

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Ralph K. Anderson, III, Chief Administrative Law Judge

Docket No. 07-ALJ-04-00444, etc.

Francis Ackerman, #266928, et al.....Appellants,

v.

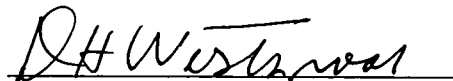
South Carolina Department of Corrections.....Respondent.

MOTION TO CONSOLIDATE APPEALS AND RECORD

COMES NOW the appellants by counsel, who request the Court to consolidate these appeals and the record for the reasons stated in the attached memorandum and affidavit.

WHEREFORE, the appellants respectfully request that their motion to consolidate appeals and record be granted.

Respectfully submitted,


Douglas H. Westbrook, #6039
23 Broad St.
Charleston, SC 29401
(843) 853-9600
Attorney for Appellants

RECEIVED
APR 23 2012
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Ralph K. Anderson, III, Chief Administrative Law Judge

Docket No. 07-ALJ-04-00444, etc.

Francis Ackerman, #266928, et al.....Appellants,

v.

South Carolina Department of Corrections.....Respondent.

RECEIVED
APR 23 2012
SC Court of Appeals

MEMORANDUM FOR MOTION TO CONSOLIDATE APPEALS AND RECORD

COMES NOW the appellants by counsel, who submit the following memorandum in support of their motion to consolidate appeals and record.

This case involves 197 inmate grievances for prevailing wages pursuant to S.C. Code §24-3-430(D), and Adkins, et al. v. SCDC 602 S.E. 2d 51 (S.C., 2004) and Wicker v. SCDC 602 S.E. 2d 56 (S.C., 2004). The Department of Corrections (SCDC) denied all grievances, and inmate/appellants appealed to the Administrative Law Court (ALC). The ALC consolidated this case pursuant to the parties' agreement to consolidate the appeals for purposes of briefing and filing the record (ALC Order of March 16, 2012, pp. 1, 3).* In its March 2 and 16, 2012 orders, the ALC affirmed SCDC's denial of all grievances but one, Fred Gatewood, on grounds of untimeliness of grievance filings under SCDC grievance policy. On March 29, 2012, inmates filed notice of appeal from these orders (plus the ALC's March 10, 2011 interlocutory order) with

* Orders were enclosed with appellants' notice of appeal.

the Court of Appeals.

Appellants file this motion pursuant to SCACR 214, which states:

Where there is more than one appeal from the same order, judgment, decision or decree, or where the same question is involved in two or more appeals in different cases, the appellate court may, in its discretion, order the appeal to be consolidated.

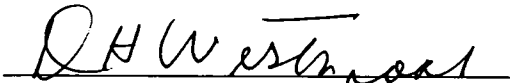
This appeal does involve more than one appeal from the same order, as the ALC orders each concerned 197 inmate appeals which were consolidated in that court. This appeal also involves the same questions and issues in two or more appeals in different cases. Several issues involve all appellants, and some issues involve less than all but still multiple appellants.

The ALC record consisted generally of 197 step 1 and 2 grievances, inmates' Amendments/Exhibits to grievances, and SCDC's responses and final decisions. For the most part, these documents were similarly or identically worded except for language and information unique to each inmate. The great majority of grievances were filed on one of two dates. The ALC record contained 3911 pages. In addition, appellants presented to the ALC some 363 pages in documents related to the issues then pending before the ALC.

Appellants are mindful of the requirement in SCACR 209(b) to include in the record only those matters which are relevant to the issues on appeal. Every effort will be made to make designations in accord with that rule, and to keep the record on this appeal as brief as possible.

For the above reasons, appellants respectfully request the Court to consolidate the appeals and record in these cases.

Respectfully submitted,

A handwritten signature in cursive script, reading "D H Westbrook", written over a horizontal line.

Douglas H. Westbrook, #6039

23 Broad St.

Charleston, SC 29401

(843) 853-9600

Attorney for Appellants

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Ralph K. Anderson, III, Chief Administrative Law Judge

Docket No. 07-ALJ-04-00444, etc.

Francis Ackerman, #266928, et al.....Appellants,

v.

South Carolina Department of Corrections.....Respondent.

AFFIDAVIT

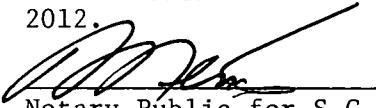
I, Douglas H. Westbrook, depose and state as follows:

1. I represent some 197 appellants in the above captioned appeal from the S.C. Administrative Law Court (ALC).
2. These cases and the record were consolidated in the ALC.
3. These cases involve more than one appeal from the same order.
4. In addition, the same questions and issues are involved in two or more appeals in different cases. All of the issues concern multiple appellants, and some issues concern all appellants.

FURTHER DEPONENT SAYETH NOT.


Douglas H. Westbrook, #6039

Signed and Sealed Before Me
This 20~~th~~ Day of April
2012.


Notary Public for S.C.

My Commission Expires:

4/4/16

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Ralph K. Anderson, III, Chief Administrative Law Judge

Docket No. 07-ALJ-04-00444, etc.

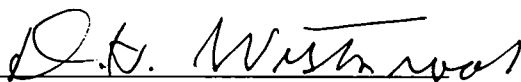
Francis Ackerman, #266928, et al.....Appellants,

v.

South Carolina Department of Corrections.....Respondent.

CERTIFICATE OF SERVICE

I certify that on the 20th day of April 2012, I mailed by first class mail a copy of Appellants' Motion to Consolidate Appeals and Record, Memorandum for Motion to Consolidate Appeals and Record, and Affidavit, to the following: Lake Summers, Esquire and Katherine Phillips, Esquire, Malone, Thompson, Summers, & Ott, LLC, 339 Heyward St., Ste. 200, Columbia, SC 29201, attorneys for the Respondent, S.C. Department of Corrections.


Douglas H. Westbrook, #6039
23 Broad St.
Charleston, SC 29401
(843) 853-9600
Attorney for Appellants

DOUGLAS H. WESTBROOK
ATTORNEY AT LAW
23 BROAD STREET
CHARLESTON, SOUTH CAROLINA 29401
TELEPHONE: (843) 853-9600
FAX: (843) 577-2241

April 20, 2012

The Honorable Jenny Abbott Kitchings
Clerk
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: Ackerman, Francis v. SCDC; Case Tracking #2012210588

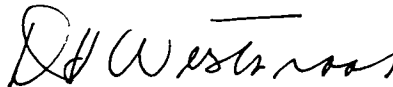
Dear Ms. Kitchings:

Please find enclosed for filing with the Court the original and six copies of appellants' Motion to Consolidate Appeals and Record, Memorandum for Motion to Consolidate Appeals and Record, Affidavit, and Certificate of Service. I also enclose a check for the \$25 filing fee.

By copy of this letter, I have this date served a copy of these documents on counsel for the Department of Corrections, respondent herein.

Thank you for your assistance in this matter, and please call if further information is needed.

Sincerely,



Douglas H. Westbrook

DHW/.

Encl.

cc: Lake Summers, Esq.
Katherine Phillips, Esq.

RECEIVED
APR 23 2012
SC Court of Appeals