

The South Carolina Court of Appeals

RECEIVED

MAY 19 2017

William Allen #128666, Appellant

3-20-17

SC Court of Appeals

v.

Appellate case No: 2017-000596

South Carolina Dept. of Corrections, Respondent

Motion in support of,

Brief

### Statement of the case,

Appellant feels he is being held unlawfully by the South Carolina Dept. of Corrections, S.C.D.C. has no valid sentencing sheet/commitment Order filed with the Clerk of Court.

### Discussion

#### Violation of policy

Appellant feels that the Dept. of Corrections failed to follow policy and procedure, when this state agency accepted appellant into their custody. Appellant knows for a fact he is incarcerated with-out a valid commitment Order signed by a judge. that places Dept. of Corrections in violation of S.C.D.C. policy OP21.09-11.4-11.7. Appellant feels this violation shows disrespect and disregard by the state agency not to follow policy and procedures, that are put into place by state legislature of the state of South Carolina.

Appellant would ask the Court, why would the DOT take the time and waste taxpayers money to place a speed limit sign on the high-ways of this state, if they are not to be followed or enforced by law. Why would any business or state agency place policies or procedures and use words such as MUST, if the law or the Courts are not go hold them accountable. Is S.C.D.C. above the law + the Court?

Appellant is required to follow policy, procedures and regulations as an inmate in the Dept. of Corrections. If Appellant were to violate policy or procedures, then he is held accountable to the full extent of the law or policy of this agency.

It would be without doubt a double standard for the Court not to hold S.C.D.C. accountable to a higher standard and Order this state agency to follow policy and procedure, invalid, faulty, incomplete

S.C.D.C. states the record contains a facially valid sentencing Order from a general sessions judge.

Appellant would disagree. The paper that S.C.D.C. speaks about is facially incomplete and faulty, therefore invalid.

This paper does not even bear the word Order. This paper does not even have, so much as a case number on the face of it. This paper bears no clerk of court stamp from 1991, as dated July 14, 1991. (Sunday)

Therefore this paper is no legal valid document in the eyes of the law / court. [Sunday is the Lord's Day.]

Example, counterfeit money may appear to be facially valid, but is not legally valid. In the eyes of the law or the court. This agency's record is a prime example. It's not legally valid. The truth is the truth no matter who tells it. This incomplete paper should carry no weight in the eyes of the court. S.C.D.C. has no current legal valid sentencing sheet / commitment Order signed by a judge.

That would give S.C.D.C. the Authority of law to continue to hold Appellant in there Custody.

Appellant is being held in Violation of this Agency's policy OP21.09, 11.4-11.7. that states they must have a Commitment Order signed by a judge in order for them to have Authority of law to hold an inmate in there Custody.

Appellant feels he is being Violated under the equal protection clause and also feels this is cruel and unusual punishment. Shocking to the universal sense of justice. To be held in a prison in the United States of America. Without a Commitment Order signed by a judge. S.C.D.C. is holding Appellant under the Color of Authority. Without any solid Valid foundation.

Appellant feels it is not his responsibility or fault that the Court fell short and abandon the issue at hand. That took place on Sunday July 14, 1991. It started and ended that one day. The Court/judge did not fill-out or file a sentencing sheet/Commitment Order. The matter at hand was left abandon and incomplete. That responsibility fell directly on the Court.

How can the Dept. of Corrections or the Administrative Court Challenge the Validity of a document that does not exist. There is and never was a sentencing sheet/Commitment Order issued. It does not exist. Just as the sun rises in the east. That is an undisputable fact. the same in this case. It is Crystal Clear. S.C.D.C. has no Authority of law to continue to hold Appellant in there Custody.

## Conclusion

Appellant feels there is no need to beat a dead horse. Appellant feels that this agency (SCDC) is holding Appellant unlawfully. Without a valid sentencing sheet/commitment Order signed by a judge. Therefore SCDC has no authority of law to hold Appellant in their custody.

Example, Appellant filled out a paper to give a person on the street authority to sign his name. But it was not considered a legal valid document until after, it was clock stamped and filed with the Clerk of Court. Without the clock stamp, it was not worth the paper it was written on.

SCDC record contains a crystal clear facially, invalid, faulty incomplete paper. That shall carry no weight in the eyes of the court.

Appellant ask that this South Carolina Court of Appeals take jurisdiction over this matter and issue an order, that SCDC release Appellant from this unlawful incarceration unconditionally immediately as was requested in his grievance Number PRCI. 427-16.

Respectfully submitted,  
W. Allen Allen

cc. Hand written to:

S.C.D.C. General Counsel

WILLIAM ALLEN

4460 Broad River Pl.

Columbia, S.C. 29210

DATE MARCH 20, 2017

The South Carolina Court of Appeals,

William Allen #128666, Appellant

4-3-17

v.

Appellant Case No: 2017-000596

South Carolina Dept. of Corrections, Respondent

Amendment in support of  
motion/brief dated 3-20-17

Statement of the Case,

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Appellant is being held unlawfully by S.C.D.C.

MAY 19 2017

This Agency has NO legal valid sentencing sheet/  
Commitment Order signed by a judge and filed by a clerk of court.

SC Court of Appeals

Discussion

I am NOT Challenging the Validity of my sentence.  
What I am Challenging is S.C.D.C. Authority of law to hold  
my person without a legal valid and proper sentencing sheet  
and Commitment Order and therefore contending that my incarceration  
is illegal - against the statutory law of South Carolina - NOT  
my sentence that was imposed upon my person by a General  
session Judge.

Agency policy and State law clearly says S.C.D.C. must have  
a valid sentencing sheet and/or Commitment Order for such  
Agency to legally received my person into said DOC, otherwise  
the Agency is holding Appellant against the statutory provisions  
they abide by according to their own Agency policy.

Appellant would furthermore, contend also, that the Court had a judicial duty, some 26 years ago, to fill-out a legal Valid approved by the attorney general's office. Standardized sentencing sheet/commitment Order and file it with the Clerk of Court at that time, consider for a sentencing sheet/commitment Order to be a legal Valid binding document.

The Court made a judicial duty ERROR and fell short of its judicial duty. Therefore there is NO legal Valid sentencing sheet/commitment Order signed by a judge filed with the Clerk of Court. That would give this state agency the authority of law to hold appellant legally in their confinement.

### Conclusion

For the above stated reasons appellant's appeal grievance is NOT a PCR matter, but instead an appellant is ripe for review and decision by the Honorable Court of Appeals.

cc. Hand written to:  
S.C.D.C. General Counsel

DATE 4-3-12

Respectfully submitted  
W/ William Allen

WILLIAM ALLEN

4460 Broad River Rd.

Columbia, S.C. 29210

State of South Carolina  
South Carolina Court of Appeals

4-3-17

Appellate Case No: 2017-000596  
Amendment in support of  
motion/brief date 3-20-17

William Allen #128666

Appellant

v.

South Carolina Dept. of Corrections

Respondent

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MAY 19 2017

SC Court of Appeals

Certificate of Service

I, William Allen, inmate #128666 for Appellant, do Certify  
That, I have served the within Amendment dated 4-3-17, on  
Respondent by depositing a copy of the same in the United States  
mail postage, institutional mail S.C.D.C. dated 3. day of April 2017,  
addressed to:

General Counsel S.C.D.C.

4444 Broad River Rd.

Columbia, S.C. 29221-1287

I further Certify that all parties required to be served have been served.

~~W. Allen~~

WILLIAM ALLEN

#128666-MONT. A-148

4460 Broad River Rd.

Columbia, S.C. 29210

State of South Carolina  
South Carolina Court of Appeals

Appellate Case No: 2017-000596  
Motion in support of, dated 3-20-17

WILLIAM ALLEN #128666

APPELLANT

RECEIVED

v.

MAY 19 2017

SOUTH CAROLINA DEPT. OF CORRECTIONS

RESPONDENT

SC Court of Appeals

CERTIFICATE OF SERVICE

I William Allen, inmate, #128666 for Appellant, do certify that I have served the within motion dated 3-20-17, on Respondent by depositing a copy of the same in the United States mail postage, inscriptural mail S.C.C. dated 30 day of March 2017, addressed to:

General Counsel S.C.C.

4444 Broad River Rd.

Columbia, S.C. 29221-1282

I further certify that all parties required to be served have been served.

*H. White*

WILLIAM ALLEN

#128666 - mot. A-148

4460 Broad River Rd.

Columbia, S.C. 29210

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
INMATE GRIEVANCE FORM**

**STEP 1**

INMATE NAME: William Dale Allen  
 SCDC NUMBER: 178666 MAY 06  
 INSTITUTION: BRCI  
 HOUSING UNIT: Mont. A-148  
 WORK ASSIGNMENT: Form Worker, Handicapped

**OFFICE USE ONLY**  
 Grievance No. BRC F- 0427-16  
 Code: General \_\_\_\_\_  
 Policy \_\_\_\_\_  
 Disc. Hear. \_\_\_\_\_  
 Class. 2  
 PREA \_\_\_\_\_  
 Date Received MAY 17 2016  
 IGC Initials [Signature]

**STATEMENT OF GRIEVANCE** (Indicate the date of incident, and if the grievance is a challenge to SCDC Policy, specify which policy. Include supporting documentation and attach answered RTSM or Kiosk reference number.) I am here now filing this grievance in regard to SCDC policy, which according to Instructions #4, on back, I can do at any time. Therefore I assert that this "policy grievance" should not be barred by a time limitation, or for any other reason that is wholly without merit when respectfully considering the factual basis for this "policy grievance". Additionally, when considering the extremely serious nature of the issue to be addressed in light of fundamentally fair procedure, as is afforded me by governing SCDC policy and relevant State law. As for this "policy grievance", according to DP-21.09, Subsections 2.4, 2.5, 2.6 and 6.3.1 SCDC policy mandates, sets forth, that SCDC be unauthorized to accept any person into said Dept. unless there be a signed copy of a named persons sentencing sheet/commitment (form) in hand upon SCDC receiving said person, in this particular case William Dale Allen, into custody. otherwise commitment/custody of my person shall be deemed invalid according to SCDC policy and illegal according to State law. Regarding this matter, numerous Informal Resolutions have been attempted to no avail. See Below. As even in the obvious absence of a valid sentencing sheet/commitment form signed by the sitting judge in my case, SCDC officials are still refusing to adequately address this issue and, ultimately, order my immediate <sup>release</sup> due to the fact that SCDC has no such document to give legal cause for my personal commitment/custody into SCDC.

- Informal Resolution Attempts:
- 16-061439                      16-017952
  - 16-061026                      16-015736
  - 16-060126
  - 16-060147
  - 16-052559
  - 16-019596

William D. Allen                      5-1-16  
 Grievant Signature                      Date

**ACTION REQUESTED:** I am requesting presiding authority in this State's DOC immediately order my unconditional release from wrongful incarceration.

**ACTION TAKEN BY IGC:**  PROCESSED     UNPROCESSED     OTHER

See Warden's Response  
[Signature] 6/16/16  
 IGC Signature                      Date

(CONTINUE ON REVERSE SIDE)

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
INMATE GRIEVANCE FORM

DUE: 7-5-16

STEP 2  
AUG 05 2016

INMATE NAME: William Allen, Sr  
SCDC NUMBER: #128666  
INSTITUTION: BRCI  
HOUSING UNIT: MONT. A-148  
WORK ASSIGNMENT: \_\_\_\_\_

Office Use Only  
Grievance No. BRCI-0427-16  
Code: General  
Policy  
Disc. Hear.  
Class  
Date Received JUN 30 2016  
IGC Initials PD

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

*I completely disagree with this inaccurate decision from the Warden and it is with-out doubt unacceptable. There is no sentencing sheet in my case so how could it be correct or in-correct when it don't even exist.*

*The state Classification Dept. is completely wrong. The paper they are calling a sentencing sheet is not a sentencing FORM that was used and approved by the state for the time frame I entered SCDC, and with-out doubt SCDC was then and is now currently in violation of Policy OP.21.09 and I am therefore being held Unlawfully.*

*The Clerk of Court's record in Orangeburg County is void a valid sentencing sheet and void a commitment order for me to have ever been accepted into SCDC.*

*That is a fact that has been verified, if not then*

*produce + show me the commitment order (you can't)*

W. Allen, Sr 6-30-16  
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

Your concern has been reviewed. You stated in this grievance that SCDC does not have commitment orders committing you to serve time in SCDC. You stated that you are requesting that SCDC immediately release you from its custody. Records indicate that you were committed to the SCDC on July 17, 1991, from several Criminal Conspiracy charges. On Indictment Numbers 95-GS-181075, 95-GS-181074, 95-GS-181076, 95-GS-181073, and 95-GS-25638, you received 5 years for each count to run concurrently. Also, you were convicted for another Criminal Conspiracy Indictment Number 91-GS-25639, where you received a 10 year sentence. It is noted that Indictment 91-GS-25638 is consecutive to 91-GS-25639. Technically, these sentences have been completed. Finally, you have been convicted and serving a life sentence for Murder which is your dominate sentence.

Therefore, your grievance is denied.

You may appeal this decision under the Administrative Procedures Act to the Administrative Law Court. In order to appeal, you must fill out the attached Notice of Appeal Form and submit it as instructed on the form within 30 days of receipt.

Jaith D. Aspl 8/5/16  
Signature Date

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

[Signature] 8/18/16  
Grievant Signature Date

[Signature] 8/18/16  
IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)





SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
REQUEST TO STAFF MEMBER

TO: NAME: <i>Brown</i>	TITLE: <i>Caseworker</i>	DATE: <i>8/9/16</i>
INMATE'S NAME: <i>William D. Allen</i>		SCDC #: <i>178666</i>
INSTITUTION: <i>BRCI</i>		LIVING QUARTERS: <b>MONTICELLO UNIT</b>

*Reference to inmate correspondence:*

*I received a response from the director's office dated August 4, 2016. This letter advised me, if I had any questions or concerns about my convictions or commitment order. To see my case worker, my concern is the lack of a commitment order.*

*I am requesting at this time to be provided a copy of a commitment order, signed by a judge and filed with a clerk of court. That would give S.C.D.C. the authority of law to hold me in this state prison at this time.*

*P.S. If you have any questions contact  
Maria Jiggins  
Executive Assistant  
Director's office.*

*Thank you,  
Will D. Allen*

**DISPOSITION BY STAFF MEMBER:** *I have provided you with the requested Documents from July 14<sup>th</sup> 1991. If you have any other concerns about your commitment orders you need to contact the Inmate records office*

DATE: <i>8/11/2016</i>	SIGNATURE: <i>T. Brown</i>
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SENTENCE

STATE OF SOUTH CAROLINA  
COUNTY OF Hampton

CASE #: 91GS25-0639

The defendant, William Dale Allen, is committed to the State DEpartment of Corrections/County for a term of 10 years months/years and/or to pay a fine of \$ \_\_\_\_\_; provided upon the service of \_\_\_\_\_ months/years and/or payment of \$ \_\_\_\_\_, plus pay/waive costs and assessments as applicable\*, the balance suspended with probation for \_\_\_\_\_ months/years.

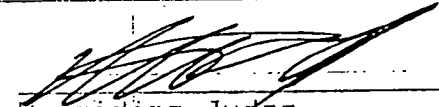
Restitution For physical injury \$ \_\_\_\_\_  
Yes/No Property Damage \$ \_\_\_\_\_

To be paid \_\_\_\_\_

For clerks over \_\_\_\_\_  
Other conditions \_\_\_\_\_

RECEIVED  
NOV 01 1991  
LR & EC  
#178666

Date Oct 23, 1991

  
Presiding Judge  
Hampton

\*Cost and assessments  
Non waivable \$ \_\_\_\_\_  
Not waived \$ \_\_\_\_\_  
Total \$ \_\_\_\_\_

\_\_\_\_\_  
Clerk of Court

\* If Plaintiff's Compensation Fund is subrogated.

SENTENCE

STATE OF SOUTH CAROLINA

CASE #: 91GS25-0638

COUNTY OF Hampton

The defendant, William Dale Allen, is committed to the

State Department of Corrections/County for a term of 5 yrs

*Consecutive with Indictment 91-56-25-639* months/years and/or to pay a fine of \$ \_\_\_\_\_; provided

*Concurrent with sentence now serving.* upon the service of \_\_\_\_\_ months/years and/or payment

of \$ \_\_\_\_\_, plus pay/waive costs and assessments as

applicable, the balance suspended with probation for \_\_\_\_\_

months/years.

Restitution For physical injury \$ \_\_\_\_\_

Yes/No Property Damage \$ \_\_\_\_\_

To be paid \_\_\_\_\_

To clerks for \_\_\_\_\_

Other conditions \_\_\_\_\_

RECEIVED  
NOV 01 1991  
LR & EC  
#178666

Date Oct 23, 1991

*[Signature]*  
Presiding Judge  
Hampton

\*Cost and assessments  
Not waivable \$ \_\_\_\_\_  
Not waived \$ \_\_\_\_\_  
Total \$ \_\_\_\_\_

RECEIVED  
NOV 05 1991  
RECEPTION CENTER  
Receiving/Records Office

\_\_\_\_\_  
Clerk of Court

\*\* Pay to Victim's Compensation Fund if subrogated.



# 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

May 04, 2017

William Allen #178666  
Broad River Correctional Institution  
Mont. A 148  
4460 Broad River Road  
Columbia SC 29210

**RECEIVED**

MAY 19 2017

SC Court of Appeals

Re: William Allen #178666 v. SCDC  
Appellate Case No. 2017-000596

Dear Mr. Allen:

Our records indicate that the time for serving and filing the appellant's initial brief and designation of matter has passed. You must serve and file your initial brief and designation of matter within ten (10) days of the date of this letter or the appeal will be dismissed.

Very truly yours,

*Jaya Kitchings*  
CLERK

*Dear Clerk of Court,*

*I received this letter dated May 4, 2017, from the mail room on Friday May 12, 2017 at 1:30 P.M., informing me that I had 10 days from May 4, 2017. I don't understand where the mix-up is in it. I filed my initial brief on (March 3-20-17) to the court and a copy of it is available on SCDC's website. I don't know how the records*

cc: Christina Catoe Bigelow, Esquire

*10 working days would be until May 15, 2017*

RECEIPT OF LEGAL CORRESPONDENCE VERIFICATION

This is to verify that legal correspondence addressed to the following:

WILLIAM ALLEN  
4460 BROAD RIVER Rd.  
Columbia, S.C. 29210

RECEIVED


MAY 19 2017

SC Court of Appeals

From:

SOUTH CAROLINA COURT APPEALS  
J. KITCHINGS, CLERK P.O. Box 11639  
Columbia, S.C. 29211

was received in the Broad River Correctional Mailroom on 5-5-17 and delivered to  
inmate William Allen on 5-12-17.



BRCI Postal Director

4460 Broadriver Rd

Columbia SC 29210

Date: 5/15/17

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE  
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING  
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

Benjamin L. Cooper, Respondent,

v.

State of South Carolina, Petitioner.

Appellate Case No. 2010-181646

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Appeal From Georgetown County  
Larry B. Hyman Jr., Circuit Court Judge

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Unpublished Opinion No. 2014-UP-286  
Heard June 10, 2014 – Filed July 16, 2014

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**AFFIRMED**

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Deputy Chief Appellate Defender Wanda H. Carter, of  
Columbia, for Respondent.

Attorney General Alan McCrory Wilson, Chief Deputy  
Attorney General John W. McIntosh, Senior Assistant  
Deputy Attorney General Salley W. Elliott, and Assistant  
Attorney General Christina J. Catoe, all of Columbia, for  
Petitioner.

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**PER CURIAM:** Benjamin Cooper petitioned the post-conviction relief (PCR) court for a new trial, arguing, in relevant part, the plea court's colloquy did not conform to *Boykin v. Alabama*.<sup>1</sup> The PCR court agreed and granted Cooper a new trial. On appeal, the State argues the PCR court erred in granting a new trial because, based on the entirety of the record, it is evident Cooper's guilty plea was entered into voluntarily and intelligently. We disagree and affirm the PCR court pursuant to Rule 220(b), SCACR, and the following authorities: *Edwards v. State*, 392 S.C. 449, 455, 710 S.E.2d 60, 64 (2011) ("In reviewing a PCR court's decision, an appellate court is concerned only with whether there is any evidence of probative value that supports the decision."); *id.* ("The appellate court will reverse the PCR court only where there is either no probative evidence to support the decision or the decision was controlled by an error of law."); *Roddy v. State*, 339 S.C. 29, 33, 528 S.E.2d 418, 421 (2000) ("To find a guilty plea is voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him." (citing *Boykin v. Alabama*, 395 U.S. 238 (1969))); *id.* at 33, 528 S.E.2d at 420 (2000) ("[T]he voluntariness of a guilty plea is not determined by an examination of a specific inquiry made by the sentencing [court] alone, but is determined from both the record made at the time of the entry of the guilty plea, and also from the record of the PCR hearing."); *Pittman v. State*, 337 S.C. 597, 600–01, 524 S.E.2d 623, 625 (1999) (finding the plea court's deficient plea colloquy and incomplete sentencing sheet indicated the petitioner's plea was not voluntary, intelligent, and knowing); *id.* (finding a deficient plea colloquy between the court and a defendant was not cured by other evidence in the record).

**AFFIRMED.**

**FEW, C.J., and SHORT and GEATHERS, JJ., concur.**

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<sup>1</sup> 395 U.S. 238, 242–43 (1969) (finding the trial court, in accepting a guilty plea, must make an affirmative showing on the record that the accused entered into the guilty plea intelligently and voluntarily).