

STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT DEC 07 2015
Administrative Law Judge Carolyn C. Matthews

SC Court of Appeals

ALC Case No. 15-ALJ-04-0003-AP
Appellate Case No. 2015-000379

PERRY WATFORD, # 289215,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

MOTION TO DISMISS APPEAL

This matter comes before this Court pursuant to the appeal of Perry Watford (Appellant), an inmate incarcerated with the South Carolina Department of Corrections. Appellant appealed SCDC's denial of his grievance regarding an allegation of staff misconduct to the Administrative Law Court (ALC). The ALC ruled that Appellant's allegation did not implicate a state-created liberty interest and that there was no loss of good time credits. In this appeal, Appellant seeks review of the ALC's ruling.

Appellant served his Initial Brief of Appellant and Designation of Matter on September 3, 2015. SCDC submitted its Initial Brief of Respondent and Designation of Matter on October 14, 2015, after this Court granted SCDC an extension until November 2, 2015. By letter dated October 14, 2015, this Court notified Appellant that, pursuant to Rule 210 of the South Carolina Appellate Court Rules, the Record on Appeal must be

served thirty days after service of the last initial brief and also filed with the Court twenty days after the Record was served. On October 25, 2015, Appellant submitted a Record on Appeal and a Final Brief of Appellant. By letter dated November 2, 2015, this Court notified Appellant that his Record on Appeal was deficient in that it was not properly paginated and that the cover page was improper because the index appeared on the cover page. On November 16, 2015, this Court granted SCDC an extension of time in which to file its Final Brief of Respondent because Appellant had not yet cured the deficiencies in his Record on Appeal. This extension order stated that Respondent's Final Brief would be due on December 7, 2015. On November 30, 2015, Appellant submitted a Final Brief of Appellant. Attached to the front of this Final Brief was a corrected cover page for the Record on Appeal. However, Appellant did not submit a separate index page for his Record on Appeal and did not submit a properly paginated Record on Appeal.


As of today's date, December 7, 2015, Appellant has not cured all of the deficiencies in his Record on Appeal. As a result, Respondent cannot submit a proper Final Brief. Appellant has been on notice that he was required to cure all deficiencies in his Record on Appeal since receiving this Court's November 2, 2015 letter. Appellant has had over a month to cure the stated deficiencies but has failed to do so. Accordingly, because Appellant has failed to follow this Court's specific instructions with regard to his Record on Appeal, and has failed to properly follow the South Carolina Appellate Court Rules in order to perfect his appeal, SCDC is respectfully requesting that this Court dismiss the appeal. See Henning v. Kaye, 307 S.C. 436, 437, 415 S.E.2d 794, 794 (1992) (“[T]he South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State.”).

CONCLUSION

For the reasons set forth above, Respondent asks that this Court dismiss Appellant's appeal. Respondent also respectfully requests that this Court hold the time period for filing the Final Brief of Respondent in abeyance pending resolution of this motion.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

BY: 
CHRISTINA CATOE BIGELOW
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(803) 896-8508

ATTORNEY FOR RESPONDENT

December 7, 2015

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Administrative Law Judge Carolyn C. Matthews

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PERRY WATFORD, # 289215,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

PROOF OF SERVICE

The undersigned hereby certifies that SCDC's **Motion to Dismiss Appeal** in the above-referenced matter has been served upon Respondent via U.S. Mail, addressed as follows: **Perry Watford, # 289215, Manning Correctional Institution, 502 Beckman Drive, Columbia, SC 29203, this 7th day of December, 2015.**



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South Carolina
Department of
Corrections

OFFICE OF GENERAL COUNSEL

NIKKI R. HALEY, Governor
BRYAN P. STIRLING, Director

December 7, 2015

The Honorable Jenny A. Kitchings
Clerk of Court, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

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DEC 07 2015

SC Court of Appeals

RE: Perry Watford, # 289215, v. South Carolina Department of Corrections
Appellate Case No. 2015-000379

Dear Ms. Kitchings:

Enclosed please find the original and six (6) copies of SCDC's **Motion to Dismiss Appeal** in the above referenced matter, along with **Proof of Service**.

Thank you for your attention to this matter, and please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

Christina Catoe Bigelow
Deputy General Counsel
South Carolina Department of Corrections

cc: Perry Watford, # 289215
Manning Correctional Institution
502 Beckman Drive
Columbia, South Carolina 29203