

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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APPEAL FROM RICHLAND COUNTY
G. Thomas Cooper, Jr., Circuit Court Judge

S.C. SUPREME COURT

Civil Action No. 13-CP-40-0301

Basil W. Akbar, #065498,

Petitioner,

v.

South Carolina Department of Corrections,
Bill Byers, Martha Roof, Debrah Long,
Lisia Johnson, Ann and John Doe,

Respondents.

PETITIONER'S OBJECTION TO RESPONDENT'S
RETURN TO PETITION FOR WRIT OF CERTIORARI

On April 14, 2017 the undersigned Petitioner recieved a document titled, Respondent's Return to Petition for Writ of Certiorari. The Petitioner re-submits all previous pleadings hereby, herein, hereof as if verbatim, and make the following objection to Respondent's.

First, the Lower Courts respectfully erred when oversighting the threshold issue of time frame in question prior to dismissing complaint on statute of limitation violation. This Honorable Court must be mindfully that the Respondent fail to establish a comprehensive time frame, or logical sequence of [any] event that correlate, (1) Time of incident, (2) date, and (3) place in support of their posture that mark the period in which he had to file grievance. According to Agency policy GA-01.12, Quote, "You have fifteen (15) days of the incident to file a grievance on the issue," (emphasis

added). Other than the "inherent" time frame outlined by the Petitioner, (1) Time he first informed his work release account was closed, (2) Date informed, and (3) place, are the true and rightful sequence that corroborate and correlate a definite time frame and only incident, that Petitioner properly attempted to file numerous grievance, but returned unprocess. The Respondent fail to prove their posture by the preponderance of the evidence, nor provided detail to enable reviewing court to determine whether facts are supported by evidence, or whether the law has been correctly apply, See, Hill v Jones, 255 SC 219, 178 SE 2d 142. The Lower Courts Order(s) are further defective and flawed where the conclusion drawn is unjustified by the facts and evidence on the whole record, and against the decision of the lower courts, Rutherford v Rutherford, 307 SC 199, 414 SE 2d 157. The Petitioner is grieved by the judgement of the lower courts, Bivens v Knight, 254 SC 10, 173 SE 2d 150; and objects to the lower courts' abuse of discretion for issuing Orders control by error of fact and/or error of law, and untrue conclusion of the subject matter, therefore said Order should be reverse.

Second, the whole record support that the Petitioner exercised due diligence, seeking to make his work release account transparent to him, under the Respondents' definition of SCDC's policy ADM-15.12:

Section 17.4, "Reporting of mistake in Account, if an inmate think a mistake has been made with his/her account, ..."

Section 17.4.3, "SCDC investigation of account mistake, ..."


Petitioner submit that he never closed-out his work release saving account nor informed of its closure, until Aril 28, 2010, establishing operation factor for legal claim. However, the Respondents now argue as their threshold argument "that Petitioner had fifteen (15) days from the date of the incident to file a grievance." Moreover, the Respondent fail to

sufficiently define, and detail any trigger time to enable the court or reasonable minded person to conclude that an incident had occurred requiring him to file a grievance. The Respondents' inference that an incident had triggered earlier is unfounded, and no competent evidence exist supporting theory that an incident knowingly existed. The Petitioner contend that the decision of the Respondent, and lower courts' reasoning should be set aside where no decisive probative facts was furnish that an incident existed, or that Petitioner fail to timely file [grievance/complaint] within a set time period, (emphasis added). Pursuant to SCDC policy ADM-15.12 the Respondent owed a duty of care to Petitioner, and fail to discharge that duty resulting in undue prejudice. The lower court furthered oversighted that statute of limitation in instant case start to run when Petitioner "accures" because the injury took place over a period of time [continued wrong], and statute should not run until that period end [April 28, 2010] when predicate araised, Page v United States, 729 F 2d 818, 821. Where testimony is conflicting upon the application of the statute of limitation, the question becomes an issue of fact for the jury, Brown v Finger, 240 SC 102, 124 SE 2d 781. Whether a claimant knew or should have known he had a cause of action is a question for the jury, Johnson v Bowen, 313 SC 37, 550 SE 2d 589; and that at all times relevant the Petitioner was continuously serving conviction in Department's custody, See, Sanders v MacDougal, 135 SE 2d 836 (1964); Wilson v Flaherty, 689 F 3d 332 (4th Cir 2012); Jones v Cuningham, 317 US 236, 83 S Ct 373. Equitable tolling should have been envoked in Petitioner's matter, where such tolling is necessary to prevent unfairness to a Pro Se litigant, and where the legal premise upon which the Respondent's is not settled. The Petitioner further object to matters in Respondent's pleadings not specifically objected to.

CONCLUSION

The Petitioner's prayer is that this Honorable Court review his pleadings with a practical eye; remand for further review on equitable tolling doctrine, and any delay bring complaint is due to Respondents' misrepresentation based upon the whole record; Petitioner's Affidavit; and statute of limitation tolled until time misrepresentation was discovered. The Petitioner seeks the following relief, (1) to have Akbar's [1979-1981] Work Release Long Term Savings Account made transparent to him, (2) balance and interest, (3) immediately transferred to his EH Cooper Trust Fund Account, or (4) his designee.

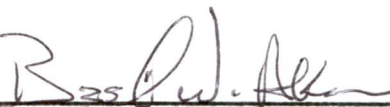
Date: April 24, 2017

s/ 
Basil W. Akbar, #065498
Lee County Institution

CERTIFICATE OF SERVICE

I, Basil W. Akbar, hereby certify that her served upon Respondent counsel of record, postage prepaid, Petitioner's Objection to Respondent's Return to Petition for Writ of Certiorari, at: Daniel R. Settana, Post Office Drawer 7212, Columbia, South Carolina, 29202.

Date: April 24, 2017

s/ 
Basil W. Akbar, #065498
Lee County Institution
990 Wisacky Hwy, F6B 2213
Bishopville, SC 29010

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