

PETITIONER'S PRIORITY MOTION
FOR INJUNCTIVE RELIEF

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

MAR 10 2016

APPEAL FROM GREENVILLE COUNTY
COURT OF COMMON PLEAS

S.C. SUPREME COURT DANIEL D. HALL, CIRCUIT COURT JUDGE

LOWER COURT CASE NO. 2014-CP-23-01895

APPELLATE CASE NO. 2015-002251

George Cleveland, III,

S.C.D.C. No. 357770,

v.

STATE OF SOUTH CAROLINA,

PETITIONER,

RESPONDENT.

OFFICE OF THE ATTORNEY GENERAL
KAREN C. RATIGAN, ESQUIRE
P.O. Box 11549
Columbia, S.C. 29211
Attorney For Respondent

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

TABLE OF CONTENTS:

page(s)

APPELLATE CASE NO. 2015-002251

MOTION FOR INJUNCTIVE RELIEF;

RELEVANT-CASE - BACKGROUND 1-5

ARGUMENT:

 MY FEDERAL-RIGHT
 TO ACCESS THE COURTS ARE BEING TORTURED 6-15

LEGAL-STANDARD / ANALYSIS 15

REQUESTED RELIEF IS NARROWLY DRAWN 15-16

LESS-INTRUSIVE-MEANS 16

NO-ADVERSE IMPACT ON PUBLIC SAFETY 17

CONCLUSION / RELIEF REQUESTED 18

TABLE OF AUTHORITIES:

APPELLATE CASE NO. 2015-00251

MOTION FOR INJUNCTIVE RELIEF

CASES

LEWIS V. CASEY 518 U.S. 343, 116 S.Ct. 2174 U.S.
 ARIZ (1996) id., at 2178-2179 5

STATUTES

18 U.S.C.A. § 3626(A)(2) 15-17

OTHER AUTHORITIES

S.C.D.C. POLICY GA-01.03 (INMATE ACCESS TO THE COURTS)
 9, 13
 S.C.D.C. POLICY OP-22.03 (AUTHORIZED INMATE PROPERTY
 AND DISPOSITION) § 8.1 11
 S.C.D.C. POLICY GA-01.12 (INMATE GRIEVANCE SYSTEM)
 § 14.1 11-12

APPELLATE COURT RULES

RULE 203 (B) (1) S.C.A.C.R. 5

1.
PRIORITY MOTION FOR INJUNCTIVE
RELIEF:

MAY IT PLEASE THE COURT: George Cleveland,
III, proceeding pro se in this above captioned
case respectfully moves this court for AN
Injunction under title 18 U.S.C.A. § 3626 (A)
(2) to enjoin MAJOR CHUALA OF TURBEVILLE
CORRECTIONAL INSTITUTION to RETURN my two
(2) Legal Books to me that ARE STORED in the
PROPERTY room here.

2.
RELEVANT CASE BACKGROUND:

ON the evening of FEBRUARY 08, 2016, I WAS
ORDERED to pack up ALL my PERSONAL property
because the S.C.D.C. TRANSPORTED me to the
Oconee County Detention Center (morning of 2/09/16)
for AN P.C.R. hearing scheduled for FEBRUARY 10,
2016 AT the ANDERSON COUNTY COURT HOUSE Rm. 1 AT

PAR- 2 (supporting AFFIDAVIT).

I have three (3) Legal Boxes in my cell-room that were all inventoried and stored in the property with my other personal property until I returned from court, my Legal Boxes only contained my pending Legal Cases in the various courts. R.P. 1 At PAR 3.

On the evening of February 11, 2016, the S.C.S.C. transported me back to the Turbeville Correctional Institution, I was told by shift Captain Coleman that Sgt. Scott (Property Control Officer) was ordered by Major Chvika to allow me to take only one (1) of three (3) Legal Boxes with me back to my cell, and I, upon requesting access to the other legal boxes, I had to exchange for another. R.P. 1 At PAR- 4.

Once I returned back to the Dorm that evening, I emailed MAJOR churila, requesting my other 2-Legal Boxes be returned to me, As of the date of this motion, he had not responded. R.p. 1 at PAR-5.

On February 18, 2016, I met with Associate WARDEN DEAN, MAJOR churila, and two (2) other staff members in large part because of all the legal deadlines I've missed in the past weeks and months in MR. DEAN'S office around 8:30 A.M. In the meeting, the relevant part here is MAJOR churila informed me that I had to number my boxes so they can be exchanged upon my request. I did as I was told, despite displeased with the order. I could not proceed further without a response from him to my email ~~from~~ the MAJOR OR SUFFERING ACTUAL INJURY, i.e. prejudice. R.p. 1 at PAR-6,

ON February 23-26, 2016, I requested to exchange my legal-box with another, by and through my DORM LT. Redden that Sgt Scott was unavailable, after she phoned prison operations. R.P. 1 AT PAR-1 . . .

ON February 29- MARCH 02, 2016, LT. Redden WAS NOT in the DORM. DURING this time, I requested officer Welch call prison operations to request I exchange my Legal Box to NO Avail. IN large part because of yet AGAIN, another prison -lock-down. R.P. 1 AT PAR-8 . . .

ON MARCH 03, 2016, I WAS finally allowed to retrieve files from another legal box stored in property which contained, the form-4 filed judgment documents¹, the date I signed for and received

1. the judgment was an devil motion for sanctions against Assistant Attorney General Karen C. Ratigan for filing an frivolous defense. in this p.c.R case in the Greenville county common-pleas court.

the denied Rule 59(e) motion on February 01, 2016, R.P. 1 at PAR. 9 which triggered the thirty (30) day deadline to file my notice of appeal in this court at March 02, 2016. "A NOTICE OF APPEAL shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgment." Rule 203 (B)(1) SCACR. I suffered actual injury under Lewis v. Casey 518 U.S. 343, 116 S. Ct. 2174 U.S. ARIZ (1996) id. at 2178-2179 (denial of access to the courts require actual injury) of the March 02, 2016 missed deadline to file notice of appeal because my legal-BOX that the judgment forms were in was stored in the TURBEVILLE CORRECTIONAL INSTITUTION'S property-room, were wholly out of my reach, accordingly, I have standing to request injunctive relief from this court.

3.

ARGUMENT
MY FEDERAL-RIGHT
TO ACCESS THE COURTS
ARE BEING TORTURED:

Ever since I transferred to Turbeville Correctional on August 21, 2015, I been allowed to keep all three (3) of my legal-boxes in my cell-room. R.A. # PAR-3.

over the last four (4) months, I have missed an multitude of court deadlines:

Missed deadline to file objections of December 17, 2015 in George Cleveland, III v. WARDEN Willie Engleton, et al., CA no. 4:14-cv-02444-RBH-TER (Prison-lock-down 12/17/15 - 12/22/15).

Missed deadline to file objections of December 29, 2015 in George Cleveland, III v. Chief Lindsey Owens; et al., CA no. 2:15-cv-00168-WCG-JCF, (Prison-lock-down).

missed deadline to file memorandum of law in.

6.

IN SUPPORT OF MANDAMUS ON OF FEBRUARY 03, 2016; George Cleveland, III v. Director Bryan P. Stirling, et al.; d/a no. 2015-CP-40-5732 (prison lock-down; motion for continuance GRANTED), AND inadequate LAW LIBRARY time to

INADEQUATE LAW LIBRARY time required me to request AN CONTINUANCE in my P.C.R. case held in ANDERSON county on February 10, 2016; in George Cleveland, III v. State; d/a no. 2014-CP-37-718 (CONTINUANCE motion GRANTED),

Missed petition for certiorari deadline of February 26, 2016 (S.C. COURT OF APPEALS) in George Cleveland, III v. Greenville County Sheriff's Office; Appellate case no. 2015-000697. (INADEQUATE LAW LIBRARY time).

2. FEBRUARY 02, 09, AND 17, 2016 were all dates I WAS GRANTED permission to report to the LAW LIBRARY for legal research, but prison-lock-downs prevented me from reporting on 02, AND 17, AND AN P.C.R. hearing prevented me reporting on 09.
R.A.L AT PAR. 10.

missed petition for P.C.R. certiorari deadline
of February 19, 2016 (S.C. - Supreme Court) George
Cleveland, III v. State, Appellate case no. 2015-
002251 (Inadequate Law Library time, and

missed notice of appeal deadline, in Rule
59(e) motion for sanctions relevant to this P.C.R.
O.P. MARCH 02, 2016 (CA no. 2014-CP-23-1895)
Legal books stored in property-room, see R.P. 1
at PAR- II.

I have repeatedly filed step-1 Grievance
regarding denied access to the Law Library to
conduct legal research for my multiple
cases during lock-downs, or security issues.
Warden Richard Cothran (Turbeville) admitted
the Law Library system, and hours are in need
of reforming:

"It is obvious there are issues with
the Law Library schedule. R.P. 2 Check of -

Step-1 Grievance). This specific Grievance id# WAS in regards to the REDUCTION OF LAW LIBRARY HOURS which ARE less than the 37.5 hours per week required under S.C.D.C. policy GA-01.03 (Inmate access to the courts) R.P. 3 (Front of step-1)

Even WARDEN COCHRAN'S office REJECTED my request to investigate why MAJOR CHUMMA HAS not responded to my FOUR (4) emails that were sent over thirty-nine (39) days prior, despite the emails related to missed court-deadlines³. R.P. 4.

S.C.D.C. staff have went from restrictive LAW LIBRARY time for me until my multiple filed step-

3. since being assigned to this PRISON (Turbeville), I have missed court deadlines, but listing all would be cumulative evidence under Rule 403 SCRE

1 Grievances:

JANUARY 12, 2016 GRANTED permission to conduct legal research in the LAW LIBRARY, but could not because of PRISON lock-down.
R. p. 5

one (1) day a week in the LAW LIBRARY was not enough time to conduct legal research when I have multiple legal deadlines. R. p. 6.

now, my actual legal material is being restricted, SUPRA, AT PAR- 2. My legal boxes contain all my case files; case-LAW-notes, S.C.O.-C policy notes, and more legal material.
R. p. 1 AT PAR- 12,

PRISON officials here have a tough time making sure I'm provided with adequate LAW LIBRARY time when I need it the most, e.g., legal-deadlines, with many deadlines missed already, and now I have to rely on PRISON staff here for help to swap my legal box out,

The First Amendment (Access the courts)
And Fourteenth Amendment (Due process property
interest) under the United States Constitution
rejects this scheme.

My Legal material is stored in an "6 1/2 x
12 x 10" box as required by S.C.D.C. Policy
OP-22.03 (Authorized Inmate Property and
Disposition) § 8.1. The limit of one (1) legal
box at a time in my cell room has caused
me prejudice, SUPRA, at PAR. 2.

I ever filed an emergency grievance.
On October 08, 2015 requesting my sheets
be washed because an prison lockdown
for eight (8) days starting on October 1-
08, 2015 was the root cause of my and
all other inmate sheets not being washed
Rip. I

S.C.D.C. Policy GA 01.12 (Inmate Grievance).

system) § 14.1 Allows me to seek immediate consideration because of the substantial risk of serious harm but my Grievance was returned due to the lack of knowledge by staff of GA Oit. 12 § 14.1 R.P. I requiring me to attempt an informal resolution prior to filing a grievance shows a wide-spread pattern of different prison conditions, thus, prison lock-downs causes more than just an denial of access to the courts. I submit this lack of knowledge of the danger of me sleeping on dirty sheets is further evidence of mis-management which waste judicial resources and is contrary to South Cardinal Law § 24-1-130 which states in part:
"The Director [Bryan P. Stirling] shall be vested with the exclusive management and control of the [S.C.D.C.] prison system..."

my federal-right to access the courts requires MR-STIRLING'S employees at Turbeville to allow me access to the courts, and in this specific instance of restricting me to only one (1) legal-book in my cell-room caused me to miss a court deadline which should have been avoided.

"In order to provide inmates with adequate access to the courts, S.C.D.C. will establish and maintain an institutional law library system afford inmates access to legal materials" S.C.D.C. policy GA-01.03 (Inmate Access to the courts; Policy statement) provides prima evidence to the outside looking in as constitutional, but the mountain of incarceratory evidence is wholly contrary to what the S.C.D.C. want the reader of this motion to believe.

moreover; prison officials within the S.C.D.C. tried to bolster their chance of winning the appeal I have pending in the Administrative Law Court (Docket no. 15-ALJ-04-0618-AP) by manipulating the record to hide page 7 of their filed record that presumptively shows my canteen orders in my poss. of contraband conviction, R. pp. 8 - 9. As ALJ John D. McLeod in his order:

"6. Inmate is correct that page 7 is missing from the record on appeal... II IBID.

As an inmate, my liberty is restrictive, so it's easy for prison officials to cherry-pick what the record should include, and hiding parts of the record they do not want as part of the record. S.C.D.C. prison officials have entirely too much control over what evidence travels outside of the

PRISON - WALLS which frightens me.

4.

LEGAL STANDARD ANALYSIS!

FOR prospective relief under Title 18 U.S.C.A. § 3626 (A) (2), the following three (3) elements:

1. NARROWLY DRAWN, extend no further than necessary to correct the harm.
2. Least intrusive means necessary to correct that harm and
3. the court shall give substantial weight to any adverse impact on public safety or the operation of a criminal justice system caused by injunctive relief.

REQUESTED RELIEF IS
NARROWLY DRAWN!

My injunctive relief request of:
ENJOINING MAJOR CHVALA to allow me to bring my other 2-LEGAL boxes stored in the TURBEVILLE CORRECTIONAL INSTITUTION'S PROPERTY ROOM is

NARROWLY DRAWN TO THAT SPECIFIC REQUEST,
THEREFORE; THE FIRST OF THE THREE (3) ELEMENTS
ARE SATISFIED.

LESS-INTRUSIVE-MEANS:

MY LEGAL BOXES BEING IN MY ROOM AS THEY
WERE UP-UNTIL, THE EVENING OF FEB 08, 2016,
SUPRA, AT PAR. 2, IT'S ACTUALLY MORE INTRUSIVE
ON TURBEVILLE PRISON OFFICIALS HERE BECAUSE
OF THE EXTRA LABOR INVOLVED TO HELP ME EXCHANGE
MY LEGAL-BOXES, AND THE NUMBER OF PRISON
EMPLOYEES THAT HAVE TO BE CONTACTED, E.G.:
DORM OFFICER, DORM LT., PRISON OPERATION(S)
STAFF WHICH CAUSED ME TO LOOSE MY COURT
DEADLINE IN THE FIRST PLACE; ACCORDINGLY, THE
SECOND OF THREE ELEMENTS ARE SATISFIED, AS
MY LEGAL BOXES STORED IN MY CELL-ROOM IS LESS
INTRUSIVE TO TURBEVILLE CORRECTIONAL STAFF.

NO ADVERSE IMPACT ON
PUBLIC SAFETY!

Three legal boxes with legal material as its contents stored in my cell-room has absolutely no impact on public safety or the operation of the prison system here at Turbeville Correctional; consequently, all three elements have been met in my favor. Based on the foregoing, I respectfully request the following relief:

5.
CONCLUSION!

Wherefore; **GRANT** my motion for injunctive relief:

ENJOIN MAJOR CHVALA of Turbeville Correctional Institution in Turbeville, S.C. to return my two (2) legal boxes to me, so they can be stored in my assigned prison-cell-room.

Any other relief court deems just, proper,
and/or equity.

Respectfully submitted,
~~George Cleveland~~
George Cleveland #357770
Turbeville Correctional Insti
P.O. Box 252
Turbeville, S.C. 29162

DATED: MARCH 03, 2016

MARCH 03 2016

RECEIVED

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

MAR 10 2016

S.C. SUPREME COURT

Re: Petitioner's PRIORITY motion for Injunctive Relief;
George Cleveland III v. STATE OF SOUTH CAROLINA;
Appellate Court Case No. 2015-002251

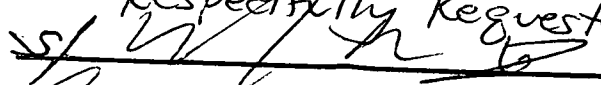
1. DEAR Mr. Shearouse,

Attached to this letter are the following legal documents:

Petitioner's priority motion for Injunctive Relief;
Supporting Appendix; and
Proof of service;

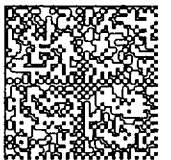
2. Can you please file, forward to the court for consideration, and kindly stamp the extra copies and mail back to me in the self-addressed-stamped-envelope?

CC: FILE
KAREN C. RATHGAM, Esquire
CHRISTINA CATHE BIGELON, Esquire

Respectfully Requested,

George Cleveland III #357770
TURBEVILLE CORRECTIONS Inst.
P.O. Box 252
TURBEVILLE, SC 29162

TURBEVILLE C. I.
MAIL ROOM
BOX 252
TURBEVILLE, S. C. 29189

George Cleveland ~~III~~ ~~III~~ 357770-74118



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MAILROOM
TURBEVILLE C.I.

Legal - 4411

The Supreme Court of South Carolina
Daniel E Shearouse, clerk of court

P.O. Box 11330

Columbia SC 29211