

PETITIONER'S RULE 266 S.C.A.C.R. SUBSEQUENT  
APPLICATION FOR RELIEF

RECEIVED

DEC 22 2016

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

S.C. SUPREME COURT

APPEAL FROM GREENVILLE COUNTY

COURT OF COMMON PLEAS

DANIEL D. HALL; CIRCUIT COURT JUDGE

LOWER COURT CASE No. 2014-CP-23-01895

APPELLATE CASE No. 2015-002251

GEORGE CLEVELAND ~~III~~ . . . . . PETITIONER

S.C.D.C. No. 35770

v.

STATE OF SOUTH CAROLINA . . . . . RESPONDENT

OFFICE OF THE ATTORNEY GENERAL  
KAREN C. RATIGAN/ESQUIRE  
P.O. BOX 11549  
COLUMBIA, S.C. 29211  
ATTORNEY FOR THE RESPONDENT

GEORGE CLEVELAND ~~III~~ #35770  
TYGER RIVER CORRECTIONAL INST.  
200 PRISON ROAD  
ENDREY, S.C. 29335  
PROSE PETITIONER

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RELEVANT-CASE-BACKGROUND:

ON OR AROUND MARCH 21, 2016, I filed my Petition for a writ of CERTIORARI to review Post-conviction Relief Action from Greenville County in this court. R.p. 6-7. ON OR AROUND April 15, 2016, I filed my Petition for a writ of CERTIORARI to the Greenville County common PLEAS court (frivolous sanctions against Ms. R. HIGAN) IBIA

The state requested AN EXTENSION to file its' RETURN to my CERTIORARI Petitions until JUNE 15, 2016. R.p. 8. ON JUNE 15, 2016, someone in the CLERK OF COURT'S OFFICE OR the clerk himself: MR. SHEAROUSE fraudulently electronically signed the justices' NAMES to AN ORDER that denied my Petition for a writ of CERTIORARI. . . . the same day the STATE WAS ORDERED to file its' RETURN. R.p. 2.

I timely filed my petition for a Rehearing that WAS denied the Petition on August 04, 2016. R.p. 3.

ON OR AROUND Sept. 11, 2016, I mailed my motion for AN extension of time to file my Petition, FOR A WRIT

of certiorari in the S.C. COURT OF APPEALS, INSTEAD OF THIS COURT. Deputy clerk v. CLAIR ALLEN OF THE S.C. COURT OF APPEALS RETURNED MY MOTION FOR AN EXTENSION, R.p.p. 9.

ON OR AROUND OCT. 05, 2016, I FILED A LETTER STYLED: "ERROR BY THE COURT OF APPEALS IN THIS COURT, R.p.p. 10-13 ON OR AROUND OCT. 10, 2016, I FILED MY MOTION TO RECALL THE REMITTUR, R.p.p. 14-23.

ON OR AROUND NOVEMBER-04, 2016, THE S.C. COURT OF APPEALS ORDERED THE REMITTUR RECALLED (APPELLATE CASE NO. 2016-001033), R.p.p. 24.

ON OR AROUND NOVEMBER 18, 2016, I RECEIVED NOTICE THAT THE REMITTUR WAS RETURNED BY THE SC ADMINISTRATIVE LAW COURT BY WAY OF A LETTER ATTACHED DATED NOV. 10, 2016. R.p.p. 24-25 THIS RULE 266 S.C.A.C.R. APPLICATION FOLLOWS.

### 3. LEGAL-STANDING/ANALYSIS:

Subsequent Application for Relief under Rule 266 S.C.A.C.R. states the following RELEVANT PART:

"When Any . . . Judge of Any of the courts of this STATE has declined to GRANT ANY ORDER . . . in ANY CASE, AND thereafter Application for the same ORDER . . . An ORDER . . . OF A SIMILAR CHARACTER, is made to Appellate Court OR Any member thereof, it shall be incumbent upon the PARTY . . . to show in the Application the former REFUSAL AND the Judge OR Justice who REFUSED the SAME . . ."

This court on August 17, 2016 denied my motion to Recall Remittitur (Appellate case no. 2015-002251) under Wise v. S.C.D.C. 372 S.C. 173, 642 S.E. 2d 551 S.C. (2007), Rp. 4.

ON OR AROUND August 11, 2016 I mailed to this court my motion to Recall Remittitur on the following Appellate Court Rules:

Rule 243(g) S.C.A.C.R.

66 RETURN OF Respondent. Within thirty (30) days AFTER service of the petition AND Appendix, Respondent shall serve A copy of his RETURN on opposing

[prose petitioner] And shall serve A copy with the clerk of the supreme court ... "I explicitly argued this error to this court. R.p.p. 2123 but this court stated the following in denying my motion to Recall Remittitur:

"Petitioner has now filed ... A motion to Recall the Remittitur in this case since the Remittitur has been properly sent in this case, Appellate Jurisdiction over this case has ended; Accordingly, the motion to Recall the Remittitur is denied; ... R.p.p. 4. This court cited *Wise v. S.C. Dept. of Corry*, 372 S.C. 173, 642 S.E. 2d, 551 (2007) as its legal authority. *IBID*. And my federal right to access this court to obtain legal copies of my filed Appendix, and certiorari petition. *IBID*.

On the other hand the motion to Recall the Remittitur I filed in this court in (Appellate case No. 2016-1033) which I argued Deputy Clerk v. Claire Allen of the S.C. court of Appeals was barred from returning my legal documents, but required to transfer my case to

**LEGAL MAIL**

this court under. Rule 204 (A) SCA CR:

"IN the event that the [motion] is filed in the wrong Appellate court, the Appellate court in which the matter is filed shall issue AN ORDER transferring the case to the APPROPRIATE COURT," AND UNDER Rule 82(b) SCA CR: "when AN Action is brought in the wrong . . . . COURT, the COURT shall not dismiss the Action but shall transfer it to Any proper . . . COURT . . ." R.P.P. 19-20

This court denied my motion to recall the Remittitur in my P.C.R. certiorari Petition (Appellate case No. 2015-002251) despite Rule 243(g) SCA CR. BARRED this COURT from denying my petition for A WRIT OF CERTIORARI to review Post-conviction Relief Actions because the state never responded even though the state expressly Admitted A Return would be filed by Requesting AN extension AND this COURT GRANTED the Request AND ordered the Return to be filed by the state by or before "JUNE 15, 2016" which caused my case to be dismissed AND the Remittitur sent in violation of my DUE

**LEGAL MAIL**

process right Liberty/property interest under the Fourteenth Amendment<sup>1</sup>, And in violation of my Access to the courts Right under the First Amendment, both under the United States Constitution, And in violation of my Right under Rule 243(A)(b) (d)(h) SCACR; accordingly, I have standing to request this court's JUSTICES, AND ITS LAW CLERKS to recall the Remittitur from the Greenville County Common Pleas Division of the Honorable PAUL Br Wicksensimer (Rip. 1) under Rule 266 SCACR, AND order the STATE OF SOUTH CAROLINA to FILE ITS RETURN to my filed petition under Rule 243(g) SCACR within 30-days of the filing of the court's order.

---

<sup>1</sup> see also MANNER V. MANNER 278 S.E. 377, 296 S.E. 2d. 533 (1982) this court reasoned "where a right of appeal is granted an accused must be afforded due process and equal protection under the laws," id. at 535.

4.  
CONCLUSION:

The s.c. Supreme Court's clerk of the court MR. DANIEL STARRON AND/OR employee(s) of the Supreme Court building has HI-JACKED the court by forging the Justice's electronic signature to the order of June 15, 2016 denying my CERTIORARI Petition. . . . R.P. 3. August 04, 2016 order denying my Rehearing Petition, denying my motion for an extension, temporary Restraining order, and Remittitur IBID. And other orders were forged after the August 17, 2016 as well.

"[I]t is the duty of the clerk of [The s.c. Supreme]. . . to accept for filing any paper presented to him." BURNS v. STATE OF OHIO 360 U.S. 252, 79 S.Ct. 1164 (1959), *id.* At 256 At 1168, see also DANIELS v. MOSSES 12 S.C. 130 (1879) WL 4939 (1879), *id.* At 133-35; TURNER v. SOUTHERN RY CO. 179 S.C. 38, 183 S.E. 579 (1936), *id.* At 580. the nexus extends to Georgia in which the Georgia Supreme Court

**LEGAL MAIL**

Reasoned:

"state court clerks have the legal duty 'to file pleadings, not to ascertain their legal effect' . . ." Alexander v. Gibson S.E.2d 2016 WL 6995374, id, At 7, AND NORTH CAROLINA, in which the NORTH CAROLINA Supreme Court Reasoned:

"the clerk of the court has only such jurisdiction as is given to him by statute." . . . See IN RE DUNN 239 N.C. 378, 99 S.E.2d 921 (1954) id, At 383 At 925.

Nothing in S.C. Code Ann. § 14-3-810, et seq, allows Mr. Shearouse's office to deviate from simply filing of legal documents, and the custodian of the documents of this court. This statute does not allow Mr. Shearouse to ask as an auxiliary to decide legal decisions on the merits.

South Carolina Attorney General ALAN M. WILSON, AND Senior Assistant Attorney General KAREN C. RATIGAN, AND others within this office, id, are directly connected to the BARBARIC AND UNETHICAL STRATEGY TO PROCEDURALLY BAR ME

**LEGAL MAIL**

From the JUSTICES of this court Reviewing AND Ruling on my P.C.R. CASE; in AN Attempt to push me into FEDERAL COURT AND MORE PROCEDURAL HURDLES UNDER the ANTI-TERRORISM AND EFFECTIVE DEATH PENALTY Act 28 U.S.C.A. §§ 2254, 2244, 1257, e.g.:

TODD V. WARDEN LIVESAY CORRECTIONAL INST.; U.S.D.C., D.S.C., ARK. DIV. (2015) WL 424573, *id.* at 7;

LAWSON V. WARDEN OF LEE CORRECTIONAL INST.; U.S.D.C., D.S.C., Not Reported in F.Supp.3d. 2015 WL 1422115 (2015), *id.* at 18; AND LATER ADOPTED BY THE DISTRICT COURT, *id.* at 1.

The supreme court of the United States does not have unethical clerk of court staff presumptively, or inadequate software because a petition for a writ of certiorari are assigned west law numbers, e.g.:

MULAN, JOSEPH V. UNITED STATES; 2016 WL 3091826; No. 15-9574; Oct 31, 2016;

PURCELL, BOBBY C. V. ARIZONA; 2016 WL 1381819; No. 15-8842; Oct 31, 2016

The Supreme Court of South Carolina, when cases are properly submitted to this court under Rule 215 S.C.A.C.R. SUBMISSION without ORAL ARGUMENT, also are assigned WESTLAW NUMBERS, e.g.:

MATRIX FINANCIAL SERVICES CORP. v. FRAZER, NOT REPORTED IN S.E. 2d. 2010 WL 3219472, see also 2011 WL 3452078;

STATE v. ROGERS NOT REPORTED IN S.E. 2d. 1999 WL 1114718.

Even the Judge assigned to hear, and presided over, my P.C.R. Evidentiary Hearing: Judge DANIEL D. HALL worked with the Attorney General's office to procedurally bar me post-P.C.R. Evidentiary HEARING (Feb 18, 2015 around 1:00 p.m.), R.p. 26, because the very next morning at 9:47 A.M., Judge Hall emailed Ms. RATIGAN to "DRAFT A proposed order." of dismissal, R.p. 26. BY EX-PARTE COMMUNICATION. ~~IBID.~~

The order of dismissal failed to address any of my specific issues presented to the court required under

The S.C.R.C.P. Act § 17-27-80; AND denied my Rule 52(b) S.C.R.C.P. ON OR AROUND Sept. 25, 2015 JUST DAYS PRIOR to the filing of my Rule 52(b) S.C.R.C.P. being denied. Ms. RATIGAN made JUDGE HALL RULE. R.p. 27. LETTER TO THE JUDGE.

This power grab by the Executive BRANCH (Sec. Atty. General's office) of the JUDICIAL BRANCH happened because MR. ALAN M. WILSON AND HIS CONFEDERATES HAVE bullied their way to procedurally barring me from properly arguing my case in the order that CASE-LAW, STATE, AND FEDERAL LAWS require & it must be done through threats, intimidation, AND/OR black-ball.

The attached docket entries from the Oconee County court of common pleas, shows the date, time, AND A DESCRIPTION of the document filed, AND the SAME when the court acted on the document(s) filed. R.p. 28-29 see also docket entries from the United States District Court for the Northern District of Georgia shows the SAME information regarding

Document Filings As the oconee county clerk's  
office. R.p.p. 30-35

I respectfully request the Docket entry Report<sup>2</sup>  
in this case that shows the same under the Appendix  
B, S.C.A.C. Appeals chart and under Rule 262 (A)(1)(2)(b)  
S.C.A.C.R.

This consistent pattern by MR. ALAN M. WILSON  
depriving me of due process, equal protection of the  
laws, access to the courts, and the complete take-  
over of the South Carolina Supreme Court has  
an nexus with the Democratic People's Republic of  
North Korea under the BRUTAL AUTHORITY OF ITS'  
DICTATORIAL LEADER: KIM JONG UN. R.p.p. 3638. HUMAN RIGHTS  
Report Practices for 2016, published by the Department of  
State of the United States, 5.

RELIEF-REQUESTED:

5-1. Based on the foregoing facts, attached orders,  
and legal authorities, I respectfully request the following

---

2. to be prepared and provided to me by the S.C. Appellate  
Defense AS this court ordered to provide me with  
other documents. R.p.p. 39-40.


Relief;

5-2. WHEREFORE; GRANT THIS RULE 266 SCACR SUBSEQUENT APPLICATION FOR RELIEF;

5-3. ORDER THE REMITTUR IN GEORGE CLEVELAND, III V. STATE OF SOUTH CAROLINA; APPELLATE CASE No. 2015-002251 RETURNED TO THIS COURT BY THE GREENVILLE COUNTY COMMON PLEAS DIVISION; THE HONORABLE PAUL B. WICKENSIMER; CLERK OF THE COURT; 305 EAST NORTH STREET, GREENVILLE, S.C. 29601-2121. R.P. 1. AUGUST 04, 2016 REMITTUR, UNDER WISE V. S.C. DEPT. OF CORR, 372 S.C. 173, 642 S.E. 2d 551 (2007).

5-4. ORDER. S.C. ATTORNEY GENERAL MR. ALAN M. WILSON, AND SENIOR ASSISTANT DEPUTY ATTORNEY GENERAL KAREN C. RATIGAN; P.O. BOX 11549; COLUMBIA, S.C. 29211 TO FILE ITS RETURN ON BEHALF OF THE STATE OF SOUTH CAROLINA UNDER RULE 243(g) S.C.A.C.R., OR AN MEMBER OF THE S.C. ATTORNEY GENERAL'S STAFF THAT PLEASES THIS COURT, TO BOTH FILED PETITION FOR A WRIT OF CERTIORARI (1st ON OR AROUND MARCH 21, 2016), AND (2nd ON OR AROUND APRIL 15, 2016), R.P. 6, PAGE 2 OF STATE'S MOTION TO STRIKE 2ND PETITION ADMISSION OF BOTH FILINGS.

5-5. ANY OTHER RELIEF THIS COURT DEEMS JUST, PROPER, AND/OR IMPARTIAL.

Respectfully Submitted,  
  
George Cleveland III #357170  
Tyger River Correctional Inst.  
14. 200 PRISON ROAD  
ENOREE, S.C. 29335

DATED: DECEMBER 14, 2016

PETITIONER'S PROOF OF SERVICE

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-23-01895

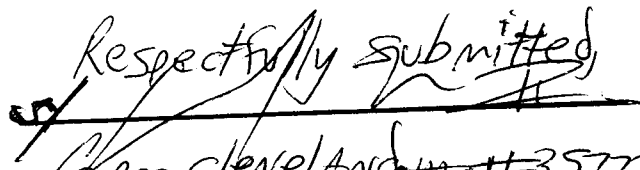
APPELLATE CASE NO. 2015-002251

GEORGE CLEVELAND III . . . . . PETITIONER  
S.C.D.C. No. 357770,

v.  
STATE OF SOUTH CAROLINA, . . . . . RESPONDENT.

I, George Cleveland, III, certify that on the date below, inserted in the Tiger River Correctional Institution's Black Mail Box outside the cafeteria, properly addressed envelopes with United States Postage paid served my Rule 266 SCACR filing, supporting Appendix, and proof-of-service, addressed as follows:

OFFICE OF THE ATTORNEY GENERAL  
KAREN C. RATIGAN, ESQUIRE  
P.O. BOX 11549  
COLUMBIA, S.C. 29211  
ATTORNEY FOR THE RESPONDENT

Respectfully submitted,  
  
George Cleveland III #357770  
Tiger River Correctional Inst.  
200 PRISON ROAD  
ENDREE, S.C. 29335

DATED: DECEMBER 14, 2016

PETITIONER'S APPENDIX IN SUPPORT  
OF RULE 266 APPLICATION

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-23-01895

APPELLATE CASE No. 2015-002251

GEORGE CLEVELAND ~~JUDGE~~ . . . . . PETITIONER  
S.C.D.C. No. 357770,

v.  
STATE OF SOUTH CAROLINA . . . . . RESPONDENT,

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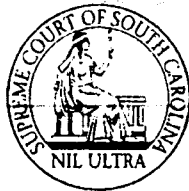
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# The Supreme Court of South Carolina

DANIEL E. SHEAROUSE  
CLERK OF COURT

BRENDA F. SHEALY  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330  
COLUMBIA, SOUTH CAROLINA  
29211  
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August 4, 2016

The Honorable Paul B. Wickensimer  
Courthouse  
305 E North St  
Greenville SC 29601-2121

## REMITTITUR

Re: George Cleveland III v. State  
Lower Court Case No. 2014CP2301895  
Appellate Case No. 2015-002251

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

*Daniel E. Shearouse*  
DS

CLERK

cc: Karen Christine Ratigan, Esquire  
George Cleveland, III, #357770  
SC Appellate Defense

DECEMBER 14, 2016.

The Supreme Court of South Carolina

RECEIVED

DANIEL E. SHEAROUSE; CLERK OF COURT

DEC 22 2016

POST OFFICE BOX 11330

S.C. SUPREME COURT

COLUMBIA, S.C. 29211

Re: Rule 266 S.C.A.C.R. APPLICATION in George Cleveland III v. STATE

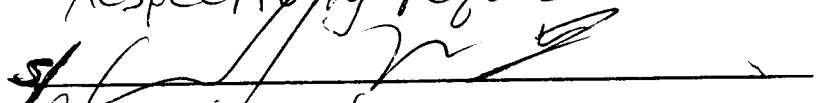
APPELLATE CASE No. 2015-002251, FILING; CORRELATED WITH  
APPELLATE CASE No. 2016-001033; GEORGE CLEVELAND, III v. S.C.D.C.

1. DEAR MR. SHEAROUSE,

CAN you please file the attached legal documents:

- 1-1. PETITIONER'S RULE 266 S.C.A.C.R. SUBSEQUENT APPLICATION FOR RELIEF - 18-PAGES
  - 1-2. PETITIONER'S APPENDIX IN SUPPORT OF RULE 266 S.C.A.C.R. APPLICATION 44-PAGES
  - 1-3. PROOF OF SERVICE
  - 1-4 AND THE SPECIFIC ORDER THAT CORRELATES TO THIS CASE DATED; NOVEMBER 04, 2016.
2. CAN you please also kindly stamp the extra copies, AND mail-back to me in the SAME?

Respectfully requested



George Cleveland III #357770  
TYLER RIVER CORRECTIONAL INST.  
200 PRISON ROAD  
ENOKEE, S.C. 29335

CC: FILE  
KAREN C. RITIGAN

1.  
RULE 266 S.C.A.C.R. SUBSEQUENT APPLICATION  
FOR RELIEF:

MAY ~~IT~~ PLEASE THE COURT; George Cleveland ~~III~~  
proceeding pro se, Respectfully files this Rule 266  
S.C.A.C.R. Subsequent APPLICATION FOR RELIEF TO  
RECALL the Remittitur sent on August 04, 2016  
(Appellate case No. 2015-002251) (Crip. 1) on the  
following grounds:

On November 04, 2016, the SOUTH CAROLINA COURT  
of APPEALS recalled the remittitur in: George Cleveland  
~~III~~ #357770 v. S.C.D.C (5); Appellate case No. 2016-001033  
because of errors by that court, AND SIMILAR CHARACTERS  
were used in this case:

The clerk of this court: MR. DANIEL E. STEAROUSE, AND/  
OR other employees within the building of the S.C.  
Supreme court exploited flaws in the court's software  
to fraudulently electronically signed the JUSTICE NAMES  
to my CERTIORARI Petition; Rehearing Petition, . . . App. 24.  
And several of the S.C. Appellate court rules BARRED  
this court from sending the Remittitur to the  
Greenville County Court of Common Pleas.

LEGAL MAIL

# The Supreme Court of South Carolina

George Cleveland, III, Petitioner,

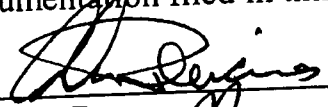
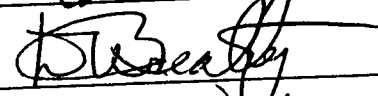
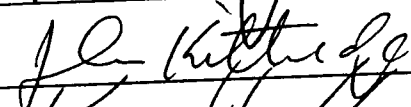

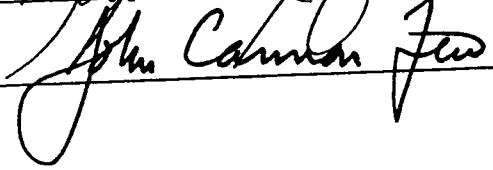
v.

State of South Carolina, Respondent.

Appellate Case No. 2015-002251

ORDER

Petitioner has filed a "Motion for Leave of Court to Order Payment/Printing for Clerk of Court Record," "Priority Motion for Injunctive Relief," and petition for a writ of certiorari. The motions are denied. The petition for a writ of certiorari is denied after careful consideration of all documentation filed in this matter.

	C.J.
	J.
	J.
	J.
	J.

Columbia, South Carolina

June 15, 2016

cc:  
Karen Christine Ratigan, Esquire  
George Cleveland, III  
SC Appellate Defense

# The Supreme Court of South Carolina

George Cleveland III, Petitioner,




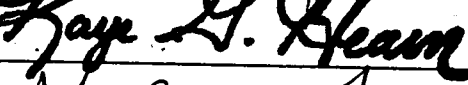
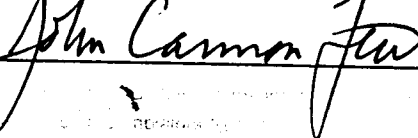
v.

State of South Carolina, Respondent.

Appellate Case No. 2015-002251

## ORDER

Petitioner has filed a motion for an extension of time to file a petition for rehearing. We deny the motion as unnecessary because the petition for rehearing was timely filed. 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.

	_____	C.J.
	_____	J.
	_____	J.
	_____	J.
	_____	J.

Columbia, South Carolina  
August 4, 2016

cc:  
Karen Christine Ratigan, Esquire  
George Cleveland, III, #357770  
SC Appellate Defense  
The Honorable Paul B. Wickensimer

# The Supreme Court of South Carolina

George Cleveland III, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2015-002251

Lower Court Case No. 2014CP2301895

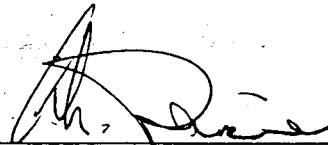
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## ORDER

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By order dated June 15, 2016, this Court denied the petition for a writ of certiorari in this post-conviction relief case. By order dated August 4, 2016, this Court denied a petition for rehearing, and the remittitur was properly sent to the circuit court that same day. Rule 221(b) of the South Carolina Appellate Court Rules ("If a petition for rehearing is received before the remittitur is sent, the remittitur shall not be sent pending disposition of the petition by the court.").

Petitioner has now filed a motion for an extension, a motion for a temporary restraining order, and a motion to recall the remittitur in this case. Since the remittitur has been properly sent in this case, appellate jurisdiction over this case has ended. Accordingly, the motion to recall the remittitur is denied, and the motion for an extension and the motion for a temporary restraining order are hereby stricken and dismissed. *Wise v. S.C. Dept. of Corr.*, 372 S.C. 173, 642 S.E.2d 551 (2007).



C.J.

FOR THE COURT

Columbia, South Carolina  
August 17, 2016

cc: Karen Christine Ratigan, Esquire  
George Cleveland, III, #357770  
SC Appellate Defense  
The Honorable Paul B. Wickensimer

STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

The Honorable Daniel D. Hall, Circuit Court Judge

Appellate Case No. 2015-002251

George Cleveland, III, ..... Petitioner,

v.

State of South Carolina, ..... Respondent.

**MOTION TO STRIKE**

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, counsel for Respondent moves for this Court to strike the second Petition for Writ of Certiorari and Appendix filed by Petitioner. In support of this motion, Respondent would present the following facts:

1. On November 5, 2013, Petitioner pled guilty to two counts of removing a vehicle identification number, two counts of possession of a stolen vehicle, and one count of obtaining goods under false pretenses. The Honorable Edward W. Miller sentenced Petitioner to an aggregate sentence of 10 years suspended upon the service of 6 years and 5 years probation. Petitioner did not appeal.

2. Petitioner filed an application for post-conviction relief on April 3, 2014. Petitioner proceeded pro se and a hearing was held on February 18, 2015. In an order filed April 7, 2015, the Honorable Daniel D. Hall denied and dismissed the application. Judge Hall denied Petitioner's Rule 52(b), SCRCF motion in an order filed September 25, 2015 and Rule 59(e), SCRCF motion in an order filed January 27, 2016.

3. Petitioner filed the Petition for Writ of Certiorari and Appendix in March 2016 (the Petition was dated March 21, 2016). Petitioner filed a second Petition for Writ of Certiorari and Appendix – raising different issues – in April 2016 (the Petition was dated April 15, 2016).

4. Though this Court issued an order on May 17, 2016 in which it allowed “the table of contents and authorities and the supplemental record [to] be considered with the petition for writ of certiorari and appendix already on file with this Court,” this Court has not granted Petitioner the right to file a second Petition for Writ of Certiorari (or an Appendix associated with that Petition). Accordingly, Respondent submits this second Petition and Appendix must be stricken and the appeal be allowed to proceed upon the Petition for Writ of Certiorari filed in March 2016.

WHEREFORE, counsel for Respondent requests this Court (1) strike the second Petition for Writ of Certiorari and Appendix filed by Petitioner in April 2016 and (2) hold time limits for the filing of the Return to Petition for Writ of Certiorari in abeyance until the motion is ruled upon.


pc-7

Respectfully submitted,

ALAN WILSON  
Attorney General

KAREN C. RATIGAN  
Senior Assistant Attorney General  
S.C. Bar # 68331

Post Office Box 11549  
Columbia, S.C. 29211  
(803) 734-3737

By:   
ATTORNEYS FOR RESPONDENT

May 25, 2016

# The Supreme Court of South Carolina

George Cleveland III, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2015-002251

---

## ORDER

---

The request for an extension to serve and file the Return to the State's Motion to Strike is granted and extended until June 15, 2016. Pursuant to the order of the Supreme Court of South Carolina dated March 18, 2009 ([www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2009-03-18-01](http://www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2009-03-18-01)), any further extension request must be based on a showing of good cause.

FOR THE COURT

BY *Brenda J. Shealy*  
*Chief Deputy* CLERK

Columbia, South Carolina

June 8, 2016

cc:

Karen Christine Ratigan, Esquire  
George Cleveland, III, #357770  
SC Appellate Defense



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11829  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://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. 10

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

Re: ERROR BY COURT OF APPEALS IN George Cleveland,  
## v. S.C.D.C. (5) Appellate case no. 2016-001033.

1. DEAR MR. Shearouse,

ON September 11, 2016, I mailed to the  
SOUTH CAROLINA COURT OF APPEALS my motion for  
AN extension to file petition for a writ of  
CERTIORARI 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 Vickie Allen  
Dated Sept. 19, 2016, see Attached Exhibit-2. she  
stated my motion was returned as it was filed  
in the wrong court. #BID.

3. The letter was mailed to the wrong address

**LEGAL MAIL**

page 1 of 4

Despite me informing that court (Court of Appeals of my change of mailing address in late 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 matter is filed shall issue an order transferring the case to the appropriate court.” Rule 204(A) SCAcr, 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) SCRCP.

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) SCRCP. Even though this motion has passed my motion

**LEGAL MAIL**

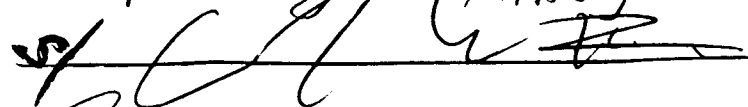
Motion for An extension was timely filed  
ON Sept 11, 2016 UNDER Rule 233 (A)(2) SC Ct  
"By depositing the document in the U.S. Mail,  
PROPERTY Addressed to the clerk. . . . The date  
of filing shall be the . . . . date of mailing  
"; Accordingly, this case is still active under  
the equitable tolling doctrine.

6. Finally, Sept 27-Oct. 04, 2016, the computers and  
internet were down at my assigned prison of  
Tyger 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 in 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. 2174  
U.S. ARIZ (1996), id., at 2178-80 (the supreme

**LEGAL MAIL**

COURT OF THE UNITED STATES REASONED PRISONERS  
ALLEGING AN DENIAL OF ACCESS TO THE COURTS MUST  
SUFFER ACTUAL INJURY; consequently, I have standing  
to request the 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 PAGE -- "

Respectfully submitted,  
  
George Cleveland, # 357770  
Tyger River Correctional Inst.  
200 PRISON ROAD  
ENOKEE, S.C. 29335

DATED: OCTOBER 05, 2016

**LEGAL MAIL**

PETITIONER'S MOTION FOR LEAVE  
OF COURT TO RECALL REMITTUR.

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. 2016-1033

GEORGE CLEVELAND, III

S.C.D.C. No. 35770,

v.

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

PETITIONER,

RESPONDENT

S.C.D.C.

OFFICE OF GENERAL COUNSEL  
c/o CHRISTINA CATOE BIGELOW, ESQUIRE  
P.O. BOX 21787  
COLUMBIA, S.C. 29221-1787  
ATTORNEY FOR THE RESPONDENT

GEORGE CLEVELAND, III  
TYGER RIVER CORRECTIONAL INST  
200 PRISON ROAD  
ENOREE, S.C. 29335  
PROSE PETITIONER,

1.

PETITIONER'S MOTION TO RECALL REMITTUR:

COMES NOW, George Cleveland, III, proceeding  
prose respectfully moves this court to Recall the  
REMITTUR sent to the Administrative Law Court  
ON September 19, 2016. R.p. 1. REMITTUR Sent. This  
Request is on the following grounds:

foreclosed by Rule 204 (A) S.C.A.C.R. And Rule  
82(b) S.C.R.C.P., and violation of my first (Access  
to the courts; Fourteenth (due process Liberty/  
Property Interest) Amendments under the constitution,  
of the United States.

2

RELEVANT-BACKGROUND:

ON September 11, 2016, I MAILED to the South  
CAROLINA COURT OF APPEALS my MOTION FOR AN Extension  
to file Petition for A WRIT OF CERTIORARI in the Above  
Case until Sept. 28, 2016. R.p. 2 At pAR. 2,  
Supporting Affidavit.

LEGAL MAIL ON September 28, 2016, I signed for and received

A letter from Deputy Clerk V. Claire Allen. R.p. 4. Letter dated Sept. 19, 2016. she stated, my motion ~~was~~ RETURNED, as it was filed in the WRONG COURT. IBID.

3. The letter was mailed to the wrong address despite me informing that court (Court of Appeals) of my change of mailing address in late July of 2016. R.p. 2 At PAR. 3 supporting Affidavit. 1.

6. The mailing date of this motion, was the earliest I could mail out because S.C.D.C.'s computer systems were down at my assigned prison from Sept. 27-Oct 04, 2016 which prevented me from looking up the relevant court rules on the computer in the prison's LAW LIBRARY briefly to conduct legal research, and the state of Emergency signed by Governor Haley on Oct 05, 2016 caused the entire prison to be locked-down with no movement outside of my assigned dock, R.p. 3 At PAR. 4, supporting Affidavit.

7. The letter reached my former assigned prison on Sept. 20, 2016; which took 8-days to reach me, R.p. 2 At PAR. 3! Supporting Affidavit, see also: R.p. 5-6 copy of envelope.

LEGAL MAIL

3.  
ARGUMENT(S)

p.17

RULE 204(A) SCACR FORECLOSED  
REMITTITUR BEING SENT:

DEPUTY CLERK ALLEN, SUPRT, AT PAR 2 FAILED  
to transfer this case to this court as required  
by Rule 204(A) SCACR.:

"IN the event that the [motion] is filed in the  
wrong appellate court, the appellate court in  
which the matter is filed shall issue an order  
transferring the case to the appropriate court."

Deputy clerk Allen was foreclosed under  
Rule 204(A) SCACR. From sending the Remittitur  
to the Administrative Law court instead, she was  
required to: "

"... issue AN order transferring  
the case to the appropriate court..." therefore,  
the Remittitur was sent in error and must  
be recalled, and required transfer to this court.

3-1  
MOTION FOR AN EXTENSION  
WAS TIMELY FILED FORECLOSING  
REMITTITUR FROM BEING SENT  
UNDER RULE 233(A)(2) SCACR:  
3.

TEC. MAIL

The Appellate court denied my petition for Rehearing, which was filed on August 11, 2016. R.p. 7, order denying Rehearing. Rule 242 SCAR required my petition for a writ of CERTIORARI to be filed on or before September 11, 2016. My motion for ~~extra~~ time to file my CERTIORARI petition on September 11, 2016 by mail:

“By depositing the documents in the U.S. mail properly addressed to the clerk... the date of filing shall be the ... date of mailing.” Rule 233(A) SCAR.

My motion was timely filed on September 11, 2016. R.p. 2, APPAR. 2, supporting Affidavit. As this was the date that I put the properly addressed envelope in the prison's mail-box this effectively foreclosed Deputy Clerk Allen from sending of the REMITTUR WAS ERROR. Under Rule 233(A) SCAR; consequently, my motion for an extension of time to file petition for a writ of CERTIORARI was timely filed, and the Remittur was sent by ERROR.

RULE 82(b) SCRCR FORECLOSED  
FROM  
REMITTITUR BEING SENT:

Deputy clerk Allen did not have the Authority to send the Remittitur to the Administrative Law Court by her own Admission in her September 19, 2016 letter:

"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. 4.

Rule 82(b) SCRCR Required Deputy Clerk Allen to not type-up a letter stating that: my... documents must be filed with the South Carolina Supreme Court." IBID.

Instead Rule 82(b) SCRCR Required her to transfer my case to the South Carolina Supreme Court:

"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. Ms. Allen failed to transfer this case to this court; accordingly Deputy clerk Allen was foreclosed under Rule 82(b) S.C.R.C.P. from sending the remittitur to the Administrative Law court, but instead she was required to transfer my case to this court.

3-3.  
FIRST AND FOURTEENTH AMENDMENT  
UNDER THE U.S. CONST. REQUIRES  
ADEQUATE ACCESS TO  
THE COURT;

The first and fourteenth Amendments under the United States Constitution required Deputy Clerk to provide me Adequate Access to the courts which under *Bounds v. Smith* 430 U.S. 819, 97 S.Ct. 1491 U.S., N.C. (1977); whereas, the Supreme Court of the United States to shoulder Affirmative obligations to assure all prisoners meaningful Access to the courts, *id.* at 824-825. I submit this "required Access to the courts" doctrine is to be applied

BROADLY to include the Appellate court clerk office transfer cases filed by inmates in the wrong court to the correct court to preserve the status quo, i.e., preserve the time filed in <sup>the</sup> wrong court because access to the courts does not stop at the feet of prison officials, but at the feet of the clerk's office, which in this case is with the south CAROLINA COURT OF APPEALS, only then will the inmate's filing be properly before the court for judicial review.

since ~~DEATH~~ clerk ALLEN of the south CAROLINA COURT OF APPEALS did not transfer my case to the supreme court of south CAROLINA which caused ~~the~~ Remittitur to be erroneously sent to the Administrative Law court which started the enforcement of the judgment, in violation of my first (Access to the courts) and Fourteenth (due process / liberty / property interest) Amendments under the constitution of the United States. ACTUAL INJURY is required under Lewis

v. Casey 518 U.S. 343, 116 S.Ct. 2174 U.S. ARIZ 1996, id. At 2178-81 which I have argued, id. therefore, Deputy Clerk Allen denied me Adequate Access to this court.

4.  
LEGAL-STANDARD:

The legal principle enumerated under *Wise v. S.C.D.C.* 372 S.C. 173, 642 S.E. 2d. 551, S.C. (2007) which requires "The Remittitur ... [to be recalled if it is] sent down by mistake, error or inadvertence of the court," id. At 551.

I submit to this court, Deputy Clerk V. CLaire Allen of the South Carolina Court of Appeals sent the Remittitur on Sept. 19, 2016 to the Administrative Court of South Carolina by mistake, error, and inadvertence because - Rule 20(A) SCACR and Rule 82(b) SCRCR precluded Deputy Clerk Allen to transfer my case to this court, and precluded Ms. Allen from sending the Remittitur to the Lower Court, id. therefore, this court must order the.

COURT OF APPEALS TO RECALL THE REMITTUR FROM THE ADMINISTRATIVE LAW COURT

5.

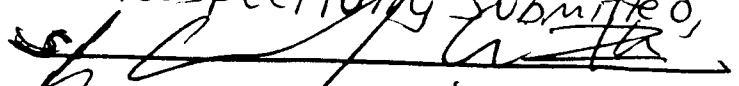
CONCLUSION:

Based on the foregoing facts, I respectfully request the following relief;

- 5-1. GRANT MY MOTION TO RECALL REMITTUR;
- 5-2. ORDER THE SOUTH CAROLINA COURT OF APPEALS; P.O. BOX 11629 COLUMBIA, S.C. 29211 TO ORDER THE ADMINISTRATIVE LAW COURT OF SOUTH CAROLINA; 1205 PERDUE STREET; COLUMBIA, S.C. 29201 TO SEND TO THE REMITTUR IN CASE NO. 2016ALJ040030 AP TO THE COURT OF APPEALS IN APPELLATE CASE NO. 2016-001033;
- 5-3. SET THE DEADLINE TO FILE A WRIT OF CERTIORARI PETITION IN THIS COURT FOR THIS INSTANT CASE FIFTEEN (5) DAYS AFTER THE FILING OF THIS COURT'S ORDER IN THIS CASE;
- 5-4. ANY OTHER RELIEF THIS COURT DEEMS JUST, PROPER, AND/OR IMPARTIAL.

DATED: OCTOBER 10, 2016

LEGAL MAIL

Respectfully submitted,  
  
 George Cleveland, III, #357770  
 Tyger River Correctional Inst  
 200 PRISON ROAD  
 9, ENOREE, S.C. 29335

# 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

cc:  
George Cleveland #357770  
Christina Catoe Bigelow, Esquire

**FILED**

November 4, 2016

STATE OF SOUTH CAROLINA  
**Administrative Law Court**

p. 25

**Ralph K. Anderson, III**  
*Chief Judge*

**Jana E. Cox Shealy**  
*Clerk*



PHONE: (803) 734-0550  
FAX: (803) 734-6400  
WEB: WWW.SCALC.NET

November 10, 2016

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

Re: George Cleveland #357770 v. SCDOC  
ALC Docket No. 16-ALJ-04-0030-AP  
Appellate Case No. 2016-001033

Dear Clerk Kitchings:

Pursuant to the Court's Order filed November 4, 2016, I am hereby returning the Remittitur in the above-captioned matter.

Please let me know if you have any questions.

With warm personal regards, I am,

Sincerely,

*Jana E. Shealy*  
Jana E. Shealy  
Clerk

Enclosure

cc: Christina Catoe Bigelow, Esquire  
George Cleveland, #357770

page

---

**From:** Hall, Daniel D. Law Clerk (James Duncan) <dhalllc@sccourts.org>  
**Sent:** Thursday, February 19, 2015 9:47 AM  
**To:** Karen Ratigan; susannah@rossenderlin.com  
**Subject:** George Cleveland, III v. South Carolina (No. 2014-CP-23-1895)

Karen,

Judge Hall is denying Mr. Cleveland's application for post-conviction relief, so will you please draft a proposed Order for Judge Hall's approval.

Please let me know if you have any questions or concerns. Thank you.

Respectfully,

**James David Duncan**  
Law Clerk to the Honorable Daniel D. Hall  
Residing Judge for the 16<sup>th</sup> Judicial Circuit  
Moss Justice Center  
1675-1J York Highway  
York, SC 29745  
(o) 803.628.3048  
(f) 803.628.3139

~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.



P. 27

ALAN WILSON  
ATTORNEY GENERAL

September 14, 2015

The Honorable Daniel D. Hall  
Moss Justice Center  
1675-1J York Highway  
York, SC 29745

RE: George Cleveland, III v. State  
2014-CP-23-1895

Dear Judge Hall,

You may recall that you presided over a term of post-conviction relief court in the Thirteenth Circuit the week of February 16-20, 2015. The above-captioned case was heard during that week and you denied relief. The order of dismissal was filed on April 7, 2015. Mr. Cleveland filed a subsequent "Plaintiff's Rule 52(b) Motion to the Court's Order of Dismissal of (P.C.R.)" on May 1, 2015 and I filed a return on May 15, 2015. As of this date, I believe this motion is still pending. Please let me know if you need anything (such as the application, order, motion, etc.) that would be of any assistance.

Sincerely,

Karen C. Ratigan  
Senior Assistant Deputy Attorney General

cc: George Cleveland, III, #357770

p.28

Common Pleas

CASE HISTORY FOR CASE 2014CP3700718

George Cleveland III VS South Carolina-State of

FILED DATE: 12/2/2014

CASE TYPE: CP/Post Convict Rel 500

STATUS: PCR

ASSIGNED JUDGE: Clerk Of Court C P, G S, And Family Court

CASE PARTIES:

Plaintiff Cleveland, George III

Turbeville Correctional Institution, P O Box 252, Turbeville, SC 29162

Defendant South Carolina-State of

Defendant Attorney Whitmire, John Walter

407 1/2 W. Main Street, Lexington, SC 290722643

Plaintiff Attorney Welborn, Hugh Wingo

PO Box 173, Anderson, SC 29622

Defendant Attorney Schmeckpeper, Patrick Lowell

PO Box 11549, Columbia, SC 29211

Plaintiff Pro Se Cleveland, George III

Turbeville Correctional Institution, P O Box 252, Turbeville, SC 29162

CASE HISTORY FOR CASE 2014CP3700718

Cleveland, George III  
Turbeville Correctional Institution  
P O Box 252  
Turbeville, SC 29162

Age: Unknown  
DL#:

DOB: Unknown  
SSN: 000-00-0000

| COST                                                                                         | ORIGINAL | BALANCE DUE | DISBURSED | PAY PRIORITY |
|----------------------------------------------------------------------------------------------|----------|-------------|-----------|--------------|
| Action: Notice of Motion & Motion to be Relieved As Attorney<br>Motion/Order Filing Fee \$25 | \$0.00   | \$0.00      | \$0.00    | 999          |
| Total:                                                                                       | \$0.00   | \$0.00      | \$0.00    |              |

| DATE      | TIME    | EVENT DESCRIPTION                                       |
|-----------|---------|---------------------------------------------------------|
| 12/2/2014 | 4:40 PM | Filing recorded: Post Conviction Relief                 |
| 12/2/2014 | 4:40 PM | Filing recorded: Verification/Verified                  |
| 12/2/2014 | 4:40 PM | Filing recorded: Application to Proceed without Payment |

Print Date: 05/25/2016  
Print Time: 9:24:18AM  
Requested By: C37THIGH

pr29

**CASE HISTORY FOR CASE 2014CP3700718**

|            |          |                                                                               |
|------------|----------|-------------------------------------------------------------------------------|
| 1/20/2015  | 2:15 PM  | Order/Appointment of Counsel PCR                                              |
| 2/4/2015   | 11:36 AM | Filing recorded: Service/Affidavit Of Mailing                                 |
| 10/19/2015 | 9:31 AM  | Filing recorded: PCR Hearing 11/13/15 @ 9:30a                                 |
| 11/9/2015  | 9:56 AM  | Order/Continuance from 11/09/15 Term                                          |
| 1/11/2016  | 4:28 PM  | Filing recorded: PCR Hearing 02/10/16 @ 9:30a Anderson Co Courthouse          |
| 1/14/2016  | 2:59 PM  | Notice of Motion & Motion to be Relieved As Attorney                          |
| 1/27/2016  | 11:16 AM | Filing recorded: Service/Affidavit Of Mailing x 2                             |
| 2/2/2016   | 9:19 AM  | Filing recorded: Motion & Affidavit to Proceed In Forma Pauperis              |
| 2/2/2016   | 9:19 AM  | Filing recorded: Applicant's Motion to Proceed Pro Se                         |
| 2/2/2016   | 9:19 AM  | Filing recorded: Applicant's Affidavit in Support of Motion to Proceed Pro Se |
| 3/14/2016  | 4:21 PM  | Order Relieving Counsel & Granting Motion to Proceed Pro Se                   |



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0months,JCF,SLC1,SUBMDJ

**U.S. District Court  
Northern District of Georgia (Gainesville)  
CIVIL DOCKET FOR CASE #: 2:15-cv-00168-WCO-JCF**

Cleveland v. Clayton GA Police Department et al  
Assigned to: Judge William C. O'Kelley  
Referred to: Magistrate Judge J. Clay Fuller  
Case in other court: South Carolina, 6:14-cv-04497  
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 07/13/2015  
Jury Demand: None  
Nature of Suit: 550 Prisoner: Civil Rights  
Jurisdiction: Federal Question

**Plaintiff**

**George Cleveland, III**

represented by **George Cleveland, III**  
#357770  
Turbeville Correctional Institution  
P. O. Box 252  
Turbeville, SC 29162  
PRO SE

V.

**Defendant**

**Clayton GA Police Department**

**Defendant**

**Chief Lindsey Owens**  
*individually and in her official capacity*

**Defendant**

**Asst Chief Andy Strait**  
*individually and in his official capacity*

**Defendant**

**Tony Taylor**  
*individually and in his official capacity*

**Defendant**

**Tim Brown**  
*individually and in his official capacity*

**Defendant**

**Unknown Name of Jail Transport Officer**

| Date Filed | # | Docket Text |
|------------|---|-------------|
|            |   |             |

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|            |           |                                                                                                                                                                                                                                                                                                                                                                                              |
|------------|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 11/25/2014 | <u>1</u>  | COMPLAINT against Tim Brown, Clayton GA Police Department, Lindsey Owens, Andy Strait, Tony Taylor, Unknown Name of Jail Transport Officer, filed by George Cleveland, III. Service due by 3/30/2015 (Attachments: # <u>1</u> Envelope)(dsto, ) [Transferred from South Carolina on 7/13/2015.] (Entered: 12/02/2014)                                                                        |
| 11/25/2014 | <u>2</u>  | MOTION for Leave to Proceed in forma pauperis (Restricted Access) by George Cleveland, III. Response to Motion due by 12/12/2014. (Attachments: # <u>1</u> Financial Certificate, # <u>2</u> Envelope)No proposed order.Motions referred to Thomas E Rogers, III.(dsto, ) [Transferred from South Carolina on 7/13/2015.] (Entered: 12/02/2014)                                              |
| 12/02/2014 | 4         | TRUE DIVISION FOR TRIAL: Greenville. (dsto, ) [Transferred from South Carolina on 7/13/2015.] (Entered: 12/02/2014)                                                                                                                                                                                                                                                                          |
| 01/06/2015 | <u>6</u>  | Letter from George Cleveland, III. (Attachments: # <u>1</u> Envelope)(dsto, ) [Transferred from South Carolina on 7/13/2015.] (Entered: 01/06/2015)                                                                                                                                                                                                                                          |
| 02/26/2015 | <u>7</u>  | <b>REPORT AND RECOMMENDATION recommending that this case be transferred in the interests of justice to the United States District Court for the Northern District of Georgia for further handling. Objections to R&amp;R due by 3/16/2015. Signed by Magistrate Judge Thomas E Rogers, III on 02/26/2015. (dsto, ) [Transferred from South Carolina on 7/13/2015.] (Entered: 02/26/2015)</b> |
| 02/26/2015 | 8         | ***DOCUMENT MAILED: <u>7</u> REPORT AND RECOMMENDATION w/NEF placed in U.S. Mail to George Cleveland, III, #357770, ECI, 610 Hwy 9 West, Bennettsville, SC 29512 (dsto, ) [Transferred from South Carolina on 7/13/2015.] (Entered: 02/26/2015)                                                                                                                                              |
| 03/16/2015 | <u>9</u>  | MOTION for Extension of Time to File Objections to <u>7</u> REPORT AND RECOMMENDATION by George Cleveland, III. Response to Motion due by 4/2/2015. (Attachments: # <u>1</u> Declaration of Plaintiff, # <u>2</u> Envelope) No proposed order.(dsto, ) [Transferred from South Carolina on 7/13/2015.] (Entered: 03/16/2015)                                                                 |
| 03/17/2015 | 10        | <b>TEXT ORDER granting <u>9</u> Motion for Extension of Time to File objections to <u>7</u> REPORT AND RECOMMENDATION; objections are due March 20, 2015. Signed by Honorable R Bryan Harwell on 3/17/2015.(tmcb, ) [Transferred from South Carolina on 7/13/2015.] (Entered: 03/17/2015)</b>                                                                                                |
| 03/23/2015 | <u>11</u> | OBJECTION to <u>7</u> Report and Recommendation by George Cleveland, III.Reply to Objections due by 4/9/2015 (Attachments: # <u>1</u> Supporting Documents, # <u>2</u> Declaration of Plaintiff, # <u>3</u> Envelope)(dsto, ) [Transferred from South Carolina on 7/13/2015.] (Entered: 03/23/2015)                                                                                          |
| 07/10/2015 | <u>15</u> | <b>ORDER RULING ON REPORT AND RECOMMENDATION: The Report and Recommendation <u>7</u> of the Magistrate Judge IS ADOPTED. This case is TRANSFERRED from the United States District Court for the District of South Carolina to the United States District Court for the Northern District of Georgia for further proceedings. IT IS SO ORDERED. Signed by Honorable R Bryan</b>               |

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|            |           | <b>Harwell on 7/10/2015. (mcot, )</b> [Transferred from South Carolina on 7/13/2015.] (Entered: 07/10/2015)                                                                                                                                                                                                                                                                                                                                                                                                          |
| 07/10/2015 | <u>16</u> | ***DOCUMENT MAILED: <u>15</u> Order Ruling on Report and Recommendation w/NEF placed in U.S. Mail to George Cleveland, III, #357770, Evans Correctional Institution, 610 Hwy 9 West, Bennettsville, SC 29512. (mcot, ) [Transferred from South Carolina on 7/13/2015.] (Entered: 07/10/2015)                                                                                                                                                                                                                         |
| 07/13/2015 | <u>18</u> | Case transferred in from District of South Carolina; Case Number 6:14-cv-04497. Original file certified copy of transfer order and docket sheet received. (Entered: 07/13/2015)                                                                                                                                                                                                                                                                                                                                      |
| 07/13/2015 |           | Submission of <u>2</u> Motion to proceed in forma pauperis, submitted to Magistrate Judge Russell G. Vineyard. (aar) (Entered: 07/13/2015)                                                                                                                                                                                                                                                                                                                                                                           |
| 07/14/2015 |           | Submission of <u>1</u> Complaint and <u>15</u> Transfer Order from Other Court for review, submitted to District Judge Orinda D. Evans. (fap) (Entered: 07/14/2015)                                                                                                                                                                                                                                                                                                                                                  |
| 07/17/2015 | <u>19</u> | ORDER REASSIGNING CASE. Case reassigned to Judge Mark H. Cohen for all further proceedings. Judge Orinda D. Evans no longer assigned to case. NOTICE TO ALL COUNSEL OF RECORD: The Judge designation in the civil action number assigned to this case has been changed to 1:15-cv-2480-ODE-RGV. Please make note of this change in order to facilitate the docketing of pleadings in this case. Signed by Judge Orinda D. Evans on 07/17/15. (fap) (Entered: 07/17/2015)                                             |
| 07/17/2015 | <u>20</u> | NOTICE TO ALL COUNSEL OF RECORD re <u>19</u> Order Reassigning Case (fap) (Entered: 07/17/2015)                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 07/17/2015 |           | Clerks Certificate of Mailing as to George Cleveland, III re <u>19</u> Order Reassigning Case <u>20</u> Notice (fap) (Entered: 07/17/2015)                                                                                                                                                                                                                                                                                                                                                                           |
| 07/17/2015 |           | Submission of <u>2</u> Application to proceed in forma pauperis, submitted to Magistrate Judge Russell G. Vineyard. (aar) (Entered: 07/17/2015)                                                                                                                                                                                                                                                                                                                                                                      |
| 07/20/2015 | <u>21</u> | ORDER that this case is TRANSFERRED to the Gainesville Division of the United States District Court for the Northern District of Georgia for further proceedings. If there are no objections filed within FOURTEEN (14) DAYS of the entry of this Order, the Clerk is DIRECTED to TRANSFER this file to the Gainesville Division. Should objections be filed, the Clerk should await a further Order from the District Court. Signed by Magistrate Judge Russell G. Vineyard on 7/20/15. (jpa) (Entered: 07/20/2015) |
| 07/20/2015 |           | Clerks Certificate of Mailing as to George Cleveland, III re <u>21</u> Order (jpa) (Entered: 07/20/2015)                                                                                                                                                                                                                                                                                                                                                                                                             |
| 08/10/2015 |           | Case transferred in from Atlanta Division. Case Number 1:15-cv-2480. Case assigned to Judge William C. O'Kelley and Magistrate Judge J. Clay Fuller. (jpa) (Entered: 08/10/2015)                                                                                                                                                                                                                                                                                                                                     |
| 08/10/2015 | <u>22</u> | Letter regarding divisional transfer. (jpa) (Entered: 08/10/2015)                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

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| 08/10/2015 |           | Clerks Certificate of Mailing as to George Cleveland, III re <u>22</u> Letter (jpa) (Entered: 08/10/2015)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 08/11/2015 | <u>23</u> | ORDER GRANTING In Forma Pauperis, allowing Plaintiff to proceed IFP, however, Plaintiff is obligated to pay \$350.00 as funds are deposited into Inmate account. The Warden or the designee shall collect the monthly payments and remit to Clerk until \$350.00 is paid in full. Service of Process shall not issue until further consideration of Plaintiff's complaint for frivolity. Signed by Magistrate Judge J. Clay Fuller on 08/11/15. (sk) (Entered: 08/11/2015)                                                                                                                                                                                            |
| 08/11/2015 |           | Clerks Certificate of Mailing as to George Cleveland, III re <u>23</u> Order. (sk) (Entered: 08/11/2015)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 08/11/2015 |           | Clerks Certificate of Mailing as to Warden of Evans Correctional Institute re <u>23</u> Order. (sk) (Entered: 08/11/2015)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 09/02/2015 | <u>24</u> | Mail Returned as Undeliverable marked "RTS No Longer at this Address." Mail sent to George Cleveland III re <u>23</u> Order. (sk) (Entered: 09/02/2015)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 09/08/2015 | <u>25</u> | ORDER to submit an amended complaint within 28 days to remedy the deficiencies noted above. Should Plaintiff fail to do so, his complaint will be subject to dismissal for failure to state a claim on which relief may be granted. See 28 U.S.C. § 1915A. The Clerk is DIRECTED to change the address of record for Plaintiff, to mail a copy of this Order and of the <u>23</u> IFP Order to Plaintiff at that address, and to resubmit this matter to the Magistrate Judge upon the receipt of Plaintiffs amended complaint or at the expiration of the 28-day period noted above. Signed by Magistrate Judge J. Clay Fuller on 9/8/15.(rsg) (Entered: 09/08/2015) |
| 09/08/2015 |           | Clerks Certificate of Mailing as to George Cleveland, III re <u>25</u> Order and <u>23</u> Order ruling on IFP.(rsg) (Entered: 09/08/2015)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 10/07/2015 |           | Submission of <u>25</u> Order, submitted to Magistrate Judge J. Clay Fuller. (sk) (Entered: 10/07/2015)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 10/19/2015 | <u>26</u> | MOTION for Extension of Time to file an Amended Complaint with Brief In Support by George Cleveland, III. (Attachments: # <u>1</u> Brief)(rsg) (Entered: 10/19/2015)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 10/20/2015 |           | (Minute entry) ORDER granting <u>26</u> Motion for Extension of Time through 10/30/2015 for Plaintiff to comply with the <u>25</u> Order by submitting an amended complaint. Signed by Magistrate Judge J. Clay Fuller on 10/20/2015. (clk) (Entered: 10/20/2015)                                                                                                                                                                                                                                                                                                                                                                                                     |
| 10/20/2015 |           | Clerks Certificate of Mailing as to George Cleveland, III re Minute entry Order on Motion for Extension of Time. (clk) (Entered: 10/20/2015)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 11/02/2015 |           | Submission of <u>25</u> Order, submitted to Magistrate Judge J. Clay Fuller. (sk) (Entered: 11/02/2015)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 11/06/2015 | <u>27</u> | MOTION for Extension of Time to file an Amended Complaint with Brief In Support by George Cleveland, III. (Attachments: # <u>1</u> Brief in Support                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

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|            |                         | of)(rsg) (Entered: 11/06/2015)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 11/09/2015 |                         | (Minute entry) ORDER granting <u>27</u> Motion for Extension of Time through & including 11/12/2015 for Plaintiff to comply with the <u>25</u> Order by amending his Complaint. Signed by Magistrate Judge J. Clay Fuller on 11/9/2015. (clk) (Entered: 11/09/2015)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 11/09/2015 |                         | Clerks Certificate of Mailing as to George Cleveland, III re Minute entry Order on Motion for Extension of Time. (clk) (Entered: 11/09/2015)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 11/16/2015 |                         | Submission of <u>25</u> Order, submitted to Magistrate Judge J. Clay Fuller. (sk) (Entered: 11/16/2015)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 11/16/2015 | <u>28</u>               | AMENDED COMPLAINT against Clayton GA Police Department, Lindsey Owens, Andy Strait, Tony Taylor, Tim Brown, Unknown Name of Jail Transport Officer, filed by George Cleveland, III.(rsg) Please visit our website at <a href="http://www.gand.uscourts.gov/commonly-used-forms">http://www.gand.uscourts.gov/commonly-used-forms</a> to obtain Pretrial Instructions which includes the Consent To Proceed Before U.S. Magistrate form. (Entered: 11/16/2015)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 11/16/2015 |                         | Submission of <u>28</u> Amended Complaint, to Magistrate Judge J. Clay Fuller. (rsg) (Entered: 11/16/2015)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 11/23/2015 | <del>-1</del> <u>29</u> | MOTION for Leave to File Amended Complaint with Brief In Support by George Cleveland, III. (Attachments: # <u>1</u> Brief, # <u>2</u> Proposed Amended Complaint)(rsg) (Entered: 11/23/2015)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 12/11/2015 |                         | Submission of <u>29</u> MOTION for Leave to File Amended Complaint, submitted to Magistrate Judge J. Clay Fuller. (sk) (Entered: 12/11/2015)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 12/14/2015 | <del>-1</del> <u>30</u> | REPORT AND RECOMMENDATION re <u>1</u> Complaint, filed by George Cleveland, III, <u>29</u> MOTION for Leave to File Amended Complaint filed by George Cleveland, III, <u>28</u> Amended Complaint, filed by George Cleveland, III. IT IS RECOMMENDED that only Plaintiffs malicious prosecution claim be ALLOWED TO PROCEED, against Defendants Owens, Strait, Taylor and Brown; that Plaintiffs remaining claims against the Clayton County Police Department and the unknown Rabun County transport officer be DISMISSED from this action; and that Plaintiffs motion to amend his complaint (Doc. 29) be DENIED. The Clerk is DIRECTED to calculate the total cost of printing and mailing the rules and other documents Plaintiff has requested (see Doc. 29 at 4-8) and to send Plaintiff a bill for those services, which Plaintiff must pay before the documents will be prepared and sent to him. If the District Judge allows any of Plaintiffs claims to proceed, the Clerk is DIRECTED to resubmit this matter to the Magistrate Judge for further proceedings. Signed by Magistrate Judge J. Clay Fuller on 12/14/15. (sk) (Entered: 12/14/2015) |
| 12/14/2015 | <u>31</u>               | ORDER for Service of <u>30</u> Report and Recommendation, by Magistrate Judge J. Clay Fuller. Each party may file written objections to the Report & Recommendation within 14 days of service. If no objections are filed, the Report & Recommendation may be adopted as the opinion and order of the District Court. Signed by Magistrate Judge J. Clay Fuller on                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

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|            |           | 12/14/15. (sk) (Entered: 12/14/2015)                                                                                                                                                                                                                                                                                                   |
| 12/14/2015 |           | Clerks Certificate of Mailing as to George Cleveland, III re <u>31</u> Order for Service of Report and Recommendation, <u>30</u> REPORT AND RECOMMENDATION. (sk) (Entered: 12/14/2015)                                                                                                                                                 |
| 01/04/2016 |           | Submission of <u>30</u> REPORT AND RECOMMENDATION re <u>1</u> Complaint, filed by George Cleveland, III, <u>29</u> MOTION for Leave to File Amended Complaint filed by George Cleveland, III, <u>28</u> Amended Complaint, filed by George Cleveland, III, submitted to District Judge William C. O'Kelley. (sk) (Entered: 01/04/2016) |
| 01/06/2016 | <u>32</u> | MOTION for Extension of Time to File Objection to <u>30</u> REPORT AND RECOMMENDATION by George Cleveland, III. (rsg) (Entered: 01/06/2016)                                                                                                                                                                                            |
| 01/06/2016 | <u>33</u> | OBJECTIONS to <u>30</u> Report and Recommendation filed by George Cleveland, III. (rsg) (Entered: 01/06/2016)                                                                                                                                                                                                                          |
| 01/07/2016 |           | DOCKET ORDER granting <u>32</u> Plaintiff's Motion for Extension of Time to file his Objections to the Magistrate's Report and Recommendation until 1/6/2016, and further allowing the Objections to be filed as of 1/6/2016. Entered by Judge William C. O'Kelley on 01/07/2016. (dww) (Entered: 01/07/2016)                          |

**Administration:** The law allows prisoners and detainees to request investigation of alleged deficiencies in prison conditions, and judges and prosecutors made monthly visits to prisons to hear prisoner complaints.

**Independent Monitoring:** According to the government, no independent human rights observers requested or made any visit to the Macau Prison. Judges and prosecutors visited the prison at least monthly.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. Activists expressed concern that the legal system was being abused to target political dissidents through exaggerated or misapplied charges.

##### **Role of the Police and Security Apparatus**

Civilian authorities maintained effective control over the Public Security Police (general law enforcement) and the Judiciary Police (criminal investigations), both of which report to the Secretariat for Security, and the government had effective mechanisms to investigate and punish official abuse and corruption. There were no reports of impunity involving the security forces.

##### **Arrest Procedures and Treatment of Detainees**

Authorities detained persons openly with warrants issued by a duly authorized official based on sufficient evidence. Detainees had access to a lawyer of their choice or, if indigent, to one provided by the government. Detainees had prompt access to family members. Police must present persons in custody to an examining judge within 48 hours of detention. The examining judge, who conducts a pretrial inquiry in criminal cases, has wide powers to collect evidence, order or dismiss indictments, and determine whether to release detained persons. According to the government, courts should try defendants within the "shortest period of time." Investigations by the prosecuting attorney should end with charges or dismissal within eight months, or six months when the defendant is in detention. The pretrial inquiry stage must be concluded within four months, or two months if the defendant is detained. By law the maximum time limit for pretrial detention ranges from six months to three years depending on the charges and progress of the judicial process. Judges often refused bail in cases where sentences could exceed three years.

There were 15 complaints of police mistreatment reported to the authorities in the latter half of 2014 and the first half of 2015. Twelve cases were found to be unsubstantiated after investigation and one case was withdrawn. Of the remaining two cases, one was substantiated by investigation and one remained pending. There was one reported death in police custody due to suicide.

#### **e. Denial of Fair Public Trial**

The law provides for an independent judiciary, and the government generally respected judicial independence.

The courts may rule on matters that are the responsibility of the PRC government or concern the relationship between central authorities and the SAR, but before making their final judgment, which is not subject to appeal, the courts must seek an interpretation of the relevant provisions of the Basic Law from the National People's Congress (NPC) Standing Committee. The courts, in applying those provisions, "shall follow the interpretation of the standing committee."

##### **Trial Procedures**

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. A case may be presided over by one judge or a group of judges, depending on the type of crime and the maximum penalty involved.

Under the law defendants enjoy a presumption of innocence, have access to government-held evidence relevant to their cases, and have a right to appeal. The law provides that trials be public, except when the court rules otherwise to "safeguard the dignity of persons (or) public morality, or to ensure the normal functioning of the court." Defendants have the right to be informed promptly and in detail of charges (with free interpretation), be present at their trials, confront witnesses, have adequate time to prepare a defense, not be compelled to testify or confess-guilt, and consult with an attorney in a timely manner. The law extends these rights to all residents.

The judiciary provided citizens with a fair and efficient judicial process. A lack of administrative capacity delayed the adjudication of both civil and criminal cases during the year.

##### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

##### **Civil Judicial Procedures and Remedies**

There is an independent and impartial judiciary for civil matters, and citizens may seek damages for, or cessation of, a human rights violation. Due to an overloaded court system, a period of up to a year often passed between the filing of a civil case and its scheduled hearing.

## **Korea, Democratic People's Republic of**

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The penal code prohibits torture or inhuman treatment, but many sources reported these practices continued. Numerous defector accounts and NGO reports released during the year described the use of torture by authorities in detention facilities. Methods of torture and other abuse reportedly included severe beatings; electric shock; prolonged periods of exposure to the elements; humiliations such as public nakedness; confinement for up to several

weeks in small "punishment cells" in which prisoners were unable to stand upright or lie down; being forced to kneel or sit immobilized for long periods; and being hung by the wrists or forced to stand up and sit down to the point of collapse. Mothers were in some cases reportedly forced to watch the infanticide of their newborn infants. Defectors continued to report many prisoners died from torture, disease, starvation, exposure to the elements, or a combination of these causes.

The 2015 *White Paper on Human Rights in North Korea*, published by the Korea Institute for National Unification (KINU), a South Korean government-affiliated think tank, and the 2014 UN Commission of Inquiry (COI) report stated that officials had in some cases reportedly forced live births in prison and ordered forced abortions as recently as 2013. The KINU white paper found that, in some cases of live birth, the prison guards killed the infant or left the baby to die, and reported cases of guards sexually abusing or exploiting female prisoners.

Detainees in re-education through labor camps reported they were forced to perform difficult physical labor under harsh conditions (see section 7.b.).

### Prison and Detention Center Conditions

NGO, refugee, and press reports noted there were several types of prisons, detention centers, and camps, including forced labor camps and separate camps for political prisoners. NGO reports documented six types of detention facilities: kwanliso (political penal-labor camps), kyohwaso (correctional or re-education centers), kyoyangso (labor-reform centers), jipkyulso (collection centers for low-level criminals), rodong danryeondae (labor-training centers), and kuryujang or kamok (interrogation facilities or jails). According to the 2015 KINU white paper, the Ministry of State Security administered kwanliso camps, and either it or the Ministry of People's Security administered the other detention centers.

There were reportedly between 5,000 and 50,000 prisoners per kwanliso. Defectors claimed the kwanliso camps contained unmarked graves, barracks, worksites, and other prison facilities. NGOs reported the existence of five kwanliso facilities, including Kaecheon (Camp 14), Hwasung (Camp 16), Pukchang (Camp 18), and Chongjin (Camp 25). During the year reports continued to indicate that areas of Yodok (Camp 15) in South Hamkyung Province were closed or operating at a reduced capacity.

Kwanliso camps are comprised of total control zones, where incarceration is for life, and "revolutionizing zones," from which prisoners may be released. Reports indicated those sentenced to prison for nonpolitical crimes were typically sent to re-education prisons where authorities subjected prisoners to intense forced labor. Those who were considered hostile to the government or who committed political crimes reportedly were sentenced to indefinite terms in political prison camps. In many cases family members also were detained if one member was accused or arrested. The government continued to deny the existence of political prison camps.

According to the *Hidden Gulag IV* report, since late 2008, Jongo-ri (Camp 12) in North Hamkyung Province was expanded to include a women's annex. Camp 12's women's annex holds approximately 1,000 women, most of whom were imprisoned after being repatriated from China. The existence of this women's annex was corroborated by satellite imagery and defector testimony. Defector testimony cited food rations below subsistence levels, forced labor, and high rates of death due to starvation at Camp 12.

Reports indicated that conditions in the prison camp and detention system were harsh and life threatening, and that systematic and severe human rights abuses occurred. Many prisoners in political prison camps and the detention system were not expected to survive. Detainees and prisoners consistently reported violence and torture. Defectors described witnessing public executions in political prison camps. According to defectors, prisoners received little or no food and were denied medical care in some places of detention. Sanitation was poor, and former labor camp inmates reported they had no changes of clothing during their incarceration and were rarely able to bathe or wash their clothing. The South Korean and international press reported that kyohwaso held populations of up to thousands of political prisoners, economic criminals, and ordinary criminals.

**Physical Conditions:** Estimates of the total number of prisoners and detainees in the prison and detention system ranged between 80,000 and 120,000. The 2015 KINU white paper reported that the decrease in the number of inmates from previous years might be the result of natural reduction from harsh circumstances rather than any change in government policy. NGO and press reports estimated there were between 182 and 490 detention facilities in the country.

Anecdotal reports from the NGO Database Center for North Korean Human Rights and the UN 2014 COI report stated that in some prisons authorities held women in separate units from men and often subjected the women to sexual abuse. One NGO reported that male and female political prisoners sent to punishment facilities were tortured.

By law criminal cases against a person under age 14 are dismissed. Public education is applied in case of a crime committed by a person above age 14 and under age 17, but little information was available regarding how the law was actually applied. Authorities often detained juveniles along with their families and reportedly subjected them to torture and abuse in detention facilities.

**Administration:** No information on recordkeeping processes or alternatives to incarceration for nonviolent offenders was publicly available. No information was available indicating whether prisoners and detainees had reasonable access to visitors. In past years defectors reported that authorities subjected Christian inmates to harsher punishment if their faith was made public, but no information was available regarding religious observance. No information was available on whether prisoners or detainees could submit complaints to judicial authorities without censorship or request investigation of credible allegations of inhuman conditions.

**Independent Monitoring:** There was no publicly available information on whether the government investigated or monitored prison and detention conditions. The government did not allow the UN special rapporteur on the human rights situation in the DPRK or the UN COI access into the country to assess prison conditions. The government did not permit other human rights monitors to inspect prisons and detention facilities.

### d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, but reports pointed out that the government did not observe these prohibitions.

#### Role of the Police and Security Apparatus

The internal security apparatus includes the Ministries of People's Security and of State Security. The security forces do not have adequate

mechanisms to investigate possible security force abuses. There was no information that the government took action to reform the security forces.

### Arrest Procedures and Treatment of Detainees

Revisions to the criminal code and the criminal procedure code in 2004 and 2005 added shortened periods of detention during prosecution and trial, arrest by warrant, and prohibition of collecting evidence by forced confessions. There was no confirmation that these changes were applied.

Members of the security forces arrested and reportedly transported citizens suspected of committing political crimes to prison camps without trial. According to a South Korean NGO, beginning in 2008 the People's Safety Agency was authorized to handle criminal cases directly without the approval of prosecutors. The change was reportedly made because of prosecutorial corruption. An NGO reported that investigators could detain an individual for the purpose of investigation for up to two months.

There were no restrictions on the government's ability to detain and imprison persons at will or to hold them incommunicado. Family members and other concerned persons reportedly found it virtually impossible to obtain information on charges against detained persons or the lengths of their sentences. Judicial review or appeals of detentions did not exist in law or practice. According to an opinion adopted in April 2014 by the UN Working Group on Arbitrary Detention, family members have no recourse for petitioning for the release of detainees accused of political crimes, as any such advocacy for political prisoners may be deemed an act of treason against the state. There was no known bail system and no information on whether a lawyer was provided to detainees.

Arbitrary Arrest: Arbitrary arrests reportedly occurred. In August and September 2013, the UN Working Group on Arbitrary Detention transmitted inquiries to the government requesting information about the current situations of 19 North Korean citizens arbitrarily arrested and detained by the government. Authorities replied in October 2013, categorically rejecting the cases as an alleged political plot against the DPRK.

### e. Denial of Fair Public Trial

The constitution states that courts are independent and that judicial proceedings are to be carried out in strict accordance with the law; however, an independent judiciary did not exist.

#### Trial Procedures

The Ministry of Public Security dispensed with trials in political cases and referred prisoners to the State Security Department (SSD) for punishment. Little information was available on formal criminal justice procedures and practices, and outside access to the legal system was limited to trials for traffic violations and other minor offenses.

The constitution contains elaborate procedural protections, providing that cases should be public, except under circumstances stipulated by law. The constitution also states that the accused has the right to a defense, and when trials were held, the government reportedly assigned lawyers. Some reports noted a distinction between those accused of political, as opposed to nonpolitical, crimes and claimed that the government offered trials and lawyers only to the latter. The KINU 2015 white paper reported that the SSD conducted "pretrials" or preliminary examinations in all political cases but the court system conducted the trial. Some defectors testified that the SSD also conducted trials. There was no indication that independent, nongovernmental defense lawyers existed. According to the 2013 *Hidden Gulag* report, most inmates in prison camps were sent there without trial, without knowing the charges against them, and without having legal counsel. The 2010 *Witness to Transformation* study reported that only 13 percent of the 102 respondents surveyed who had been incarcerated in the country received a trial. There were no indications authorities respected the presumption of innocence.

#### Political Prisoners and Detainees

While the total number of political prisoners and detainees remained unknown, the KINU 2015 white paper reported that between 80,000 and 120,000 were detained in the kwanliso. Political prisoners were held separately from other detainees. NGOs and the media reported that political prisoners were subject to harsher punishments and fewer protections than other prisoners and detainees. The government considered critics of the regime to be political criminals. The government did not permit access to persons by international humanitarian organizations. Reports from past years described political offenses as including attempting to defect to South Korea, sitting on newspapers bearing Kim Il Sung's or Kim Jong Il's picture, mentioning Kim Il Sung's limited formal education, or defacing photographs of the Kims.

#### Civil Judicial Procedures and Remedies

According to the constitution, "...citizens are entitled to submit complaints and petitions. The state shall fairly investigate and deal with complaints and petitions as fixed by law." Under the Law on Complaint and Petition, citizens are entitled to submit complaints to stop encroachment upon their rights and interests or seek compensation for the encroached rights and interests. Reports noted that these rights were not respected.

## Mexico

### Section 1. Respect for the Integrity of the Person, Including Freedom from:

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices and stipulates confessions obtained through illicit means are not admissible as evidence in court, but there were reports that government officials employed them.

There is no national registry of torture cases, and there is a lack of specific data on torture cases at the state level. From January to October 31, the CNDH received 587 complaints of "inhuman or degrading treatment" and 49 complaints of torture.

In Jalisco the state-level Human Rights Commission reported 89 torture complaints from January 1 to July 29, after reporting a total of 24 complaints for



# SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense  
1330 Lady Street, Suite 401  
Columbia, South Carolina 29201-3332  
Post Office Box 11589  
Columbia, South Carolina 29211-1589  
Telephone: (803) 734-1330  
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

December 17, 2015

Mr. George Cleveland, III, #357770  
Turbeville Correctional Institution  
PO Box 252  
Turbeville, SC 29162

Dear Mr. Cleveland, III:

I am in receipt of your letter dated December 9, 2015, requesting that this office pay for reports, etc., that you requested from the Greenville County Clerk of Court's office. Pursuant to the Supreme Court Order dated December 15, 2015, this office is "associated for the limited purpose of providing copies of the petition, appendix and any briefs that may be necessary". Therefore, we will not be able to help you with the costs of the documents.

Sincerely,

*Lorlene French*  
Lorlene French  
Legal Services Coordinator

# The Supreme Court of South Carolina

George Cleveland, III, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2015-002251

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## ORDER

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Petitioner moves to proceed *pro se* in this matter. By order dated November 5, 2015, petitioner was warned of the dangers and disadvantages of proceeding *pro se* but indicates he still wishes to proceed without the assistance of counsel. We therefore grant the motion to proceed *pro se*. The Commission on Indigent Defense, Division of Appellate Defense, shall remain associated for the limited purpose of providing copies of the petition, appendix and any briefs that may be necessary.

  
C.J.  
FOR THE COURT

Columbia, South Carolina

December 15, 2015

cc:

Karen Christine Ratigan, Esquire  
Robert Michael Dudek, Esquire  
George Cleveland III #357770

# The South Carolina Court of Appeals

George Cleveland #357770, Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2016-001033

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## ORDER RECALLING REMITTITUR

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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, J.

Columbia, South Carolina

**FILED**

cc:  
George Cleveland #357770  
Christina Catoe Bigelow, Esquire

November 4, 2016

# Administrative Law Court

Ralph K. Anderson, III  
Chief Judge

Jana E. Cox Shealy  
Clerk



PHONE: (803) 734-0550  
FAX: (803) 734-6400  
WEB: WWW.SCALC.NET

November 10, 2016

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

Re: George Cleveland #357770 v. SCDOC  
ALC Docket No. 16-ALJ-04-0030-AP  
Appellate Case No. 2016-001033

Dear Clerk Kitchings:

Pursuant to the Court's Order filed November 4, 2016, I am hereby returning the Remittitur in the above-captioned matter.

Please let me know if you have any questions.

With warm personal regards, I am,

Sincerely,

A handwritten signature in cursive script that reads "Jana E. Shealy".

Jana E. Shealy  
Clerk

Enclosure

cc: Christina Catoe Bigelow, Esquire  
George Cleveland, #357770

George Cleveland And ~~JH~~ 35709, US 15-B  
Tyget First Correctional Inst-  
200 Prison Road  
Enoches, S.C. 29335

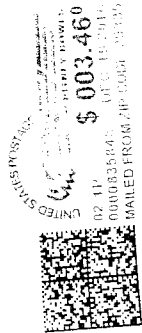
IAL MAIL

THE SUPREME COURT  
ANNEX E-SHEARSON  
P.O. Box 11330  
Columbia, S.C. 29211

TYRGI MAILROOM

DEC 15 2016

15 DEC 15 2016



THE DEPARTMENT OF CORRECTIONS HAS NOT  
INSPECTED AND APPROVED THIS REPORT. THEREFORE,  
THE DEPARTMENT ASSUMES NO RESPONSIBILITY  
FOR ITS CONTENT.  
TYGER RIVER CORRECTIONAL INSTITUTION  
S.C. DEPARTMENT OF CORRECTIONS.