

JUNE 15, 2016

The Supreme Court of South Carolina
DANIEL E. SHEAROUSE, clerk **RECEIVED**

Post Office Box 11330

JUN 20 2016

Columbia S.C. 29211

S.C. SUPREME COURT

Re: ~~Petitioner's~~ Return to motion to strike; George Cleveland ~~Jr~~ v. State; Appellate case no. 2015-002251.

1. DEAR MR. SHEAROUSE,

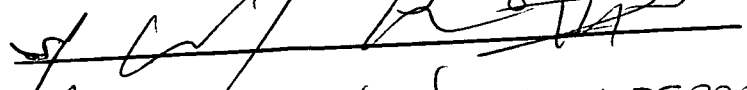
Attached to this letter are the following legal documents:

Petitioner's Return to Respondent's "motion to strike" SUPPORTING APPENDIX, AND proof of service.

2. CAN YOU PLEASE FILE FORWARD TO THE COURT FOR CONSIDERATION?

3. CAN YOU ALSO STAMP THE EXTRA COPIES, AND MAIL THEM BACK TO ME IN THE SELF-ADDRESSED-STAMPED-ENVELOPE?

Respectfully Requested,



George Cleveland, Jr. #357770
TURBEVILLE CORRECTIONAL INST.
1578 CLARENCE COKER HWY.
TURBEVILLE, S.C. 29162.

CC: FILE

KAREN C. RATIGAN, Esquire

PETITIONER'S RETURN TO RESPONDENT'S
"MOTION TO STRIKE"

RECEIVED

JUN 20 2016

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM GREENVILLE COUNTY

COURT OF COMMON PLEAS

DANIEL D. HALL, CIRCUIT COURT JUDGE

LOWER COURT CASE NO. 2014-CP-23-01893

APPELLATE CASE NO. 2015-002251

George Cleveland, III, PETITIONER,
S.C.D.C. NO. 357770,

v.

STATE OF SOUTH CAROLINA, RESPONDENT.

PETITIONER'S RETURN

OFFICE OF THE ATTORNEY GENERAL
KAREN C. RATIGAN, Senior Asst. Deputy A.G.
PO Box 11549
Columbia, S.C. 29162.
803-734-3970
ATTORNEY FOR RESPONDENT

GEORGE CLEVELAND, #357770
TURBEVILLE CORRECTIONAL INST.
1578 CLARENCE COCKER HWY.
TURBEVILLE, S.C. 29162.
PRO SE PETITIONER.

TABLE OF CONTENTS

APPELLATE CASE NO.

2015-002251

page(s)

TABLE OF CONTENTS	:	:	:	:	:	:	ii
TABLE OF AUTHORITIES	,	:	:	:	:	:	ii
RELEVANT CASE - HISTORY	,	:	:	:	:	:	1

ARGUMENT :

THE STATE'S AFFIRMATIVE DEFENSE	:	:	:	:	:	:	2-10
IS BARRED,	,	:	:	:	:	:	2-10
STATE-LAW REQUIRES SUBSEQUENT CERTIORARI	:	:	:	:	:	:	10-12
PETITION,	,	:	:	:	:	:	10-12
CONCLUSION,	,	:	:	:	:	:	12-13
PRAYER FOR RELIEF,	,	:	:	:	:	:	13

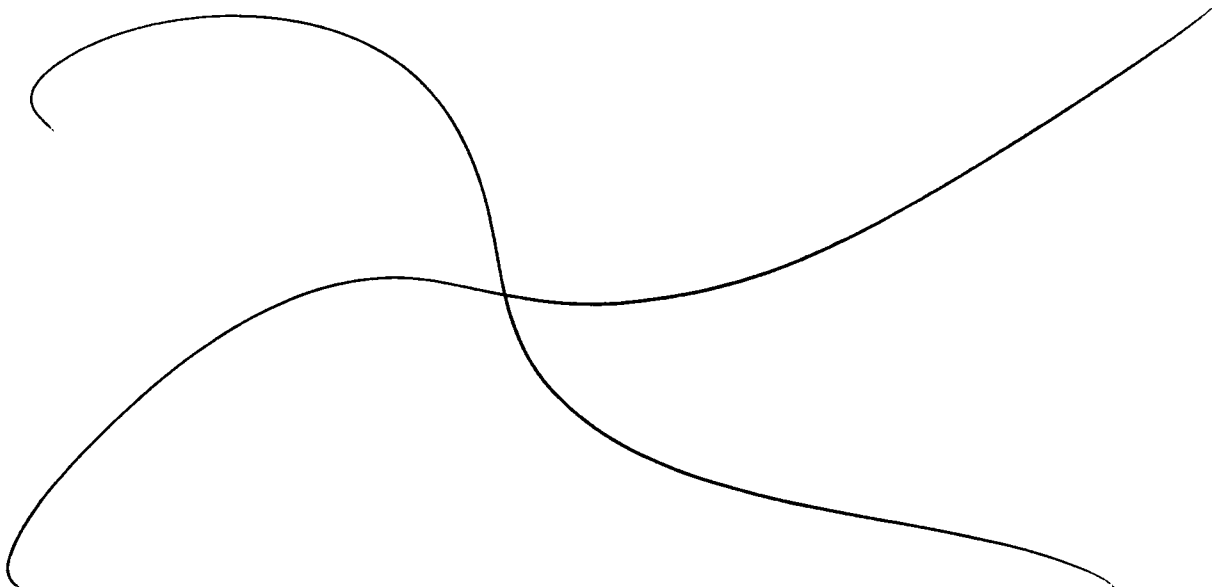


TABLE OF AUTHORITIES:

CASES

EARTHSCAPES UNLIMITED INC. V. ULBRICK
 390 S.C. 609, 703 S.E. 2d 221 (2010), . . . 3-5

LEWIS V. CASEY 518 U.S. 343, 116 S.Ct.
 2174 U.S. ARIZ (1996), 8

STRICKLAND V. STRICKLAND 375 S.C. 76, 85,
 650 S.E. 2d 465, 470 (2007) 4

COURT RULES

RULE 8 (c) S.C.R.P., 2

RULE 8 (d) S.C.R.P., 3

RULE 12 (b) S.C.R.P., 3

RULE 59 (e) S.C.R.P., 12

RULE 240 (e) S.C.A.C.R., 2

RULE 242 (A) S.C.A.C.R., 10

RULE 407; RULE 3.1 S.C.A.C.R., 5

RULE 601 S.C.A.C.R., 9

1.
PETITIONER'S RETURN:

MAY IT PLEASE THE COURT: George Cleveland III, proceeding pro se respectfully submit this return to the state's "Motion to Strike" filed in this court on or around MAY 25, 2016.

2.
RELEVANT - CASE - HISTORY:

ON OR AROUND APRIL 17, 2016, I FILED AN MOTION FOR Leave to file. TABLE of contents/ Authorities, Supplemental Record to my FILED P.C.R. Appendix AND AN OMNIBUS motion AS timely FILED. THIS COURT GRANTED ALL motions. R.P. 1.

ON OR AROUND MAY 25, 2016, the STATE filed in this court its' motion to strike. My second petition for WRIT OF CERTIORARI AND Appendix. R.P. 4

ON OR AROUND JUNE 02, 2016, I mailed to this court AN MOTION FOR AN extension to file my return until JUNE 15, 2016. which WAS GRANTED. R.P. 5 (extension of time GRANTED ORDER). THIS RETURN

follows:

3.

ARGUMENT

THE STATE'S AFFIRMATIVE DEFENSE

IS BARRED:

Rule 240(e) S.C.A.C.R. state the following relevant part:

"Any party opposing a motion or petition shall have ten (10) days from the date of service thereof to file . . . his return with the clerk and serve on all parties a copy of the return."

By the state's own admission, my petition for a writ of certiorari (second) was filed on or around "April 15, 2016," R.p. 3, this required the state to file their return on or before April 25, 2016. Regardless, if the file date is off by a day or so, the state is still late filing its' return opposing my second certiorari petition! ~~It wasn't~~

"the second certiorari petition seeking review of the Greenville county common pleas court's total refusal to

until MAY 25, 2016 that the state filed its' motion to strike, R.p. 4. this court GRANTED the petition FILED, FOR CONSIDERATION UNDER, my title of: "omnibus motion," R.p. 1.

The state has cited Absolutely no Authority to support its' ARGUMENT to STRIKE. my second petition, Rule 8(c) S.C.R.C.P. requires AN AFFIRMATIVE defense, but the state failed to deny my ARGUMENTS in my CERTIORARI petition thus, they... "ARE ADMITTED when not denied in the responsive pleading", Rule 8(d) S.C.R.C.P.

"A party in replying to a proceeding pleading shall affirmatively set forth his or her defenses. Rule 8(c) S.C.R.C.P. Every defense in law or fact, to a cause of action in any pleading... shall be asserted in the responsive pleading thereto". . . Rule 12(b) S.C.R.C.P., Earthscapes unlimited

Adjudicate my claim that senior Deputy Asst. Atty. Gen. KAREN C. RATIGAN defenses were frivolous.

Inc. v. Ulbrich 390 S.C. 609, 703 S.E.2d 221 (2010), *id.* at 224-25 (hereinafter *Earthscapes*)
see also *Strickland v. Strickland* 375 S.C. 76, 85, 650 S.E.2d 465, 470 (2007).

IN *Earthscapes*, the company (*Earthscapes Unlimited Inc.*) filed suit to . . . "foreclose[] of a mechanic's lien, alleging breach of contract" against the Ulbrichs, *id.* at 222.

This court reasoned:

Earthscapes did not invoke section 40-11-370 of the South Carolina Code as an affirmative defense until the submission of their "Rule 59(e) motion," *id.*, which was too late.

Earthscapes rejects the state's over-reaching power-grab by attempting to re-write the laws in our state, *id.*, for their own benefit.

The organizational structure of our branches of government creates separation of powers. The Attorney General's office is a part of the state executive branch. R.p. 6. Page 15 of the comprehensive

ANNUAL FINANCIAL REPORT FOR THE FISCAL YEAR
published by the SOUTH CAROLINA COMPTROLLER
GENERAL'S OFFICE; 1205 SENATE STREET COLUMBIA
S.C. 29201.

"The mission of the Attorney General's
office is to . . . , honorable, and
vigorously carry [] out the constitutional
and statutory responsibilities of the Attorney
General." R.P. I, FISCAL YEAR 2014-15
Accountability report. This mission statement
is AN PARADOXICAL statement because the
state failed to identify what constitutional
Amendment OR state Amendment OR state
statute that would allow AN HONORABLE
OR vigorous defense, but instead their motion
to strike has NO "basis in LAW AND FACT. . . .
[which constitutes AN] FRIVOLOUS^{ed} non-meritorious
claim, Rule 3.1, RPC, Rule 407 S.C.A.C.A.

The state's motion amount to nothing, but AN
delay tactic, which constitutes ARROGANCE,

haughty and superior.

The office of Disciplinary Counsel's Annual Report of Lawyer Discipline for 2014-2015 shows 21.12% of all alleged misconduct was for:

Dishonesty/Deceit/Misrepresentation. R.p. 13

Alaska Deputy Attorney General and Prosecutor Patrick Gullufsen was suspended for "18 months" for "blatantly lied" about forensic analysis of DNA evidence during... "A murder trial. R.p. 8 (Prison legal news).

Broward County (FL) Assistant State Attorney suspended from practicing law, and Broward County (FL) circuit court judge was disbarred for "exchanging" some 471 text messages and 949 cell phone calls, and... spotted by another prosecutor... having dinner together and allegedly discussing the trial... "of an murder trial. R.p. 9 (Prison legal news). This evidence of other state attorneys are relevant here.

because the ARROGANCE of the high AND mighty Flawed notion that:

6 I'm Above. the LAW, therefore, I do-not have to abide by the LAW!

this flawed notion which is supported in the Appendix is ABSURD. FINALLY on June 02, 2016 at 2 p.m., Chief Administrative Judge Allison R. Lee scheduled to AN motion to dismiss hearing at the Richland County Common Pleas Court in George Cleveland, III v. Bryan P. Stirling; C/A 2015-CP-400-5732, R. p. 10 (notice of motion scheduling) but instead the South Carolina Attorney General's office secretly scheduled me for an P.C.R. evidentiary hearing in Oconee County Common Pleas Court in George Cleveland, III v. State; C/A No. 2014-CP-37-0718², on June 06, 2016, R. p. 4 at PAR. 2 (support affidavit).

2. these convictions were concurrently RAW in with my Greenville County convictions is pending. IN THIS COURT AS AN Petition FOR A WRIT OF CERTIORARI OF my P.C.R. Relief.

The only communication I received from the Attorney General's office was a letter dated May 06, 2016 regarding copies of my P.C.R. file, but made no mention of a P.C.R. hearing date. R. p. 12 (S. C. A. G.'s letter).

The P.C.R. judge granted my motion for an continuance because I invoked my First (Access to Courts) and Fourteenth (Due Process Liberty/Property Interest) Amendment of the United States Constitution and demonstrated prejudice under *Lewis v. Casey* 518 U.S. 343, 116 S. Ct. 2174 U.S. ARIZ (1996) *id.* at 2178-2180.

The Attorney General's office seized power from Judge Lee, *id.* and instead scheduled an P.C.R. hearing without advanced notice because they knew I was prepared for the Richland County case, *id.* and not the Screener County case. Their illegal 3. strategy worked.

3. ILLEGAL, because I have an due process (Liberty/Property Interest) of the Fourteenth Amendment under the United States Constitution to have advanced notice of the P.C.R. hearing and actual injury under *Lewis v. Casey*, 7B1D.
8.

Further, rule. 601, S.C.A.C.R (COURT ADMINISTRATION)

explicitly required me to be transported to the Richland County Common Pleas Court by the SCDC. transported to the Richland County Common Pleas Court by the SCDC TRANSPORTATION DIVISION!

(A) "IN the event AN (P.C.R. LITIGANT) of RECORD is called to APPEAR. SIMULTANEOUSLY IN ACTIONS pending in two or more TRIBUNALS of this state the following list shall establish the priority of . . . obligations to those TRIBUNAL (8) the circuit court common Pleas NON JURY term. &.

The JUNE 02, 2016 scheduled motion to Dismiss hearing in the common Pleas Court of Richland County was "priority" over the Oconee County P.C.R. hearing in two (2) ways.

no other hearings in any other TRIBUNAL was officially scheduled, and

The SOUTH CAROLINA ATTORNEY GENERAL'S office failed to even provide me advanced notice of the JUNE 06, 2016. this ATTORNEY GENERAL

exploitation amounts to trying to force me to tax-out. I submit to this court, as long as I can make an non-frivolous argument, and along with the full force of the LAW behind me, I will never tax-out.⁴ Based on the foregoing facts, the state's motion to strike my second petition for a writ of certiorari is time-barred.

4,
STATE-LAW REQUIRES
SUBSEQUENT CERTIORARI
PETITION!

The state argues my second certiorari petition is unrelated to the first. This argument cites no authority. Rule 242 (A) S.C.T.C.R., requires me to review post-conviction-relief actions and final

⁴ IN the contexts of my tax-out argument it consists of the deplorable conditions, I must endure. S.C.D.C. prohibits all inmates from taking ANY extra clothing, boxers, socks, or any hygiene items on P.C.R. transportation trips to the Onoonee County Detention Center, and while at the Kirkland Correctional (Intermediate Transport). R.P. 11 At P.A.R. 3 (Affidavit).

decisions under the Post-conviction Relief Act. The South Carolina Frivolous Proceedings Sanction Act, prohibit Frivolous Filings. This was actually what Ms. Ratigan did, filed with the Greenville County Common Pleas Court:

FRIVOLOUS DEFENSES

in my P.C.R. case, i.e., c/a No. 2014-CP-23-01893, ⁵ the causation to the Frivolous Filing under the P.C.R. statute; accordingly, the P.C.R. statute was the cause of ~~F~~ Action Authority.

Applying deductive LOGIC:

Post-conviction Relief Act Filing lead to the Frivolous Filings; therefore, the P.C.R. statute was the cause of Action for the Frivolous statute to proceed under Rule 242 SCACR;

OR A (P.C.R. LAW) + B (FRIVOLOUS STATUTE)

5. this certiorari petition filed with this court show in detailed language why defenses filed by Ms. Ratigan were frivolous.

i. c (Second certiorari Petition).

The second-petition for a writ of certiorari is apart of the initial certiorari petition in this case and under the rules of this court I filed the second petition for a writ of certiorari as the final judgement was under Rule 59(e) SCRCP motion. The judgement happened after I appealed my P.C.R. order of Dismissal.

The state failed to respond to my second petition for a writ of certiorari until after this court granted my motion for leave so the frivolous certiorari questions will be considered by this court. They have presented no controlling authority to support its' motion to strike my second - petition nor did the state demonstrate to this court why their belated filing should be considered in this case, by this court; consequently, this court should DENY the state's motion to strike.


5.
CONCLUSION:

WHEREFORE; DENY the state's motion to strike my

Second Petition For A writ of certiorari filed
in this court;

ORDER the state to FILE their RETURNS in
both of my FILED Petition For A writ of certiorari
within fifteen (15) days of the date of such
ORDER respectively.

Any other relief this court seems just, proper,
AND/OR impartial.

Respectfully Submitted,

George Cleveland III #357776
TURBEVILLE CORRECTIONAL INST.
1578 CLARENCE COKER Hwy.
TURBEVILLE S.C. 29162.

DATED: JUNE 14, 2016

PETITIONER'S PROOF OF SERVICE

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

JUN 20 2016

SO SUPREME COURT

APPEAL FROM GREENVILLE COUNTY
COURT OF COMMON PLEAS

DANIEL D. HALL, CIRCUIT COURT JUDGE

LOWER COURT CASE NO. 2014-CP-23-6183
81895

APPELLATE CASE NO. 2015-002251

George Cleveland, III, PETITIONER

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

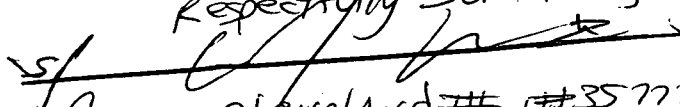
v.

STATE OF SOUTH CAROLINA, RESPONDENT

I, George Cleveland, III, certifies that on the date below, by and through the Turbeville Correctional Institution's mail-room staff, properly addressed, and with proper United States postage, the following legal documents: Petitioner's return to Respondent's "motion to strike", supporting Appendix, and proof of service to the following entity:

Office of the Attorney General
KAREN C. RATIGAN, Senior Asst. Deputy A.G.
P.O. Box 11549
Columbia, S.C. 29162

DATED: JUNE 15, 2016.

Respectfully Submitted,

George Cleveland, III, #357770
Turbeville Correctional Inst.
1578 Clarence Coker Hwy
Turbeville, SC 29162

George Chovel and #357708, THIR
Turbeville Collection #1 FIRST
1578 Clarence - ask for
Turbeville S.C. 29162

APPELLATE CASE
NO 2015-202251

1 of 3 per ^{THINKER'S} supporting
unbound and post of
return to office
Appellate Services

LEGAL MAIL

The Supreme Court of South Carolina

to Daniel E. Shearouse, clerk of court

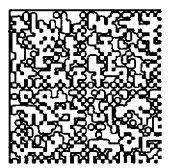
P.O. Box 11330

Columbia SC - 29211

RECEIVED

JUN 15 2016

MAIL ROOM
TURBEVILLE, SC



UNITED STATES POSTAGE
PITNEY BOWES
02 1P \$002.200
0000880246 JUN 15 2016
MAILED FROM ZIP CODE 29162