

PETITIONER'S PETITION **RECEIVED**  
REHEARING

JUL 22 2016

THE STATE OF SOUTH CAROLINA

S.C. SUPREME COURT

IN THE SUPREME COURT

APPEAL FROM GREENVILLE COUNTY

JAMES R. BARBER, III, CIRCUIT COURT JUDGE

LOWER COURT CASE NO. 2014-CP-23-05661

APPELLATE CASE NO. 2016-000498

GEORGE CLEVELAND, III, . . . . . PETITIONER,

v.

GREENVILLE COUNTY SHERIFF'S

OFFICE, . . . . . RESPONDENT,

PETITION FOR REHEARING

WILSON JONES CARTER + BAXLEY, P.A.  
ANNE ROSS CULBREATH, ESQUIRE  
CHARLES FRANKLIN TURNER, JR. ESQUIRE  
872 S. PLEASANTBURG DRIVE  
GREENVILLE, S.C. 29607  
ATTORNEYS FOR THE RESPONDENT

GEORGE CLEVELAND, III, #357770, JAI18  
TURBEVILLE CORRECTIONAL INST.  
1578 CLARENCE COKER HWY.  
TURBEVILLE, S.C. 2962  
PRO SE PETITIONER

PETITIONER'S PETITION FOR REHEARING  
APPELLATE CASE No. 2016-000498

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PETITIONER'S PETITION FOR REHEARING  
APPELLATE CASE NO. 2016-000498

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1.  
PETITION FOR REHEARING:

MAY IT PLEASE THE COURT: George Cleveland,  
III, proceeding pro se, respectfully moves this court  
to GRANT MY Petition For Rehearing on the following  
grounds:

The Wise v. S.C. of CORR., 372 S.C. 173, 642  
S.E. 2d. 551 (2007) case cited by this court which  
held . . . "sending of the remittitur ended Appellate  
Jurisdiction over [MY] case" . . . is in direct conflict  
of: Lewis v. Casey, 518 U.S. 343, 116 S.Ct. 2174 U.S.  
ARIZ (1996) in which the United States Supreme  
Court reasoned once an inmate suffers actual  
injury, i.e., prejudice by the denial of access to  
the courts from prison-employees, this court must  
correct my Federal Right(s) under the first (Access to  
courts), and fourteenth (due process property/life) Amendments  
under the United States constitution because my denial  
of access to the courts has standing, and the overlooking  
of my actual denial of rehearing petition by the S.C.  
Court of Appeals which are all prerequisites under  
Rule 221 (A) SCACR, and Arnold v. Carolina Power + Light

Co. 168 S.c. 163, 167 S.E. 234 (1933)

2.

BRIEF-RELEVANT-BACKGROUND:

ON MARCH 04, 2016, the SOUTH CAROLINA COURT OF APPEALS (HEREINAFTER SCCA) received my motion FOR Leave to File motion FOR AN Extension as timely.  
R.p. 1 ..

SCCA transferred my motion, id, to the SUPREME COURT OF SOUTH CAROLINA (HEREINAFTER SCSC) received ON MARCH 08, 2016. R.p. 1 .

ON MARCH 14, 2016, I signed for and received from the TURBEVILLE. CORRECTIONAL INSTITUTION'S mail-room staff from the clerk of the SCSC. DATED MARCH 11, 2016) which stated the following relevant part:

"This court has received your motion for an extension to serve and file the petition for a writ of certiorari ... since you have not paid the \$25 dollar filing fee required for you to pay this fee within ten (10) days of the date of this letter. By copy of this letter, I do ask the court of Appeals not send the remittitur for ten days. ... " R.p.p. 2-3,

2

ON MARCH 25, 2016, I signed for and received from prison staff, id, from the clerk of the S.C.D.C. which was dated MARCH 23, 2016. The letter stated the following relevant language:

"Since you have not paid the filing fee, . . . no action will be taken on your motion for an extension to serve and file the petition for a writ of certiorari." R.p. 4.

ON MARCH 24, 2016, I placed in the Turbeville Correctional Institution's mail box outside the cafeteria the following:

Petitioner's second motion for an extension;  
petitioner's motion to proceed in forma pauperis regarding motion fee, R.p. 5 - 6.

ON MARCH 28, 2016, the clerk of the SCJP issued the remittitur to the Greenville County Common Pleas Court. R.p. 7.

ON APRIL 05, 2016, I signed for and received

from the clerk of the S.C.S.C. A letter dated April 01, 2016 which stated the following relevant part:

"Please be advised that the South Carolina Court of Appeals sent the remittitur to the circuit court on March 28, 2016. The sending of the remittitur ended Appellate jurisdiction over this case. And no further motions or petitions can be considered, *Wise v. S.C. Dept. of Corr.* 372 S.C. 173, 642 S.E. 2d 551 (2007)." R.P.P. 8-9.

On April 06, 2016, I mailed to the clerk of this court an four (4) page letter styled: 'continued confusion'. In the letter I argued:

'The remittitur was sent on March 28, 2016', R.P.P. 9.  
... 'multiple pending motions for extensions and forma pauperis motions that were all filed before the remittitur was sent to the lower court on March 28, 2016...'

The South Carolina Department of Corrections Prison

Employees And Administration ARE wholly to  
BLAME FOR ALL MISSED DEADLINE... R.p.p. 10-11.

Both filings should be forwarded to the court  
for consideration as both filings are supported  
by AN MOUNTAIN OF EVIDENCE. R.p.p. 11-13.

ON JUNE 23, 2016, THIS COURT DENIED MY  
MOTION(S) FOR AN EXTENSION OF TIME TO FILE  
PETITION FOR A WRIT OF CERTIORARI AND FOR LETVE  
OF COURT TO PROCEED IN FORMA PAUPERIS BY  
REASONING:

CC THE SENDING OF THE REMITTUR ENDED APPELLATE  
JURISDICTION OVER THIS CASE. WISE V. S.C. DEPT.  
OF CORR. 372 S.C. 173, 642 S.E. 2D 551 (2007). R.p.p. 14.

THIS PETITION FOR REHEARING FOLLOWS AN ALMOST  
TWO (2) YEAR OLD CASE NUMBER (CA No. 2014-CP-23-  
05661) BECAUSE OF AN MULTITUDE OF MISSED LEGAL  
DEADLINES BY THE SOUTH CAROLINA DEPARTMENT OF  
CORRECTIONS (S.C.D.E.) EMPLOYEES IN VIOLATION OF  
MY FIRST (ACCESS TO THE COURTS) AND FOURTEENTH (DUE

process liberty/property) Federal Rights under the United States Constitution and continued mistakes by the clerks of court from this court, and of the SCCA, i.e., "the date of filing shall be the date of delivery or the date of mailing," Rule 233 S.C.A.C.R.; not the date, the clerks of this court and of the S.C.A.C.

3.  
ARGUMENT:  
OVERLOOKED THE CONFLICT OF STATE SUPREME COURT CASE-LAW WITH THAT OF THE U.S. SUPREME COURT CASE-LAW; AND REHEARING PETITION WAS DENIED BY THE COURT OF APPEALS!

Wise v. S.C. Dept. of Corr. 372 S.C. 173, 642 S.E. 2d. 551 (2007) (hereinafter Wise which was published by this court reasoned the South Carolina Appellate Court loses jurisdiction once the Remittitur has been sent,

The Wise court were not presented with not a single argument of ~~any~~ federal rights be alleged to be violated, e.g., Access to the courts or due process of the laws; however, my instant case differs, and was overlooked

By this court because Lewis v. Casey 518 U.S.  
343, 116 S.Ct. 2174 U.S. ARIZ (1996) (hereinafter Lewis)  
case law published from the United States  
Supreme Court requires this court to retain  
jurisdiction since I showed "ACTUAL INJURY"  
id, at 2178-80 by way of affidavits; accordingly,  
Lewis has more force than Wise because it  
was published by the United States Supreme Court.

Lewis requires specific showings of a denial of  
access to the courts caused by prison employees.  
This was filed with this court by affidavits:

PRISON lockdown on 2/29/16, R.P. 16 at PAR. 2<sup>1</sup>.

No light in my cell-room from MARCH MARCH 20-23,  
2016<sup>1</sup>; AND TURBEVILLE CORRECTIONAL SGT. TOLLINSON<sup>2</sup> ignored

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1. PRISON locked-down I had to stay in my room.

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2. He was the duty officer in my dorm on MARCH 20, 2016  
(TAWCAW A-side dorm at Turbeville).

my repeated request to call the shift Captain  
PAC for permission to use my assigned DORM'S  
Dory room that had light. R.P. 15, APPAR. 2-3.

Wise. Also reasoned if the Remittitur was  
sent in error, it must be recalled since the  
"ACTUAL INJURY" principle was met in Lewis  
not only does the wise court lack the legal  
force against Lewis, but it was also sent in  
error; consequently, the Remittitur must be recalled.

This court also reasoned that I should have filed  
a "timely motion to the court of Appeals" to recall  
the Remittitur. R.P. 14. I submit, I did in fact file  
my timely motion to an extension and in forma  
pauperis motion(s) in the South Carolina Court of  
Appeals on or around March 01, 2016, and received  
on March 04, 2016, but the court of Appeals forwarded  
the filings to this court on or around March 03, 2016  
which was stamped received in this court on March 08,  
2016; R.P. 1; therefore, this court overlooked the date  
stamps, United States postage stamp, and the stamp.



RECEIVED DATE. IN THE TURBEVILLE CORRECTIONAL INSTITUTION'S MAIL-ROOM, FURTHER, I SUBMIT, THE RULES OF THE SOUTH CAROLINA APPELLATE COURTS LACKS SPECIFIC LANGUAGE WOULD REQUIRES ME TO WRITE THE CLERKS OF THE SOUTH CAROLINA APPELLATE COURTS. TO HAVE THE ISSUES SETTLED. LEWIS GRANTS THIS COURT THE JURISDICTION TO CORRECT THE FEDERAL RIGHT(S) AFTER I HAD SHOWED PREJUDICE. I HAVE DONE THAT. LEWIS DOES NOT REQUIRE ME TO PACK-UP POSTAGE AND COPY FEES TO WORK AS AN MEDIATOR BETWEEN THIS COURT AND THE APPELLATE COURT THAT WOULD BE A WASTE OF TIME, JUDICIAL, AND PRISON RESOURCES. LEWIS REQUIRES THIS COURT TO ELIMINATE NEEDLESS DELAYS IN DISPOSING OF THE LEGAL MERITS OF THIS CASE; THEREFORE, THE REMITTUR WAS SENT IN ERROR IN VIOLATION OF THE WISE COURT, AND THE LEWIS COURT RESPECTIVELY.

FINALLY, MR. DANIEL E. SHEAROUSE, THE CLERK OF THIS COURT WROTE MY MOTION(S) (EXTENSION OF TIME, AND INFORMAL PROPERIS) WERE RECEIVED IN HIS OFFICE "MARCH 29, 2016" R.P. 8, ONE (1) DAY AFTER THE MARCH 28, 2016 ISSUANCE OF THE REMITTUR. I SUBMIT, MARCH 29, ~~\_\_\_\_\_~~

2016 WAS NOT the filing date. because MARCH 24, 2016 WAS, THIS IS CLEAR ON MY PROOF OF SERVICE FILED IN THIS COURT. R.P.P. 5-6, THIS WAS FOUR (4) DAYS BEFORE THE REMITTUR WAS SENT:

COMPARE R.P.P. 5-6; WITH R.P.P. 7 RULE 233 (A)(2) SCACR CLEARLY STATES LEGAL DOCUMENTS ARE FILED WITH THE APPELLATE COURT IF THE LEGAL DOCUMENTS ARE:

“DEPOSITING THE DOCUMENT IN THE U.S. MAIL ... OR THE DATE OF FILING SHALL BE THE DATE OF DELIVERY OR THE DATE OF MAILING.”

RULE 233 (A)(2) SCACR REQUIRED MR. SHEROUSE TO MARK MY FILING DATE OF MARCH 24, 2016, NOT MARCH 29, 2016 BECAUSE MY LEGAL DOCUMENTS, IDJ, WERE FILED WHEN I PUT THEM IN THE PRISON MAIL-BOX WHICH MY PROOF OF SERVICE CLEARLY STATE, R.P.P. 5-6, SINCE MY FILINGS WERE FILED ON MARCH 24, 2016, NOT MARCH 29, 2016 ONE (1) DAY AFTER THE REMITTUR BEING SENT, THIS COURT DID NOT LOSE APPELLATE JURISDICTION UNDER WISE; ACCORDINGLY, THE REMITTUR MUST BE RECALLED.

THIS COURT SCOLDING LANGUAGE STATING: I SHOULD HAVE FILED AN TIMELY MOTION IN THE COURT OF APPEALS TO

have. the Remittitur. Recalled ignored MR. Shearouse's April 01, 2016 CARBON-COPIED letter to MS. Jenny Abbott Kitchings the clerk of court of the court of Appeals. MS. Kitchings failed to Read the language of the letter regarding the filing of the Remittitur on March 28, 2016 date. R.p. 8.

Ms. Kitchings even recalled the July 28, 2015 remittitur in this same case; After this court carbon-copied its' October 19, 2015 order which resolved NO FINAL Decision<sup>3</sup> WAS MADE in this case; therefore, my petition for a writ of certiorari was dismissed. R.p.p. 17 - 19. The same could had been done by Ms. Kitchings in this instance.

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3. IN this instance, the court of Appeals denied my Petition for Rehearing. R.p.p. 20 - 22. When the Remittitur WAS Recalled by 10/21/15 order, my certiorari Petition WAS filed on or around 10/09/15 certifies my Reinstatement Petition was superseded by the Recall order. This court overlooked my denied Rehearing Petition by the S.C. court of Appeals. R.p.p. 20 - 22.

Attorneys for the Respondent:

Anne Ross Culbreth, Esquire; and  
Charles Franklin Turner, Esquire of

Greenville, SC. has done NOTHING to resolve  
the Remittitur error in this case, these  
Attorneys knew or should have known, the  
Appellate court Rules regarding the filings are dated  
once put in the mail box to be mailed to this court,  
instead they both have put a burden on me  
with countless of hours, and writing to this  
court, and the court of Appeals amounts to:

... "embarrass, delay, or [flawed tactics]." Rule  
4.4(A), RPC, RULE 407, S.C.A.C.R., . . .

The inaction and intentional failing to respond  
to my many letters, and motions to the Appellate  
courts would not have happened if I was an  
Attorney admitted to the South Carolina Bar, or  
was not an inmate, but quite the contrary  
because presumptively an Attorney knows the  
Rules of this court. I have complied with the  
Rules of this court, timely filed my legal documents

And Requested more time to comply because of the wide-spread patterns of missing court deadline, After court deadline, deprived of legal paper-time and time again, I have filed non-frivolous pleadings and letters in this case, and my other legal cases with supporting evidence. I'm being ignored by the Respondent's Attorneys, and my arguments are being repeatedly overlooked by this court, the Court of Appeals judges, and the clerk's of both Appellate courts.

The Lewis court published by the United Supreme court despite this court being bound by this higher court have overlooked my many denial of access to the courts claim caused by employees of the South Carolina Department of Corrections (S.C.D.C.);

George Cleveland, III v. State  
Appellate Court case No. 2015-002251;  
overlooked my Actual Injury claim for an injunction to enjoin the S.C.D.C. to return my legal boxes which caused me to miss multiple

legal court deadlines, and:

George Cleveland, III v. S.C.D.C.

Appellate Case No. 2016-000701;

Prison lock-downs, no legal paper, or pens to access the courts caused me to miss court deadlines in this case (Case No. 2016-000701) that was over two (2) years ago, and my rehearing petition was denied just a couple of weeks ago—despite supporting affidavits and citations of the Lewis Court.

I hope this court takes the time, and review the attached appendix, and the entire record in this case (Case No. 2016-000498) so an impartial decision can be made. The pleadings I filed from the beginning all are non-frivolous, and the mere couple of letters that are both frivolous, but so far in this case. Ms. Culbreath, and Mr. Turner, both attorneys have gotten nothing but praise and glory from the courts of our state. Fair is fair; Equal is equal, and applying the law is fair, and equal.

4.  
CONCLUSION:

This court overlooked my denial of access to the court courts argument and cited WISE which is in conflict with LEWIS;

OVERLOOKED my MARCH 24, 2016 filing of my legal motion(s) in this case four (4) days prior to the Remittitur being issued; AND

OVERLOOKED my Rehearing Petition Denial which is a part of the court's record respectively.

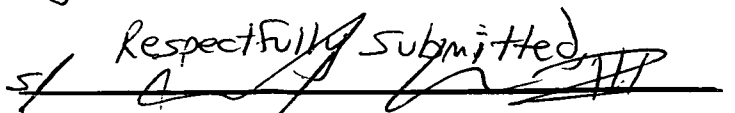
I PRAY for the following relief:

WHEREFORE; GRANT my petition for Rehearing; Recall the Remittitur from the Greenville county Common Pleas Court by order to the S.C COURT OF APPEALS;

ORDER Any Additional Legal Briefs; OR Supplemental Documents that would reasonably assist this court in a more better understanding of my Rehearing Petition.

RULE on my pending motions in this case that ARE FILED, ORDER ORAT Arguments that will help in a quick AND FINAL disposition of this year long Remittitur issue.

Respectfully Submitted,



George Cleveland III #357770, TA118  
TURBEVILLE CORRECTIONAL INST.  
15. 1578 CLARENCE COKER HWY.  
TURBEVILLE, S.C. 29162

DATED: JUNE 08, 2016

PETITIONER'S PROOF OF SERVICE RECEIVED

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT JUL 22 2016

S.C. SUPREME COURT  
APPEAL FROM GREENVILLE COUNTY

JAMES R. BARBER, III, CIRCUIT COURT JUDGE

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GEORGE CLEVELAND, III, . . . . . PETITIONER

v.  
GREENVILLE COUNTY SHERIFF'S OFFICE, . . . . . RESPONDENT.

PETITIONER'S PROOF OF SERVICE

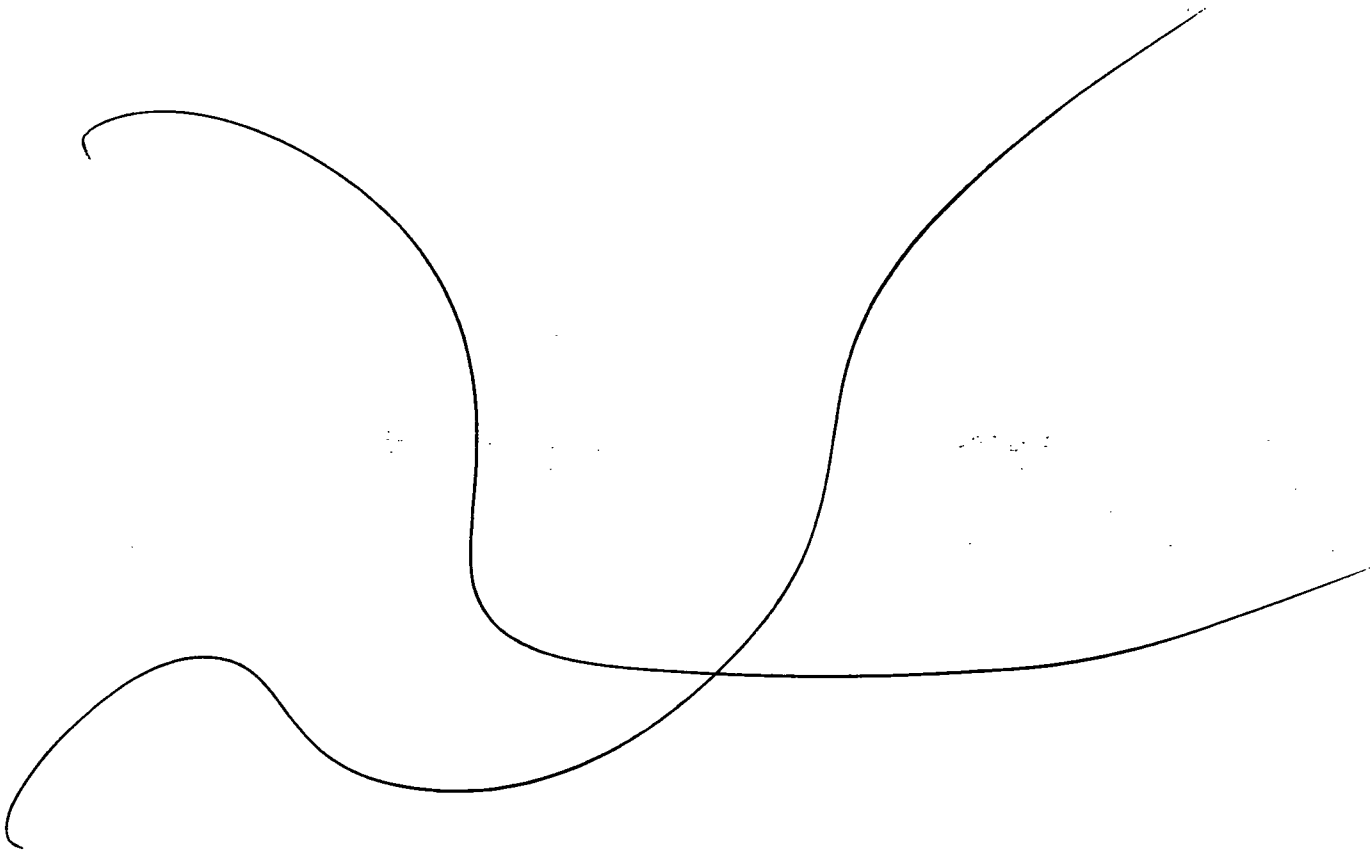
I, George Cleveland, III, certifies that on the date below, by and through the turberville correctional institutional's MAIL ROOM-STAFF the following legal documents; properly addressed with proper. United States postage:

PETITIONER'S PETITION FOR REHEARING, . . . . . 18-pages

PETITIONER'S APPENDIX IN SUPPORT OF PETITION FOR REHEARING, . . . . . 25-pages  
the legal documents were addressed as follows:

WILSON JONES CARTER + BAXLEY, P.A.  
ANNE ROSS CULBREATH, ESQUIRE  
CHARLES FRANKLIN TURNER, JR. ESQUIRE  
872 S. Pleasantburg Drive  
Greenville, S.C. 29607  
ATTORNEYS FOR THE RESPONDENT

SIGNATURE PAGE ATTACHED HERETO



Respectfully Submitted,

~~George Cleveland~~

George Cleveland III #35770  
TURBEVILLE CORRECTIONAL INST.  
1578 CLARENCE COKER HWY.  
TURBEVILLE, S.C. - 29162

DATED: JULY 08, 2016