

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE: (803) 734-1080
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November 22, 2017

RECEIVED
NOV 22 2017
SC Court of Appeals

Mr. Steven Lois Barnes, #3217117
Kirkland Correctional Institution
4344 Broad River Road
Columbia, SC 29210

Re: Steven Barnes v. SCDC
Appellate Case No. 2017-000967

Dear Mr. Barnes:

This responds to your petition for a writ of mandamus dated November 21, 2017. This petition is related to the above case that is pending before the South Carolina Court of Appeals.

Since you are represented by counsel in the above case, I cannot accept this *pro se* petition for filing and no action will be taken on it by this Court. *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010); *Jones v. State*, 348 S.C. 13, 558 S.E.2d 517 (2002); *State v. Stuckey*, 333 S.C. 56, 508 S.E.2d 564 (1998); *Foster v. State*, 298 S.C. 306, 379 S.E.2d 907 (1989).¹

Very truly yours,

CLERK

¹ If, of course, you desire to have your current counsel relieved, then that is a matter that you will need to raise by appropriate motion to the Court of Appeals.

To: Supreme Court Justices of South Carolina
1231 Gervais St.
P.O. Box 11330
Columbia, SC 29211

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NOV 22 2017

S.C. SUPREME COURT

From: Steven Louis Barnes, #327117

Kirkland R & E
4344 Broad River Rd
Columbia, SC 29210

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NOV 22 2017

SC Court of Appeals

RE: Writ of Mandamus

(Barnes v SCDL and Et. Al)

Dear Supreme Court Justices:

Please take judicial notice of the following:

- 1) That I'd sent on September 29, 17, an one hundred page brief, and among other documents, to be filed in both this Court and the South Carolina Court of Appeals concerning Barnes v SC Dept of Correction CA # 15-ALJ-30-0318-op; and 2) That I sent this Court a recent letter regarding this Court to supervise the lower Court's regarding the Court of Appeals filing. The State of South Carolina is continuously retaliating on me for utilizing my Constitutional Rights. I am requesting this Court assistance in stopping the retaliation.

and such other and further Relief this Court seems Just and proper.

Enclosed in this letter is a writ of Mandamus to assist the Court specifically where the Retaliation and Campaign of Harassment is now coming from. The threat is real and immediate and can cause irreparable harm, especially, by not being treated Medically for my right leg that could be Cancerous.

Thank you for reading this letter

Date: 11/21/17

Respectfully SUBMITTED
STEVEN LUIS BARNES

Supreme Court of South Carolina

STEVEN LOUIS BARNES # 327117)

petitioner)

c/o #

RECEIVED

NOV 22 2017

S. C. SUPREME COURT

vs)

South Carolina Court of Appeals)

and ET. AL)

Respondents)

Proof of Service

I, Steven Louis Barnes, have served the South Carolina Court of Appeals, 1220 Senate Street, Columbia, SC 29201, a handwritten copy of both his writ of Mandamus and motion in opposition to the Respondent motion to dismiss, the latter document is marked as Exhibit (a) to the writ by depositing the above legal documents in the United States mail with sufficient postage.

Furthermore, due to issues 19-21 in the petitioner was hindered page brief concerning obtaining legal supplies from South Carolina Department of Correction (SCDC) officials while indigent, the petitioner has insufficient legal paper to send handwritten copies of the above documents to the following officials: Jane Summers, for SCDC, 334 Heyward St., Suite 202, Columbia, SC 29201; and the South Carolina Commission on Judicial Defense, and Steve Gannon, who is an employee of the office, P.O. Box 11589, Columbia, SC 29211. However, the

petitioner did request the court of appeals by letter to send copies of the above legal documents to said officials. Also, the petitioner had sent a letter to each of the said officials letting them know that they have 20 days to respond to the writ of mandamus that is filed in both this Court and the Court of Appeals.

Date 2/11/21/17

Steven Lewis Barts
Steven Lewis Barts #327112
Kia Island R.E. 6
4344 Broad River Rd
Columbia SC 29211

SUPREME COURT of SOUTH CAROLINA

STEVEN LOUIS BARNES # 327117

petitioner

c/a #

RECEIVED

NOV 22 2017

S.C. SUPREME COURT

vs

Office of Indigent Defense,

Shane Garanson, South Carolina

Commission on Indigent Defense,

South Carolina Court of Appeals,

South Carolina Department of
Correction

Respondents

WRT of MANDAMUS

SUMMARY of FACTS

This writ of mandamus to this Court has three purposes that all coincide with each other: one (1) to compel the South Carolina Commission office of Indigent Defense from:

(A) The usurpation of the Traditional function of private counsel, who are employed for indigent Defendants in its office, and/or public Defender in its office for the interest of the state as shown in paragraph (B) below; and (A) To follow all laws such as statute § 17-3-340 in appointing effective counsel to the Appellant

without state interferences; and two (2) to order the South Carolina Court of Appeals that the Court lack subject matter jurisdiction in part for two reasons regarding the safeskeeper issue: (A) that SC Code § 44-22-20, part of Habeas Corpus statute, has jurisdiction over the South Carolina Governor and the South Carolina Department of Correction (SCDC) regarding placement of the petitioner in the Department of Correction as a safeskeeper inmate and (B) that this Court gave Judge Diana's Goodstein Exclusive Jurisdiction over the petitioner Criminal Case when it was a Capital Case. (See Appendix (1) for further details on these Arguments.) Also for the record, the petitioner leave reference to the one hundred (100) page brief that was filed both in this Court and the Court of Appeals that goes into details about the safeskeeper issue; and three (3) to order the South Carolina of Appeals to drop the Habeas order that was agreed upon by both state action between SCDC lawyers and the office of Indigent Defense lawyer, Shane Goranson, a state puppet (Shane Goranson, a state puppet), and to hear the petitioner one hundred page brief in a timely fashion in the Court of Appeals so the issues can be reviewed by this Court in the future. See Appendix (1)

JURISDICTION

This Court has Jurisdiction of this writ on the following South Carolina laws:

SC Const Art V § 5; SC Const Art V § 20; Rule 65 of the South Carolina Civil Rules of procedure; and SC Code § 14-3-310 that reads in pertinent parts:

"The Supreme Court shall have the power to issue writs or orders of injunctive, mandamus . . . and other remedial and original writs."

Id

PARTIES

South Carolina Commission on Indigent Defense; Shane Lockman, a state puppet; South Carolina Court of Appeals; South Carolina Department of Correction (SCDC)

BACKGROUND FACTS

On January of 2014, this Court had unlearned the petitioner's Capital case on the grounds of self representation. This Court had acknowledged the the petitioner's history of severe mental health but did not adopt the Edward standard for denying a severe mental health criminal defendant the right to self representation, but instead this Court

had adopted the *Farretta v California* standard for self representation.

This Court can take judicial notice that the state on appeal to this Court had argued that the petitioner is/was a severe mental health inmate. The South Carolina Governor, and its agents, such as the SCPE are judicially estopped and *res judicata* from arguing differently on this writ regarding the petitioner's severe mental health status.

On April 30, 2015, the petitioner's former counsel, Jeff Blum, and Bill McQuire of the Office of Indigent Defense (former counsel) had sent a letter to the SCPE regarding the petitioner being in safekeeper status within the Lee County Correctional Facility in Bishopville, South Carolina. See Appendix (2)

On June 10, 2015, the petitioner's former counsel again had sent a letter to SCPE officials regarding the condition of confinement within the SCPE. See Appendix (3) on July 2, 2015, SCPE had responded to the letters regarding the petitioner's former counsel. See Appendix (4) on July 6, 2015, the petitioner's former counsel had filed a contested hearing in the Administrative Law Court (contested hearing) see Appendix (5). Both the SCPE General Counsel and former counsel before and after any briefs or hearings in the contested hearing had known that the petitioner

was a Severe Mental health inmate who was not eligible for the placement within the SCPC as a safekeeper. The Extreme harsh conditions has affected the petitioner Severe Mental health worse than before. Despite them knowing this, the sole purpose of the petitioner being placed there by SCPC because he'd invoked his 6th Amendment right to Counsel and being punished for it. A Contested hearing was held in Columbia, South Carolina, at the Administrative Law Court Building where the SCPC General Counsel and one of former Counsel was present. The petitioner doesn't know what was raised by former Counsel at the Contested hearing nor did he know a hearing was being held in the Administrative Law Court. former Counsel did not call at the Contested hearing witnesses such as the Governor and SCPC officials regarding the petitioner safekeeper status. Upon information and belief, the South Carolina Commission on Indigent Defense would not provide former Counsel's funding for preparation of evidentiary matters such as deposition of witnesses like the former South Carolina Governor, and its co-conspirators, who are all responsible for placing the petitioner within the SCPC when he was a Severe mental health inmate and who is not eligible under South Carolina mental health statutes to be there. See SC Code § 44-22-20 through 44-22-220 and SC Code

§ 44-23-220; and section 6 of Governor Executive Order 2005-1 on November 5, 2015, the Administrative Judge had dismissed the petitioner's retaliatory transfer issue. See Appendix (6). No appeal was taken by former counsel regarding the November 5, 2015 Administrative Judge order to the South Carolina Court of Appeals. Lack of subject matter jurisdiction, for instance, can be raised at any time. S.C. Code § 44-22-20, a habeas corpus statute, has jurisdiction over the petitioner's severe mental health issue. See Appendix (1).

Furthermore, on April 23, 14, the then 11th Circuit Solicitor, Ronnie Myers had resought the death penalty against the petitioner. This court gave Judge Diana Goodstein exclusive jurisdiction on the then petitioner's capital case.

The Administrative Judge November 5, 15 order regarding the petitioner's transfer within the SCL is void, see Appendix (6) as a matter of law on the ground that the court lacks subject matter jurisdiction because of 1). S.C. Code § 44-22-20, a habeas corpus statute, has jurisdiction over the severe mental health issue and 2). Judge Goodstein was given exclusive jurisdiction over the petitioner's then capital case by this court. Furthermore, former counsel had raised his version of the safekeeper issue in

Counsel speedy trial brief in front of Judge Lindstein. It's obvious that there's conflicting jurisdictions over the safekeeper issue that presents a live controversy for this court to sort out. See appellate (1)

On September 29, 17 the petitioner had sent by Lee County institutions mailing to this court, a hundred page brief that goes into details regarding former counsel, and counsel on this appeal, Shane Garanson, a puppet for the state, ineffectiveness concerning the subject matter jurisdiction, and among other issues, in his brief. The petitioner leave reference to and incorporate the brief in this section for relief.

FACTS

On September 29, 17 the petitioner had sent a copy of his one hundred page brief to the following: this court, the court of appeals, the Administrative law court to be filed there; and Lake, Summers, a lawyer for SCW on appeal (lawyer for SCW).

The SCW lawyer, upon information and belief, had showed a copy of the petitioner brief with Shane Garanson, a state puppet, who is continuously messing up the petitioner appeal to the court of appeals; for example, both SCW lawyer and Shane Garanson, a state puppet, are aware of the petitioner one hundred page brief regarding his issues of law of subject matter jurisdiction and the three exceptions to the mootness doctrine but both of

them are trying to conspire to deprive the petitioners in the Court of Appeals to access to the Courts, to equal protection of law, to petition the Government for the redress of grievances, and to deprive the petitioners of a Cause of action. This constitute state action; for example, instead of advancing the petitioners issues on appeal to the Court of Appeals in counsel brief, Shane Goranson, a state puppet, is continuously advancing issues contrary to the petitioners interest in his one hundred page brief, for instance, in a letter to the petitioners dated november 7, 2017, Shane Goranson, a state puppet, states in part:

"I am enclosing a copy of the Department of Corrections' motion to dismiss as moot the Safenkeeper suit. I agree that the case is moot - there is no longer a controversy since you are no longer in Safenkeeper."

see Appendix (7)

In the conclusion section of his one hundred page brief to both the Court of Appeals and this Court he had advanced the three exception to the mootness doctrine. Shane Goranson, a state puppet, knows the petitioners legal positions. Both side lawyers and Shane Goranson, a state puppet, have a copy of the petitioners one hundred page brief that is filed in the record in both this Court and the Court of Appeals.

furthermore, according to page 4, fn 7, of the SCDC lawyer brief, see Appendix (8), Shane Gouanson, a state puppet, had sent a letter to the SCDC lawyer, the Honorable Jenny Abbot Kitching, and the SDC General Counsel, Stephen Holis Linsford, Esquire, on September 28, 2017, requesting for a 30 day abeyance of the Court of Appeals proceedings. See Appendix (9) Shane Gouanson, a state puppet, was already aware way before he'd sent the September 28, 17 letter to those officials, I'd Appellate, that the petitioner was presently filing a brief to the South Carolina Court of Appeals and this Court about former counsels, and Shane Gouanson, a state puppet, poor performance in representing the petitioner in the Administrative Court proceeding and the Court of Appeals. The Court of Appeals had granted the thirty day abeyance upon information and belief, when the Appellant one hundred page brief had arrived at that Court his case was still in abeyance. The Appellant brief had raised ineffective assistance of counsel to release state counsels off that case, but SCDC lawyer and Shane Gouanson, a state puppet is trying to, pursuant to their conspiracy, secretly deny the petitioner of a cause of action, and the right to be heard, regarding his one hundred page brief in this Court and the Court of Appeals. They are trying to get the Court of Appeals to delegate the Court fact finding authority to their brief. See Appendix (8) and (10) for example, Neither SCDC lawyer brief, I'd Appellate, nor Shane Gouanson, a state puppet, letters to state officials, see Appendix (9) nor a letter by him

to petitioners, see Appendix (7), nor share Groanson Recent brief in the Court of Appeals, in which is against the three exception to the mootness doctrine in the Conclusion section of the petitioners brief, states the petitioners interest in his one hundred page brief in the Court of Appeals and this Court. see Appendix (10) This is state action to its finest.

LEGAL STANDARD FOR GRANTING THIS WRIT of MANDAMUS

To obtain a writ of mandamus requiring the performance of an act, the petitioner must show:

(1) a duty of Respondent to perform the act, (2) the ministerial nature of the act, (3) the petitioner specific legal right for which discharge of the duty is necessary, and (4) a lack of any other legal remedy.

A Duty of Respondent to perform the Act

The petitioner will name the above-caption-Respondent's duties to perform, but not limited to other ones, and their conspiracies below:

SC Code § 17-3-346 lays the foundation for the South Carolina Commission on Indigent Defense, and its employees. It reads the following:

"(A) All members of the Commission shall at all times act in the best interest of indigent Defendant who are receiving legal representation pursuant to the provision of this chapter."

When Shane Geanson, a state puppet, pursuant to a conspiracy with SEC lawyers, usurpation of the petitioner's right to a cause of action in his one hundred page brief to this court and the court of appeals, or just give up counsel's traditional function to the state interest, is state action. See *Palmer County v. Dodson* 454 U.S. 312 (1981). Furthermore, pursuant to their conspiracy, for private parties such as lawyers to use the court's judicial power for evil means against a private citizen, the petitioner, for judicial advantage in a litigation is state action as well. See *Staxland v. Washington* 104 S.Ct. 2052 (1984); *State v. Quattlebaum* 502 S.Ct. 20105 (2000); *Weatherford v. Bursey* 429 U.S. 545 (1977). Shane Geanson, an employee of the Commission, has a duty to the petitioner to represent the petitioner's interest and not the state's. See *Curran v. Donnelly* 42 F.3d 220 (4th Cir. 1994).

Furthermore, the South Carolina Commission of Indigent Defense has a constitutional legal duty to:

- (1) Appoint effective assistance of counsel; (2) to equal counsel without conflict of interest; (3) to appoint counsel who will advance the petitioner's legal interest in court without state interference; (4) and among other constitutional duties to the petitioner right to counsel such as necessary funding in a criminal case.

Also, South Carolina Department of Correction has a duty to perform the Act: (1) to access to the courts, (2) to equal protection of laws; and (3) to petition the Government for the redress of grievances; and

and from depriving the petitioner of a cause of action by state action, these are constitutional legal duties of the SCOC, and its agents.

These duties are ministerial in nature and those duties are specific legal rights to the petitioner that the cause-action-respondents must discharge their duties to. The question now is lack of remedy.

A LACK OF ANY OTHER REMEDY

And lastly, the South Carolina Court of Appeals has a duty to hear all sides to a legal dispute — the petitioner is entitled to a fair hearing process and access to the courts as a matter of law; nor can a court render an arbitrary decision from the bench; lack of subject matter jurisdiction and the abeyance issues are two of them. See Appendix (1) furthermore, the court of appeals have a duty not to exercise subject matter jurisdiction over a case and controversy where the court does not have the power to do so. This includes the Administrative Law Court. This means that those courts will be in excess of jurisdiction because the South Carolina Habemus Court pursuant to SC Code § 44-22-20 has jurisdiction over this case and/or Judge Diana Goodstein, who was given by this court, exclusive jurisdiction over the petitioner case. See Appendix (1) there is no other remedy but this court to adjudicate these issues in this way.

Conclusion

The petitioner prays for the following reliefs:

(1) for the Court of Appeals to hear the petitioner one hundred page brief that's also filed in this Court;

(2) To enjoin the South Carolina Department of Correction that if a pretrial is granted in the petitioner's criminal case that SCDJ cannot place the petitioner back within the SCDJ as a safekeeper inmate because he's severe mental health inmate;

(3) A declaration that SCDJ, and its Co conspirators, has violated the petitioner's rights by placing the petitioner in the SCDJ as a safekeeper detainee when they knew that the petitioner is a severe mental health inmate and not eligible to be placed in the SCDJ;

(4) To fashion a remedy for the unique case because there is still a live case and controversy because of 1) SCDJ access to the court, and among other policies, in special management unit are the same as safekeeper, and 2) because the safekeeper issue has violated various constitutional rights that give the petitioner defenses in his criminal case such as the Bill of Attainder and punishment for seeking counsel, and punishing a pretrial detainee prior to an adjudication of guilt and the speedy trial issue. The

petitioner due to failing ineffective Assistance in his one hundred page brief have to have a forum to raise those issues on direct appeal;

(5). Regarding those defenses, the petitioner as a matter of due process is entitled to a hearing and to call witnesses and to put up evidence at the hearing;

(6). and lastly, Counsel from the state defense fund should be appointed to him at the hearing so that cross examination of witnesses and obtaining evidence will not be tampered with by state interferers.

The petitioner pray for such other and further relief that this Court will grant.

Date: 11/21/17

Stevens Law Center
Stevens Law Center #327117
Richard R. E. E.
4344 Broad River Rd
Columbia, SC 29210

APPENDIX (I)

A precise copy of the Petitioner's Response
to SCPC lawyer base Summer's motion to
dismiss the Petitioner's Appeal as moot.

THE STATE of SOUTH CAROLINA
IN THE COURT of APPEALS

Appeal from THE ADMINISTRATIVE LAW COURT
Ralph King Anderson, III, Administrative Law Judge

CASE No. 15-ALJ-30-0318-AP

South Carolina Department of
Corrections, and et. al

Respondent

Steven Louis Barnes

Appellant

MOTION IN OPPOSITION TO RESPONDENT MOTION TO
DISMISS THE APPEAL AS Moot

SUMMARY of legal theories

The Appellant advances the following legal theories as to Respondent
Motion to dismiss: 1). That this case should be dismissed in
part for lack of subject matter Jurisdiction. Below, the

Appellant has labeled the subject matter jurisdiction into two sections as for clarity of those issues; and 2) As to the three exceptions to the mootness doctrine, the ineffectiveness of counsel, and among other issues, falls into the exception of the mootness doctrine. And as a result of that this appeal has a live controversy. The appellant states the following legal theories for relief on this appeal.

lack of subject matter jurisdiction I

facts

On November of 2010, the Appellant was convicted of an alleged murder and was sentenced to death. On appeal to the South Carolina Supreme Court, the state of South Carolina had argued the position of both former trial attorneys and the trial judge at trial that the Appellant was a severe mental health inmate and that he was not allowed to represent himself in the trial court but he could assist his attorneys under the Edwards standard. On January of 2014, the State Supreme Court did not agree with the state of South.

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Carolina and granted the Appellant a new trial on self representation grounds. see state v Barnes 753 S.E.2d 545 (2014). The state of South Carolina, and its co-conspirators such as the South Carolina Attorney General and the South Carolina Department of Correction (SCDC) is Res judicata and Judicial Estoppel from arguing on this appeal that the Appellant is/was a severe mental health inmate.

The County Detention Centers of Edgefield, Aiken, Laurens and Greenwood; the South Carolina Governor, the South Carolina Attorney General, SCDC, the 11th Circuit solicitor, and among others, had violated various mental health laws of South Carolina in order to place the petitioner in the SCDC as a safekeeper inmate. see Governor Executive order 2000-1, section 6; SCDC safekeeper policy; SC Code §§ 44-22-10 through 44-22-220; 44-23-220, state v Bailey 785 S.E.2d 627 (2016) (while the state Code 44-23-220 7 certainly mentions the role of a designated Examiner in the process of ensuring mentally ill persons are not confined in South Carolina Jails... section 44-23-220 focus more on what the officer in charge of the Jail is required to do.)

SC Code § 44-22-20 gives the Habeas Court of South Carolina Jurisdiction to hear cases when a severe mental health person such as the Appellant is placed in the Department of Correction. See SC Code § 44-13-10 (pending his removal to a state mental health facility an individual taken into custody ... but he shall not, except because of and during an extreme emergency, be detained in a non-medical establishment used for the detention of individuals charged with or convicted of penal offenses) According to § 44-13-10 and et al mental health statutes a hearing, that the Appellant did not have while housed on safekeeper status within the SCDC, was supposed to be immediately had. The Appellant former Counselors Jeff Blain and Bill McGuire of the office of indigent Defense nor the SCDC lawyers had not at the contested hearing or this Court argued this Court lack subject matter Jurisdiction. The petitioner crave reference to and incorporate his writ of Mandamus to the South Carolina Supreme Court regarding state action in his criminal case. Nor did SCDC for on and about two years had utilized the mental health statutes

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Cited above in order to correct score mistake in placing the Appellant inside of the Department of Correction. Therefore, this Court lacks subject matter jurisdiction pursuant to § 44-22-20 to hear anything regarding the Appellant placement inside of the SDC as a safereeper inmate.

LACK OF SUBJECT MATTER JURISDICTION II

On April 23, 14 Appointment of Counsel hearing, the then 11th Circuit Solicitor, Donnie Myers, had resought the death penalty of the Appellant. Judge Diana S. Gaudstein was given Exclusive Jurisdiction over any and all factual matters regarding his criminal case.

The Appellant former counsels, Jeff Blum and Bill McGuire of the Office of Indigent Defense, had raised the safereeper issue in their speedy trial brief to Judge Gaudstein.

In issues 10-13 in the Appellant one hundred page brief that was filed in this Court, and the South Carolina Supreme Court, on September 29, 2017, the brief goes into details of the Appellant's counsels ineffectiveness concerning the safereeper issues such as not calling witnesses and putting

up evidence. Furthermore, the Appellant gave reference to and incorporate the issues in the conclusion section of his brief in this motion for relief regarding the three exception to the mootness doctrine. Therefore, Judge Goodstein had exclusive jurisdiction over any and all issues concerning the safekeeper issue.

THREE EXCEPTION TO THE MOOTNESS DOCTRINE

In the conclusion section of his one hundred page brief to this court, the Appellant went into details concerning the three exception to the mootness doctrine. See *Shah v Richland Memorial Hospital*, 564 S.E2d 681, 687 (SC Ct. App. 2002)

The three exceptions are:

- (1) If the issue raised is capable of repetition but evading review;
- (2) Questions of imperative and manifest urgency to establish a rule for future conduct of public interest; and (3) If a decision by the trial court may affect future events, or have collateral consequences for the parties.

Id

The Appellant writ of Mandamus that is attached to this motion shows the continuous state action of the state regarding

punishing the Appellant, or stopping his legal issues, when the Appellant utilizes his protected rights such as to access to the Court, to a cause of action, and to counsel free of state interferences. See *Stansland v Washington* 104 S.Ct 2052 (1984); *State v Quattlebaum* 527 S.6 2d 105 (2000); *Weatherford v Bursey* 429 US 545 (1977)

The various forms of punishments, but not limited to those that are cited in the Appellant 1-hundred page brief to this Court, by SCOT, the South Carolina Attorney General, 11th Circuit solicitor office, and local jail officials are capable of Repetition. Also, a Rule should be put in place to stop the Government Campaign of Harassment because the Appellant utilization of his fundamental rights. plus, the Government Campaign of Harassment of the Appellant would effect future appeals, especially, as stated in the Appellant writ of mandamus that is attached to this motion, when they are currently depriving the Appellant of this Court hearing his one hundred page brief.

Furthermore, the Appellant still have not been treated for Sarcoma, a cancerous disease on the right bone of his leg. This too falls in both all three exceptions of the mootness doctrine and the prejudice prong of the Appellant speedy trial issue, the latter in more details below. The same applies to the continual wanton infliction of pain of not having his dove soap and neosporin medication and so-on.

Furthermore, there is no telling what type of punishment the SDC will inflict on the Appellant for filing this motion. The Appellant is in real and immediate danger of further retaliatory punishment from the SDC and other governmental officials such as the office of Indigent Defense.

Also, in front of Judge Goodstein at the Appellant October 9, 17, Speedy trial hearing, Counsel speedy trial brief had raised the safekeeper issue to the trial court in order to show prejudice - see United States v Ewell 383 US 116, 120 (1966) prejudice to the defendant, in the context of a constitutional speedy trial analysis is based on three factors: (1) whether there has been oppressive pretrial incarceration; (2) the anxiety and concern of the accused; and (3) the possibility of harm to the accused defense. see *Bargo vs Wingo* 407 US 514 (1972); *Vermont v Brillon*, 129 S.Ct 1283 (2009) It's not the Appellant fault that there is conflicting Jurisdiction, the Administrative Law issues in the Appellant one hundred page brief on September 29, 17, that specifically states this Court has Jurisdiction over such as the live controversies above and below, and Judge Goodstein trial court. This is result of ineffectiveness of Counsel. Issues 10-13 of the Appellant 1-hundred page brief goes into details of Counsel ineffectiveness concerning calling

witnesses, and jurisdictional issues surrounding the safekeeper issues, for example, the ineffective assistance of counsel issue in 10-13, coincide with issues 1-9 and issues 14-26, of his one hundred page brief. What's the remedy? Those issues in part in his brief fails within all three Exception of the mootness doctrine despite the court doesn't know what relief to grant. The Appellant should not be sanctioned for what former counsel's and SCOC, and its Co-conspirators, have done concerning the safekeeper issue. The Appellant is demanding Immediate Relief.

The Appellant stops here because of lack of legal paper, and the same issues in issues 19-21 to hit one hundred page brief is still occurring while on Rikersland EZ and for any other such general population of poor concerning SCOC Access to the court policies. These issues are capable of repetition. Also, the Access to the court policy, and among others, while the Appellant is indigent will affect future litigation of the Appellant. Furthermore, because of potential retaliation of SCOC of low-up or if the Appellant goes to low-up for any reason, both the safekeeper policy and low-up access to the court policies are the same. The SCOC are Res judicata and Judicial Estoppel for arguing differently on this appeal regarding the the policies not the same for both safekeeper and convicted prisoners on low-up.

CONCLUSION

WHEREFORE, the Appellant prays for the Relief that requested herein and in his one hundred page brief to this Court and such other and further Relief this Court seem just and proper. The Appellant also Request for oral arguments on the issues inside this motion and his one hundred page brief.

Date: 11/21/17

STEVEN LOUIS BARNES
STEVEN LOUIS BARNES #327117
KANSASLAND C.T
4344 Broad River Rd
Columbia, SC 29210

STATE
JANU
1997

APPENDIX (2)

former counsel, Jeff Blum, April 30, 2015
letter to the South Carolina Department
of Correction (SCDC) concerning the
petitioner's safekeeping transfer within the
SCDC

1

**JEFFREY P. BLOOM
ATTORNEY AT LAW**

1911 PICKENS STREET
COLUMBIA, S.C. 29201-2631
OFFICE # (803) 256-7001
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LICENSED MEMBER OF THE
S.C., N.C., & N.Y. BARS
E-MAIL:
JFBLOOM803@AOL.COM
CELL # (803) 261-4576

April 30, 2015

David Tatarsky
General Counsel
S.C. Dept. of Corrections
Post Office Box 21787
Columbia, SC 29210

RE: Safekeeper Petition from Edgefield County - in re: Steven L. Barnes

Dear Mr. Tatarsky,

Please note that Mr. Barnes objects to the Safekeeper Petition by Edgefield County, and respectfully requests the Department to deny the request.

First, regulations require that the inmate fall within one of the following categories: the individual (1) is considered to be high escape risk; (2) exhibits extremely violent and uncontrollable behavior; or (3) must be removed from the county facility to protect the individual from the general population or from other detainees.

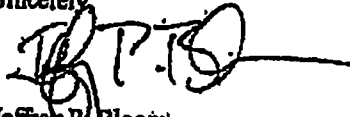
Barnes clearly is not within category 1 or 3. Thus, we are assuming that the Petitioner is alleging that he falls within category 2: "exhibits extremely violent and uncontrollable behavior." There is no evidence that Barnes has exhibited extremely violent and uncontrollable behavior. Moreover, the main disciplinary infractions complained of by Petitioner occurred over seven years ago in 2007.

The only recent disciplinary infraction - and the only infraction at all since his remand from SCDC to county custody in January 2014 - occurred on December 31, 2014, at the Aiken County jail. This was for the offense of "refusal to obey an order," in which it was alleged that he had to be told up to six times to return to his cell. This is neither an "extremely violent" offense, nor is it evidence of "uncontrollable behavior." The Petition appears based then solely of Barnes' availing himself of the grievance procedures in place at each county detention facility regarding complaints that he has filed. While this may be somewhat disconcerting to jail officials to deal with, Barnes is simply exercising his constitutional right under available procedures in place. See, e.g., *Johnson v. Avery*, 393 U.S. 483, 89 S. Ct. 747, 21 L. Ed. 2d 718 (1969).

Second, if the Petition is not denied outright, and before it is referred to the Governor's Office, then we respectfully request an administrative hearing in this matter consistent with due process protections.

We are available to meet with you and any other party to review and discuss this matter further. Please note that we reserve the right to amend or supplement this objection, including submission of any relevant documents, statements or other materials. Thank you for your attention to our submission on behalf of Mr. Barnes.

Sincerely



Jeffrey P. Bloom
William S. McGuire
Counsel for Steven Barnes

cc: Hon. Adell Doby, Sheriff, Edgefield County
Mr. Steven L. Barnes

APPENDIX (3)

former counsel, Jeff Blam June 10, 2015
letter to the South Carolina Department
of Correction (SCDC) about punitive conditions
of confinement

**JEFFREY P. BLOOM
ATTORNEY AT LAW**

1911 PICKENS STREET
COLUMBIA, S.C., 29201-2631
OFFICE # (803) 256-7001
FAX # (803) 256-7002
TOLL FREE # 1-888-589-2048

LICENSED MEMBER OF THE
S.C., N.C., & N.Y. BARS
E-MAIL:
JFBLOOM803@AOL.COM
CELL # (803) 261-4576

June 10, 2015

David Tatarsky
General Counsel
S.C. Dept. of Corrections
Post Office Box 21787
Columbia, SC 29210

RE: Safekeeper Petition from Edgefield County -- in re: Steven L. Barnes, SK #5290

Dear Mr. Tatarsky,

Please respond to the following two (2) concerns regarding the above-named pre-trial detainee as a "Safekeeper" with S.C. Dept. of Corrections ("SCDC"):

1. We request from your Department a review and re-consideration of the specific items listed below.

It appears that Mr. Barnes, as a pre-trial detainee "Safekeeper," is being denied basic privileges accorded to him in every county detention facility prior to his transfer as a Safekeeper to SCDC, and that certain restrictions are being applied to him as if he were subject to a SCDC-inmate "disciplinary" protocol:

- Denial or extreme limitation of any canteen privileges
- Denial or extreme limitation of regular showers
- Denial or extreme limitation of outdoor "rec" time"
- Denial of telephone privileges
- Denial of a radio

Mr. Barnes is not a SCDC "Safekeeper" because of any disciplinary action or other threats against staff or inmates by him, and is of course a pre-trial detainee and not an SCDC inmate, such that any regular policies as may be directed towards SCDC inmate Safekeepers for disciplinary purposes should have no application as to Mr. Barnes since he has committed no infraction.

2. Please also provide the basis for Mr. Barnes' classification as a Safekeeper.

It is our understanding that a pre-trial county detainee can be classified as a "Safekeeper" and transferred to the custody of SCDC, if the individual: (1) is a high escape risk; and/or (2) exhibits extremely violent and uncontrollable behavior; and/or (3) must be removed from the county facility to protect the individual from the general population or from other detainees. It does not appear from the documents provided to us that Mr. Barnes meets any of the three categories. Therefore, we object to Mr. Barnes' classification and detention as a "Safekeeper" and further object to any renewal of his status as such at the next 90-day interval on or about July 19, 2015. We plan to seek, if necessary, any appropriate remedies available to Mr. Barnes according to such objections.

We look forward to receiving your responses by June 22, 2015.

Sincerely,



Jeffrey P. Bloom
William S. McGuire
Counsel for Steven Barnes

William S. McGuire
Chief Attorney, Capital Trial Division
SC Commission on Indigent Defense
1330 Lady Street, Suite 401
Columbia, SC 29201
(803) 734-1358 .

APPENDIX (4)

General Counsel, of the SEC, Response to
both former Counsel, Jeff Bloom, letters to
the SEC



NIKKI R. HALEY, Governor
BRYAN P. STIRLING, Director

July 2, 2015

Jeffrey P. Bloom, Esquire
1911 Pickens Street
Columbia, South Carolina 29201

Dear Jeff:

I am writing in response to your June 10, 2015 letter addressed to me and concerning your client Steven L. Barnes, SK #5290. Each of your concerns is addressed in turn.

As to your first concern, Safekeepers are managed pursuant to SCDC Policy SK-22.02, § 5 ("SAFEKEEPER MANAGEMENT"). That policy provides that all "Safekeepers will be housed in a Special Management Unit (SMU) and will be managed in accordance with SCDC Policy/Procedure OP-22.12, 'Special Management Unit Operations'. . . ." *Id.* § 5.1. However, there are specific rules that apply to Safekeepers in light of their unique status within the Department. For instance: (1) They are segregated from other SCDC inmates; (2) they are showered separately; (3) they receive visitation privileges separately; (4) they are recreated separately; (5) and they have limited access to the canteen (for purposes of purchasing a Walkman radio and batteries for the radio, and assuming the Safekeeper remains within his entry custody level). In addition, Safekeepers are subject to the institutional rules and agency policies governing proper behavior, and they receive orientation on these rules upon their entry into the Department's custody. *See id.* § 3.3.9 ("The classification caseworker will give each Safekeeper a written orientation that provides information about the schedule, rules, disciplinary infractions and penalties, grievances, and privileges. Each Safekeeper will sign an SCDC Form 18-69, 'Certificate of Inmate Orientation,' to indicate his/her receipt of this orientation."). For disciplinary infractions, a Safekeeper's custody level may be increased, and he may lose privileges pursuant to SCDC Policy OP-22.12. All Safekeepers are subject to the Department's policies and procedures in order to ensure their safety and the safety and good order of the institution to which they are assigned.

As to your second concern, § 2 of South Carolina Executive Order 2000-11 provides that "[i]n individual held in a county pretrial confinement facility may be transferred to the custody of the South Carolina Department of Corrections by commitment duly authorized by the Governor pursuant to § 24-3-80, if the individual: (1) is a high escape risk; (2) exhibits extremely violent and uncontrollable behavior; and/or (3) must be removed from the county facility to protect the individual from the general population or from other detainees." Because the elements are listed in a disjunctive order, only one element need be satisfied to warrant designation as a Safekeeper. In the case of Mr. Barnes, it is clear from the hundreds of pages of documentation the Department received on him that at least the second element is satisfied in this case.

Letter to Jeffrey P. Bloom, Esquire
July 2, 2015
Page 2

For example, an April 16, 2015 letter from Captain Tucker of the Laurens County Detention Center to Lieutenant Hall of the Edgefield County Detention Center explains that Laurens County could no longer house Mr. Barnes due in part to his violent history and his history of agitating other inmates and disrupting detention center operations. And in Sheriff Dobey's April 20, 2015 affidavit in support of a safekeeping order, the sheriff supports his plea by noting the at least 20 jail infractions, "including throwing bodily fluids at correctional officers and other inmates, possession of contraband materials and refusing to follow instructions" during the time he spent at the Edgefield County Detention Center as a pre-trial detainee. Sheriff Dobey also cites the fact that although Mr. Barnes was housed alone in the most secure cell that Edgefield County Detention Center has, he "still managed to cause disruptions" to the operations of the jail, including severely delaying food service on multiple occasions because Mr. Barnes was "throwing bodily fluids on food trays and carts." Mr. Barnes was charged several times with throwing bodily fluids on correctional officers.

Therefore, my review of the information relevant to Mr. Barnes' detention with the Department and to his designation as a Safekeeper reveals no violation either of SCDC policies or of the applicable law pertaining to Safekeepers.

Sincerely



David M. Tatarsky
General Counsel

APPENDIX (S)

former counsel's, Jeff Bloom and Bill McGuire
contested hearing complaint to the Administrator -
the law firm.

RECEIVED

JUL 08 2015

GENERAL COUNSEL

**JEFFREY P. BLOOM
ATTORNEY AT LAW**

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July 6, 2015

David Tatarsky
General Counsel
S.C. Dept. of Corrections
Post Office Box 21787
Columbia, SC 29210

RE: Steven L. Barnes v. S.C. Dept. of Corrections, and Sheriff Adell Dobey and the
Edgefield County Sheriff's Office and Jail.

Dear Mr. Tatarsky,

Please find enclosed a Petition filed with the S.C. Administrative Law Court as a Request
for a Contested Case Hearing in the above-referenced matter.

Thank you for your attention to this matter.

Sincerely,



Jeffrey P. Bloom
William S. McGuire
Counsel for Steven Barnes

South Carolina Administrative Law Court (S.C. LC)
Request for Contested Case Hearing FORM
Mail to: 1205 Pendleton St., Suite 224, Columbia, SC 29201

Last Name: BARNES First: STEVEN Middle: L Docket No. (To Be Completed by ALC)
Mailing Address: 900 WISACKY HWY. #5290(SK), L.C.I., SCDC City: BISHOPVILLE State and Zip: SC 29010
Home Number: Work Number: Cell Number: E-Mail Address:

*By providing your e-mail address, you consent to receive court orders and notices via electronic transmission

REPRESENTATION

Are you representing yourself? Yes No

Are you represented by an Attorney? Yes No

Name of Attorney: JEFFREY BLOOM WILLIAM MCGUIRE
City, State and Zip: COLA. SC 29201
Attorney E-Mail Address: jfbloom@scdc.com bmcguire@scid.sc.gov

Attorney Mailing Address: 1911 PICKENS ST. S.C. C.I.D., 1330 ADJ ST., SU. 401
Attorney Work Number and Cell Number: 803-256-7001 803-261-4576 803-734-1358 803-201-4366

CASE INFORMATION

Name of Agency that Issued the Decision: S.C. DEPT. OF CORRECTIONS

In order to have your case processed, you must attach the agency decision. Is it attached? Yes No

Date the decision was issued: Date the decision was received:

Please provide a brief statement regarding why the hearing is being requested and the relief sought:

PETITIONER SEEKS TO HAVE SCDC'S DECISION + CLASSIFICATION OF HIM AS A PRE-TRIAL DETAINEE "SAFEKEEPER" RULED ILLEGAL, IMPROPER, + UNCONSTITUTIONAL.

Payment via Check Money Order Cash for \$ submitted today to the Administrative Law Court via U.S. Postal Service Hand-delivery
USAVE FILING FEE AS PETITIONER IS AN INMATE IN SCDC.

Your Signature or Signature of Attorney: [Signature] Date: 7-6-15

PROOF OF SERVICE (MUST BE COMPLETED)

Your Name: JEFFREY BLOOM Date: City: COLA State: SC
I hereby certify that on the date and place listed above, I served a copy of the foregoing Request for Contested Case Hearing on all other parties to this matter by depositing the same in the United States Mail, postage paid, and addressed as follows (use the reverse side for any additional names):
DAVID TATARSKI SCDC COLUMBIA
GENERAL COUNSEL PO BOX 21787 SC 29201-1787
Name and/or Agency Name Address City, State and Zip
HON. ABELL DUBEY SHERIFF EDGEMOND CO. SHERIFF OFFICE EDGEFIELD, SC 29824
Name and/or Agency Name Address City, State and Zip

Your Signature or Signature of Attorney: [Signature] Date: 7-6-15 FILED JUL 06 2015

Attention: All cases filed in the Administrative Law Court are subject to the Rules of Procedure found at the Court's website www.scalc.net or from the Clerk of Court. Failure to follow these rules may result in dismissal of your case.

SC ADMIN. LAW COURT

| | |
|---|------------------------------------|
| STATE OF SOUTH CAROLINA) | IN THE ADMINISTRATIVE LAW COURT |
| COUNTY OF RICHLAND) | Case No. |
| STEVEN L. BARNES) | |
| Petitioner) | Request for Contested Case Hearing |
| VS.) | |
| S.C. Dept. of Corrections, and) | |
| Sheriff Adell Dobey and the Edgefield) | |
| County Sheriff's Office and Jail) | |
| Defendants) | |

Petitioner, Steven L. Barnes, SK #5290 ("Barnes"), brings this action against the S.C. Dept. of Corrections ("SCDC") and Sheriff Adell Dobey and the Edgefield County Sheriff's Office and Jail ("Sheriff Dobey" and/or "Edgefield County Jail"), pursuant to the Administrative Procedures Act ("APA"), and other applicable law, to contest his classification and incarceration as a pre-trial detainee "Safekeeper" within the SCDC, and any continued detention or classification therein, and also objects to and contests the restrictive conditions to which he is subject to as a pre-trial detainee "Safekeeper." This action is pursuant to S.C. Code Ann. §1-23-10 et.seq.; §1-23-310 et. seq.; §24-3-80 et.seq.; U.S. Const. Amend. 5, 6, 8, and 14; S.C. Const. Art. I §§3, 14 and 15; and other applicable law.

Petitioner would show the following:

1. Barnes is a pre-trial detainee who has not been convicted of any crime in South Carolina. He is awaiting trial in a capital case pending in Edgefield County General Sessions Court. The Hon. Diane S. Goodstein, Circuit Court Judge, is assigned with jurisdiction of that case.

FILED
 JUL 06 2015
 SC ADMIN. LAW COURT

2. Prior to April 20, 2015, Barnes was housed as a pre-trial detainee at the following county jails: Aiken; Laurens; and Greenwood. On information and belief, this was done at the request of Sheriff Adell Doby, Sheriff of Edgefield County, who did not want Barnes held at the Edgefield County Jail.
3. On or about April 20, 2015, Sheriff Doby petitioned SCDC to classify Barnes as a "Safekeeper" and transfer Barnes to the custody of SCDC.
4. On or about April 27, 2015, Barnes was approved by SCDC as a Safekeeper and removed from a county facility and placed within SCDC (as assigned, SK #5290).
5. In accordance with Section 5 of Executive Order 2000-11, Barnes's status as a safe-keeper must be renewed on or about July 18, 2015 (90 days after the origination). On information and belief, Sheriff Doby and SCDC intend to renew Barnes' Safekeeping status at each and every 90-day interval until the trial of his case in Edgefield General Sessions Court concludes, thus keeping Barnes incarcerated within SCDC until trial.
6. Per Executive Order No. 2000-11, Office of the Governor, dated February 16, 2000, pre-trial detainees are able to be housed at the Department of Corrections pursuant to a safekeeping order "duly authorized by the Governor under SC Code sec. 24-3-80, if the individual: (1) is a high escape risk; (2) exhibits extremely violent and uncontrollable behavior; and/or (3) must be removed from the county facility to protect the individual from the general population or from other detainees." (See Executive Order 2000-11 Section 1).
7. In an affidavit dated April 20, 2015 (Exhibit A), Sheriff Doby requested that Barnes be housed for safekeeping at the South Carolina Department of

Corrections for a number reasons, none of which justify the initial approval of, nor extending every 90-days, Barnes's safekeeper status. The first reason Sheriff Dobey listed is the fact that Barnes has been charged murder and kidnapping in Edgefield County. This is not one of the enumerated, lawful reasons for issuing an order authorizing a pre-trial detainee to be housed as a safekeeper nor for renewal.

8. Next, Sheriff Dobey argues the 20 jail infractions by Barnes, while housed in Edgefield County Detention Center, as support of his safekeeper status. The last incident cited by Sheriff Dobey, however, occurred in November of 2007, nearly eight years before filing an affidavit for safekeeper status. Thus, all of these incidents are nearly eight years old and therefore not recent.
9. Sheriff Dobey's next reason is that Barnes was written up for assault, on February 5, 2009, and possession of a weapon, on January 22, 2009, while housed at Lieber Correctional Institution. However, criminal charges against Barnes were never filed for these incidents and, again, they occurred over five years before Sheriff Dobey filed for safekeeping status.¹
10. Then, Sheriff Dobey identifies Barnes's incident reports while housed in Richmond County Detention Center in Georgia, and later in Ware State Prison in Georgia, prior to coming to Edgefield County Detention Center in 2005. But

¹ Barnes was initially arrested and extradited from a prison in Georgia on the charge of murder in Edgefield County, and was detained at the Edgefield County Jail from 2005-08. In 2008, he was tried on a charge of throwing bodily fluids, the incident of which occurred at the Edgefield Jail, was convicted and sentenced, and entered SCDC from 2008-2015. However, this conviction and sentence was later overturned. *State v. Barnes*, 402 S.C. 135, 739 S.E.2d 629 (2013). He was later tried on the indictment for murder, convicted and received a death sentence. But this case was also overturned on appeal and a new trial granted. *State v. Barnes*, 407 S.C. 27, 753 S.E.2d 545 (2014). He was remanded to the custody of Edgefield County sometime after January 2014, and has been assigned to various other county jails since that time.

Barnes' convictions in Georgia, and the few incidents alleged while in the state prison, are not one of the enumerated, lawful reasons for issuing an order authorizing a pre-trial detainee to be housed as a safekeeper. Although Barnes was cited for disciplinary infractions while housed in Richmond County Detention Center, neither incident resulted in criminal charges. Further, these incident reports are over ten years old and occurred before Mr. Barnes was transferred to the Edgefield County jail back in 2005.

11. Finally, Sheriff DobeY states that Barnes behavior at Aiken, Laurens, and Greenwood County Detention Centers - his most recent housing facilities - justifies keeping Barnes in the statewide safekeeping facility. Sheriff DobeY cites the written reports from authorities at Aiken and Laurens and the "one hundred plus grievances, and reports in approximately one year." The statements from Aiken County, Laurens County, and Greenwood County about Barnes's behavior while housed in the associated facilities allege only that Barnes has filed written grievances, requested legal materials, and questioned the conditions of these facilities. This behavior is neither sufficient to justify the conditions of safekeeping status nor any disciplinary infractions and are well-within Barnes's constitutional rights to the courts. In addition, Barnes's behavior, while housed in Aiken, Laurens, and Greenwood, has not posed the slightest risk of injury to persons or property. Furthermore, beginning February 7, 2014, while housed at these three separate county facilities, there have been no disciplinary infractions or criminal charges filed against Barnes, except for one minor incident of a

disobeying an officer (for refusal to return to his cell) on December 31, 2014; and this does not qualify does the safekeeper criteria.

12. Although Sheriff Dobeý alleges in his affidavit for safekeeper status that Barnes's behavior is extremely violent and uncontrollable, he provides no documentation supporting this claim within the last five years. In fact, Barnes's intake reports at Aiken, Laurens, and Greenwood County Corrections all indicate that Barnes is not a risk to other inmates or himself and is capable of conforming his behavior to the rules. Specifically, the Laurens County Sheriff's Office -- which housed Barnes from January 2015 until April 17, 2015 -- has indicated Barnes has not tried to escape or acted violently; has no institutional disciplinary history; and is among the lowest-risk inmates.
13. Sheriff Dobeý concludes that the safekeeping order for Barnes is in the "best interest of not only the correctional officers of the Edgefield County Detention Center, but the other inmates housed in the facility, and Barnes safety as well." (See Exhibit A). Nowhere in any of the documentation provided does anyone allege a danger to the other inmates or to Barnes from any other inmate or detainee.
14. Sheriff Dobeý's support of a safekeeping order on these grounds renders the Executive Order completely unnecessary and robs the statute of any meaning. None of the reasons offered to classify Barnes as a safekeeper meet with the requirements of Executive Order No. 2000-11 and Dobeý's recommendation to the governor was based on an erroneous claim.

15. Furthermore, Barnes has demonstrated his ability to conform his behavior to the requirements of the rules. His disciplinary record for the past 16 months should be taken into consideration as a material change in circumstance, warranting that he be returned to the county detention center. Being placed in lockdown for 120 days is well beyond the normal disciplinary sanctions for the actions he is alleged to have committed, nor is any continued detention in segregation as a safekeeper.
16. Subsequently, on July 6, 2015, Steven Barnes, SK# 5290 ("Barnes") received notice explaining the reasons for his classification and placement within SCDC as a Safekeeper, and a final rejection to reverse SCDC's decision to place him in Safekeeping. (See Exhibit B). Thus, the agency, SCDC, has now rendered a final decision in the matter.
17. Therefore, Petitioner moves that Barnes's status as a safekeeper be declared invalid, and further that it not be renewed, and Barnes should be returned to the Edgefield County Detention Center or other county jail to await disposition of his charges.
18. Petitioner would further show that the Safekeeper statute itself is unconstitutional because it violates basic due process. At no time was Barnes afforded even minimal due process in terms of an administrative hearing or a hearing of any kind to respond to and rebut the allegations and request to classify him as a Safekeeper. The Petition by Sheriff Doby was filed with SCDC, and within less than a week – with no hearing or even an opportunity to respond in writing – Barnes was classified as a safekeeper and transferred to SCDC.

19. Petitioner would further show that the Safekeeper statute as applied is unconstitutional because it violates basic due process, as set forth above.
20. Petitioner would further show that the Safekeeper regulations and conditions under which he is housed are unconstitutional, violate due process, constitute cruel and unusual punishment, and amount to "solitary confinement," particularly where Barnes has not even been convicted of any crime but is a pre-trial detainee.²
21. Petitioner would further show that the application of the Safekeeper statute and other provisions as made against him, and the continuing conditions under which he is housed, establish a violation of Barnes' substantive rights since the SCDC's decision is: (a) in violation of constitutional or statutory provisions; (b) in excess of the statutory authority of the agency; (c) made upon unlawful procedure; (d) affected by other error of law; (e) clearly erroneous in view of the record; and/or (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.
22. Furthermore, Barnes specifically asserts that the Safekeeper statute both on-its-face and as applied to him, constitutes the following: (1) it is a violation of constitutional provisions because it provides no mechanism for challenging the decision, violates fundamental principles of fairness and due process, and has diminished Barnes's access to counsel and the courts; (2) Violates the

² These conditions include but are not limited to: denial or extreme limitation of any canteen privileges; denial or extreme limitation of regular showers; denial or extreme limitation of outdoor "recreation" time; denial of telephone privileges; denial of a radio (all of these conditions, denied or severely restricted within SCDC, were allowed Petitioner in each and every county jail facility under their appropriate guidelines for pre-trial detainees.

Department's procedures for disciplinary hearings under the South Carolina Department of Corrections Manual for Operations Inmate Disciplinary System, No. OP-22.14 and is therefore based upon unlawful procedure; and (3) Allows an arbitrary or capricious abuse of discretion or clearly unwarranted exercise of discretion.


23. Barnes submits that he is indigent, is currently a prisoner within SCDC, and is without funds to pay filing fees or other costs associated with this action, and thus respectfully requests that he be allowed to proceed *in forma pauperis*.


24. Therefore, Barnes submits this as a Request for Contested Case Hearing with the South Carolina Administrative Law Court ("ALC"). This request is made pursuant to the South Carolina Administrative Procedures Act ("APA"), S.C. Code Ann. §1-23-10 et.seq.; *Al-Shabazz v. State*, 338 S.C. 354, 369, 527 S.E.2d 742, 750 (2000); *Howard v. S. Carolina Dep't of Corr.*, 399 S.C. 618, 733 S.E.2d 211 (2012); U.S. Const. Amend. 5, 6, 8, and 14; S.C. Const. Art. 1 §§3, 14 and 15; *See also, Kingsley v. Hendrickson*, 576 U.S. ____ (Opin. No. 14-6368, June 22, 2015); *Johnson v. Avery*, 393 U.S. 483, 89 S. Ct. 747, 21 L. Ed. 2d 718 (1969).

CONCLUSION

Barnes submits a Request for Contested Case Hearing with the South Carolina Administrative Law Court (ALC) regarding SCDC's approval of, and classification of Barnes, as a "Safekeeper"; SCDC's continued classification and detention of Barnes as a Safekeeper; SCDC's denial of basic humane conditions of detention and placement of Barnes in what amounts to solitary confinement. Barnes makes this Request pursuant to S.C. Code Ann. §1-23-10 et.seq.; §1-23-310 et. seq.; §24-3-80 et.seq.; U.S. Const. Amend. 5, 6, 8, and 14; S.C. Const. Art. I §§3, 14 and 15; and other applicable law.

Respectfully submitted,


William S. McGuire
Counsel for Mr. Barnes
Dated: June 24, 2015


Jeffrey P. Bloom
Counsel for Mr. Barnes
Dated: June 24, 2015

William S. McGuire
Chief Attorney, Capital Trial Division
SC Commission on Indigent Defense
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STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

STEVEN L. BARNES)
Petitioner)

VS.)

S.C. Dept. of Corrections)
Defendant)

IN THE ADMINISTRATIVE LAW COURT

Case No.

EXHIBIT A

**PENALTY PHASE
CONVICTIONS AND INFRACTIONS
STEVEN LOUIS BARNES**

PRIOR CONVICTIONS

- | | |
|-------------------------------------|----------|
| I. <u>Richmond County</u> | |
| A. Violation of Motor Vehicle | 12/13/96 |
| B. Simple Assault | 09/12/98 |
| C. PWID Cocaine | 10/14/98 |
| D. PROBATION VIOLATIONS | |
| II. <u>Columbia County</u> | |
| E. Armed Robbery | 01/24/02 |
| PWDVC | 01/24/02 |
| Burglary 1 st | 01/24/02 |
| Kidnapping (2) | 01/24/02 |
| Terroristic Threats | 01/24/02 |
| Pandering Prostitution | 01/24/02 |
| III. <u>Edgefield County</u> | |
| F. Throwing Bodily Fluids | 11/03/07 |

DISCIPLINE INFRACTIONS

- | | |
|---|----------|
| IV. <u>Richmond County Detention Center</u> | |
| G. Refusal to Cooperate/No Bracelet | 08/25/02 |
| H. Assault/Possession of Weapon | 11/27/03 |
| V. <u>Ware State Prison (Ga.)</u> | |
| I. FFI./Insubordination | 09/16/04 |
| J. FFI./Insubordination | 04/04/05 |
| K. FFI | 04/04/05 |
| L. FFI | 04/07/05 |
| M. FFI/Un-kept Cell | 04/15/05 |
| N. FFI/Beard | 04/15/05 |
| O. FFI/Beard | 04/18/05 |
| P. FFI | 04/23/05 |
| Q. FFI | 05/04/05 |
| VI. <u>Edgefield County Detention Center</u> | |
| R. Disruption | 05/16/05 |
| S. Rocks from Rec. Yard | 07/06/05 |
| T. Throwing Food Trays/Threats | 08/05/05 |
| U. Throwing Fluids | 08/06/05 |
| V. Disturbance | 08/07/05 |
| W. Threats | 08/09/05 |
| X. Flooded Toilets | 08/10/05 |

**PENALTY PHASE
CONVICTIONS AND INFRACTIONS
STEVEN LOUIS BARNES**

| | |
|--|-----------------|
| Y/Z Disturbance | 08/11/05 |
| 1. Throwing Food Trays | 10/11/05 |
| 2. Contraband | 02/09/06 |
| 3. Throwing Food Tray and Urine | 06/20/06 |
| 4. Throwing Food Tray and Urine | 07/03/06 |
| 5. FFI/Refusing to Cuff Up | 02/03/07 |
| 6. Destroyed Lunch Trays | 07/09/07 |
| 7. Attempt to Destroy Food Trays | 07/09/07 |
| 8. Throwing Bodily Fluids | 08/24/07 |
| 9. Throwing Fluids | 09/07/07 |
| 10. Throwing Fluids | 09/10/07 |
| 11. Inmate Confrontation | 10/30/07 |
| 12. Throwing Fluids | 11/01/07 |
| <u>VII. Lieber Correctional Institution</u> | |
| 13. Possession of a Weapon | 01/22/09 |
| 14. Assault | 02/05/09 |

SHERIFF

ADELL DOBEY

EDGEFIELD COUNTY SHERIFF'S OFFICE

200 RAILROAD ST. EDGEFIELD, SC 29824 (803) 637-5337 OR. (803) 278-1625, FAX # (803) 637-4016

STATE OF SOUTH CAROLINA)

COUNTY OF EDGEFIELD)

THE STATE)

vs.)

STEVEN LOUIS BARNES)

Defendant)

AFFADAVIT FOR SAFEKEEPINGADELL DOBEY-SHERIFF
EDGEFIELD COUNTY

April 20, 2015

Steven Louis Barnes was charged with murder and kidnapping on November 13, 2010 and housed at the Edgefield County Detention Center pre-trial. Barnes was convicted of those charges, and sentence to death which was overturned. During that time, Barnes was written up for 20 jail infractions including throwing bodily fluids at correctional officers and other inmates, possession of contraband materials and refusing to follow instructions to name a few. Barnes was housed alone in the most secure cell that the Edgefield County Detention Center has and still managed to cause disruptions. Food service to inmates was severely delayed on several occasions due to Barnes throwing bodily fluids on food trays and carts. On three occasions, Barnes was charged and convicted (once) of throwing bodily fluids on correctional officers.

Once convicted of throwing bodily fluids, Barnes was sent to Lieber Correctional Institution. While there, Barnes was written up for assault and possession of a weapon.

Prior to coming to Edgefield County Detention Center, Barnes was incarcerated at Ware State Prison in Georgia convicted of armed robbery, kidnapping, burglary, terroristic threats and pandering prostitution, and was sentenced to life plus 45 years in Georgia. While there, Barnes was cited nine times for failing to follow instructions. While being held pre-trial on these charges, Barnes was held at the Richmond County Detention Center where he was cited for refusing to cooperate with correctional officers as well as assault and possession of a weapon.

Barnes has also been housed at the county detention center in both Aiken and Laurens. Representatives from both of these agencies have written expressing their concern of housing Barnes for the same reasons listed above. Aiken logged in one hundred plus grievances, and reports in approximately one year. Laurens County after several

complaints in three months, asked us to come get him, because of his actions. Greenwood Detention Center has agreed to house him at this time for one week.

In summary, I believe that it is in the best interest of not only the correctional officers of the Edgefield County Detention Center, but the other inmates housed in the facility, and Barnes safety as well, that Steven Louis Barnes be held for safekeeping at the South Carolina Department of Corrections until his pending matters before the court are resolved.

A. Dobey
Adell Dobey-Sheriff
Edgefield County

4-20-15
Date

Sworn before me this 20th day of 2015

Rally Hall

My commission expires 4/2/2018

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

STEVEN L. BARNES)
Petitioner)

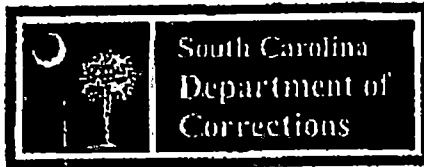
VS.)

S.C. Dept. of Corrections)
Defendant)

IN THE ADMINISTRATIVE LAW COURT

Case No.

EXHIBIT B



NIKKI R. HALEY, Governor
 BRYAN P. STIRLING, Director

July 2, 2015

Jeffrey P. Bloom, Esquire
 1911 Pickens Street
 Columbia, South Carolina 29201

Dear Jeff:

I am writing in response to your June 10, 2015 letter addressed to me and concerning your client Steven L. Barnes, SK #5290. Each of your concerns is addressed in turn.

As to your first concern, Safekeepers are managed pursuant to SCDC Policy SK-22.02, § 5 ("SAFEKEEPER MANAGEMENT"). That policy provides that all "Safekeepers will be housed in a Special Management Unit (SMU) and will be managed in accordance with SCDC Policy/Procedure OP-22.12, 'Special Management Unit Operations' . . ." *Id.* § 5.1. However, there are specific rules that apply to Safekeepers in light of their unique status within the Department. For instance: (1) They are segregated from other SCDC inmates; (2) they are showered separately; (3) they receive visitation privileges separately; (4) they are recreated separately; (5) and they have limited access to the canteen (for purposes of purchasing a Walkman radio and batteries for the radio, and assuming the Safekeeper remains within his entry custody level). In addition, Safekeepers are subject to the institutional rules and agency policies governing proper behavior, and they receive orientation on these rules upon their entry into the Department's custody. *See id.* § 3.3.9 ("The classification caseworker will give each Safekeeper a written orientation that provides information about the schedule, rules, disciplinary infractions and penalties, grievances, and privileges. Each Safekeeper will sign an SCDC Form 18-69, 'Certificate of Inmate Orientation,' to indicate his/her receipt of this orientation."). For disciplinary infractions, a Safekeeper's custody level may be increased, and he may lose privileges pursuant to SCDC Policy OP-22.12. All Safekeepers are subject to the Department's policies and procedures in order to ensure their safety and the safety and good order of the institution to which they are assigned.

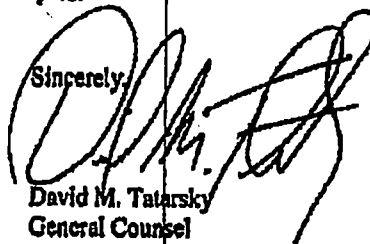
As to your second concern, § 2 of South Carolina Executive Order 2000-11 provides that "[a]n individual held in a county pretrial confinement facility may be transferred to the custody of the South Carolina Department of Corrections by commitment duly authorized by the Governor pursuant to § 24-3-80, if the individual: (1) is a high escape risk; (2) exhibits extremely violent and uncontrollable behavior; and/or (3) must be removed from the county facility to protect the individual from the general population or from other detainees." Because the elements are listed in a disjunctive order, only one element need be satisfied to warrant designation as a Safekeeper. In the case of Mr. Barnes, it is clear from the hundreds of pages of documentation the Department received on him that at least the second element is satisfied in this case.

Letter to Jeffrey P. Bloom, Esquire
July 2, 2015
Page 3

For example, an April 16, 2015 letter from Captain Tucker of the Laurens County Detention Center to Lieutenant Hall of the Edgefield County Detention Center explains that Laurens County could no longer house Mr. Barnes due in part to his violent history and his history of agitating other inmates and disrupting detention center operations. And in Sheriff Dobey's April 20, 2015 affidavit in support of a safekeeping order, the sheriff supports his plea by noting the at least 20 jail infractions, "including throwing bodily fluids at correctional officers and other inmates, possession of contraband materials and refusing to follow instructions" during the time he spent at the Edgefield County Detention Center as a pre-trial detainee. Sheriff Dobey also cites the fact that although Mr. Barnes was housed alone in the most secure cell that Edgefield County Detention Center has, he "still managed to cause disruptions" to the operations of the jail, including severely delaying food service on multiple occasions because Mr. Barnes was "throwing bodily fluids on food trays and carts." Mr. Barnes was charged several times with throwing bodily fluids on correctional officers.

Therefore, my review of the information relevant to Mr. Barnes' detention with the Department and to his designation as a Safekeeper reveals no violation either of SCDC policies or of the applicable law pertaining to Safekeepers.

Sincerely,



David M. Tatarsky
General Counsel

APPENDIX 6

The November 5, 1951, Administrative Judge,
Ralph King Anderson, III, order that it lacks
jurisdiction over the safekeeper statute.

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Steven L. Barnes,

Petitioner,

vs.

South Carolina Department of Corrections,

Respondent.

Case No. 15-ALJ-30-0318-JJ

ORDER

This matter is before the South Carolina Administrative Law Court (Court or ALC) pursuant to a petition filed on July 6, 2015 by Steven L. Barnes (Petitioner) challenging his classification and detention as a Safekeeper with the South Carolina Department of Corrections (SCDC or Department).

FACTS/PROCEDURAL HISTORY

Petitioner was held as a pre-trial detainee in the county of jails of Aiken, Laurens, and Greenwood between February 7, 2014 and April 28, 2015. On or about April 20, 2015, the sheriff of Edgefield County sought to have Petitioner classified as a Safekeeper and transferred to the custody of SCDC while he awaits trial.¹ The Department recommended that Petitioner be designated as a Safekeeper, and the Office of the Governor issued an Executive Order on April 28, 2015 approving that designation, which was renewed on August 12, 2015.² As a result of the Governor's Order, on April 28, 2015, Petitioner was removed from a county jail and transferred to SCDC as a Safekeeper.

On April 30, 2015, Petitioner filed a written objection, through his attorneys, to his Safekeeper status within SCDC on constitutional and statutory grounds. In a letter dated July 2,

¹ Petitioner alleges that his transfer from county jail to SCDC was out of retaliation for his filing of numerous grievances while in jail. However, there is no evidence in the record to substantiate these claims, and therefore the Court will not consider those contentions. More importantly, the hearing held in this matter was conducted to determine if the Court had jurisdiction to review this matter. Thus, the retaliation allegation could not be considered unless the Court could lawfully exercise jurisdiction.

² There was a question about whether this Court has jurisdiction over the Office of the Governor in this matter. However, at the hearing, the parties agreed with the Court that this question was premature, because the Office of the Governor had not been added as a party in this case.

FILED

November 5, 2015

SC ADMIN. LAW COURT

2015, the Department denied Petitioner's objections and explained the reasons for his transfer to SCDC and classification as a Safekeeper. On July 6, 2015, Petitioner filed an action in this Court seeking injunctive relief.³ On August 28, 2015, the Department filed a Memorandum of Law in Support of Dismissal of the Petition. A hearing was held in this matter at the ALC in Columbia, SC.

DISCUSSION

Based on the memoranda submitted and the subsequent hearing held in this matter, the issues in this case can be reduced to (1) whether this Court has jurisdiction to hear Petitioner's challenge to the classification and transfer of Petitioner to SCDC as a Safekeeper pursuant to S.C. Code Ann. § 24-3-80 (Supp. 2014), and (2) whether the Court has jurisdiction to consider the conditions of Petitioner's confinement as a Safekeeper pursuant to Section 24-3-80.

Classification and Transfer of Petitioner as a Safekeeper

Petitioner argues that this Court has jurisdiction to review the decision to classify him as a Safekeeper and transfer him to SCDC. Petitioner argues that the Department made the final decision in its July 2, 2015 letter to classify Petitioner as a Safekeeper, and therefore this Court has the authority, under *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000) and its progeny, to hear this case.⁴ Petitioner also argues that even if it is the Office of the Governor that made the final decision, the Court still has jurisdiction to hear this case.

The Department, on the other hand, argues that Section 24-3-80 deprives this Court of subject matter jurisdiction to review the decision to classify Petitioner as a Safekeeper and transfer him to SCDC, and that the Department did not, and could not, render a final decision as to Petitioner's classification and transfer as a Safekeeper, as only the Governor, who is not a party in this case, could make that decision. The Department therefore requests that the Court dismiss the petition for lack of subject matter jurisdiction. I agree with the Department as to this issue.

³ Petitioner styled his filing as a "Request for Contested Case Hearing." However, this Court labeled this action "Request for Injunctive Relief" in its Notice of Assignment, because it involves requests for injunctive and declaratory relief, though neither term is expressly stated.

⁴ In its Memorandum, Petitioner also argued that even if the Office of the Governor made the final decision, the Court would still have jurisdiction. However, at the hearing, Petitioner conceded and the Court concluded that the Court could not address the matter of whether it had jurisdiction over the Office of the Governor because the Governor was not a party in this case.

Section 24-3-80 states:

The director of the prison system shall admit and detain in the Department of Corrections for safekeeping any prisoner tendered by any law enforcement officer in this State by commitment duly authorized by the Governor, provided, a warrant in due form for the arrest of the person so committed shall be issued within forty-eight hours after such commitment and detention. No person so committed and detained shall have a right or cause of action against the State or any of its officers or servants by reason of having been committed and detained in the state prison system.

(Emphasis added).

First, it is clear from the plain language of the statute, that only the Governor can "duly authorize[]" the commitment of a prisoner to SCDC for safekeeping. Therefore, even if the Department's decision had been stylized as a final decision, the Department did not have the authority to make the decision. As noted above, only the Governor possesses the authority to render a final decision with respect to Petitioner's classification and transfer as a Safekeeper. This fact is also reflected in Section 3 the Governor's Executive Order 2000-11 (February 16, 2000), which states, "Upon receipt of the recommendation of the Director of the Department of Corrections, the Governor shall make a determination as to whether a safekeeping order should be granted and, if appropriate, issue the requested order." (emphasis added). But regardless of whether the Office of the Governor or the Department rendered the final decision, Section 24-3-80 precludes a right of action or cause of action against any of the State's officers or servants, which would include both the Governor and the Department.

This Court thus must determine whether the injunctive and declaratory relief that Petitioner seeks constitutes a "right of action" or a "cause of action." The Notes to Rule 65 of the South Carolina Rules of Civil Procedure (SCRCP) appears to draw a distinction between causes action and remedial writs, including injunctions. The Notes set forth that "Rule 65 makes it clear that the various remedial writs are not causes of action but remedies or relief, the right to which must be supported by the law and the facts. Therefore, the injunction or other writ granted does not become permanent or final until final judgment in the action. . . ." However, the appellate courts in South Carolina have referred to an action for injunctive or declaratory relief as a "cause of action." See, e.g., *Knohl v. Duke Power Co.*, 260 S.C. 374, 376, 196 S.E.2d 115, 116 ("We have held that a complaint fails to state a cause of action for injunctive relief unless facts are alleged which show that the plaintiff has no adequate and complete remedy at law.") (emphasis added); *Sloan v. Friends of Hunley, Inc.*, 369 S.C. 20, 29, 630 S.E.2d 474, 479 (2006) ("The alter ego cause of

action is directly related to Sloan's cause of action for a declaratory judgment that Friends is a public body.") (emphasis added); *HHHunt Corp. v. Town of Lexington*, 389 S.C. 623, 640, 699 S.E.2d 699, 708 (Ct. App. 2010) ("We reverse the circuit court's conclusion . . . that the complaint failed to allege facts supporting causes of action for . . . injunction, and declaratory relief.") (emphasis added). Therefore, if an injunction is interpreted as a cause of action, review of the transfer of a defendant to the Department for safekeeping is not allowed. Furthermore, even if an injunction is not a cause of action, it is certainly an "action" that is brought in the Court. The plain language of Section 24-3-80 bars the "right" to bring any action, which includes an injunction. Accordingly, regardless of whether Petitioner's action as it pertains to his classification and transfer as a Safekeeper is a right of action or a cause of action, Section 24-3-80 clearly precludes either kind of action from being brought against the State or any of its officers or agents.

Petitioner nevertheless claims that even if the Governor is the final decision-maker as to Safekeeper status, her decision would have to be reviewable by this Court or else Section 24-3-80 would be unconstitutional. Petitioner adds that "[t]his Court's authority to act and hear this case is even more necessary and constitutionally mandated where the real reason for Petitioner's removal from the county jail and transfer into state custody is not because of any current or recent infractions or behavior as envisioned by the Executive Order."⁵

As an initial matter, this Court cannot consider facial challenges to the constitutionality of a statute or regulation. See *Travelscape v. S.C. Dep't of Revenue*, 391 S.C. 89, 109, 705 S.E.2d 28, 38-39 (2011). However, this Court "is empowered to hear as applied challenges to statutes regulations." *Id.* at 109, 705 S.E.2d at 39. Here, the Court has been provided with no authorities indicating that a prisoner has a state-created liberty interest in his mere classification as a Safekeeper or in the location in which he is housed while he awaits trial. As the Court will discuss further below, a prisoner does have a state-created liberty interest in the conditions of confinement once he has been classified and transferred to an SCDC facility as a Safekeeper. However, as to the Governor's basis for his classification and transfer of a prisoner as a Safekeeper, Petitioner has failed to establish that Section 24-3-80 was unconstitutionality applied in this case. For this reason and because the statute plainly precludes rights of action or causes of action regarding the

⁵ The "Executive Order" that Petitioner references here is Executive Order 2000-11 (February 16, 2000), and the "infractions or behavior" that he references are set forth in Section 1 of this Order as follows: "(1) is a high escape risk; (2) exhibits extremely violent and uncontrollable behavior; and/or (3) must be removed from the county facility to protect the individual from the general population or from other detainees."

classification and transfer of prisoners for safekeeping, the Court grants the Department's request to dismiss for lack of subject matter jurisdiction as to this issue.

Conditions of Confinement

Petitioner next argues that this Court has jurisdiction to consider the conditions of his confinement as a Safekeeper pursuant to Section 24-3-80. He argues that he was treated like SCDC inmates who had committed disciplinary infractions, even though he had not committed any violations. For example, Petitioner asserts that he was denied publications from publishers, postage, and was limited in his access to legal counsel.⁶ The Department requested the Court to dismiss the petition based on a lack of subject matter jurisdiction to consider this issue. Because I agree with Petitioner that the Court has subject matter jurisdiction to consider the conditions of his confinement, the Department's request to dismiss as to this issue is denied.

Though Petitioner is a pretrial detainee Safekeeper, not an inmate who is being incarcerated based on a conviction and sentencing, the Court nevertheless finds that based on *Al-Shabazz, supra*, this Court's jurisdiction likely extends to pre-trial detainee Safekeepers with respect to their conditions of confinement. Therefore, the Court concludes that it has subject matter jurisdiction to consider the conditions of Petitioner's confinement.

However, the Court must also consider whether it has procedural jurisdiction. Normally, an inmate who fails to exhaust his administrative remedies by availing himself of the Department's established grievance process deprives the Court of procedural jurisdiction to hear an appeal. *See Brown v. James*, 389 S.C. 41, 48, 697 S.E.2d 604, 608 (Cl. App. 2010) ("The doctrine of exhaustion of administrative remedies requires that where a remedy before an administrative agency is provided, relief must be sought by exhausting this remedy before the courts will act."); *Hyde v. S.C. Dep't of Mental Health*, 314 S.C. 207, 208, 442 S.E.2d 582, 583 (1994) ("The general rule is that administrative remedies must be exhausted absent circumstances supporting an exception to application of the general rule."); *Storm M.H. ex rel. McSwain v. Charleston Cnty. Bd. of Trustees*, 400 S.C. 478, 487, 735 S.E.2d 492, 497 (2012) (quoting *Brown*, 389 S.C. at 54, 697 S.E.2d at 611 ("A commonly recognized exception to the requirement of exhaustion of administrative remedies exists when a party demonstrates that pursuit of administrative remedies

⁶ Petitioner also mentioned in his Memorandum that he had been denied access to Dove soap, which SCDC's medical unit had approved for a skin condition. However, the Department asserted at the hearing that this particular matter had been resolved.

would be a vain or futile act.”). “Exhaustion is generally required as a matter of preventing premature interference with agency processes, so that the agency may function efficiently and so that it may have an opportunity to correct its own errors, to afford the parties and the courts the benefit of its experience and expertise, and to compile a record which is adequate for judicial review.” See *Video Gaming Consultants, Inc. v. S.C. Dep’t of Revenue*, 342 S.C. 34, 38, 535 S.E.2d 642, 644 (2000). The administrative remedies provided for inmates pursuant to the Department’s Inmate Grievance Policy are Step 1 and Step 2 grievances.

Here, Petitioner submitted a letter through his counsel to the Department objecting to his classification and treatment as a Safekeeper, to which the Department responded with a letter rejecting his objections and explaining the reasons for his classification and transfer.⁷ The Department asserts that the letter was not its final decision as to Petitioner’s conditions of confinement but rather a response to the issues raised regarding the placement of Petitioner in the Department’s custody as a Safekeeper. In fact, the July 2, 2015 letter is not designated as a “final” order and does not indicate that a final determination is being made regarding specifically challenged custody issues. Therefore, I find that Petitioner did not establish that this letter was the final department decision.

Moreover, Petitioner’s letter failed to follow the appropriate procedure for filing a grievance. The Department asserts that if Petitioner’s issues were raised via a Step 2 Grievance, the specific challenges to confinement would be reviewed with much greater scrutiny than the response given in the July 2 letter.⁸ Thus, since a Step 2 review may provide an “adequate remedy,” I find Petitioner failed to exhaust his administrative remedies and has not demonstrated any circumstances supporting an exception. See S.C. Code Ann. § 1-23-380 (Supp. 2014); see also *Storm M.H. ex rel McSwain, supra*; *Ward v. State*, 343 S.C. 14, 19, 538 S.E.2d 245, 247 (2000); *Brown v. James, supra*. Therefore, the Court cannot consider the conditions of Petitioner’s confinement at this time. Accordingly, I find it appropriate for this matter to be remanded to the Department so that Petitioner can have the opportunity to file a Step 2 Grievance for the Department’s consideration in order to create a record for review in this matter, and to give the Department an opportunity to perhaps remedy, if warranted, Petitioner’s grievances.

⁷ Petitioner’s letter is not in the Record.

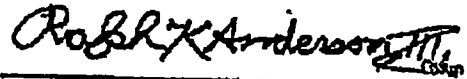
⁸ The Department stated at the hearing that it accelerates the procedure for the Safekeepers, due to the brief nature of their housing, which is another why the process would begin with a Step 2 Grievance instead of a Step 1 Grievance.

ORDER

IT IS THEREFORE ORDERED that the Department's request for dismissal as to the issue of Petitioner's classification and transferal to SCDC as a Safekeeper is **GRANTED**.

IT IS FURTHER ORDERED that the case be **REMANDED** to the Department to allow Petitioner the opportunity to file a Step 2 Grievance for the Department's consideration.

AND IT IS SO ORDERED.



Ralph King Anderson, III
Chief Administrative Law Judge

November 5, 2015
Columbia, South Carolina

APPENDIX (7)

Shane Coaranson, a state puppet, November 7, 2017
letter to the petitioner against the petitioner
interest in his one hundred page brief that the
petitioner had sent to this Court on September
29, 2017



SOUTH CAROLINA COMMISSION FOR INDIGENT DEFENSE

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November 7, 2017

Mr. Steven L. Barnes
SCDC 00327117 A2-0023-B
c/o Kirkland R&E
4344 Broad River Road
Columbia, SC 29210

Re: Safekeeper suit

Dear Mr. Barnes,

I hope all is well with you and you've had at least a marginal improvement moving from safekeeper at Lee to Kirkland. I am enclosing a copy of the Department of Corrections's motion to dismiss as moot the safekeeper suit. I agree that the case is moot – there is no longer a controversy since you are no longer in safekeeper. I will also enclose a self-addressed stamped envelope so that if you have any objections to this you can notify me immediately.

Yours truly,

Shane

Encl: motion to dismiss, SASE

APPENDIX (8)

SCD lawyer, Lake Summers, motion to dismiss
the petitioner's appeal as moot

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

Ralph King Anderson, III, Chief Administrative Law Judge

Appellate Case No. 2017-000967

Steven L. Barnes, Appellant.

v.

South Carolina Department of Corrections, Respondent.

**RESPONDENT’S MOTION TO DISMISS
THE APPELLANT’S APPEAL AS MOOT**

The Respondent in the instant matter, the South Carolina Department of Corrections [“the Department”], respectfully moves, pursuant to South Carolina Appellate Court Rule [“SCACR”] 240, to dismiss the appeal filed by the Appellant, Steven L. Barnes [“Barnes”], on the grounds that the three (3) issues on appeal Barnes identified in his brief appeal are now moot.

I. RELEVANT CHRONOLOGY

By his notice of appeal dated April 18, 2017, Barnes appealed two (2) orders issued by the South Carolina Administrative Law Court [“ALC”], on November 5, 2015 and March 29, 2017. (R. pp. 48 – 55 and pp. 186 – 212).¹

¹ Barnes, by and through his counsel, filed the Record on Appeal with the Court on October 2, 2017. Accordingly, the Department includes references to the Record in its instant motion whenever possible.

In his brief,² Barnes identified the following three (3) issues on appeal, each of which concerned his status as a pre-trial detainee admitted to the Department's custody as a Safekeeper in accordance with S.C. Code Ann. § 24-3-80 and Executive Order No. 2000-11:³

- I. Did the ALC err by not remanding to the Department for further fact finding the Department's recommendation for Barnes to be classified as a Safekeeper?
- II. Did the ALC err by not reversing the Department's decision to deny Barnes a specific publication?
- III. Did the ALC err when it determined that Barnes had not established that § 24-3-80 had been unconstitutionally applied?

² See Barnes' Brief, p. 1, and the Department's Brief, p. 1. Obviously, the parties filed their respective initial briefs, and the Department includes references to the parties' briefs whenever possible.

³ In its entirety, § 24-3-80 (Supp. 2010), which is entitled "Detention of prisoner when authorized by Governor," provides as follows:

The director of the prison system shall admit and detain in [the Department] for safekeeping any prisoner tendered by any law enforcement officer in this State by commitment duly authorized by the Governor, provided, a warrant in due form for the arrest of the person so committed shall be issued within forty-eight hours after such commitment and detention. No person so committed and detained shall have a right or cause of action against the State or any of its officers or servants by reason of having been committed and detained in the state prison system.

The introductory provisions of Executive Order No. 2000-11, which our state's Governor issued February 16, 2000, provide as follows:

WHEREAS, an individual held in a pretrial confinement facility may be transferred to the custody of the [Department] for safekeeping by commitment duly authorized by the Governor pursuant to § 24-3-80; and

NOW, THEREFORE, I hereby establish the following criteria and procedures for approval for the admission and detention in an institution of the [Department] for safekeeping of a prisoner tendered by a law enforcement officer of this State and rescind the previous safekeeping procedures set forth in Executive Order #76-15:

Section I of Executive Order No. 2000-11 provides as follows:

An individual held in a county pretrial confinement facility may be transferred to the custody of the [Department] by commitment duly authorized by the Governor pursuant to § 24-3-80, if the individual: (1) is a high escape risk; (2) exhibits extremely violent and uncontrollable behavior; and/or (3) must be removed from the county facility to protect the individual from the general population or from other detainees.

In the first paragraph from the section of his brief entitled “STATEMENT OF THE FACTS,⁴” Barnes provided the following accounting of the events by which he entered the Department’s custody as a Safekeeper:

Beginning February 7, 2014 through April 28, 2015, [Barnes] was housed as a **pre-trial detainee** at the following county jails: Aiken; Laurens; and Greenwood. On or about April 20, 2015, Edgefield County Sheriff Adell Doby petitioned the [Department’s Office of General Counsel] to classify [Barnes] as a “Safekeeper” and transfer him [into the Department’s custody]. **On or about April 28, 2015, [Barnes] was approved by [the Department] as a “Safekeeper.” The Governor then issued an Executive Order on April 28, 2015, also approving [Barnes]’ designation as a “Safekeeper.”** On the same day, [April 28, 2015], [Barnes] was removed from a county jail and transferred to the [Department’s custody] as a Safekeeper (assigned SK #5290). [emphasis supplied].

As the Department explained in its brief,⁵ Barnes’ assertions in the above-quoted paragraph that the Department “approved” him as a Safekeeper represented a key factual error, and, by its March 29, 2017 Order, one of the two (2) orders from which Barnes appealed, the ALC correctly described the Department’s action regarding the petition submitted by the Edgefield County Sheriff (R. p. 186):

The Department **recommended** that [Barnes] be designated as a Safekeeper, and the Governor issued an Executive Order on April 28, 2015 **approving** that designation, which was renewed on August 12, 2015. [emphasis supplied].

In the footnote associated with the above-quoted passage from his brief,⁶ Barnes added the following relevant information:

⁴ See Barnes’ Brief, p. 3, and the Department’s Brief, pp. 1 – 2.

⁵ See the Department’s Brief, p. 2.

⁶ See Barnes’ Brief, p. 3, n. 1.

Barnes had previously been incarcerated within SCDC pursuant to a murder conviction and death sentence; however, his case was reversed in January 2014, [*State v. Barnes*, 753 S.E.2d 545 (2014)], and he was remanded on February 7, 2014, by [the Department] to the custody of the Edgefield County jail for re-trial. The Edgefield Sheriff then asked other county jails to house Barnes.

By a letter dated September 28, 2017,⁷ Barnes' appellate counsel advised the Clerk of this Court as follows:

[Barnes' appeal] involves issues related to [his] pre-trial detention [as a Safekeeper within the Department]. **The issues could become moot following [Barnes'] non-capital jury trial which is scheduled to begin October 9, 2017 in Edgefield County.** We would respectfully request the appeal proceedings be delayed until after the trial. I have spoken with [the Department's outside counsel], and he is not opposed to such a delay. [emphasis supplied].

By an order issued October 6, 2017, this Court granted the request made by Barnes' appellate counsel in the above-quoted letter, and it imposed a 30-day abeyance of the proceedings in the instant matter.

On October 13, 2017, an Edgefield County jury convicted Barnes of murder, and the presiding judge sentenced Barnes to life in the Department's custody without the possibility of parole.⁸

Barnes then entered the Department's custody on October 16, 2017, where he remains as of the date of its instant motion.⁹

⁷ The Department respectfully submits a copy of the letter from Barnes' appellate counsel dated September 28, 2017 as Exhibit A in support of its instant motion.

⁸ The Department respectfully submits a copy of the sentence sheet (South Carolina Court Administration Form 217) signed October 13, 2017 by the Honorable Diane S. Goodstein that reflects Barnes' conviction and sentence as Exhibit B in support of its instant motion.

⁹ The Department respectfully submits a copy of the "Inmate Search Detail Report" secured from its website (<https://public.doc.state.sc.us/scdc-public/>) which reflects Barnes' admission into its custody on October 16, 2017 as Exhibit C in support of its instant motion.

II. APPLICABLE PRECEDENT

In *Wachesaw Plantation East Community Services Ass'n, Inc., v. Alexander*, 778 S.E.2d

898, 900 (S.C. 2015), our Supreme Court addressed mootness as follows:

“A case is moot where a judgment rendered by the Court will have no practical legal effect upon an existing controversy because an intervening event renders any grant of effectual relief impossible for the Court.” [*S.C. Ret. Syst. Inv. Comm'n v. Loftis*, 741 S.E.2d 757, 758 (S.C. 2013)]. **“[M]oot appeals result when intervening events prevent a decision on appeal from having an immediate impact on the parties.”** 15 S.C. Jur. *Appeal and Error* § 19 (Supp. 2014). “Appellate court[s] will not pass on moot and academic questions or make an adjudication where there remains no actual controversy.” [*Linda Mc Co., Inc. v. Shore*, 703 S.E.2d 499, 506 (S.C. 2010)]. [emphasis supplied]

See also *S.C. Public Interest Foundation v. S.C. Dep't of Trans.*, -- S.E.2d --, 2017 WL 4052370, *4 (S.C. Sept. 14, 2017). (“A case becomes moot when judgment, if rendered, will have no practical legal effect upon the existing controversy.” [*Sloan v. Greenville Cnty.*, 670 S.E.2d 663, 667 (S.C. Ct. App. 2009)]”).

In *Shah v. Richland Memorial Hospital*, 564 S.E.2d 681, 687 (S.C. Ct. Ap. 2002), this Court also addressed mootness:

An appellate court “will not pass on moot and academic questions or make an adjudication where there remains no actual controversy.” [*Mathis v. South Carolina State Highway Dep't*, 195 S.E.2d 713, 714 (S.C. 1973)]. **“A case becomes moot when judgment, if rendered, will have no practical legal effect upon [an] existing controversy. This is true when some event occurs making it impossible for [a] reviewing [c]ourt to grant effectual relief.”** [*Id.*, 195 S.E.2d at 715]. “Moot appeals differ from unripe appeals in that moot appeals result when intervening events render a case nonjusticiable.” [*Curtis v. State*, 549 S.E.2d 591, 596 (S.C. 2001)]. [emphasi supplied].

In *Shah*, 564 S.E.2d at 687, this Court again quoted *Curtis*, 549 S.E.2d at 596, when it articulated the three (3) general exceptions to the mootness doctrine in the civil context:

First, an appellate court can take jurisdiction, despite mootness, if the issue raised is capable of repetition but evading review. **Second**, an

appellate court may decide questions of imperative and manifest urgency to establish a rule for future conduct in matters of important public interest. [Third], if a decision by the trial court may affect future events, or have collateral consequences for the parties, an appeal from that decision is not moot, even though the appellate court cannot give effective relief in the present case. [citations omitted by this Court and emphasis supplied by the Department].

III. ANALYSIS

As a result of his conviction and sentencing on October 13, 2017 and his admission into the Department's custody on October 16, 2017, Barnes is no longer a pre-trial Safekeeper.

Under *Wachesaw Plantation*, 778 S.E.2d at 898, Barnes' October 2017 conviction and sentencing constitutes an "intervening event" that renders impossible any grant of effectual relief to him by this Court on the three (3) issues on appeal he identified in his brief.

Moreover, Barnes's October 2017 conviction and sentencing constitutes an "intervening event" that prevents a decision by this Court on Barnes' pending appeal from the two (2) orders issued by the ALC on November 5, 2015 and March 29, 2017 "from having an immediate impact" on Barnes and the Department. *Id.*

Given his October 2017 conviction and sentencing, any judgment rendered by this Court regarding Barnes' appeal will have no practical legal affect upon the existing controversy between Barnes and the Department, and, accordingly, the Department respectfully asserts that Barnes' appeal is moot. *Id. See also S.C. Public Interest Foundation*, 2017 WL 4052370, *4; and *Shah*, 564 S.E.2d at 687.

The Department further respectfully asserts that just as in *Shah*, 564 S.E.2d at 687 – 88, none of the three (3) general exceptions to the mootness doctrine applies to any of the three (3) issues on appeal Barnes identified in his brief.

First, none of the three (3) issues Barnes identified on appeal regarding his status as a pre-trial Safekeeper and his treatment by the Department while a pre-trial Safekeeper are capable

of repetition. As he is now incarcerated in the Department while serving a sentence of life without the possibility of parole, Barnes is no longer a pre-trial detainee in the Department's custody as a Safekeeper. Consequentially, the policies promulgated by the Department which address Safekeepers (i.e. Policy Numbers SK-22.02 and OP-22.12) no longer apply to Barnes after his October 2017 conviction and sentencing.¹⁰

Even if his October 2017 conviction and sentence are overturned on appeal and he again enters the Department's custody as a pre-trial Safekeeper, Barnes may not confront the same issues that lie at the heart of his instant appeal concerning whether he should be classified as a Safekeeper or the Department's treatment of him as a Safekeeper. Even if he confronts the very same issues upon his re-entry into the Department's custody as a pre-trial Safekeeper, Barnes may seek review of such issues by filing a grievance with the Department, and, if the Department denies his grievance, Barnes may appeal the Department's denial to the ALC.

Second, none of the three (3) issues on appeal Barnes identified in his brief constitute "questions of imperative and manifest urgency to establish a rule for future conduct in matters of important public interest."

Third and finally, neither the ALC's decisions regarding the three (3) issues on appeal identified by Barnes in his brief nor, for that matter, the Department's decisions on the same three (3) issues will affect future events between Barnes and the Department. Likewise, neither the ALC's decisions regarding the three (3) issues on appeal identified by Barnes in his brief nor the Department's decisions on the same three (3) issues will have any collateral consequences for Barnes and the Department.

¹⁰ See the Department's Brief, pp. 6 – 7.

IV. CONCLUSION

As persuasively demonstrated above, the three (3) issues on appeal Barnes identified in his brief are, given his October 2017 conviction and sentencing, now moot.

As also persuasively demonstrated above, none of the three (3) general exceptions to the mootness doctrine apply to Barnes' the three (3) issues on appeal Barnes identified in his brief.

Therefore, the Department respectfully urges this Court to dismiss as moot Barnes' appeal of the orders issued by the ALC on November 5, 2015 and March 29, 2017.

Finally, the Department respectfully requests that this Court continue to hold Barnes' appeal in abeyance pursuant to its October 6, 2017 order until it rules upon the Department's instant motion.

RESPECTFULLY SUBMITTED,

BY:



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Counsel for the Respondent

Columbia, South Carolina
October 31, 2017

APPENDIX (a)

Shane Guernsey, a state puppet, September 28, 2017
letter to various state officials against the
petitioner interest



SOUTH CAROLINA COMMISSION FOR INDIGENT DEFENSE

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September 28, 2019

The Honorable Jenny Abbott Kitchings,
Clerk of Court, Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201
(Via hand delivery)

Mr. Lake Eric Summers,
339 Heyward Street
Suite 200
Columbia, SC 29201

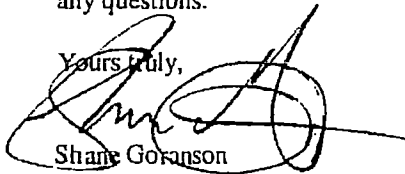
Mr. Stephen Hollis Lunsford, Esquire
4444 Broad River Road
Columbia, South Carolina 29221

Re: Steven Barnes v. SCDC
Appellate Case No. 2017-000967

Dear Ms. Kitchings,

I hope all is well with you. The above captioned case involves issues related to Mr. Barnes's pre-trial detention within SCDC. The issues could become moot following Mr. Barnes's non-capital jury trial which is scheduled to begin October 9, 2017 in Edgefield County. We would respectfully request the appeal proceedings be delayed until after the trial. I have spoken with Mr. Summers and he is not opposed to such a delay. Please do not hesitate to contact me with any questions.

Yours truly,



Shane Goranson

Cc: Bill McGuire, Steven Barnes

APPENDIX (10)

Shane Garanson, a state puppet, motion to dismiss the petitioners appeal against the petitioners interest in the petitioners 1. Indeed page belief that he'd sent on September 29, 17 to this court

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph King Anderson, III, Administrative Law Judge

Case No. 15-ALJ-30-0318-AP

South Carolina Department of
Corrections,

Respondent,

v.

Stephen L. Barnes,

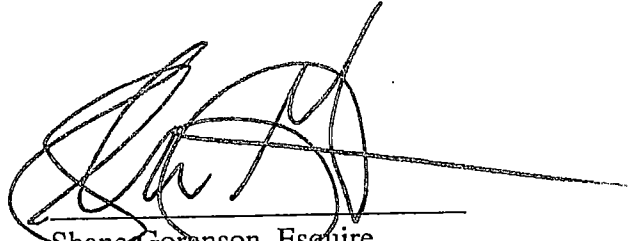
Appellant.

Return

Pursuant to Rule 240(e), SCACR, Counsel for Stephen L. Barnes respectfully submits this return and states that counsel for Mr. Barnes cannot oppose the Department's motion to dismiss the case as moot. In the above captioned case Mr. Barnes was litigating the conditions of his pre-trial detention as a safekeeper within the Department of Corrections. However, on October 13, 2017 in Edgefield County, South Carolina Mr. Barnes was tried and convicted of the charges on which he had been held in pre-trial detention. Counsel for defendant believes the conviction of Mr. Barnes renders the issue before the Court of Appeals, his conditions of pretrial confinement, moot. Mr. Barnes is no longer classified as a safekeeper and is instead an inmate at the South Carolina Department of Corrections. If Mr. Barnes's conviction from October 13, 2017 is overturned and if Mr. Barnes is returned to

 COPY

safekeeper status he would then be able to renew litigation on his pre-trial confinement via the grievance process and potentially appeal to the Administrative Law Court. Therefore, it would seem, the issues before the South Carolina Court of Appeals in this case are moot.



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Attorney for Appellant

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT

Ralph King Anderson, III, Administrative Law Judge

Case No. 15-ALJ-30-0318-AP

South Carolina Department of
Corrections,

Respondent,

v.

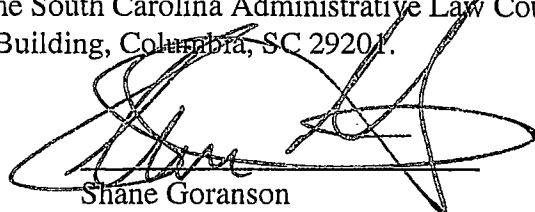
Stephen L. Barnes,

Appellant.

PROOF OF SERVICE

I certify that I have served the Return on all parties by depositing a copy of it in the United States Mail, postage prepaid, on November 11, 2017, addressed to following: counsel of record, Lake Summers, 339 Heyward Street – Suite 200 Columbia, South Carolina 29201; and for the South Carolina Department of Corrections: Stephen Lunsford, 4444 Broad River Road, Columbia, South Carolina 29221; as well as the South Carolina Administrative Law Court, 1205 Pendleton Street, Suite 224, Edgar A. Brown Building, Columbia, SC 29201.

November 14, 2017



Shane Goranson
1330 Lady Street, Suite 401
Columbia, South Carolina 29201

William S. McGuire
1330 Lady Street, Suite 401
Columbia, South Carolina 29201
Attorneys for Appellant

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