

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph K. Anderson, III, Administrative Law Judge

Dock Nos. 07-ALJ-04-00444-AP, 07-ALJ-04-00445-AP, 07-ALJ-04-00446-AP, 07-ALJ-04-00447-AP, 07-ALJ-04-00448-AP, 07-ALJ-04-00449-AP, 07-ALJ-04-00500-AP, 07-ALJ-04-00501-AP, 07-ALJ-04-00502-AP, 07-ALJ-04-00503-AP, 07-ALJ-04-00504-AP, 07-ALJ-04-00505-AP, 07-ALJ-04-00506-AP, 07-ALJ-04-00507-AP, 07-ALJ-04-00508-AP, 07-ALJ-04-00509-AP, 07-ALJ-04-00510-AP, 07-ALJ-04-00511-AP, 07-ALJ-04-00512-AP, 07-ALJ-04-00513-AP, 07-ALJ-04-00514-AP, 07-ALJ-04-00515-AP, 07-ALJ-04-00516-AP, 07-ALJ-04-00517-AP, 07-ALJ-04-00518-AP, 07-ALJ-04-00519-AP, 07-ALJ-04-00520-AP, 07-ALJ-04-00521-AP, 07-ALJ-04-00522-AP, 07-ALJ-04-00523-AP, 07-ALJ-04-00524-AP, 07-ALJ-04-00525-AP, 07-ALJ-04-00526-AP, 07-ALJ-04-00527-AP, 07-ALJ-04-00528-AP, 07-ALJ-04-00529-AP, 07-ALJ-04-00530-AP, 07-ALJ-04-00531-AP, 07-ALJ-04-00532-AP, 07-ALJ-04-00533-AP, 07-ALJ-04-00534-AP, 07-ALJ-04-00535-AP, 07-ALJ-04-00536-AP, 07-ALJ-04-00537-AP, 07-ALJ-04-00538-AP, 07-ALJ-04-00539-AP, 07-ALJ-04-00540-AP, 07-ALJ-04-00541-AP, 07-ALJ-04-00542-AP, 07-ALJ-04-00543-AP, 07-ALJ-04-00544-AP, 07-ALJ-04-00545-AP, 07-ALJ-04-00546-AP, 07-ALJ-04-00547-AP, 07-ALJ-04-00548-AP, 07-ALJ-04-00549-IJ, 07-ALJ-04-00550-AP, 07-ALJ-04-00551-AP, 07-ALJ-04-00552-AP, 07-ALJ-04-00553-AP, 07-ALJ-04-00554-AP, 07-ALJ-04-00555-AP, 07-ALJ-04-00556-AP, 07-ALJ-04-00557-AP, 07-ALJ-04-00558-AP, 07-ALJ-04-00559-AP, 07-ALJ-04-00623-AP, 07-ALJ-04-00624-AP, 07-ALJ-04-00625-AP, 07-ALJ-04-00626-AP, 07-ALJ-04-00627-AP, 07-ALJ-04-00628-AP, 07-ALJ-04-00629-AP, 07-ALJ-04-00630-AP, 07-ALJ-04-00631-AP, 07-ALJ-04-00632-AP, 07-ALJ-04-00671-AP, 07-ALJ-04-00672-AP, 07-ALJ-04-00673-AP, 07-ALJ-04-00674-AP, 07-ALJ-04-00675-AP, 07-ALJ-04-00676-AP, 07-ALJ-04-00677-AP, 07-ALJ-04-00691-AP, 07-ALJ-04-00752-AP, 07-ALJ-04-00798-AP, 07-ALJ-04-00856-AP, 07-ALJ-04-00857-AP, 07-ALJ-04-00858-AP, 07-ALJ-04-00859-AP, 07-ALJ-04-00860-AP, 07-ALJ-04-00861-AP, 07-ALJ-04-00862-AP, 07-ALJ-04-00863-AP, 07-ALJ-04-00864-AP, 07-ALJ-04-00865-AP, 07-ALJ-04-00866-AP, 07-ALJ-04-00867-AP, 07-ALJ-04-00868-AP, 07-ALJ-04-00869-AP, 07-ALJ-04-00870-AP, 07-ALJ-04-00871-AP, 07-ALJ-04-00872-AP, 07-ALJ-04-00444-AP, 07-ALJ-04-00876-AP, 07-ALJ-04-00885-AP, 08-ALJ-04-00141-AP, 08-ALJ-04-00142-AP, 08-ALJ-04-00143-AP, 08-ALJ-04-00144-AP, 08-ALJ-04-00145-AP, 08-ALJ-04-00146-AP, 08-ALJ-04-00147-AP, 08-ALJ-04-00148-AP, 08-ALJ-04-00149-AP, 08-ALJ-04-00169-AP, 08-ALJ-04-00170-AP, 08-ALJ-04-00171-AP, 08-ALJ-04-00192-AP, 08-ALJ-04-00966-IJ, 08-ALJ-04-00967-IJ, 08-ALJ-04-00968-IJ, 08-ALJ-04-00969-IJ, 08-ALJ-04-00970-IJ, 08-ALJ-04-00971-IJ, 08-ALJ-04-00972-IJ, 08-ALJ-04-00973-IJ, 08-ALJ-04-00974-IJ, 08-ALJ-04-00975-IJ, 08-ALJ-04-00976-IJ, 08-ALJ-04-00977-IJ, 08-ALJ-04-00978-IJ, 08-ALJ-04-00979-IJ, 08-ALJ-04-00980-IJ, 08-ALJ-04-00981-IJ, 08-ALJ-04-00982-IJ, 08-ALJ-04-00983-IJ, 08-ALJ-04-00984-IJ, 08-ALJ-04-00985-IJ, 08-ALJ-04-00986-IJ, 08-ALJ-04-00987-IJ, 08-ALJ-04-00988-IJ, 08-ALJ-04-00989-IJ, 08-ALJ-04-00990-IJ, 08-ALJ-04-00991-IJ, 08-ALJ-04-00992-IJ, 08-ALJ-04-00993-IJ, 08-ALJ-04-00994-IJ, 08-ALJ-04-00995-IJ, 08-ALJ-04-00996-IJ, 08-ALJ-04-00997-IJ, 08-ALJ-04-00998-IJ, 08-ALJ-04-00999-IJ, 08-ALJ-04-01000-IJ, 08-ALJ-04-01001-IJ, 08-ALJ-

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SC Court of Appeals

04-01002-IJ, 08-ALJ-04-01003-IJ, 08-ALJ-04-01004-IJ, 08-ALJ-04-01005-IJ, 08-ALJ-04-01006-IJ, 08-ALJ-04-01007-IJ, 08-ALJ-04-01008-IJ, 08-ALJ-04-01009-IJ, 08-ALJ-04-01010-IJ, 08-ALJ-04-01011-IJ, 08-ALJ-04-01012-IJ, 08-ALJ-04-01013-IJ, 08-ALJ-04-01014-IJ, 08-ALJ-04-01015-IJ, 08-ALJ-04-01016-IJ, 08-ALJ-04-01017-IJ, 08-ALJ-04-01018-IJ, 08-ALJ-04-01019-IJ, 08-ALJ-04-01020-IJ, 08-ALJ-04-01021-IJ, 08-ALJ-04-01022-IJ, 08-ALJ-04-01023-IJ, 08-ALJ-04-01024-IJ, 08-ALJ-04-01025-IJ, 08-ALJ-04-01026-IJ, 08-ALJ-04-01027-IJ, 08-ALJ-04-01028-IJ, 08-ALJ-04-01029-IJ, 08-ALJ-04-01030-IJ, 08-ALJ-04-01031-IJ, 08-ALJ-04-01032-IJ, 08-ALJ-04-01033-IJ, 08-ALJ-04-01034-IJ, 08-ALJ-04-01035-IJ, 08-ALJ-04-01036-IJ, 08-ALJ-04-01037-IJ, 08-ALJ-04-01038-IJ, 08-ALJ-04-01039-IJ, 08-ALJ-04-01040-IJ, 08-ALJ-04-01041-IJ, 08-ALJ-04-01042-IJ, 08-ALJ-04-01043-IJ, 08-ALJ-04-01044-IJ, 08-ALJ-04-01045-IJ, 09-ALJ-04-00304-IJ, 07-ALJ-04-00826-AP.*

Francis Ackerman, #266928, Malik Aljalil, #219551, Linso Allen, #269378, Michael Benninger, #264212, Fredrick Brown, #289602, Timothy Brown, #238461, Terrell Buchanon, #277262, Christopher Bush, #300690, Rudy Cassady, #238732, Sheldon Clark, #264772, Zawaski Cobb, #187136, Kamathene Cooper, #145333, Gladstone Cummings, #267450, Patrick Curtis, #175139, Quintin Daniels, #196284, Curtis Davis, #238776, Heyward Dempsey, #134171, Phillip Denney, #240678, Paul Durham, #219573, Jerome Durham, #270393, Keith Eigner, #299153, Bernard Felder, #122099, Jermaine Garriett, #191274, Fred Gatewood, #289775, Dennis Goff, #177506, Gregory Grant, #109656, Nelson Hampton, #286427, James Hartman, #219770, Gary Hayes, #263985, Michael Hood, #279897, Nikia Law, #260855, Stephen Lease, #137016, Harry Leonard, #249996, Herbert McFadden, #184297, Michael McFarland, #266870, Earl Mack, #216237, John Moultrie, #276527, Matin Muntaqim, #142282, Tony Pitts, #280579, Germaine Pringle, #250390, Gene Richardson, #93614, Dennis Richey, #233472, Ignacio Rivera, #300424, Vondell Sanders, #241308, James Sattler, #235043, Joseph Schmitz, #173987, Arthur Scott, #251957, Jerome Scott, #153381, Roosevelt Scott, #275631, Archie Simmons, #161419, Robert Smith, #199324, James Williams, #282929, Gary Bryant, #258972, Harlon Edger, #261866, Johnny Holden, #245199, Don Hughes, #256862, Michael Key, #266890, Archie Lee, #226354, Isaac Richardson, #232574, Larkland Richards, #281768, John Wojcik, #219463, James Bogan, #288111, Larry Burke, #281911, Jammie Gaymon, #208922, David Harrell, #260004, Jeff Stinson, #260047, Ricky Libby, #274681, Alain Lareau, #128014, Quentin Baker, #297868, Frank Corley, #292975, James Jackson, #267718, Quintin Linen, #238553, Thomas Miles, #246763, Chauncy Orr, #177069, Isaiah Scott, #228008, Eric Youmous, #281091, Derek Carter, #275938, Willie Hare, #256641, Ernest Miller, #235474, Robert Norris, #266101, Ronald Simmons, #267937, Samuel Simmons, #302393, William Thomas, #272501, Anthony Murphy, #295893, Anthony Murray, #237867, Johnny Hayes, #267910, Roy Morris, #288777, Daniel Dewey, #276678, Nehemiah Greene, #243339, Leroy Choice, #113990, James McFadden, #235419, Francis Prioleau, #268813, Darrell Rochester, #146731, Wilbur Jordan, #272264, Alvin Stewart, #278595, Kevin Poston, #266083, Kevin Smith, #272440, Donald Robinson, #277520, Douglas Bude, #263537, Willie Elder, #246208, Rogelio Zavala, #245106, Dennis Knight, #286981, Jacob Beach, #301270, Francis Ackerman, #266928, Darrin Miller, #259593, Edward Bryant, #255998, Sherman Austin, #300028, Michael Baylor, #265682, Taurus Bowman, #252745,

Kenneth Carter, #243538, Calvin Drummond, #236322, David Feggins, #287157, Terry Ferguson, #299080, Willie House, #257820, Peter Jenkins, #257321, Percy Martin, #270035, James Murray, #165487, Stephone Simmons, #300422, Larry McClam, #282972, Tyrone Aiken, #244428, Tyrone Aiken, #248367, Frank Anderson, #282800, Ronald Brewer, #285756, Keith Brown, #295762, Pete Bryant, #242370, Michael Busques, #191961, Richard Butler, #162467, Gary Davis, #106144, Anthony English, #238474, Kerlan Etheredge, #236635, James Evans, #267837, Jose Flores, #240563, Robert Garrett, #291096, Reginald Geddis, #183851, Richard Graham, #228235, Gary Grooms, #283860, Wayne Harlen, #245705, Johnny Hayes, #267910, Steven Hickenbottom, #196263, Alfred Joyner, #260442, Donald Lyles, #296135, Henry Baker, #263398, Thomas Carter, #249362, Thomas Butler, #257552, Bobby Williams, #261486, Ray Wells, #173651, Rodney Pressley, #177947, Keith Kelly, #257556, Maxie Gamble, #254413, James Enriquez, #215539, Perry Deveaux, #109601, James Wells, #180458, Cedric Martino, #291396, Donald McAteer, #292961, Robert Wydman, #260331, Anthony Wright, #214007, Derrick Williams, #272958, Kenneth White, #228409, James Trumper, #247429, Jeffrey Spears,* #281967, Timothy Smith, #296539, David Sims, #278067, Virgil Simpson, #281888, Edward Simpson, #220017, Kenneth Simmons, #278911, George Shine, #292391, Ralph Sellers, #164295, Laron Richardson, #258786, Frank Patterson, #283098, Tony McNeil, #235846, Larry McClam, #282972, Lavanza Mack, #189340, Raymond Livingston, #277133, Nicholas Lambrose, #215080, Joseph Kelsey, #217218, Keith Eugene, no number, Chuck Jackson, #266425, James Foye, #211523, Timothy Inman, #151123, Marvin Gilbert, #273934, Demetrius Wheeling, #264976, Leon Wilson, #155867, Jeffrey Tevis, #216442, Darryel Beasley, #222388, Curtis Thompson, #266448, Baron Cobbs, #280479, James Tino, #145030, Harold Roberson, #117001, Ray Gadsden, #187527, Tony Witt, #242918, Jonathan Singleton, #287670, Joe Pannell, #89592, Charles Graham, #294453, Lazarus Brannon, #227847, Darrell Williams, #219730, Wilbert Mills, #244004, Howard Grant, #255473, Timothy Wilson, #261971, Rodney Elliott, #251337, Henry Rivers, #219118... Petitioners,

v.

The Honorable Ralph K. Anderson, III and The South Carolina Department of Corrections..... Respondents.

Court of Appeals Appellate Case No. 2012-210588

Supreme Court Appellate Case No. 2016-000829

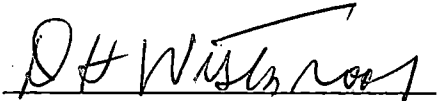
PETITION FOR A WRIT OF MANDAMUS

Pursuant to S.C. Code §14-8-290, Francis Ackerman, et al. (inmates) re-

* Docket No. 07-ALJ-04-00826-AP may concern an unrelated case. Also, inmate Jeffrey Spears' correct number is 281697.

quest the Court to issue a Writ of Mandamus compelling The Honorable Ralph K. Anderson, III, Chief Judge, S.C. Administrative Law Court (ALC), to consider inmates' grievances on the merits, as required by this Court's judgment of February 10, 2016 and remittitur of June 2, 2017, as more particularly described in the attached memorandum.

Respectfully submitted,


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

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph K. Anderson, III, Administrative Law Judge

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04-01002-IJ, 08-ALJ-04-01003-IJ, 08-ALJ-04-01004-IJ, 08-ALJ-04-01005-IJ, 08-ALJ-04-01006-IJ, 08-ALJ-04-01007-IJ, 08-ALJ-04-01008-IJ, 08-ALJ-04-01009-IJ, 08-ALJ-04-01010-IJ, 08-ALJ-04-01011-IJ, 08-ALJ-04-01012-IJ, 08-ALJ-04-01013-IJ, 08-ALJ-04-01014-IJ, 08-ALJ-04-01015-IJ, 08-ALJ-04-01016-IJ, 08-ALJ-04-01017-IJ, 08-ALJ-04-01018-IJ, 08-ALJ-04-01019-IJ, 08-ALJ-04-01020-IJ, 08-ALJ-04-01021-IJ, 08-ALJ-04-01022-IJ, 08-ALJ-04-01023-IJ, 08-ALJ-04-01024-IJ, 08-ALJ-04-01025-IJ, 08-ALJ-04-01026-IJ, 08-ALJ-04-01027-IJ, 08-ALJ-04-01028-IJ, 08-ALJ-04-01029-IJ, 08-ALJ-04-01030-IJ, 08-ALJ-04-01031-IJ, 08-ALJ-04-01032-IJ, 08-ALJ-04-01033-IJ, 08-ALJ-04-01034-IJ, 08-ALJ-04-01035-IJ, 08-ALJ-04-01036-IJ, 08-ALJ-04-01037-IJ, 08-ALJ-04-01038-IJ, 08-ALJ-04-01039-IJ, 08-ALJ-04-01040-IJ, 08-ALJ-04-01041-IJ, 08-ALJ-04-01042-IJ, 08-ALJ-04-01043-IJ, 08-ALJ-04-01044-IJ, 08-ALJ-04-01045-IJ, 09-ALJ-04-00304-IJ, 07-ALJ-04-00826-AP.*

Francis Ackerman, #266928, Malik Aljalil, #219551, Linso Allen, #269378, Michael Benninger, #264212, Fredrick Brown, #289602, Timothy Brown, #238461, Terrell Buchanon, #277262, Christopher Bush, #300690, Rudy Cassady, #238732, Sheldon Clark, #264772, Zawaski Cobb, #187136, Kamathene Cooper, #145333, Gladstone Cummings, #267450, Patrick Curtis, #175139, Quintin Daniels, #196284, Curtis Davis, #238776, Heyward Dempsey, #134171, Phillip Denney, #240678, Paul Durham, #219573, Jerome Durham, #270393, Keith Eigner, #299153, Bernard Felder, #122099, Jermaine Garriett, #191274, Fred Gatewood, #289775, Dennis Goff, #177506, Gregory Grant, #109656, Nelson Hampton, #286427, James Hartman, #219770, Gary Hayes, #263985, Michael Hood, #279897, Nikia Law, #260855, Stephen Lease, #137016, Harry Leonard, #249996, Herbert McFadden, #184297, Michael McFarland, #266870, Earl Mack, #216237, John Moultrie, #276527, Matin Muntaqim, #142282, Tony Pitts, #280579, Germaine Pringle, #250390, Gene Richardson, #93614, Dennis Richey, #233472, Ignacio Rivera, #300424, Vondell Sanders, #241308, James Sattler, #235043, Joseph Schmitz, #173987, Arthur Scott, #251957, Jerome Scott, #153381, Roosevelt Scott, #275631, Archie Simmons, #161419, Robert Smith, #199324, James Williams, #282929, Gary Bryant, #258972, Harlon Edger, #261866, Johnny Holden, #245199, Don Hughes, #256862, Michael Key, #266890, Archie Lee, #226354, Isaac Richardson, #232574, Larkland Richards, #281768, John Wojcik, #219463, James Bogan, #288111, Larry Burke, #281911, Jammie Gaymon, #208922, David Harrell, #260004, Jeff Stinson, #260047, Ricky Libby, #274681, Alain Lareau, #128014, Quentin Baker, #297868, Frank Corley, #292975, James Jackson, #267718, Quintin Linen, #238553, Thomas Miles, #246763, Chauncy Orr, #177069, Isaiah Scott, #228008, Eric Youmous, #281091, Derek Carter, #275938, Willie Hare, #256641, Ernest Miller, #235474, Robert Norris, #266101, Ronald Simmons, #267937, Samuel Simmons, #302393, William Thomas, #272501, Anthony Murphy, #295893, Anthony Murray, #237867, Johnny Hayes, #267910, Roy Morris, #288777, Daniel Dewey, #276678, Nehemiah Greene, #243339, Leroy Choice, #113990, James McFadden, #235419, Francis Prioleau, #268813, Darrell Rochester, #146731, Wilbur Jordan, #272264, Alvin Stewart, #278595, Kevin Poston, #266083, Kevin Smith, #272440, Donald Robinson, #277520, Douglas Bude, #263537, Willie Elder, #246208, Rogelio Zavala, #245106, Dennis Knight, #286981, Jacob Beach, #301270, Francis Ackerman, #266928, Darrin Miller, #259593, Edward Bryant, #255998, Sherman Austin, #300028, Michael Baylor, #265682, Taurus Bowman, #252745,

Kenneth Carter, #243538, Calvin Drummond, #236322, David Feggins, #287157, Terry Ferguson, #299080, Willie House, #257820, Peter Jenkins, #257321, Percy Martin, #270035, James Murray, #165487, Stephone Simmons, #300422, Larry McClam, #282972, Tyrone Aiken, #244428, Tyrone Aiken, #248367, Frank Anderson, #282800, Ronald Brewer, #285756, Keith Brown, #295762, Pete Bryant, #242370, Michael Busques, #191961, Richard Butler, #162467, Gary Davis, #106144, Anthony English, #238474, Kerlan Etheredge, #236635, James Evans, #267837, Jose Flores, #240563, Robert Garrett, #291096, Reginald Geddis, #183851, Richard Graham, #228235, Gary Grooms, #283860, Wayne Harlen, #245705, Johnny Hayes, #267910, Steven Hickenbottom, #196263, Alfred Joyner, #260442, Donald Lyles, #296135, Henry Baker, #263398, Thomas Carter, #249362, Thomas Butler, #257552, Bobby Williams, #261486, Ray Wells, #173651, Rodney Pressley, #177947, Keith Kelly, #257556, Maxie Gamble, #254413, James Enriquez, #215539, Perry Deveaux, #109601, James Wells, #180458, Cedric Martino, #291396, Donald McAteer, #292961, Robert Wydman, #260331, Anthony Wright, #214007, Derrick Williams, #272958, Kenneth White, #228409, James Trumper, #247429, Jeffrey Spears, * #281967, Timothy Smith, #296539, David Sims, #278067, Virgil Simpson, #281888, Edward Simpson, #220017, Kenneth Simmons, #278911, George Shine, #292391, Ralph Sellers, #164295, Laron Richardson, #258786, Frank Patterson, #283098, Tony McNeil, #235846, Larry McClam, #282972, Lavanza Mack, #189340, Raymond Livingston, #277133, Nicholas Lambrose, #215080, Joseph Kelsey, #217218, Keith Eugene, no number, Chuck Jackson, #266425, James Foye, #211523, Timothy Inman, #151123, Marvin Gilbert, #273934, Demetrius Wheeling, #264976, Leon Wilson, #155867, Jeffrey Tevis, #216442, Darryel Beasley, #222388, Curtis Thompson, #266448, Baron Cobbs, #280479, James Tino, #145030, Harold Roberson, #117001, Ray Gadsden, #187527, Tony Witt, #242918, Jonathan Singleton, #287670, Joe Pannell, #89592, Charles Graham, #294453, Lazarus Brannon, #227847, Darrell Williams, #219730, Wilbert Mills, #244004, Howard Grant, #255473, Timothy Wilson, #261971, Rodney Elliott, #251337, Henry Rivers, #219118... Petitioners,

v.

The Honorable Ralph K. Anderson, III and The South Carolina Department of Corrections..... Respondents.

Court of Appeals Appellate Case No. 2012-210588
Supreme Court Appellate Case No. 2016-000829

MEMORANDUM IN SUPPORT OF PETITION FOR A WRIT OF MANDAMUS

* Docket No. 07-ALJ-04-00826 may concern an unrelated case. Also, inmate Jeffrey Spears' correct number is 281697.

Francis Ackerman, et al. (inmates) submit the within Memorandum in Support of Petition For a Writ of Mandamus, as follows.

I. Background

This case concerns some 196 inmate wage grievances filed with the Department of Corrections (SCDC) in 2004 and after. In 2007, SCDC denied grievances on the merits, and for not meeting the filing deadline in §13.1 of grievance policy for "incident" grievances.

In 2007 and after, inmates appealed SCDC grievance denials, or in some cases failure to process, to the Administrative Law Court (ALC). In 2010, the ALC directed briefing to proceed in three levels of review. In 2012, the ALC ruled all grievances, except Fred Gatewood's, were untimely filed under §13.1.

Following Gatewood's appeal to the Court of Appeals, this Court remitted Gatewood's case to the ALC for briefing on the merits (August 26, 2013 remittitur attached). Ultimately, the ALC ruled in "Level Three" for Gatewood that he was entitled to the \$4 gross wage, but §24-1-295 applied to deny back wages owed to Gatewood (ALC April 29, 2014 order for Gatewood, pp. 1, 4, 8-10, also attached). Gatewood again appealed to the Court of Appeals in No. 2014-001199.

In 2012, inmates appealed to the Court of Appeals in the instant case, Appellate Case No. 2012-210588. On February 10, 2016, the Court ruled grievances concerned policies/procedures under §13.9, and were timely filed because §13.9 has no filing deadline. The Court stated SCDC's attempt to characterize grievances as "incident" grievances was "arbitrary and capricious". The Court remanded "..for the ALC's consideration of Inmates' grievances on the merits." (Ackerman, et al. v. SCDC 415 S.C. 412, 782 S.E. 2d 757, 762 (S.C. App., 2016)).

On May 30, 2017, the Supreme Court denied SCDC's petition for certiorari. On June 2, 2017, the Court of Appeals issued the remittitur back to the ALC.

On June 13, 2017, the ALC issued a remand to SCDC "..for consideration of Appellants' grievances on the merits in keeping with the Court of Appeals decisions in Ackerman and Gatewood.." (ALC remand attached). Prior to this remand, the ALC did not have the parties brief grievances on the merits, issue a decision on the merits, or even contact the parties except to send a remand acknowledgment form.

II. Law

Each Court of Appeals judge has the power at chambers to issue writs of mandamus as when in open court (S.C. Code §14-8-290). To obtain a writ of mandamus, petitioner must demonstrate (1) respondent has a duty to perform an act; (2) the ministerial nature of the act; (3) petitioner's specific legal right necessitates discharge of that duty; and (4) petitioner lacks any other legal remedy (J. Toal, Appellate Practice in South Carolina, 3d Ed., 2016, p. 324; citing Porter v. Jedziniak 334 S.C. 16, 512 S.E. 2d 497 (S.C., 1999)).

Where a writ of mandamus is sought to require a judge to perform an act, the judge must be served with the petition and named as a party (Id, pp. 325-326; citing City of Rock Hill v. Thompson 349 S.C. 197, 563 S.E. 2d 101 (2002); and Miller v. State 377 S.C. 99, 659 S.E. 2d 492 (2008)). Moreover, there is no time limit per se for filing a petition for mandamus (Id, p. 326; citing State v. Truesdale 345 S.C. 542, 548 S.E. 2d 896 (Ct. App., 2001)).

Finally, a motion for leave to file a petition for mandamus is the proper remedy for a lower court's failure to comply with the mandate (Am Jur 2d

(2007), App. Rev., §744).

III. Discussion

A. Respondent's Duty to Perform an Act

In Muller v. Myrtle Beach Golf & Yacht Club 313 S.C. 412, 414-415, 438 S.E. 2d 248, 250 (S.C., 1993), the Supreme Court stated that, once the remittitur is sent down, the Circuit Court acquires jurisdiction "...to **enforce** the judgment and take any action **consistent** with the Supreme Court's ruling". The trial court is re-invested with jurisdiction, but only such jurisdiction as defined by terms of the remittitur (Am Jur 2d (2007), App. Rev., §733). Thus, the question of whether the lower court followed the mandate also involves a question of the lower court's jurisdiction (Id).

On remand, the lower court proceedings must follow the mandate of the appellate court; be in accord with the result contemplated by the appellate court opinion; follow exactly the appellate court's instructions; be consistent with the appellate court's opinion; and act on the appellate court's mandate without variation (Id, §§734, 736-737, 740). The lower court must not undertake proceedings beyond those specified by the appellate court; retry the case; or undertake proceedings contrary to directions in the mandate (Id, §§ 736, 740).

In addition, proceedings and decisions of a court without jurisdiction of the subject matter are null and void. The proceeding is as if it had never happened (20 Am Jur 2d (2015), Courts, §63).

Here, the ALC had a duty to enforce the Court of Appeals' judgment and take any action consistent with that judgment (Muller, 438 S.E. 2d at 250).

The Court of Appeals remanded "...for the ALC's consideration of Inmates' grievances on the merits" (Ackerman, et al., 782 S.E. 2d at 762). The Court of Appeals did not remand "...for processing of the grievances", as stated in the ALC remand to SCDC. Throughout this litigation, "processing" has meant SCDC's step 1 and 2 consideration of inmates' grievances. For most grievances, that occurred over ten years ago. Thus, the ALC's remand order is not consistent with, nor does it enforce, the Court of Appeals' remand and judgment as to the duty to be performed on remand. See Ackerman Record, pp. 24+26, 1311-1312.

Equally important, by remanding "...to the South Carolina Department of Corrections for consideration of Appellants' grievances on the merits..", the ALC did not act consistently with, or enforce, the Court of Appeals' remand for the ALC to consider grievances on the merits. Thus, with respect to the forum and duty to be performed, the ALC initiated proceedings not authorized by the Court of Appeals' remand and judgment. Inmates contend the ALC remand to SCDC was outside the ALC's jurisdiction, void and of no effect, and the situation is as if the remand had not occurred (Muller, 438 S.E. 2d at 250; Am Jur 2d (2007), §§733-734, 736-737; 740; Am Jur 2d (2015), Courts, §63).

B. Ministerial Nature of the Act

A ministerial act or duty is one which a person performs because of a **legal mandate** which is defined with such precision as to leave nothing to exercise of discretion (Edwards v. State 383 S.C. 82, 678 S.E. 2d 412 (S.C., 2009); J. Toal, Appellate Practice in South Carolina, 3d Ed., 2016, p. 324). A party may seek a writ of mandamus to direct a judicial officer to rule on a pending motion because the **act of ruling** itself is ministerial in nature (City of Rock

Hill v. Thompson 349 S.C. 197, 563 S.E. 2d 101 (S.C., 2002); J. Toal, Appellate Practice in South Carolina, 3d Ed., 2016, p. 325). Moreover, mandamus may lie to compel an inferior court to **exercise its discretion** (Thompson, 563 S.E. 2d at 103; citing 55 C.J.S. (1988), Mandamus, §83).

Here, inmates request that the ALC be compelled to exercise its discretion and rule on the merits of inmates' grievances. Inmates submit this is exactly what the Court of Appeals ordered. It is also the procedure followed by the Court of Appeals and ALC in Gatewood in 2013-2014. Finally, it is a ministerial duty because of the Court of Appeals' legal mandate to the ALC to exercise its discretion in considering inmates' grievances on the merits (Edwards, 678 S.E. 2d at 419-420; Thompson, 563 S.E. 2d at 103; J. Toal, Appellate Practice in South Carolina, 3d Ed., 2016, pp. 324-325).

C. Petitioner's Specific Legal Right Necessitating Discharge of Duty

The primary purpose of mandamus is to enforce an established right and a corresponding imperative duty imposed by law (Ex Parte Littlefield, 343 S.C. 212, 540 S.E. 2d 81, 86 (S.C., 2000)). Inmates contend the Court of Appeals' opinion and remittitur constitute a legal mandate issued by that Court to the ALC (Am Jur 2d (2007), App. Rev., §§734-737, 740). The ALC, in turn, must discharge that duty by considering inmates' grievances on the merits. Inmates contend, as prevailing parties on the Ackerman appeal, they have the legal right to have the Court of Appeals' legal mandate enforced by the ALC's consideration of their grievances on the merits (Muller, 438 S.E. 2d at 250).

D. Petitioner Lacks Any Other Legal Remedy

An aggrieved party may appeal to the Court of Appeals a **final** decision of


an administrative law judge (S.C. Code §§14-8-200(a), 1-23-610(A); Charlotte-Mecklenburg Hosp., v. DHEC 387 S.C. 265, 266, 692 S.E. 2d 894 (S.C., 2010); J. Toal, Appellate Practice in South Carolina, 3d Ed., 2016, pp. 88, 178,179).

Here, the ALC has yet to consider inmates' grievances on the merits as the Court of Appeals ordered. As a result, the ALC remand to SCDC is probably an interlocutory order, and thus not immediately appealable (Charlotte-Mecklenburg, 387 S.C. at 267). Therefore, it appears that mandamus is inmates' only remedy in these circumstances.

IV. Conclusion

For the above reasons, inmates request that the ALC June 13, 2017 remand be declared null and void, and that a writ of mandamus be issued to The Honorable Ralph K. Anderson, III compelling him to consider inmates' grievances on the merits, as required by the February 10, 2016 Court of Appeals' opinion and judgment, and June 2, 2017 remittitur.

Respectfully submitted,


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



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211

1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201

TELEPHONE: (803) 734-1890

FAX: (803) 734-1839

www.sccourts.org

August 26, 2013

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

REMITTITUR

Re: Fred Gatewood, #289775 v. SCDC
Lower Court Case No. 2007ALJ040517AP
Appellate Case No. 2012-212574

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,

A handwritten signature in cursive script, appearing to read "Jana E. Shealy".

CLERK

Enclosure

cc: Douglas H. Westbrook
Katherine Anne Phillips
Lake Eric Summers

The South Carolina Court of Appeals

Fred Gatewood, Appellant,

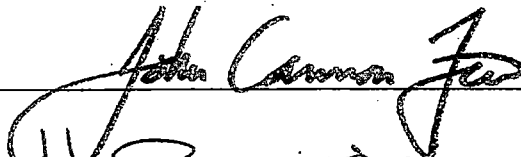
v.

South Carolina Department of Corrections.

Appellate Case No. 2012-212574

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.¹

 C.J.

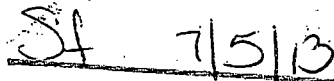
 J.

 A.J.

Columbia, South Carolina

cc: Douglas H. Westbrook
Katherine Anne Phillips
Lake Eric Summers

FILED

 7/5/13

¹ Because Gatewood no longer has an appeal pending in this court, the Administrative Law Court has jurisdiction to proceed on the merits of Gatewood's case.

of the record, and therefore the Court rescinded its Order of Remand. The Department requested an extension of time in which to respond to Appellant's Motion to Supplement Record, specifically until October 21, 2013. The Department timely filed its Response to the Appellant's Motion to Supplement Record. In an order dated November 12, 2013, this Court denied Appellant's Motion to Supplement Record. On February 19, 2014, Appellant filed his Appellant's Brief. On March 24, 2014, the Department filed a motion requesting a 14-day extension of time during which to file its brief. The Court granted this motion on March 26, 2014. On April 7, 2014, the Department filed its Respondent's Brief. On April 14, 2014, Appellant filed a Motion for Extension, requesting an extension until April 23, 2014 in order to file a reply brief. The Court granted this motion on April 14, 2014. Finally, on April 17, 2014, Appellant filed a Reply Brief.

ISSUES ON APPEAL

1. Was Appellant entitled to a \$4.00-per-hour wage rate for his labor provided to LCI based on the 2001 budget proviso and succeeding enactments, and on the 1998 service work contract between SCDC and Williams Technologies, Inc.?
2. Was Appellant entitled to overtime pay for his labor?
3. Is Appellant entitled to pre- and post-judgment interest on his back pay?
4. Is Appellant entitled to costs and attorney's fees?
5. Should SCDC be enjoined from further wage violations?¹

STANDARD OF REVIEW

The Court's jurisdiction to hear this matter is derived from the decisions of the South Carolina Supreme Court in *Adkins v. S.C. Dep't of Corr.*, 360 S.C. 413, 602 S.E.2d 51 (2004) and *Wicker v. S.C. Dep't of Corr.*, 360 S.C. 421, 602 S.E.2d 56 (2004), wherein the Court held that an inmate's claim that he was paid less than the prevailing wage for work performed in the Prison Industries program, in violation of a statute mandating payment of the prevailing wage, implicated a state-created property interest and was therefore reviewable by the ALC. Furthermore, when reviewing the Department's decisions in inmate grievance matters, the Court sits in an appellate capacity. *Al-Shabazz v. State*, 338 S.C. 354, 377, 527 S.E.2d 742, 754

¹ In his Appellant's Brief, Appellant included an additional issue stated as follows: "Should SCDC be ordered to process grievances for workers in the program whether or not they personally filed a grievance?" However, the instant case does not involve the grievances of other workers in the program or persons in the program who never filed grievances. Therefore, the Court does not consider this an issue and does not include it in the text above.

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(2000); *see also* S.C. Code Ann. § 1-23-600(E) (Supp. 2013) (directing administrative law judges to conduct appellate review in the same manner prescribed in § 1-23-380). Section 1-23-380(A)(5) states:

The court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code Ann. § 1-23-380(5) (Supp. 2013).

Consequently, an Administrative Law Judge may not substitute his judgment for that of an agency "as to the weight of the evidence on questions of fact." Section 1-23-380(5). Furthermore, an Administrative Law Judge may not reverse or modify an agency's decision unless the Record reflects that substantial rights of the appellant have been prejudiced because the decision is clearly erroneous in view of the substantial evidence, arbitrary, or affected by an error of law. § 1-23-380(5); *see also Marietta Garage, Inc. v. S.C. Dep't of Pub. Safety*, 337 S.C. 133, 137, 522 S.E.2d 605, 607 (Ct. App. 1999); *S.C. Dep't of Labor, Licensing and Regulation v. Girgis*, 332 S.C. 162, 166, 503 S.E.2d 490, 492 (Ct. App. 1998). "Substantial evidence" is not a mere scintilla of evidence nor the evidence viewed blindly from one side of the case, but is evidence which, considering the Record as a whole, would allow reasonable minds to reach the conclusion that the administrative agency reached or must have reached in order to justify its action." *Lark v. Bi-Lo*, 276 S.C. 130, 135, 276 S.E.2d 304, 306 (1981) (quoting *Law v. Richland Cnty. Sch. Dist. No. 1*, 270 S.C. 492, 495-96, 243 S.E.2d 192, 193 (1978)). Accordingly, the possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's finding from being supported by substantial evidence. *Grant v. S.C. Coastal Council*, 319 S.C. 348, 353, 461 S.E.2d 388, 391 (1995).

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DISCUSSION

1. **Was Appellant entitled to a gross wage rate of \$4.00 per hour for the labor that he performed between 2004 and 2009?**

From the outset, it appears that neither party disputes the fact that Appellant performed work between 2004 and 2009 in a prison industries service project operated by the Department at LCI in which Williams Technologies, Inc. (WTI) was the private sponsor. There also appears to be no dispute that SCDC and WTI entered into a service work contract in 1998 (Contract), and that the rate negotiated in the Contract for the inmate's labor was for \$4.00 per hour. It further appears that the parties do not dispute that Appellant did not receive \$4.00 per hour for the labor that he performed. However, the question before this Court is whether Appellant was entitled to be paid at a gross wage rate of \$4.00 per hour for his labor.

Appellant argues that Appellant was entitled to a gross wage rate of \$4.00 per hour for his labor based on the 2001 budget proviso and succeeding enactments allowing SCDC to negotiate the wages to be paid for inmate labor, and on the Contract between SCDC and WTI.² Looking first at the 2001 General Assembly budget proviso,³ it states in pertinent part:

The department may negotiate the wage-to be paid for the inmate labor provided under prison industry service work contracts, and such wages may be less than the prevailing wage for work of similar nature in the private sector.

The General Assembly enacted similar budget provisos each year until it enacted S.C. Code Ann. § 24-1-295, effective August 1, 2007.⁴ The first part of S.C. Code Ann. § 24-1-295 (2009)⁵ provides:

² Clearly, the prevailing wage statutes were not "enacted for the special benefit of Inmates." *Adkins v. S.C. Dep't of Corr.*, 360 S.C. 413, 418, 602 S.E.2d 51, 54 (2004). Moreover, in this case, the purpose of the Contract, which approved the inmate labor with WTI, was "to fulfill the intent of Section 24-3-310." S.C. Code Ann. § 24-3-310(2), in setting forth the "Declaration of Intent" for prison industries, provides that the intent of the prison industries provisions is, in part, to "utilize the labor of inmates for self-maintenance and for reimbursing this State for expenses incurred by reason of their crimes and imprisonment." (emphasis added). Appellant has made no challenge that the pay he received violated any agreement between him and the Department or that the Department failed to do a proper accounting of its expenses to insure the program was self-maintaining. Rather, both parties address the Contract provisions as determining the distribution of the inmate wages. Therefore, the Court addresses the arguments from that perspective.

³ Statutes at Large, No. 66, § 37.31, eff. July 2001.

⁴ Both parties agree that a similar budget proviso was passed each year between fiscal years 2001 and 2007, culminating in the codification of Section 24-1-295.

⁵ The language of this statute did not change between the effective date of its enactment and 2009, the final year in which Appellant worked in the prison industries service project at LCI.

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The Director of the Department of Corrections may enter into contracts with private sector entities that allow inmate labor to be provided for prison industry service work and export work that involves exportation of products. The use of inmate labor may not result in the displacement of employed workers within the local region in which work is being performed. Pursuant to this section, service work is defined as any work that includes repair, replacement of original manufactured items, packaging, sorting, recycling, labeling, or similar work that is not original equipment manufacturing. The department may negotiate the wage to be paid for inmate labor provided under prison industry service work contracts and export work contracts, and these wages may be less than the prevailing wage for work of a similar nature in the private sector.

The statute then lists a series of mandatory deductions "from the gross earnings of . . . inmates engaged in prison industry service work," and these deductions are "in addition to any other required deductions."⁶

Section 3.3(1) of the Contract provides:

Williams agrees to pay SCDC \$4.00 per hour per inmate for work performed . . . SCDC shall be responsible to pay inmate workers, cover security costs and P.I overhead, including any costs for health, safety and welfare of the inmates, taxes or other payroll deduction. . . .

(emphasis added).⁷ Section 3.2(4) of the Contract states: "At its expense, the Department shall be responsible for the security of the inmate labor force and the security of [WTI's] employees and agents." Section 3.3(1), though, explains that the inmate labor rate of \$4.00 per hour per

⁶ There also exists, pursuant to Section 24-3-40, which does not apply in this case, statutory instruction as to how inmate wages are to be handled for inmate labor in prison industry programs involving the private sector that, unlike those services covered by Section 24-1-295, involve "the manufacturing and processing of goods, wares, or merchandise or the provision of services or another business or commercial enterprise considered by the director to enhance the general welfare of South Carolina." See also S.C. Code Ann. 24-3-430(A) (2007). In *Williams v. S.C. Dep't of Corr.*, 372 S.C. 255, 259, 641 S.E.2d 885, 887 (2007), the Court pointed out that "the legislature has specifically mandated [via Section 24-3-40] how inmate wages for prison industry labor are to be handled." The Court also emphasized the last phrase of Section 24-3-40(A), which says that the private employer "shall pay the prisoner's wages directly to the Department of Corrections." *Id.* The Court added that "[t]his section also includes specific deductions from inmate wages that are to be made by the Director of DOC, including restitution to victims, payment to the State Office of Victim Assistance, child support, and state and federal taxes. . . ." (emphasis added). *Id.* Thus, even had Section 24-3-40 applied to the service work program in this case, the gross wages paid to the Department by a private employer for inmate labor would still have to sustain deductions prior to the Department's payments to the inmates.

⁷ The Department in its Respondent's Brief argues that Appellant has no standing to Petition the Court to interpret the terms of the Contract against the Department because Appellant was neither party to the Contract, a third-party beneficiary, or an intended beneficiary of the Contract. However, the Court rejects this argument, finding that Appellant does have standing. Though the amount of wages Appellant was to receive is in dispute, and though Appellant cannot bring an action against WTI (see *Williams, supra*), Appellant has a state-created property interest in the wages that he earned, the amount of which was governed by the terms of the Contract. If Appellant had no standing to challenge the wage terms in the Contract, then he would have no basis on which to exercise his right to file a grievance challenging the amount of wages he was to receive pursuant to the Contract; and the holdings in *Adkins* and *Wicker* would thus be turned on their heads.

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inmate that WTI pays to the Department does encompass payment for the Department's overhead. Specifically, Subsection 1 describes the circumstances under which the Department and WTI may agree to increase the \$4.00 per hour rate:

Thirty (30) days prior to each anniversary date of this agreement, [the Department] and [WTI] may negotiate an increase in the per hour rate paid by [WTI] to [the Department]. . . . It is the intent of the parties that such increase shall only reflect [the Department's] increased cost of prison overhead.

(emphasis added). Along with the Contract was a "bullet sheet," which summarized the contract's key points. Entitled "Williams Technology Transmission Service Contract," it states the following: "Wage Rate: \$4.00 per hour/per inmate - \$.35/hr base for inmates." Under the Contract, the Department would pay inmates a minimum of \$.35 per hour, subject to potential longevity pay increases and "bonus pay." Also, according to a March 12, 2002 memorandum from the project's plant manager, Henry Middleton, to the inmate workers participating in the program, the inmates were "further advised that the MAXIMUM pay allowance is \$1.00/hr, regardless of your longevity status. In addition to the [bonus rates and base rates] above, your overtime pay is applied at a rate of {[Base Rate]+[1/2 Base Rate]} only. Your [Bonus Rate] pay will not be applied to your overtime hours."

"It is well-established that '[t]he cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature.'" *Grier v. AMISUB of S.C., Inc.*, 397 S.C. 532, 535, 725 S.E.2d 693, 695 (2012) (quoting *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000)). "What a legislature says in the text of a statute is considered the best evidence of the legislative intent or will. Therefore, the courts are bound to give effect to the expressed intent of the legislature." *Id.* at 536, 725 S.E.2d at 695. "It is only when applying the words literally leads to a result so patently absurd that the General Assembly could not have intended it that we look beyond the statute's plain language. *Id.* 397 S.C. at 536; S.E.2d at 695-96 (citing *Cabiness v. Town of James Island*, 393 S.C. 176, 192, 712 S.E.2d 416, 425 (2011)).

"The cardinal rule of contract interpretation is to ascertain and give legal effect to the parties' intentions as determined by the contract language." *Madden v. Bent Palm Invs., LLC*, 386 S.C. 459, 464, 688 S.E.2d 597, 600 (Cl. App. 2010) (quoting *McGill v. Moore*, 381 S.C. 179, 185, 672 S.E.2d 571, 574 (2009)). The Court "must first look at the language of the contract to determine the intentions of the parties." *C.A.N. Enters., Inc. v. S.C. Health Human Servs. Fin. Comm'n*, 296 S.C. 373, 377, 373 S.E.2d 584, 586 (1988). "Contract interpretation

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begins with the plain language of the agreement.” *Stevenson Aviation, Inc. v. DynCorp Intern. LLC*, --- S.E.2d ---, 2014 WL 1233859, at *5 (S.C. S.Ct. March 26, 2014). “The language alone will determine the contract’s force where such language is unambiguous; however, where the language is subject to multiple interpretations, the fact finder must determine the parties’ intentions from the evidence presented.” *Madden*, 386 S.C. at 464-65, 688 S.E.2d at 600. “A party may not create an ambiguity by reading a single sentence or clause, but rather the contract and the language used must be considered as a whole.” *Id.* Finally, “[c]ommon sense and good faith are the leading touchstones of construction of the provisions of a contract; where one construction makes the provisions unusual or extraordinary and another construction which is equally consistent with the language employed, would make it reasonable, fair and just, the latter construction must prevail.” *C.A.N. Enters.*, 296 S.C. at 377, 373 S.E.2d at 586.

Appellant argues in his Appellant’s Brief and again in his Reply Brief that “expenses for security, overhead, and health, safety, and welfare are not allowable deductions from an inmate’s gross wages under § 24-3-40.” To support this claim, Appellant, in his Reply Brief, quotes the following footnote from *Torrence, et al. v. S.C. Dep’t of Corr., et al.*:

Furthermore, if appellants prove true their allegation that the DOC removes any of the money remitted by the private industry sponsor and then disburses the percentages listed in section 24-3-40 based on the lower rate, the DOC would be in violation of the plain language of the statute which directs it to disburse the money based on the gross wages. See § 24-3-40(A).

373 S.C. 586, 594 n.4, 646 S.E.2d 866, 870 n.4 (2007) (emphasis of “lower” in original; emphasis added to “gross wages” by Appellant).⁸

As discussed in footnote 6, *supra*, the Court disagrees that Section 24-3-40 applies in this case, because the contract at issue in this case was a service work contract, and deductions

⁸ In its Motion to Strike Argument from the Appellant’s Reply Brief, the Department argues that the Court should strike all of the arguments that Appellant made in his Reply Brief regarding *Torrence*, because Appellant only mentioned *Torrence* in the Conclusion section of his Appellant’s Brief without making the arguments in a discussion of *Torrence* that he made in his Reply Brief. First, Respondent arguably raised arguments in its brief, specifically on pp. 11-12, as to what was included in deductions pursuant to the contract, which could have given rise to the need for an elaboration on *Torrence* in response. But the Court need not address whether the Appellant’s discussion of *Torrence* was appropriate, because the Court is free to use any law that would be helpful in addressing this case, and would have applied the same analysis of Section 24-3-295 regardless of the “*Torrence* rule.” The Court therefore denies Appellant’s Motion to Strike Argument from Appellant’s Reply Brief.

Appellant also alternatively moved in its Motion to Strike that if the Court were to deny its Motion to Strike, that it grant the Department an opportunity to prepare and file a sur-reply to address the argument that Appellant raised for the first time in his Reply Brief. However, the Court is sufficiently informed of the arguments and therefore does not see the need to consider further arguments on the issue.

from wages resulting from service work provided to private industries by inmates is governed by Section 24-1-295, not Section 24-3-40. However, the Court agrees that the principle from *Torrence* would equally apply to the statutorily required deductions pursuant to Section 24-1-295, because the deductions pursuant thereto must also be "deduct[ed] . . . from the gross earnings of the inmates . . ." The Court also agrees with Appellant that the gross amount of the wages paid to the Department for his labor was \$4.00 per hour. However, the Court finds that based on the terms of the Contract, security costs and overhead, including costs for health, safety, and welfare, constituted "other required deductions" pursuant to Section 24-1-295.

In this case, both the applicable statutory and contractual provisions are unambiguous,⁹ and there is substantial evidence to support the Department's decision. The Department negotiated with WTI for an amount of \$4.00 per hour per inmate to SCDC for inmate labor (not to the inmates, but for their labor and to SCDC) with SCDC having the exclusive responsibility of handling payroll deductions and payment of wages to the inmate workers. See Section 24-1-295; *Cf. Williams*, 372 S.C. at 259, 641 S.E.2d at 887. Moreover, SCDC was required by the terms of the Contract, specifically under Section 3.3, "to pay inmate workers, cover security costs and P.I. overhead, including any costs for health, safety, and welfare of the inmates, taxes or other payroll deduction. . . ."¹⁰ Indeed, Section 3.3 allows for increases to the per-hour wage rate based on increases to the cost of prison overhead, thus reasonably implying that the per-hour wage rate takes into account a deduction for the cost of overhead. And again, "overhead" "includ[es] any costs for health, safety and welfare of the inmates . . ."¹¹ Therefore, I conclude that security costs and overhead were contractually required deductions that had to be

⁹ Appellant, in his Reply Brief, specifically mentioned that he did not take issue with the fact that Section 24-1-295 and the budget proviso are clear and unambiguous. He likewise stated that terms of the 1998 contract were "clear and unambiguous."

¹⁰ In his Reply Brief, Appellant argues that expenses for security are not an allowable deduction from an inmate's gross wages under Section 24-3-40 and are instead to be paid by the Department "at its expense" pursuant to Section 3.2(4) of the Contract. However, as the Court has already discussed, Section 24-3-40 does not apply in this case. Moreover, Appellant did not raise this specific argument concerning Section 3.2(4) in his Appellant's Brief. Therefore, the Court will not consider this argument. See *Hunter v. Staples*, 335 S.C. 93, 103, 515 S.E.2d 261, 267 (Ct. App. 1999) (finding that appellant was precluded from asserting an argument for the first time in its reply brief), cited in *Jones ex rel. Jones v. Enter. Leasing Co.-Se.*, 383 S.C. 259, 269 n.6, 678 S.E.2d 819, 824 n.6 (Ct. App. 2009).

¹¹ Appellant seems to argue in his Reply Brief that because SCDC is "responsible" for paying security costs and overhead pursuant to Sections 3.2(4) and 3.3(1) of the Contract, that these are both out-of-pocket expenses for the Department. However, under this theory, the Department would also have to pay the inmate workers out of pocket instead of out of the inmates' gross incomes, since the Department is also "responsible to pay inmate workers" pursuant to Section 3.3(1) of the Contract. (emphasis added). This would be an absurd interpretation.

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taken from the Appellant's gross wages; and those gross wages had to be calculated at a rate of \$4.00 per hour.

Furthermore, "in addition to [these] required deductions[,]" Section § 24-1-295 sets forth additional deductions that the Department must make in handling the wages paid to it for the inmates' labor. These deductions, aside from residual amounts payable towards taxes or incidentals, are in the form of percentages, and these deductions (where applicable) must be taken from "the gross earnings of the inmates engaged in prison industry service work." The only minimum rate of pay guaranteed to be paid directly to Appellant (after contractual and statutory deductions) was the contractual base rate of \$.35 per hour plus potential longevity pay increases and bonus pay, with a maximum allowable pay of \$1.00 per hour. And at least 10% of the gross amount of Appellant's earnings (\$4.00 times the number of hours worked) must be available to Appellant during his incarceration for incidentals and 10% must be held in an interest-bearing escrow account for his benefit, pursuant to Section 24-1-295(4) and (5). Also, pursuant to subsection (6), Appellant would receive any funds remaining after all deductions, including state and federal taxes owed, are taken, and these funds would have to be used to purchase incidentals pursuant to Section 24-1-295(4). Therefore, Appellant was never entitled to actually receive \$4.00 per hour for his labor, though that is the rate by which his gross wages were to be calculated for purposes of Section 24-1-295.

Remaining Issues on Appeal

Overtime Pay

Appellant argues that he is entitled to overtime pay. However, this issue was not included in Appellant's Step 1 and Step 2 Grievances and is therefore not preserved for appellate review.¹² See *Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) ("It is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the [factfinder] to be preserved for appellate review.").

¹² Appellant did not raise this issue until he filed his Notice of Appeal with this Court on June 5, 2007. In his Reply Brief, Appellant notes that "SCDC denied overtime in its step 1 and step 2 decisions." However, in its denials of both Appellant's Step 1 and Step 2 grievances, SCDC merely stated that "to the extent" that Appellant demanded overtime wages, his request was denied. However, there was no extent to which Appellant demanded overtime wages in his Step 1 and Step 2 Grievances, as he had not raised that issue in either grievance.

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Pre-judgment and Post-judgment Interest/Costs and Attorney's Fees

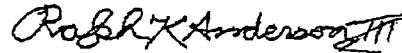
Appellant argues that he is entitled to pre-judgment and post-judgment interest on the back pay owed him, at an interest rate of 8.34 %. Appellant also argues that he is entitled to costs and attorney's fees. However, in light of the Court's ruling in this matter, Appellant is not entitled to pre-judgment or post-judgment interest on any back pay, and is also not entitled to any costs or attorney's fees.

Injunction against Further Wage Violations

Appellant argues that the Department should be enjoined against further wage violations. However, this is an appeal involving whether the Department properly denied Appellant the wages he seeks; it is not an injunction action. In fact, Appellant never raised the issue of an injunction in his Step 1 and 2 grievances or Notice of Appeal. *See Wilder Corp., supra*. Therefore, the Court will not entertain Appellant's injunction request.

ORDER

IT IS THEREFORE ORDERED that the Department's decision is **AFFIRMED**.
AND IT IS SO ORDERED.



Ralph K. Anderson, III
Chief Administrative Law Judge

April 29, 2014
Columbia, South Carolina

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CERTIFICATE OF SERVICE

I, E. Harvin Belser Fair, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).

E. Harvin Belser Fair

E. Harvin Belser Fair
Judicial Law Clerk

April 29, 2014
Columbia, South Carolina

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The South Carolina Court of Appeals

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June 02, 2017

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

REMITTITUR

Re: Ackerman, Francis v. SCDC
Lower Court Case No. 2007ALJ040444AP
Appellate Case No. 2012-210588

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: Douglas H. Westbrook, Esquire
Lake Eric Summers, Esquire

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Francis Ackerman, #266928, Malik)
Aljalil, #219551, Linso Allen, #269378,)
Michael Benninger, #264212, Fredrick)
Brown, #289602, Timothy Brown,)
#238461, Terrell Buchanon, #277262,)
Christopher Buch, #200690, Rudy)
Cassady, #238732, Sheldon Clark,)
#264772, Zawaski Cobb, #187136,)
Kamathene Cooper, #145333,)
Gladstone Cummings, #267450, Patrick)
Curtis, #175139, Quintin Daniels,)
#196284, Curtis Davis, #238776,)
Heyward Dempsey, #134171, Phillip)
Denney, #240678, Paul Durham,)
#219573, Jerome Durham, #270393,)
Keith Eigner, #299153, Bernard Felder,)
#122099, Jermaine Garriett, #191274,)
Dennis Goff, #177506, Gregory Grant,)
#109656, Nelson Hampton, #286427,)
James Hartmant, #219770, Gary Hayes,)
#263985, Michael Hood, #279897,)
Nikia Law, #260855, Stephen Lease,)
#137016, Harry Leonard, #249996,)
Herbert McFadden, #184297, Michael)
McFarland, #266870, Earl Mack,)
#216237, John Moultri, #276527, Matin)
Muntaqim, #266870, Tony Pitts,)
#280597, Germaine Pringle, #250390,)
Gene Richardson, #93614, Dennis)
Richey, #233472, Ignacio Rivera,)
#300424, Vondell Sanders, #241308,)
James Sattler, #235043, Joseph)
Schmitz, #173987, Arthur Scott,)
#251957, Jerome Scott, #153381,)
Roosevelt Scott, #275631, Archie)
Simmons, #161419, Robert Smith,)
#199324, James Williams, #282929,)
Gary Bryant, #258972, Harlon Edger,)
#261866, Johnny Holden, #245199,)
Don Hughes, #256862, Michael Key,)
#266890, Archie Lee, #226354, Isaac)
Richardson, #232574, Larkland)
Richards, #281768, John Wojcik,)

Docket No. 07-ALJ-04-0444-A-AP

ORDER OF REMAND

FILED

June 13, 2017

SC ADMIN. LAW COURT

#219463, James Bogan, #288111, Larry)
 Burke, #281911, Jammie Gaymon,)
 #208922, David Harrell, #260004, Jeff)
 Stinson, #260047, Ricky Libby,)
 #274681, Alain Lareua, #128014,)
 Quentin Baker, #297868, Frank Corley,)
 #292975, James Jackson, #267718,)
 Quintin Linen, #238553, Thomas Miles,)
 #246763, Chauncy Orr, #177069,)
 Isaiah Scott, #228008, Eric Youmous,)
 #281091, Derek Carter, #275938,)
 Willie Hare, #256641, Ernest Miller,)
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 Ronald Simmons, #267937, Samuel)
 Simmons, #302393, William Thomas,)
 #272501, Anthony Murphy, #295893,)
 Anthony Murray, #237867, Johnny)
 Hayes, #267910, Roy Morris, #288777,)
 Daniel Dewey, #276678, Nehemiah)
 Greene, #243339, Leroy Choice,)
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 Francis Prioleau, #268813, Darrell)
 Rochester, #146731, Wilbur Jordan)
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 Darrin Miller, #259593, Edward Bryant,)
 #255998, Sherman Austin, #20028,)
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 #243538, Calvin Drummond, #236322,)
 David Feggins, #287157, Terry)
 Ferguson, #299080, Willie House,)
 #257820, Peter Jenkins, #257321, Percy)
 Martin, #270035, James Murray,)
 #165487, Stephone Simmons, #300422,)
 Larry McClam, #282972, Tyrone Aiken,)
 #244428, Tyrone Aiken, #248367,)
 Frank Anderson, #282800, Ronald)
 Brewer, #285756, Keith Brown,)
 #295762, Pete Bryant, #242370,)
 Michael Busques, #191961, Richard)

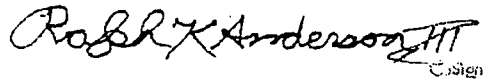
Butler, #162467, Gary Davis, #106144,)
 Anthony English, #238474, Kerlan)
 Etheredge, #236635, James Evans,)
 #267837, Jose Flores, #240563, Robert)
 Garrett, #291096, Reginald Geddis,)
 #183851, Richard Graham, #228235,)
 Gary Grooms, #283860, Wayne Harlan,)
 #245705, Johnny Hayes, #267910,)
 Steven Hickenbottom, #196263,)
 Alfred Joyner, #260442, Donald Lyles,)
 #296135, Henry Baker, #263398,)
 Thomas Carter, #249362, Thomas)
 Butler, #257552, Bobby Williams,)
 #261486, Ray Wells, #173651, Rodney)
 Pressley, #177947, Keith Kelly,)
 #257556, Maxie Gamble, #254413,)
 James Enriquez, #215539, Perry)
 Deveaux, # 109601, James Wells,)
 # 180458, Cedric Martino, #291396,)
 Donald McAteer, #292961, Robert)
 Wydman, #260331, Anthony Wright,)
 #214007, Derrick Williams, #272958,)
 Kenneth White, #228409, James)
 Trumper, #247429, Jeffrey Spears,)
 #281697, Timothy Smith, #296539,)
 Davis Sims, #278067, Virgil Simpson,)
 #281888, Edward Simpson, #220017,)
 Kenneth Simmons, #278911, George)
 Shine, #292391, Ralph Sellers, #164295,)
 Laron Richardson, #258786, Frank)
 Patterson, #283098, Tony McNeil,)
 #235846, Larry McClam, #282972,)
 Lavanza Mack, #189340, Raymond)
 Livingston, #277133, Nicholas)
 Lambrose, #215080, Joseph Kelsey,)
 #217218, Keith Eugene, no number,)
 Chuck Jackson, #266425, James Foye,)
 #211523, Timothy Inman, #151123,)
 Marvin Gilbert, #273934, Demetrius)
 Wheeling, #264976, Leon Wilson,)
 #155867, Jeffrey Tevis, #216442,)
 Darryel Beasley, #222388, Curtis)
 Thompson, #266448, Baron Cobbs,)
 #280479, James Tino, #145030, Harold)
 Roberson, #117001, Ray Gadsen,)
 #187527, Tony Witt, #242918,)

Jonathan Singleton, #287670, Joe)
Pannell, #89592, Charles Graham,)
#294453, Lazarus Brannon, #227847,)
Darrell Williams, #219730, Wilbert)
Mills, #244004, Howard Grant,)
#255473, Timothy Wilson, #261971,)
Rodney Elliott, #251337, Henry)
Rivers, #219118,)
))
Appellants,)
))
vs.)
))
South Carolina Department of Corrections,)
))
Respondent.)
_____)

This matter is before the South Carolina Administrative Law Court (Court or ALC) on remand from the South Carolina Court of Appeals (Court of Appeals). The case originally came before the ALC on an appeal filed by multiple inmates (Appellants) concerning the Prevailing Wage Statute. The Court denied the appeal, stating that Appellants failed to timely file their grievances. The Court of Appeals subsequently reversed and remanded the cases for processing of the grievances. *See Ackerman, et al. v. S.C. Dep't of Corr.*, 415 S.C. 412, 782 S.E.2d 757 (Ct. App. 2016), *cert. denied* (May 30 2017). Accordingly,

IT IS THEREFORE ORDERED that these cases are remanded to the South Carolina Department of Corrections for consideration of Appellants' grievances on the merits in keeping with the Court of Appeals decisions in *Ackerman* and *Gatewood v. S.C. Dep't of Corr.*, 416 S.C. 304, 785 S.E. 2d 60 (2016).

AND IT IS SO ORDERED.



Ralph King Anderson, III
Chief Administrative Law Judge

June 13, 2017
Columbia, South Carolina

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CERTIFICATE OF SERVICE

I, E. Harvin Belser Fair, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).

E. Harvin Belser Fair

E. Harvin Belser Fair
Judicial Law Clerk

June 13, 2017
Columbia, South Carolina

THE STATE OF SOUTH CAROLINA

RECEIVED

In The Court of Appeals

JUL 14 2017

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph K. Anderson, III, Administrative Law Judge SC Court of Appeals

Dock Nos. 07-ALJ-04-00444-AP, 07-ALJ-04-00445-AP, 07-ALJ-04-00446-AP, 07-ALJ-04-00447-AP, 07-ALJ-04-00448-AP, 07-ALJ-04-00449-AP, 07-ALJ-04-00500-AP, 07-ALJ-04-00501-AP, 07-ALJ-04-00502-AP, 07-ALJ-04-00503-AP, 07-ALJ-04-00504-AP, 07-ALJ-04-00505-AP, 07-ALJ-04-00506-AP, 07-ALJ-04-00507-AP, 07-ALJ-04-00508-AP, 07-ALJ-04-00509-AP, 07-ALJ-04-00510-AP, 07-ALJ-04-00511-AP, 07-ALJ-04-00512-AP, 07-ALJ-04-00513-AP, 07-ALJ-04-00514-AP, 07-ALJ-04-00515-AP, 07-ALJ-04-00516-AP, 07-ALJ-04-00517-AP, 07-ALJ-04-00518-AP, 07-ALJ-04-00519-AP, 07-ALJ-04-00520-AP, 07-ALJ-04-00521-AP, 07-ALJ-04-00522-AP, 07-ALJ-04-00523-AP, 07-ALJ-04-00524-AP, 07-ALJ-04-00525-AP, 07-ALJ-04-00526-AP, 07-ALJ-04-00527-AP, 07-ALJ-04-00528-AP, 07-ALJ-04-00529-AP, 07-ALJ-04-00530-AP, 07-ALJ-04-00531-AP, 07-ALJ-04-00532-AP, 07-ALJ-04-00533-AP, 07-ALJ-04-00534-AP, 07-ALJ-04-00535-AP, 07-ALJ-04-00536-AP, 07-ALJ-04-00537-AP, 07-ALJ-04-00538-AP, 07-ALJ-04-00539-AP, 07-ALJ-04-00540-AP, 07-ALJ-04-00541-AP, 07-ALJ-04-00542-AP, 07-ALJ-04-00543-AP, 07-ALJ-04-00544-AP, 07-ALJ-04-00545-AP, 07-ALJ-04-00546-AP, 07-ALJ-04-00547-AP, 07-ALJ-04-00548-AP, 07-ALJ-04-00549-IJ, 07-ALJ-04-00550-AP, 07-ALJ-04-00551-AP, 07-ALJ-04-00552-AP, 07-ALJ-04-00553-AP, 07-ALJ-04-00554-AP, 07-ALJ-04-00555-AP, 07-ALJ-04-00556-AP, 07-ALJ-04-00557-AP, 07-ALJ-04-00558-AP, 07-ALJ-04-00559-AP, 07-ALJ-04-00623-AP, 07-ALJ-04-00624-AP, 07-ALJ-04-00625-AP, 07-ALJ-04-00626-AP, 07-ALJ-04-00627-AP, 07-ALJ-04-00628-AP, 07-ALJ-04-00629-AP, 07-ALJ-04-00630-AP, 07-ALJ-04-00631-AP, 07-ALJ-04-00632-AP, 07-ALJ-04-00671-AP, 07-ALJ-04-00672-AP, 07-ALJ-04-00673-AP, 07-ALJ-04-00674-AP, 07-ALJ-04-00675-AP, 07-ALJ-04-00676-AP, 07-ALJ-04-00677-AP, 07-ALJ-04-00691-AP, 07-ALJ-04-00752-AP, 07-ALJ-04-00798-AP, 07-ALJ-04-00856-AP, 07-ALJ-04-00857-AP, 07-ALJ-04-00858-AP, 07-ALJ-04-00859-AP, 07-ALJ-04-00860-AP, 07-ALJ-04-00861-AP, 07-ALJ-04-00862-AP, 07-ALJ-04-00863-AP, 07-ALJ-04-00864-AP, 07-ALJ-04-00865-AP, 07-ALJ-04-00866-AP, 07-ALJ-04-00867-AP, 07-ALJ-04-00868-AP, 07-ALJ-04-00869-AP, 07-ALJ-04-00870-AP, 07-ALJ-04-00871-AP, 07-ALJ-04-00872-AP, 07-ALJ-04-00444-AP, 07-ALJ-04-00876-AP, 07-ALJ-04-00885-AP, 08-ALJ-04-00141-AP, 08-ALJ-04-00142-AP, 08-ALJ-04-00143-AP, 08-ALJ-04-00144-AP, 08-ALJ-04-00145-AP, 08-ALJ-04-00146-AP, 08-ALJ-04-00147-AP, 08-ALJ-04-00148-AP, 08-ALJ-04-00149-AP, 08-ALJ-04-00169-AP, 08-ALJ-04-00170-AP, 08-ALJ-04-00171-AP, 08-ALJ-04-00192-AP, 08-ALJ-04-00966-IJ, 08-ALJ-04-00967-IJ, 08-ALJ-04-00968-IJ, 08-ALJ-04-00969-IJ, 08-ALJ-04-00970-IJ, 08-ALJ-04-00971-IJ, 08-ALJ-04-00972-IJ, 08-ALJ-04-00973-IJ, 08-ALJ-04-00974-IJ, 08-ALJ-04-00975-IJ, 08-ALJ-04-00976-IJ, 08-ALJ-04-00977-IJ, 08-ALJ-04-00978-IJ, 08-ALJ-04-00979-IJ, 08-ALJ-04-00980-IJ, 08-ALJ-04-00981-IJ, 08-ALJ-04-00982-IJ, 08-ALJ-04-00983-IJ, 08-ALJ-04-00984-IJ, 08-ALJ-04-00985-IJ, 08-ALJ-04-00986-IJ, 08-ALJ-04-00987-IJ, 08-ALJ-04-00988-IJ, 08-ALJ-04-00989-IJ, 08-ALJ-04-00990-IJ, 08-ALJ-04-00991-IJ, 08-ALJ-04-00992-IJ, 08-ALJ-04-00993-IJ, 08-ALJ-04-00994-IJ, 08-ALJ-04-00995-IJ, 08-ALJ-04-00996-IJ, 08-ALJ-04-00997-IJ, 08-ALJ-04-00998-IJ, 08-ALJ-04-00999-IJ, 08-ALJ-04-01000-IJ, 08-ALJ-04-01001-IJ, 08-ALJ-

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Francis Ackerman, #266928, Malik Aljalil, #219551, Linso Allen, #269378, Michael Benninger, #264212, Fredrick Brown, #289602, Timothy Brown, #238461, Terrell Buchanon, #277262, Christopher Bush, #300690, Rudy Cassady, #238732, Sheldon Clark, #264772, Zawaski Cobb, #187136, Kamathene Cooper, #145333, Gladstone Cummings, #267450, Patrick Curtis, #175139, Quintin Daniels, #196284, Curtis Davis, #238776, Heyward Dempsey, #134171, Phillip Denney, #240678, Paul Durham, #219573, Jerome Durham, #270393, Keith Eigner, #299153, Bernard Felder, #122099, Jermaine Garriett, #191274, Fred Gatewood, #289775, Dennis Goff, #177506, Gregory Grant, #109656, Nelson Hampton, #286427, James Hartman, #219770, Gary Hayes, #263985, Michael Hood, #279897, Nikia Law, #260855, Stephen Lease, #137016, Harry Leonard, #249996, Herbert McFadden, #184297, Michael McFarland, #266870, Earl Mack, #216237, John Moultrie, #276527, Matin Muntaqim, #142282, Tony Pitts, #280579, Germaine Pringle, #250390, Gene Richardson, #93614, Dennis Richey, #233472, Ignacio Rivera, #300424, Vondell Sanders, #241308, James Sattler, #235043, Joseph Schmitz, #173987, Arthur Scott, #251957, Jerome Scott, #153381, Roosevelt Scott, #275631, Archie Simmons, #161419, Robert Smith, #199324, James Williams, #282929, Gary Bryant, #258972, Harlon Edger, #261866, Johnny Holden, #245199, Don Hughes, #256862, Michael Key, #266890, Archie Lee, #226354, Isaac Richardson, #232574, Larkland Richards, #281768, John Wojcik, #219463, James Bogan, #288111, Larry Burke, #281911, Jammie Gaymon, #208922, David Harrell, #260004, Jeff Stinson, #260047, Ricky Libby, #274681, Alain Lareau, #128014, Quentin Baker, #297868, Frank Corley, #292975, James Jackson, #267718, Quintin Linen, #238553, Thomas Miles, #246763, Chauncy Orr, #177069, Isaiah Scott, #228008, Eric Youmous, #281091, Derek Carter, #275938, Willie Hare, #256641, Ernest Miller, #235474, Robert Norris, #266101, Ronald Simmons, #267937, Samuel Simmons, #302393, William Thomas, #272501, Anthony Murphy, #295893, Anthony Murray, #237867, Johnny Hayes, #267910, Roy Morris, #288777, Daniel Dewey, #276678, Nehemiah Greene, #243339, Leroy Choice, #113990, James McFadden, #235419, Francis Prioleau, #268813, Darrell Rochester, #146731, Wilbur Jordan, #272264, Alvin Stewart, #278595, Kevin Poston, #266083, Kevin Smith, #272440, Donald Robinson, #277520, Douglas Bude, #263537, Willie Elder, #246208, Rogelio Zavala, #245106, Dennis Knight, #286981, Jacob Beach, #301270, Francis Ackerman, #266928, Darrin Miller, #259593, Edward Bryant, #255998, Sherman Austin, #300028, Michael Baylor, #265682, Taurus Bowman, #252745,

Kenneth Carter, #243538, Calvin Drummond, #236322, David Feggins, #287157, Terry Ferguson, #299080, Willie House, #257820, Peter Jenkins, #257321, Percy Martin, #270035, James Murray, #165487, Stephone Simmons, #300422, Larry McClam, #282972, Tyrone Aiken, #244428, Tyrone Aiken, #248367, Frank Anderson, #282800, Ronald Brewer, #285756, Keith Brown, #295762, Pete Bryant, #242370, Michael Busques, #191961, Richard Butler, #162467, Gary Davis, #106144, Anthony English, #238474, Kerlan Etheredge, #236635, James Evans, #267837, Jose Flores, #240563, Robert Garrett, #291096, Reginald Geddis, #183851, Richard Graham, #228235, Gary Grooms, #283860, Wayne Harlen, #245705, Johnny Hayes, #267910, Steven Hickenbottom, #196263, Alfred Joyner, #260442, Donald Lyles, #296135, Henry Baker, #263398, Thomas Carter, #249362, Thomas Butler, #257552, Bobby Williams, #261486, Ray Wells, #173651, Rodney Pressley, #177947, Keith Kelly, #257556, Maxie Gamble, #254413, James Enriquez, #215539, Perry Deveaux, #109601, James Wells, #180458, Cedric Martino, #291396, Donald McAteer, #292961, Robert Wydman, #260331, Anthony Wright, #214007, Derrick Williams, #272958, Kenneth White, #228409, James Trumper, #247429, Jeffrey Spears, * #281967, Timothy Smith, #296539, David Sims, #278067, Virgil Simpson, #281888, Edward Simpson, #220017, Kenneth Simmons, #278911, George Shine, #292391, Ralph Sellers, #164295, Laron Richardson, #258786, Frank Patterson, #283098, Tony McNeil, #235846, Larry McClam, #282972, Lavanza Mack, #189340, Raymond Livingston, #277133, Nicholas Lambrose, #215080, Joseph Kelsey, #217218, Keith Eugene, no number, Chuck Jackson, #266425, James Foye, #211523, Timothy Inman, #151123, Marvin Gilbert, #273934, Demetrius Wheeling, #264976, Leon Wilson, #155867, Jeffrey Tevis, #216442, Darryel Beasley, #222388, Curtis Thompson, #266448, Baron Cobbs, #280479, James Tino, #145030, Harold Roberson, #117001, Ray Gadsden, #187527, Tony Witt, #242918, Jonathan Singleton, #287670, Joe Pannell, #89592, Charles Graham, #294453, Lazarus Brannon, #227847, Darrell Williams, #219730, Wilbert Mills, #244004, Howard Grant, #255473, Timothy Wilson, #261971, Rodney Elliott, #251337, Henry Rivers, #219118... Petitioners,

v.

The Honorable Ralph K. Anderson, III and The South Carolina Department of Corrections..... Respondents.

Court of Appeals Appellate Case No. 2012-210588
 Supreme Court Appellate Case No. 2016-000829

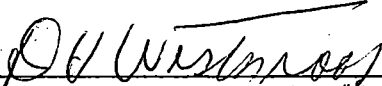
PROOF OF SERVICE

I certify that I have served Petitioners' Petition for a Writ of Mandamus,

* Docket No. 07-ALJ-04-00826-AP may concern an unrelated case. Also, inmate Jeffrey Spears' correct number is 281697.

Memorandum in Support of Petition for a Writ of Mandamus, and attachments on The Honorable Ralph K. Anderson, III and the S.C. Department of Corrections by depositing a copy of these documents in the U.S. Mail, postage prepaid, on July 13, 2017, addressed to: (1) The Honorable Ralph K. Anderson, III, Chief Judge, S.C. Administrative Law Court, Edgar A. Brown Building, Suite 224, 1205 Pendleton St., Columbia, SC 29201; and (2) the S.C. Department of Corrections' attorney of record, Lake Summers, Esquire, Malone, Thompson, Summers & Ott, LLC, 339 Heyward St., Suite 200, Columbia, SC 29201.

July 13, 2017.


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

DOUGLAS H. WESTBROOK
ATTORNEY AT LAW
23 BROAD STREET
CHARLESTON, SOUTH CAROLINA 29401
TELEPHONE: (843) 853-9600
FAX: (843) 577-2241

July 13, 2017

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

Re: Ackerman, et al. v. SCDC
Court of Appeals Appellate Case No. 2012-210588
Supreme Court Appellate Case No. 2016-000829

Dear Ms. Kitchings:

Please find enclosed for filing with the Court the original and six copies of Petitioners' Petition for a Writ of Mandamus, Memorandum in Support of Petition for a Writ of Mandamus, attachments and Proof of Service, 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 The Honorable Ralph K. Anderson, III and counsel for Respondent Department of Corrections, Lake E. Summers.

Thank you for your assistance in this matter.

Sincerely,


Douglas H. Westbrook

DHW/

Encl.

cc: The Honorable Ralph K. Anderson, III
Lake E. Summers, Esquire

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JUL 14 2017

SC Court of Appeals

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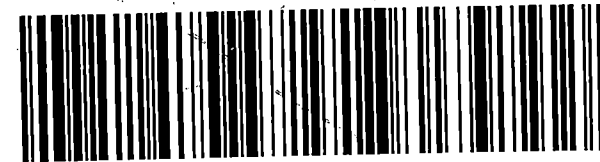
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DOUGLAS H. WESTBROOK
ATTORNEY AT LAW
23 BROAD STREET
CHARLESTON, SOUTH CAROLINA 29401

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

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