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JUN 14 2017

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Ralph K. Anderson, III, Administrative Law Judge
Dock. No. 07-ALJ-04-00517-AP

Fred Gatewood..... Appellant,

v.

South Carolina Department of Corrections..... Respondent.


Court of Appeals Appellate Case No. 2014-001199
Supreme Court Appellate Case No. 2016-001221

MOTION FOR COSTS

Pursuant to SCACR 222, Fred Gatewood requests that costs be taxed against the Department of Corrections (SCDC) as follows.

On May 30, 2017, the Supreme Court issued an order denying the parties' petitions for certiorari to the Court of Appeals. Pursuant to SCACR 222, Gatewood requests that costs be taxed against SCDC in the amount of \$1,386.61, as more fully explained in the attached Memorandum, Itemized Statement of Costs, and invoice. Gatewood reserves the right to petition for attorney fees, etc., under S.C. Code §15-77-300 on remand in the ALC.

Respectfully submitted,


Douglas H. Westbrook, #6039
23 Broad St.
Charleston, SC 29401
(843) 853-9600
Attorney for Fred Gatewood

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MEMORANDUM IN SUPPORT OF MOTION FOR COSTS

Pursuant to SCACR 222(d) and 240(c), Fred Gatewood herewith submits the following Memorandum In Support Of Motion For Costs, as follows.

SCACR 222(a) provides that when an appeal is affirmed or reversed in part or is vacated, costs shall be allowed only as ordered by the appellate court. Moreover, an SCACR 222 attorney fee award has been called "automatic" by the Supreme Court (Muller v. Myrtle Beach Golf & Yacht Club 313 S.C. 412, 416, 438 S.E. 2d 248 (S.C., 1993)).

Here, in its decision of March 9, 2016, the Court of Appeals affirmed in part and reversed in part the ALC order upholding SCDC's denial of Gatewood's wage grievance; and remanded the issue of Gatewood's entitlement to costs, attorney fees, and pre and post-judgment interest, to the ALC for reconsideration in light of the Court of Appeals' decision reversing the ALC's conclusion that §24-1-295 applied retroactively to Gatewood's pre-August 1, 2007 earnings. In addition, neither Court has ordered taxation of costs in a manner

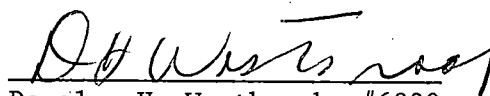
other than as provided in the rule. In its order of May 30, 2017, the Supreme Court denied both parties' petitions for certiorari, and did not address costs.

For this appeal, Gatewood's counsel has incurred those costs set forth in the attached Itemized Statement of Costs, totaling \$1,386.61. Of this total, \$286.61 is based on the enclosed Office Depot invoice of November 13, 2014. The six charges in the invoice do not specify whether they are for the brief, reply brief or record. There are two "comb binding" charges, one "110 lb Index" charge, and three apparent copy charges for "2519 @ 0.10", "Bulk @ 0.05"; "1050 @ 0.10", "Bulk @ 0.07"; and "505 @ 0.10", "Bulk @ 0.05". Counsel assumes the three apparent copy charges are for the record, final brief and reply brief, respectively; the "110 lb Index" charge is for covers; and the two "comb binding" charges are for binding. Apparently, the charges for covers and binding are for all three documents. The invoice does not follow SCACR Form 17.

Page counts of the record and briefs do not coincide with counsel's numbers. However, the November 13, 2014 invoice is for the Gatewood record and briefs, which counsel paid by check 256 to USA Savings Bank in the amount of \$286.61 on December 1, 2014, per counsel's time sheets entry of November 13, 2014 and check register entry of December 1, 2014.

Pursuant to the rule, Gatewood requests that costs be taxed against SCDC in the amount of \$1,386.61.

Respectfully submitted,



Douglas H. Westbrook, #6039
23 Broad St.
Charleston, SC 29401
(843) 853-9600

Attorney for Fred Gatewood

OFFICE DEPOT STORE 3357
 1812 CANN RITTENBERG BLVD
 CHARLESTON SC 29407

11/13/2014 14.4.6 5:19 PM
 STR 3357 REG3 TRN 5325 EMP 045245

SALE

Product ID	Description	Total
166955	BW DS Letter	
2,519 @ 0.10		251.90
Bulk @0.05		-125.95
Coupon - 21628715		25.15
You Pay		100.76SS
167060	BW SS Letter	
1,050 @ 0.10		105.00
Bulk @0.07		-31.50
Coupon - 21628715		-21.00
You Pay		52.50SS
167228	1101b Index	
100 @ 0.08		8.00
Coupon - 21628715		-2.00
You Pay		6.00SS
166423	Comb Bindings I	
47 @ 2.79		131.13
Bulk @2.49		-14.10
Coupon - 21628715		-29.14
You Pay		87.89SS
166955	BW DS Letter	
505 @ 0.10		50.50
Bulk @0.05		-25.25
Coupon - 21628715		-10.10
You Pay		15.15SS
166423	Comb Binding I	
Bulk @2.49		2.79
Coupon - 21628715		-0.30
Coupon - 21628715		-0.63
You Pay		1.86SS

Coupon Number - 160380HVQCMYK0

Subtotal:	264.16
SC Education Capital 1%	2.64
SC County Tax 1%	2.64
SC Transportation 0.5%	1.32
SC State Tax 6%	15.85
Total:	286.61
Visa 2964:	286.61

Total Office Depot Savings:

286.61 **\$286.16**
Galwood Nord & Co

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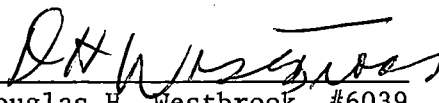
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PROOF OF SERVICE

I certify that I have served Appellant's Motion For Costs, Memorandum In Support Of Motion For Costs, Itemized Statement Of Costs, and invoice on the S.C. Department of Corrections by depositing a copy of these documents in the U.S. Mail, postage prepaid, on June 12, 2017, addressed to its attorney of record, Lake Summers, Esquire, Malone, Thompson, Summers & Ott, LLC, 339 Heyward St., Suite 200, Columbia, SC 29201.

June 12, 2017.



Douglas H. Westbrook, #6039
23 Broad St.
Charleston, SC 29401
(843) 853-9600
Attorney for Fred Gatewood

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DOUGLAS H. WESTBROOK
ATTORNEY AT LAW
23 BROAD STREET
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TELEPHONE: (843) 853-9600
FAX: (843) 577-2241

June 12, 2017

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

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SC Court of Appeals

Re: Gatewood v. SCDC
Court of Appeals Appellate Case No. 2014-001199
Supreme Court Appellate Case No. 2016-001221

Dear Ms. Kitchings:

Please find enclosed for filing with the Court the original and six copies of Appellant Fred Gatewood's Motion for Costs, Memorandum in Support of Motion for Costs, Itemized Statement of Costs, Proof of Service, and invoice, for the above case. I also enclose a check for the \$25 filing fee.

By copy of this letter, I have this date served a copy of these documents on counsel for the Respondent Department of Corrections, Lake E. Summers.

Thank you for your assistance in this matter.

Sincerely,



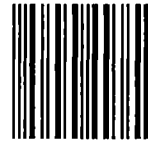
Douglas H. Westbrook

DHW/
Encl.
cc: Lake E. Summers, Esquire

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DOUGLAS H. WESTBROOK
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CHARLESTON, SOUTH CAROLINA 29401

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