

APPELLANT'S MOTION FOR SANCTIONS **RECEIVED**
AGAINST ATTORNEY ANNE R. CULBREATH

NOV 19 2015

STATE OF SOUTH CAROLINA

SC Court of Appeals

IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY

COURT OF COMMON PLEAS

JAMES R. BARBER, III, CIRCUIT COURT JUDGE

LOWER CASE NO. 2014-CP-23-05661

APPELLATE CASE NO. 2015-000697

George Cleveland, III

APPELLANT;

v.
Greenville County Sheriff's
OFFICE,

RESPONDENT.

APPELLANT'S MOTION FOR SANCTIONS

George Cleveland, III, #357770
TURBEVILLE CORRECTIONAL INST.
P.O. Box 252
TURBEVILLE, S.C. 29162
Appellant proceeding Prose

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STATUTE :

SOUTH CAROLINA CODE OF LAWS § 15-36-10 et seq.

(A), (4), (A) (b) (E) (C) (1) (2) OR (3) 1, 8, 9, 14

CASES :

FATHER V. SOUTH CAROLINA DEPT. OF SOCIAL SERVICES,

352 S.C. 254, 578 S.E. 2d. 11 S.C. 2003, *id.*, At 13

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PHILLIPS V. SOUTH CAROLINA STATE UNIVERSITY S.E.

2d 2005 WL 708045 (S.C. App. 2005), *id.*, At p. 7

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COURT RULES :

RULE 224 (A) S.C.A.C.R. 1

RULE 240 S.C.A.C.R. 8, 14

1.
APPELLANT'S MOTION FOR
SANCTIONS:

Appellant George Cleveland, III, proceeding pro se files this motion for sanctions against Attorney Anne R. Colbreath of Wilson Jones Carter and Baxley, P.A.; 872 South Pleasantburg Drive; Greenville, S.C. 29607 under the South Carolina Frivolous Civil Proceedings Sanctions Act (F.C.P.S.A.) § 15-36-10 et. seq. for introducing an frivolous defense, deviating from proper adjudication by arguing:

I ... "Failed to file a petition for Re-hearing within the parameters of Rule 221(A)..."

Agreed with Deputy Clerk V. Claire Allen of this Honorable Court, despite knowing the Remittitur was sent to the lower court one (1) day after my petition for Rehearing was filed which was frivolous.

2.
RELEVANT CASE-BACKGROUND:

On or around July 10, 2015, this Court dismissed my notice of appeal from the Greenville County

COURT OF COMMON PLEAS because I could not AFFORD the filing fee. ON OR AROUND JULY 24, 2015, I mailed my Petition for Re-hearing to this court by UNITED STATES MAIL.

ON JULY 27, 2015, THIS COURT RECEIVED, AND FILED MY PETITION FOR REHEARING, SEE R. P. 1 (caption page showing clerk's stamp).

ON JULY 28, 2015, CLERK OF THIS COURT THE HONORABLE JENNY ABBOTT KITCHINGS, ISSUED THE REMITTUR TO THE GREENVILLE COUNTY COURT OF COMMON PLEAS, SEE R. P. 2 (REMITTUR DATED JULY 28, 2015).

ON AUGUST 04, 2015, I MAILED A LETTER TO THIS COURT ARGUING MY PETITION FOR REHEARING WAS FILED PRIOR TO THE ISSUANCE OF THE REMITTUR WHICH WAS RECEIVE IN THE CLERK'S OFFICE ON AUGUST 10, 2015 WITH EVIDENCE, AND AGAIN, ADDITIONAL EVIDENCE ON AUGUST 09, 2015, AND RECEIVED ON AUGUST 12, 2015.

ON AUGUST 12, 2015, ATTORNEY ANNE R. CULBREATH OF WILSON JONES CARTER AND BAXLEY, P. A., GENERATED

A letter addressed to the Honorable Jenny Abbott Kitchings of this court, and stated the following relevant part:

"Mr. Cleveland failed to file a petition for rehearing within the parameters of Rule 221(A), and therefore, the clerk's office correctly sent the remittitur to the lower court... see R. p. 3.

On August 27, 2015, Deputy Clerk V. Claire Allen responded in the following relevant part by way of letter-form:

"On July 28, 2015, the court sent the remittitur to the lower court. Accordingly, this court no longer has jurisdiction over this appeal." see R. p. 4.

On September 15, 2015, the clerk of this court again declined to put my case on the motion docket so it could have been ruled on

by the court, not the clerk.

ON OR AROUND October 16, 2015 my Petition FOR A WRIT OF CERTIORARI to the COURT OF APPEALS WAS FILED IN THE SUPREME COURT OF SOUTH CAROLINA; ASKING THE COURT SEVERAL QUESTIONS. ONE OF COURSE, DEALT DIRECTLY WITH THE REMITTUR ISSUE. IBID

ON October 21, 2015 the clerk issued AN REMITTUR Recall ORDER, WHEREBY DIRECTING THE GREENVILLE COUNTY CLERK OF COURT TO RETURN THE REMITTUR TO THIS COURT; SEE R. P. 5. THIS RELEVANT HISTORY BRINGS THIS COURT UP-TO-SPEED. RESPECTFULLY.

3.

ARGUMENT
ATTORNEY ANNE R. CULBREATH'S
AUGUST 12, 2015 DEFENSE WAS
FRIVOLOUS!

The letter dated August 12, 2015 addressed to the Honorable Jenny Abbott Kitchings attempted to secure an improper adjudication of this case by arguing I "failed to file a petition for rehearing within . . . [the time limit and] the clerk's office correctly sent the remittur to the lower court, supra, at 2, was an improper attempt to

4.

secure victory that the F.C.A.S.A. Forbids,
And is in force as state law to deter
Attorneys and prose litigants from filing
with this court frivolous defenses because
it wastes judicial resources that can be
utilized to devote to cases with merit.
Mrs. Culbreath, reckless, and careless argument
to this court despite evidence of stamped
copies that clearly says;

RECEIVED
JULY 27, 2015
S.C. COURT OF APPEALS;

on my petition for rehearing was filed in this
court that I also mailed Mrs. Culbreath, shows
how cold her defense was, the remittive clearly
showed July 28, 2015. A number of attempts by
me to reason with deputy clerk V. Claire Allen
for over two (2) months were unreasonable.

Further, the S.C.D.C. requires all inmates to
hand-write all legal documents:
cc materials and documents that will not be
copied include documents that been solely
originated, generated, written, typed or created
by an inmate. "S.C.D.C. Policy GA-01.03

(Inmate Access to the courts).

over one-hundred (100) hand-written documents to her office, and this court, postage, clerk's-time, and wasted judicial resources; could have been devoted to other legal issues were unnecessary, and was sparked solely by Mrs. Culbreath's goal to have my case dismissed by filing an frivolous argument in violation of F.C.P.S.A.,

on one-hundred (100) days have been wasted since my petition for a re-hearing was filed in this court on July 27, 2015. My petition could be on the docket, submitted to this court, or perhaps a decision by this court,

I welcome arguments that are consistent and logical to my own, I frown upon as do F.C.P.S.A. arguments that are inconsistent, illogical which smacks the principals of logic to its knees.

Mrs. Culbreath's "frivolous defense committed a more egregious act than one who merely acts without substantial justification."

FATHER v. South CAROLINA Dept. of SOCIAL SERVICES, 352 S.C. 254, 578 S.E. 2d. 11 S.C. 2003, id., At 13.

"A misapprehension of the Facts.", Phillip's v. South CAROLINA State UNIVERSITY S.E. 2d 2005 WL 708045 (S.C. App. 2005) id., At p. 7 by Mrs Culbreath's Frivolous Defense;

"The clerk's office correctly sent the Remittitur to the lower court," supra, At 2 is wholly distinguishable from my ARGUMENTS since I received the Remittitur dated July 28, 2015 that my Petition for An Re-hearing was timely filed, not by mere words, by evidence submitted, to Mrs. Culbreath, this court, And the Supreme Court of South CAROLINA by me.

The letter B cannot agree with the letter C without supporting evidence, but the letter A with supporting evidence is ignored by letter B and C. one hundred days of my time, and the court's time has been wasted because of the letter B. i.e., Mrs. Culbreath agreeing with letter C i.e., Deputy clerk V. Claire Allen of this court with No supporting evidence. I submit,

respectfully that this court sends a message
to Attorney Anne R. Culbreath:

FRIVOLOUS DEFENSES ARE NOT WELCOME
IN THE SOUTH CAROLINA COURT OF APPEALS

“The clerk's office correctly sent the Remittitur
to the lower court, *id.*, was a frivolous
defense, and the defense attempted to secure
an improper adjudication; accordingly, Attorney
Anne R. Culbreath violated F.C.P.S.A. and rule
240 S.C.A.C.R.,

4.

STANDARD - OF - REVIEW
LEGAL - ANALYSIS:

The South Carolina Frivolous Civil Proceedings
Sanction Act § 15-36-10 (A), 4, (A)(b), states the
following: “making frivolous arguments a
reasonable attorney would believe were not
reasonable 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

8,

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 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

1.) NUMBERS OF PARTIES:

This complaint filed in the Greenville County Court of Common Pleas only has one (1) Defendant, the Greenville County Sheriff's office.

2.) COMPLEXITY OF THE CLAIMS AND DEFENSES:

My sole claim relevant to this filing was my:

Petition For A Rehearing WAS filed on July 27, 2015, And the Remittitur WAS sent to the Greenville county clerk of court on July 28, 2015, thus invalidating the remittitur since it WAS sent one (1) day after my petition for Rehearing WAS filed making my claim AS simple AS 'boiling a pot of water'; therefore, there were no complex defense required.

3.) Length of time to investigate:

MRS. Culbreath had from August 4, 2015 to the day she typed and signed her letter: August 12, 2015 which granted her A GRAND total of eight (8) days, see R. p. 3, August 12, 2015 to Review two (2) documents the Remittitur, see R. p. 2, And my Petition For Rehearing document, see R. p. 1; thus providing ample time for her to look at the date on the top page of the Remittitur, And the cognition of her skill of legal-knowledge.

4.) Information disclosed to MRS. Culbreath:

As Element three (3), id. argues the two (2) documents, that took seconds OR A few minutes to Review.

5.) Previous violations:

It's unclear if MRS. Culbreath has violated this

statute before.

6.) Response From Mrs. Culbreath:

Mrs. Culbreath has had over twenty "(20) days to Amend her response letter to this court, she has failed to do so.

7.) OTHER FACTORS:

The other factors this court should consider are: Mrs. Culbreath has internet, phone, and fax accessibility to easily gather all the facts, I have only; white paper, ink pens, and envelopes; therefore, she had sufficient tools that could have prevented the waste of 100 days, and multiple opportunities to change her defense, from meritless, too meritorious, she failed to do so.

The Greenville County Sheriff's office is the only named defendant in this case, number one (1) in days (between the filing of my petition for rehearing, and the remittitur being sent).

In no way was my issue complex. Mrs. Culbreath had 8 days to review 2 simple documents, i.e., petition for rehearing and remittitur, and had adequate time to investigate my arguments. It's

1. since October 21, 2015 Remittitur recall order, supra at 2.

UNCLEAR OF ANY PREVIOUS VIOLATIONS BY MRS. CULBREATH, thus I'm awaiting AN RESPONSE FROM MRS. CULBREATH, the Remittitur WAS RECALLED ON OCTOBER 21, 2015, this motion WAS GIVEN TO THE TURBEVILLE CORRECTIONAL'S MAIL-ROOM STAFF ON NOVEMBER 16, 2015. Twenty-six (26) days have passed, AND NO RESPONSE FROM MRS. CULBREATH TO FILE AN AMENDED RESPONSE TO HER FRIVOLOUS DEFENSE LETTER DATED: AUGUST 12, 2015; id; AND OTHER FACTORS THE COURT SHOULD CONSIDER RESPECTFULLY ARE:

the use of computers, emails, FAX, phone, AND AN MEMBER OF THE SOUTH CAROLINA BAR, AGAINST ME AS AN INMATE WITH NO COMPUTER, FAX, PHONE, NOR AM I, A MEMBER OF THE SOUTH CAROLINA BAR, AND THE SKILL, AND KNOWLEDGE.

IN SUM, THE LEGAL ANALYSIS, THE LAW WITH SUPPORTING EVIDENCE PROVIDES A MOUNTAIN OF EVIDENCE THAT MRS. CULBREATH'S FRIVOLOUS DEFENSE SIDING WITH

2. THE TURBEVILLE CORRECTIONAL INSTITUTION'S LAW-LIBRARY HAS TWO (2) COMPUTERS WITH WESTLAW LEGAL SOFTWARE, NO OTHER INTERNET CAPABILITY IS PROGRAMED.

Deputy clerk V. CLARE Allen of this court which she had evidence to the contrary; consequently, Attorney Anne R. Culbreath violated the South Carolina Frivolous civil proceedings sanctions Act under S.C. code of Laws § 15-36-10, et. seq.

5.
CONCLUSION:

Attorney Anne R. Culbreath Frivolous Defense WAS AN attempt to divert my Argument with merit regarding my timely filed Petition for Rehearing is AN violation of F.C.P.S.A. because her frivolous Defense WAS NOT to assist in the proper Administration of Justice, but instead attempted to hijack my facts, and demand this court to simply accept her Argument no-matter-what, and had over 100-days to Amend her frivolous letter, and 21-of-those-days since the remittitur order was recalled, id., amounts to AN UNREPENTANT FRIVOLOUS Defense by AN ATTORNEY OF THE SOUTH CAROLINA BAR.

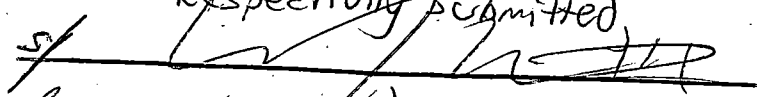
6.
PRAYER FOR RELIEF:

I PRAY FOR the following relief:

WHEREFORE; GRANT my motion for sanctions
against Attorney Anne R. Culbreath under
S.C. Code of Laws § 15-36-10 (g) (1) (2) or (3)
in money damages that pleases this court directly
to me at:

George Cleveland, III, #357770, TA-132
Turbeville Correctional Institution
P.O. Box 252
Turbeville, S.C. 29162

Submit a copy of the order to the Supreme
Court of South Carolina; P.O. Box 11330
Columbia, S.C. 29211; pursuant to the F.C.P.S.A.,
and any other relief this court deems just
proper, and/or equitable, respectfully.

Respectfully Submitted,

George Cleveland, III, #357770 TA132
Turbeville Correctional Inst.
P.O. Box 252
Turbeville, S.C. 29162

DATED: NOVEMBER 16, 2015

APPELLANT'S PROOF OF SERVICE

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

RECEIVED

APPEAL FROM GREENVILLE COUNTY

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COURT OF COMMON PLEAS

SC Court of Appeals

JAMES R. BARBER, III, CIRCUIT COURT JUDGE

LOWER CASE NO. 2014-CP-23-05661

APPELLATE CASE NO. 2015-000697

George Cleveland, III, APPELLANT

v.
Greenville County Sheriff's
office) RESPONDENT

APPELLANT'S PROOF OF SERVICE

George Cleveland, III #357770
TURBEVILLE CORRECTIONAL INST
P.O. Box 252
TURBEVILLE, S.C. 29162
APPELLATE PROCEEDING PROSE

APPELLATE'S PROOF OF SERVICE!

1. I, George Cleveland ~~JTH~~, proceeding pro se certifies that on the date below, by and through the Turbeville Correctional Institution's Mail-Room; properly addressed served the the documents by united states mail:

- Appellant's motion for sanctions;
- Appellant's Appendix;

to the following:

WILSON JONES CARTER AND BAXLEY, P.A.
% ATTORNEY ANNE R. CULBREATH
872 SOUTH PLEASANTBURG DRIVE
Greenville, S.C. 29607

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SC Court of Appeals

Respectfully submitted,



George Cleveland ~~JTH~~ #357770
TURBEVILLE CORRECTIONAL INSTI
P.O. Box 252
TURBEVILLE, S.C. 29162

Dated: NOVEMBER 16, 2015

November 16, 2015

The South CAROLINA Court of Appeals
Jenny Abbott Kitchings, clerk **RECEIVED**
P.O. Box 11629
Columbia, S.C. 29211
NOV 19 2015
SC Court of Appeals

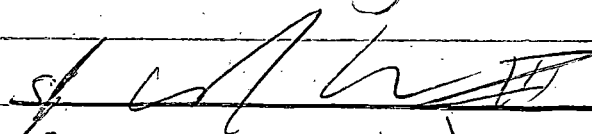
Re: Appellant's motion for sanctions; George
Cleveland, III v. Greenville County Sheriff's
Office; Appellate Case No. 2015-000697

1. DEAR MRS. Kitchings,

Attached to this letter is my motion
for sanctions against Attorney Anne R.
Culbreth, supporting Appendix and proof
of service.

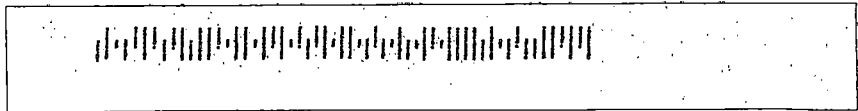
2. Can you please file, and kindly stamp
the extra copies for my records by
mailing them back to me in the self-addressed
stamped envelope

Respectfully Submitted,



George Cleveland, III #357770
Turbeville Correctional Inst.
P.O. Box 252; Turbeville, S.C. 29162

TURBEVILLE C. I.
MAIL ROOM
BOX 252
TURBEVILLE, S. C. 29162



George Cleveland ~~ITN~~ #357770



Legal Mail

The South Carolina Court of Appeals
Jenny Abbott Kitchings, Clerk of Court
P.O. Box 11629
Columbia, S.C. 29211

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