

STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge H.W. Funderburk, Jr.

ALC Case No. 17-ALJ-04-0154-AP  
Appellate Case No. 2017-001964

Michael Braxton, # 119081,

APPELLANT,

v.

South Carolina Department of Corrections,

RESPONDENT.

**MOTION TO STRIKE FINAL BRIEF OF APPELLANT AND REQUIRE THE  
FILING OF A FINAL BRIEF CONFORMING TO THE REQUIREMENTS OF  
RULE 211, SCACR**

Appellant filed his Initial Brief on October 18, 2017. Respondent filed its Initial Brief on December 14, 2017. Appellant filed a Reply Brief on January 2, 2018. On February 2, 2018, Appellant filed his Final Brief and Final Reply Brief.

The body of the Initial Brief of Appellant was 15 pages long and included four issues in the Statement of Issues on Appeal. However, the body of the Final Brief of Appellant is six pages long and only identifies one issue in the Statement of Issues on Appeal. Additionally, the one issue identified in the Statement of Issues on Appeal in the Final Brief of Appellant and the following substantive arguments do not match any of the

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issues or arguments in his Initial Brief. Appellant has essentially submitted an entirely new document.

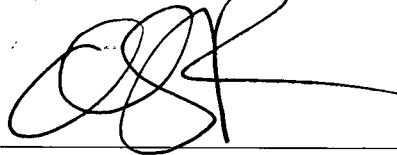
The South Carolina Appellate Court Rules govern the form and content of appellate briefs. Pursuant to Rule 211(b), SCACR, a final brief “shall be identical” to an initial brief previously served. Under our appellate court rules, only the following changes are permitted to be made to a final appellate brief: (1) references to transcript pages can be changed to refer to the corresponding page of the Record on Appeal; and (2) typographical mistakes or errors can be corrected. Rule 211(b)(1)-(2), SCACR. “No other changes may be made.” Rule 211(b)(2), SCACR.

Appellant’s Final Brief contains numerous substantive changes from his Initial Brief of Appellant. Those changes do not simply involve the correction of typographical errors or changes to page references. Instead, the changes involve substantive alterations to the statement of the issues and arguments on the issues. Such changes are not permitted under our appellate court rules. Therefore, Appellant’s Final Brief does not conform to the requirements of Rule 211, SCACR. For that reason, the State asks this Court to strike the Final Brief of Appellant and require the filing of an amended final brief fully complying with the requirements of Rule 211, SCACR, and containing no substantive changes from the originally-filed initial brief. See, e.g., Henning v. Kaye, 307 S.C. 436, 437, 415 S.E.2d 794, 794 (1992) (“[T]he South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State. It is incumbent upon counsel to provide material that complies with the Rules and facilitates appellate review.”).

**WHEREFORE**, Respondent prays that this Court will strike the Final Brief of Appellant; require the filing of a Final Brief of Appellant conforming to the requirements of Rule 211, SCACR; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT  
OF CORRECTIONS**



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**ANNIE RUMLER**

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(803) 896-1355

**ATTORNEY FOR RESPONDENT**

February 15, 2018

STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge H.W. Funderburk, Jr.

ALC Case No. 17-ALJ-04-0154-AP  
Appellate Case No. 2017-001964

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Michael Braxton, # 119081,

APPELLANT,

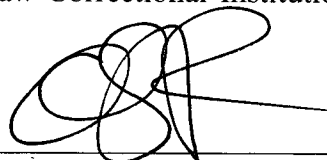
v.

South Carolina Department of Corrections,

RESPONDENT.

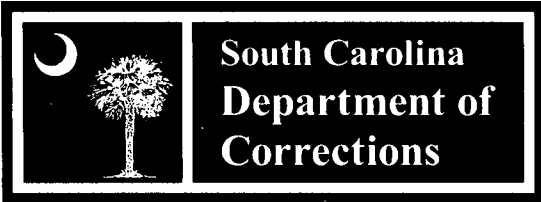
**CERTIFICATE OF SERVICE**

Undersigned counsel hereby certifies that on today's date, I mailed a copy of the **Motion to Strike Final Brief of Appellant and Require the Filing of a Final Brief Conforming to the Requirements of Rule 211, SCACR** to Appellant, addressed as follows: Michael Braxton, # 119081, Kershaw Correctional Institution, 4848 Goldmine Highway, Kershaw, South Carolina, 29067.



**Annie Laurie Rumler**  
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February 15, 2018



HENRY McMASTER, Governor

BRYAN P. STIRLING, Director

OFFICE OF GENERAL COUNSEL

February 15, 2018

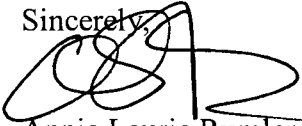
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The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

Reference: App. Case No.: 2017-001964 (*Michael Braxton, #119081*  
*v. South Carolina Department of Corrections*)

Dear Madam Clerk:

Enclosed, please find the original and six copies of Respondent's Motion to Strike Final Brief of Appellant and Require the Filing of a Final Brief Conforming to the Requirements of Rule 211, SCACR. Thank you for your attention to this matter, and please do not hesitate to contact me should you have any questions or concerns.

Sincerely,  
  
Annie Laurie Rumler

Enclosure

cc: Michael Braxton, #119081



South Carolina  
Department of  
Corrections

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Columbia, South Carolina 29221-1787

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