

**APPELLANT'S MOTION TO RECALL THE  
OCTOBER 25, 2017 REMITTITUR**

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

**RECEIVED**  
NOV 20 2017  
SC Court of Appeals

\_\_\_\_\_  
APPEAL FROM RICHLAND COUNTY  
COURT OF COMMON PLEAS  
JEAN H. TOAL, CIRCUIT COURT JUDGE

\_\_\_\_\_  
Case No. 2014-CP-40-08059  
Appellate Case No. 2017-001788  
\_\_\_\_\_

George Cleveland, III .....Appellant

vs.

Rebecca Schimsa, and Gov. Henry McMaster .....Respondent<sup>5</sup>

**MOTION TO RECALL THE REMITTITUR**

Office of the Attorney General  
Kevin Desmond Maroney, Asst. Atty. Gen.  
Post Office Box 11549  
Columbia, S.C. 29211-1549  
Counsel for the Respondents

George Cleveland, III  
400 Hunter Street  
Seneca, S.C. 29678  
Cell no.864-784-7223

Email: [gcleveland7475@gmail.com](mailto:gcleveland7475@gmail.com)

**Motion to Recall the October 25, 2017 Remittitur**

George Cleveland, III, proceeding pro se, files this *Motion to Recall the October 25, 2017<sup>1</sup> Remittitur on the following grounds:*

*Deputy Clerk V. Claire Allen of this Court erroneously sent the Remittitur to the lower Court under Rule 221 (b) S.C.R.A.P. prior to the Court dismissing my Appeal, and awaiting the 15-day deadline.*

**ARGUMENT**

**The Remittitur was Sent Prematurely**

*Rule 221 (b) S.C.R.A.P. states the following:*

“ the Court shall not [ ] sen[d] [the Remittitur].... Until fifteen (15) days have elapsed... since the filing of the opinion, order, judgment, or decree of the court finally disposing of the appeal.” R..2 (Copy of Rule 221).

The docket report shows this Court denied my Motion to proceed *in forma pauperis* on October 09, 2017, see R..3, giving me 15 days to pay the filing fee or my “case will be dismissed.”

Rule 221 (b) required Ms. Allen to first wait for her or Ms. Kitchings to formally dismiss my Appeal after 15 days, and wait another 15 days before issuing the Remittitur in which in that time-frame, I could have filed my Petition for a Rehearing under Rule 221 (c).

---

<sup>1</sup> See R 1.

Even the Clerk of this Court Ms. Jenny Abbott Kitchings stated the same in her October 11, 2017 letter<sup>2</sup> to me:

“the Court will not entertain petitions for rehearing unless the action of the Court on the motion or petition has the effect of dismissing or finally deciding a party’s appeal.” R. ~~6~~ The *Remittitur* was **NOT** supposed to be sent because the Clerk’s Office never issued an order formally dismissing my case which Ms. Kitchings own words confirmed; accordingly, Ms. Allen prematurely sent the Remittitur which was barred under Rule 221 (b). *IBID*.

### Conclusion

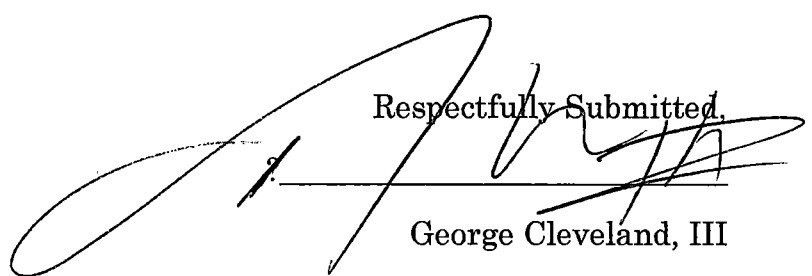
Based on the forgoing facts, and legal authorities, I respectfully request this Court **GRANT** my Motion, and Recall the October 25, 2017 Remittitur sent to the Richland County Clerk of the Court of Common Pleas, see R. 1.

---

<sup>2</sup> Ms. Allen has invoked the Literacy test on me which gave her unfettered power to fraudulently end this case because she controlled the understanding of my court filings which has plagued our State for over a Century: The understanding clause under Art. 2 § 6 of the S.C. Const. “The General Assembly may require each person to demonstrate a reasonably ability...to read and write...” “these provisions allowed.... Officials to openly discriminate by providing difficult and complex sections to [some] and then be hypercritical...” See R.4. Ms.. Allen is doing the same by ignoring the rules of this Court, and taking the law in her own hands which Rule 221 (b) rejects. Even S.C. Code of Law §14-8-110 rejects Ms. Allen from taking the law in her own hands (The clerk of the S.C. Court of Appeals “shall be responsible for the custody and keeping of the record of the Court”), not deciding the record of the Court or throwing up procedural hurdles blocking me from proper adjudication by the Judges of this court. R.5.

Issue an **ORDER** *formally dismissing* this Case for failing to pay the filing fee, and **Order** the *15 day deadline to file the Rehearing Petition in this Court* respectively.

**ORDER** any other relief this Court deems just, proper, and/ or impartial.

A large, stylized handwritten signature in black ink, appearing to read 'George Cleveland, III', is written over a horizontal line.

Respectfully Submitted,

George Cleveland, III

400 Hunter Street

Seneca, S.C. 29678

Cell no. 864-784-7223

Email: [gcleveland7475@gmail.com](mailto:gcleveland7475@gmail.com)

Dated: November 16, 2017

**APPELLANT'S RECORD IN SUPPORT OF MOTION TO  
RECALL THE OCTOBER 25, 2017 REMITTITUR**

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM RICHLAND COUNTY  
COURT OF COMMON PLEAS  
JEAN H. TOAL, CIRCUIT COURT JUDGE

**RECEIVED**

NOV 20 2017

SC Court of Appeals

Case No. 2014-CP-40-08059

Appellate Case No. 2017-001788

George Cleveland, III .....Appellant

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*October 20, 2017 letter from MS.  
Kitchings ' ' ' ' ' ' ' ' 16*



fr 1

## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

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COLUMBIA, SOUTH CAROLINA 29201  
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October 25, 2017

The Honorable Jeanette W. McBride  
PO Box 2766  
Columbia SC 29202-2766

### REMITTITUR

Re: George Cleveland, III v. State of South Carolina  
Lower Court Case No. 2014CP4008059  
Appellate Case No. 2017-001788

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

Enclosure

cc: George C Cleveland, III  
Kevin Desmond Maroney, Esquire

**RULE 221  
REHEARING AND REMITTITUR**

Rp 2

**(a) Rehearing.** Petitions for rehearing must be actually received by the appellate court no later than fifteen (15) days after the filing of the opinion, order, judgment, or decree of the court. A petition for rehearing shall be in accordance with Rule 240, and shall state with particularity the points supposed to have been overlooked or misapprehended by the court. No petition for rehearing shall be allowed from an order denying a petition for a writ of certiorari under Rule 242, SCACR.

**(b) Remittitur.** The remittitur shall contain a copy of the judgment of the appellate court, shall be sealed with the seal and signed by the clerk of the court, and unless otherwise ordered by the court shall not be sent to the lower court or administrative tribunal until fifteen (15) days have elapsed (the day of filing being excluded) since the filing of the opinion, order, judgment, or decree of the court finally disposing of the appeal. If a petition for rehearing is received before the remittitur is sent, the remittitur shall not be sent pending disposition of the petition by the court. Where a petition for rehearing has been denied, the Court of Appeals shall not send the remittitur to the lower court or administrative tribunal until the time to petition for a writ of certiorari under Rule 242(c) has expired. If a petition for writ of certiorari is filed, the Court of Appeals shall not send the remittitur until notified that the petition has been denied. If the writ is granted by the Supreme Court, the Court of Appeals shall not send the remittitur.

**(c) Rehearing of Motions.** The appellate court will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party's appeal.

Last amended by Order dated January 29, 2009, effective April 29, 2009, by Order of the same date.

*Page 3*

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Case Information: 2017-001788

<b>Court:</b>	Court of Appeals	<b>Classification:</b>	Appeal - Common Pleas - Other
<b>Short Title:</b>	George Cleveland, III v. State of South Carolina <a href="#">View Full Title</a>	<b>Case Status:</b>	Remittitur

**Consolidated:**

<b>Filed Date:</b>	08/28/2017	<b>Oral Argument Date:</b>	
<b>Disposition Date:</b>	10/09/2017	<b>Disposition Type:</b>	Order
<b>Remittitur Date:</b>	10/25/2017		
<b>Lower Court or Tribunal:</b>	Richland (2014CP4008059)		

- Party Information

Appellate Role	Party Name	Former	Attorney(s)
Appellant	George C Cleveland, III	N	Self Represented
Respondent	The State of South Carolina	N	Kevin Desmond Maroney

Views

Display:

Event Information

Filed Date	Event Information	Doc
10/25/2017	Remittitur - Remittitur Sent (17-OR-573)	
10/11/2017	Correspondence - Outgoing (Returning materials and money orders to appellant - no action taken on petition for rehearing of September 14, 2017 order denying in forma pauperis)	
10/09/2017	Dispositional Decision - Order	
10/09/2017	Motion - Other Motion (Petition for Rehearing of the September 14, 2017 order denying in forma pauperis)	
10/02/2017	Non-Dispositional Decision - Extension Granted	
10/02/2017	Motion - Extension of Time (1st - to comply with the Court's notice of appeal filing fee requirement)	
09/20/2017	Correspondence - Outgoing (Letter to appellant that no action will be taken on motion for extension until notice of appeal filing fee is paid)	
09/18/2017	Transcript Documents - Transcript Ordered	
09/18/2017	Motion - Extension of Time (1st - to order the transcript)	
09/14/2017	Non-Dispositional Decision - Order	
09/05/2017	Correspondence - Outgoing (Transcript warning letter)	
09/01/2017	Correspondence - Outgoing (Notice of Appeal initial letter)	
08/28/2017	Motion - Proceed In Forma Pauperis or Waive Costs	
08/28/2017	Notice of Appeal (Civil) - Initial	

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SOUTH CAROLINA / AFRICAN AMERICANS / LITERACY TESTS TO ELIMINATE BLACK VOTERS

South Carolina SC African-American History Reconstruction, 1865-1900 Literacy Tests to Eliminate Black Voters

## Literacy Tests to Eliminate Black Voters

Written by Michael Trinkley of the Chicora Foundation

Article 2, Section 6 of South Carolina's constitution of 1895 specified that, "The General Assembly may require each person to demonstrate a reasonably ability, except for physical disability, to read and write the English language as a condition to becoming entitled to vote."

The legislature established provisions that seemed neutral on their face:

- Those registered prior to January 1, 1898 had to be able to read any section of the Constitution submitted to them by the registration officer or understand and explain the provision when it was read to them by the official.
- Those registering after January 1, 1898 had to be able to read and write any section of the constitution submitted to them or show that he owned and had paid taxes during the previous year on property in the state valued at \$300 or more.

But these provisions allowed registration officials to openly discriminate by providing difficult and complex sections to blacks and then be hypercritical of the registrants' explanations. Whites could be provided with easier sections, with the explanations graded more indulgently. In defending this approach, Senator Ben Tillman remarked,

Some have said there is fraud in this understanding clause. Some poisons in small doses are very salutary and valuable medicines. If you put it in here that a man must understand, and you vest the right to judge whether he understands in an officer, it is a constitutional act. That officer is responsible to his conscience and his God, he is responsible to nobody else. There is no particle of fraud or illegality in it. It is just simply showing partiality, perhaps, discriminating.

And discriminate it did – virtually eliminating the black electorate.

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service shall be based on their order of election, with the associate judge who is elected first being the associate judge senior in service; provided, however, that seniority among the judges on an interim Court of Appeals shall continue on the permanent Court of Appeals established by the provisions of this chapter and service on that Court shall be included in determining the length of service on the Court herein established.

(c) Cases must be distributed between the three panels by the Chief Judge in accordance with rules promulgated by the Supreme Court; however, the Chief Judge may transfer cases from one panel to the other in order to maintain approximately equal caseloads for the three panels.

(d) On a panel, three judges shall constitute a quorum, and the concurrence of a majority of the judges is necessary for the reversal of the judgment below.

HISTORY: 1979 Act No. 164 Part IV-A Section 1, eff July 1, 1979; 1983 Act No. 89 Section 1, eff June 2, 1983; 1983 Act No. 90 Section 2, eff July 1, 1985; 1995 Act No. 145, Part II, Section 85C, eff June 29, 1995.

**SECTION 14-8-90.** When the Court may sit en banc.

(a) The Court may sit en banc to hear cases upon:

(1) petition by a party filed in accordance with rules promulgated by the Supreme Court if the petition is granted by six judges of the Court; or

(2) its own motion agreed to by six judges of the Court.

(b) When the Court sits en banc, six of the judges constitute a quorum and a concurrence of six of the judges is necessary for a reversal of the judgment below. The Chief Judge shall preside, and in his absence the judge senior in service and present shall preside.

HISTORY: 1979 Act No. 164 Part IV-A Section 1, eff July 1, 1979; 1983 Act No. 89 Section 1, eff June 2, 1983; 1985 Act No. 105, Section 1, approved by the Governor on May 21, 1985, and eff after July 1, 1985; 1995 Act No. 145, Part II, Section 85D, eff June 29, 1995.

Editor's Note

1985 Act No. 105, Section 3, provides as follows:

"Notwithstanding the provisions of Act 90 of 1983 which provide for the manner in which Sections 14-8-90 and 14-8-250 of the 1976 Code shall read effective July 1, 1985, these sections, as amended by the provisions of Sections 1 and 2 of this act respectively, shall continue to read in the manner provided herein after July 1, 1985."

**SECTION 14-8-100.** Reporting of opinions and decisions by Supreme Court reporter; appointment of assistant reporter.

The Supreme Court reporter shall report the opinions and decisions of the Court of Appeals in all respects as he is now or hereafter may be required by law to report the decisions and opinions of the Supreme Court. An assistant reporter for the Court of Appeals may be appointed by the judges of such Court to aid the reporter in his duties.

HISTORY: 1979 Act No. 164 Part IV-A Section 1, eff July 1, 1979; 1983 Act No. 89 Section 1, eff June 2, 1983; 1983 Act No. 90 Section 2, eff July 1, 1985.

Editor's Note

Provisions of this section concerning the reporting of opinions were formerly contained in Section 14-8-130.

**SECTION 14-8-110.** Duties of Clerk of Supreme Court; appointment of clerk of Court of Appeals to aid clerk of Supreme Court.

The Clerk of the Supreme Court, in a manner prescribed by the Supreme Court, shall be responsible for the custody and keeping of the record of the Court. A clerk of the Court of Appeals shall be appointed by the judges of the Court to aid the Clerk of the Supreme Court in the performance of these duties.

HISTORY: 1979 Act No. 164 Part IV-A Section 1, eff July 1, 1979; 1983 Act No. 89 Section 1, eff June 2, 1983; 1983 Act No. 90 Section 2, eff July 1, 1985.

Editor's Note

Provisions of this section concerning the appointment of the Clerk of the Court were formerly contained in Section 14-8-140.

**SECTION 14-8-120.** Editing, publishing, and distributing of opinions and decisions.

Editing, publishing, and distributing of the opinions and decisions of the Court shall be done in accordance with the procedures followed by the Supreme Court with respect to the editing, publishing, and distributing of its opinions and decisions.

HISTORY: 1979 Act No. 164 Part IV-A Section 1, eff July 1, 1979; 1979 Act No. 194 Part III Section 5, apparently effective Aug. 8, 1979; 1983 Act No. 89 Section 1, eff June 2, 1983; 1983 Act 90 Section 2, eff July 1, 1985.

**SECTION 14-8-130.** Sheriff to serve and execute order or process.

The Court of Appeals may require the sheriff of each county to whom any order or process issuing from such court may be directed to serve and execute such order or process and shall have the same power to enforce such service and execution and punish default thereon as is vested in circuit courts on processes issuing therefrom.

HISTORY: 1979 Act No. 164 Part IV-A Section 1, eff July 1, 1979; 1983 Act No. 89 Section 1, eff June 2, 1983; 1983 Act No. 90 Section 2, eff July 1, 1985.

Editor's Note

Provisions concerning the reporting of opinions formerly contained in Section 14-8-130, see Section 14-8-100.

### ARTICLE III

#### Jurisdiction, Duties and Procedure

**SECTION 14-8-200.** Jurisdiction of Court; limitations.

(a) Except as limited by subsection (b) and Section 14-8-260, the court has jurisdiction over any case in which an appeal is taken from an order, judgment, or decree of the circuit court, family court, a final decision of an agency, a final decision of an administrative law judge, or the final decision of the Workers' Compensation Commission. This jurisdiction is appellate only, and the court shall apply the same scope of review that the Supreme Court would apply in a similar case. The court has the same authority to issue writs of supersedeas, grant stays, and grant petitions for bail as the Supreme Court would have in a similar case. The court, to the extent the Supreme Court may by rule provide for it to do so, has jurisdiction to entertain petitions for writs of certiorari in post-conviction relief matters pursuant to Section 17-27-100.

(b) Jurisdiction of the court does not extend to appeals of the following, the appeal from which lies of right directly to the Supreme Court:

(1) a final judgment from the circuit court which includes a sentence of death;

(2) a final decision of the Public Service Commission setting public utility rates pursuant to Title 58;



RP 6

## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

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October 11, 2017

George C Cleveland, III  
400 Hunter Street  
Seneca SC 29678

Re: George Cleveland, III v. State of South Carolina  
Appellate Case No. 2017-001788

Dear Mr. Cleveland:

The Court is in receipt of your material filed October 10, 2017, entitled "petition to rehear the September 14, 2017, order denying motion to proceed in forma pauperis". Please be advised that pursuant to Rule 221(c), SCACR, the Court will not entertain petitions for rehearing unless the action of the Court on the motion or petition has the effect of dismissing or finally deciding a party's appeal. Therefore, no action will be taken on your petition for rehearing. We are returning your materials, along with your two (2) money orders, numbered 20765464507, in the amount of \$25.00, and 20765454508, in the amount of \$243.00.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jenny A. Kitchings".

CLERK

cc: Kevin Desmond Maroney, Esquire

**APPELLANT'S PROOF OF SERVICE**

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

\_\_\_\_\_  
APPEAL FROM RICHLAND COUNTY  
COURT OF COMMON PLEAS  
JEAN H. TOAL, CIRCUIT COURT JUDGE

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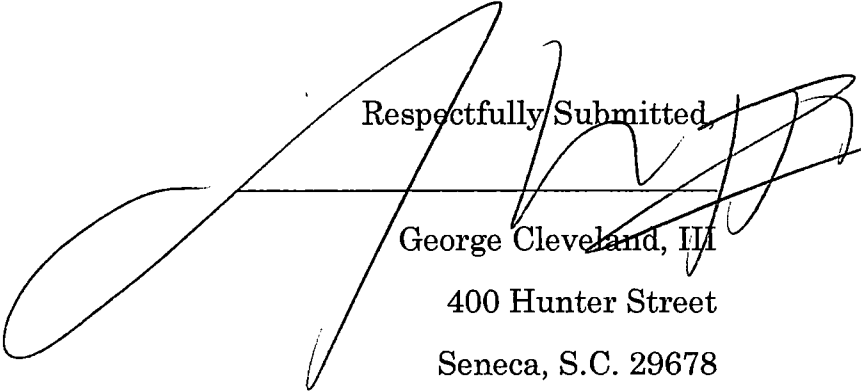
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Case No. 2014-CP-40-08059  
Appellate Case No. 2017-001788  
\_\_\_\_\_

George Cleveland, III .....Appellant  
vs.  
Rebecca Schimsa, and Gov. Henry McMaster .....Respondents

**APPELLANT'S PROOF OF SERVICE**

I, George Cleveland, III, certifies that on the date below, with proper prepaid United States Postage, and properly addressed, served on the Respondent's Counsel of Record, my Motion to Recall the October 25, 2017 Remittitur, and supporting exhibits in the Record. To the following:

**Office of the Attorney General**  
**Kevin Desmond Maroney, Asst. Atty. Gen.**  
**Post Office Box 11549**  
**Columbia, S.C. 29211-1549**  
**Counsel for the Respondents**



Respectfully Submitted,

George Cleveland, III

400 Hunter Street

Seneca, S.C. 29678

Cell no. 864-784-7223

Email: [gclevekand7475@gmail.com](mailto:gclevekand7475@gmail.com)

**Dated: November 16, 2017**

November 15, 2017

RECEIVED

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SC Court of Appeals

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

**Re: George Cleveland, III v. Gov. McMaster, et al, Appellate Case No. 2017-001788 Motion to Recall the October 25, 2017 Remittitur.**

Dear Ms. Kitchings,

Can you please forward the attached *Motion to Recall the October 25, 2017 Remittitur, and supporting Record to the Judges of this Court?* There are 3 copies of the Motion with 1 unbound. There are 2 copies of the Record with 1 unbound.

*\$ 25.00 Filing Fee is enclosed*

Respectfully Submitted,

s/

George Cleveland, III

400 Hunter Street

Seneca, S.C. 29678

Cell no. 864-784-7223

Email: [gcleland7475@gmail.com](mailto:gcleland7475@gmail.com)

cc: file

Mr. Kevin Desmond Maroney, *Esquire*

George Cleveland  
400 Hunter Street  
Savannah SC 29678



1000

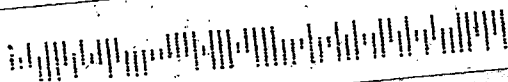


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