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S.C. SUPREME COURT

PETITION FOR A WRIT OF CERTIORARI
TO THE COURT OF APPEALS

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM ADMINISTRATIVE LAW COURT

RALPH KING ANDERSON, III, CHIEF ADMINISTRATIVE LAW COURT JUDGE

LOWER COURT CASE NO. 2014-ALJ-040664-AP

APPELLATE CASE NO. 2015-000957

George Cleveland, III,

SCDC NO. 357770,

PETITIONER,

v.
SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS, (S.C.D.C.),

RESPONDENT.

SCDC
OFFICE OF GENERAL COUNSEL
CHRISTINA CATOE BIGELOW-JESQUIRE
P.O. Box 21787
Columbia, S.C. 29221-1787
Attorney for Respondent.

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

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CERTIFICATION BY ^{1.} PROSE LITIGANT!

I, George Cleveland^{III}, proceeding PROSE, certifies that on MAY 19, 2015, my motion to FILE my appeal AS timely WAS DENIED despite me ARGuing the PRISON-lockdown(s) AND inadequate LEGAL MATERIALS. R.P.P. 1, 4-6.

ON OR AROUND JULY 07, 2015, my Petition FOR A WRIT OF CERTIORARI WAS MAILED to the SOUTH CAROLINA COURT OF APPEALS, AND BY WAY OF AN letter dated JULY 15, 2015, Deputy Clerk V. CLaire Allen returned my Petition without FORWARDING my Petition AND supporting Appendix to the Appellate COURT JUDGE(s) which AGAIN, documented PRISON-lockdown(s), AND inadequate LEGAL MATERIALS; therefore, I ATTEMPTED FOR the court to rule on my Petition, OR continue

it at an rehearing or Reinstatement.

2.

QUESTIONS PRESENTED:

2-1. Whether Deputy Clerk V. Claire Allen of the South Carolina Court of Appellate erred in not filing and forwarding my petition for a writ of certiorari, appendix and supporting affidavit which argued an prison-lockdown, and inadequate legal material caused me to miss my petition for a writ of certiorari deadline which is in direct conflict with Lewis v. Casey 518 U.S. 343, 116 S.Ct. 2174 U.S. ARIZ (1996) id., at 2178-79 whereas the Supreme Court of the United States held inmates must show "actual-injury" to prevail on an denial of access to the courts claim?

2-2. Whether the complete absence of language

2.

regarding Additional time to file Petition
for a writ of certiorari under Rule
242 (C) S.C.A.C.R. when the cause of missing
the thirty (30) day deadline was based on
an prison-lock-down or inadequate
legal material which precluded the filing
of my petition for a writ of certiorari
under title 28 U.S.C.A. § 1257 (A) in the
supreme court of the United States, which
requires review by "the highest court of
a state first, and in conflict with *Flynt
v. Ohio* 451 U.S. 619, 101 S.Ct. 1958 (1981)
id., at 1959, which held final judgment rest
with the state supreme court?

3.
STATEMENT OF THE CASE:

On August 27, 2014, my timely notice of
Appeal was filed in the South Carolina Administrative

LAW COURT. R.P. 7. AFTER UNFAVORABLE
GRIEVANCES FOR AN S.C.D.C. INSTITUTIONAL
CHARGE OF: STRIKING WITH/WITHOUT A
WEAPON, (810).

ON December 30, 2014, I mailed an motion
to compel the S.C.D.C. to provide me with
LEGAL-MATERIALS (white-paper, pen, and envelopes)
to the ALC's assigned Judge Ralph King
ANDERSON, III ARGUING the S.C.D.C. is denying
my access to the courts under the First
Amendment of the United States Constitution,
whereas, I stated the following:

.... 'I'm writing on legal-lined paper
because I cannot seem to receive plain
white paper.' R.P. 8-9.

.... 'I do not have the legal paper to even

Access this court with motions AND BRIEF FILINGS S.C.D.C. is depriving me of Accessing the courts in violation of the United States Constitution. R.p. 11-12.

ON MARCH 03, 2015, I signed for and received the ALC's order of dismissal from the PRISON'S MAIL-ROOM. R.p. 13 AT PAR. 2 (supporting AFFIDAVIT).

ON APRIL 28, 2015, I mailed my notice of Appeal and motion to timely file my notice of Appeal with supporting Affidavits which explained why my notice of Appeal was filed past the thirty (30) day deadline pursuant to the SOUTH CAROLINA Appellate Court Rule 203 (b)(c) SCACR which was based on the following two (2) grounds;

INSTITUTIONAL Lockdown (EMERGENCY CORRECTIONAL)

lack of Legal white paper, ink pens, and legal envelopes. R.p.p. 4-6 .

ON MAY 19, 2015, the SOUTH CAROLINA COURT OF APPEALS denied my motion to allow my late notice of appeal to be FILED as timely.

The Appellate Judge stated the following Relevant:

"... the notice of appeal is a jurisdictional requirement and the appellate courts have no authority to extend..." MEARS V. MEARS 287 S.C. 168, 337 S.E. 2d 206 (1985), R.p.p. 1.

ON JULY 03, 2015 I mailed my Petition for A WRIT OF CERTIORARI, supporting affidavits, Appendix, IN FORMA PAUPERIS Petition, and

the Inmate Trust Fund Account, Rpp. 14-58,

ON A letter dated July 15, 2015 from Deputy Clerk V. Claire Allen of the South Carolina Court of Appeals stated the following relevant part:

"We have received your correspondence dated July 07, 2015. Since you did not timely file motion to Reinstate . . . the court no longer has jurisdiction." R.p. 59.

Since Rule 242 (C) S.C.A.C.R. only allows an thirty (30) day deadline to file an Petition for Rehearing or Reinstatement is finally decided

1. I could not meet the June 04, 2015 deadline to file my petition for REHEARING because I did not have enough legal-white paper, and forced to hand-write over two-hundred (200) copies.
R.p. 13 at PAR. 3.

by the court of appeals,¹² ... there was no finality in the appeals court; there is no language in this rule that allows an inmate to file an late petition and demonstrate to this court why the filing is late;² leaving me with only one (1) option: to petition for a writ certiorari in the supreme court of the united states.

On Sept. 04, 2015, I placed my motion for an extension of time to file petition for a writ of certiorari, supporting declarations, and motion to proceed in forma pauperis. R.P.P. 60-86 these findings, id, were put in the blue-box

2. The lack of legal-white paper, ink pens and envelopes, prevented me from timely filing and petition for certiorari in the first place. R.P. 13 At PAR. 3.

for United States mail outside the cafeteria,
And other legal filings properly addressed
to the Supreme Court of the United States
for the following reasons;

Lack of Legal -white- paper;
Institutional Lock-down(s); And
Insufficient time in the Law Library.
R. pp. 77-78 at PAR. 8-10.

I respectfully requested an extension to
October 16, 2015 to file my Petition for a Writ
of Certiorari, IBID.

On October 15, 2015, I mailed to the Supreme
Court of the United States my Petition for
A Writ of Certiorari. R. pp. 105-106 at PAR 2-3.

The following question was presented to the
Supreme Court of the United States:

'Did the South CAROLINA COURT OF Appeals ERR
by Reasoning the Filing of the Notice of Appeal
is Jurisdictional And had no Authority to
extend the time citing MENES V. MENES 287
S.C. 168, 337 S.E. 2d 206 (1985) which is in
conflict with Johnson v. Avery 393 U.S. 483,
89 S.Ct. 747 (1969) And Bounds v. Smith, 430
U.S. 817, 97 S.Ct. 1491 U.S. MC (1977)? Does
A missed deadline to file my Notice of Appeal
based solely on a Prison Lockdown, the lack
of legal white-paper, ink pens, And Legal
Envelopes constitutes Actual Injury under
Lewis v. Casey 518 U.S. 343, 116 S.Ct. 2174 U.S.
ARIZ. (1996), id at 2179? R.P.P. 87-88,

on a letter dated December 03, 2015 MR.
M. Blalock (Clerk of Court's office) of the

Supreme court of the United States wrote the following relevant part:

"the lower court opinion must be appended from the South Carolina Supreme Rule 13.5, ⁴ R.p. 107."

On December 17, 2015, I mailed an four (4) paper letter to MR. M. BIALOCK, ID, and wrote the following minor conclusion (5):

could not petition the South Carolina Supreme court because of the missed deadline in the S.C. Court of Appeals under Rule 203 (b) (6) SCACR. R.p. 108-109.

Lockdown prevented me from timely filing with the court of Appeals, ~~IBID~~.

The Remittitur was sent down, and the

Rules of the SCACR barred me from filing
Petition for A writ of certiorari. R. pp. 109-110.

Rule 13 (12) of the Supreme Court Rules
of the United States requires my Petition
to be filed within 90-days after the entry
of the order by the state court of last
resort. The Rules of the Supreme Court, id,
requires me to respond to the clerk of court
within 15 days which I could not because
of prison lock-down from December 17-
21, 2015. R. pp. 110-111.

ON JANUARY 22, 2016³, I signed, and received
An response from MR. M. BIALOCK dated JANUARY-

3. R. p. 13 AT PAR. 4.

15, 2016. He wrote the following relevant part:

"This court does not have jurisdiction since you failed to seek review from the South Carolina Supreme Court 28 U.S.C. ... [5] 1257. ⁴ R.P. 112.

4. STANDING:

The Supreme Court of the United States under Title 28 U.S.C. § 1257 requires "final judgment . . . by the highest court [S.C. Supreme Court] of a state in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari".

Rule 242 (C) SCACR does not allow for inmates to file an petition for a writ of certiorari late and demonstrate to this court what caused the late filing which caused me prejudice because

the Supreme Court of the United States
lacked Jurisdiction to review my petition
for a writ of a certiorari under the
first Amend. (Access to the Courts) of the
U.S. Const.; Lewis v. Casey 116 S.Ct. 2174
(1996), id., at 2178-79; 4. Flynt v. Ohio 451 U.S.
619, 101 S.Ct. 1958 (1981), id. at 1959 (holding the
Supreme Court of the state(s) must be final
before review); Accordingly, I have standing
to seek review in this court.^{5.}

5.
ARGUMENT:

DEPUTY CLERK V. CLAIRE ALLEN
FAILED TO FORWARD MY PETITION
TO COURT FOR CONSIDERATION!

Deputy Clerk V. Claire Allen of the South Carolina

4. the Supreme Court of the United States requires
a showing of ACTUAL injury by prison officials,
I submit to this court, this Appellate Court Rules,
id., should apply to this ACTUAL INJURY legal standard.

court of Appeals took it upon herself to deny my late Petition FOR A WRIT OF CERTIORARI.

AN Appellate court Judge(s) who have the Legal knowledge, AND CAN read relevant case-law in regards to late filings by Inmates in the custody of the South Carolina Department of Corrections (S.C.D.C.) my seven (7) page Affidavit mailed to the COURT OF APPEALS detailed why my filing was late;

MARCH 07, 2015, I Requested legal paper, ink pens and legal mail envelopes from MS. Hooks of EVANS Correctional Institution was on lock-down at EVANS Correctional Institution.

Responded back over thirty (30) days later, on

5. the Date this Petition was FILED was the earliest I could file because of prison = lock-downs; inadequate law library time, and multiple other legal cases. ^{R.P. 13} ~~supra~~ at PAR 5.

April 17, 2015. R. p. 52-53

MARCH 21, 2015 - April 13, 2015, the entire prison institution was on lock-down at EVANS Correctional Institution because of an sickness. R. p. 53.

My 30-day deadline to file notice of appeal in my A.L.C. case no. 14-ALJ-04-0664-AP, which was April 02, 2015, (received order of dismissal of MARCH 03, 2015). R. p. 53-54.

I had no legal paper, ink pens or legal mail envelopes, id; received on May 22, 2015, the order of dismissal from the court of appeals; received remittitur on June 08, 2015. I had to hand write all my legal documents (rough-draft, and final draft). R. p. 54-55.

It took over eight (8) hours to hand-write all legal documents for my filing. the entire time on lock-down, (MARCH 21 - April 13, 2015) no request-to-staff-member RTSM. (Form 19-11) were provided

to me to communicate with staff to
Request legal books, typewriter after repeated
request. IBID. no staff brought form 19-11 back
to me. I had no pen to write to the SCDC
staff anyway. R. P. P. 57-58.

The Access to the courts (U.S. Const.) requires
A Judge to determine if my petition for a writ
of certiorari is timely, not an deputy clerk
of the court of appeals. In fact, Rule 234(b)
SCACR is missing any language which grants
the Appellate Judge(s) no power to extend the
Rule except for Rule 203 and 207.

Flynt v. Ohio, id, at 1959 rejects rule 242(c)
and 234(b) SCACR because they do not allow
A late filing no matter how good the cause,
or actual injury, I can demonstrate to the
court. This prevented the Supreme Court of South
Carolina from reviewing my petition for a writ
of certiorari because rule 242(a) and 242(c) SCACR requires....

final decision of the court of Appeals; therefore, the Supreme court of the United States was deprived of Jurisdiction under Title 28 U.S.C. § 1257 and Flynt, id., made clear of their Jurisdiction.

"Because the decision of the Ohio Supreme Court was not a final judgment within the meaning of 28 U.S.C. § 1257, we dismiss the writ for want of Jurisdiction," id. at 1959. Presumptively, the Appellate Court Judge(s) may have GRANTED my petition for a writ of Certiorari and supporting Affidavit because I argued the same reasons why my petition was late R.p.p. 108-109. IF the Appellate Judge(s) denied my petition is the only way this court would of had Jurisdiction under Rule 243(A) S.C.A.C.R.

Flynt, id., requires this court to review my petition for a writ of Certiorari even though my

Petition was not - Final so the Supreme Court of the United States CAN Review my case. Rule 242(A) AND (C) deprived Judicial Review from the highest court in the land, id., MS. V. CLAIRE Allen does not yield the POWER to DENY me Access to this court AND the U.S. Supreme Court; consequently, MS. V. CLAIRE Allen of the South CAROLINA Court of Appeals caused the Supreme Court of the United States to loose JURISDICTION under FLYNT, id., AT 1959 AND TITLE 28 U.S.C.A. §1257(A) to Review this case.

6.
ARGUMENT:
RULE 242(C) SCACR BARRED
JUDICIAL REVIEW BY THE
U.S. SUPREME COURT

Rule 242(C) SCACR states the following relevant part:
"A petition for WRIT OF CERTIORARI shall be served on opposing counsel and filed with . . . the clerk of the Supreme Court within thirty (30) days

AFTER the Petition for Rehearing or Reinstatement is finally decided by the court of Appeals."

This Rule provides no language whatsoever that allows me as an inmate in the custody of the S.C.D.C. during prison-lock-down to FILE A late PETITION FOR A WRIT OF CERTIORARI I have missed eight (8) legal deadlines since August 20, 2015;

George Cleveland ~~III~~ v. SCD; Petition FOR A WRIT OF CERTIORARI Deadline of August 17, 2015 (prison-charge; prison-transfer; inadequate legal-paper; inadequate law library time; and multiple prison-lock-downs; R.p.p. 14-1 AT PAR. 6).

George Cleveland ~~III~~ v. WARDEN Willie Eagleton; et, al; 9/A NO. 4:14-CV-02444-RBH TER; OBJECTIONS Deadline missed December 17, 2015 because of an prison lock-down 12/17/15 - 12/22/15, IBID.

George Cleveland ~~III~~ v. CHIEF Lindsey Owens; et, al; 9/A NO. 2:15-CV-00168-WCO-JCF; OBJECTIONS Deadline

missed on December 29, 2015 because of
prison lock-down. IBID.

George Cleveland III v. Director BRYAN P. STIRLING;
et. al; c/a no. 2015-CP-40-5732 (Memorandum of
Law in support of GRANTING petition of A WRIT
OF MANDAMUS) missed 2/03/16 deadline because of
prison-lock-down. CONTINUANCE motion GRANTED at
hearing on 2/25/16 at the Richland County
Courthouse.

George Cleveland III v. State (P.C.R. Ctse) c/a no. 2014-
CP-37-718; Oconee County; hearing on 2/10/16 at
the Anderson County Courthouse (CONTINUANCE
motion GRANTED at hearing because of inadequate
Law Library time due to lock-downs.⁷

6. while lock-down, I informed LT. McFadden; Capt.
Tomlin (through McFadden), and Capt. commander of
legal-deadline which was ignored. R.p.p. 113-114 (Step-1
GRIEVANCE FRONT/BACK.

7. I WAS GRANTED LAW LIBRARY time on February 02,

George Cleveland, III v. Greenville County Sheriff's
Office; Appellate Court Case No. 2015-000697)
Petition for A writ of Certiorari due by 2/26/16;
missed because of inadequate law library time.

George Cleveland, III v. State (P.C.R. Appeal) Appellate
Court Case No. 2015-002251; Petition for A writ
of Certiorari; due by 2/19/16 missed because of
inadequate law library time.

And missed the notice of Appeal deadline in
Rule 59(c) Motion for Sanctions Relevant to this
P.C.R. of March 02, 2016 (C/A No. 2014-CP-23-1895)
Failed in this court because my legal-boxes
are stored in property here at Turbeville, R.P. 13-1
At PAR. 6.

The long pattern is close to a year of constant
prison-lock-downs have caused me to miss
legal deadline after legal deadline, this seems

09, AND 17, 2016, but I could not report because of
prison-lock-down, R.P. 13 At PAR. 6.

to be a wide-spread pattern that there is an prison-lock-down, correctional officers and non-uniform staff at Turberville, and Evans Correctional take on-the-job vacation(s) time, but that's when I need staff the most because I'm locked behind a door with a deadbolt lock, no access to the phones, inmate kiosk email system. The step-1 grievance, shows prison officials conceding that there are issues with the Law Library.

The response(s) I received from the Supreme Court of the United States on JANUARY 23, 2016, id, and the date of this filing was the EARLIEST I could file this petition because of the preparation and handwriting my legal documents, in my other cases. R.p. 13 At p.m. 5.

7.
CONCLUSION:

Based on the foregoing facts, long-standing, and wide-spread patterns of prison-lock-downs; inadequate Law Library time; inadequate legal

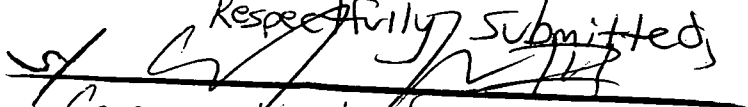
White paper, ink pens, envelopes, and a
TOTAL COMMUNICATION breakdown with
S.C.D.C. employees, and the Rules of this
Court that do not allow for late filings
by inmates. This has caused an EXHAUSTIVE
legal battle that started because of an
PRISON-LOCK-DOWN.

WHEREFORE, GRANT MY PETITION FOR A WRIT OF
CERTIORARI;

ORDER BRIEFING ON THE QUESTION(S) GRANTED BY
this Court.

ORDER this case REMANDED back to the S.C. COURT
OF APPEALS for AN decisions on the merits; AS
my INITIAL BRIEF is already FILED with the
S.C. COURT OF APPEALS.

Any other relief this Court deems just, proper,
and/or equitable; Respectively.

Respectfully Submitted,

George Cleveland, #357770
TURBEVILLE CORRECTIONAL INST.
P.O. Box 252
24 TURBEVILLE, S.C. 29162

Dated: MARCH 18, 2016.

George Cleveland III #357770 TAH8
Turbeville Correctional Inst.
P.O. Box 252
Turbeville SC 29162



RECEIVED
MAR 28 2016
MAILROOM
TURBEVILLE CI

Legal Mail
The Supreme Court of South Carolina
Daniel E. Shenease, Clerk of Court
Post Office Box 11330
Columbia, SC 29211

Appellate case no.
2015-000957
Petitioners Writ of Certiorari
1 of 4