

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Ralph K. Anderson, III, Administrative Law Judge

RECEIVED

OCT 02 2017

Order (S.C. Ct. App. filed July 20, 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-

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.

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

Court of Appeals Appellate Case No. 2017-001560

PETITION FOR A WRIT OF CERTIORARI

---

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

**INDEX**

Certification of Counsel.....	1
Question Presented.....	1
Statement of the Case.....	1
Argument	
The Court of Appeals should have decided that <u>Charlotte-</u> <u>Mecklenburg Hosp. Auth. v. DHEC</u> is distinguishable, and the ALC's remand order was appealable.....	3
Conclusion.....	11

Pursuant to SCACR 242(a), Francis Ackerman, et al. (inmates) petition the Court for a writ of certiorari to review the final decision of the Court of Appeals in this case.

#### **CERTIFICATION OF COUNSEL**

Pursuant to SCACR 242(d)(1), inmates' undersigned counsel certifies that a petition for rehearing was made on July 31, 2017, and finally ruled on and denied by the Court of Appeals on September 14, 2017 (App. pp. 13, 57).

#### **QUESTION PRESENTED**

Did the Court of Appeals err in deciding the ALC's remand order was not appealable under the rule in Charlotte-Mecklenburg Hosp. Auth. v. DHEC?

#### **STATEMENT OF THE CASE**

This appeal involves inmates' grievances for past due wages under South Carolina law. Inmates worked at various times in the Lieber/Williams Technologies (WTI) work program between 1999 and at least 2011. When inmates worked, S.C. Code §24-3-430(D), the "prevailing wage" statute, was in effect until replaced by budget provisos beginning in July 2001.

On August 23, 2004, the Supreme Court issued decisions in Adkins, et al. v. SCDC 360 S.C. 413, 602 S.E. 2d 51 (S.C., 2004) and Wicker v. SCDC 360 S.C. 421, 602 S.E. 2d 56 (S.C., 2004). These decisions held inmates could file prevailing wage grievances with SCDC and appeal to the Administrative Law Court (ALC).

Beginning in September 2004, some 198 inmates filed grievances with SCDC. Some 116 grievances were fully processed by SCDC and appealed to the ALC, mostly in 2007 (App. p. 98). Approximately 81 grievances had to be automatically appealed to the ALC (2008) after SCDC had failed to fully process accor-

ding to ALC-imposed deadlines (App. pp. 95-98).

The ALC directed the parties to brief the appeal in three levels. Level One (2010-2011) involved two legal issues. Level Two (2011-2012) involved the timeliness of grievances under SCDC grievance policy. In 2012, the ALC ruled that all inmates except Fred Gatewood had untimely filed. Inmates appealed to the Court of Appeals the adverse ruling.

On February 10, 2016, the Court of Appeals issued its opinion reversing the ALC decision and holding all grievances were timely filed. The Court of Appeals remanded back to the ALC "...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 (App. p. 5-6). On June 2, 2017, the Court of Appeals issued the remittitur back to the ALC (App. p. 16).

On June 13, 2017, the ALC remanded the case back to SCDC "...for consideration of Appellants' grievances on the merits in keeping with the Court of Appeals decisions in Ackerman and Gatewood..." (App. p. 21).

On July 14, 2017, inmates filed notice of appeal in the Court of Appeals of the ALC's order of remand. (App. pp. 44-45). Before the parties filed the briefs and record, the Court of Appeals on July 20, 2017 issued an order dismissing the appeal as interlocutory (App. pp. 9-10). On July 31, 2017, inmates filed a petition for rehearing (App. pp. 57-58). On September 14, 2017, the Court of Appeals issued an order denying the petition (App. pp. 13-14).

## ARGUMENT

The Court of Appeals should have decided that Charlotte-Mecklenburg Hosp. Auth. v. DHEC is distinguishable, and the ALC's remand order was appealable.

In its order dismissing the appeal, the Court of Appeals stated (App. pp. 9-10):

Because the order of the ALC is not a final order, we dismiss this appeal as interlocutory. See Charlotte-Mecklenburg Hosp. Auth. v. S. C. Dep't of Health & Env't'l Control, 387 S.C. 265, 267, 692 S.E. 2d 894, 895 (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.")..

In inmates' notice of appeal footnote, they stated in part concerning the Charlotte-Mecklenburg Hosp. v. DHEC case (App. p. 45):

..Thus, it is possible the Court may distinguish Charlotte-Mecklenburg Hosp. based on other circumstances here which were not addressed in that case. Therefore, inmates attempt to appeal the remand order to preserve their rights should the Court consider the remand a final order.

Based on the above, inmates contend they raised in the Court of Appeals the issue that Charlotte-Mecklenburg Hosp. may be distinguishable, and the remand order was appealable. Inmates further contend this issue includes every subsidiary question fairly comprised therein, including the various circumstances distinguishing this case from Charlotte-Mecklenburg Hosp. (SCACR 242(d)(2)).

### I. Mode of Trial

Inmates contend the initial distinguishing circumstance is the ALC's remand to SCDC would deprive them 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, 243 (1975) (Ordinarily, granting or refusal of order of reference is not appeal-

able unless granting the reference deprives a party of a mode of trial to which he is entitled). See also, Lester v. Dawson 327 S.C. 263, 491 S.E. 2d 240, 241 (S.C., 1997); Foggie v. CSX Transp. Corp. 313 S.C. 98, 431 S.E. 2d 587, 590 (1993); and Creed v. Stokes 285 S.C. 542, 331 S.E. 2d 351, 352 (1985).

Here, inmates have not had ALC merits consideration of their grievances, except for Fred Gatewood. Inmates' entitlement to ALC merits consideration stems from two sources. Their immediate entitlement stems from the Court of Appeals' remand to the ALC for merits consideration (Ackerman, et al. v. SCDC 415 S.C. 412, 782 S.E. 2d 757, 762 (S.C. App., 2016)).

More fundamentally, inmates' entitlement is required by due process. In Wicker v. SCDC 360 S.C. 421, 424-425, 602 S.E. 2d 56, 58, note 1, the Supreme Court held that §24-3-430(D), the prevailing wage statute, creates an interest protected by the Fourteenth Amendment which cannot be denied without due process. Therefore, the Court expanded ALC jurisdiction to cover inmate wage grievance appeals. Thus, inmates' right to ALC merits review is also a due process requirement.

Finally, ALC merits review following Court of Appeals remand was the procedure followed in the companion case of Gatewood v. SCDC in 2013-2014. See discussion below at page(s) 7.

In sum, inmates submit they would be denied the mode of trial to which they are entitled, ALC merits review, if the ALC's remand to SCDC is enforced. For that reason, the Court of Appeals' dismissal was appealable.

## II. Inconsistent ALC Remand and Effects

Another circumstance distinguishing Charlotte-Mecklenburg Hosp. is the inconsistency between the Court of Appeals' February 10, 2016 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..". Charlotte-Mecklenburg Hosp., 387 S.C. at 267, involved an ALC remand order to DHEC for determination of a "certificate of need". It did not involve an ALC remand to an agency that was inconsistent with a previous Court of Appeals' remand order to the ALC.

Moreover, the subsidiary effects of the inconsistent ALC remand are substantial. First, the ALC remand does not enforce the Court of Appeals' opinion remand and June 2, 2017 remittitur for the ALC to consider inmates' grievances on the merits (Muller v. Myrtle Beach Golf & Yacht Club 313 S.C. 412, 414-415, 438 S.E. 2d 248 (S.C., 1993) (Once remittitur is sent down from Supreme Court, Circuit Court acquires jurisdiction to enforce judgment and take any action consistent with Supreme Court's ruling); Ackerman v. McMillan 324 S.C. 440, 477 S.E. 2d 267, 268 (S.C. App., 1996); and Am Jur 2d (2007), App. Rev., §§734-737, 740, 744).

Inmates further contend the ALC's remand was outside its jurisdiction, and is another circumstance distinguishing Charlotte-Mecklenburg Hosp. from this case (Prince v. Beaufort Mem. Hosp. 392 S.C. 599, 709 S.E. 2d 122, 125-126 (S.C. App., 2011) (Mandate of appellate court is jurisdictional, and trial court has no authority to exceed mandate on remand, but has duty to follow appellate court's directions). See also, SCDSS v. Basnight 346 S.C. 241, 551 S.E. 2d 274 (S.C. App., 2001); and Ackerman v. McMillan 324 S.C. 440, 477 S.E. 2d 267, 268 (S.C. App., 1996).

Finally, because the ALC's remand was outside its jurisdiction to issue, inmates contend it was null and void, and the proceeding is as if the remand had not occurred (Am Jur 2d (2007), App. Rev., §740; 20 Am Jur 2d (2015), Courts, §63).

Inmates submit the ALC remand was inconsistent with and did not enforce the Court of Appeals' remand to the ALC, and the ALC remand was outside the ALC's jurisdiction and thus null and void.

### III. Considerations Governing Review

#### A. SCACR 242(b)(1)(3)(4)

Inmates contend there are special and important reasons to grant the petition (SCACR 242(b)). First, the Court of Appeals' dismissal of the appeal may conflict with Williford v. Downs and other cases holding a mode of trial denial is immediately appealable (SCACR 242(b)(3)).

Second, the appealability of an ALC remand which conflicts with a previous Court of Appeals remand to the ALC may present a novel question of law (SCACR 242(b)(1)).

Third, the Court of Appeals' decision may conflict with Wicker's guarantee of due process for ALC wage grievance appeals (SCACR 242(b)(3)(4)).

#### B. Delay and Denial of Justice

Further, inmates contend the Court should grant the petition to prevent unnecessary delay and a denial of justice. First, there is no **need** to remand for SCDC to merits consider grievances again. SCDC fully processed and denied most grievances on the merits by 2007, which were appealed to the ALC (App. p. 98). SCDC failed to fully process the others in accord with ALC-imposed deadlines (App. pp. 95-98), and these were automatically appealed to the ALC.

Inmates' cases are very similar to the Gatewood case in 2013-2014. In 2013, the Court of Appeals dismissed Gatewood's appeal in Appellate Case No. 2012-212574, and remanded to the ALC which "...has jurisdiction to proceed on the merits of Gatewood's case" (App. pp. 15,17). The ALC then remanded to SCDC without instructions (App. pp. 25-26). Counsel's recollection is that the parties agreed that remand to SCDC was not necessary. In its order rescinding the remand, the ALC stated (App. p. 28):

The parties asserted that findings of fact are already part of the record. Based on the assertions of the parties, the Court finds that its Order of Remand should be rescinded.

The ALC then required the parties to merits brief the case. On April 29, 2014, the ALC issued its order denying Gatewood's grievance on the merits (App. pp. 31, 40). Inmates contend that, if the ALC merits considered Gatewood's grievance without remanding to SCDC, inmates' grievances should be treated the same way. In fact, the Court of Appeals' February 10, 2016 opinion requires the ALC to merits consider inmates' grievances. See Ackerman, et al., 782 S.E. 2d at 762.

After 13 years in litigation, inmates' grievances still have not received ALC merits review, in spite of Wicker's holding that ALC review is a due process right in these cases (602 S.E. 2d at 58, n. 1). A remand to SCDC would unnecessarily delay ALC review by months and perhaps years.

In SCDC's response to Gatewood's ALC petition for attorney fees, SCDC indicated that, on remand, it would process Gatewood's grievance "anew" and adjudicate the merits of his claim; its "grievance proceedings" would determine inmates' "beneficial results obtained", apparently meaning back wage calculations; and it had previously issued final merits decisions for Gatewood's and the Ack-

erman inmates' claims (App. pp. 82, 88, 92). Finally, SCDC stated Gatewood could appeal SCDC's "final decision" to the ALC (App. p. 92). Presumably, SCDC would attempt to follow this same procedure for inmates' (Ackerman) grievances as well.

Thus, from SCDC's perspective its processing "anew" would allow a second "bite at the apple" to again merits consider all grievances, issue new final decisions, and start again an appeals process which alone has lasted 10 years thus far. However, there is nothing in the Court of Appeals' February 10, 2016 opinion remand requiring SCDC to do anything. On the contrary, the Court of Appeals' remand required the ALC to merits consider inmates' grievances in no uncertain terms. Inmates submit that a remand to SCDC in these circumstances would be unnecessary, unreasonable, and a denial of justice.

#### C. Back Wage Calculations

Finally, inmates contend there are substantial legal problems with SCDC calculating back wages. First, it would be an obvious conflict of interest for SCDC as it would be calculating its own damages. More importantly, it would violate due process. In Wicker, 602 S.E. 2d at 58, this Court found that §24-3-430(D) creates an interest encompassed by the Fourteenth Amendment which cannot be denied without due process. In Ross v. MUSC 492 S.E. 2d 62, 72 (S.C., 1997), the Court stated the purpose of S.C. Constitution Article I, §22 (concerning due process in administrative adjudications) is to ensure that adjudications are conducted by **impartial** administrative bodies; due process requires an impartial decision-maker; and partiality exists when the adjudicator has developed a "will to win". Inmates submit, after 13 years of contesting liability, it appears SCDC has developed a "will to win" in these cases.

In his June 30, 2017 petition to the ALC for attorney fees, Gatewood relied on §15-77-300 (1985 version) as the statutory basis for fees. Under that statute, it is clearly "the court" which adjudicates fee requirements, not the defendant agency. However, the ALC remand to SCDC invoked the "beneficial results obtained" factor in §15-77-300(B) (2016), as justification for the remand (App. p. 23). SCDC cited this remand provision as authorization to calculate inmates' back wages (App. pp. 82, 92).

The "beneficial results obtained" factor was part of the amendments to §15-77-300 which became effective on February 24, 2010. Following a statement of this and four other factors, it states, "(T)he judge must make specific written findings regarding each factor listed above in making the award of attorney's fees". Thus, inmates contend SCDC cannot make back wage calculations under the 1985 or amended version of the statute.

Inmates contend it is the ALC's responsibility, or a Special Referee appointed by the ALC, to determine back wages (Layman, et al. v. State of South Carolina, et al. 376 S.C. 434, 658 S.E. 2nd 320, 324, 333-335 (S.C., 2008) (Supreme Court remanded attorney fees request to the Circuit Court to determine entitlement to fees under §15-77-300, with the amount of such fees to be based in part on "the benefit obtained" and other factors to enhance the lodestar with a multiplier). See also §14-11-60, SCRCF 53(b), and ALC Rule 68.

Aside from the above considerations, inmates contend the "beneficial results obtained" factor in §15-77-300, 2010 version, does not apply here. First, it would violate the presumption against retroactive application of statutes (Kirven v. Central States Health & Life 409 S.C. 30, 760 S.E. 2d 794, 799 (S.C., 2014)).

The "beneficial results obtained" factor would also materially limit inmates' vested contract rights under their 2004 fee contract with counsel (App. pp. 99-100). See Edwards v. SLED 395 S.C. 571, 720 S.E. 2d 462, 466-467 (S.C., 2011); Fernandez-Vargas v. Gonzales 548 U.S. 30, 126 S.Ct. 2422, 2428 (2006); and First of America Bank v. Netsch 651 N.E. 2d 1105, 1113 (Ill., 1995). The contract expressly states counsel may seek attorney fees under §15-77-300. In 2004, this was the original 1985 version of §15-77-300 which contained no factors to determine the hourly rate.

Inmates further contend the "beneficial results obtained" factor would violate due process. It materially alters inmates' vested fee contract rights by taking away their right to an attorney fee not determined by that factor, and making the factor a requirement for the Court's consideration. Such application would divest inmates of their vested contract rights, which are "property" under the Constitution, and violate due process (United States Trust Co. of New York v. New Jersey 431 U.S. 1, 97 S.Ct. 1505, 1516 n. 16 (1977); Coombes v. Getz 285 U.S. 434, 52 S.Ct. 435, 438 (1932); Jefferson Disposal Co., Inc. v. Jefferson Parrish 603 F.Supp. 1125, 1136 (ED La, 1985)).

Thus, inmates contend that due process would prohibit application of the "beneficial results obtained" factor before and after February 24, 2010.

Finally, inmates contend the "beneficial results obtained" factor would substantially impair the fee contract by altering the reasonable expectations of the contract parties (Kirven, 760 S.E. 2d at 800). The parties are presumed to have adopted the fee contract terms in reliance on original §15-77-300 to govern a subsequent fee petition (United States Trust Co. of New York, 97 S.Ct. at 1515 n. 14, 1516 n. 17). Original §15-77-300 only required that fees be

reasonable, not that any factors be used to determine the fee rate. The amendment would require the Court to consider the "beneficial results obtained" and other factors to determine the rate. Thus, the provisions in original §15-77-300 would not apply and the presumed expectations of the parties would be altered.

For the same reason, this factor would materially alter the fee contract terms (Harleysville Mut. Ins. Co. v. South Carolina 401 S.C. 15, 736 S.E. 2d 651, 658 (S.C., 2012)). It would also alter the rights and obligations of the contract parties, and legal effect of the contract (Superior Motors, Inc. v. Winnebago Ind., Inc. 359 F. Supp. 773, 777 (D.S.C., 1973)).

For these reasons, inmates contend impairment of contract would prohibit application of the "beneficial results obtained" factor before and after February 24, 2010.


As a final consideration governing review, if the Court finds the ALC remand order was not appealable, inmates request the Court to consider this petition as an application for mandamus to the ALC to merits consider inmates' grievances, thus rendering this Court's review of the Court of Appeals' decision appropriate (Appellate Practice in South Carolina, 3rd Ed., 2016, page 165).

Inmates submit the above considerations are special and important reasons to grant their petition for certiorari under SCACR 242(b).

#### CONCLUSION

For the reasons stated herein, petitioners request the Court to grant the Petition for a Writ of Certiorari.

Respectfully submitted,

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

THE STATE OF SOUTH CAROLINA  
In The Supreme Court  
APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Ralph K. Anderson, III, Administrative Law Judge

Order (S.C. Ct. App. filed July 20, 2017)

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-

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.

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

Court of Appeals Appellate Case No. 2017-001560

PROOF OF SERVICE

RECEIVED

OCT 02 2017

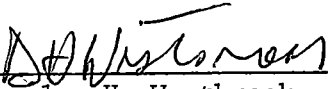
SC Court of Appeals

I certify that I have served petitioners' Petition for a Writ of Certiorari and Appendix on the S.C. Department of Corrections by depositing copies of them

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

in the U.S. Mail, postage prepaid, on September 29, 2017, addressed to its attorney of record, Lake Summers, Esquire, of Malone, Thompson, Summers & Ott, LLC, 339 Heyward St., Suite 200, Columbia, SC 29201.

September 29, 2017.

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

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

September 29, 2017

RECEIVED  
OCT 02 2017  
SC Court of Appeals

The Honorable Daniel E. Shearouse  
Clerk of Court  
The Supreme Court of South Carolina  
P.O. Box 11330  
Columbia, SC 29211

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

Dear Mr. Shearouse:

Pursuant to SCACR 242(a)(c), please find enclosed for filing with the Court the original and six copies of Petitioners Francis Ackerman, et al.'s Petition for Writ of Certiorari and Proof of Service. I also enclose two copies of the Appendix, one copy unbound, pursuant to SCACR 242(e). Finally, I enclose a check for the \$100 filing fee.

I have this date filed by mail a copy of the Petition and Proof of Service with the Clerk of the Court of Appeals. By copy of this letter, I also served by mail a copy of the Petition, Appendix, and Proof of Service on counsel for the Department of Corrections.

Thank you for your assistance in this matter.

Sincerely,



Douglas H. Westbrook

DHW/

Encl.

cc: The Honorable Jenny Abbott Kitchings  
Lake E. Summers, Esquire

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

September 29, 2017

RECEIVED

OCT 02 2017

SC Court of Appeals

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

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

Dear Ms. Kitchings:

Pursuant to SCACR 242(c), please find enclosed for filing with the Court a copy of Petitioners Francis Ackerman, et al.'s Petition for Writ of Certiorari and Proof of Service, which have been filed by mail this date in the Supreme Court.

Thank you for your assistance in this matter.

Sincerely,



Douglas H. Westbrook

DHW/

Encl.

cc: The Honorable Daniel E. Shearouse  
Lake E. Summers, Esquire



1000



29211

U.S. POSTAGE  
PAID  
CHARLESTON, SC  
29401  
SEP 29 17  
AMOUNT  
**\$1.82**  
R2305K141335-16

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

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

**RECEIVED**  
OCT 02 2017  
SC Court of Appeals

