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THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

SC Court of Appeals

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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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 Martinó, #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... Appellants,

v.

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

Appellate Case No. 2017-001560

PETITION FOR REHEARING

Francis Ackerman, et al. (inmates) submit their Petition for Rehearing in this matter, contending the Court of Appeals overlooked the following points in its July 20, 2017 dismissal of the appeal, as more particularly described

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

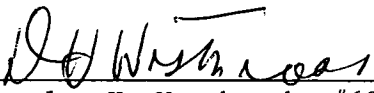
in the attached memorandum, affidavit and attachment(s).

(1) The possibility of distinguishing Charlotte-Mecklenburg Hosp. Auth. v. SCDHEC based on the inconsistency between the Court of Appeals and ALC remand orders.

(2) The subsidiary effects of the inconsistency.

(3) The circumstance that inmates are entitled to the ALC review, which mode of trial would be denied under the ALC's remand to SCDC, which is immediately appealable.

Respectfully submitted,



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Attorney for Inmates

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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

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v.

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

Appellate Case No. 2017-001560

MEMORANDUM IN SUPPORT OF
PETITION FOR REHEARING

This appeal was filed on July 14, 2017. The parties did not brief the appeal before the Court of Appeals issued its order dismissing the appeal on July 20, 2017. The Court dismissed the appeal as interlocutory, citing Char-

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

lotte-Mecklenburg Hosp. Auth. v. SCDHEC 387 S.C. 265, 267, 692 S.E. 2d 894, 895 (S.C., 2010) ("If there is some further act which must be done by the Court prior to a determination of the rights of the parties, the order is interlocutory").

Pursuant to SCACR 221(a), inmates contend the Court of Appeals' order overlooked the point made in inmates' notice of appeal footnote, that it is possible the Court may distinguish Charlotte-Mecklenburg Hosp. Auth. based on circumstances here which were not addressed in that case. Circumstances include the inconsistency between the February 10, 2016 Court of Appeals' opinion "...remand 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)); and the ALC's June 13, 2017 remand "...to the South Carolina Department of Corrections for consideration of Appellants' grievances on the merits..". See ALC remand, attached hereto.

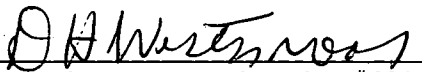
Inmates further contend the Court of Appeals overlooked the subsidiary effects of the inconsistency. The ALC remand does not enforce the Court of Appeals' opinion remand and June 2, 2017 remittitur (Muller v. Myrtle Beach Golf & Yacht Club 313 S.C. 412, 414-415, 438 S.E. 2d 248 (S.C., 1993); Am Jur 2d (2007), App. Rev., §§734-737, 740, 744). And, the remand was outside the ALC's jurisdiction, null and void, and the proceeding is as if the remand had not occurred (Id., §740; 20 Am Jur 2d (2015), Courts, §63). Thus, the ALC retains jurisdiction to consider inmates' grievances on the merits.

Inmates contend the Court of Appeals overlooked their entitlement to the ALC's consideration of grievances on the merits. The entitlement stems from

the above quoted Court of Appeals' remand for the ALC to consider grievances on the merits. However, the ALC's remand to SCDC for merits consideration would deprive inmates of the mode of trial to which they are entitled, and that is immediately appealable (J. Toal, Appellate Practice in South Carolina, 3d Ed., 2016, p. 155, citing Williford v. Downs 265 S.C. 319, 218 S.E. 2d 242 (1975)). Inmates contend these circumstances further distinguish Charlotte-Mecklenburg Hosp. Auth.

In conclusion, inmates request the Court to grant their petition for a rehearing, and if appropriate, allow the parties to brief these issues.

Respectfully submitted,


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Attorney for Inmates

RECEIVED

AUG 02 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 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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v.

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

Appellate Case No. 2017-001560

AFFIDAVIT

I, Douglas H. Westbrook, depose and state as follows:

1. I represent inmates in the within matter.
2. Between the time of filing inmates' notice of appeal on July 14, 2017

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

and receipt of the Court of Appeals' July 20, 2017 order dismissing the appeal, I did not file inmates' initial brief, and to my knowledge, neither did the Department of Corrections file its initial brief.

Further Deponent Sayeth Not.

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

Signed and Sworn
To Before Me This
31 Day Of July,
2017.

Amie Corcoran
Notary Public for S.C.

My Commission Expires:
3/12/2023

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Francis Ackerman, #266928, Malik)
Aljalil, #219551, Linso Allen, #269378,)
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#238461, Terrell Buchanon, #277262,)
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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,)
 #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)
 #292264, 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, #20028,)
 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)

26

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,)

3 7

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.



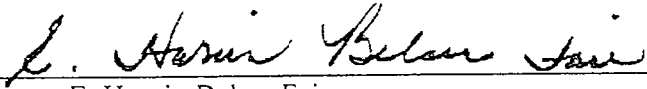
Ralph King Anderson, III
Chief Administrative Law Judge

June 13, 2017
Columbia, South Carolina

4 8

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
Judicial Law Clerk

June 13, 2017
Columbia, South Carolina

5 9

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph K. Anderson, III, Administrative Law Judge

RECEIVED

AUG 02 2017

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 Martinó, #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... Appellants,

v.

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

Appellate Case No. 2017-001560

PROOF OF SERVICE

I certify that I have served Appellants' Petition for Rehearing, Memorandum, Affidavit and attachment(s) on the S.C. Department of Corrections by depositing a copy of these documents in the U.S. Mail, postage prepaid, on July

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

31, 2017, addressed to Lake Summers, Esquire, Malone, Thompson, Summers & Ott, LLC, 339 Heyward St., Suite 200, Columbia, SC 29201, attorney of record for Respondent S.C. Department of Corrections.

July 31, 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 31, 2017

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

RECEIVED
AUG 02 2017
SC Court of Appeals

Re: Francis Ackerman, et al. v. SCDC
Appellate Case No. 2017-001560

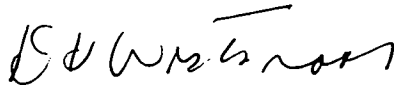
Dear Ms. Kitchings:

Please find enclosed for filing with the Court the original and six copies of Appellants' Petition for Rehearing, Memorandum in Support of Petition for Rehearing, Affidavit, attachment and Proof of Service, for the above case. I also enclose a check for \$25 for the 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 Summers.

Thank you for your assistance in this matter.

Sincerely,



Douglas H. Westbrook

DHW/
Encl.
cc: Lake Summers, Esquire