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S.C. SUPREME COURT

AMENDED PETITION FOR A WRIT OF  
CERTIORARI TO THE COURT OF APPEALS

CLERICAL ERRORS CORRECTED ONLY

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM ADMINISTRATIVE LAW COURT

S. PHILLIP LENSKI, ADMINISTRATIVE LAW JUDGE

LOWER COURT CASE NO. 16-ALJ-040030-AP

APPELLATE CASE NO. 2016-02324

GEORGE CLEVELAND, III #35770, . . . . . PETITIONER

v.

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

S.C. D.C.  
OFFICE OF GENERAL COUNSEL  
% MATTHEW C. BUCHANAN, ESQUIRE  
P.O. BOX 21787  
COLUMBIA, S.C. 29221-1787  
ATTORNEY FOR THE RESPONDENT

GEORGE CLEVELAND, III  
TYGER RIVER CORRECTIONAL  
200 PRISON ROAD  
ENDREWS, S.C. 29335

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1.  
CERTIFICATION BY PRO SE LITIGANT:

"I certify that A petition for Reinstatement was filed or Around June 09, 2016 in the S.C. Court of Appeals."

2.  
QUESTIONS PRESENTED:

Under Lewis v. Casey 518 U.S. 343, 116 S.Ct. 2174 U.S. AR12 (1996) (hereinafter Lewis v. Casey) the United States Supreme Court held inmates have an fundamental constitutional right to access the courts. Did LEWIS V. CASEY BAR. THE COURT OF APPEALS FROM interpreting my motion to reinstate my appeal after missing the 60-day deficiency deadline imposed by the clerk's office caused by prison-lock-downs, denial of access to the prison's LAW LIBRARY AND A P.C.R.-Evidentiary hearing appearance?

3.  
STATEMENT-OF-THE-CASE:  
MAY IT PLEASE THE COURT: ON MAY 06, I

1. the question presented will credence to why the S.C. court of Appeals court erred in contriving my Reinstatement motion AS A REHEARING PETITION.

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\*timely FILED my notice of Appeal in An Administrative Tribunal - R.p. 1. The Appeal dealt with my displeasure with the Administrative Law court order - dismissing my Appeal regarding the MACDOUGALL CORRECTIONAL INSTITUTION returning my LEGAL-MAIL to the UNITED STATES DISTRICT COURT IN GAINESVILLE, GA instead of TRANSFERING my Legal-mail to my then Assigned Institution (TURBEVILLE CORRECTIONAL) on the grounds that "the Appellant did not lose good-time credit AS PART of Any ~~penalty~~ punishment." R.p. 2-3.

ON MAY 13 2016, The Honorable Jenny Abbott Kitchings, clerk of the S.C. court of Appeals, mailed me An deficiency letter which stated the following relevant part:

"Upon reviewing your notice of Appeal, the following deficiency . . . have been noted under the . . . (S.C.A.C.R.) . . . Any deficiency must be corrected within ten (10) days of the date of this letter." R.p. 4.

2. The deficiencies were required \$100.00 filing fee, AND providing the proof of service showing the ALC was.

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Appeal for. Failing to pay the required court filing fee, R.p. 1,

On August 11, 2016, the court of appeals converted my motion to reinstate into one of petition for rehearing inasmuch as the court concluded:

"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 rehearing." R.p. 3.

and or around September 11, 2016, I mailed to the court of appeals a motion for an extension of time to file my petition for a writ of certiorari to the S.C. court of appeals until September 28, 2016 because of 2 other legal deadlines that required a lot of legal research time, and inadequate time in the prison's law library. At my current assigned prison (Tyger River Correctional), R.p. 9,

ON September 19, 2016, Deputy Clerk V. Claire Allen of the SC. Court of Appeals wrote me a letter which stated the following relevant part:

"We are returning your motion for an extension to file certiorari petition...  
Your documents must be filed with the South Carolina Supreme Court." R.p. 10.

ON October 05, 2016, I mailed a 4-page letter to this office explaining to Mr. Sherrouse that Deputy Clerk Allen, *id.* was required to file the court under Lewis v. Casey.<sup>4</sup> All required my extension motion to be transferred to this

---

4. I cited Lewis v. Casey, *id.* at 2178-80 because I suffered prejudice by Deputy Clerk Allen returning instead of transferring my legal documents to me. *IBID.*

Office Rep. pgs 11-14.

ON November 04, 2016, the court of Appeals ordered the Remittitur to be recalled from the A.L.C. to the court of Appeals. p. pgs 15.

This court imposed an December 05, 2016 deadline to file my writ of certiorari to the S.C. Court of Appeals along with supporting Appendix. Rep. 16 5.

4.

#### ARGUMENT

LEWIS V. CASEY BARRED THE COURT OF APPEALS FROM CONTRIVING MY REINSTATEMENT MOTION TO THAT OF A REHEARING PETITION:

The United States Supreme Court under Lewis v. Casey 518 U.S. 343, 116 S.Ct. 2174 U.S. ARIZ (1996) inmates have a fundamental constitutional right to access the courts and thus the courts are required to correct ~~~~~

5. There is an motion for an extension until December 29, 2016 based on a slew of other court deadlines, but to prevent any further errors, I'm preparing this petition ahead of the others, see 11/28/16 motion filed in this court.

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6.

my Federal Right(s) AFTER A showing of  
"ACTUAL INJURY" i.e., STANDING, *id.* At 2177-80,  
See Also *Bounds v. Smith* 430 U.S. 819, 97 S.Ct.  
1491 U.S. N.C. (1977) *id.* At 824-25.

The specific facts I submitted to the court  
of Appeals that caused me prejudice was  
the turbeville correctional prison-lock-downs  
of:

May 20-JUNE 01, 2016; AND JUNE 02-JUNE 03  
2016, AND JUNE 09-14, 2016 AS I WAS TRANSPORTED  
AND AT THE Oconee County, S.C. Detention Center  
FOR A HEARING ON JUNE 13, 2016 IN *George  
Cleveland, III v. State*; *cl. No.* 2014-CP-37-718 AT  
THE Oconee County court of common pleas under  
*Lewis v. Casey*, AND REQUESTED ADDITIONAL TIME  
TO COMPLY WITH THE REQUIREMENTS FROM THE CLERK'S  
OFFICE. R.p.p. 5-6.

*Lewis v. Casey* BARRED THE COURT OF APPEALS FROM  
INTERPRETING MY MOTION TO REINSTATE MY CASE INTO  
A REHEARING PETITION BECAUSE THE CASE  
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controls and requires the adequate access to the courts, not to simply convert my reinstatement motion into that of a rehearing petition under Rule 247(A) Satch. This rule even provide an "good-cause-shown" mandate. Lewis v. Casey is correlated with the "good cause shown" prerequisite under Lewis v. Casey.

The court of Appeals legal reasoning ran astray with the following language:

"The court is unable to discover that any material fact or principle of law has been either overlooked or disregarded." R. p. 8.

Lewis v. Casey required the court of Appeals to decide only the relief I requested;

"GRANT my motion for reinstatement and a new deadline to comply with deficiency letter..." R. pp. 5-6.

This motion was based solely on the deficiency requirement from the clerk's office, not that of a petition for a rehearing because the deficiency

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Reinstatement And Rehearing petition ARE distinct under Lewis v. Casey since the deficiency is meant to correct a missing requirement; it is not meant for the court of Appeals to interpret into overlooked matters that are not RIFE for the court to consider.

My Appeal from the A.L.C. in the first instance deals with the returning of my legal-mail to that particular case. (pp. 2-3) Accordingly, Lewis v. Casey 518 U.S. 343, 116 S.Ct. 2174 U.S. ARIZ (1996), id., at 2178-80 barred the s.c. court of Appeals from interpreting my motion to the reinstatement of my case into that of a petition for a rehearing.

5.

### CONCLUSION:

I have an fundamental constitutional right to access the courts. Lewis v. Casey 518 U.S. 343, 116 S.Ct. 2174 U.S. ARIZ. (1996) id., at 2177-80; see also Bounds v. Smith 430 U.S. 819, 97 S.Ct. 1491 U.S. N.C. (1977) id., at 824-25.

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S.C. code Ann. § 24-1-130 (1976) Required  
S.C.D.C. Director BRYAN P. STIRLING exclusive  
MANAGEMENT AND control of the SOUTH CAROLINA  
PRISON system; see the S.C.D.C. KOCAYA v. KOCAYA  
347 S.C. 26, 552 S.E. 2d 765 (S.C. App. 2001) id.  
At 766-67.

The S.C. COURT OF APPEALS dismissing my appeal  
AS AN interpretation of that of A petition for  
Rehearing WAS BARRED UNDER Lewis v. CASEY  
AS I showed prejudice to the court of  
APPEALS; R.P.P. 5-6; (PRISON lock-downs; inadequate  
Access to the PRISON'S LAW LIBRARY, AND P.E.R.  
~~HEARING~~) ~~IT~~ did NOT "almost twice" missed  
Deadline" AS MR. HENDRICKS Argued to this  
COURT AND this COURT denied Relief because  
he did "NOT SUFFER ACTUAL INJURY"; see  
HENDRICKS v. SOUTH CAROLINA DEPT. OF CORRECTIONS  
385 S.C. 625, 686 S.E. 2d 191 (2009) id. At 193-94.  
Former Chief Justice TOAL writing the opinion

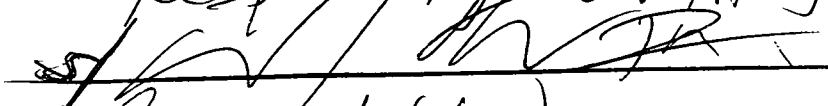
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FOR THE MAJORITY RESPECTIVELY.

MY PREJUDICE WAS SUFFERED NOT ALMOST  
BUT ABSOLUTE; CONSEQUENTLY, I RESPECTFULLY  
REQUEST THAT THIS COURT GRANT THIS PETITION  
FOR A WRIT OF CERTIORARI TO THE S.C. COURT  
OF APPEALS UNDER RULE 242 (A) (b) (1) (2) (3)  
(4) (5) S.C.A.C.R.

MEMORANDUM OPINIONS REASONABLY RELATED  
TO THE MERITS, AND PREJUDICE SUFFERED IN  
THIS CASE UNDER RULE 220 (A) (b) (2) (2) S.C.A.C.R.

ANY OTHER RELIEF THIS COURT DEEMS JUST,  
PROPER, AND/OR IMPARTIAL.

Respectfully Submitted  
  
George Cleveland #35770  
TYGER RIVER CORRECTIONAL INST.  
200 PRISON ROAD

DATED: DECEMBER 05, 2016 EPORE J.S.C. 29335

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S.C. SUPREME COURT

PETITIONER'S PROOF OF SERVICE

THE STATE OF SOUTH CAROLINA  
IN THE 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. 35779, . . . PETITIONER

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

PETITIONER'S PROOF OF SERVICE

I, George Cleveland, ~~III~~, proceeding pro se certifies that on the DATE below I inserted the motion for Leave to proceed pro se . . . , supporting Appendix, AND my petition for A WRIT OF CERTIORARI, . . . that corrected the clerical error, properly addressed envelope in the Tyger River Correctional's mail-BOX outside the cafeteria to the Respondent's of Record at:

S.C.D.C.; OFFICE OF GENERAL COUNSEL  
c/o MATTHEW C. BUCHANAN, ESQUIRE  
P.O. BOX 21787  
COLUMBIA, S.C. 29221-1787

Respectfully Submitted

George Cleveland, ~~III~~ #35779  
Tyger River Correctional Inst  
100 Prison Road  
ENVY SC 29335

LEGAL MAIL

Dated: December 11, 2016