

PETITIONER'S APPENDIX IN  
SUPPORT IN PROCEEDING  
IN FORMA PAUPERIS

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THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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APPEAL FROM ADMINISTRATIVE LAW COURT

RAIPH KING ANDERSON, III, CHIEF ADMINISTRATIVE LAW JUDGE

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LOWER COURT CASE NO. 2014-ALJ-04-0664-AP

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APPELLATE CASE NO. 2015-000957

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George Cleveland, III,

S.C.D.C. NO. 357770,

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

PETITIONER,

RESPONDENT,

George Cleveland, III, #357770  
TURBEVILLE CORRECTIONAL INST.  
P.O. BOX 252  
TURBEVILLE, S.C. 29162,  
PRO SE PETITIONER.

APPENDIX IN SUPPORT OF IN  
FORMA PROPERIS MOTION

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FINANCIAL CERTIFICATE  
FOR THE  
DISTRICT OF SOUTH CAROLINA  
(for use in § 1983, *Bivens*, and non-habeas civil actions filed by prisoners)

I request that an authorized officer of the institution in which I am confined, or other person designated to review financial information in relation to inmate trust funds, complete this Certificate. If I am granted *in forma pauperis* status, I authorize and consent to collection of the \$ 350 filing fee in accordance with 28 U.S.C. § 1915(b) until the filing fee is paid in full as well as any amount of costs, sanctions, and/or fees that might be imposed by the court during this litigation. I understand that if I do not qualify for *in forma pauperis* status, I will have to pay \$400 to proceed with my case, which includes the full \$350 filing fee as well as an additional \$50 administrative fee established by the Judicial Conference of the United States. The \$50 administrative fee is not applicable to *in forma pauperis* cases.

George Cleveland, III  
INMATE NAME (PRINTED)

357770 TA132  
INMATE (PRISONER) NUMBER

[Signature]  
INMATE SIGNATURE

Turbeville Correctional Inst.  
PLACE OF CONFINEMENT

- ◆ (1) Average monthly deposits to the inmate's account.....\$ 0
- ◆ (2) Average monthly balance in the inmate's account calculated for the prior six months period. ....\$ .01
- ◆ (3) Current Balance .....\$ 0
- ◆ (4) Initial Installment Payment - due upon granting of *in forma pauperis* status (Take 20 percent of the greater of lines 1 or 2).....\$ 0

I hereby certify that as of this date, the above financial information is accurate for the above named inmate.

[Signature]  
Authorized Officer's Signature

12/30/15  
Date

A. Hammond Financial Accounting  
Authorized Officer's Name and Title

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

George Cleveland, III, #357770, )  
 )  
 Appellant, )  
 )  
 v. )  
 )  
 South Carolina Department of Corrections. )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

Docket No. 14-ALJ-04-0664-AP

ORDER OF DISMISSAL

**FILED**

February 27, 2015

SC ADMIN. LAW COURT

This matter comes before the South Carolina Administrative Law Court (ALC or Court) pursuant to an appeal filed by George Cleveland, III (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (SCDC or Department). Appellant appeals his February 26, 2014 disciplinary conviction for Offense 810, "Striking an Inmate With or Without a Weapon" (Offense 810) under SCDC Policy OP-22.14.

On February 8, 2014, Appellant was charged with Offense 810 following an altercation with another inmate. A Disciplinary Hearing Officer (DHO) held a hearing on the charge on February 26, 2014. Appellant was represented by counsel substitute and chose not to have his accuser present at the hearing. At the end of the hearing, the DHO found Appellant guilty of the charge and issued several sanctions, including the loss of 60 days of good time.

On February 26, 2014, Appellant filed a Step 1 Grievance regarding his conviction for Offense 810. After the warden denied the conviction, Appellant filed a Step 2 Grievance on March 7, 2014. Appellant filed a Notice of Appeal on August 27, 2014, and the Notice of Assignment was filed September 11, 2014.

On October 20, 2014, Appellant filed an "Affidavit in Support of An Enlargement," requesting an extension until December 5, 2014 to file his Initial Brief. On October 27, 2014, the Department filed a Motion to Enlarge Time to File Record, requesting an extension of thirty days from the date of the Order granting such relief. On November 14, 2014, the Court granted the Department's motion, which not only gave the Department until December 15, 2014 to file the Record on Appeal but also gave Appellant until January 5, 2015 to file his brief, which was more time than Appellant was originally seeking to file his brief. On December 16, 2014, the Department filed a second Motion to Enlarge Time to File Record, requesting an additional

twenty days to file the Record on Appeal. However, three days later, on December 19, 2014, before the Court could rule on this motion, the Department filed the Record on Appeal. On December 29, 2014, Appellant filed a "Motion to Strike and Response to Enlargement," arguing that the Department's filings should be stricken, because it filed both its second Motion to Enlarge Time to File Record and the Record on Appeal after the December 15, 2014 deadline to file to Record on Appeal set by the Court. On December 31, Appellant filed a "Motion to Compel."<sup>1</sup> On January 16, 2015, the Department filed its brief. On February 2, 2015, Appellant filed a Response to Respondent's Brief.

At the outset, I agree with Appellant that the Department did not file its second Motion to Enlarge Time to File Record and the Record on Appeal by the December 15, 2014 deadline set by the Court. The Court **may** resolve the appeal adversely against the Department. ALC Rule 62 allows an Administrative Law Judge to "resolve [an] appeal adversely to the offending party for failure to comply with any of the rules of procedure for appeals, including the failure to comply with any of the time limits . . . ." However, in this instance, I do not find that dismissal is warranted because Appellant has not demonstrated any prejudice he suffered as a result of the Department's four-day delay in filing of the Record on Appeal. I therefore deny Appellant's "Motion to Strike and Response to Enlargement."

The Court's November 14, 2014 Order gave Appellant until January 5, 2015 to file his brief, and despite the Department's four-day delay in filing the Record on Appeal, Appellant managed to file a 7-page "Motion to Strike and Response to Enlargement" on December 29, 2014 and a 6-page "Motion to Compel" on December 31, 2014, both after the Record on Appeal was filed and well before Appellant's deadline for filing his Initial Brief. Appellant even filed an 11-page "Response to Respondent's Brief" on February 2, 2015. Notwithstanding the fact that Appellant clearly had the time and ability to draft an Initial Brief and file it, Appellant never did. In the first paragraph of his "Response to Respondent's Brief," Appellant even acknowledged that he had not filed his "original brief."

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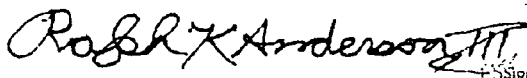
<sup>1</sup> In his "Motion to Compel," Appellant requested a legal packet from the Department and the inclusion in the Record on Appeal of a hand-written statement from an inmate that was allegedly read in part by the DHO and some photos that had purportedly been shown to him at the hearing. First, Appellant has cited to no authority allowing this Court to consider a motion to compel discovery at the appellate level. Second, Appellant had an opportunity at the hearing to seek to introduce documents or photographs into evidence. Therefore, Appellant's motion is denied. Moreover, Appellant's filing of this motion, as will be discussed *infra*, did not absolve Appellant of his responsibility to file his brief, pursuant to Rule 63 of the Rules of Procedure for the ALC (ALC Rules).

Appellant seems to suggest in his response, that he failed to file his "original brief" because "the court had not ruled on [his] pending motion compelling discovery among other things." However, ALC Rule 63 provides that "[t]he filing of a motion does not toll any time limits imposed by these Rules[.]" including the deadline in ALC Rule 60(A) for filing an appellant's brief. Thus, Appellant still had a responsibility to file his Initial Brief. Had Appellant filed his brief up to four days after it was due, the Court, under the facts of this case, would have excused his delay in filing his brief; but Appellant instead has not filed his Initial Brief as of the date of this Order or filed a timely motion requesting additional time to file his brief. According to ALC Rule 62, "on its own motion, an Administrative Law Judge may dismiss an appeal . . . for failure to comply with any of the rules of procedure for appeals, including the failure to comply with any of the time limits provided by this section . . . ." Because Appellant failed to file his Initial Brief, and has not notified the ALC of any extenuating circumstances regarding his failure to so file, I conclude *sua sponte* that this matter should be dismissed, pursuant to ALC Rule 62.

**ORDER**

**IT IS THEREFORE ORDERED** that this appeal is **DISMISSED WITH PREJUDICE.**

**AND IT IS SO ORDERED.**



---

Ralph King Anderson, III  
Chief Administrative Law Judge

February 27, 2015  
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, E. Harvin Belser Fair, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).

*E. Harvin Belser Fair*

E. Harvin Belser Fair  
Judicial Law Clerk

February 27, 2015  
Columbia, South Carolina

**RECEIVED**

JUL 13 2015

SC Court of Appeals

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

George Cleveland, III #357770,  
Appellant,  
v.

Docket no:  
14-ALJ-04-0664  
AP

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

APPELLANT'S MOTI.  
TO STRIKE AND  
RESPONSE TO  
ENLARGEMENT

HONORABLE RAIPH KING  
ANDERSON III

1. George Cleveland III proceeding pro se and appellant in the above captioned case responds to the respondents second motion to enlarge time to file record and my motion to strike my filings by the respondents, dismiss my striking an inmate without a weapon, and order S.C.D.C. to credit me sixty (60) days of good-time credits that were taken by D.H.O. at my disciplinary hearing, but first, I must take the court back in time for a little case-background.

CASE BACKGROUND:

2. On November 27, 2014 Respondent by and through Attorney Mrs. Shaquika

FILED

Johnson filed a "motion to Enlarge time to file Record" in the court because of the following: Respondent needs additional time to thoroughly review Appellant's grievance and compile all of the necessary documents surrounding the circumstances specifically Respondent needs to transcribe the tape from Appellant's disciplinary hearing officer's Review the transcript therefore; Respondent respectfully requests an additional thirty (30) days, (count space) from the date of the order granting such relief to file its record in the above captioned case." Quoting from Respondent's motion filed in this court on or around Oct 28, 2014.

3. On November 14, 2014, Judge Anderson granted the Respondents' motion and ordered the following: "It is ordered that the South Carolina Department of Corrections has thirty (30) days from the date of this order, or December 15, 2014 to file the Record,

on Appeal." Quoting Judge's Anderson order granting relief to S.C.D.C.

4. S.C.D.C. Failed to file the Records on Appeal on or before December 15, 2014 in violation of the Court's order, and waited until the following day to type up their second motion for an enlargement and presumably filed with this court on or around December 17, 2014.
5. Mrs. Johnson files the same exact reasons why the respondent needs more time with the exception of merely twenty (20) days instead of the original thirty (30) days originally requested; see the respondent's motion filed in this court on or around December 17, 2014 which makes the second motion for an enlargement.
6. Respondent has a pattern of requesting duplicative motion to enlarge not just on my Appeals, but on many other inmates with the same exact reasoning.

7. I submit, the problem is not with the Respondent "thoroughly reviewing my" grievance AND can transcribe the disciplinary hearing of ON OR AROUND ~~February~~ FEBRUARY 20, 2014, along with all other evidence, but with back-logged appeals where there is an almost 100% conviction rate at hearings. There is no supporting evidence attached hereto, but a quick scan of S.C.D.C. appeals by this court will provide credence to my assertion.
8. The Respondents have not made a good-faith effort to file documents on time for example my other case pending in this court docket no: 14-ALT-04-0771-AP assigned to Judge Matthews. Also was filed late by the Respondents with an motion to dismiss instead of a reply brief.
9. Judge MATTHEWS ordered the Respondents twenty (20) days to

Any reply briefs AFTER I filed my Appellant Brief on or before December 05, 2014. See Judge Matthew order filed October 23, 2014. Docket No: 14-ALJ-04-0771-AP.

10. ON November 24, 2014, my Brief was filed in this Court.
11. ON OR around December 13, 2014 Mrs Crooks filed with this Court a motion to Dismiss an unrelated appeal dated December 17, 2014 which again was late by two (2) days.
12. These missed deadlines cannot go un-noticed any longer because S.C.D.C. must too follow Rules of the Court; accordingly, sanctions should be imposed upon S.C.D.C. by this Court if the disregard of the Rules of the Court continues.

CONCLUSION:


13. Due to the reckless disregard by the Respondents regarding the Court ordered Dead-line where Judge Anderson imposed a December 15, 2014 Deadline to file the Records on Appeal by failing to follow the Court's Mandate which has resulted in multiple delays, the Court should order S.C.D.C. to dismiss my striking An inmate with-out a weapon charge And further order S.C.D.C. to deduct Sixty (60) days of good-time credits that were taken from me during D.H.O. Finding me guilty. S.C.D.C. is not immune from following Court orders but did not even file its motion for extra time until the court ordered dead line had passed The motion and cover letter are both dated December 17, 2014 which is passed the December 15, 2014 Deadline ordered by this Court, thus dismissal is the correct course of action in this case under Rule 62 of the Special Rules of

The Administrative Law Court.

PRAYER FOR RELIEF:

14. Wherefore; deny the respondents' motion for extra-time.
15. order S.C.D.C. to deduct sixty (60) days of good-time credit that was taken following my guilty verdict in D.H.O. from my MAX-OUT DATE.
16. order S.C.D.C. to dismiss the striking an inmate conviction from their electronic and paper records.
17. Any other relief this court deems proper and just.

Respectfully Submitted,

  
George Cleveland, III 35770, F4A25J  
EVANS CORRECTIONAL INSTITUTION  
610 Hwy 9 West  
Bennettsville, S.C. 29512

Dated: December 23, 2014

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

George Cleveland, III #357770,  
Appellant,

Docket no  
14-ALJ-04-06

South Carolina Department  
of Corrections, (S.C.D.C.)  
Respondent.

AP

APPELLANT'S  
CERTIFICATE of  
SERVICE

HONORABLE RALPH KING ANDERSON II

1. George Cleveland, III proceeding pro se certifies that he has on this date mailed by united states mail the Appellant motion to strike and response to enlargement on the date and address below:

S.C.D.C.  
Office of General Counsel  
P.O. Box 21787  
Columbia, S.C. 29221-1787

Respectfully Submitted  
George Cleveland, III  
George Cleveland, III #357770

Dated: December 23, 2014

FILED

DEC 29 2014

02/31/14 as requested

December 30, 2014 P 14

South CAROLINA Administrative  
Law COURT  
Office of the Clerk  
1205 Pendleton Street, Suite #221  
Columbia, S.C. 29201

Re: George Cleveland, III #35779  
S.C.D.C.; Docket no: 14-ALJ-  
04-0664-AP.

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DEC 31 2014

Dear Clerk,

SC ADMIN. LAW COURT

Can you please forward the  
attached 5-pages to  
Judge Anderson for his  
consideration?

I don't have or didn't have  
rather white paper to write  
on which is part of the  
issue I wrote to the Judge.

Can you please mail me clocked  
stamped copies for my records?

Respectfully Submitted,

George Cleveland, III #35779, FYA258  
EVANS CORRECTIONAL INST  
610 Hwy 9 West  
Bennettsville, S.C. 29512

December 30, 2014

SOUTH CAROLINA Administrative LAW  
COURTThe Honorable Ralph King  
ANDERSON III1205 Pendleton Street; suite #224  
Columbia, S.C. 29201Re: George Cleveland, III #35770  
S.C.D.C.; Docket no: 14-ALT-04-  
0664-AP; motion TO compel

1. DEAR Judge Anderson, I'm writing on legal lined paper because I cannot seem to receive plain-white legal paper from the business Finance Employee MRS. HOOKS here at EVANS.
2. I have sent her multiple email request over the last couple of months respectfully asking for a legal packet for pending legal deadlines
3. The legal packet includes 100 sheets of plain white

PAPER, AND 10 LEGAL-MAIL ONLY envelopes for a fee that is applied to my PRISON ACCOUNT.

4. The middle of November 2014, Mrs. Hooks responded stating she would have my legal packet ready for me at her "next issuance".
5. This "next issuance" as Mrs. Hooks refers to it ~~is~~ happened for some inmates, but not me.
6. I wrote her again early in December 2014, but she has yet to respond, so I emailed warden Willie Eagleton on or around December 20, 2014. He has yet to respond.
7. This deprivation of legal-paper has caused me to not be able to file a motion to compel regarding the above captioned case.

because S.C.D.C. HAS NOT provided me with the entire Record on Appeal in this case.

8. The S.C.D.C. has left out of the Record of Appeal Inmate's Michael Taylor hand-written statement of February 08, 2014 that was partially read on tape by the D.H.O. that is located on page-2 at the top on the transcript's filed on or around December 19, 2014 by S.C.D.C. and also the photos taken by Captain Edge or Lt. Rose Graves on February 08, 2014 were also left out of the Record filed by S.C.D.C. despite the photos being a part of the Record and shown to me at my hearing see transcript page-2 near the middle.

9. It seems a little puzzling to me how S.C.D.C. can somehow provide most of

the Record of Appeal 3 days after they filed a motion for extra time to prepare the transcript among other things.

10. This motion was in violation of this court's ordered deadline of December 15, 2014 which was the second extension in this case for the same exact reason, but after and only after I filed a motion with this court on or around December 17, 2014 requesting the court other things order S.C.D.C. to dismiss my striking without a weapon charge, and thus apply the 60-days of good-time credit that was taken related to this appeal, and finally S.C.D.C. violated this court's order.

11. Bottom line, S.C.D.C. has not provided the entire record of appeal and I do not have the legal paper.

to even Access this court with motions and Brief Filings; therefore, S.C.D.C. is depriving me of Accessing the Courts in violation of the United States Constitution

12. wherefore; order S.C.D.C. to explain why I cannot Receive the proper legal material to Access the Courts.

13. Order S.C.D.C. to provide Inmate Michael Taylor's statement of February 08, 2014 who was the inmate I got into a fight with.

14. Any other Relief this court seems just and proper.

Respectfully Submitted,

*George Cleveland*

George Cleveland, III 35770, FYA258

EVANS CORRECTIONAL INST

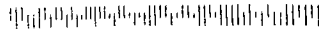
610 Hwy 9 west

Bennettsville, S.C. 29512

cc: file

S.C.D.C. office of General Counsel

George Cleveland III # 257770, TN 118



station

Turbeville, SC 29162



UNITED STATES POSTAGE  
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02 1P \$ 006.850  
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The Supreme Court of South Carolina  
Daniel E. Shekouse, Clerk of Court  
Post office Box 11330  
Columbia, SC 29211  
Legal Mail

Petitioner's motion to  
proceed in forma pauperis  
and

Supporting Appendix  
Appellate case no. 2015-000957

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