

STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

John D. McLeod, Administrative Law Court Judge

**RECEIVED**

JUL 24 2017

Lower Court Case No. 17-ALJ-04-0020-AP  
Appellate Case No. 2017-001346

**SC Court of Appeals**

Albarr-Ali Abdullah, # 191449,

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

**MOTION TO STRIKE IMPROPER MATTER**

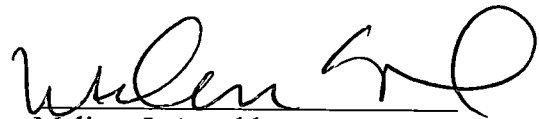
On or about June 24, 2017, Appellant filed his Initial Brief and Designation of the Matter to be Included on the Record. In the Designation of the Matter, Appellant included certain items that were not presented to the Administrative Law Court in this case, specifically, SCDC Kiosk #17-414524, SCDC Kiosk #17-492808, and Appellant's Second Motion to Support.

Rule 210(c), SCACR, provides that the Record on Appeal "shall not . . . include matter which was not presented to the lower court or tribunal." SCDC Kiosk #17-414524, SCDC Kiosk #17-492808, and Appellant's Second Motion to Support were not considered by the Administrative Law Court in its decision to affirm SCDC's final agency decision. Accordingly, pursuant to Rule 210(c) and relevant case law, these

matters cannot be included in the Record on Appeal or referenced in the appellate briefs. See State v. White, 372 S.C. 364, 387, 642 S.E.2d 607, 619 (Ct. App. 2007) (“Morris’ statement was not presented to the lower court and cannot properly be included in the Record on Appeal.”); South Carolina State Highway Dep’t v. Meredith, 241 S.C. 306, 311, 128 S.E.2d 179, 182 (1962) (“[C]ounsel is prohibited from embodying in their briefs any fact which does not appear in the record.”).

Based on the foregoing, Respondent respectfully requests that SCDC Kiosk #17-414524, SCDC Kiosk #17-492808, and Appellant’s Second Motion to Support be stricken from the appellate record and that any references thereto in Appellant’s briefs also be stricken.

**WHEREFORE**, Respondent prays that this Court will strike the improper matter from the appellate record and for such other and further relief as this Court may deem just and proper.



Melissa J. Arnold  
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S.C. Department of Corrections  
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Columbia, South Carolina 29221  
(803) 896-1278

**ATTORNEY FOR RESPONDENT**

July 24, 2017

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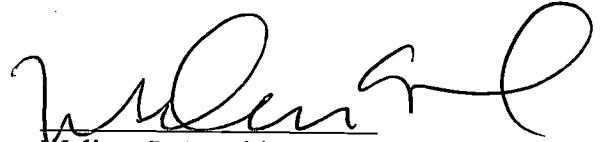
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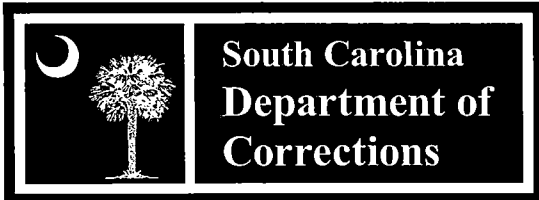
**CERTIFICATE OF SERVICE**

I hereby certify that I have served Appellant a copy of Respondent's Motion to Strike Improper Matter by depositing a copy of same in the United States Mail, postage prepaid, July 24, 2017, addressed to the Appellant as follows:

Albarr-Ali Abdullah  
Kershaw Correctional Institution  
4848 Goldmine Hwy  
Kershaw, SC 29067



Melissa J. Arnold  
Staff Attorney  
S.C. Dept. of Corrections  
P.O. Box 21787  
Columbia, SC 29221-1787  
Attorney for Respondent



South Carolina  
Department of  
Corrections

HENRY McMASTER, Governor

BRYAN P. STIRLING, Director

OFFICE OF GENERAL COUNSEL

July 24, 2017

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

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**SC Court of Appeals**

**RE: Albarr-Ali Abdullah, #191449 v. South Carolina Department of Corrections**  
**Appellate Case No. 2017-001346**

Dear Ms. Kitchings:

Enclosed please find the original and six copies of Respondent's **Motion to Strike Improper Matter** in the above captioned appeal, along with **Proof of Service** for the same.

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

Sincerely,

Melissa J. Arnold  
Staff Attorney  
South Carolina Department of Corrections

cc: Albarr-Ali Abdullah, #191449  
Kershaw Correctional Institution  
4848 Goldmine Highway  
Kershaw, South Carolina 29067