

PETITIONER'S APPENDIX

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

RECEIVED

DEC -9 2016

S.C. SUPREME COURT

APPEAL FROM ADMINISTRATIVE LAW COURT

S. PHILLIP LENSKI, ADMINISTRATIVE LAW JUDGE

LOWER COURT CASE NO. 16-ALJ-04-0030-AP

APPELLATE CASE NO. 2016-002324

GEORGE CLEVELAND, III

S.C.D.C. No. 357770

PETITIONER

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

RESPONDENT

INDEX TO APPENDICES

NOTICE OF APPEAL IN THE S.C. COURT OF APPEALS PAGE(S) No.

ALC ORDER OF DISMISSAL 1

MAY 17, 2016 LETTER FROM THE S.C. COURT OF APPEALS 2-3

MOTION TO REINSTATE 4

ORDER OF DISMISSAL S.C. COURT OF APPEALS FILED 6-9-16 5-6

IN FORMA PAUPERIS DENIAL ORDER AND CONVERTING INTO
PETITION FOR REHEARING (S.C. COURT OF APPEALS FILED 8-11-16

MOTION FOR AN EXTENSION DATED: 9/11/16 8

LEGAL MAIL

INDEX TO APPENDICES

PAGE(S) NO.

SEPTEMBER 19, 2016 LETTER FROM THE S.C. COURT OF APPEALS 10

ERROR - LETTER MAILED TO THE S.C. SUPREME COURT DATED: 10/05/2016 11-14

S.C. COURT OF APPEALS ORDER RECALLING REMITTANCE FILED 11/04/16 15

S.C. SUPREME COURT ORDER OF 12-05-16 DEADLINE FILED 11/22/16 16

LEGAL MAIL

APPELLANT'S NOTICE OF APPEAL
IN AN ADMINISTRATIVE TRIBUNAL

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
APPEAL FROM ADMINISTRATIVE LAW COURT

S. PHILLIP LENSKI, ADMINISTRATIVE LAW JUDGE

LOWER COURT CASE NO. 16-ALJ-04-0030-AP

APPELLATE CASE NO. 2016-1033

George Cleveland, III,

S.C.D.C. NO. 357720

APPELLANT,

v.

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

RESPONDENT.

George Cleveland, III,

respectfully appeals Administrative Law
Judge S. PHILLIP'S order of Dismissal filed on April 05, 2016,
and I received by and through the Turbeville Correctional
Institution's mail-room on April 07, 2016. The docket no.
is: 16-ALJ-04-0030-AP.

Respectfully Submitted,


George Cleveland, III #357720 TA 118
Turbeville Correctional Inst.
P.O. Box 252
Turbeville, S.C. 29162

DATED: MAY 06, 2016

pe 2

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

George Cleveland, #357770,)
)
 Appellant,)
)
 vs.)
)
 South Carolina Department of Corrections,)
)
 Respondent.)
)
)
)
)
)
)

Docket No. 16-ALJ-04-0030-AP

ORDER OF DISMISSAL

This matter is before the South Carolina Administrative Law Court (ALC or court) pursuant to the Notice of Appeal filed by the Appellant, who is incarcerated with the South Carolina Department of Corrections (Department). The Appellant did not lose good time credit as part of any punishment. The Appellant has complaints concerning the handling of his mail within the Department.

DISCUSSION

The court's jurisdiction to hear this matter is derived entirely from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). The court's appellate jurisdiction in inmate appeals is limited to cases involving denial of state created liberty interests¹ typically involving: (1) cases in which an inmate contends that prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; and (2) cases in which an inmate has received punishment in a major disciplinary hearing as a result of a serious rule violation. *Id.*

The Supreme Court further explained the court's jurisdiction in *Slezak v. South Carolina Department of Corrections*, 361 S.C. 327, 605 S.E.2d 506 (2004). *Slezak* emphasized that, while the court has jurisdiction over all properly filed inmate grievance appeals, the Court is not required to hold a hearing on every matter. *Id.* "Summary dismissal may be appropriate where the inmate's grievance does not implicate a state-created liberty or property interest." *Id.* citing *Sandin v. Conner*, 515 U.S. 472, 115 S.Ct. 2293 (1995).

¹ The Court does have limited jurisdiction in some property matters, the authority for which need not be cited here.

FILED

APR 05 2016

When reviewing the Department's decisions in inmate grievance matters, the court sits in an appellate capacity. *SCDC v. Mitchell*, 377 S.C. 256, 659 S.E.2d 233 (Ct. App. 2008). Consequently, the review in these inmate grievance cases is limited to the Record presented.

In this case, the Appellant did not lose any good time as part of any punishment and therefore this matter does not affect a state-created liberty or property interest. As such, this is a case in which this court must adhere to the traditional "hands off" doctrine regarding judicial involvement in prison disciplinary procedure and other internal prison matters. *See Pruitt v. State*, 274 S.C. 565, 266 S.E.2d 779 (1980) and *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000).

THEREFORE, for the foregoing reasons, the decision appealed from is **AFFIRMED** and this appeal is **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED.



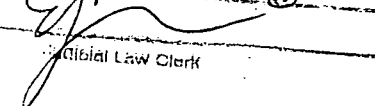
S. Phillip Lenski
Administrative Law Judge

April 5, 2016
Columbia, South Carolina

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof in the United States Mail, postage paid, or in the interagency Mail Service addressed to the party(ies) or their attorney(s).

This 5th day of April, 2016

by: 
Judicial Law Clerk



~~EXHIBIT~~
p. 4

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

May 17, 2016

George Cleveland #357770
Turbeville Correctional Institute
PO Box 252
Turbeville SC 29162

Re: George Cleveland #357770 v. SCDC (5)
Appellate Case No. 2016-001033

Dear Mr. Cleveland:

Upon reviewing your notice of appeal, the following deficiency or deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter:

- The required filing fee has not been submitted. The correct filing fee is \$100.00.
- A proof of service showing that a copy has been served on the Administrative Law Court has not been provided as required by Rule 203(e), SCACR.

Very truly yours,

Jenny Abbott Kitchings

CLERK

cc: Christina Catoe Bigelow, Esquire
Jana E. Shealy

MAY ~~IT~~ PLEASE THE COURT: George Cleveland, III, proceeding pro se respectfully move this court for an order GRANTING my motion for leave of court for reinstatement of the above captioned case on the following grounds:

Prison-Lockdowns; And an P.C.R. Hearing I WAS UNAWARE OF.

1.

MOTION FOR REINSTATEMENT:

ON MAY 19, 2016, I signed for and received the deficiency letter dated MAY 17, 2016. indicating the requirement of the \$100.00 filing fee and proof the Administrative Law Court has been served; see attached Exhibit 1 (hereinafter A.E.).

Turbeville Correctional Institution was on lock-down from MAY 20 - JUNE 05, 2016, A.E. 2 AT PAR. 2. ON JUNE 02 - JUNE 07, 2016. I WAS TRANSFERRED to the oconee county detention center in WALTHAM, S.C. for A P.C.R. hearing in George Cleveland, III v. STATE; CA No 2014-CP-37-718 that I had no prior knowledge

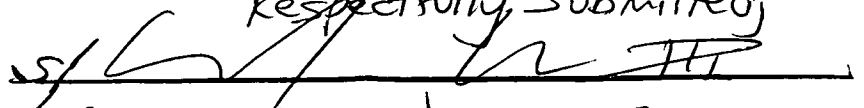
1.

of, see A.E. 2 At PAR 2, the prison lock-down, and the P.C.R. hearing, id, caused me to miss the ten (10) day deadline to comply with the deficiency letter, see A.E. 1. I suffered prejudice under the first and fourteenth (Access to the courts & due process property interest) Amendment of the United States Constitution, and under Lewis v. Casey 518 U.S. 343, 116 S.Ct. 2174 U.S. ARIZ (1996), id at 2178-2180; consequently, I have standing to request an Reinstatement and extra time to comply with deficiency letter, ~~id~~..

2.
CONCLUSION:

Based on the foregoing, I request the following relief; wherefore, GRANT my motion for Reinstatement, and a new deadline to comply with deficiency letter, see A.E. 1 until JUNE 29 2016.

Respectfully submitted,



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

DATED: JUNE 09, 2016.

9-7

The South Carolina Court of Appeals

George Cleveland #357770, Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2016-001033

The Honorable S. Phillip Lenski
Trial Court Case No. 2016ALJ040030AP

ORDER

Appellant has failed to pay the filing fee and show proof of service on the Administrative Law Court, as required by Rule 203 of the South Carolina Appellate Court Rules, and the letter of this Court dated May 17, 2016. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

FILED

6-9-16

cc:

George Cleveland #357770
Christina Catoe Bigelow, Esquire
Jana E. Shealy

The South Carolina Court of Appeals

George Cleveland #357770, Appellant,

v.

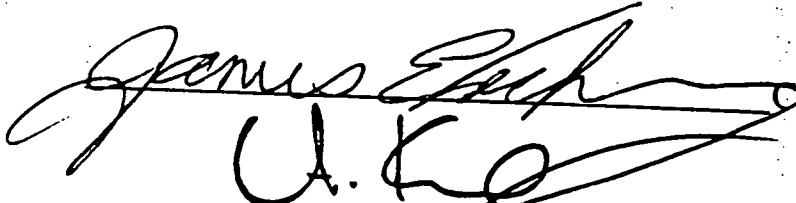
South Carolina Department of Corrections, Respondent.

Appellate Case No. 2016-001033

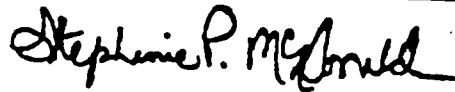
ORDER

The motion to proceed *in forma pauperis* is denied pursuant to *Ex parte Martin*, 321 S.C. 533, 471 S.E.2d 134 (1995). Appellant has also filed a motion to reinstate this appeal, which we construe as a petition to rehear the dismissal of this appeal.

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

 J.

_____ J.

 J.

_____ J.

Columbia, South Carolina

cc:
Christina Catoe Bigelow, Esquire
George Cleveland #357770

FILED

August 11, 2016

SEPTEMBER 16 2016

P.9

The South CAROLINA Court of Appeals
JENNY ABBOTT KITCHINGS, clerk of court
P.O. Box 11629
Columbia, S.C. 29211

Re: George Cleveland ~~III~~ v. S.C.D.E.; Appellate Case No
2016-001033; motion for an extension to file
CERTIORARI Petition.

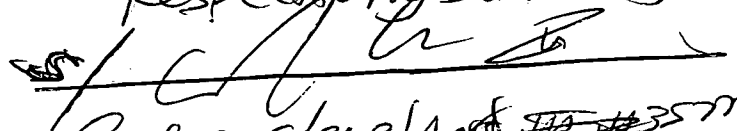
Dear Ms. Kitchings,

I have 2 other legal deadlines that required
A lot of legal research, and not enough time
in the TYGER RIVER CORRECTIONAL'S LAW LIBRARY;
Accordingly, I request an extension to file
my petition for a writ of certiorari until:

SEPTEMBER 28, 2016

2. See attached order ~~at~~ seeking certiorari review

Respectfully submitted



George Cleveland ~~III~~ #35 mo
TYGER RIVER CORRECTIONAL'S
200 PRISON ROAD
ENO, REYS.C. 29335

cc: FILE
CHRISTINA CATO BIGELOW, EQUINE

LEGAL MAIL



P. 80

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
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FAX: (803) 734-1839
www.sccourts.org

September 19, 2016

George Cleveland #357770
TCI
1578 Clarence Coker Hwy.
Turbeville SC 29162

Re: George Cleveland #357770 v. SCDC (5)
Appellate Case No. 2016-001033

Dear Mr. Cleveland:

We are returning your "motion for an extension to file certiorari petition." Pursuant to Rule 242 of the South Carolina Appellate Court Rules, SCACR, your documents must be filed with the South Carolina Supreme Court.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Christina Catoe Bigelow, Esquire
Enclosure

OCTOBER 05, 2016

P. 11

The Supreme Court of South Carolina
c/o DANIEL E. SHEAROUSE, CLERK COURT
P.O. Box 11330
Columbia, S.C. - 29211

Re: ERROR BY COURT OF APPEALS IN George Cleveland,
III v. S.C.D.C. (S) Appellate Case No. 2016-001033.

1. DEAR MR. SHEAROUSE,

ON September 14, 2016, I mailed to the South
CAROLINA Court of Appeals my motion for And
extension to file Petition for A WRIT OF HABEAS CORPUS
in the above case until Sept. 28, 2016, see
Attached Exhibit-1.

2. ON Sept. 28, 2016, I signed for And received a
letter from Deputy Clerk V. CLARE ALLEN dated
Sept. 19, 2016, see Attached Exhibit-2. She stated
my motion was returned as it was filed in the
wrong court. IBID.

3. The letter was mailed to the wrong address

LEGAL MAIL

Page 10 of 4

despite me informing that court (Court of Appeals) of my change of mailing address in the July of 2016, see Exhibit 3, see also Attached supporting Affidavit at PAR — .

4. Deputy Clerk Allen failed to transfer this case to this court:

“In the event that the [motion] is filed in the wrong appellate court, the appellate court in which the matters is filed shall issue an order transferring the case to the appropriate court.” Rule 204(A) S.C.A.C.R. And “when an action is brought in the wrong . . . court, the court shall not dismiss the action but shall transfer it to any proper . . . court . . .” Rule 82(b) S.C.R.C.P.

5. Bottom line: Deputy Clerk Allen was required to transfer this case to this court pursuant to Rule 204(A) S.C.A.C.R. and Rule 82(b) S.C.R.C.P. even though this motion has passed my motion

LEGAL MAIL

page 2 of 4

Motion for an extension was timely filed on Sept 14, 2016 under Rule 233 (A) (2) SCACR

“By depositing the document in the U.S. Mail, properly addressed to the clerk, . . . The date of filing shall be the . . . date of mailing . . .”

Accordingly, this case is still active under the equitable tolling doctrine.

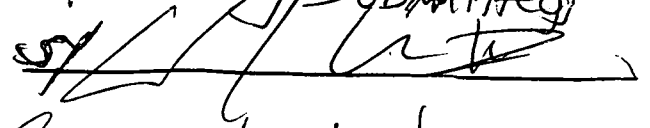
6. Finally, Sept 28 - Oct 04, 2016, the computers and internet were down at my assigned prison of: Tiger River Correctional Institution, see attached supporting affidavit at PAR. — therefore, Oct 05, 2016 was the very first date I could review the South Carolina Rules Book and the prison's Law Library briefly.

7. I suffered prejudice because of the computer and internet outage, and the delayed receipt of the Sept 19, 2016 on Sept 28, 2016, supra, at PAR. 6 under Lewis v. Casey - 518 U.S. 343, 116 S.Ct.

LEGAL MAIL

must suffer Actual injury) consequently,
I have standing to request an second
deadline to file A WRIT OF CERTIORARI UNTIL:
NOVEMBER 04, 2016 AS I have 3-other court
deadlines in the next 20-days, see Attached
supporting Affidavit At PAR. — "

Respectfully Submitted,



George Cleveland, #35770
Tyger River Correctional Inst
200 PRISON ROAD
EUREKA, S.C. - 29335

DATED: OCTOBER 05, 2016

LEC. LEGAL MAIL

The South Carolina Court of Appeals

George Cleveland #357770, Appellant,

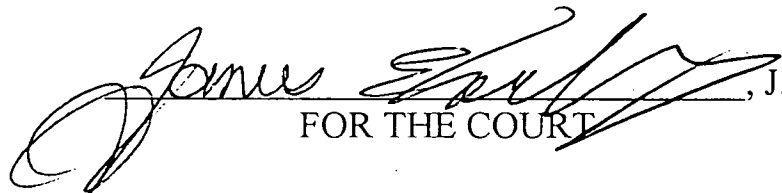
v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2016-001033

ORDER RECALLING REMITTITUR

This Court's remittitur was sent to the Clerk of the Administrative Law Court on October 18, 2016. It is now necessary for this Court to recall the remittitur. The Clerk of the Administrative Law Court is, directed to return the remittitur to the Clerk of the South Carolina Court of Appeals within ten (10) days from the date of this order.


FOR THE COURT

Columbia, South Carolina

FILED

cc:
George Cleveland #357770
Christina Catoe Bigelow, Esquire

November 4, 2016

pc 16

The Supreme Court of South Carolina

George Cleveland, III, #35770, Petitioner,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2016-002324

ORDER

The time to serve and file the petition for a writ of certiorari and appendix is extended until December 5, 2016. Any further extension request must comply with the requirements of this Court's order dated July 16, 2014.¹

FOR THE COURT

BY *Dorenda J. Shealy*
Chief Deputy CLERK

Columbia, South Carolina

November 22, 2016

cc: Matthew C. Buchanan, Esquire
Mr George Cleveland, III, #357770
The Honorable Jenny Kitchings

¹ This order is available at
<http://www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-07-16-01>