

FEBRUARY 01, 2017

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FEB 06 2017

S.C. SUPREME COURT

THE SUPREME COURT OF SOUTH CAROLINA
DANIEL E. SHEAROUSE; CLERK OF COURT
P.O. BOX 11330
COLUMBIA, S.C. 29211

Re: George Cleveland ~~III~~ v. S.C.D.C.; Appellate case
No. 2016-002324.

1. DEAR MR. SHEAROUSE,

Attached to this letter is my motion to Recall
the Remittitur filed in the S.C. COURT OF APPEALS
IN Appellate case No. 2016-001033, supporting Appendix
AND proof of service.

2. The above Appellate case No. 2016-002324 is
CORRELATED with No. 2016-001033 respectively
which is filed in this court.

Respectfully Submitted,

~~George Cleveland III~~

CC: FILE
CHRISTINA C. BIGELOW, ESQUIRE

LEGAL MAIL

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FEB 07 2017

February 01, 2017

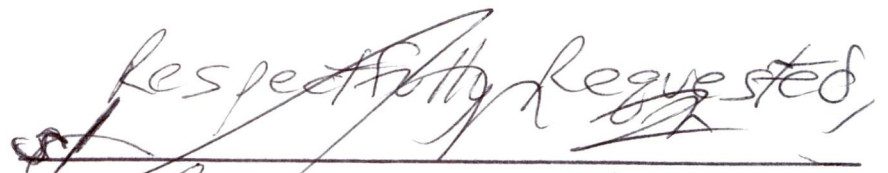
The South CAROLINA Court of Appeals
JENNY ABBOTT KITCHINGS; CLERK OF COURT
Post Office Box 11629
COLUMBIA, S.C. 29211

Re: George Cleveland ~~III~~ v. South CAROLINA
DEPARTMENT OF CORRECTIONS; Appellate Case No.
2016-001033; Motion to RECALL REMITTUR.

1. DEAR. MS. KITCHINGS,

CAN you please file the Attached motion to
RECALL REMITTUR (5 pages), supporting Appendix
(6 pages), AND proof of service, AND FORWARD
to the court for its consideration?

2. CAN you also please kindly stamp the extra
copies in the S.A.S.E. AND mail back to me?

Respectfully Requested,

George Cleveland ~~III~~

CC: FILE

CHRISTINA CATOE BIGELOW, ESQUIRE

DANIEL E. STEAROUSE, CLERK OF S.C. SUPREME COURT

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PETITIONER'S MOTION TO RECALL
THE REMITTUR SENT ON 1/13/17

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS;
IN THE SUPREME COURT

APPEAL FROM THE ADMINISTRATIVE LAW COURT

S. PHILIP LENSKI, ADMINISTRATIVE LAW JUDGE

LOWER COURT CASE NO. 16-ALS-24-0238-AP

APPELLATE COURT CASE NO. 2016-021033

GEORGE CLEVELAND, #35770, PETITIONER

VS.

SOUTH CAROLINA DEPARTMENT

OF CORRECTIONS (S.C.D.C.)

S.C.D.C.

OFFICE OF GENERAL COUNSEL

CHRISTINA CHOE BIELOW, DEPUTY GENERAL COUNSEL

P.O. Box 21787

COLUMBIAS, C. 29221

ATTORNEY FOR RESPONDENT

GEORGE CLEVELAND, III
700 PRISON ROAD
TIGER RIVER CORRECTIONAL
FACILITY, S.C. 29335
PROSE. PETITIONER

LEGAL MAIL

1.
PETITIONER'S MOTION TO RECALL

1/13/17 REMITTUR:

MAY IT PLEASE THE COURT: George Cleveland III, proceeding pro se, respectfully submits this application to this court to RECALL THE REMITTUR sent to the Administrative LAW court of South CAROLINA ON JANUARY 13, 2017 (R.p. 1) on the following grounds:

The Remittur was sent in error.

2.
ARGUMENT

REMITTUR SENT ON
JANUARY 13, 2017 WAS
IN ERROR:

ON JANUARY 13, 2017, this court sent the Remittur to the A.L.C. for Appellate court case No. 2016-001033. R.p. 1.

Two (2) days prior (1/11/2017), the South CAROLINA supreme court denied my motion to proceed in forma pauperis; effectively ending that Appeal. R.p. 2.

1.

LEGAL MAIL

On the other hand the JANUARY 13, 2017
 Remittitur sent to the A.L.C. Appellate case no.
 15:2016-001033 R.P. 1. This Appellate case number
 id was the Appeal filed in the S.C. court of
 Appeals; however this case number id is correlated
 with my Petition for a writ of certiorari filed in

George Cleveland ~~vs~~ #35770 vs. So. CAROLINA
 DEPARTMENT OF CORRECTIONS, R.P. 2.
 ON JANUARY 11, 2017 by the S.C. Supreme
 Court Appellate case No. 15:2016-002410;
 My motion to proceed in Form A Papers filed
 the specific error is that the order denying

The Appellate Court case number assigned
 that order (1/11/17 R.P. 2) is as follows:
 2016-002410; George Cleveland ~~vs~~ #35770
 vs. SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,
 R.P. 2.

The S.C. Supreme Court which the Appellate Court Case No. 15: 2016-002324; George Cleveland ~~III~~ #357770 v. South Carolina Department of Corrections, R.p. 3.

The S.C. Supreme Court held under Wise v. S.C.D.C. 372 S.C. 173, 642 S.E. 2d 551 S.C. (2007) the following:

"The remittitur is [to be recalled if it is] sent down by mistake, error, or inadvertence of the court," id. #551. The remittitur sent on JANUARY 13, 2017, id., (Appellate Case No. 2016-001033) filed in the S.C. Court of Appeals is correlated with certiorari petition filed in the S.C. Supreme Court (Appellate Case No. 2016-002324)², and nothing to do with Appellate Case No. 2016-002410, filed in the S.C. Supreme Court; accordingly, the

1. R.p. 1
2. R.p. 3

3.

LEGAL MAIL

Remittitur R.p. ¹ sent to the A.L.C. on
JANUARY 13, 2017 sent by the S.C. COURT OF
APPEALS WAS IN ERROR, AND MUST BE RECALLED.

3.
CONCLUSION:

The S.C. Supreme Court granted my motion
FOR AN EXTENSION to file my petition for
A WRIT OF CERTIORARI UNTIL December 05, 2016.
R.p. ³ The petition was timely filed, and the
S.C.D.C. even filed its' return to my
CERTIORARI ON JANUARY 04, 2017. R.p. ⁴

The remittitur sent in error is simply
delaying this case from review by the court.
because the clerk's duties are "to [only]
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. Moses 12 S.C. 139, 1879, WL 4939 (1879)

judith 133-35; the justices, and Appellate
Judges of the S.C. Appellate courts are
to make decisions in my certiorari Petition;
therefore, I pray for the following relief:

3-1. WHEREFORE, GRANT MY motion to RECALL
the remittur from the S.C. Administrative
Law Court in: Appellate Case No. 2016-001033;
ALC Case No. 2016-ALT-040030 AP in George
Cleveland v. S.C.C.

3-2. Notify the clerk's office of the S.C. Supreme
Court to place Appellate Case No. 2016-00324
in: George Cleveland v. S.C.C. back on
the docket for the justices' consideration
since the remittur has been RECALLED.
3-2. Any other relief this court deems just
properly and/or IMPARTIAL.

Respectfully Submitted,

George Cleveland
400 Prison Road
5. Enokree 5. c. 29335
LEGAL MAIL

DATE: FEBRUARY 20 2017

LEGAL MAIL

S.C. SUPREME COURT SHOWING CASE NO. 11, 2017

REMITTAR DATED: JANUARY 13, 2017
TO PROCEED IN FORMER PROPERIS DATED: JANUARY

PAGE NO (5)

INDEX TO THE RECORD

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

VS.
GEORGE CLEVELAND #35709, PETITIONER

APPELLATE CASE NO. 2016-061033

LOWER COURT CASE NO. 16-ALT-04-0030-AH

S. PHILIP LENSKI, ADMINISTRATIVE LAW JUDGE
APPEAL FROM THE ADMINISTRATIVE LAW COURT

IN THE SUPREME COURT

IN THE COURT OF APPEALS
THE STATE OF SOUTH CAROLINA

S.C. SUPREME COURT

FEB 06 2017

SENT ON 1/13/17

PETITIONER'S APPENDIX IN
SUPPORT OF MOTION TO RECALL
RECEIVED

INDEX TO THE RECORD.

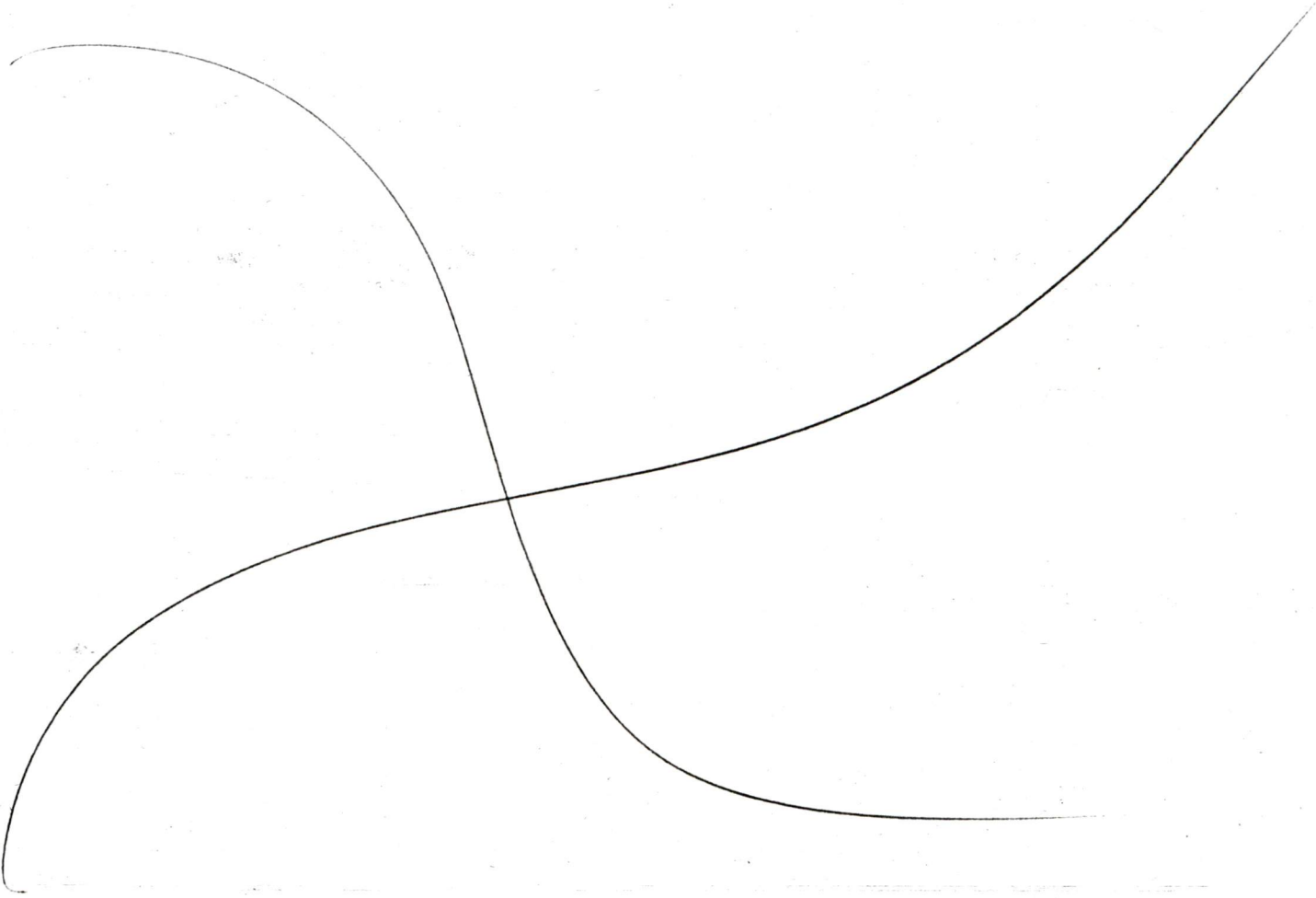
CONTINUED:

PAGE NO(S)

APPELLATE CASE NO. 2016-001033

CERTIFICATE OF SERVICE DATED: JANUARY

4, 2017 OF THE S.C.D.C. 4





Ripe!

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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

January 13, 2017

The Honorable Jana E. Shealy
1205 Pendleton Street
Columbia SC 29201

REMITTITUR

Re: George Cleveland #357770 v. SCDC (5)
Lower Court Case No. 2016ALJ040030AP
Appellate Case No. 2016-001033

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,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: George Cleveland #357770
Christina Catoe Bigelow, Esquire

Rep. 2

The Supreme Court of South Carolina

George Cleveland #357770, Petitioner,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2016-002410

ORDER

Petitioner has filed a motion for an extension of time to serve and file a petition for a writ of certiorari to the Court of Appeals. Petitioner has not submitted the filing fee for the motion, but instead moves to proceed *in forma pauperis*. We deny the motion to proceed *in forma pauperis* and decline to entertain the motion for an extension of time in light of petitioner's failure to pay the filing fee.


FOR THE COURT

C.J.

Columbia, South Carolina

January 11, 2017

cc:

Christina Catoe Bigelow, Esquire

George Cleveland #357770

The Honorable Jenny Abbott Kitchings

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SC Court of Appeals

ra 3

The Supreme Court of South Carolina

George Cleveland, III, #35770, Petitioner,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2016-002324

ORDER

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

FOR THE COURT

BY Drenda J. Shealy
Chief Deputy CLERK

Columbia, South Carolina

November 22, 2016

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

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

Page 4

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from the Administrative Law Court
S. Phillip Lenski, Administrative Law Judge
ALC Case No. 16-ALJ-04-0030-AP

Appellate Case No. 2016-002324
Former Court of Appeals Appellate Case No. 2016-001033

GEORGE CLEVELAND, # 357770,

PETITIONER,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that on today's date I mailed a copy of the **Return to Petition for Writ of Certiorari** to Petitioner, addressed as follows: **George Cleveland, III, # 357770**, Tyger River Correctional Institution, 200 Prison Road, Enoree, South Carolina, 29335.



Christina Catoe Bigelow
Deputy General Counsel
Office of General Counsel
S. C. Department of Corrections
Post Office Box 21787
Columbia, S. C. 29221
(803) 896-8508

January 4, 2017

PETTONSKY'S PROOF OF SERVICE

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
IN THE SUPREME COURT

APPEAL FROM THE ADMINISTRATIVE LAW COURT
S. PHILIP LENSKI; ADMINISTRATIVE LAW JUDGE
LOWER COURT CASE No. 16-ALJ-04-0030-A
APPELLATE CASE No. 2016-001033

VS.
SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS (S.C.D.C.), RESPONDENT
PETTONSKY'S PROOF OF SERVICE

I, George Cleveland, certify that on the
date below with proper United States postage
and properly addressed, motion to recall rewrites,
and supporting Appendix to the following,
S.C.D.C.

OFFICE OF GENERAL COUNSEL
CHRISTINA CATO BICELWIS ESQUIRE
P.O. BOX 21787
COLUMBIA, S.C. 29221
DATE: FEBRUARY 05, 2017

Respectfully submitted
George Cleveland
THE RIVER COLLECTION
100 PRISON ROAD
ENORREYS, SC 29335

LEGAL MAIL

35770, U8 115-B

FNST



UNITED STATES POSTAGE



PITNEY BOWES

02 1P

\$ 001.61⁰

0000835848

FEB 02 2017

MAILED FROM ZIP CODE 29335

SUPREME COURT OF SOUTH CAROLINA

WEL E. SHEAROUSE, CLERK OF COURT

Box 11330

Columbia, SC 29211