

THE STATE OF SOUTH CAROLINA
In the Supreme Court

Appeal from the Administrative Law Court
Carolyn C. Matthews, Administrative Law Judge

Court of Appeals Opinion No. 2016-UP-392

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S.C. SUPREME COURT

Joshua Cramer, #251406, Respondent,

v.

South Carolina Department of Corrections, Petitioner.

**PETITION FOR WRIT OF CERTIORARI
BY THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS**

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Under the authority of South Carolina Appellant Court Rule [“SCACR”] 242(a), the South Carolina Department of Corrections [“SCDC”] respectfully petitions this Court to issue a writ of certiorari to review the final decision issued by the Court of Appeals in the instant matter, styled as *Joshua Cramer, Appellant, v. S.C. Dep’t of Corr., Respondent*, Unpublished Opinion No. 2016-UP-392 (Aug. 3, 2016) (Apx. pp. 138 – 42). 2016 WL 4125880 (S.C. Ct. App. 2016).

I. CERTIFICATION BY COUNSEL

In accordance with SCACR 242(d)(1), SCDC’s undersigned counsel respectfully certifies that he filed a petition for rehearing on SCDC’s behalf with the Court of Appeals on September 6, 2016 (Apx. pp. 143 – 72), and he further respectfully certifies that the Court of Appeals denied SCDC’s petition for rehearing by an order filed November 17, 2016. (Apx. p. 174).

II. SUMMARY OF GROUNDS SUPPORTING SCDC’S PETITION

Under SCACR 242(a), this Court, or any two (2) of its justices, “may, in its discretion ... issue a writ of certiorari to review a final decision of the Court of Appeals,” and, under SCACR 242(b)’s first sentence, such a writ “is not a matter of right, but of sound judicial discretion, and will be granted only where there are special and important reasons.”

By its August 3, 2016 decision, the Court of Appeals applied the rulings from its decision in *Ackerman v. S.C. Dep’t of Corr.*, 782 S.E.2d 757 (S.C. Ct. App. 2016) to the prison industries pay claims asserted by Cramer in the administrative grievance he filed with SCDC under its Inmate Grievance Policy System, designated as Policy GA-01.12, and the Court of Appeals reversed the decision by the South Carolina Administrative Law Court [“ALC”] which upheld SCDC’s denial of Cramer’s claims. (Apx. p. 142).

In *Ackerman*, the Court of Appeals reversed a decision by the ALC concerning nearly 200 appeals filed by current and former inmates who participated in a prison industries project

operated by SCDC. In reversing the ALC's decision in *Ackerman*, the Court of Appeals ruled that under paragraph 13.9 of Policy GA-01.12, the grievances in which the current and former inmates asserted various prison industries pay claims constituted "policy/procedure" grievances, not "incident" grievances, and, consequentially, the fifteen-day filing deadline from paragraph 13.1 of Policy GA-01.12 did not apply to their grievances.

By its decision, the Court of Appeals in *Ackerman* effectively declared that no filing deadline applied to such grievances, and, for that matter, it effectively eliminated SCDC's ability to apply the filing deadline to all other types of grievances.

However, the ALC in *Ackerman* upheld SCDC's determination that the current and former inmates did not, under Policy GA-01.12, timely file administrative grievances in which they asserted various claims concerning the pay SCDC remitted to them for their labor. (Apx. pp. 56 – 83). The ALC in *Ackerman* specifically upheld SCDC's determination that the fifteen-day filing deadline from paragraph 13.1 of Policy GA-01.12 applied to the claims articulated by the current and former inmates in their grievances, and it also upheld SCDC's determination that the grievances in which the current and former inmates asserted their claims constituted "incident" grievances rather than "policy/procedure" grievances. (Apx. pp. 60 – 65).

Cramer, like the current and former inmates in *Ackerman*, filed a grievance in which he presented claims concerning his prison industries pay. Cramer asserted in his grievance that SCDC ran afoul of §§ 24-3-40(A)(5) and (B)(2) by (1) unlawfully depriving him of access to the monies it deducted from his gross prison industries wages and then held in an interest-bearing escrow account for his benefit and (1) depriving him of a lawful rate of interest attributable to these monies. (Apx. pp. 39 – 40).

As it did with the grievances in *Ackerman*, SCDC concluded that the grievance in which Cramer asserted his prison industries pay claims constituted an “incident” grievance subject to the fifteen-day filing deadline from Policy GA-01.12. SCDC further concluded that Cramer failed to timely file his grievance, because he filed it nearly two (2) years after SCDC first began deducting ten percent of his gross prison industries pay and holding it in an interest-bearing escrow account for his benefit under §§ 24-3-40(A)(5) and (B)(2). (Apx. p. 43).

SCDC denied Cramer’s grievance, and Cramer appealed SCDC’s denial to the ALC. As it did in *Ackerman*, the ALC affirmed SCDC’s denial of Cramer’s grievance and the grounds upon which SCDC determined that Cramer did not timely file his grievance. (Apx. pp. 84 – 88)

As stated above, the Court of Appeals reversed the ALC’s order which upheld SCDC’s denial of Cramer’s grievance. In so reversing the ALC, the Court of Appeals again allowed the exception to the fifteen-day filing deadline it crafted in *Ackerman*, an exception anchored to its flawed interpretation of the applicable provisions of Policy GA-01.12, to completely swallow the fifteen-day filing deadline. (Apx. pp. 138 – 42).

By its decisions in *Ackerman* and, now, *Cramer*, the Court of Appeals has obliterated Policy GA-01.12’s filing deadline, not just for grievances concerning prison industries pay claims, but for all grievances. Inmates may now invoke the Court of Appeals’ decisions from both *Ackerman* and *Cramer* when they file grievances with SCDC months or even years after the incidents which spawned their claims, irrespective of whether their claims concern their prison industries pay, with absolutely no eye toward any filing deadline.

The ALC in *Ackerman* fully appreciated the perils of such an outcome. (“In the present case, the court finds that the [inmates’] interpretation of the term “policies/procedures” in Paragraph 13.9 [of Policy GA-01.12] is overly expansive. The [inmates] appear to argue that the

term, which is not defined in [Policy GA-01.12], refers to any ‘act or method of proceeding in an action.’ However, if the term were construed that broadly, Paragraph 13.9’s exception would effectively swallow Paragraph 13.1’s general rule.”). (Apx. pp. 61 – 62).

The ALC in *Cramer*, likewise, fully appreciated the same perils. (“If the Court agreed with [Cramer] that the fifteen day filing deadline is inapplicable because [he] is challenging Policy and Procedure, then there would never be a deadline to file a grievance in regards to inmates’ rights to access escrowed wages. Therefore, the general rule of a fifteen day time limit to file a grievance would be swallowed by the expansive view of policy and procedure articulated by [Cramer].”). (Apx. p. 87).

However, the Court of Appeals, as evidenced by its decisions reversing the ALC in both cases, was completely unconcerned with such an outcome. Thus, an inmate need only assert in his grievance that the claim or claims he presents therein somehow concern an SCDC “policy” or “procedure,” and, under *Ackerman* and *Cramer*, the courts of our state charged with reviewing the inmate’s appeal of SCDC’s final decision (i.e. the ALC, the Court of Appeals, and this Court) will henceforth reverse SCDC in any instance in which SCDC concludes that the inmate’s grievance is time-barred by operation of the filing deadline from Policy GA-01.12.

Therefore, just as it did in the petition for writ of certiorari it filed in *Ackerman*,¹ SCDC respectfully asserts that compelling “special and important reasons,” as contemplated under SCACR 242(b), exist by which this Court should review the Court of Appeals’ decision in the instant matter, and SCDC respectfully urges this Court to grant its instant petition.

III. QUESTIONS PRESENTED FOR REVIEW

A. DOES THE COURT OF APPEALS’ DECISION CONFLICT WITH A PRIOR, ALBEIT UNPUBLISHED, DECISION BY THIS COURT?

¹ SCDC petitioned this Court to issue a writ of certiorari concerning the Court of Appeals’ decision in *Ackerman*, and its petition remains pending.

B. DOES THE COURT OF APPEALS' DECISION CONFLICT WITH ONE OF ITS OWN PRIOR, ALBEIT UNPUBLISHED, DECISIONS?

C. DOES THE COURT OF APPEALS' DECISION PRESENT NOVEL QUESTIONS OF LAW?

IV. STATEMENT OF THE CASE

A. CRAMER'S GRIEVANCE

Pursuant to Policy GA-01.12, Cramer filed a Step 1 grievance dated April 26, 2007 in which he presented the following two (2) claims concerning the pay SCDC remitted to him when he voluntarily participated in a prison industries project from May 2, 2005 on or about January 1, 2010 (Apx. pp. 39 – 40):²

- 4) Sections [24-3-40(A)(5) and 24-3-40(B)(2)] created a liberty interest in escrowed wages [wherein Cramer] is entitled to complete and immediate access to the amount of his escrowed wages to distribute them to persons or entities of his choice at the time said wages were escrowed for [his] benefit, but [he] is serving life without parole, and is denied access.
- 5) [Cramer] has a liberty interest earned on the amount complained of in issue #4, above, at a guaranteed investment rate comparable to Treasury Bills or Certificates of Deposit. (Apx. pp. 39 – 40).

Cramer's prison industries private sector account pay records reflected that SCDC began paying Cramer on July 15, 2005 for the labor he provided to the project in which he voluntarily participated (Apx. p. 42), and, as stated above, Cramer did not file his Step 1 until on or about April 26, 2007. Therefore, under the fifteen-day filing deadline established by Policy GA-01.12, the responsible SCDC official issued a decision dated July 11, 2012 which denied Cramer's Step 1 (Apx. pp. 38 and 43):

I conclude, after reviewing your Step 1 in light of [*Adkins v. S.C. Dep't of Corr.*, 602 S.E.2d 51 (S.C. 2004)], [*Wicker v. S.C. Dep't of Corr.*, 602 S.E.2d 56 (S.C. 2004)], [*Torrence v. S.C. Dep't of Corr.*, 646 S.E.2d 866 (S.C. 2007)], the [fifteen-day] filing deadline from every edition of [GA-

²Cramer presented three (3) other claims in his Step 1, but he abandoned them in his Step 2 appeal. (Apx. p. 48).

01.12] issued since April 1, 2000, as well as the exceptions to these deadlines from ¶14(g) and ¶15 of these editions, that you did not submit your Step 1 grievance within 15 days of the incident upon which you anchored the claims you presented in your Step 1, namely the date upon which SCDC both first began paying you for your prison industries labor and began applying statutorily mandated deductions to your pay pursuant to [§ 24-3-40].

...

Moreover, you filed your Step 1 nearly two (2) years after SCDC first paid you for your voluntarily participation in the prison industries project operated by SCDC at Broad River in which R.M. Design participated as the private industry sponsor. You also filed your Step 1 nearly two (2) years after SCDC began applying the statutorily mandated deductions to your prison industries pay pursuant to [§ 24-3-40]. For that matter, you filed your Step 1 nearly one (1) year after the South Carolina Supreme Court issued its decisions in [*Adkins*] and [*Wicker*]. Clearly, you exceeded any reasonable time frame associated with filing a grievance under [Policy GA-01.12].

SCDC also considered the merits of the two (2) claims articulated by Cramer in his Step 1, and, after doing so, it denied both claims. (Apx. pp. 44 – 46).

Cramer subsequently filed a Step 2 appeal with SCDC dated July 16, 2012 (Apx. pp. 47 – 49). In his Step 2, Cramer challenged SCDC's application of the fifteen-day filing deadline established in Policy GA-01.12 to in his Step 1, and he also challenged SCDC's decision on the merits of the final two (2) issues from his Step 1. (Apx. pp. 48 – 49).

SCDC denied Cramer's Step 2 by a decision dated February 25, 2014. (Apx. pp. 47 and 50 – 54). The responsible SCDC official who issued the Step 2 decision concurred with the application of the fifteen-day filing deadline from Policy GA-01.12 to Cramer's prison industries pay claims. (Apx. p. 52). The responsible SCDC official who issued the Step 2 decision also considered the merits of the two (2) claims Cramer presented in his Step 1, and he concurred with the decision to deny both claims. (Apx. pp. 53 – 54).

B. THE ALC AFFIRMED SCDC'S DENIAL OF CRAMER'S GRIEVANCE

Cramer challenged SCDC's denial of his grievance by filing a Notice of Appeal dated March 3, 2014 with the ALC, and he articulated the following grounds supporting his appeal (Apx. p. 55):

[Section 24-3-40(A)(5)] requires SCDC to deduct 10% of an inmate's wages and hold them "in an interest bearing escrow account for the benefit of the prisoner." [§ 24-3-40(B)(2)] provides the inmate with the "option of having his escrowed wages including in his estate or distributed to the persons or entities of his choice." SCDC is violating the provision of [§ 24-3-40(B)(2)] by not allowing me to distribute my escrowed wages to a person of my choice and is holding my escrowed wages in an account bearing little to no interest.

By an order dated and filed September 23, 2014, the ALC considered Cramer's appeal. (Apx. pp. 84 – 88). The ALC identified the operative issue associated with Cramer's appeal as follows (Apx. p. 85):

[Cramer] argues that "SCDC's denial of [his] Grievance based on the 'fifteen day deadline' conflicts with [its] own policy GA-01.12. ¶ 13.9."

Relying upon its prior order from *Ackerman* (Apx. pp. 56 – 83), the ALC denied Cramer's appeal (Apx. p. 88):

[Cramer] should have filed his grievance contending that he should have immediate access to escrowed funds within fifteen days of being informed that he was not given immediate access to all of his funds. Logically, the day he received his first payment for his work, on or about July 15, 2005, was the day he had notice that he did not have immediate access to escrowed funds. Therefore, [Cramer] had fifteen days from the date he first received payment to file a grievance contesting access to escrowed funds. [Cramer] did not file his Step One Grievance until April 27, 2007, which is well past the fifteen day deadline.

[Cramer] failed to file his Grievance within the fifteen day time period [provided by Policy GA-01.12], and [the ALC] has no authority to expand the time in which the request for review must be filed. [citation omitted]. Accordingly, since [Cramer] did not timely file his Grievance, SCDC's decision must be affirmed.

As it affirmed SCDC's decision that he did not timely file his Step 1, the ALC did not consider the merits of Cramer's two (2) prison industries pay claims, both of which formed the grounds supporting his appeal. (Apx. p. 55).

C. THE COURT OF APPEALS' AUGUST 3, 2016 DECISION

Cramer appealed the ALC's September 23, 2014 order to the Court of Appeals (Apx. p. 1). Cramer filed the Record on Appeal with the Court of Appeals (Apx. pp. 5 – 90), and both Cramer and SCDC filed briefs with the Court of Appeals. (Apx. pp. 91 – 137).

On August 3, 2016, the Court of Appeals issued its decision (Apx. pp. 138 – 42), and it identified four (4) issues associated with Cramer's appeal at the outset of its decision, the first two (2) which are relevant to SCDC's instant petition.

The first issue identified by the Court of Appeals consisted of Cramer's argument that "the ALC erred in affirming [SCDC's] denial of [his] grievances for failure to file his Step 1 Grievance within the Inmate Grievance System Policy's fifteen-day deadline provided by SCDC Policy GA-01.12 paragraph 13.1." (Apx. p. 139). The second issue consisted of Cramer's argument that "SCDC's denial of [his] grievance based on the fifteen-day deadline conflicts with SCDC Policy GA-01.12 section 13.9." (Apx. pp. 139 – 40).

In summarizing the proceedings before the ALC, the Court of Appeals observed as follows (Apx. p. 140):

In March 2014, Cramer appealed to the ALC arguing (1) SCDC erred in denying him immediate access to his escrowed wages, (2) SCDC erred in denying him a fair interest rate on his escrowed wages, and (3) SCDC's denial of his grievance "based on the 'fifteen[-]day deadline' [found in policy number GA-0.12 paragraph 13.1] conflicts with [SCDC] policy number GA-01.12 [paragraph] 13.[9]." **Cramer also argued his grievance was not an incident grievance but a policy and procedure grievance that was not limited to the fifteen-day deadline.** The ALC affirmed SCDC's decision, finding Cramer's wage claims were "incident" grievances and subject to the Inmate Grievance System Policy fifteen-day

deadline. The ALC did not address the merits of Cramer's appeal. [emphasis supplied].

Concerning Policy GA-01.12, the Court of Appeals observed as follows (Apx. p. 141):

[Policy GA-01.12] allows inmates to seek formal review of complaints. Guidance on how and when to submit a formal grievance is provided under [Policy GA-01.12] paragraph 13 titled "Steps in the Grievance Process." **Grievances are broken into two categories: "incident" grievances and "policies/procedures" grievances.** Paragraph 13.1 addresses the timeframe for submitting an incident grievance; this section provides, "If informal resolution [of a grievance] is not possible, the grievant will complete Form 10-5, Step 1, which is located in common areas, ... and will submit the Form to an employee designated by the Warden ... within 15 days of the alleged incident."³ [italics omitted by the Court of Appeals]. Paragraph 13.9 addresses the timeframe for submitting a **"policy/procedure" grievance**; this section provides, "Exceptions to the 15 day time limit requirement *will* be made for grievances concerning policies/procedures." [italicized emphasis supplied by the Court of Appeals].⁴ [bold emphasis supplied by SCDC].

The Court of Appeals then found that "Cramer's grievance is a 'policy/procedure' [grievance] and SCDC's characterization of Cramer's grievance as an incident grievance was

³ The Court of Appeals did not fully quote this passage from paragraph 13.1, the entirety of which read as follows:

If informal resolution is not possible, the grievant will complete Form 10-5, Step 1, which is located in common areas, i.e., living areas, libraries, etc. and will submit the Form *to an employee designated by the Warden (not the Inmate Grievance Coordinator)* within 15 days of the alleged incident. **An inmate will submit a grievance within the time frames established in the policy.** [italicized emphasis from Policy GA-01.12; bold emphasis supplied by SCDC].

⁴ The Court of Appeals did not fully quote paragraph 13.9, the entirety of which read as follows:

Exceptions to the 15 day time limit requirement *will* be made for grievances concerning policies/procedures. Exceptions may also be made for incident grievances by the Chief/designee, Inmate Grievance Branch, provided that documented reasonable cause can be demonstrated as to why the original time frame was not met, e.g., inmate physically unable to initiate grievance due to hospitalization, court appearance, etc. **The waiver must be requested by the grievant.** [italicized emphasis supplied by the Court of Appeals; bold emphasis supplied by SCDC].

As verified by the Record considered by the Court of Appeals and the Appendix SCDC respectfully submits in support of its instant petition, Cramer never requested a waiver to the fifteen-day time limit before he filed his Step 1 in late April 2007.

arbitrary and capricious.” (Apx. p. 141). In so finding, the Court of Appeals relied upon *Ackerman* (Apx. p. 142):

This court recently decided [*Ackerman*], holding an inmate grievance challenging the specific pay rate in a contract with a prison industries sponsor was a **policy/procedure grievance rather than an incident grievance**. As in *Ackerman*, the substance of Cramer’s grievance, which involves the distribution of his wages, is “a topic governed by statute and, thus, an expression of the legislature’s policy,” and “SCDC is mandated to carry out these legislative policies.” [*Id.*, 782 S.E.2d at 761 – 62]. “SCDC, in turn, expresses its own, more specific policies” regarding inmate wage distribution. [*Id.*, 782 S.E.2d at 762]. Furthermore, Cramer’s grievance “naturally fall[s] within [SCDC’s] definition [of the terms ‘policies’ and ‘procedures’] because SCDC has operated the prison industries service project as one of its day-to-day operations.” [*Id.*, 782 S.E.2d at 761].

Additionally, Cramer’s grievance cannot “realistically be characterized as [an] ‘incident[],’ which [is] temporally limited and rarely affect[s] more than a few inmates” because many inmates are serving life sentences and any of those inmates who participate in the [prison industries project] will be in the same situation as Cramer. [*See Id.*, 782 S.E.2d at 762 (finding the provisions of the [inmates’] contracts were enduring and had the same effect on numerous inmates and therefore, could not “realistically be characterized as ‘incidents,’ which are temporally limited and rarely affect more than a few inmates”). [emphasis supplied].

The Court of Appeals then reversed the ALC’s September 23, 2014 decision. (Apx. p. 142). Consequentially, the Court of Appeals remanded Cramer’s two (2) prison industries pay claims for consideration on their merits. (Apx. p. 142).

D. THE COURT OF APPEALS’ NOVEMBER 17, 2016 ORDER

By a filing dated September 6, 2016, SCDC petitioned the Court of Appeals to rehear and reconsider its August 3, 2016 decision (Apx. pp. 143 – 72), and it presented the following arguments in its petition: (1) Cramer did not identify SCDC’s purportedly erroneous application of the fifteen-day filing deadline to his Step 1 as an issue in his Notice of Appeal to the ALC (Apx. pp. 151 – 54); (2) SCDC properly denied Cramer’s Step 1, because he did not file it in a timely fashion (Apx. pp. 154 – 66); and (3) Cramer did not comply with paragraph 13.9 of Policy

GA-01.12, because he did not request an extension or waiver of the fifteen-day filing deadline in his Step 1 or otherwise indicate in his Step 1 that his prison industries pay claims challenged an SCDC “policy” or “procedure.”⁵ (Apx. pp. 166 – 70).

Cramer did not file a return to SCDC’s petition for rehearing (Apx. p. 173), nor did he file his own petition for rehearing, and, by an order issued November 3, 2016, the Court of Appeals denied SCDC’s petition for rehearing (Apx. p. 174).

V. ARGUMENTS IN SUPPORT OF SCDC’S PETITION

A. THE COURT OF APPEALS’ DECISION CONFLICTS WITH A PRIOR, ALBEIT UNPUBLISHED, DECISION BY THIS COURT

1. SCACR 242(b)(3)

SCACR 242(b) is entitled “Considerations Governing Review,” and it sets forth examples of the character of reasons which this Court will consider in determining whether to grant review of a decision by the Court of Appeals.

SCDC respectfully asserts that SCACR 242(b)(3) applies in the instant matter, because the decision by the Court of Appeals in *Cramer* is in conflict with this Court’s prior, albeit unpublished, decision in *Okera v. S.C. Dep’t of Corr.*, -- S.E.2d --, 2012 WL 10907962 (No. 2012-MO-042) (S.C. Oct. 24, 2012).

2. This Court’s Decision in *Okera*

Like Cramer, Okera participated in a prison industries project operated by SCDC. Like Cramer, Okera filed a grievance in which he presented prison industries pay claims. As it did to Cramer’s grievance, SCDC applied the fifteen-day filing deadline to Okera’s grievance, and it denied Okera’s grievance.

⁵ See note 4 above.

Okeru appealed to the ALC, and the ALC affirmed SCDC's decision. Okeru then appealed to the Court of Appeals, but this Court accepted his appeal on direct review. In its per curiam opinion, this Court affirmed the ALC's ruling as follows, 2012 WL 10907962, *1:

This is a direct appeal from an order of the [ALC] dismissing the appeal from [SCDC's] denial of [Okeru's] inmate grievance based on **his failure to comply with the relevant statute of limitations set forth in [Policy GA-01.12]. We affirm pursuant to Rule 220(b)(1), SCACR, and the following authorities: [Al-Shabazz] (approving [SCDC's] internal procedures for discipline and grievances, which specify a fifteen-day time limit for filing for grievances).** [emphasis supplied].

3. This Court's Decision in *Toth*

The following passage from this Court's decision in *Toth v. Square D Co.*, 377 S.E.2d 584, 586 – 87 (S.C. 1989), impacts SCDC's analysis and argument on this point:

Finally, we point out that this Court has already given retroactive effect to the [*Small v. Springs Industries, Inc.*, 357 S.E.2d 452 (S.C. 1987)] decision through our holding in *Francisco v. Black River Electric Cooperative*, Mem. Op. 87-MO-325 (S.C. filed July 27, 1987). ... **Although we recognize that *Francisco* is a memorandum opinion without precedential value (footnote omitted), it nonetheless indicates that we have already implicitly allowed retroactive application of *Small*.** By our holding today, we explicitly hold that *Small* is to be retroactively applied to causes of action arising prior to the date it was filed. [emphasis supplied].

4. The Court of Appeals' Decision in *Cramer* Conflicts with this Court's Prior Decision in *Okeru*

By its decision in *Okeru*, this Court, under *Toth*, implicitly affirmed the time-bar comprised of the fifteen-day filing deadline to a prison industries wage grievance in a posture similar if not identical to the posture of *Cramer's* prison industries wage grievance.

SCDC, therefore, respectfully urges this Court to grant the instant petition so that it may resolve the conflict between its decision in *Okeru* and the Court of Appeals' decision in *Cramer*.

B. THE COURT OF APPEALS' DECISION CONFLICTS WITH ONE OF ITS OWN PRIOR, ALBEIT UNPUBLISHED, DECISIONS

1. SCACR 242(b)(3)

As stated above, SCACR 242(b) is entitled "Considerations Governing Review," and it again sets forth examples of the character of reasons which this Court will consider in determining whether to grant review of a decision by the Court of Appeals.

SCDC respectfully asserts that SCACR 242(b)(3) applies in the instant matter, because the decision by the Court of Appeals in *Cramer* is in conflict with the Court of Appeals' prior, albeit unpublished, decision in *Patterson v. S.C. Dep't of Corr.*, -- S.E.2d --, 2010 WL 10080031 (No. 2010-UP-292) (S.C. Ct. App. 2010).

2. The Court of Appeals' Decision in *Patterson*

In *Patterson v. S.C. Dep't of Corr.*, -- S.E.2d --, 2010 WL 10080031 (No. 2010-UP-292) (S.C. Ct. App. 2010), the Court of Appeals considered an instance in which SCDC determined that an inmate did not timely file his grievance, and the ALC affirmed SCDC's decision.

In affirming the ALC's decision in *Patterson*, the Court of Appeals relied upon paragraph 13.1 of Policy GA-01.12, one of the paragraphs it considered in *Cramer* (Apx. p. 141), when it ruled as follows, 2010 WL 10080031, *1:

Patterson argues the ALC erred in finding his grievance was not timely filed. We disagree. [SCDC] denied Patterson's grievance based on [Policy GA-01.12, ¶ 13.1], which states an inmate must file a grievance within fifteen days of the alleged incident. Here, Patterson filed his grievance complaining of loss of his inmate property on December 4, 2006. Even if we construed the requirements for filing liberally in Patterson's favor, Patterson should have filed his grievance within fifteen days of December 6, 2004, when he originally discovered that [SCDC] lost his inmate property. However, he did not file his grievance until almost two years later. The ALC did not err in relying on [Policy GA-01.12] in finding Patterson failed to timely file his grievance because "[t]he adoption and execution of policies and practices necessary to preserve internal order and discipline, and to maintain institutional

security in the prison are within the province and expertise of correctional officials.” [*State v. Blick*, 481 S.E.2d 452, 455 (S.C. Ct. App. 1997)]. Accordingly, the ALC did not err in affirming the denial of Patterson’s grievance. See [*S.C. Dep’t of Corr. v. Mitchell*, 659 S.E.2d 233, 234 (S.C. Ct. App. 2008)] (“The court of appeals may reverse or modify the decision only if substantive rights of the appellant [have] been prejudiced because the decision is clearly erroneous in light of the reliable and substantial evidence on the whole record, arbitrary or otherwise characterized by an abuse of discretion, or affected by other error of law.”) (alteration in original). [emphasis supplied].

In its denial of Cramer’s Step 2, the responsible SCDC official, in concurring with the denial of his Step 1, explicitly invoked *Patterson*. (Apx. pp. 52 – 53).

In the operative language from its decision in *Patterson*, the Court of Appeals quoted the following passage from its own earlier decision in *Blick*, 481 S.E.2d at 455:

The adoption and execution of policies and practices necessary to preserve internal order and discipline, and to maintain institutional security in the prison are within the province and expertise of correctional officials.

The ALC in *Ackerman* quoted the identical language from *Blick* when it ruled that the inmates’ grievances constituted “incident” rather than “policy/procedure” grievances. (Apx. p. 63). However, the Court of Appeals in *Ackerman*, 782 S.E.2d at 761, quoted the same language from *Blick* in the analysis which yielded its decision to reverse the ALC.

The Court of Appeals clearly relied upon *Blick* in its decision in *Cramer*, because it relied upon the section of its prior decision in *Ackerman* in which it quoted the above-provided passage from *Blick*.⁶ (Apx. p. 142).

Thus, in *Patterson*, the Court of Appeals relied upon the above-provided passage from *Blick* to affirm SCDC’s application of the fifteen-day filing deadline from Policy GA-01.12, while in *Ackerman* and *Cramer*, the Court of Appeals used the identical language from *Blick* to reverse SCDC’s application of the fifteen-day deadline from Policy GA-01.12.

⁶ See also p. 10 above.

3. The Court of Appeals' Decision in *Cramer* Conflicts with its own Prior Decision in *Patterson*

By its decision in *Patterson*, the Court of Appeals, under *Toth*, implicitly affirmed the time-bar comprised of the fifteen-day filing deadline to grievance in a posture similar if not identical to the posture of the Cramer's grievance.

SCDC respectfully urges this Court to grant the instant petition so that it may resolve the stark conflict between *Patterson* and *Cramer*, and, for that matter, *Ackerman*.

SCDC further respectfully urges this Court to, if nothing else, review the Court of Appeals decision in *Cramer* as a vehicle by which to provide SCDC, inmates, the bar, and the bench clarity concerning the circumstances under which the fifteen-day filing deadline from Policy GA-01.12 may apply, if such circumstances still exist, under *Cramer* and *Ackerman*.

C. THE COURT OF APPEALS' DECISION PRESENTS NOVEL QUESTIONS OF LAW

1. SCACR 242(b)(3)

SCDC respectfully submits that SCACR 242(b)(3) applies in the instant matter, because the decision by the Court of Appeals, namely that Cramer's prison industries wage grievance was exempt from the applicable fifteen-day filing deadline, presents novel questions of law for review by this Court.

2. Applicable Standard of Review

In *City of Rock Hill v. Harris*, 705 S.E.2d 53, 54 (S.C. 2011), this Court acknowledged that “[i]n a case raising a **novel question of law**, the appellate court is free to decide the question **with no particular deference to the lower court.**” [citations omitted and emphasis supplied].

3. Novel Question of Law Presented in *Cramer*

As foreshadowed above by the conflict between the Court of Appeals' decision in *Cramer* and this Court's prior decision in *Okeru* and, perhaps more pointedly, the conflict between the Court of Appeals' decision in *Cramer* and its prior decision in *Patterson*, a novel question of law is clearly animated by the Court of Appeals' decision in *Cramer*.

The novel question of law animated by the Court of Appeals' decision in *Cramer* consists of the interpretation of the term "policies/procedures" from Policy GA-01.12, and SCDC respectfully asserts that this Court should grant SCDC's instant petition to declare the operative definition of "policies/procedures" for the benefit of SCDC, inmates, the bench, and the bar.

4. The Term "Policies/Procedures" in Policy GA-01.12

The term "policies/procedures" first appeared on the first page of Policy GA-01.12 in a paragraph entitled "PURPOSE:"

To establish guidelines for the development and implementation of an inmate grievance system whereby inmates may seek formal review of complaints relative to disciplinary hearing appeals, classification appeals, [SCDC] **policies/procedures**, directives, or conditions which directly affect an inmate. [emphasis supplied].

It next appeared in paragraph 1.3:

Every inmate assigned to an [SCDC] institution is eligible to utilize the grievance system as set forth in this **policy/procedure**. [emphasis supplied].

It appeared in paragraph 2.3:

As part of [SCDC's] orientation program, all newly hired employees will receive written and/or oral explanations of [its] grievance **policy/procedure** by a representative of the Inmate Grievance Branch. [emphasis supplied].

It appeared in the final sentence of paragraph 4.1: "Incident or **policy/procedure** grievances or complaints will not be placed in either inmate record." [emphasis supplied].

It appeared in paragraph 7.1, which provided that “[SCDC] **policies/procedures**, directives or conditions which directly affect an inmate” constitute issues which “will be considered grievable.”⁷ [emphasis supplied].

It appeared in paragraph 10.3, which provided as follows:

All SCDC personnel responsible for responding to an inmate grievance will afford each successful grievant a meaningful remedy to the extent that their respective positions, authority, and resources allow. Remedies may include, but are not limited to, the following: ... Changes in **policies/procedures**, rules, or practices. [emphasis supplied].

It further appeared immediately after paragraph 10.5, in the note for paragraph 10:

The Warden’s decision to grant restitution/monetary reimbursement will not require additional approval to have state-like items issued or deposits made to the grievant’s E.H. Cooper Account so long as the amount of reimbursement is within the monetary limits of SCDC **Policy/Procedure** OP-22.03, “Authorized Inmate Property and Disposition of Unauthorized Property.” [emphasis supplied].

It appeared in the final sentence of second section of paragraph 13.1:⁸

No inmate (except the grievant, if s/he requests it) and no employee (other than those specified in this **policy/procedure**) will be given a copy of a grievance. [emphasis supplied].

It appeared in paragraph 13.6.4, which provided the following:

If an inmate wishes to appear to [the ALC], s/he may only appeal final [SCDC] decisions on the following five (5) issues: ... custody determinations that may be grieved under this **policy/procedure**. [emphasis supplied].

Obviously, it appeared in paragraph 13.9:⁹

Exceptions to the 15 day time limit requirement will be made for grievances concerning **policies/procedures**. Exceptions may also be made

⁷ Paragraph 7 enumerates six (6) other grievable issues. “Inmate property complaints” are grievable under paragraph 7.4, and SCDC analyzed paragraph 7.4’s impact upon Cramer’s grievance within its petition for rehearing. (Apx. pp. 159 – 60).

⁸ See note 3 above. Paragraph 13.1 established the fifteen-day filing deadline.

⁹ See notes 4 and 5 above.

for incident grievances by the Chief/designee, Inmate Grievance Branch, provided that documented reasonable cause can be demonstrated as to why the original time frame was not met, e.g., inmate physically unable to initiate grievance due to hospitalization, court appearance, etc. The waiver must be requested by the grievant. [emphasis supplied].

It appeared in the next to last sentence of paragraph 15:

If deemed appropriate, the grievance will be forwarded to the Division of Investigations, to be handled in accordance with applicable SCDC **policies/procedures**. [emphasis supplied].

The term appeared paragraphs 17 and 17.1:

The Inmate Grievance Branch will serve as monitor to ensure compliance with this **policy/procedure**.

...
In order to provide continuing evaluation of this **policy/procedure**, the Division of Resource and Information Management will provide monthly reports to the Chief, Inmate Grievance Branch. [emphasis supplied].

The term made its final appearance in paragraph 19, which was entitled “DEFINITIONS:”

Limitation refers to a sanction imposed on a grievant found to be abusing or misusing the inmate grievance system. Inmates subjected to a limitation may still utilize the grievance system for processing other legitimate grievances that do not relate to the matter(s) for which the limitation was imposed. Exceptions may be made to a limitation pursuant to [SCDC] **policy/procedure**. [emphasis supplied].

5. “Policies/Procedures” Defined

While the term “policy/procedure” appears in paragraph 19 of Policy GA-01.12, the term is not defined in paragraph 19. The terms “policy” and “procedure” do not appear separately in paragraph 19, nor are they defined in paragraph 19. The terms “policy,” “procedure,” and “policies/procedures” are not defined elsewhere in Policy GA-01.12, and the ALC recognized as much in its decision in *Ackerman*. (Apx. p. 61).

After considering definitions for the terms provided by both the inmates and SCDC, the ALC in *Ackerman*, when it rejected the inmates' assertion that the grievances in which they articulated their prison industries pay claims constituted "policy/procedure" grievances and, therefore, their grievances were exempt from the fifteen-day filing deadline established in paragraph 13.1, relied upon the definition supplied by SCDC (Apx. p. 63):¹⁰

In contrast to the [inmates], [SCDC] – **the agency that drafted Paragraph 13.9** – presents a very persuasive construction of the term **"policies/procedures."** In its brief, [SCDC] argues

The terms **"policies" and "procedures"** constitute approved guidelines for handling the agency's day-to-day operations as well as statements expressing the basic expectations of conduct for agency staff and inmates. More formally stated, **the terms "policies" and "procedures" constitute agency directives deemed by the responsible agency officials as "necessary to preserve internal order and discipline, and to maintain institutional security in the prison."**

(footnote and citations omitted). This interpretation is consistent with the way in which "policies/procedures" is used through [Policy GA-01.12]. See [*Georgia-Carolina Bail Bonds, Inc. v. County of Aiken*, 579 S.E.2d 334, 337 (S.C. Ct. App. 2003) (holding that undefined terms "must be construed in context")]. Significantly, nearly all of the references to "policy/procedure" in GA-01.12 are to the official policies and procedures set forth within that document or another similar operating document issued by [SCDC].¹¹ [emphasis supplied].

Again, the operative language of the definition for "policies/procedures" adopted by both the ALC and the Court of Appeals in *Ackerman* and quoted by the Court of Appeals in *Patterson* is derived from the Court of Appeals' decision in *Blick*:

¹⁰ See notes 3 and 8 above.

¹¹ The ALC in *Ackerman* referenced paragraphs 1.3, 10.5, 13.1, and 17 from Policy GA-01.12. (Apx. pp. 63 – 64).

<i>Blick</i> , 481 S.E.2d at 455	<i>Patterson</i> , 2010 WL 10080031, *1	<i>Ackerman</i> , 782 S.E.2d at 761, and the ALC (Apx. p. 63)
<p>The adoption and execution of policies and practices necessary to preserve internal order and discipline, and to maintain institutional security in the prison are within the province and expertise of correctional officials.</p>	<p>The ALC did not err in relying on [Policy GA-01.12] in finding Patterson failed to timely file his grievance because “[t]he adoption and execution of policies and practices necessary to preserve internal order and discipline, and to maintain institutional security in the prison are within the province and expertise of correctional officials.” [<i>Blick</i>, 481 S.E.2d at 455].</p>	<p>The terms “policies” and “procedures” constitute approved guidelines for handling the agency’s day-to-day operations as well as statements expressing the basic expectations of conduct for agency staff and inmates. More formally stated, the terms “policies” and “procedures” constitute agency directives deemed by the responsible agency officials as “necessary to preserve internal order and discipline, and to maintain institutional security in the prison.”</p>

Importantly, this Court, in *Elephant, Inc. v. S.C. Dep’t of Revenue*, 644 S.E.2d 728, 730 (S.C. 2007), fully embraced the identical language from *Blick*, which the Court of Appeals recited in *Patterson* and which both the Court of Appeals and the ALC recited in *Ackerman*:

Elephant’s contention is meritless. Although it is correct that it may not be prosecuted for the sale of alcohol under § 61-4-50 unless the minor is also prosecuted, it cites no authority for the proposition that it may not be administratively sanctioned for violation of a regulation. Administrative sanctions simply are not equivalent to a criminal prosecution. [citation omitted]. [*Blick*, 481 S.E.2d at 455] (**adoption and execution of policies and practices necessary to preserve internal order and discipline, and to maintain institutional security in the prison** are within the province and expertise of correctional officials and do not bar subsequent criminal prosecution). We find it is within the Department of Revenue’s authority to impose an administrative sanction for the unlawful transfer of alcohol to a minor, without the necessity of the minor being prosecuted. [emphasis supplied].

The Third Circuit Court of Appeals’ decision in *United States v. Newby*, 11 F.3d 1143 (3rd Cir. 1979), served as the source of the above-quoted paragraph offered by the Court of

Appeals in *Blick*, 481 S.E.2d at 455. In *Newby*, 11 F.3d at 1146, the Third Circuit offered the language that became the operative language for the definition of “policies/procedures” adopted by both the ALC and the Court of Appeals in *Ackerman*, as well as the language relied upon by the Court of Appeals in *Patterson*, in the following context:

In considering what is necessary and proper to preserve institutional order and discipline, and to encourage good conduct, we defer to the judgment of the prison authorities. **As the [United States] Supreme Court instructed, the adoption and execution of policies and practices necessary to preserve internal order and discipline, and to maintain institutional security in the prison** are “peculiarly within the province and professional expertise of corrections officials, and, in the absence of substantial evidence in the record to indicate that the officials have exaggerated their response[,] courts should ordinarily defer to their expert judgment in such matters.” [*Bell v. Wolfish*, 441 U.S. 520, 548 (1979)] (internal quotation marks and citations omitted). *See also* [*O’Lone v. Estate of Shabazz*, 482 U.S. 342, 349 – 50 (1987)] (“evaluation of penological objectives is committed to the considered judgment of prison administrators,” whose decisions are “judged under a ‘reasonableness’ test less restrictive than that ordinarily applied” in order to “avoid[] unnecessary intrusion of the judiciary into problems particularly ill suited to ‘resolution by decree’”). [emphasis supplied].

In *Bell*, 441 U.S. at 547, SCDC respectfully asserts that the United States Supreme Court itself offered what became the operative language for the definition of “policies/procedures” adopted by both the ALC and the Court of Appeals in *Ackerman*, as well as the language relied upon by the Court of Appeals in *Patterson*:

Finally, as the Court of Appeals correctly acknowledged, the problems that arise in the day-to-day operation of a corrections facility are not susceptible of easy solutions. Prison administrators therefore should be accorded wide-ranging deference in **the adoption and execution of policies and practices that in their judgment are needed to preserve internal order and discipline and to maintain institutional security.** [citations and footnote omitted and emphasis supplied].

Along with uttering what became the operative language for the definition of “policies/procedures” adopted by both the ALC and the Court of Appeals in *Ackerman*, as well

as the language relied upon by the Court of Appeals in *Patterson*, the United States Supreme Court in *Bell*, 441 U.S. at 546 – 47 and 547 – 48, offered the following guidance that SCDC respectfully asserts is applicable to the Court of Appeals’ decisions in both *Ackerman* and *Cramer*:

..., **maintaining institutional security and preserving internal order and discipline are essential goals** that may require limitation or retraction of the retained constitutional rights of both convicted prisoners and pretrial detainees. “[C]entral to all other corrections goals is the **institutional consideration of internal security within the corrections facilities themselves.**” [citations and footnote omitted and emphasis supplied].

...
“Such considerations are peculiarly within the province and professional expertise of corrections officials, and, in the absence of substantial evidence in the record to indicate that the officials have exaggerated their response to these considerations, courts should ordinarily defer to their expert judgment in such matters.” ... We further observe that, on occasion, prison administrators may be “experts” only by Act of Congress or of a state legislature. But judicial deference is accorded not merely because the administrator ordinarily will, as a matter of fact in a particular case, have a better grasp of his domain than the reviewing judge, but also because **the operation of our correctional facilities is peculiarly the province of the Legislative and Executive Branches of our Government, not the Judicial.** [citations and footnote omitted and emphasis supplied].

6. **The Court of Appeals Erred in *Cramer* and, for that matter, *Ackerman* by its Interpretation “Policies/Procedures”**

The Court of Appeals, in its decisions in both *Ackerman* and *Cramer*, erred by reversing the ALC’s decisions in both cases. The Court of Appeals so erred when it ruled that the grievance filed by *Cramer*, like the grievances filed by the inmates in *Ackerman*, constituted a “policy/procedure” grievance rather than an “incident” grievance, and, consequentially, no filing deadline applied to *Cramer*’s grievance.

The definition of “policies/procedures,” offered by SCDC to the ALC in *Ackerman* and derived from the Court of Appeals’ decisions in *Blick* and *Patterson*, the Third Circuit’s decision

in *Newby*, and the United States Supreme Court's decision in *Bell*, clearly established that "policies" and "procedures" constitute agency directives deemed by the responsible agency officials as "necessary to preserve internal order and discipline, and to maintain institutional security in the prison."

However, the gross wages paid by SCDC to inmates, like Cramer, who participated in prison industries projects it operates were simply not "necessary to preserve internal order and discipline, and to maintain institutional security in the prison." Moreover, such projects, while they undoubtedly enhance "internal order and discipline" and assist SCDC officials "to maintain institutional security" in the prisons at which the projects are operated, are not "necessary to preserve internal order and discipline, and to maintain institutional security in the prison."

Thus, Cramer's grievance, in which he asserted claims concerning his prison industries wages under §§ 24-3-40(A)(5) and (B)(2), constituted not a "policy/procedure" grievance, but an "incident" grievance. The ALC properly affirmed SCDC's application of the fifteen-day filing deadline from paragraph 13.1 of Policy GA-01.12 to Cramer's grievance, and the Court of Appeals, relying on its prior decision in *Ackerman*, erroneously reversed the ALC.

The Court of Appeals' erroneous interpretation of the term "policies/procedures," as manifested by its decision in *Ackerman* and *Cramer*, is perhaps best exemplified by the following footnote from *Ackerman*, 782 S.E.2d at 761, n. 6:

Although SCDC's statements concerning the inmate grievance system are within a document entitled "SCDC Policy/Procedure," they are "binding norms" and, thus, more like rules or regulations that may be interpreted using statutory construction rules than they are true policy statements. [See *Home Health Serv., Inc. v. S.C. Tax Comm'n*, 440 S.E.2d 375, 378 (S.C. 1994)] ("Whether a particular agency proceeding announces a rule or a general policy statement depends upon whether the agency action establishes a binding norm.").

In *Home Health Service*, 440 S.E.2d at 378, this Court described the controversy it

confronted as follows:

Appellant contends that it had no warning that allowing runners to temporarily fill in for players would be considered illegal. In appellant's view, it did not have prior notice because the Tax Commission failed to publish the decision as a regulation in accordance with the Administrative Procedures Act (APA), [§§ 1-23-130, 1-23-140 (1986)].

The Tax Commission Bingo Research Committee and Deputy Chief Revenue Officer issued an internal memorandum in the form of questions and answers. The question whether runners could fill in for players was addressed. This activity was determined to be prohibited. The memo was not promulgated as a regulation, but was circulated among Tax Commission district offices. The circuit court found that this internal memorandum was neither a rule, order, nor decision within the intent and meaning of the APA.

This Court then ruled as follows in *Home Health Service, Id.*:

Whether a particular agency proceeding announces a rule or a general policy statement depends upon whether the agency action establishes a binding norm. [*Ryder Truck Lines, Inc. v. United States*, 716 F.2d 1369 (11th Cir. 1983)].¹² In our view, the document issued was similar to a policy statement as opposed to a binding norm given that the document was not issued by the commissioners and thus, no final agency approval had been given. Therefore, we do not find that the APA was violated in this instance. We caution respondent that when there is a close question whether a pronouncement is a policy statement or regulation, the commission should promulgate the ruling as a regulation in compliance with the APA. [emphasis supplied].

The Court of Appeals in *Ackerman*, the decision upon which it anchored its decision in *Cramer*, afforded no deference to SCDC concerning its interpretation of Policy GA-01.12. Moreover, the Court of Appeals, by invoking *Home Health Service*, applied concepts of regulatory rule making and policy construction that were wholly inapplicable to an internal SCDC policy (i.e. Policy GA-01.12) in order to reverse the ALC's ruling in *Ackerman* that the inmates' grievances constituted "incident" grievances rather than "policy/procedure" grievances.

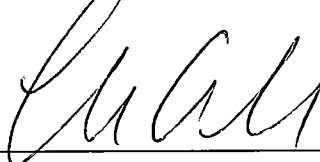
¹² Echoing the Third Circuit in *Newby* and the United States Supreme Court in *Bell*, the Eleventh Circuit in *Ryder Truck Lines*, 716 F.2d at 1380 – 81, observed that “[g]enerally, courts place great weight upon long-standing interpretations and policies announced by an agency, and closely scrutinize departure from agency precedent.” [citations and footnotes omitted].

In stark contrast to the Court of Appeals' decision in *Ackerman*, the ALC in *Ackerman* acknowledged SCDC role as the agency that drafted Policy GA-01.12, and, after carefully considering the definition of "policies/procedures" offered by SCDC within the context of Policy GA-01.12 itself, it deferred to both the definition of "policies/procedures" offered by SCDC and SCDC's conclusion that the inmates' grievances did not constitute "policy/procedure" grievances. (Apx. pp. 63 – 65). The ALC in *Cramer* followed its prior decision in *Ackerman* by affirming SCDC's rulings that Cramer's grievance was an "incident" grievance rather than a "policy/procedure" grievance and, therefore, the fifteen-day filing deadline applied to Cramer's grievance. (Apx. pp. 86 – 88).

VI. CONCLUSION

Therefore, SCDC respectfully urges this Court to, for the foregoing reasons, grant its instant petition for writ of certiorari so that it may review both the Court of Appeals' August 3, 2016 decision and November 17, 2016 order in *Cramer* and, in doing so, fully consider the ALC's decision in *Cramer*.

RESPECTFULLY SUBMITTED:



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Counsel for Petitioner

Columbia, South Carolina
January 9, 2017

THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

JAN -9 2017

Appeal from the Administrative Law Court
Carolyn C. Matthews, Administrative Law Judge S.C. SUPREME COURT

Court of Appeals Opinion No. 2016-UP-392

Joshua Cramer, #251406, Respondent,

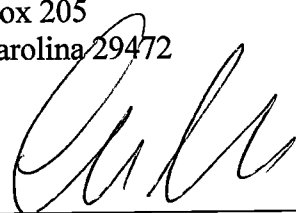
v.

South Carolina Department of Corrections, Petitioner.

PROOF OF SERVICE

I certify that I have served the **PETITION FOR WRIT OF CERTIORARI BY THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS and ITS ALLIED APPENDIX** on the above-named Respondent by mailing a copy of the same to him, first class postage pre-paid, at the following address:

Joshua Cramer, #251406
Lieber Correctional Institution
SA-17
Post Office Box 205
Ridgeville, South Carolina 29472



LAKE E. SUMMERS

January 9, 2017