

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Deborah Brooks Durden

ALC Case No. 16-ALJ-04-0003-AP
Appellate Case No. 2016-002412

RECEIVED
MAY 18 2017
SC Court of Appeals

ERNEST BATTLE, # 165247,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

**MOTION TO REQUIRE APPELLANT TO FILE A CORRECTED OR
SUPPLEMENTAL RECORD ON APPEAL**

Comes now Respondent, through undersigned counsel, and requests that this Court require Appellant to file a corrected or supplemental Record on Appeal. The relevant facts supporting this request are as follows.

Appellant served a Record on Appeal on May 5, 2017. The Record on Appeal, as received by Respondent, does not include many of the documents filed in the Administrative Law Court, most importantly of which is Administrative Law Judge Durden's November 15, 2016 Final Order. Appellant included only page 2 of Judge Durden's Final Order. (See Record on Appeal, p. 13¹). Due to these missing documents,

¹ Appellant has not properly paginated the Record on Appeal. Therefore, this citation is achieved only by counting the pages of the Record.

Respondent is unable to file and serve a proper Final Brief of Respondent, as Judge Durden's order was cited to in Respondent's Brief. (See Initial Brief of Respondent, pages 5-7.) Accordingly, Respondent requests that this Court require Appellant to file an Amended Record on Appeal or a Supplemental Record on Appeal so that Respondent may file a proper Final Brief. Respondent would further request that Appellant be required to include in the Record all items designated in Respondent's Designation of Matter filed April 14, 2017 and that the Record include proper pagination, as required by South Carolina Appellate Court Rule 210(c) ("The Record on Appeal shall include *all matter designated to be included by any party* under Rule 209 Each page of the Record on Appeal shall be numbered consecutively beginning with the index.") (emphasis added).

Respondent respectfully requests that this Court hold the time period for filing the Final Brief of Respondent an abeyance pending the resolution of this motion.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

BY:  _____

Kensey Collins
Staff Attorney
Office of General Counsel
S.C. Department of Corrections
Post Office Box 21787
Columbia, South Carolina 29221
(803) 896-8508

ATTORNEY FOR RESPONDENT

May 18, 2017

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CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that on today's date, she mailed a copy of the **Motion to Require Appellant to File a Corrected or Supplemental Record on Appeal** to Appellant via U.S. Mail addressed as follows: Ernest Battle, # 165247, MacDougall Correctional Institution, 1516 Old Gilliard Road, Ridgeland, South Carolina 29472.



Kensey Collins
Staff Attorney
Office of General Counsel
S. C. Department of Corrections
Post Office Box 21787
Columbia, S. C. 29221
(803) 896-8508

May 18, 2017



South Carolina
Department of
Corrections

OFFICE OF GENERAL COUNSEL

HENRY McMASTER, Governor

BRYAN P. STIRLING, Director

RECEIVED

MAY 18 2017

SC Court of Appeals

May 18, 2017

The Honorable Jenny A. Kitchings
Clerk of Court, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: Ernest Battle, # 165247, v. South Carolina Department of Corrections
Appellate Case No. 2016-002412

Dear Ms. Kitchings:

Enclosed is the original and six copies of Respondent's **Motion to Require Appellant to File a Corrected or Supplemental Record on Appeal**, along with **Proof of Service**, in the above captioned appeal.

Additionally, Attorney Christina Catoe Bigelow is not representing the Department in this matter. The undersigned is the sole Counsel of Record for the Department in this matter. Therefore, Ms. Bigelow has not been copied or listed as a Counsel of Record for these filings. In order to avoid any confusion, I would respectfully request Ms. Bigelow be removed as the Counsel of Record for any future correspondence.

Thank you for your attention to these matters, and please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

Kensey Collins
Staff Attorney
South Carolina Department of Corrections

cc: Ernest Battle, # 165247
MacDougall Correctional Institution
1516 Old Gilliard Road
Ridgeland, South Carolina 29472