

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY

J. Cordell Maddox, Jr., Circuit Court Judge

Trial Court Case No. 2014-CP-23-5969
Appellate Case No. 2015-000759

RECEIVED

DEC 30 2015

SC Court of Appeals

Billy Joe Cartrette, Appellant,

v.

South Carolina Department of Corrections, Respondent.

**THE RESPONDENT’S MOTION TO STRIKE MATTER
INCLUDED BY THE APPELLANT IN THE AMENDED RECORD ON APPEAL**

By a submission dated December 17, 2015, the Appellant, Billy Joe Cartrette [“Cartrette”], filed an amended record on appeal.

For the reasons articulated below, the Department respectfully moves the Court, pursuant to South Carolina Appellant Court Rule [“SCACR”] 240, to strike materials included by Cartrette in the amended record.

The undersigned counsel for the Respondent, the South Carolina Department of Corrections [“the Department”], received the amended record from Cartrette via United States Mail on December 21, 2015.

Cartrette prepared the amended record in conformity with the Court’s December 4, 2015 order. By its December 4, 2015 order, the Court granted in part the Department’s motions to

strike several documents Cartrette proposed for inclusion in the record in both his original designation of matter and his designation of additional matter.¹

The index reflects that the following materials appear in the amended record:

Item #	Description	Page(s)
1	STATEMENT OF GROSS EARNINGS 2-16-99	1
2	WAGE ESTIMATE	2
3	WAGE ESTIMATE	3
4	WAGE ESTIMATE	4 – 5
5	STATEMENT OF GROSS EARNINGS 3-2-02 & 10-17-03	6
6	<u>SCDC v. CARTRETTE</u> , 604 S.E.2d 18 (S.C. App. 2010)	7 – 10
7	<u>SCDC v. CARTRETTE</u> , Opinion No. 27094 (2012)	11 – 12
8	<u>SCDC v. CARTRETTE</u> , Remittitur	13
9	COMPLAINT FOR DECLARATORY JUDGMENT, ETC.	14 – 17
10	SCDC’S MOTION TO DISMISS	18 – 21
11	SCDC’S ANSWER	22 – 28
12	CARTRETTE’S OPPOSITION TO MOTION TO DISMISS	29 – 31
13	ORDER OF CLARIFICATION (2-13-15 RECORD IN PART)	32 – 33
14	2-13-15 TRANSCRIPT OF RECORD	34 – 51
15	2-13-15 FORM 4 ORDER	52 – 53
16	ORDER GRANTING SCDC’S MOTION TO DISMISS	54 – 58

The Department specifically and respectfully moves the Court to strike the materials identified as “ORDER OF CLARIFICATION (2-13-15 RECORD IN PART)” in the index provided with the amended record on appeal.²

¹ By its December 4, 2015 order, the Court also addressed a “motion to remand” filed by Cartrette, which it construed “as a return to [the Department’s motions] to strike.” By a submission dated December 21, 2015, Cartrette filed his “Petition for Rehearing under South Carolina Appellate Court Rules (SCACR) 240(j),” by which he requested “the Court’s panel” to review its December 4, 2015 order. The Department’s undersigned counsel received Cartrette’s petition for rehearing via United States Mail on December 24, 2015. To the extent that the Court’s December 4, 2015 order is subject to review under the provisions of SCACR 240(j), the Department, by and through its undersigned counsel, opposes Cartrette’s petition for rehearing. In so opposing Cartrette’s petition for rehearing, the Department again relies upon the analysis and argument it provided in its “Return to [Cartrette’s] ‘Motion to Remand to Trial Court under SCACR 240 and Whitehead v. State’” filed October 19, 2015.

² See item #13 in the table provided above by the Department.

I. APPLICABLE APPELLATE COURT RULE

SCACR 210 is entitled “Record on Appeal,” and the operative provision of SCACR 210(c), which is entitled “Content,” reads as follows: “The Record **shall not**, however, include matter which was **not presented** to the lower court or tribunal.” [emphasis supplied].

II. THE DEPARTMENT’S ARGUMENT

Neither Cartrette nor the Department presented the materials identified in the index as “ORDER OF CLARIFICATION (2-13-15 RECORD IN PART)” to the circuit court before or during the hearing conducted February 13, 2015.

The “Order of Clarification” which appears in the amended record consists of an order issued March 24, 2006 by the South Carolina Administrative Law Court [“ALC”] by which the ALC consolidated nine (9) appeals, including an appeal filed by Cartrette.³ The operative paragraph of the “Order of Clarification” reads as follows:

These orders were signed on February 7, 2006, but were not filed and served on the parties until March 6, 2006. By letter dated March 14, 2006, [the Department] asked for clarification of the order to reflect that 30 days from the date of service as the deadline for compliance. To avoid any further confusion, and to give the Department adequate time to complete its work, it is hereby ORDERED that the relief ordered in each case shall be completed by April 24, 2006, thirty days from the file date of this order. Upchurch v. Upchurch, 367 S.C. 16, 624 S.E.2d 643 (2006) states that “the effective date of an order is not when it is signed by the judge, but when it is entered. ...” citing Bowman v. Richland Mem. Hosp., 335 S.C. at 93, 515 S.E.2d at 261.

³ See item #13 in the table provided by the Department on page 2 above (Amend. R. pp. 32 – 33).

Cartrette referenced the “Order of Clarification” in his “Opposition to [the Department’s] Motion to Dismiss” dated December 30, 2014,⁴ and, likewise, he mentioned it during the hearing conducted by the circuit court on February 13, 2015.⁵

However, Cartrette did not propose the “Order of Clarification” for inclusion into the record within either his original designation of matter dated July 21, 2015 or his designation of additional matter dated September 27, 2015.⁶

Cartrette did not include a copy of the “Order of Clarification” in the exhibits he filed in support of his “Opposition to [the Department’s] Motion to Dismiss” dated December 30, 2014. Even if he had done so, Cartrette did not propose any of the exhibits he filed in support of his “Opposition to [the Department’s] Motion to Dismiss” for inclusion into the record within either of his designations of matter.⁷

Cartrette did not include a copy of the “Order of Clarification” within the sole exhibit he submitted to the circuit court during the February 13, 2015 hearing. Moreover, Cartrette did not propose the sole exhibit he introduced to the circuit court during the February 13, 2015 hearing for inclusion into the record within either of his designations of matter.⁸

Instead, the Department, in its designation of matter filed September 21, 2015, proposed the “[e]ntirety of the sole exhibit introduced by [Cartrette] and admitted by the [circuit court]

⁴ See item #12 in the table provided by the Department on page 2 above (Amend. R. p. 31).

⁵ See item #14 in the table provided by the Department on page 2 above (Amend. R. p. 44).

⁶ The Department respectfully submits copies of Cartrette’s designations of matter as Exhibit 1 in support of its instant motion.

⁷ See Exhibit 1.

⁸ Id.

during the hearing [it] conducted on February 13, 2015 regarding [the Department's] Motion to Dismiss [Cartrette's] 'Complaint for Declaratory Judgment'" for inclusion into the record.⁹

A review of the sole exhibit introduced by Cartrette during the February 13, 2015 hearing reveals that the "Order of Clarification" he included in the amended record did not appear anywhere in the exhibit.¹⁰

III. CONCLUSION

For the above-articulated reasons, the Department respectfully submits that under SCACR 210(c), this Court should strike the materials identified in the index as "ORDER OF CLARIFICATION (2-13-15 RECORD IN PART)" from the amended record.

As an important aside, the amended record is missing a page from the transcript of the hearing conducted by the circuit court on February 13, 2015.¹¹

That said, the Department is mindful of both the length of time associated with resolving its motions to strike materials proposed for inclusion into the record by Cartrette and the logistical challenges Cartrette confronts in the course of compiling and preparing the record.

Accordingly, the Department respectfully submits that a second amended record should be compiled, and, to save time and effort, it also respectfully submits that the second amended record should include the following materials:

Item #	Description	Page(s)
1	STATEMENT OF GROSS EARNINGS 2-16-99	1
2	WAGE ESTIMATE	2
3	WAGE ESTIMATE	3
4	WAGE ESTIMATE	4 - 5

⁹ The Department respectfully submits a copy of its designation of matter as Exhibit 2 in support of its instant motion. See Exhibit 2, p. 1, item #4.

¹⁰ The Department respectfully submits a copy of the sole exhibit introduced by Cartrette and admitted by the circuit court during the February 13, 2015 hearing as Exhibit 3 in support of its instant motion.

¹¹ See Amend. R. p. 46. The Department respectfully submits a copy of the transcript's missing page as Exhibit 4 in support of its instant motion.

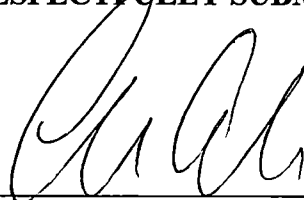
Item #	Description	Page(s)
5	STATEMENT OF GROSS EARNINGS 3-2-02 & 10-17-03	6
6	<u>SCDC v. CARTRETTE</u> , 604 S.E.2d 18 (S.C. App. 2010)	7 – 10
7	<u>SCDC v. CARTRETTE</u> , Opinion No. 27094 (2012)	11 – 12
8	<u>SCDC v. CARTRETTE</u> , Remittitur	13
9	COMPLAINT FOR DECLARATORY JUDGMENT, ETC.	14 – 17
10	SCDC'S MOTION TO DISMISS	18 – 21
11	SCDC'S ANSWER	22 – 28
12	CARTRETTE'S OPPOSITION TO MOTION TO DISMISS	29 – 31
13	SOLE EXHIBIT INTRODUCED DURING 2-13-15 HEARING	32 – 37
14	2-13-15 TRANSCRIPT OF RECORD	38 – 55
15	2-13-15 FORM 4 ORDER	56 – 57
16	ORDER GRANTING SCDC'S MOTION TO DISMISS	58 – 62

The Department respectfully submits that Cartrette should be able to prepare a second amended record using the materials it includes as exhibits in support of its instant motion, and, as its final exhibit,¹² the Department includes a proposed index for the second amended record which is identical to the table provided immediately above and which Cartrette may use in the second amended record.

Finally, the Department respectfully asks the Court to direct the parties, either by correspondence or by an order, not to file their final briefs until it has ruled upon the Department's instant motion.

¹² The Department respectfully submits the proposed index for a second amended record as Exhibit 5 in support of its instant motion.

RESPECTFULLY SUBMITTED,



December 30, 2015

Lake E. Summers

Malone, Thompson, Summers & Ott LLC

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Columbia, South Carolina 29201

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Counsel for the Respondent

Appellant (*pro se*):

Billy Joe Cartrette, #122434

RCI, CA-52, POB 2039

Ridgeland, South Carolina 29936

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY

J. Cordell Maddox, Jr., Circuit Court Judge

Trial Court Case No. 2014-CP-23-5969
Appellate Case No. 2015-000759

Billy Joe Cartrette, Appellant,

v.

South Carolina Department of Corrections, Respondent.

**THE RESPONDENT'S MOTION TO STRIKE MATTER
INCLUDED BY THE APPELLANT IN THE AMENDED RECORD ON APPEAL**

EXHIBIT 1

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY

J. CORDELL MADDOX, JR., CIRCUIT COURT JUDGE

Appellate Case No. 2015-0000759
2014CP2305969

Billy Joe Cartrette, Appellant,

LAW OFFICES

v.

JUL 24 2015

South Carolina Department of
Corrections (SCDC), Respondent.

MALONE, THOMPSON
SUMMERS & OTT, LLC

DESIGNATION OF MATTER
TO BE INCLUDED IN RECORD ON APPEAL

Appellant proposes the following to consist of the record on

appeal:

1. 3-12-15 'order' granting motion to dismiss;
2. 2-13-15 Form 4 order;
3. 2-13-15 hearing transcript (tr.) or relevant excerpt(s) of tr.;
4. 1-20-15 Request(s) for Admissions;
5. 12-30-14 Opposition to Motion to Dismiss;
6. 12-18-14 'answer';
7. 12-18-14 Motion to Dismiss;
8. 9-25-14 Complaint for Declaratory Judgment(s);
9. 3-12-2012 Remittitur Document;
10. 5-25-11 'order';
11. Unpublished Opinion No. 2010-UP-251;
12. Wage Estimates 1999-2007;
13. Excerpt(s) of 9-19-06 tr. - oral argument(s);
14. Wage Estimates 1999-2003 ('Section Leader');
15. Wage Estimates 1999-2003;
16. Earning and Deduction Statement Payroll Date Oct. 2003
17. " " " " Payroll " Mar. 2002
18. " " " " " " Feb. 1999
19. Excerpt(s) of Contract;

He certifies that the designation contains no matter(s)

which is irrelevant to the appeal herein.

July 21, 2015

s. *Billy J. Cartrette*

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY

J. CORDELL MADDOX, JR., CIRCUIT COURT JUDGE

Appellate Case No. 2015-0000759
Trial Court No. 2014C-2305969

Billy Joe Cartrette, Appellant,

vs.

South Carolina Department of
Corrections, Respondent.

DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL

Appellant proposes the following to be included in the record on appeal:

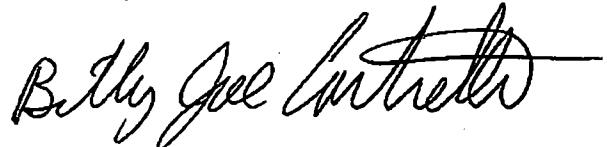
20. Roseboro's 1-12-2007 order from ALJ Anderson;
21. Roseboro's 9-21-07 order from S. C. Court of Appeals;
22. Certified Mail document(s) to ALJ of 2015.

The designation contains all relevant material(s).

This ~~21~~ of September 2015

27

1/s/



Billy Joe Cartrette, 122434
RCI, CA-52, POB 2039
Ridgeland, S.C. 29936

LAW OFFICES

OCT 01 2015

MALONE, THOMPSON
SUMMERS & OTT, LLC

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY

J. Cordell Maddox, Jr., Circuit Court Judge

Trial Court Case No. 2014-CP-23-5969
Appellate Case No. 2015-000759

Billy Joe Cartrette, Appellant,

v.

South Carolina Department of Corrections, Respondent.

**THE RESPONDENT'S MOTION TO STRIKE MATTER
INCLUDED BY THE APPELLANT IN THE AMENDED RECORD ON APPEAL**

EXHIBIT 2

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY

J. Cordell Maddox, Jr., Circuit Court Judge

Trial Court Case No. 2014-CP-23-5969
Appellate Case No. 2015-000759

RECEIVED

SEP 21 2015
SC Court of Appeals

Billy Joe Cartrette, Appellant,

v.

South Carolina Department of Corrections, Respondent.

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

The Respondent, by and through its undersigned counsel, respectfully proposes the following matter to be included in the Record on Appeal in the instant case:

1. "Order Granting the Defendant's Motion to Dismiss the Plaintiff's 'Complaint for Declaratory Judgment(s)'" signed by the Honorable J. Cordell Maddox, Jr., on March 12, 2015 and filed March 27, 2015.
2. Form 4 Order signed by the Honorable J. Cordell Maddox, Jr., on February 13, 2015 and filed March 5, 2015.
3. Entirety of transcript from hearing conducted by the Honorable J. Cordell Maddox, Jr. on February 13, 2015 regarding the Respondent's Motion to Dismiss the Appellant's "Complaint for Declaratory Judgment(s)."
4. Entirety of the sole exhibit introduced by the Appellant and admitted by the Honorable J. Cordell Maddox, Jr., during the hearing he conducted on February 13, 2015 regarding the Respondent's Motion to Dismiss the Appellant's "Complaint for Declaratory Judgment(s)."

5. Appellant's Opposition to the Respondent's Motion to Dismiss the Appellant's "Complaint for Declaratory Judgment(s)" and Allied Exhibits dated December 30, 2015.
6. Respondent's Answer to the Appellant's "Complaint for Declaratory Judgment(s)" dated December 18, 2014 and filed December 23, 2014.
7. Respondent's Motion to Dismiss the Appellant's "Complaint for Declaratory Judgment(s)" dated December 18, 2014 and filed December 29, 2014.
8. Appellant's "Complaint for Declaratory Judgment(s)" dated September 25, 2014 and filed October 31, 2014.
9. Remittitur issued March 12, 2012 by the Clerk of the South Carolina Supreme Court regarding the matter styled as the *S.C. Dep't of Corr. v. Billy Joe Cartrette*, #122434, Trial Court Case No. 2006-CP-27-00095 and 00176.
10. Opinion styled as *S.C. Dep't of Corr. v. Cartrette*, 722 S.E.2d 805 (S.C. 2012) and filed February 22, 2012 by the South Carolina Supreme Court Dismissing as Improvidently Granted the Writ of Certiorari it had Granted to Review the Court of Appeals' Decision in *S.C. Dep't of Corr. v. Cartrette*, 694 S.E.2d 18 (S.C. Ct. App. 2010).
11. Opinion styled as *S.C. Dep't of Corr. v. Cartrette*, 694 S.E.2d 18 (S.C. Ct. App. 2010) and filed May 28, 2010 by the South Carolina Court of Appeals.

For the sake of clarity, the Respondent provides a table immediately below by which it compares the items it designated above for inclusion in the Record in the instant case with the items the Appellant proposed for inclusion in his Designation of Matter to be Included in Record on Appeal dated July 21, 2015:

Description	Item # from Respondent's Above-Provided Designation of Matter	Item # from Appellant's Designation of Matter
"Order Granting the Defendant's Motion to Dismiss the Plaintiff's 'Complaint for Declaratory Judgment(s)'" signed by the Honorable J. Cordell Maddox, Jr., on March 12, 2015 and filed March 27, 2015	1	1
Form 4 Order signed by the Honorable J. Cordell Maddox, Jr., on February 13, 2015 and filed March 5, 2015	2	2

Description	Item # from Respondent's Above-Provided Designation of Matter	Item # from Appellant's Designation of Matter
Entirety of transcript from hearing conducted by the Honorable J. Cordell Maddox, Jr. on February 13, 2015 regarding the Respondent's Motion to Dismiss the Appellant's "Complaint for Declaratory Judgment(s)"	3	3
Entirety of the sole exhibit introduced by the Appellant and admitted by the Honorable J. Cordell Maddox, Jr., during the hearing he conducted on February 13, 2015 regarding the Respondent's Motion to Dismiss the Appellant's "Complaint for Declaratory Judgment(s)."	4	<u>Not</u> designated by the Appellant in his submission dated July 21, 2015
Appellant's Opposition to the Respondent's Motion to Dismiss the Appellant's "Complaint for Declaratory Judgment(s)" <u>and</u> Allied Exhibits dated December 30, 2015	5	5 (The Appellant did <u>not</u> designate his exhibits in his submission dated July 21, 2015)
Respondent's Answer to the Appellant's "Complaint for Declaratory Judgment(s)" dated December 18, 2014 and filed December 23, 2014.	6	6
Respondent's Motion to Dismiss the Appellant's "Complaint for Declaratory Judgment(s)" dated December 18, 2014 and filed December 29, 2014	7	7
Appellant's "Complaint for Declaratory Judgment(s)" dated September 25, 2014 and filed October 31, 2014	8	8
Remittitur issued March 12, 2012 by the Clerk of the South Carolina Supreme Court regarding the matter styled as the <i>S.C. Dep't of Corr. v. Billy Joe Cartrette</i> , #122434, Trial Court Case No. 2006-CP-27-00095 and 00176	9 <u>Also appears in the exhibits supporting the Appellant's Opposition to the Respondent's Motion to Dismiss (see #5 above)</u>	9

Description	Item # from Respondent's Above-Provided Designation of Matter	Item # from Appellant's Designation of Matter
Opinion styled as <i>S.C. Dep't of Corr. v. Cartrette</i> , 722 S.E.2d 805 (S.C. 2012) and filed February 22, 2012 by the South Carolina Supreme Court Dismissing as Improvidently Granted the Writ of Certiorari it had Granted to Review the Court of Appeals' Decision in <i>S.C. Dep't of Corr. v. Cartrette</i> , 694 S.E.2d 18 (S.C. Ct. App. 2010).	10 <hr/> Slip Opinion appears in the exhibits supporting the Appellant's Opposition to the Respondent's Motion to Dismiss (see #5 above)	<u>Not</u> designated by the Appellant in his submission dated July 21, 2015
Opinion styled as <i>S.C. Dep't of Corr. v. Cartrette</i> , 694 S.E.2d 18 (S.C. Ct. App. 2010) and filed May 28, 2010 by the South Carolina Court of Appeals.	11 <hr/> Slip Opinion appears in the exhibits supporting the Appellant's Opposition to the Respondent's Motion to Dismiss (see #5 above)	<u>Not</u> designated by the Appellant in his submission dated July 21, 2015

The Respondent did not include the following 11 items proposed by the Appellant in his Designation of Matter dated July 21, 2015 in its Designation of Matter, and, as its argues in the Motion to Strike which it contemporaneously files with its instant Designation of Matter, the Respondent respectfully submits that the following 11 items proposed by the Appellant for inclusion in the Record in his Designation of Matter dated July 21, 2015 should not be included in the Record associated with the instant appeal:

Item # from Appellant's Designation of Matter	Verbatim Description Provided by Appellant in his Designation of Matter
4	1-20-15 Request(s) for Admissions
10	5-25-11 'Order'
11	Unpublished Opinion No. 2010-UP-251
12	Wage Estimates 1999 – 2007
13	Excerpts of 9-19-06 tr. – oral argument(s)
14	Wage Estimates 1999 – 2003 (Section Leader)

Item # from Appellant's Designation of Matter	Verbatim Description Provided by Appellant in his Designation of Matter
15	Wage Estimates 1999 – 2003
16	Earning and Deduction Statement Payroll Date Oct. 2003
17	Earning and Deduction Statement Payroll Date Mar. 2002
18	Earning and Deduction Statement Payroll Date Feb. 1999
19	Excerpt(s) of Contract

RESPECTFULLY SUBMITTED:



September 21, 2015

Lake E. Summers (SC Bar No. 64146)
Malone, Thompson, Summers & Ott LLC
339 Heyward Street, Suite 200
Columbia, South Carolina 29201
Office: (803) 254-3300
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E-mail: summers@mtsolvlawfirm.com

Counsel for the Respondent

Pro Se Appellant:

Billy Joe Cartrette, #122434
RCI, CA-52, POB 2039
Ridgeland, South Carolina 29936

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY

J. Cordell Maddox, Jr., Circuit Court Judge

Trial Court Case No. 2014-CP-23-5969
Appellate Case No. 2015-000759

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SEP 21 2015

SC Court of Appeals

Billy Joe Cartrette, Appellant,

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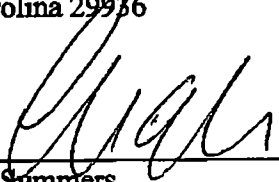
South Carolina Department of Corrections, Respondent.

PROOF OF SERVICE

I certify that I have served **THE RESPONDENT'S DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL** on the above named *pro se* Appellant by mailing a copy to him, first class postage pre-paid, at the following address:

Billy Joe Cartrette, #122434
RCI, CA-52, POB 2039
Ridgeland, South Carolina 29936

September 21, 2015



Lake E. Summers

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY

J. Cordell Maddox, Jr., Circuit Court Judge

Trial Court Case No. 2014-CP-23-5969
Appellate Case No. 2015-000759

Billy Joe Cartrette, Appellant,

v.

South Carolina Department of Corrections, Respondent.

**THE RESPONDENT'S MOTION TO STRIKE MATTER
INCLUDED BY THE APPELLANT IN THE AMENDED RECORD ON APPEAL**

EXHIBIT 3

STATE OF SOUTH CAROLINA)

COUNTY OF Greenville)

Billy Joe Cartrette)
Plaintiff(s),)

South Carolina Dept of Coll)
Defendant(s).)

^{CP}
IN THE FAMILY COURT
13 JUDICIAL CIRCUIT

#3222

EXHIBIT LIST

Docket No. 14-CP-5969

Plaintiff: <u>Pro Se</u>	Defendant:
Attorney: <u>Billy Cartrette</u>	Attorney: <u>Musa</u>
Hearing Start: <u>2/13/15</u>	Judge: <u>Maddox</u>
Hearing End: <u>2/13/15</u>	Court Reporter: <u>C. Niskell</u>

Plaintiff	Exhibit Description	Defendant	Exhibit Description
1.	<u>Envelope Documents</u>	1.	
2.		2.	
3.		3.	
4.		4.	
5.		5.	
6.		6.	
7.		7.	
8.		8.	
9.		9.	
10.		10.	
11.		11.	
12.		12.	
13.		13.	
14.		14.	
15.		15.	
ENTERED COMPUTER		16.	

Submitted and received this 13 day of

February, 2015.

Choline Niskell
Court Reporter

Stephen Logg 2/13/15
(Deputy) Clerk of Court

(Exhibit - 1) Contract

4. Inmate Workers Security: SCDC shall be responsible for the security of the inmate labor force.

5. Training of Contractor's Staff: SCDC shall train the Contractor's civilian staff in security matters.

3.3 Mutual Duties of the Parties:

1. Hourly Rate: Contractor and SCDC agree to an hourly rate determined as follows:

	<u>FOR INMATE WORKER</u>	<u>FOR LEAD MAN</u>
Prevailing Wage (See Appendix D)	\$5.25	\$5.50
+		
Prorata Social Security Withholding Payment	.40	.42
+		
Prorata Workers' Compensation Premium	.17	.17
+		
<u>SCDC Surplus Fund Amount</u>	<u>1.32</u>	<u>1.32</u>
Hourly Rate charged to Contract	\$7.14	\$ 7.41

At no time during this agreement will inmates be paid less than the prevailing wage as set forth in Appendix D.

The prevailing wage rate for inmate labor is to be established annually by the S. C. Employment Security Commission. Upon receipt of the annual wage rate, SCDC will notify the Contractor in writing and adjust its charge accordingly. In the event the prevailing wage, prorata social security withholding payments, or prorata Workers' Compensation premium increase during the term of this agreement, Contractor agrees to increase the prevailing inmate wage on a dollar for dollar basis, immediately upon the effective date of such increase.

SCDC and the Contractor will negotiate the "SCDC Surplus Fund Amount" annually. The SCDC surplus fund is the amount charged to the contractor to cover our cost to include but not limited to overhead, the manager, and profit for this operation.

[Contractor agrees to list in Appendix C each production job under this Agreement with the base wage to be paid hereunder.]

The Contractor and SCDC may mutually agree upon a specific criteria for a bonus plan for inmates based on productivity and quality control. Such bonus will be



Lead Man Pay Starts (3-17-2002) - (11-1-2003)

(Exhibit - 2)

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
STATEMENT OF INMATE GROSS EARNINGS
PAY PERIOD: 02/17/02 TO 03/01/02 PAY DATE: 03/16/02 PAGE: 324 03/08/02

EMPLOYEE STATUS: ACTIVE
OVER PAYMENT INSTALLMENT: - .00
BACK PAY DUE: + .00
REGULAR HOURS WORKED:
57.00 REGULAR HOURS @ 5.25 /HOUR = 299.25
OVERTIME:
.00 PREM RATE HOURS @ .00 /HOUR = .00
TOTAL OVERTIME COMPENSATION: + 299.25
GROSS PAYMENT: \$ 299.25

SSN: 242-13-9905

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
STATEMENT OF INMATE GROSS EARNINGS
PAY PERIOD: 03/02/02 TO 03/16/02 PAY DATE: 04/01/02 PAGE: 330 03/22/02

EMPLOYEE STATUS: ACTIVE
OVER PAYMENT INSTALLMENT: - .00
BACK PAY DUE: + .00
REGULAR HOURS WORKED:
72.00 REGULAR HOURS @ 5.25 /HOUR = 378.00
OVERTIME:
.00 PREM RATE HOURS @ .00 /HOUR = .00
TOTAL OVERTIME COMPENSATION: + 378.00
GROSS PAYMENT: \$ 378.00

SSN: 242-13-9905

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
STATEMENT OF INMATE GROSS EARNINGS
PAY PERIOD: 03/17/02 TO 04/01/02 PAY DATE: 04/16/02 PAGE: 314 04/08/02

EMPLOYEE STATUS: ACTIVE
OVER PAYMENT INSTALLMENT: - .00
BACK PAY DUE: + .00
REGULAR HOURS WORKED:
71.75 REGULAR HOURS @ 5.50 /HOUR = 394.62
OVERTIME:
.00 PREM RATE HOURS @ .00 /HOUR = .00
TOTAL OVERTIME COMPENSATION: + 394.62
GROSS PAYMENT: \$ 394.62

SSN: 242-13-9905

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
STATEMENT OF INMATE GROSS EARNINGS
PAY PERIOD: 10/02/03 TO 10/16/03 PAY DATE: 11/01/03

10/23/03
PAGE: 434

EMPLOYEE STATUS: ACTIVE
OVER PAYMENT INSTALLMENT: - .00
BACK PAY DUE: + .00
REGULAR HOURS WORKED:
90.75 REGULAR HOURS @ 5.50 /HOUR = 499.12
OVERTIME:
.00 PREM RATE HOURS @ .00 /HOUR = .00
TOTAL OVERTIME COMPENSATION: + 499.12
GROSS PAYMENT: \$ 499.12

SSN: 242-13-9905

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
STATEMENT OF INMATE GROSS EARNINGS
PAY PERIOD: 10/17/03 TO 11/01/03 PAY DATE: 11/16/03

11/06/03
PAGE: 424

EMPLOYEE STATUS: ACTIVE
OVER PAYMENT INSTALLMENT: - .00
BACK PAY DUE: + .00
REGULAR HOURS WORKED:
34.50 REGULAR HOURS @ 5.55 /HOUR = 191.47
OVERTIME:
.00 PREM RATE HOURS @ .00 /HOUR = .00
TOTAL OVERTIME COMPENSATION: + 191.47
GROSS PAYMENT: \$ 191.47

SSN: 242-13-9905

OCCUPATIONAL EMPLOYMENT AND WAGE ESTIMATES

By
Specified Area and Year

EXHIBIT - 3) PAY-SHEET

YEAR	OCC CODE	OCCUPATIONAL TITLE	SOUTH CAROLINA STATEWIDE*			CHARLESTON METROPOLITAN STATISTICAL AREA		
			AREA EMPLOYMENT	WAGE ESTIMATES		AREA EMPLOYMENT	WAGE ESTIMATES	
				MEAN			MEAN	
				HOURLY	ANNUAL		HOURLY	ANNUAL
LEAD MAN / SECTION LEADER								
51-1011 First-Line Supervisors of Production and Operating Workers								
Directly supervise and coordinate the activities of production and operating workers, such as inspectors, precision workers, machine setters and operators, assemblers, fabricators, and plant and system operators. Excludes team or work leaders.								
1999	51-1011	First-Line Supervisors of Production and Operating Workers	14,600	\$ 20.14	\$41,890	1,250	\$ 19.64	\$40,850
2000	51-1011	First-Line Supervisors of Production and Operating Workers	13,410	\$ 20.24	\$42,100	1,100	\$ 18.96	\$39,440
2001	51-1011	First-Line Supervisors of Production and Operating Workers	12,540	\$ 20.77	\$43,190	1,020	\$ 20.31	\$42,820
2002	51-1011	First-Line Supervisors of Production and Operating Workers	12,200	\$ 21.19	\$44,070	1,150	\$ 21.05	\$43,750
2003	51-1011	First-Line Supervisors of Production and Operating Workers	12,790	\$ 21.49	\$44,700	1,080	\$ 20.88	\$43,430
FURNITURE ASSEMBLERS								
51-2092 Team Assemblers								
Work as part of a team having responsibility for assembling an entire product or component of a product. Team assemblers can perform all tasks conducted by the team in the assembly process and rotate through all or most of them rather than being assigned to a specific task on a permanent basis. May participate in making management decisions affecting the work. Includes team leaders who work as part of the team. Assemblers who continuously perform the same task are classified elsewhere in 51-2000.								
1999	51-2092	Team Assemblers	23,240	\$ 11.66	\$24,260	2,740	\$ 10.39	\$21,830
2000	51-2092	Team Assemblers	26,670	\$ 12.69	\$26,390	3,200	\$ 10.56	\$21,820
2001	51-2092	Team Assemblers	24,380	\$ 13.07	\$27,190	3,280	\$ 10.88	\$23,630
2002	51-2092	Team Assemblers	25,480	\$ 13.31	\$27,680	3,000	\$ 12.00	\$21,950
2003	51-2092	Team Assemblers	25,540	\$ 13.05	\$27,150	2,430	\$ 12.20	\$22,380
51-7011 Cabinetmakers and Bench Carpenters								
Cut, shape, and assemble wooden articles or set up and operate a variety of woodworking machines, such as power saws, jointers, and mortisers to surface, cut, or shape lumber or to fabricate parts for wood products.								
1999	51-7011	Cabinetmakers and Bench Carpenters	2,400	\$ 8.96	\$18,640	N/A	\$ 10.88	\$23,560
2000	51-7011	Cabinetmakers and Bench Carpenters	1,260	\$ 10.10	\$21,010	N/A	\$ 11.85	\$24,650
2001	51-7011	Cabinetmakers and Bench Carpenters	1,080	\$ 10.85	\$22,570	N/A	\$ 12.24	\$25,460
2002	51-7011	Cabinetmakers and Bench Carpenters	1,400	\$ 11.25	\$23,410	240	\$ 14.29	\$29,520
2003	51-7011	Cabinetmakers and Bench Carpenters	1,300	\$ 11.80	\$24,550	180	\$ 10.88	\$25,130

OCCUPATIONAL EMPLOYMENT AND WAGE ESTIMATES

By
Specified Area and Year

YEAR	OCC CODE	OCCUPATIONAL TITLE	SOUTH CAROLINA STATEWIDE*			CHARLESTON METROPOLITAN STATISTICAL AREA		
			AREA EMPLOYMENT	WAGE ESTIMATES		AREA EMPLOYMENT	WAGE ESTIMATES	
				MEAN	ANNUAL		MEAN	ANNUAL
OTHER ASSEMBLY OCCUPATIONS CLASSIFIED IN THE '51-2000' SERIES								
<p align="center"> 51-2011 Aircraft Structure, Surfaces, Rigging, and Systems Assemblers 51-2021 Coil Winders, Tapers, and Finishers 51-2022 Electrical and Electronic Equipment Assemblers 51-2023 Electromechanical equipment assemblers 51-2031 Engine and other machine assemblers 51-2041 Structural Metal Fabricators and Fitters 51-2091 Fiberglass laminators and fabricators 51-2093 Timing device assemblers, adjusters, and calibrators </p>								

SOURCE: The Bureau of Labor Statistics
http://www.bls.gov/oes/current/oes_sc.htm

NOTES:

N/A - DATA NOT AVAILABLE

CHARLESTON-NORTH CHARLESTON METROPOLITAN STATISTICAL AREA - Berkeley, Charleston, and Dorchester

* - SOUTH CAROLINA STATEWIDE - All counties in South Carolina (Jasper County data Included in SC statewide.)

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY

J. Cordell Maddox, Jr., Circuit Court Judge

Trial Court Case No. 2014-CP-23-5969
Appellate Case No. 2015-000759

Billy Joe Cartrette, Appellant,

v.

South Carolina Department of Corrections, Respondent.

**THE RESPONDENT'S MOTION TO STRIKE MATTER
INCLUDED BY THE APPELLANT IN THE AMENDED RECORD ON APPEAL**

EXHIBIT 4

Cartrette versus SC Department of Correctioons

1 If Your Honor is going to remand it back to
2 the administrative law court, can we set some kind of time
3 line coming up with a correct hourly wage on this thing.
4 That's the correct hourly wage if you would request it in
5 this range here. We don't want it to set here two years.
6 I've been stalled on this thing. That's why we set it up
7 here in Greenville because we can't get any action down
8 there.

9 I don't know if Mr. Summers knows the clerk
10 down there and say, don't put this on the docket to be
11 heard, but it's three years next month.

12 THE COURT: Well, let me tell you and I had
13 to tell a friend of mine who has a lawsuit and he stopped
14 me and wanted to know what we were doing in Anderson,
15 that's about three years, about the time it takes to get
16 on the roster. It's only 42 judges in this state. Each
17 year, the chief justice asks the legislature for more and
18 every year she shows us a size showing how many cases per
19 judge each state has. South Carolina are number 1, 5285
20 and Wyoming is No. 2 with 920. So it's a problem that the
21 general public has no idea but it takes that long.

22 I can't set it but I can do this, in your
23 order put in there that is my strong suggestion and urge
24 that this case be heard as soon as possible. That's about
25 as far as I can go and that may go further than you think.

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY

J. Cordell Maddox, Jr., Circuit Court Judge

Trial Court Case No. 2014-CP-23-5969
Appellate Case No. 2015-000759

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South Carolina Department of Corrections, Respondent.

**THE RESPONDENT'S MOTION TO STRIKE MATTER
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EXHIBIT 5

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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM GREENVILLE COUNTY

J. Cordell Maddox, Jr., Circuit Court Judge

Trial Court Case No. 2014-CP-23-5969
Appellate Case No. 2015-000759

Billy Joe Cartrette, Appellant,

v.

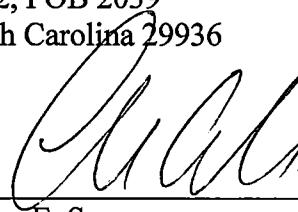
South Carolina Department of Corrections, Respondent.

PROOF OF SERVICE

I certify that I have served **THE RESPONDENT'S MOTION TO STRIKE MATTER INCLUDED BY THE APPELLANT IN THE AMENDED RECORD ON APPEAL AND ALLIED EXHIBITS** on the above named *pro se* Appellant by mailing a copy to him, first class postage pre-paid, at the following address:

Billy Joe Cartrette, #122434
RCI, CA-52, POB 2039
Ridgeland, South Carolina 29936

December 30, 2015



Lake E. Summers