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

S.C. SUPREME COURT

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-

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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.

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

Court of Appeals Appellate Case No. 2017-001560

Supreme Court Appellate Case No. 2017-002010

REPLY TO RETURN TO 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.

Pursuant to SCACR 242(g), Francis Ackerman, et al. (inmate) submits this reply to SCDC's return to the petition for a writ of certiorari.

QUESTION PRESENTED

SCDC does not present a counter-statement of the question presented (SCACR 242(f) (SCDC Return, p. 1).

COUNTER-STATEMENT OF THE CASE

Inmate contends SCDC's counter-statement violates SCACR 242(d)(3)'s requirements to be concise and contain facts material to the question presented. The counter-statement is 11 pages long, almost half the length of the 24 page return. Thus, it is not concise. The counter-statement is also non-factual and argumentative by its gratuitous criticism of inmate's statement of the case and argument (Return, pp. 3, 5-7, 12); and counter arguments (Return, pp. 5, 7-8, 10, 12). Inmate submits the Court should disregard these portions of the counter-statement.

SCDC states Adkins and Wicker did not hold inmates could file prevailing wage grievances and appeal to the ALC (Return, p. 3). Inmate respectfully disagrees. Initially, inmate contends this statement is not material to the question presented (SCACR 242(d)(3)). On the merits, Adkins, et al. v. SCDC 360 S.C. 413, 602 S.E. 2d 51, 55 (S.C., 2004) stated, ".we hold inmates may file an inmate grievance to protest DOC's failure to pay wages in accordance with the mandatory statutory provisions".

And, in Wicker v. SCDC 360 S.C. 421, 602 S.E. 2d 56, 58 note 1 (S.C., 2004) the Court stated, ".we hold the DOC's failure to pay in accordance with the statutes is reviewable by the ALJ". In footnote 1, the Court stated its holding was limited, and not to be viewed as "expanding" the ALJ's jurisdiction in

any other circumstance.

SCDC states Adkins and Wicker did not open the door for inmates to file pay claims with SCDC, but merely confirmed that inmates already had that right (Return, pp. 4-5). Inmate disagrees. Initially, inmate contends this statement is not material to the question presented (SCACR 242(d)(3)). On the merits, in Wicker, 602 S.E. 2d at 58, for the first time the Court found the prevailing wage statute creates an interest encompassed by the Fourteenth Amendment's protection of liberty and property which may not be denied without due process. Due process, in turn, required a hearing and judicial review (Al-Shabazz v. State 527 S.E. 2d 742, 750 (S.C., 2000)).

Thus, Adkins and Wicker granted grievance and appeal rights to satisfy these due process requirements. Since the basis for the Court's decisions was the new due process finding, inmates did not have these rights before Adkins and Wicker.

SCDC states its July 13, 2017 "filing" with the ALC was not its response to Gatewood's ALC petition for attorney fees, but merely a "mechanism" to strike Gatewood's filings (Return, p. 10). Inmate disagrees. Initially, inmate contends this statement is not material to the question presented (SCACR 242(d)(3)). On the merits, SCDC's response is entitled, "The Department's Response to Gatewood's Filings Dated June 30, 2017 and Its Motion to Strike Gatewood's Filings Dated June 30, 2017" (App. p. 77). Moreover, the response covers over 12 pages, while the motion to strike covers less than 2 pages (App. pp. 80-93). The opening paragraphs state SCDC "..provides its response to the three (3) filings dated June 30, 2017.." and "..also moves this Court..to strike Gatewood's three (3) filings dated June 30, 2017 (App. p. 77).

In its July 13, 2017 response, SCDC contended the Court of Appeals' decision in Gatewood v. SCDC 416 S.C. 304, 785 S.E. 2d 600, 613 (S.C. App., 2016) was not a "judgment in Gatewood's favor" (App. p. 82). "Prevailing party" status is an element of §15-77-300 attorney fees. Moreover, in SCDC's July 25, 2016 petition for certiorari in Gatewood v. SCDC App. Case No. 2016-001221, SCDC stated on page 15 that if the Court of Appeals' rulings stood, SCDC would owe back wages to Gatewood, and Gatewood as prevailing party would be owed interest, costs and attorney fees.

Also in the July 13 response, SCDC argued its application of the 15 day filing deadline for "incident" grievances was grounded on a reasonable basis in law and fact, and did not reflect a "will to win" (App. pp. 87-88). Reasonable basis in law and fact is the test for determining "substantial justification" under §15-77-300 (Layman, et al. v. State of South Carolina, et al. 376 S.C. 434, 658 S.E. 2d 320, 326 (S.C., 2008)). Concerning SCDC's "will to win", in addition to contesting liability for 13 years, inmate notes the Court of Appeals' characterization of SCDC's reliance on the filing deadline for "incident" grievances as "arbitrary and capricious" (Ackerman, et al. v. SCDC 415 S.C. 412, 782 S.E. 2d 757, 762 (S.C. App., 2016)).

ARGUMENT

A. SCDC contends the ALC is not the forum to litigate inmates' claims because under Wicker and Al-Shabazz, the ALC sits exclusively in an appellate capacity to review SCDC final decisions for these claims (Return, p. 13). First, inmate contends this argument is not relevant to the question presented, whether the ALC remand order was appealable under Charlotte-Mecklenburg Hosp. v. DHEC (SCACR 242(f) (Return shall include "argument on each question")).

On the merits, Al-Shabazz did not concern inmate pay claims, as inmates had no wage grievance/appeal rights when that case was decided in 2000. Moreover, Wicker did not address whether ALC review jurisdiction was exclusively appellate. Here, the ALC acquired jurisdiction to consider inmates' grievances on the merits by the Court of Appeals' opinion remand in Ackerman, et al. v. SCDC, 782 S.E. 2d at 762, and the June 2, 2017 Court of Appeals' remittitur to the ALC (Inmate Petition, p. 5; App. p. 16). A similar procedure was followed by the Court of Appeals and ALC in 2013-2014 in Gatewood v. SCDC, as discussed in the petition, page 7.

Finally, ALC Rule 2(E) states the definition of "contested case" includes "hearings required by due process". As earlier stated, Wicker, 602 S.E. 2d at 58 note 1, granted ALC appeal rights in these cases as a requirement of due process. Thus, ALC review constitutes a "contested case" under ALC rules. In addition, the ALC can have both appellate and contested case jurisdiction (J. Toal, Appellate Practice in South Carolina, 3d Ed., 2016, p. 74).

SCDC states the ALC's jurisdiction in this matter is animated by ALC Rule 51 and notes, stating the rules in Section V are the exclusive rules of procedure for appeals from final SCDC decisions (Return, pp. 14-15). Initially, inmate contends this argument is not relevant to the question presented (SCACR 242(f)). On the merits, the instant matter is not on appeal from final decisions of SCDC. Those decisions and appeals to the ALC occurred in 2007-2008 (App. pp. 95-98; Ackerman, et al. v. SCDC 782 S.E. 2d at 759-760, summarizing SCDC 2004-2007 grievance proceedings and ALC appeals for inmates' grievances). Inmate requests the Court to take judicial notice of all the final decisions and ALC appeals in the Supreme Court's records in SCDC's petition for certio-

rari in Ackerman, et al. v. SCDC Sup. Court App. Case No. 2016-000829, beginning in Appendix volume 3, p. 1311, and ending in volume 10, p. 4276.

Instead of being on appeal from final decisions of SCDC, the instant case is on appeal from the Court of Appeals' remand to the ALC to consider all inmates' grievances on the merits (Ackerman, et al. v. SCDC, 782 S.E. 2d at 762; App. p. 16). Thus, Rule 51 does not apply here. Even if it did, inmate contends it would not trump the Court of Appeals' remand, which is jurisdictional, directing the ALC to consider grievances on the merits.

SCDC states a final result in inmates' favor does not yet exist, and the ALC properly remanded to SCDC to adjudicate the merits of inmates' claims, per Gatewood v. SCDC (Return, p. 15). Initially, inmate contends this argument is not relevant to the question presented (SCACR 242(f)). On the merits, the ALC remanded for SCDC to consider grievances on the merits in keeping with Ackerman and Gatewood (App. p. 21). However, if the ALC followed Ackerman, the ALC itself would consider grievances on the merits as the Court of Appeals directed (Ackerman, et al. v. SCDC. 782 S.E. 2d at 762; App. p. 16). If the ALC followed Gatewood, it would do likewise since the ALC merits considered Gatewood's grievance in 2013-2014, which procedure was not contested or reversed in Gatewood v. SCDC 416 S.C. 304, 785 S.E. 2d 600 (S.C. App., 2016).

B. SCDC states inmates conceded in the July 13, 2017 petition for mandamus that the ALC remand is "probably interlocutory and not immediately appealable", and inmates purposefully did not include this in the petition (Return, pp. 16-17). The July 14, 2017 notice of appeal footnote summarized the petition for mandamus contentions that the remand is probably interlocutory and not immediately appealable under Charlotte-Mecklenburg Hosp., and it was possible the

Court may distinguish Charlotte-Mecklenburg Hosp. based on circumstances not addressed in that case (App. p. 45). Moreover, the notice of appeal is summarized in the petition statement of the case, page 2, and is contained in the Appendix, pages 42-54.

Pursuant to SCACR 242(d)(4), the petition for certiorari shall contain a "...direct and concise argument in support of the petition". And, SCACR 217 allows a party to "...argue against precedent in the brief..". Here, the question presented is whether the Court of Appeals erred in deciding the ALC remand was not appealable under Charlotte-Mecklenburg Hosp. (Petition, p. 1). In the petition argument, inmate stated at page 3, "(T)he Court of Appeals should have decided that Charlotte-Mecklenburg Hosp. Auth. v. DHEC is distinguishable, and the ALC's remand order was appealable". In support, inmate contended for the various circumstances which distinguish this case from Charlotte-Mecklenburg Hosp., the precedent being argued against (Petition, at pages 3-6).

The ALC remand order is either appealable or not. Only this Court can say with final authority. If the Court relies solely on those circumstances which our case and Charlotte-Mecklenburg Hosp. share in common, the remand order is probably interlocutory. However, if the Court considers the circumstances here which were not addressed in Charlotte-Mecklenburg Hosp., it is possible the Court may find the remand to be appealable.

C. SCDC contends the Court should not consider the argument as to whether Charlotte-Mecklenburg Hosp. is distinguishable, citing Smith v. Tiffany 419 S.C. 548, 799 S.E. 2d 479, 484 note 3 (S.C., 2017) and First Sav. Bank v. McLean 314 S.C. 361, 363, 444 S.E. 2d 513, 514 (S.C., 1994). In those two cases,

appellants failed to provide argument or legal authority. Also, there is no indication that those cases were reviewed on certiorari.

In Mazloom v. Mazloom 392 S.C. 403, 709 S.E. 2d 661 (S.C., 2011), the Court did review on a writ of certiorari. The Court relied on SCACR 242(d)(2) to decide that a portion of the question was not preserved for review. That rule states, "(O)nly those questions raised in the Court of Appeals and in the petition for rehearing shall be included in the petition for writ of certiorari as a question presented.."

Here, inmate contends the notice of appeal footnote raised the question, or subsidiary question (SCACR 242(d)(2)), that "..it is possible the Court may distinguish Charlotte-Mecklenburg Hosp. based on other circumstances here which were not addressed in that case" (App. p. 45). Further, inmate contends that the Court of Appeals addressed the issue in its July 20, 2017 order dismissing the appeal as interlocutory pursuant to Charlotte-Mecklenburg Hosp. (App. pp. 9-10). Finally, the issue was raised in the petition for rehearing (App. pp. 57-58, 61-63).

D. SCDC contends the ALC remand is not a final order under Charlotte-Mecklenburg Hosp., §1-23-610(A)(1), or other statutes (Return, pp. 21-22). The petition contends Charlotte-Mecklenburg Hosp. is distinguishable, and for that reason the ALC remand was appealable. The circumstances distinguishing our case from Charlotte-Mecklenburg Hosp. are discussed in the petition, pages 3-6.

Inmate further notes that Charlotte-Mecklenburg Hosp., 387 S.C. at 266, is clear that §1-23-610(A)(1) is the governing statute in these cases.

E. SCDC contends no novel question of law exists under SCACR 242(b)(1) because, as in Charlotte-Mecklenburg Hosp., this Court has adjudicated suits con-

cerning whether an ALC order was interlocutory (Return, p. 23). However, SCDC does not address the specific contention that 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 (Petition, pp. 4-6).

SCDC contends the Court of Appeals' dismissal of the appeal conforms to, rather than conflicts with, a prior decision of the Court, namely Charlotte-Mecklenburg Hosp., under SCACR 242(b)(3) (Return, p. 23). However, SCDC does not address whether the dismissal conflicts with Williford v. Downs and other cases holding that a mode of trial denial is immediately appealable (Petition, pp. 3-4, 6).

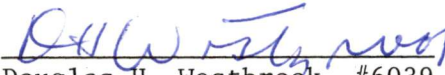
SCDC contends that no constitutional issues are animated under SCACR 242 (b)(4) by the Court of Appeals' dismissal (Return, p. 23). However, SCDC does not address whether the dismissal conflicts with Wicker's guarantee of due process (Petition, pp. 4, 6).

F. Finally, in its return SCDC does not address in detail many of the subsidiary questions, or considerations governing review, discussed in the petition.

CONCLUSION

For the reasons stated in the petition and this reply, inmate requests the Court to grant the petition for a writ of certiorari, or in the alternative, to consider the petition as an application for mandamus to the ALC to consider inmate's, and all inmates' grievances on the merits.

Respectfully submitted,


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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-

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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.

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

Court of Appeals Appellate Case No. 2017-001560

Supreme Court Appellate Case No. 2017-002010

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S.C. SUPREME COURT

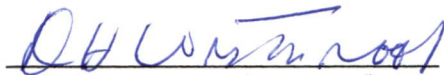
PROOF OF SERVICE

I certify that I have served petitioners' Reply to Return to Petition For a Writ of Certiorari on the S.C. Department of Corrections by depositing a copy

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

of it in the U.S. Mail, postage prepaid, on November 14, 2017, addressed to its attorney of record, Lake Summers, Esquire, of Malone, Thompson, Summers & Ott, LLC, 339 Heyward St., Suite 200, Columbia, SC 29201.

November 14, 2017.



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