison. In a move designed to send a message about the severity of the state's budget crisis, lawmakers voted to save money by closing a maximum-security prison and releasing about 500 inmates.
NEVADA	Pending budget cuts would force closure of 13 minimum-security facilities, requiring early release of thousands of prisoners.
NEW HAMPSHIRE	Closed one prison. Corrections is expected to cut another 62 positions.
NEW MEXICO	With Gov. Bill Richardson steadfastly opposed to building more prisons, New Mexico corrections officials are hoping to revive an early-release program scuttled in the mid-1990s.
NEW YORK	As part of the budget, the state Legislature approved a plan to let about 1,300 "nonviolent" prisoners out of prison early. Gov. George Pataki, who was first elected to office on a platform of harsher jail terms and parole restrictions, is advocating letting some well-behaved drug offenders out of prison early and ending parole early for others.

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NOV 06 2015

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.
P.O. Box 252
Turbeville, SC 29162
pro se Appellant

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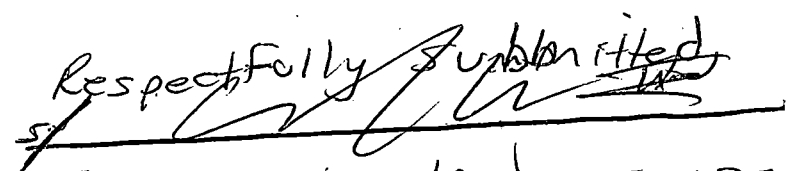
NOV 06 2015

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