

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Deborah Brooks Durden

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

RECEIVED

JUL 31 2017

SC Court of Appeals

ERNEST BATTLE, # 165247,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

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

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

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

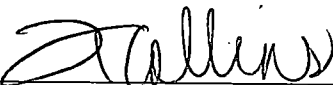
¹ Appellant has not properly paginated the Record on Appeal. Therefore, this citation is achieved only by counting the pages of the Record.

Respondent filed a Motion to Require Appellant to File a Corrected or Supplemental Record on Appeal on May 18, 2017. Appellant served a Supplemental Record on Appeal on July 13, 2017, and this Court issued an Order on July 19, 2017 taking no further action since Appellant filed his Supplemental Record. Upon review of the Supplemental Record, Administrative Law Judge Durden's Final Order is still not included. Appellant cited to this order in its Initial Brief and must cite to it in its Final Brief. Without its inclusion in the Record, Respondent cannot file and serve a proper Final Brief. Accordingly, Respondent requests that this Court require Appellant to file a Second Amended Record on Appeal or a Supplemental Record on Appeal including Judge Durden's Final Order so that Respondent may file a proper Final Brief.

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

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

BY: 

Kensey Collins
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ATTORNEY FOR RESPONDENT

July 31, 2017

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CERTIFICATE OF SERVICE

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



Kensey Collins
Staff Attorney
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S. C. Department of Corrections
Post Office Box 21787
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July 31, 2017



South Carolina
Department of
Corrections

HENRY McMASTER, Governor
BRYAN P. STIRLING, Director

OFFICE OF GENERAL COUNSEL

July 31, 2017

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SC Court of Appeals

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

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

Dear Ms. Kitchings:

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

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

Sincerely,

Kensey Collins
Staff Attorney
South Carolina Department of Corrections

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