

THE STATE OF SOUTH CAROLINA
IN the Supreme Court

RECEIVED

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

FEB 15 2017

S.C. SUPREME COURT

G. Thomas Cooper, Jr., Circuit Court Judge

ON CERTIORARI to the Court of Appeals of South Carolina
Opinion No. 2013-002306 (SC Ct. App. filed Dec. 2, 2016)

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, et al.

Respondent.

v.

BASIL W. AKBAR, 065498

Petitioner

APPENDIX

Basil W. Akbar, 065498, Pro Se
Lee County Institution
990 Wisacky Hwy, F-6B, 2213
Bishopville, S.C. 29010
Pro Se

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SECOND URGENT REQUEST :

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS REQUEST TO STAFF MEMBER

TO: NAME:	TITLE:	DATE:
M.B. Burt, Financial/Business Office		December 6, 2008
INMATE'S NAME:	SCDC #:	
Basil W. Akbar	065498	
INSTITUTION:	LIVING QUARTERS:	
Lee County	Richard C-119	

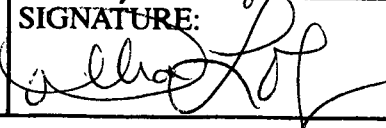
Madam: HOWEVER, Respectful during this slow process as to attain Requested information I have been patiently waiting. I initially wrote you Oct. 22, 2008, and has not received a reply to my legitimate & genuine concerns, thus, Resubmits as verbatim: I beseech your assistance, I am currently employed in Lee C.J., West Yard Prison Industry, and respectfully seeks the following information with regards to my Escrow account(s):

1. Does this account draw interest, if so, what is the current rate
2. Will I receive quarterly statements... automatically, etc...
3. Provide me with a complete copy of instructions, as to how to access escrow account.
4. Will I be charged a service fee, if so, explain.
5. Provide me with a complete copy of the Prison Industry Service Program pay deductions, and provision(s) [S.C. Code of Law] of authorization.
6. In addition, include a separate statement of my 1980 & 1981 Work Release Escrow account mandatory Long Term Savings... status and balance... that were never transferred to my E.H. Cooper Trust Fund Account.

Thank You

DISPOSITION BY STAFF MEMBER:

- 1) The account does earn interest see attached
- 2) Statements are not issued on long term "P" account for service however if your account earns more than \$10. interest per year you will receive a 1099.
- 3) you do not have access to your escrow account until your release.
- 4) no
- 5) we do not provide copies of policy or Code of Law. you will need to go to the law library for the code of Law. Policies should be available at the institution.
- 6) Statements from '80 + '81 are not available. According to our records you received a Cooper deposit for Live-on Work Ctr. on 3/30/94

DATE:	SIGNATURE:
4/18/09	

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER**

TO: NAME: <u>MS. Long / MS. Roof, Financial Accounting Dept.</u>	TITLE:	DATE: <u>July 7, 2009</u>
INMATE'S NAME: <u>Basil W. Akbar</u>	SCDC #: <u>065498</u>	
INSTITUTION: <u>Lee County</u>	LIVING QUARTERS: <u>Richland C-119</u>	

I am in receipt of your Disposition... dated June 18, 09, as to my December 1, 2008, Request to Staff Member addressed to Ms. Roof... However, with regards to my Question #6 "In addition, include a separate statement of my 1980 & 1981, Work Release Escrow Account Mandatory Long Term Savings... Status and balance... that was NEVER transferred to my E.H. Cooper Trust Fund Account,"... Your reply was... "statements from 80 & 81 are Not available. According to our Record you received a Cooper deposit from Livesay Wak Center on 3/30/94.

To the contrary, in 1994 I was located at Lieber Inst, the only SCDC deposit should have been a Reimbursement for lost property [GA #CJ-030-94], Ms. Suzanne Reich, Chief Accounting Branch, DA 3/15/94 (#2723) & 3/25/94 (#50*) both cash deposits was from me... only deposits in March. MOREOVER, said account [Basil W. Akbar, a.k.a. Melvin T. Brown, #065498] was NEVER closed.

I am respectfully requesting under F.O.I.A. SC Code §§30-4-10 thru 30-4-110, that you access your records that may be archived/reduced to Micro Fiche for information pertaining to above referenced account, and I would appreciate a prompt response, as the Regulation stipulates. Thank you in advance,

DISPOSITION BY STAFF MEMBER:

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Debrah Long
South Carolina Dept. of Corr.
Financial Accounting Dept.
4414 Broad River Rd
Columbia, SC 29210

DATE:

SIG

3.

COMPLETE THIS SECTION ON DELIVERY

A. Signature

[Signature] Amos Ackerman

B. Received by (Printed Name)

C. Date of Delivery

7-23-09D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER**

TO: NAME: <u>Ms. Melton</u>	TITLE: <u>Business Office</u>	DATE: <u>April 23, 2010</u>
INMATE'S NAME: <u>Basil W. Akbar</u>		SCDC #: <u>065498</u>
INSTITUTION: <u>Lee County</u>		LIVING QUARTERS: <u>Richland C-119</u>

Madam:

PER Mrs. L. Johnson Guidance Clerk disposition dated 4/21/10, She suggested that I submit a Request to Staff to you with regards to the status and balance of my 1979-1981 April 8, Work Release Long Term Escrow Savings Account that was never closed.

I am Requesting a chronicle narrative of said account with interest.

Thank You.

DISPOSITION BY STAFF MEMBER:

Akbar: According to the system, you do not have an account of "Work Center" funds. That account was probably closed and archived when you were released in 1981.

At the present you have \$56.76 in your PI mandatory savings account.

DATE: <u>4/28/10</u>	SIGNATURE: <u>Ms. Melton</u>
-------------------------	---------------------------------

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM

STEP 1

INMATE NAME: Basil W. Akbar
 SCDC NUMBER: 065498
 INSTITUTION: Lee County
 HOUSING UNIT: Richland C-119
 WORK ASSIGNMENT: Horticulture

Office Use Only
 Grievance No. Lee CI 0813-10
 Code: General mg
 Policy _____
 Disc. Hear. _____
 Class. _____
 Date Received 5/5/10
 IGC Initials RJ

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy) Upon Submitting a Request to Staff Member [dated April 23, 2010 and returned April 28, 2010] to MS. Melton in Lee C.I. Business Office, at suggestion of MS. L. Johnson Lee C.I. Grievance Clerk, April 21, 2010, I was taken by surprise and advised that, Quote: "According to the system, you do not have an account of work center funds. That account was probably closed and archived when you were release in 1981," said work release escrow account was never closed, and Trust Account employee(s)/official(s) in the course of their duties, has either oversighted, or did fraudulent appropriated to use of property (money) in his/her possession owed by Grievant without consent over a thousand dollars constituting embezzlement and larceny.

ACTION REQUESTED:

That work release escrow account be made transparent and accountable of funds with interest, and/or arrest warrant issued if funds are missing from account, and make copy of escrow archived record available.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

wrote: Ms. Melton Bus. Less office April 23, 2010

Basil W. Akbar 4/29/2010
 Grievant Signature Date

ACTION TAKEN BY IGC:

This is a duplicate of grievance LEE CI #0813-10, filed on 03/17/10. I did advise you to submit a request to staff to Ms. Melton to address your concerns, however this is still the same issue as Lee CI 0813-10 that was returned to you on 04-21-10. This grievance is being returned to you with no action taken.

L. Johnson 5/26/10
 IGC Signature Date
Basil W. Akbar
 Grievant Signature Date

- ☒ I accept the action taken by the IGC and consider the matter closed.
☐ I do not accept the action taken and wish to appeal.

REQUIRES URGENT RESPONSE RESPECTFULLY
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE
STEP 1

RECEIVED

INMATE NAME: Basil W. Akbar JUN 16 2010
SCDC NUMBER: 065498 INMATE GRIEVANCE
INSTITUTION: Lee County
HOUSING UNIT: Richland C-119 JUN 09 2010
WORK ASSIGNMENT: Horticulture

Office Use Only
Grievance No. Lee C.I. 1598-10
Code: General IP
Policy _____
Disc. Hear. _____
Class. _____
Date Received 6/10/10
IGC Initials _____

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy) GRIEVANCE CLERK
L. Johnson's Reckless indiscretion and conspiracy against my civil rights. Where Grievant
sought to have his E.H. COOPER WORK RELEASE MANDATORY LONG TERM ESCROW SAVINGS ACCOUNT
made transparent to him, as to status & balance which Head Quarters Financial Branch
fail to do, lead to reasons to believe that funds from my account #065498 was missing or
unjustly seized without notice or consent, depriving me of property in violation of 4th and
14th Amend. State & Federal Const. Grievant has attempted to use grievance system to remedy
complaint [Lee C.I. #2323-09; Lee C.I. #0813-10; Lee C.I. #1270-10]. L. Johnson has repeatedly and erroneously
denied me access to system upon insufficient reasoning. My interest to funds in my
PERSONAL ACCOUNT is a protected property interest. * CONTINUE ON ATTACHED SHEET *

ACTION REQUESTED: (1) That WORK RELEASE ACCOUNT #065498 be made transparent to me.
(2) That Grievances #Lee C.I. 2323-09; #Lee C.I. 0813-10; & Lee C.I. 1270-10 be processed. (3) That
L. Johnson and C. James be Reprimanded and Replaced.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Wrote: L. Johnson April 23, 10 ... C. James disposition Reply April 23, 2010
M. Roof & D. Long February 26, 2010 ... Reply pending

Basil W. Akbar June 7, 2010
Grievant Signature Date

ACTION TAKEN BY IGC:

In Accordance with Agency Policy, GA 01.12, "Inmate Grievance System", 17.3 A grievance concerning the performance of any Institutional IGC/IGA shall be referred to the Chief/Designee, Inmate Grievance Branch, for investigation and response. Grievance forwarded on 06/10/10. lmj

- ☐ I accept the action taken by the IGC and consider the matter closed
☐ I do not accept the action taken and wish to appeal.

IGC Signature Date

Grievant Signature Date
EXHIBITS ATTACHED 6 PAGES

*CONTINUE FROM STEP 1 FORM:

THERE is no statute of limitation to seek status / balance, in an account. Grievant has a absolute unqualified Right to access and seek status of any and all personal savings account managed by SCDC, such inquiry does not depend on whether an incident has occurred as L. Johnson has alluded on each grievance, HOWEVER no incident exist until grievant is made aware of wrong, or deprived of an vested Right, and/or impending threat to person / property. Suspicion was arouse August 2009, SEE EX #1 Request to Staff disposition dated June 18, 2009, Received by Grievant July 6, 09. On July 7, 09 Grievant Refuted D. Long's account via certified Request to Staff, currently pending Reply. SEE EX #2

On August 17, 09 initial grievance was properly filed. Moreover, Grievant was Not officially informed of seizure of his account or disclosed to Grievant until April 28, 10, SEE EX #3, and grievance was promptly and properly filed. No fair Notice was given prior to said date, therefore Grievant should Not have been Sanction with a time frame.

L. Johnson has imposed a illegal burden on me, and impeded legal Rights to inquire and seek Relief, or exhaust administrative informal Resolution through steps in grievance procedure, and she has exceeded her authority and responsibility by weighing the merits of complaint and making administrative determination. My personal account does Not lie upon the whim of a grievance clerk.

L. Johnson is clearly oblivious of her duty owed to me / general population in a unbiased manner, and is insensitide to recognize or acknowledge wrong and abusive treatment, due to her obligation / interest to resolve disputes in favor of Agency, Staff and Employees. L. Johnson's action and omission are knowingly, intentional and calculated to deny just Relief, and to imply that I have No Right to know about my personal property (money's), or demand information from the entity (SCDC) charged with the fiduciary duty / obligation to me the beneficiary of said trust, apparently this obligation has been breached and L. Johnson is conspiring with Responsible officials to further the cause.

It is also apparent that the Grievance system is ineffectide, discriminatory and futile, and serves merely as a preliminary step toward legal action. L. Johnson's omission / conduct is very serious and may constitute a felony conspiracy against civil Rights; obstruction of Justice, etc., for failure to act after being alerted of possible criminal misconduct.

CC: CORR. & penology
SLED
file

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

INMATE NAME: Basil Akbar
SCDC NUMBER: 065498
INSTITUTION: Lee CI
HOUSING UNIT: Rich 119B
WORK ASSIGNMENT: _____

Office Use Only
Grievance No. Lee CI 1598-10
Code: General JP
Policy _____
Disc. Hear. _____
Class. _____
Date Received 4/14/11
IGC Initials _____

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): _____

In accordance with SCDC Policy GA-01 12, "Inmate Grievance System," 17.3, "A grievance concerning the performance of any Institutional Inmate Grievance Coordinator shall be referred to the Chief/Designee, Inmate Grievance Branch, for investigation and response." Therefore your grievance has been forwarded to Central Office for a response.

for M. White 3/28/11
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

I have reviewed your grievance. Documentation provided reveals grievance(s) Lee CI 2323-09 and Lee CI 0813-10 were returned to you unprocessed for exceeding the appropriate timeframe by Ms. Johnson, Lee Institutional Grievance Coordinator on October 5, 2009 and April 21, 2010. In accordance with Agency Policy GA-01.12, "Inmate Grievance System," you have fifteen (15) days from the date of an incident to file a grievance. Agency records indicate grievance Lee CI 1270-10 was returned to you unprocessed as a duplicate to Lee CI 0813-10. The allegations you have raised against IGC Johnson cannot be substantiated

Therefore, your grievance is denied.

You may appeal this decision under the Administrative Procedures Act to the Administrative Law Court. In order to appeal, you must fill out the attached Notice of Appeal Form and submit it as instructed on the form within 30 days of receipt.

I'm refusing to sign stating "It's signed"
a lawsuit and I will be waiving my rights
due to order "Lee" is the 2nd attempt
to get IGC to sign
Witness: Michael R. 4/26/11 4/26/11 C. Jones
Signature 4/8/11
Date

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

Grievant Signature

Date

8.

IGC Signature

Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

10-ALJ-04-1104 - JJ

Basil W. Akbar, 064598	)	Docket No. 10C114-IJ
Appellant,	)	(Grievance No. LCI 1598-10)
Vs.	)	
	)	BRIEF OF APPELLANT
South Carolina Department of	)	
Corrections.	)	
Respondent,	)	

STATEMENT OF ISSUES

1. Did South Carolina Department of Corrections (SCDC) conduct constitute "Default" and "Reprisal" where Prison Officials failed to process grievances(s) within fix time at each stage, and safeguard against reprisal.
2. Did SCDC violate Appellant's [Akbar] 1st, 4th, 8th and 14th Amendment rights by depriving him of access to or, failing to make "Work Release Escrow Account" transparent to him as a punishment.
3. Did SCDC entity, and Lee County Institution Grievance clerks' impede Akbar's right to grieve Civil Right and Civil Liberty complaint; and access to the court regarding financial mistake in his E.H. Cooper Work Release Escrow Account.
4. Did SCDC'S conduct violate Akbar's Due Process right by closing his Account "Void Notice" and "Fraudulently" appropriated his Work Release Long Term Escrow saving account.

STATE OF THE CASE

This appeal was raised from an Inmate Grievance filed by the Appellant Basil W. Akbar [Akbar], filed and dated June 7, 2010, claming that his state created Liberty interest, statutorial right, rules, regulations, and SCDC'S Policies

governing procedure were violated when SCDC'S official fail to strictly comply with SCDC policies, Rules and Regulations as set fourth in [ADM-15.12; and GA-01.12;] Policies; and relevant statutory laws.

On and between July 1979 thru April 1981, Akbar were constitutionally assigned to Work Release Programs; and employed at Owen Electric & Steel company, and weekly deductions were taken for "Mandatory Long Term Escrow Saving Account"... and "Room and Board," and subsequently released on conditional parole April 1981, however balance of Escrow account was not released, nor transferred to Akbar's general account.

On October 22, 2008 Akbar initiated correspondent with SCDC'S Financial Business Office [Ms. Martha Roof], and forwarded a second request on December 1, 2008 upon no reply... after numerous phone calls via family members... on June 18, 2009, Akbar's Request to Staff Member was returned with disposition dated June 18, 2009, from SCDC'S Financial Account Branch [Ms. Debrah Long], whom intentionally misconstruing his request, **SEE, Exhibit #1.**

On July 7, 2009, Akbar forwarded an additional Request to SCDC'S Financial Account Branch [Ms. D. Long & Ms. M. Roof]. Via "certified mail"... that he sought information pertaining to said "Work Release Escrow Account" pursuant to SC Code §§ 30-4-10 thru 30-4-110, to no avail. **SEE, Exhibit #2.**

On August 17, 2009, Akbar filed a "step 1" grievance, however grievance number Lee CI #2323-09, was "returned unprocessed," stating that, "According to Agency Policy/Procedure GA-01.12, you have (15) fifteen days from the **date of the alleged incident** to file a grievance on this issue." **SEE Exhibit #2.**

On March 17, 2010, Akbar filed a "**Second** Step 1" Grievance, that was subsequently "**return unprocessed,**" however, ICG, L. Johnson, recommended, **Quote**, "I suggest that you submit a request to staff to Ms. Melton in the Business Office to address this issue." **SEE Exhibit #3.**

Upon submitting request to Lee C.I. Business Officer to Ms. Melton, Akbar was inform for the first time that, **Quote**, "According to the system, you d not have an account of Work Center Funds. That account was probably closed and archived when you were released in 1981." As a result a "**third** step 1" grievance was filed and "**returned unprocessed,**" **SEE Exhibits #3 & #4.**

Akbar sought to have his E.H. Cooper Work Release Mandatory Long Term Escrow Savings Account made transparent to him, as to status and balance which SCDC Head Quarters Financial Branch fail to do. Leaving him to believe that funds from his account [#065498], are missing or... unjustly seized without "Notice or Consent" depriving him of personal property, and Lee C.I. Grievance Officials has repeatedly... and erroneously denied me access to grievance system upon insufficient reasoning.

Based upon the defined SCDC'S Policies, Procedure and Regulations, it is unambiguous that SCDC'S Officials has violated Akbar's Liberty Interest Rights.

ARGUMENT # I.

SCDC'S conduct constituted "Default" and "Reprisal," where Prison Officials failed to process grievance(s) within fixed time at each stage, and safeguard against reprisal.

SCDC'S Official's failure to discharge duty, and failure to request or serve Notice for enlargement of time pursuant to SCDC'S Grievance Policy # GA-01.12; Nelson Consent Decree, page 38, § 2; and 42 USC § 1997 (e), (2), (6), (a).

The Appellant filed Grievance # Lee CI-1598-10 (June 7, 2010). "Requires urgent Response Respectfully," duly summoned SCDC pursuant to S.C. code Ann. § 1-23-380 (a), (6), and Respondent completely fail to act under the [SCDC] definition of GA-01.12, defined at pertinent part as follows:

Pursuant to "Prison Litigation Reform Act," exhaustion of Administrative Remedies [SCDC] has entered **Procedure Default**... and Notice of Appeal is proper before this Court. **Underwood v. Wilson**, 151 F.3d 292 (5th Cir.), **held**, "Prison must process grievance within time, there must be a fixed time limited at each stage, and there must be a safeguard against reprisal; **SEE ALSO, Harrah v. Levertte**, 271 SE2d 222, **held**, "Administrators must follow their own regulations to comply with **due process**, 5th and 14th Amendment of the constitution.

It is clearly apparent that SCDC'S officials have willfully and intentionally fail to perform ministerial duties... and fail to keep within time restraints... and have exceeded the power conferred upon the agency by clearly established authority, thus, the Appellant rightfully seeks order for **Default Judgment** granting relief sought.

ARGUMENT # II.

SCDC violated Appellant Akbar's, 1st, ~~4th~~, 8th, & 14th Amendment rights by depriving him access to or, failing To make "Work Release Escrow Account" transparent to Him as a punishment.

Where the Appellant initially sought the status and balance of his SCDC Work Release Mandatory Long Term Savings Account from its inception that drew interest pursuant to SC Code § 24-3-40, via numerous request at Institution and Finance Account Branch Headquarters... request was either ignored or misconstrued... grievances [Lee CI # 2323-09; Lee CI # 0813-10; and Lee CI # 1270-10] were filed and subsequently returned arbitrarily and capriciously **unprocessed**... as a punishment for inquiring about the status of account... and silence Akbar's speech... and depriving him of personal property **void due process** of the law... by failing to make his **Work Release** Account transparent... or returning property upon release on conditional parole... furthered the denial of numerous constitutional Rights of Akbar,

Under the **SCDC'S Definition** of Policy **Employee Account** ADM-15.12:

***Section 17.4**, "reporting of Mistake in Account, if an inmate thinks a mistake has been made with his/her account, an SCDC Form 19-11 "Inmate Request to Staff Member" must be completed and turned in to the Institutional Cooper Trust Fund designee no later than 75 calendar days following the end of the month in which the mistake was made.

***Section 17.4.3**, "SCDC investigation of Account Mistake, the Institutional Cooper Trust Fund designee will give the inmate the result of its review or correct the error within ten working days... the Financial Account Branch will notify the inmate in writing within ten working days that the investigation is continuing within 90 calendar days. The Financial Branch will either correct the mistake or explain why the account is correct and record the necessary adjustment to the account."

Based upon the defined regulations... and constitutional violations in liberty Interest Rights entitlements, it is unambiguous that the SCDC'S Officials grossly violated Akbar's Liberty Interest Right.

ARGUMENT # III.

SCDC entity, and Lee County Institution Grievance Clerk's impeded Akbar's right to grieve Civil Right Complaint and Civil Liberty; and access to legal Proceeding concerning Financial mistake in his E.H. Cooper Work Escrow Account.

The Appellant submits that he is **not** challenging the constitutional right of the Institutional Grievance system... instead Akbar is challenging the constitutional rights belonging to him by virtue of his **Civil Rights** as a citizen... individual... and member of Civil Society... to Political, Economic, and Social Equality... and **Civil Liberty** amenability to civil action... liability to actions seeking private remedies... and the enforcement of personal rights, based on contract, tort, etc., pertaining to the rights and duties... and the rights to legal proceedings concerning these rights.

SCDC and Lee County Institution Grievance Clerk's arbitrary... repeated... intentional acts and omission did wrongfully impede and obstruct the due course of justice... subverted Akbar from exhausting required remedies... or exhaustion of Judicial... or Administrative Remedies... where the "Prison Litigation Reform Act"... or "Civil Rights of Institutionalized Prison Act," requires exhaustion of Administrative Remedies to advance complaint.

Akbar's free speech... thought... action, and property rights were unlawfully infringed upon, as he sought the status and balance of his financial account and Redress Relief... Remedy... and Recovery.

Akbar further submits that there is no SCDC E.H. Cooper Trust Funds Account limitation on seek status/balance in his account... and has an absolute unqualified right to assess... seek status, or transperence of his saving account manage by SCDC. General inquiry does not depend on whether an incident had occurred as eluded. **However**, no incident existed until April 28, 2010, when Akbar was officially informed of the fraudulent seizure of his account, therefore action was properly filed... while Akbar raised claims of criminal activity... conspiracy against civil rights/civil liberty... and constitutional violation of his Civil and Liberty Interest Rights.

ARGUMENT # IV.

SCDC'S conduct did violate Akbar's Due Process Right by closing his account "Void Notice" and "Fraudulently" appropriated his Work Release Long Term Escrow Saving Account.

Akbar's position is that SCDC'S Financial Account Branch is charged with the fiduciary duty and obligation to him... the beneficiary of [account #65498] Work Release Mandatory Long Term Escrow Saving Account.

Under the **SCDC'S Definition** of Policy **Employee Account** ADM-15.12; **Close out of Inmate Account**:

***Section 13.1**, checks requested for delivery by institution to inmate prior to release.

***Section 13.1.4**, no release checks will be automatically cut by Financial Account Branch Personnel for any Institutional. Inmates are responsible for requesting their funds at least two weeks prior to release.

***Section 13.2.5**, inmates release from SCDC custody who did not request their funds prior to release must mail a written request to the Financial Account Branch to receive his/her funds...

***Section 15**, Account statement

***Section 20**, Work Release Program Inmate, unclaimed Accounts... letter will be sent to the last Known address Of the account holder whose balance is \$50.00, or more.

Akbar submits that he never closed-out his Work Release Mandatory Long Term Saving Account... and that he were paroled and released on the same day... and was not advised or given notice regarding closing-out said account.

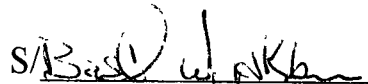
Based on the SCDC'S defined regulations governing Work Release Savings Accounts it is unambiguous that SCDC'S officials violated Akbar's... "Procedural and Substantive" Due Process Rights.

The Appellant further seeks discovery pursuant to ALC Rule 21... and reserves rights to amend pleadings after discovery is completed, from time of service until the time of hearing of the action so that information sought, which comes to the knowledge of Akbar after original answer to interrogatories.

CONCLUSION

The Appellant seeks the following relief; (1) to have Akbar's [1979-1981] Work Release Mandatory Long Term Saving Account made transparent to him, (2) balance and interest, (3) immediately transferred to his E.H. Cooper Trust Funds Account, or (4) designee.

Date: February 15, 2011

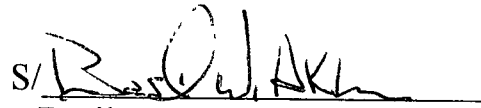

Basil W. Akbar, 65498
Lee County Corr. Inst.
990 Wisacky Hwy Rich.C-119
Bishopville, SC, 29010

Certificate of Service

I, Basil W. Akbar, hereby certify that he served upon respondent counsel of Records, Brief of Appellant; Exhibits, and Appellant's Interrogatories, and request for Production of Documents by depositing copy of the same in the United States Postal Service, postage pre-paid at:

General Counsel
South Carolina Department of Corrections
4444 Broad River Road
Columbia, S.C. 29221

Date: February 15, 2011


Basil W. Akbar, 065498
Lee County Corr. Inst.
990 Wisacky Hwy, Rich C-119
Bishopville, S.C. 29010

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Basil W. Akbar, #065498,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

Docket No. 10-ALJ-04-01104-IJ

ORDER OF DISMISSAL

This matter comes before the Administrative Law Court (ALC or Court) pursuant to a petition for relief filed on December 31, 2010 by Basil W. Akbar, an inmate incarcerated with the South Carolina Department of Corrections (SCDC or Department). In his Notice of Appeal, Appellant complains about the timeframe for which grievances should be processed and his Long Term Savings Account. On February 28, 2011, Respondent filed a Motion to Dismiss on the ground that Appellant's Step One Grievance was untimely filed. Appellant filed a Step One Grievance on March 22, 2010, complaining about his Long Term Savings Account. The grievance was returned unprocessed because Appellant exceeded the appropriate time frame to file the grievance. SCDC Policy GA-01.12 requires that inmates must file their grievance within fifteen (15) days from the date of the incident.¹ On May 5, 2010 Appellant filed another Step One Grievance, complaining of the same issue, regarding his Long Term Savings Account, that was unprocessed in the March 22, 2010 Step One Grievance because Appellant exceeded the time frame for filing. That grievance was also returned unprocessed because it was a duplicate of the March 22, 2010 grievance.

The doctrine of exhaustion of administrative remedies generally requires a person seeking relief from the action of an administrative agency to pursue all available administrative remedies

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APR 28 2011

¹ Pursuant to Department Policy/Procedure GA-01.12, an inmate must "complete Form 10-5, Step 1... and... submit the Form to an employee designated by the Warden... within 15 days of the alleged incident. Department Policy/Procedure GA-01.12, Inmate Grievance System, § 13.1. See *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000) (holding that the "Department's disciplinary and grievance procedures are consistent with the standards delineated by the Supreme Court in *Wolff v. McDonnell*," and that the "Department also prepared its grievance procedures in compliance with the Civil Rights of Institutionalized Persons Act...."). *Id.* at 373, 527 S.E.2d at 752 (citations omitted).

SC ADMIN. LAW COURT

before seeking such relief from the courts. See, e.g., Pullman Co. v. Pub. Serv. Comm'n, 234 S.C. 365, 108 S.E.2d 571 (1959); see generally Richard H. Seamon, Administrative Agencies—General Concepts and Principles, in South Carolina Administrative Practice and Procedure 1, 83-96 (Randolph R. Lowell & Stephen P. Bates eds. 2004) (hereinafter SCAPA). However, this exhaustion principle applies not only when a party is seeking judicial review of an agency action, but also when a party is seeking review of an agency action before another administrative agency, such as the South Carolina Administrative Law Court. See S.C. Code Ann. § 1-23-600(D) (Supp. 2010) (providing that appeals before the ALC are heard pursuant to the provisions of S.C. Code Ann. § 1-23-380 (Supp. 2010), which includes a general exhaustion of remedies requirement in subsection (A)). Further, the basic rationale for the doctrine of exhaustion is equally applicable to administrative appellate review of agency decisions by the ALC as it is to judicial appellate review of agency decisions. See Video Gaming Consultants, Inc. v. S.C. Dep't of Revenue, 342 S.C. 34, 38, 535 S.E.2d 642, 644 (2000) (noting that “[e]xhaustion 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.”).

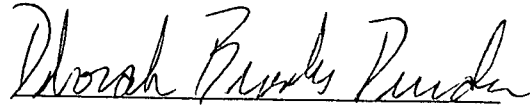
Here, Appellant failed to exhaust his administrative remedies with the Department prior to bringing this matter before the ALC by failing to abide by the Department's policy regarding inmate grievances. By his own inaction, Appellant simply failed to take advantage of his right to review in this matter. Zaman v. S.C. State Bd. of Medical Exam'rs, 305 S.C. 281, 285, 408 S.E.2d 213, 215 (1991) (“One cannot complain of a due process violation if he has recourse to a constitutionally sufficient administrative procedure but merely declines or fails to take advantage of it.”). Accordingly, Appellant has failed to exhaust his administrative remedies prior to bringing this matter before the ALC.

ORDER

Based upon the reasons set forth above,

IT IS HEREBY ORDERED that Respondent's Motion to Dismiss is **GRANTED** and the above-captioned appeal is **DISMISSED**, with prejudice.

AND IT IS SO ORDERED.



Deborah Brooks Durden, Judge
S.C. Administrative Law Court

April 28, 2011
Columbia, South Carolina

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or in the Interagency Mail Service addressed to the party(ies) or their attorney(s).

This 28th day of April 2011

By, Robin E. Calera
Judicial Law Clerk

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Basil W. Akbar,
Plaintiff,

vs.

South Carolina Department
of Corrections; Bill Byars;
Martha Root; Deborah Long;
Lisa Johnson;
Ann and John Doe.
Defendants.

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
2013 CP400301
Case No.

SUMMONS

RICHLAND COUNTY
FILED
2013 JAN 16 PM 2:23
JEANETTE M. HOSKINS
C.C.P. & C.S.

YOU ARE HEREBY SUMMONS, and REQUIRED to answer the Complaint herein, a copy of which is here with served upon you, and to serve a copy of your answer to this Complaint upon the subscriber at the address shown below within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Complaint, Judgment by Default will be rendered against you for the Relief demanded in the Complaint.

Date: October 1, 2012



Basil W. Akbar, 065498
Lee County Corr. Inst.,
990 Wilsack Highway, Kerr, 2224-J
Bishopville, S.C. 29010

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

Basil W. Akbar,
Plaintiff,

Case No.

vs.

COMPLAINT

South Carolina Department
of Corrections; Bill Byars;
Martha Roof; Debrah Long;
Lisa Johnson;
Ann and John Doe.
Defendants.

(Jury Trial Demanded)

2013 JAN 16 PM 2:23
JEANETTE W. MCENIDE
C.P. & G.S.

RICHLAND COUNTY
FILED

The Plaintiff, Complaining of the above-named Defendants,
would show the Court:

1. The Plaintiff, Basil W. Akbar, at all times Relevant herein a
State Prisoner currently incarcerated at the Lee County Correctional
Institution, 990 Wisacky Highway, Richland C-119, Bishopville, S.C. 29010.

2. The Defendant, South Carolina Department of Corrections
(SCDC / Department) includes all staff, Departments, Institutions, Officials,
Employees, and Director, as well as whom SCDC is liable for, is
sued for willful, gross negligent, malicious tortious acts, as
names and set forth herein, as allowed under the South Carolina
Torts Claim Act; and is sued, Seeking declaratory, injunctive and
monetary relief.

3. The Defendant, Bill Byars, is the Director of SCDC, he is
Responsible for overall supervision of its staff, Employees, and the
Agency daily operations, the welfare of each prisoner, the implementa-
tion and enforcement of all Rules / Regulations governing prisoner and
SCDC's employees and their training. He is sued in his individual/
Official Capacity (s).

4. The Defendant, Martha Root, at all times Relevant served as an SCDC Finance Accountant, charged with vicarious/direct Management of SCDC's E.H. Cooper Trust Account. She is sued in her individual / official capacity(s).

5. The Defendant, Deborah Long, at all times Relevant served as an SCDC Finance Accountant, charged with vicarious / direct Management of SCDC's E.H. Cooper Trust Account. She is sue in her individual / official capacity(s).

6. The Defendant, Lisa Johnson, at all times Relevant served as an SCDC Grievance Clerk, charged with carrying out her duties in a lawful and constitutional manner. She is sued in her individual / official capacity(s).

7. The Defendants, Ann and John Doe, are Agency / Employees of SCDC, and upon completion of discovery will be named, and sued in their individual / official capacity(s).

8. All the Defendants have acted, and continued to act under Color of State Law at all times Relevant to this Complaint; and pursuant to S.C. Code Ann. § 24-1-220, must be brought in Name of Director.

JURISDICTION

9. This action is brought pursuant to S.C. Code Ann. §§ 15-28-10 thru 15-28-190 (Supp. 2002), seeking monetary, Declaratory and Injunctive Relief, for wrongs done by Defendants in accordance with S.C. Tort's Claim Act, and § 16-5-60 (1985).

STATEMENT OF FACTS

10. The Plaintiff pled guilty to Murder in 1971, and received a sentence of life with parole eligibility... and from July 1979 thru April 1981 the Plaintiff [AKBAR] were constitutionally assigned to SCDC's Work Release Programs, and employed at Owen Electric & Steel Company, and weekly deductions were taken for, "Mandatory Long Term Escrow Savings Account"... and Room and Board, and subsequently released on conditional parole April 1981 day of parole hearing. However, balance of Escrow

Account was Not Release. On April 1985 Akbar's conditional parole was Revoke in absence and returned to the restraint of SDC, Akbar contends that he has an vested interest right to his work release escrow account,

STATEMENT OF CASE

11. This Complaint Reised From an Inmate Grievance(s), [Lee C.I. #2323-09, #0813-10, #1270-10, and #1398-10] initiated by the Plaintiff Basil W. Akbar (Akbar), filed between August 17, 2009 thru June 2, 2010, and Administrative Law Court Appeal filed, and dated December 31, 2010 Claiming that his Liberty, Interest Rights, Statutory Rights, Rule, Regulations, and Department's Policies governing procedures was grossly violated.

12. On October 22, 2008, Akbar initiated Correspondent with SDC's Financial Business office [Martha Roof], and second Request on December 1, 2008 upon no Reply ... and after numerous phone calls via family members; Akbar's Request to Staff Member was Return with disposition dated June 18, 2009, from [Debrah Long] SDC's Financial Account Branch whom fail to address concerns. A third Request was served on Ms. M. Roof and Ms. D. Long, via "Certified Mail" ... seeking information pertaining to said "Work Release Escrow Account" pursuant to S.C. Code Ann. §§ 30-4-10 thru 30-4-110. However Defendants fail to Respond, or make said account transparent upon Request under the SDC's definition of Department's Policy "Employee Account, ADM-15.12."

13. On August 17, 2009, Akbar filed a "Step 1" grievance (Lee C.I. #2323-09) that was returned unprocessed, and on March 17, 2010, Akbar file a second grievance (Lee C.I. #0813-10), asserting fraudulent appropriation of his Work Release Escrow Savings Account ... and likewise returned unprocessed by Ms. Lisa Johnson Grievance Clerk, stating, "According to Agency Policy GA-01.12, you have (15) Fifteen days from the date of the alleged incident to file a grievance on this issue" ... however suggested that Akbar submit a Request to Ms. Melton, Lee C.I. Business office to address issue.

April 28, 2010
14. Akbar was informed for the first time "February 9, 2009" that according to the system you do not have an account of Work Release in 1981. That account was probably closed and archived when you were Release in 1981."

15. As a Results a Third grievance (LEE C.I. #1270-10) was filed and returned unprocessed by MS. L. JOHNSON GRIEVANCE CLERK.

16. ON JUNE 7, 2010, Akbar filed grievance (LEE C.I. #1598-10) contending that grievance Clerk and SCDC deprived, and violated his vested liberty interest entitlement, civil and Constitutional rights.

17. ON December 31, 2010, Akbar filed a S.C. Administrative Law Court (ALC) Notice of Appeal, contending that the Department had "Procedurally Defaulted," Raised as one of numerous issues, that was dismissed when the ALC impermissibly heighten the standard of review.

CLAIMS

FIRST CAUSE OF ACTION PROCEDURAL DEFAULT

18. The Plaintiff Realleges each and every allegation set forth above as if repeated herein verbatim, and further alleges:

19. Akbar contends that Defendants SCDC and Bill Byars Director, by virtue of Chapter 78 of Title 15 § 24 South Carolina Code of Law is responsible for the conduct of the Defendants as set forth above, said conduct being grossly negligent, wilfully, wanton and Reckless in the particular to wit:

a. SCDC's conduct constituted procedural default, and Reprisal where prison officials fail to process grievance(s) within fixed time at each stage, and safeguard against Reprisal, and

b. grievance LEE C.I. #1598-10, filed June 7, 2010 went unaddressed passed fix time limit, in violation of SCDC's Policy GA-01.12; Nelson Consent Decree, page 38, § 2; 1st, 5th and 14th Amendment of State and Federal Constitution; S.C. Const. Art. 1, § 3; and established law.

c. SCDC/officials did wilfully and intentionally fail to perform ministerial duties ... fail to keep within time Restriction and exceeded the power conferred upon the Agency by clearly established authority ... ignoring its own guidelines, Constituting default.

SECOND CAUSE OF ACTION TORTUOUS ACTS

20. The Plaintiff Realleges each and every allegation set forth above as if repeated herein verbatim, and further alleges:

21. The conduct of Defendants, Staff, Employees, Officials and Agents, constituted gross negligent, willful, wanton and intentional violations by virtue of Chapter 78 Title 15 South Carolina Code of Laws; S.C. Code §§ 24-3-20 thru 24-3-40; under the SCDC's definition of Policy #ADM-15.12; 1st, 5th, 8th and 14th Amendments, State and Federal Constitution(s), S.C. Constitution Art. I, § 3, as set forth above:

- a. in that Defendants Refusal / failure to make Work Release Escrow Account transparent to him, and as a punishment.
- b. in that Defendants deprived him of benefit of interest pursuant to S.C. Code § 24-3-40... and deprived of personal property did due process, and
- c. in depriving him of reporting of mistake in Account, and did unlawfully silence his speech.
- d. in that Defendants fail to investigate, or correct mistake, or explain why the account is correct.

THIRD CAUSE OF ACTION OUTRAGE

22. The Plaintiff Realleges each and every allegation set forth above as if repeated herein verbatim, and further alleges:

23. The Plaintiff contends that the conduct of the Defendants as set forth above was outrageous in nature, in that conduct was atrocious and utterly intolerable in a civilized community and so at extreme and outrageous as to exceed all possible bounds of decency, thus denying fundamental liberty interest protected by Due Process Clause, such conduct was deliberate, intentional, reckless and an arbitrary abuse of power sufficient to

Shock the Judicial conscience. Defendants acted with full appreciation of the effect of its action, thus certain cause Akbar to suffer physical, psychological and emotional distress... and in that Defendants willfully and grossly violated provisions, laws, rules, regulations and constitutional rights, without regards for Akbar's life, liberty or property, while being denied due process, equal protection of the law, and property interest rights:

- a. in that Defendants deprived Akbar of civil liberty, amenability to civil action... liability to actions seeking remedies... and enforcement of personal rights based on tort pertaining to the rights and duties... and rights to legal proceedings concerning these rights.
- b. in that Defendants deprived him of his civil rights belonging to Akbar by virtue of his civil rights as a citizen, and member of civil society, and society, and social equality, and
- c. in that Defendants arbitrarily... Repeated... intentional acts and omission did unlawfully impeded/obstructed the due course of justice... and subverted Akbar's rights.
- d. in that Defendants unlawfully infringed upon Akbar's Free Speech and property rights, as he sought the status and balance of his Work Release Escrow Account... Redress Relief... Remedy and Recovery.

FOURTH CAUSE OF ACTION FRAUDULENT APPROPRIATION/DAMAGES

24. The Plaintiff Realleges each and every allegation set forth above as if repeated herein verbatim, and further alleges:

25. As a direct and proximate results of the afore said acts and omission on the part of the Defendants, the Plaintiff has been injured and damaged, in that he has been fraudulently deprived of property [money], privileges and immunities afforded to citizens of the State of South Carolina, and has been

subjected to cruel and unusual punishment... deprived of liberty and property entitlement, due process and equal protection of the law, thereby entitling him to recover actual and compensatory damages from the Defendants... and is further entitled to punitive/exemplary damages from the Defendants, as the conduct of such Defendants as set forth herein was willful, wanton, reckless and grossly negligent, as well as knowing, intentional and malicious.

a. in that SDC's Financial Account Branch is charged with the fiduciary duty and obligation to Akbar, the beneficiary of Work Release Escrow Savings Account #065498.

b. in that SDC/Defendants are required under Policy ADM-15.12 Close-out of Inmate Account, Section 20, Work Release Program Inmate Unclaimed Account... letter will be sent to the last known address of the account holder whose balance is \$50.00, or more, and

c. in that Akbar never closed-out his Work Release Escrow Account... and were paroled and release on the same day, and was not advised or given notice regarding closing-out Escrow Account.

26. The Plaintiff further seeks leave for discovery pursuant to Rule 33 and 34, S.C. Civ. Proc., and reserves rights to amend pleadings after discovery is completed from time of service until time of hearing of this action.

RELIEF

WHEREFORE, Plaintiff request this Honorable Court grant the following Relief:

A. Issue a Declaratory Judgment in that Defendants violated State Provisions, Laws, Rules and Regulations when that:

1. in that defendants under SDC's definition of Policies, ADM-15.12, Closed-out of Inmate Account, and GA-01.12, Informal Resolution violated procedures and process.

2. in that defendants fail to carry-out fiduciary duty / obligation owed to [Akbar] beneficiary of account.
3. in that defendants ERRONEOUSLY RENDERED AKBAR PERMANENTLY ineligible for attaining his WORK RELEASE ESCROW ACCOUNT Funds, upon unjustified claim.
4. in that Akbar's liberty interest and property interest Rights was properly established.

B. Issue Injunctive and Mandatory Injunctive Orders that Defendants, Staff, Employees, Officials and Agents:

1. Refrain from arbitrarily imposing RESTRAINTS NOT PRESCRIBED / applicable in Akbar's case.
2. that Akbar's [1979-1981] WORK RELEASE ESCROW ACCOUNT be made immediately transparent... balance... status, and interest... transferred to his E.H. COOPER ACCOUNT, OR designee.

C. Grant Damages in the amount of:

1. \$600,000 the statutory limit, jointly / severally against all named defendant(s).

D. Grant Punitive Damages of \$300,000 against each Defendants.

E. And for such other and further Relief as the Court may deem proper and just.

Bishopville, S.C.,
Date: June 14, 2011
October 1, 2012


Basil W. AKBAR, 065498
Lee County CORR. INST.,
990 Wisacky Highway, Rich. C-119
Bishopville, S.C. 29010

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Basil W. Akbar, #310671,

Plaintiff,

v.

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

Defendants.

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

C/A No: 2013-CP-40-0301

ORDER

FILED
2013 SEP 26 AM 10:16
JEANETTE W. HODGINS
C.C.P. & G.S.

This matter came before me on August 7, 2013, for hearings on Defendants' Motion to Dismiss/Strike Punitive Damages; Defendants' Motion to Dismiss and for Summary Judgment; Defendants' Motion for Protective Order and to Stay Discovery; Plaintiff's Motion to File a Supplemental Complaint; Plaintiff's Motion for Appointment of Counsel; and Plaintiff's Motion to Compel. Present at the hearings were *pro se* Plaintiff, Basil W. Akbar, #310671, and counsel for Defendants, Erin Farrell Farthing.

Defendants moved to dismiss, and to strike, Plaintiff's prayer for punitive damages against all Defendants pursuant to Rule 12(b)(6) and 56, SCRPC, and pursuant to the South Carolina Tort Claims Act, S.C. CODE ANN. § 15-78-170(b).

Defendants also moved to dismiss this action and for summary judgment pursuant to Rules 12(b)(1), (2), (4), (5), and (6), and Rule 56, SCRPC, on the grounds of lack of subject matter jurisdiction, lack of jurisdiction over the person, insufficiency of process and insufficiency of service of process, and that the claims fail to state a cause of action upon which relief can be granted. Specifically, Defendants moved to dismiss Plaintiff's Complaint and for summary judgment as Plaintiff failed to state a cause of action and that there is no genuine issue as to any material fact and that the Complaint does not state a claim upon which relief can be granted. Furthermore, Defendants moved to dismiss Plaintiff's Complaint on the grounds that Plaintiff failed to properly serve the Defendants and other necessary parties pursuant to Rule 4, SCRPC. Also, Defendants move to dismiss Plaintiff's Complaint on the grounds Plaintiff improperly named as Defendants individual employees of a governmental entity pursuant to S.C.

CODE ANN. § 15-78-70 and 15-78-200, in that any individually named Defendants must be dismissed from the suit pursuant to S.C. CODE ANN. § 15-78-70(c). Defendants also move to dismiss Plaintiff's Complaint on the grounds that Plaintiff's claims are barred by the applicable statutes of limitations.

Defendants also moved for a protective order and to stay discovery in this case pursuant to Rule 26, SCRPC.

Plaintiff moved to file a supplemental Complaint. Plaintiff also moved for appointment of counsel and moved to compel discovery responses from Defendants.

Having reviewed the materials on file in this case, and the arguments of the parties, the Court finds that (1) Defendants' Motion to Dismiss/Strike Punitive Damages should be granted; (2) Defendants' Motion to Dismiss and for Summary Judgment should be granted; (3) that all other pending Motions should be denied as moot; and (4) Plaintiff's Complaint and this action should be dismissed with prejudice.

APPLICABLE LAW AND FINDINGS OF FACT

Plaintiff, Basil W. Akbar, #310671 ("Plaintiff"), is presently confined to the Lee Correctional Institution of the South Carolina Department of Corrections ("SCDC") pursuant to orders of commitment of the Clerk of Court for Richland County. Plaintiff was convicted of murder September 1971. Plaintiff received a life sentence, but is eligible for parole. Plaintiff was released on parole in or around April 1981. Plaintiff was arrested for a number of drug offenses, and his parole was revoked in 1985. At that time, Plaintiff was returned to the custody of the SCDC, where he has been held since that time, and is currently serving the remainder of his life sentence.

Broadly construed, Plaintiff's Complaint alleges that he was employed in an SCDC Work Release Program from July 1979 through April 1981, and that, during that time weekly deductions were taken for "Mandatory Long Term Escrow Savings Account" and for room and board. Plaintiff contends that, at the time of his release on parole in 1981, the balance of his escrow account was not released.

While Plaintiff was returned to the custody of the SCDC in 1985, Plaintiff apparently did not inquire regarding the funds he alleges he did not receive until October 2008. Plaintiff filed three separate grievances regarding these alleged funds in 2009 and 2010, but each were unprocessed as untimely. Plaintiff appealed the decision from one of these grievances to the

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South Carolina Administrative Law Court, but his appeal was dismissed by Order dated April 28, 2011 based on Plaintiff's failure to exhaust his administrative remedies. There is no indication that the Plaintiff appealed that decision.

Plaintiff filed the present action on January 16, 2013. Defendants filed a Motion to Dismiss on February 27, 2013, as well as a Motion to Dismiss/Strike Plaintiff's claims for punitive damages under S.C. CODE ANN. § 15-78-120(b). In addition to the Motion to Dismiss, Defendants also filed a Motion for Summary Judgment on all allegations within Plaintiff's Complaint. Defendants contend that Plaintiff failed to file his Complaint within the statutorily prescribed period of time, and therefore should be barred by the applicable statute of limitations, and that Plaintiff has failed to set forth a claim against Defendants upon which relief can be granted.

Under the South Carolina Tort Claims Act, S.C. CODE ANN. § 15-78-10 *et seq.*, a claimant must commence an action for damages within two (2) years after the date the loss was or should have been discovered. S.C. CODE ANN. § 15-78-110. According to the statute, "loss" is defined as "bodily injury, disease, death, or damage to tangible property, **including lost wages and economic loss** to the person who suffered the injury, disease, or death, pain and suffering, mental anguish, and any other element of actual damages recoverable in actions for negligence, but does not include the intentional infliction of emotional harm." S.C. CODE ANN. § 15-78-30(f) (emphasis added).

Under the discovery rule, "the statute of limitations does not run from the date of the negligent act, but from the date when the *injury* resulting from the wrongful conduct either is discovered or *may be* discovered by the exercise of reasonable diligence." *McClain v. Jarrard*, M.D., 354 S.C. 218, 220, 580 S.E. 2d 763, 764 (Ct. App. 2003) (citing *Wilson v. Shannon*, 299 S.C. 512, 513, 386 S.E.2d 257, 258 (Ct. App. 1989)).

The date on which discovery should be made is an objective, not subjective question. *Kreutner v. David*, 320 S.C. 283, 465 S.E.2d 88 (1995). In other words,

whether the particular plaintiff actually knew he had a claim is not the test. Rather, courts must decide whether the circumstances of the case would put a person of common knowledge and experience on notice that some right of his has been invaded, or that some claim against another party might exist.



Young v. South Carolina Dep't of Corr., 333 S.C. 714, 719, 511 S.E.2d 413, 416 (Ct. App. 1999). The fact that the injured party does not comprehend the full extent of his injuries is immaterial. *Dean v. Ruscon Corp.*, 321 S.C. 360, 364, 468 S.E.2d 645, 647 (1996). "The statute of limitations is not tolled during the period of time in which a plaintiff is merely unaware of the extent of an actionable injury." *Young* 333 S.C. at 720, 511 S.E.2d at 416. —

In applying this reasonable diligence analysis under the discovery rule, the Court has stated, "an injured party must act with some promptness where facts and circumstances of the injury would put a person of common knowledge and experience on notice that some right of his had been invaded or that some claim against another party might exist." *McClain*, 354 S.C. 218, 580 S.E. 2d 763. The statute of limitations begins to run from this point and not when advice of counsel is sought or a full-blown theory of recovery is developed. *Id.*

In the present case, Plaintiff contends that a portion of the wages he earned from 1979-1981 were withheld by the SCDC in an escrow account. Plaintiff further contends that the funds contained in this account should have been disbursed to him upon his release on parole in 1981, but that they were not. It appears Plaintiff did not file the present lawsuit until January 16, 2013, more than 30 years after any cause of action he may have arising out of his allegations accrued.

Furthermore, while Plaintiff contends that he was only informed "for the first time 'February 9, 2009'" that he did not have a "Work Center" funds account, it appears that Plaintiff has not accounted for why he waited 27 years after he was released on parole, and 23 years after he was placed back into the custody of the SCDC to inquire into these funds. Also, it appears that Plaintiff did not file the present lawsuit until almost four years after he was informed that he did not have a "Work Center" funds account.

Therefore, this Court finds that any cause of action Plaintiff might have had, based on the allegations set forth in his Complaint, arose more than two years prior to the commencement of the lawsuit. Therefore, this Court finds that Plaintiff's claims are barred by the applicable statute of limitations.

Additionally, this Court finds that Plaintiff's legal basis for his belief that a portion of his wages from 1979 through 1981 was withheld and maintained in an escrow account to be distributed to him on his release appears to be S.C. CODE ANN. § 24-3-40. Section 24-3-40 dictates the disposition of wages of prisoners allowed to work at paid employment. Specifically, § 24-3-40(A) as currently written sets forth that the wages are to be paid directly to the Director

CR 4

of the SCDC, who shall make certain deductions from the prisoner's gross wages, including restitution, victim assistance programs, child support, etc. Section 24-3-40(5) as currently written provides that "[t]en percent must be held in an interest bearing escrow account for the benefit of the prisoner." Section 24-3-40(B), as currently written sets forth how the funds maintained in a prisoner's escrow is to be returned to the prisoner.

It appears Plaintiff has provided no evidence that the above provision, or any similar law, was in effect at the time Plaintiff allegedly earned his wages in 1979 to 1981. Further, the version of § 24-3-40 enacted in 1994 did not include any provision regarding withholding any amount of a prisoner's wages for an escrow account. The 1994 version provided that:

Unless otherwise provided by law, the employer of a prisoner authorized to work at paid employment in the community under Sections 24-3-20 to 24-3-50 or in a prison industry program provided under Article 3 of this chapter shall pay the prisoner's wages directly to the Department of Corrections. The Director of the Department of Corrections shall withhold five percent of the gross wages and promptly place these funds on deposit with the State Treasurer for credit to a special account to support victim assistance programs established pursuant to the 'Victims of Crime Act of 1984, Public Law 98-473, Title II, Chapter XIV, Section 1404'. The director may withhold from the wages costs incident to the prisoner's confinement as the Department of Corrections considers appropriate and reasonable. These withholdings must be deposited to the maintenance account of the Department of Corrections. The balance of the wages, in the discretion of the director and in proportions determined by the director, may be disbursed to the prisoner, the prisoner's dependents, and the victim of the crime or deposited to the credit of the prisoner. No prisoner who participates in a project designated by the Director of the Bureau of Justice Assistance pursuant to Public Law 90-351 is eligible for unemployment compensation upon termination from the program.¹

Therefore, it appears there was not any statutory requirement for SCDC to make such withholding.

This Court also finds that Plaintiff has failed to establish that Defendants, or any other employees of the SCDC, withheld or misappropriated any of Plaintiff's wages. Therefore, the Court finds that Plaintiff's claims should be dismissed.

Additionally, this Court finds that the individual Defendants should be dismissed from the case pursuant to the provisions of the South Carolina Tort Claims Act. Under S.C. CODE ANN. §§ 15-78-70 and 200, all individually named defendants must be dismissed from this suit

¹ The version of § 24-3-40 enacted in 1996 also did not include any requirement that any portion of a prisoner's wages be withheld in an escrow account. It appears that the first version of § 24-3-40 to include a requirement that a portion of a prisoner's wages be withheld in an escrow account was in the version enacted in 1999.

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and the agency substituted in their place for all actions taken by defendants "while acting within the scope of the employee's official duty." *Faile v. South Carolina Dep't. of Juvenile Justice*, 566 S.E.2d 536 (2002).

Upon review of Plaintiff's Complaint, this Court finds that the present action is brought pursuant to the South Carolina Tort Claims Act, S.C. CODE ANN. § 15-78-10, *et seq.* This Court further finds that the individually named Defendants in the present action were acting as agents and employees of the SCDC at all times relevant herein, and therefore, the proper entity to defend this matter is the SCDC pursuant to S.C. CODE ANN. § 15-78-70(c). Therefore, this Court finds the appropriate party defendant to this action is the SCDC, and that Defendants Bill Byers, Martha Roof, Debrah Long, Lisia Johnson, and Ann and John Doe should be dismissed from this case.

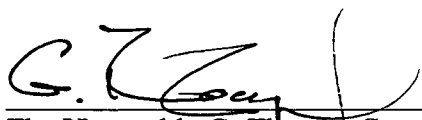
As to Defendants' Motion to Dismiss/Strike Punitive Damages, Defendants argue that the any claim of Plaintiff for punitive damages is barred by S.C. CODE ANN. §15-78-120(b). S.C. CODE ANN. §15-78-120(b) provides that, "[n]o award for damages under this Chapter shall include punitive or exemplary damages or interest prior to judgment." Upon review of Plaintiff's Complaint, this Court finds that the present action is brought pursuant to the South Carolina Tort Claims Act, S.C. CODE ANN. § 15-78-10, *et seq.* Therefore, as a matter of law, this Court finds that the Plaintiff's claim for punitive damages must be dismissed.

NOW, THEREFORE, IT IS ORDERED:

1. Defendants' Motion to Dismiss and for Summary Judgment is granted;
2. All requests or prayers for damages are dismissed and stricken from Plaintiff's Complaint;
3. Plaintiff's Complaint fails to state a cause of action against all Defendants upon which relief can be granted and fails to state facts sufficient to constitute a cause of action;
4. This action is dismissed with prejudice; and
5. All other pending Motions are denied as moot, including Plaintiff's Motion to file a Supplemental Complaint, Motion to Compel, and Motion for Appointment of Counsel, as well as Defendants' Motion for Protective Order and to Stay Discovery.

612 6

AND IT IS SO ORDERED.



The Honorable G. Thomas Cooper, Jr.
Presiding Circuit Judge
Fifth Judicial Circuit

Cause No. 12-012, South Carolina
9-26, 2013

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Basil W. Akbar, #065498

Plaintiff,

v.

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

Defendant.

IN THE COURT OF COMMON PLEAS

C/A No: 2013-CP-40-0301

AFFIDAVIT OF NOEL HEBERT

PERSONALLY APPEARED before me, Noel Hebert, who first being duly sworn deposes and avers the following:

1) I am currently employed by the State of South Carolina and the South Carolina Department of Corrections (SCDC) as an Accounting Manager. I have held this position since November 2011.

2) I have reviewed the employment and financial records for Inmate Basil W. Akbar, #065498, which are maintained by the South Carolina Department of Corrections in the normal course of business.

3) These records reflect that Inmate Akbar was employed in an SCDC work program from in or around March 1980 until in or around April 1981, when he was released on parole.

4) If Inmate Akbar had any funds remaining from his work program, it would be contained within a work center account with the SCDC. Inmate Akbar's records reflect that Inmate Akbar does not have any funds in a work center account with the SCDC. In fact, Inmate

Akbar does not have a work center account with the SCDC, and has not had one since at least 1994.

FURTHER THE AFFIANT SAYETH NOT.

Noel Hebert
Noel Hebert

SWORN TO AND SUBSCRIBED before me

This 23 day of July, 2013.

Carla Spivey
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: June 16, 2021

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

Basil W. Akbar,)

Plaintiff,)

v.)

South Carolina Department of Probation,
Parole, and Pardon Services, Kela E.
Thomas, Director,)

Defendant.)

IN THE COURT OF COMMON PLEAS

C/A-No: 2012-CP-40-1471

ORDER

RICHLAND COUNTY
FILED
2012 SEP - 6 AM 9:05
JEANETTE W. McBRIDE
C.C.P. & G.S.

This matter came before me on August 9, 2012 for a hearing on a Motion to Dismiss South Carolina Department of Corrections, Bill Byars, Martha Roof, Debrah Long, Lisa Johnson, Anthony Padula, Leon Visintaner, Larry Clutter, and Ann and John Doe. Present at the hearing was *pro se* Plaintiff, Basil Akbar, Erin Farrell Farthing, counsel for South Carolina Department of Corrections, Bill Byars, Martha Roof, Debrah Long, Lisa Johnson, Anthony Padula, Leon Visintaner, Larry Clutter, and Ann and John Doe, and Tommy Evans, Jr., counsel for Defendants South Carolina Department of Probation Parole and Pardon Services and Kela E. Thomas.

The Plaintiff filed his Complaint in this case on February 21, 2012, in which he named the South Carolina Department of Probation, Parole, and Pardon Services and Kela E. Thomas as Defendants. Since that time, Plaintiff has filed documents with this Court in this case that appear to concern a purported lawsuit against South Carolina Department of Corrections, Bill Byars, Martha Roof, Debrah Long, Lisa Johnson, Anthony Padula, Leon Visintaner, Larry Clutter, and Ann and John Doe. However, the Complaint in this supposed suit has never been filed with this Court, nor has the Plaintiff properly served any Summons and Complaint on any of the purported Defendants named in that suit.

Furthermore, the South Carolina Department of Corrections, Bill Byars, Martha Roof, Debrah Long,

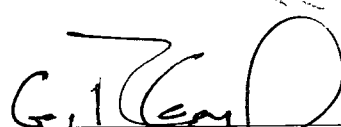
Lisa Johnson, Anthony Padula, Leon Visintaner, Larry Clutter, and Ann and John Doe are not named as Defendants in the above-captioned lawsuit, and are not proper Defendants to the above-captioned suit.

Plaintiff is granted leave to proceed *in forma pauperis* in his purported lawsuit against South Carolina Department of Corrections, Bill Byars, Martha Roof, Debrah Long, Lisa Johnson, Anthony Padula, Leon Visintaner, Larry Clutter, and Ann and John Doe. Plaintiff must file and commence this lawsuit with the Court in compliance with the South Carolina Rules of Civil Procedure. Plaintiff must also serve all Defendants to that lawsuit in accordance with these Rules. Plaintiff is further directed to not file any further documents with this Court in the above-captioned case which relate to his purported suit against South Carolina Department of Corrections, Bill Byars, Martha Roof, Debrah Long, Lisa Johnson, Anthony Padula, Leon Visintaner, Larry Clutter, and Ann and John Doe as these individuals are not parties to this action.

NOW, THEREFORE, IT IS ORDERED:

- 1) Plaintiff is granted leave to proceed in his lawsuit against South Carolina Department of Corrections, Bill Byars, Martha Roof, Debrah Long, Lisa Johnson, Anthony Padula, Leon Visintaner, Larry Clutter, and Ann and John Doe *in forma pauperis*
- 2) Plaintiff must file and commence his lawsuit with the Court in compliance with the South Carolina Rules of Civil Procedure.
- 3) Plaintiff must also serve all Defendants to that lawsuit in accordance with these Rules.

IT IS SO ORDERED.


G. Thomas Cooper
Presiding Circuit Judge
Fifth Judicial Circuit

Columbia, South Carolina
SEPTEMBER 4, 2012

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

Basil W. Akbar, #065498,)
)
Plaintiff,)
)
v.)
)
South Carolina Department of Probation,)
Parole and Pardon Services, Kela E.)
Thomas, Director,)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
C/A No.: 12-CP-40-1471

ORDER

RICHLAND COUNTY
FILED
2013 JAN 30 AM 11:50
JEANETTE W. MCBRIDE
C.C.P. & G.S.

This matter comes before this Court by way of motion to dismiss filed by the Defendant pursuant to rule 12 of the South Carolina Rules of Civil Procedure. On January 16, 2013, all parties concerning this matter appeared before this Court regarding the Defendant's motion

On April 28, 2012, the Plaintiff filed a summons and complaint in the Richland County Court of Common Pleas. Within this complaint the Plaintiff alleges that being allowed to appear bi-annually is in violation of ex post facto and equal protection. Upon reviewing all of the submitted memoranda regarding this motion the Court rules the following:

The Plaintiff filed this summons and complaint regarding parole hearing matters. This Court currently does not have jurisdiction over this cause of action. In the South Carolina Supreme Court decisions of Al-Shabbaz v. State, 338 S.C. 354, 527 S.E.2d 724 (2000) and Furtick v. S.C. Dept. of Probation, Parole and Pardon Services, 352 S.C. 594, 576 S.E.2d 146 (2002), the Court decided that administrative matters that arise by (1) an inmate being disciplined and punishment imposed; or, (2) an inmate believing that prison officials erroneously calculated

his sentence, sentence-related credits or custody status must be raised by appeal before the Administrative Law Court (ALC).

Upon the denial of parole, a notice of appeal was brought before the ALC, and dismissed by the Honorable Deborah Brooks Durden on October 21, 2011. Upon dismissal, it was the Plaintiff's obligation to file a notice of appeal before the South Carolina Court of Appeals. This court does not have jurisdiction to review any decision made by the Administrative Law Court. The Court of Appeals have jurisdiction over any case taken from an order, judgment or decree of the circuit court, family court, a final decision of an agency, a final decision of an administrative law judge or the final decision of the Worker's Compensation Commission. S.C. Code Ann. §14-8-200 (Supp. 2009). This Court does not have jurisdiction over this decision; therefore this matter, should be brought before the Court of Appeals.

The Plaintiff argues that being allowed to appear before the board bi-annually is unlawful and a violation of ex post facto. The Plaintiff received a life sentence for murder in 1971. At the time he committed this offense; there exist no law determining how long an inmate must wait to reappear before the board upon a denial of parole. Department policy allowed an inmate serving a sentence of thirty (30) years or greater, the opportunity to re-appear upon denial, only after a service of twenty-four (24) months. This matter was directly addressed by the South Carolina Court of Appeals in the case of James v. S.C. Dept. of Probation, Parole and Pardon Services, 376 S.C. 392, 656 S.E.2d 399 (2008). In James, the court ultimately determined:

Application of amended statute providing that consideration for parole eligibility for violent offenders would be biannually rather than annually did not violate prohibition against ex post facto laws; at time of inmate's crimes, there was no statute governing frequency of parole hearings, but Department of Probation, Parole and Pardon

Services had policy calling for biannual review for persons serving sentences of 30 years or more, statute allowing for annual reviews was enacted several years after inmate's crimes were committed, and amended statute provided no greater limitation on parole eligibility than inmate was originally entitled to

Id., at 400.

This decision is clear, there exist no law at the time the offense was committed only policy which remains. The policy did not increase punishment requiring biannual review so there exist no violation of ex post facto. An ex post facto violation occurs when a change in the law retroactively alters the definition of a crime or increases the punishment for a crime. Jernigan v. State, 340 S.C. 256, 531 S.E.2d 507 (2000).

The Plaintiff further raised accusations that a two-thirds vote for acceptance is a violation of ex post facto. The Plaintiff argues that at the time he committed the offense he only needed an affirmation of a majority of board members. Now the law allows parole for those who have committed a violent crime only if two-thirds of the Board are in the affirmative S.C. Code Ann. §24-21-645 (Supp. 2011). This change did not increase the punishment attached to the original crime so it cannot be considered a violation of ex post facto. The two-thirds majority is simply a procedural change in the South Carolina parole system, and even though it may work to the disadvantage of the Plaintiff, a procedural change is not a violation of ex post facto. Roller v. Gunn, 107 F.3d 227 (1997).

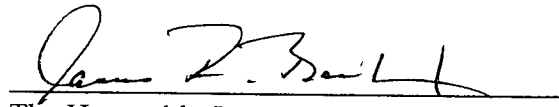
If a majority decision allowed a person parole, it could have changed the decision of any of the board members, so this allegation is purely speculative. The ex post facto clause does not foreclose every change in state parole procedures that poses a speculative risk of increasing a prisoner's punishment. Roller, at 235. Everything remained identical, it continued to be a Parole

Board decision, the criteria remained the same, and the punishment never changed. Therefore, a changing of the votes to be granted parole cannot be considered a violation of ex post facto.

Since this Court does not have jurisdiction; nor does there exist any violation of ex post facto, this case must be subject to dismissal.

THEREFORE IT IS ORDERED that the summons and complaint filed by the Plaintiff is hereby dismissed with prejudice.

AND IT IS SO ORDERED this 30th day of September, 2013


The Honorable James R. Barber, III
Circuit Court Judge
Fifth Judicial Circuit

Columbia, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Basil W. Akbar,

Plaintiff,

v.

South Carolina Department of Probation,
Parole, and Pardon Services, Kela E.
Thomas, Director,

Defendant.

IN THE COURT OF COMMON PLEAS

C/A No: 2012-CP-40-1471

ORDER

RICHLAND COUNTY
FILED
2013 FEB 28 AM 9:30
JEANETTE W. McBRIDE
C.C.P. & G.S.

This matter came before me on January 16, 2013 for a hearing on a Motion to Dismiss South Carolina Department of Corrections, Bill Byars, Martha Roof, Debrah Long, Lisa Johnson, Anthony Padula, Leon Visintaner, Larry Clutter, and Ann and John Doe. Present at the hearing was *pro se* Plaintiff, Basil Akbar, Erin Farrell Farthing, counsel for South Carolina Department of Corrections, Bill Byars, Martha Roof, Debrah Long, Lisa Johnson, Anthony Padula, Leon Visintaner, Larry Clutter, and Ann and John Doe, and Tommy Evans, Jr., counsel for Defendants South Carolina Department of Probation Parole and Pardon Services and Kela E. Thomas.

The Plaintiff filed his Complaint in this case on February 21, 2012, in which he named the South Carolina Department of Probation, Parole, and Pardon Services and Kela E. Thomas as Defendants. Since that time, Plaintiff has filed documents with this Court in this case that appear to concern a purported lawsuit against South Carolina Department of Corrections, Bill Byars, Martha Roof, Debrah Long, Lisa Johnson, Anthony Padula, Leon Visintaner, Larry Clutter, and Ann and John Doe. However, the Complaint in this supposed suit was never previously filed with this Court, nor had the Plaintiff properly served any Summons and Complaint on any of the purported Defendants named in that suit. Furthermore, the South Carolina Department of Corrections, Bill Byars, Martha Roof, Debrah Long,

Lisa Johnson, Anthony Padula, Leon Visintaner, Larry Clutter, and Ann and John Doe are not named as Defendants in the above-captioned lawsuit, and are not proper Defendants to the above-captioned suit.

Plaintiff was granted leave by the Honorable G. Thomas Cooper to proceed *in forma pauperis* in his purported lawsuit against South Carolina Department of Corrections, Bill Byars, Martha Roof, Debrah Long, Lisa Johnson, Anthony Padula, Leon Visintaner, Larry Clutter, and Ann and John Doe. Plaintiff was ordered to file and commence this lawsuit with the Court in compliance with the South Carolina Rules of Civil Procedure. Plaintiff was also advised that he must serve all Defendants to that lawsuit in accordance with these Rules. Plaintiff was further directed to not file any further documents with this Court in the above-captioned case which relate to his purported suit against South Carolina Department of Corrections, Bill Byars, Martha Roof, Debrah Long, Lisa Johnson, Anthony Padula, Leon Visintaner, Larry Clutter, and Ann and John Doe as these individuals are not parties to this action.

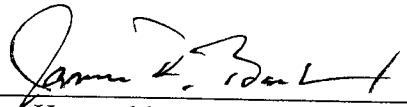
Rather than properly commence his action against South Carolina Department of Corrections, Bill Byars, Martha Roof, Debrah Long, Lisa Johnson, Anthony Padula, Leon Visintaner, Larry Clutter, and Ann and John Doe, it appears that Plaintiff attempted to serve the Summons and Complaint in the above-referenced case on one or more of these individuals. South Carolina Department of Corrections, Bill Byars, Martha Roof, Debrah Long, Lisa Johnson, Anthony Padula, Leon Visintaner, Larry Clutter, and Ann and John Doe filed a Motion to Dismiss out of an abundance of caution seeking an Order that these individuals are not proper parties to the present action.

Based on my review of all pleadings of record and the statements of Plaintiff and Defense counsel at the January 16, 2013 hearing, it is clear that South Carolina Department of Corrections, Bill Byars, Martha Roof, Debrah Long, Lisa Johnson, Anthony Padula, Leon Visintaner, Larry Clutter, and Ann and John Doe are not now and have never been parties to the above-captioned action. Plaintiff is once again directed not to file any further documents with this Court in the above-captioned case which

relate to his purported suit against South Carolina Department of Corrections, Bill Byars, Martha Roof, Debrah Long, Lisa Johnson, Anthony Padula, Leon Visintaner, Larry Clutter, and Ann and John Doe as these individuals are not parties to this action.

NOW, THEREFORE, IT IS ORDERED that South Carolina Department of Corrections, Bill Byars, Martha Roof, Debrah Long, Lisa Johnson, Anthony Padula, Leon Visintaner, Larry Clutter, and Ann and John Doe Motion to Dismiss is granted as these individuals are not now and have never been parties to this action

IT IS SO ORDERED.


The Honorable James R. Barber, III
Presiding Circuit Judge
Fifth Judicial Circuit

Columbia, South Carolina
2/25, 2013

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM RICHLAND COUNTY

COURT OF COMMON PLEAS

G. THOMAS COOPER, Jr., CIRCUIT COURT JUDGE

APPELLATE CASE NO.2013-002306

BASIL W. AKBAR.....APPELLANT

V.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, et al.....RESPONDENTS

APPELLANT FINAL BRIEF

RECORD ON APPEAL

BASIL W. AKBAR, # 065498
LEE COUNTY CORR INST.
990 WISACKY Hwy., Flo. 2213-S
BISHOPVILLE, S.C. 29010
PRO SE APPELLANT

DANIEL R. SETTANA Jr.
POST OFFICE DRAWER 7217
COLUMBIA, S. C. 29202
(803) 256-4645
ATTORNEY FOR RESPONDENTS

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STATEMENT OF ISSUES ON APPEAL

I. The lower courts erred, and abused its discretion in denying Appellant's Motion to Compel Discovery; Requests and Prayer for Damages; and ruling he fail to state facts sufficient to constitute a cause of action; and granting Respondents Motion to Dismiss, and Summary Judgment, when justiciability controversy exist.

II. The lower courts erred, and abused its discretion in failing to rule that Respondent's unlawfully deprived him of personal property and fail to make his Work Release Escrow Account transparent as a punishment, denying rights guaranteeing him by Art. I § 3 of the South Carolina Constitution; and Fifth, Eight, and Fourteenth Amendment of the United States Constitution.

III. The Lower Courts erred, and abused its discretion in failing to rule that Respondent's conduct constituted default and reprisal, where Respondents fail to process grievance and/or process grievance within fix time at each stage, and safeguard against reprisal, denying rights guaranteeing him by Art. I § 3 of the South Carolina Constitution; and First, Fifth, Eight, and Fourteenth Amendments of the United States Constitution.

IV. The lower courts erred, and abused its discretion in failing to rule that Respondents' conduct violated Appellant's rights by closing his account void notice, and fraudulently appropriating his work release escrow savings account, denying rights guaranteeing him by Art. I, § 3 of the South Carolina Constitution; and Fifth, Eight, and Fourteenth Amendments of the United States Constitution.

V. The lower courts erred, and abused its discretion in failing to rule that the Respondents' conduct impeded/hindered Appellant's ability to grieve Civil Rights and Civil Liberty claims, and access to court(s), denying right guaranteeing him by First, Fifth, Eight, and Fourteenth Amendments of the United States Constitution.

STATEMENT OF THE CASE/FACTS

The Appellant plead guilty to murder in 1971, and received a parolable life sentence. From July 1979 thru April 1981 he were assigned to SCDC's Work release Programs, and employed at Owens Electric and Steel Company. Weekly deductions was taken from weekly earnings for mandatory Long Term Escrow Savings Account, and room & board until released on parole April 8, 1981, however balance of Escrow Account was not release, but told funds would be release upon pardon 'S.C. Code § 24-21-950 (c)], or completing 5 years under supervised parole. On April 1985, his conditional parole was revoked, however at all times relevant the Appellant was still in legal custody of the South Carolina Department of Corrections (SCDC), Sanders V. Mac Dougal, 244 SC 160, 135 S.E.2d 836

On October 22, 2008, the Appellant initiated correspondence with SCDCs Financial Business Office, and second request December 1, 2008, to no reply. After numerous phone calls via family members until June 18, 2009, request to staff member (request) seeking to make work release Escrow account transparent went unaddressed.

Respondents' then asserted that said funds were deposit into his SCDC E.H. Cooper Trust Account [March 30, 1994], which was incorrect. In fact seven (\$7.00) dollars relating to grievance reimbursement for lost property [GA-LCI-030-94] was deposit at said time. On July 7, 2009, a corrective request by certified

mail was forwarded to SCDC financial branch pursuant to S.C. Code §§ 30-4-10 thru 30-4-110 (F.O.I.A.), no reply. Numerous grievance was filed and return unprocess, citing agency policy GA-01.12, "You have fifteen (15) days from the date of alleged incident to file grievance on this issue," and suggested to submit request to Lee County Institution business office. He was then informed for the first, that said account was closed and archived when released in 1981, as a result additional grievances was filed. Appellant sought to have his E.H. Cooper Work Release Mandatory Escrow Savings Account made transparent to him, status and balance of which SCDC Head Quarters Financial Branch refused. Leaving him to believe that funds in account [#065498] to be missing, or unjustly seized without notice, or consent, and that Respondents unconstitutionally conspired repeatedly to deprive him of personal property, access to grievance system, and account upon insufficient reasons, SEE, S.C. Code Ann. § 16-5-60 (1935).

On December 31, 2010, the Appellant filed a timely S.C. Administrative Law Court (ALC) Notice of Appeal. Contending that, (1) Respondents had procedurally defaulted. (2) SCDC violated his 1st, 4th, 8th and 14th Amendments right...fail to make account transparent to him as punishment.(3) SCDC entity and Lee County Institution grievance clerk's impeded his right to grieve Civil Right claim and Civil Liberty, and access to legal remedies concerning financial mistake...Escrow Account, and (4) SCDCs conduct violated his due process right by closing

his account void notice and fraudulently appropriated...Escrow Account. In addition the Appellant sought discovery pursuant to Rule 21 ALC. The ALC's order of dismissal filed April 28, 2011, alleged he fail to exhaust administrative remedies prior to bring matter before the ALC.

On May 18, 2011, the Appellant file Notice of Verified claim [No.75046] for damages, was file with Budget and Control Board, pursuant to S.C. Code §15-78-80 (d), within one year after loss discovered, or within three years of the date the loss...§15-78-110. Appellant file complaint in the Court of Common Pleas January 16, 2013 regarding Tort violation upon constitutional grounds, and negligent operation of duties, §15-78-60 (25), and §15-78-70 (b). Service was perfected by Richland County Sheriffs Department, and Restricted Mail.

ARGUMENT #I

The lower courts erred, and abused its discretion in denying Appellant's motion to compel discovery; requests/prayer for damages, and ruling he fail to state facts sufficient to constitute a cause of action; and granting respondent's motion to dismiss, and summary judgment, when justiciability controversy existed, denying rights guaranteeing him by Art. I, §3 of South Carolina Constitution; and First, Fifth, Eighth, and Fourteenth Amendment United States Constitution.

The Appellant is grieved by the lower courts order/judgment, S.C. Code §18-1-30; Rule 201 (b) SCACR; Burns V. Garder, 328 SC 608, 493 S.E.2d 356, and prejudicially and injuriously affected by the ruling. Where it operates on his rights of property, Bivens V. Knight, 254 SC 10, 173 S.E.2d 150, and where a justiciability controversy exist, Byrd V. Irmo High School, 321 SC 426, 468 S.E.2d 861, substantial due process rights violated. SEE ALSO, Johnson V. State, 331 SC 489, 486 S.E.2d 915.

A. **Discovery:** The lower courts erred, and abused its discretion in denying Appellant's discovery upon an erroneous pretext that claim was barred by time limitation contrary to the record, and where notice of account closure was not made privy/official until [February 9, 2009] (see additional supporting facts outlined below). Moreover, the courts oversighted that all times relevant he were still in legal custody of the SCDC,

* "April 20, 2018"... February 9, 2009 is SCRIVENER'S ERROR.

Wilson V. Flaherty, 689 F.3d 332 (4th Cir.); Jones V. Cunningham, 835 S.Ct. 373; Cooks V. State, 326 SC 171, 485 S.E.2d 374.

Furthermore, the court/respondents cannot fairly suppress/conceal discovery material favorable to him...and then argue or rule Appellant fail to establish, or provide evidence in support when inhibiting his ability to utilize discovery process, S.C. Code §16-5-60; State V. Needs, 333 SC 134, 508 S.E.2d 857; Abney V. McGinnis, 380 F.3d 663, 667; James V. Davis, 2006 WL 2171082. Failure to disclose relevant material undermine confidence in court's decision, because there is a reasonable probability that there would have been a different result had the evidence been disclosed.

When the lower courts refuses to allow an offer of proof, the Appellate Court will address the merits of the appeal if it can determine from the record what the evidence intent to show, State V. Schmitdt, 298 SC 301, 342 S.E.2d 401. Discovery Material in Appellant's case would show, weekly check deposit, SCDC Policy/Statute mandating withdrawal from wages for room and board, savings account, interest bearing account, that Escrow account was not release or closed, and misappropriated funds. Discovery material not only refute respondent's defense...but is the subject matter of the Appellant's case, where he initially sought to have account information made transparent to him. Liberty Interest is found in funds in Prison Account...and may not be deprived of those funds void due process, Regnold V. Wagner, 128 F.3d 166, 179; Higgen V. Beyer, 203 F.3d 633, 603.

B. RESPONDENTS' MOTION TO DISMISS: The Lower Courts erred, and abused its discretion in granting Rule 12 (b) Motion. A judge in the civil setting may dismiss a claim when the defendant demonstrate the plaintiff has failed to state facts sufficient to constitute a cause of action. However, the motion will not be sustained if the facts alleged, and the inferences reasonably deducible from the pleadings would entitle the plaintiff to relief on any theory of the case, State V. Onorato, 318 SC 297, 457 S.E.2d 601; Brown V. Leverette, 291 SC 364, 353 S.E.2d 697

C. RESPONDENTS; SUMMARY JUDGMENT: The Lower Courts erred, and abused its discretion in granting Summary Judgment. Where further inquiry into the facts of the case is desirable to clarify the application of the law, Middleborough..V. Montedison, 320 SC 470, 465 S.E.2d 765 (Ct. App. 1995). Further, Summary Judgment should not be granted even when there is no dispute as to the evidentiary facts, if there is a dispute as to the conclusions to be drawn therefrom, Mac Farlane V. Manly, 274 SC 392, 264 S.E.2d 838. If the court can reasonably read the pleadings to state a valid claim on which Appellant could prevail it should do so despite his failure to cite proper legal authority, his confusion of various legal theories, poor syntar and sentence construction, or his unfamiliarity with pleadings with pleadings requirements, Haines V. Kerner, 404 U.S. 519, 520-21.

The court should take Judicial Notice that Respondents' [Janice Kenealy, and Noel Herbert] Affidavits in support of

Summary Judgment in fact corroborate/substantiate much of the Plaintiff-Appellant's claims at pertinent part avers that, "Appellant was assigned to work release between June 1997 - April 1981," thus clearly inconsistent with affirmative defense, and made in bad faith, Rule 56 (g), SCRCF. Abuse of discretion raised where the judge in his case issuing the order was controlled by an error of law, and where the order is based on factual conclusions that are without evidentiary support, BB & T. V. Taylor, 369 SC 548, 551, 633 S.E.2d 501, 502-08.

ARGUMENT #II

The Lower Courts erred, and abused its discretion in failing to rule that Respondents unlawfully deprived him of personal property; and fail to make his Work Release Escrow Account transparent as a punishment, denying rights guaranteeing him by Art. I, § 3 of South Carolina Constitution; and Fifth, Eight, and Fourteenth Amendments of the United States Constitution.

In the state of South Carolina Work Release Program was signed into law March 6, 1966, under Title 24 of 1976 S.C. Code of Laws, permitting Appellant to work in community on jobs between 1979 thru 1981, mandating that Escrow Savings Account be established for each inmate participant. At all times relevant the Appellant was in legal custody of SCDC, Cooks V. State, id; Sanders V. Mac Dougal, id.; Wilson V. Flaherty, id.

The Lower Court erred in failing to take Judicial Notice of South Carolina statutorial provisions in effect governing Work Release Proviso, and operation at time in question, instead cited an amended (1994) version not effect, or not applicable, clear error in law/facts.

Under the SCDC's definition of Policy Employee Account ADM-15.12: Section 17.4, Reporting mistake in account, if an inmate thinks a mistake has been made with his/her account, an SCDC form 19-11 (inmate request to staff member) must be completed and turned into the Institutional Cooper Trust Fund designee no later than 75 calendar days..."

Section 17.4.3, "SCDC investigation of Account Mistake, the

Institutional Cooper Trust Fund designee will give the inmate the result of its review, or correct the error within ten working days...the Financial Account Branch will notify the inmate in writing within ten working days. The Financial Branch will either correct the mistake or explain why the account is correct and record the necessary adjustment to the account."

Based upon the defined regulation, the Respondents fail to adhere, furthered violation of Liberty Interest Rights Entitlement, and grossly violated Appellant's substantial Due Process Rights, where regulation use language of unmistakable mandatory characters that certain actions be taken, Castaneda V. Henman, 914 F.2d 981.

ARGUMENT III

The Lower Court erred, and abused its discretion in failing to rule that Respondents conduct constituted default, and reprisal where Respondents fail to process grievances, and/or process grievance within fix time at each stage, and safeguard against reprisal, denying rights guaranteeing him by Art. I. § 3 of South Carolina Constitution; and First, Fifth, Eight and Fourteenth Amendments of the United States Constitution.

Where the Respondents willfully and wantonly fail to discharge ministerial duties regarding grievance procedure, and keeping within time restrains...and exceeded the power conferred upon the Respondents by [SCDC Policy GA-01.12] clearly established regulation, and arbitrarily and capriciously exceed authority and failing to act within the definition of GA-01.12, at pertinent part:

"Grievance will be processed from initiation to final disposition within 125 days...maximum extension given 90 days."

Prison officials must process grievance within time...there must be a fixed limit at each stage...and safeguard against reprisal, Underwood V. Wilson, 151 F.3d 292. Administrators must follow their own regulations to comply with due process, Harrah V. Leverette, 271 S.E.2d 222. Otherwise prevent him from

seeking his administrative remedy, Abney V. McGinnis, 380 F.3d 663, 667. Also, grievance maybe considered exhausted under "PLRA", when a prisoner file a grievance...but has not received a timely determination, SEE, Boyd V. CORR. CORP OF America, 380 F.3d 989, 996, 125 S.Ct. 1639. Failure to respond to grievance within the time limits contained in the policy renders an administrative remedy unavailable. Jernigan V. Stuchell, 304 F.3d 1030, 1032; Lewis V. Washington, 300 F.3d 829, 833. Appellant's grievance [Lee C.I.-1598-10] filed June 7, 2010 went [300 days] unaddressed, and [175 days] passed fix time limit and as reprisal he was released from his rehabilitation Prison Industries Work Program, loss wages, and harass with bogus contraband charge for inquiring about status of account.

Moreover, the Respondents' defaulting is a complete bar of their affirmative defense...estoppel creates an inhibition, or inability to assert defense. Therefore, Respondents' cannot technically petition for dismissal and/or Summary Judgment while in default, because it cut short the rights to legal dispute, ---V.---, 303 A.2d 139, 140, furthered denied him equal protection of the law.

ARGUMENT #IV

The Lower Courts erred, and abused its discretion in failing to rule that Respondents' conduct violated Appellant's rights by closing his account void notice; and fraudulently appropriated his Work Release Escrow Savings account, denying rights guaranteeing him by Art. I § 3 South Carolina Constitution; and Fifth, Eighth, and Fourteenth Amendment of the United States Constitution.

The Appellant's contentions is that the Respondent/Financial Account Branch is charged with fiduciary duty and obligation to him, the beneficiary of [account #065498] Work Release Mandatory Escrow Savings Account, when never closed said account. The court must be mindful that Appellant were released on parole the same day, and still in legal custody of the SCDC, SEE, Sanders V. Mac Dougal, id, and was not given notice of intent...or closure of account until February 9, 2009.

Pursuant to the SCDC's definition of policy Employee Account ADM-15.12, "Close out of Inmate Account," at pertinent part:

Section 13.1, Checks requested for delivery by institution to inmate prior to release.

Section 13.1.4, No release check will be automatically cut by Financial Account Branch Personnel for any institution. Inmates are responsible for requesting their funds at last two weeks prior to release.

Section 20, Work Release Program Inmate, unclaimed accounts...letter will be sent to the last known address of the account f the account holder whose balance is \$50.00, or more.

Based on the SCDC's defined regulations governing Work Release Savings Account, Respondents' could not cut check immediately on day release on parole, or close account without written notice, nor logical request or presume parole in advance. Respondents' conduct violated Entitled Liberty Interest...Substantial Due Process...and Constitutional Rights.

ARGUMENT #V

The Lower Courts erred, and abused its discretion in failing to rule the Respondents' conduct hindered Appellant's ability to grieve Civil Rights and Civil Liberty Claims, and access to the court(s), denying rights guaranteeing him by First, Fifth, Eighth, and Fourteenth Amendments of the United States Constitution.

The Appellant submits that he is not challenging the constitutional right of the institutional grievance system. Instead is challenging the constitutional rights belonging to him by virtue of his Civil Rights as a citizen and social equality, and Civil Liberty amenability to civil action and enforcement of personal rights based on tort, etc., pertaining to the rights and duties, and the right to legal proceedings concerning these rights.

The Respondents' arbitrary capriciously repeated irrational acts and omission that directly impeded and obstructed the due course of justice (§ 16-5-60), and subverted Appellant's attempts in exhausting administrated remedies, where the Prison Litigation Reform Act, or Civil Rights of Institutionalized Prison Act, requires to advance complaint, and unlawfully infringing upon his Free Speech, legal action, and property rights as he sought the status and balance of his financial account, redress relief and recovery. Appellant must be allowed to enter proof of

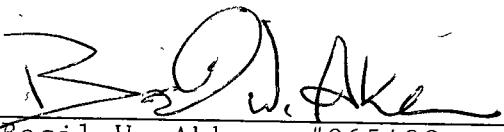
allegation of the Agency proceedings not shown in record, SEE, S.C. Code Ann. § 1-23-380 (A) (5); Ross V. Medical Univ. of S.C., 317 SC 377, 380, 453 S.E.2d 880, 882; Evans V. State, 344 SC 6, 543 S.E.2d 547.

Furthermore, SCDC's E.H. Cooper Trust Funds Account Policy does not contain a clause that bar/limit rights to seek transparency/status of personal account. The Appellant contend he has an absolute unqualified right to access savings account, nor does a General inquiry depend upon whether an incident had occurred as alluded. However, no incident existed to grieve until April 28, 2010 when he was first...and officially informed [April 28, 2010] of irregularity in his Work Release Escrow Savings Account. Therefore, claims of conspiracy against Civil Rights/Civil Liberty; Liberty Interest, State Laws, Regulations; State and Federal Constitutional violations are proper before the Courts.

Finally, the Appellant submits that pursuant to S.C. Code Ann. § 24-1-220, requires that suit be brought in name of Director, and when multiple defendants are alleged in an Joint tortfeasor is named as party in addition to the Government Entity...the trier of the facts must return a special verdict specifying the proportion of monetary liability of each defendant whom liability is determined, S.C. Code § 15-78-100 (c), for said reasons are properly named in complaint.

CONCLUSION

The Appellant submits for the following reasons, respectfully that the court should reverse the Lower Courts' order/judgment; and order Work Release Account be made transparent; grant Discovery Motion; Order Recovery of funds deposit into account with interest; all cost incurred; punitive damages, jointly/severally against all named Defendants-Respondents in complaint; and grant Declaratory and Injunctive Relief.

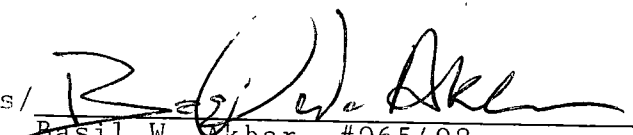
/s/ 
Basil W. Akbar, #065498
Lee County Corr. Institution

Certificate of Service

The undersigned hereby certifies that a copy of Appellant's Pro Se Brief of Appellant was duly served on Defendants-Respondents' Counsel of record by the United States Postal Service, postage prepaid at:

Daniel R. Settana
Attorney at Law
P. O. Box Drawer 7217
Columbia, S. C. 29202

Date: , 2014

/s/ 
Basil W. Akbar, #065498
Lee County Corr. Institution
990 Wisacky Highway, Flo.2213-S
Bishopville, S C 29010

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM RICHLAND COUNTY
COURT OF COMMON PLEAS

G. THOMAS COOPER, Jr., CIRCUIT COURT JUDGE

APPELLATE CASE NO.2013-002306

BASIL W. AKBAR.....APPELLANT

V.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, et al.....RESPONDENTS

APPELLANT'S AFFIDAVIT IN SUPPORT

RECORD ON APPEAL

BASIL W. AKBAR, # 065498
LEE COUNTY CORR INST.
990 WISACKY Hwy., Flo. 2213-S
BISHOPVILLE, S.C. 29010
PRO SE APPELLANT

DANIEL R. SETTANA Jr.
POST OFFICE DRAWER 7217
COLUMBIA, S. C. 29202
(803) 256-4645
ATTORNEY FOR RESPONDENTS

APPELLANT'S AFFIDAVIT
IN SUPPORT

I, Basil W. Akbar, Appellant solemnly swear that the account of Claims; the authentication of related documents; and information given by me in this Affidavit is true and correct, and I understand that I will be subject to Civil and /or Criminal penalties if I knowingly furnish false information:

I, Basil W. Akbar, #065498 the undersigned is currently a resident at Lee County Correction Institution, and the Appellant (Akbar).

2. Between July 1979 thru April 1981, assigned facilities, was Employment Work Program; and Campell Work Release Program; Employed at Owens Electric & Steel Co.; received weekly pay check in hand...and personally delivered to Center's Administrator...weekly deductions for Room & Board; and Long Term Escrow saving Account.

3 Akbar were parole [1981], and advised funds in Escrow Savings Account would be release upon completing five (5) years on conditional parole, or pardon, however, parole were revoked 1985 prior to, and believed information to be routine and truthful.

4. Approximately October 2008, Akbar sought status of said account at SCDC's Financial Business Office [Martha Roof], no reply...December 2008 a second Request were filed to same...after furthered delay, numerous phone calls from family member...June 18, 2009 [Debrah Long] SCDC's Financial Branch related false information. On July 2009, a third (Corrective Request were filed), pursuant to S.C. Code. Ann. §30-4-10 et seq., served upon [M. Roof & D. Long] by Certified Mail Return Receipt July 23, 2009...no reply, furthered delay. See Exhibits coinciding dates.

5. Akbar filed numerous grievances as results, (1). Lee C.I. # 2323-9; (2). Lee C.I. #0813-10; (3). Lee C.I. #1270-10; and (4). Lee C.I. #1598-10, grievances return unprocessed except for the fourth grievance with attached three grievances. See Exhibits.

6. Akbar first learn approximately April 28, 2010, that Work Release Escrow Account was closed and archived; account was never made transparent, or funds release. See Exhibit, Request Disposition from Ms. Melton Lee C.I., coincide date.

7. At all times relevant Akbar were in legal custody of SCDC, on parole in the State of South Carolina, City of Columbia; and personally reporting to Agent Officer monthly.

8. Pursuant to the SCDC's Definition of Policy Employee Account ADM-15.12:

Sec. 13.1 "Check requested for delivery by institution to inmate prior to release." Sec. 13.1.4 "No release checks will be automatically cut by Financial Branch Personnel for any institution..." Sec. 15, "Account Statement." Sec. 17.4, "Reporting of mistake in account, if an inmate thinks a mistake has been made...Inmate Request To Staff Member...no later than 75 days." Sec. 17.4.3, "SCDC investigation of Account mistake, the Institutional Cooper Trust Fund designee will give the inmate the result...within ten working days...investigation in continuing 10 calendar days...either correct the mistake or explain...and record the necessary adjustment to account."

9. See, The Respondents' misleading Disposition to Request dated June 18, 2009 asserted, "...according to our records you receive a Cooper deposit from...work center March 30, 1994." In fact Akbar received and reimbursement for lost property [GA. Liebre C.I. #030-94], approximate \$8.00; see, Exhibits...Dept. letters dated, April 20, 1994.

10. Akbar submits he exercised due diligence, but hindered from promptly grieving mistake; account not made transparent on Request; funds not made accessible; and denied fiduciary duty of care owed, howeverm the Respondents are attempting to dictate when Akbar discovered said tort, despite the facts refuting the Respondents' view that is facially void upon Inspection of facts.



Basil W. Akbar, 065498, Pro se P6-B

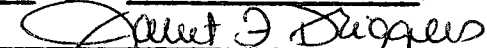
Lee Correction Institution

990 Wisacky Highway

Bishopville, S.C. 29010

Sworn To Before Me

This 3rd Day of NOVEMBER, 2015

Notary: 

My Commission Expires: 11-05-2019

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
G. Thomas Cooper, Jr., Circuit Court Judge

Case No. 2013-002306

Basil W. Akbar,

Appellant,

V.

South Carolina Department of Corrections, et al.

Respondents.

PETITION FOR REHEARING; AND REHEARING EN BANC

On July 8, 2016, Basil W. Akbar, Appellant Pro Se, recieved this Honorable Court's Unpublished Opinion No. 2016-UP-348, filed July 6, 2016, Affirmed Circuit Court Decision.

Appellant respectfully petition for Rehearing pursuant to Rule 224, SCCR, Court overlooked or misapprehended in Appellant's argument in rushing to conclusion:

1. According to Agency grievance policy GA-01.12, Inmate Grievance System, inmates must make an effort to informally resolve a grievance, therefore the following actions ensued:

- * Approximately October 2008, Appellant sought status of said account, no reply.
- * December 2008, a second request were filed, still no reply.
- * Numerous phone calls from family member ensued . . . June 18, 2009, erroneous reply recieved.
- * July 2009, Appellant filed corrective request, by certified mail, no reply, further delay.
- * Appellant filed numerous grievances, Lee CI #2323-09; #0813-10; #1270-10; and #1598-10, return unprocessed except for #1598-10.
- * Appellant first put on Notice April 28, 2010, work release account closed.
- * Final Agency decision received December 2010.
- * December 31, 2010, ALC appeal timely filed, and dismissed April 28, 2011.
- * May 18, 2011, Notice of verified claim [No. 75046] filed.

2. The Circuit Court erred in applying the two-year statute of limitation, because the predicate fact could not, and was not established, or operative fact for legal claim had not been triggered, until April 28, 2010. See, Appellant's attached affidavit.

3. The Doctrine of Exhaustion of Administrative Remedies requires a person seeking relief from the action of an administrative agency to pursue all available remedies before seeking relief from the Courts, see, Pullman Co. v Pub. Serv. Comm'n., 234 SC 365, 108 SE 2d 571.

4. The lower court's decision was not based on evidence in the record. Evidence indicate the Department's decision was not based on facts; clearly erroneous, arbitrary, an prejudicial. Pursuant to Department's "Definition of Policy Employment Account ADM-15.12", an inmate may request at any time that his account be made transparent and/or request investigation of account for mistakes.

5. The Court may not substitute its judgement for the judgement of the Agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the Agency or remand the case for further proceedings. The Court may reverse or modify the decision if substantial rights of the Appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (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 reliable, probative, and substantial evidence on the whole record;
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

SC Code Ann Sec 1-23-38 (A)(6)(2005)

6. The Lower Court further oversights that statute of limitation in instant case start to run when Appellant "accues", because the injury took place over a period of time [continued wrong], and statute should not run until that period end, and predicate arises. Page v United States, 729 F2d 818, 821; and

7. 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. Johnston v. Bowen, 313 SC 37, 550 SE 2d 589; and

8. That at all time relevant the Appellant was continuously serving conviction in Department's custody. See, Sanders v. Mac Dougal, 135 SE 2d 836 (1964); Wilson v. Flaherty, 689 F 3d 332 (4th Cir. 2012); Jones v. Cunningham, 317 US 236, 83 SCt 373; and

9. Equitable tolling, should have been invoked in Appellant's matter, where such tolling is necessary to prevent unfairness to a diligent plaintiff, and where statute of limitations deadline is typically available when claimant was prevented in some extraordinary way from exercising his rights when relevant facts present sufficient exceptional circumstances that warrant application of the doctrine.

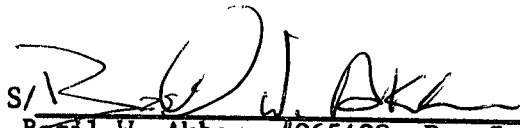
Equitable tolling has been deemed available where:

- * Extraordinary circumstances prevented the plaintiff from filing despite his diligence.
- * the plaintiff actively pursued his judicial remedies by filing a defective pleading during the statutory or the claimant has been induced or tricked by the defendant's misconduct into allowing the filing deadline to pass.
- * the plaintiff despite all due diligence is unable to obtain vital information bearing on the existence of his claim.

CONCLUSION

The Appellant's prayer is that the Honorable Court review his pleading with practical eye, and remand for further review on equitable tolling doctrine that statute of limitation will not bar a claim if the plaintiff, despite diligent efforts, did not discover the injury until after limitation period had expired; and any delay bring complaint is due to Respondent's misrepresentation, based upon the whole record; Appellant's Affidavit; and Statute of Limitation tolled until time misrepresentation was discovered.

Date: July 12, 2016


S/ Basil W. Akbar, #065498, Pro Se
Lee County Institution

CERTIFICATE OF SERVICE

I, Basil W. Akbar, hereby certify that copy of, Petition for Rehearing, and Rehearing En Banc; Appellant's Affidavit in Support, and Unpublished Opinion No. 2016-UP-348, was served on Respondent by United States Postal Service, postage prepaid at: Danial R. Settana, PO Drawer 7212, Columbia, SC 29202. Attorney for Respondents, and attached documents/exhibits.

Date: July 12, 2016

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

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

G. Thomas Cooper, Jr., Circuit Court Judge

On Certiorari to the Court of Appeals of South Carolina
Opinion No. 2013-002306 (SC Ct App filed Dec 2, 2016)

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, et al Respondent

V

BASIL WALI AKBAR Petitioner

BRIEF OF PETITIONER

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QUESTIONS PRESENTED

Whether the Court of Appeals majority erred in ruling that Petitioner's claims, relating to Respondent's misappropriation of his 1981 Work Release Escrow Account was barred by the two-years statute of limitations; and claims arising from Respondent's failure to timely respond to Petitioner's requests and/or grievance to make his Work Release Escrow Account transparent, and denying discovery request.

STATEMENT OF THE CASE

1. Procedural History

Petitioner Basil W. Akbar was assigned to South Carolina Department of Corrections (SCDC) Work Release Program from July 1979 thru April 1981. Weekly deductions were taken for mandatory Long Term Saving Account, and Room & Board, subsequently, Petitioner was paroled April 8, 1981, Work Release Account was never released, however, instructed that funds would be upon completing 5 years supervision parole, or pardon [SC Code 24-21-950]. On April 1985 his supervised parole was revoked. At all times relevant Petitioner was in legal custody of the SCDC, See, Sanders v MacDougal, 24 SC 160, 135 SE 2d 836. On October 22, 2008; December 1, 2008, and February 8, 2009, Petitioner sought to have his Work Release Account transparent. Approximately June 18, 2009, Respondent mistakenly alleged that work center deposit funds in his account March 30, 1994. On July 23, 2009, Petitioner forwarded via Certified Mail, Request to Staff Member, to Respondent an attempt to correct inference, and FOIA pursuant to SC Code Sec 30-4-10, -110, no reply. After diligent inquiry and good-faith probing to ascertain the truth, the predicate fact established that a justiciable controversy dispute existed, and that a wrong was done. Petitioner did promptly file multiple grievances, thus all returned unprocessed except for grievance [GA-Lee CI 1598-10], Final Agency Decision not received until April 26, 2011, 120 days beyond prescribed authority of SCDC's policy then governing process, and [GA-Lee CI 1204-09], Final Agency Decision not received until April 12, 2010, exhausting all available remedies satisfying legal requirements, and properly exhausting Administrative Law Court Appeals. Subsequently two (2) separate complaints

were filed in the Circuit Court simultaneously, and the Clerk of Court mistakenly assigned [Case No. 2012-CP-40-1471] to instant case, that was later assigned [Case No. 2013-CP-40-0301], and Respondents was dismissed from initial pleadings under [Case No. 2012-CP-40-1471]. Summons and complaint was re-filed January 16, 2013, under [Case No. 2013-CP-40-0301]. On May 18, 2011, Notice of Verified Claim [No. 75046] filed.

However, the Petitioner made a scrivener's error in his pleadings regards to date that he first became aware that the SCDC did not have records of his 1981 account, correctly [April 28, 2010] and not [February 9, 2009], the whole record speaks for itself. Petitioner's complaint was properly filed within two years requirement, thus, Statute of Limitations does not apply, and no incident had occurred prior to April 28, 2010 that warrant filing administrative grievance.

2. The evidence presented.

On October 22, 2008, December 1, 2008, and February 8, 2009, the petitioner sought to have his Work Release Escrow Account transparent, See, Exhibits _____. After numerous phone calls via family member, on June 18, 2009 Respondent answered and mistakenly alleged Work Release funds were deposit into his SCDC E.H. Cooper Trust Account [March 30, 1994], See Exhibit _____. In fact seven (\$7.00) dollars was deposit into account relating to grievance reimbursement for lost property [GA-LCI-030-94], See Exhibit _____. On July 7, 2009 a corrective "Request to Staff Member" form via certified mail was forward to SCDC Financial Branch [No reply], See Exhibit _____. Numerous grievance resorted as a results, and return unprocess, citing agency policy GA-01.12, See Exhibit(s) _____, and subsequently advised by Grievance Clerk

to submit a Request to Lee County Institution Business Office, See, Exhibit _____. On April 28, 2010, Petitioner was then informed for the first, that said account was closed void notice or consent, thus constituting predicate to take action through available remedies. Respondents Janice Kenealy and Noel Herbert Affidavits concede that Petitioner were assigned to Work Release for two years, and that he had a Work Release Account, See Exhibit(s) _____. Pursuant to SCDC's definition of Policy Employment Account ADM-15.10 and ADM-15.12, governs Work Release Account, See Exhibits _____. On May 18, 2011, Petitioner filed Notice of Verified Claim [No. 75046] for damages with SC Budget and Control Board, See Exhibit _____. Petitioner's grievance [Lee CI No. 1598-10] filed June 7, 2010 were [300 days] unaddressed, See Exhibit _____, and Final Agency Decision recieved April 8, 2011, See Exhibit _____. Petitioner at all times relevant in custody of SCDC on parole, See Exhibit _____. Respondent stands in violation of SCDC's grievance policy GA-01.12, See, Exhibit _____. Petitioner initially filed instant complaint on Sept 6, 2012; Feb 18, 2013, and Sept 26, 2013 [2012-CP-40-1471 & 2013-CP-40-0301] See, Exhibits _____.

3. The decision of the Court of Appeals.

A divided panel of the Court of Appeals affirmed, in Unpublished Opinion No. 2016-Up-348, submitted February 1, 2016 - Filed July 6, 2016. The majority held that Summary Judgement was proper because Akbar's claims was barred by the two-years statute of limitation, despite of exercising mandatory administrative procedure requirement that the SC Supreme Court consistently emphasized that exhaustion of administrative remedies prior to judicial review, Video Gaming Consultants, Inc v South Carolina Dep't of

Revenue, 342 SC 34, 535 SE 2d 642 (2000). The majority concluded that since the Lee County Institution grievance clerk initially assume void [establishing a time line of inferred incident], date, time, place or evidence that an incident had occurred, the Circuit Courts adopted the Agency's conclusion. The Courts' threshold reasoning to deny petition were erroneously based on a misplaced two years statute of limitations due to a scrivener error.

ARGUMENT
(subsidiary arguments)

PETITIONER WAS ENTITLED TO HAVE, HIS LONG TERM SAVING ACCOUNT MADE TRANSPARENT; GIVEN NOTICE PRIOR TO CLOSURE IN LIGHT OF EVIDENCE ON THE WHOLE RECORD, THAT HE WAS STILL IN LEGAL CUSTODY OF SCDC AT ALL TIMES RELEVANT; FUNDS RELEASE PURSUANT TO SCDC POLICY ADM-15.12; LIBERTY INTEREST RIGHTS UNDER STATE AND FEDERAL CONSTITUTIONS; EQUITABLE TOLLING WHILE EXHAUSTING PRELIMINARY PROCEDURES; COMPEL DISCOVERY; RENDER RESPONDENT IN DEFAULT, AND PROCESS TOLLED APPROPRIATELY.

The Circuit Court's denial of Petitioner's request to make his Work Release Long Term Savings Account transparent was manifestly erroneous, and application of Statute of Limitation in instant case are baseless/groundless. Petitioner submits that the Circuit Courts reached decision based upon Petitioner's [scrivener error], regarding the actual time line when Petitioner First became aware [April 28, 2010, and not February 9, 2009], that the SCDC had closed his 1981 Work Release Program Account, (emphasis added). However, based upon the whole record which speaks for itself, the Petitioner properly filed, (1), Administrative Step 1, and Step

2 grievances; (2) Administrative Law Court Appeal; and (3) Circuit Courts Appeals; and Verified Claim. Now shows the Court as follows:

First, Petitioner submits that in recent pleadings he mistakenly asserted February 9, 2009 as date first became aware that Work Release Account was closed is a scrivener error. However, the record speaks for itself, see "State of South Carolina Administrative Law Court [Docket No. 10-ALJ-04-1104-IJ] Appeal, dated February 15, 2011, Argument #III, paragraph #4". Quote, "No incident existed until April 28, 2010, when Akbar was officially informed of the fraudulent seizure of his account, therefore action was properly filed." Error shown to be prejudicial constitute grounds for reversal, JKT Co. v Hardwick, 274 SC 413, 419 SE 2d 510 (1980). February 9, 2009 merely marks one of several Request to Staff for status of 1979-1981 Work Release Account.

Second, Petitioner argue that substantial rights of his was violated from the inception of complaint, and that there are no SCDC E.H. Cooper Trust Funds Account limitation/restriction to seek status or balance in his account, and has an absolute unqualified right to access...seek status...or transparence of his personal saving account manage by SCDC. General inquiry does not depend on whether an incident had occurred as alluded by Grievance Clerk. However, no incident existed to grieve until April 28, 2010, when Akbar was officially informed of fraudulent seizure of his account, action was properly taken. Respondent arbitrarily repeated actions to return grievance(s) unprocess, wrongfully impeded and subverted exhausting required remedies. Under the SCDC's Definition of Policy "Employee Account ADM-15.12:

Section 17.4, "Reporting of mistake in Account, if an inmate thinks a mistake has been made with his/her account, an SCDC form 19-11 "Inmate Request to Staff Member" must be completed and turned in

to the Institutional Cooper Trust Fund designee no later than 75 calendar days following the end of the month in which the mistake was made."

Section 17.4.3, "SCDC investigation of Account Mistake, the Institutional Cooper Trust Fund designee will give the inmate the result of its review or correct the error within ten working days...the Financial Account Branch will notify the inmate in writing within ten working days that the investigation is continuing within 90 calendar days. The Financial Branch will either correct the mistake or explain why the account is correct and record the necessary adjustment of the account."

Section 13.2.5, "Inmates release from SCDC custody who did not request their funds prior to release must mail a written request to the Financial Account Branch to receive his/her funds..."

Section 15, Account Statement.

Section 20, "Work Release Program inmate, unclaimed Accounts...letter will be sent to the last known address of the account holder whose balance is \$50.00, or more."

The petitioner submits that he never closed-out his Work Release Mandatory Long Term Saving Account..nor given notice prior, or after closure of said account. Petitioner further submits that he were paroled and released on the same day and reported to parole agent on monthly basis, See, Cooks v State, 326 SC 171, 485 SE 2d 374 (1997); Sanders v MacDougal, 244 SC 160, 135 SE 2d 836; Wilson v Flaherty, 689 F 3d 332 (4th Cir 2013). Moreover, the Petitioner's position is that SCDC's Financial Account Branch is charged with fiduciary duty and obligation to him, the beneficiary of Work Release Mandatory Long Term Escrow Saving Account. Based on the SCDC's defined regulations governing Work Release savings account, it is unambiguous that

SCDC's officials violated duty owed, procedural and substantive due process rights. See, Davenport v Cotton Hope Plantation, 330 SC 71, 508 SE 2d 565 (1998).

Third, the Respondent's conduct constituted "Default and Reprisal", where SCDC's officials failed to discharge ministerial duty, and failed to request/serve notice for enlargement of time pursuant to processing of grievance(s) within fixed time at each stage, and safeguard against reprisal. Pursuant to Prison Reform Act (PLRA), exhaustion of Administrative Remedies, the Respondent failure to perform legal duty or failure to file timely answer, required by definition of SCDC Policy GA-01.12, See, Underwood v Wilson, 151 F 3d 292 (5th Cir), held, "Prison must process grievance within fixed time...and safeguard against reprisal; See Also, Harrah v Levertte, 271 SE 2d 222, held, "Administrators must follow their own regulations to comply with due process. The Petitioner's grievance [Lee CI-1598-10], filed June 7, 2010 went [300 days] unaddress passed fixed time limit, and loss wages as reprisal. Wherefore, the Respondent's defaulting is a complete bar of their affirmative defense..or inability to assert defense, or petition for dismissal and/or summary judgement while in default, because it cut short the rights to legal dispute, _____ v _____, 303 A 2d 139. The Petitioner respectfully seeks Order for Default Judgement.

Fourth, Petitioner respectfully appeals the Circuit Court's summary dismissal of his complaint for allegedly failure to file complaint within the applicable statute of limitations. The record is clear that Petitioner attempted to initially file complaint [October 1, 2012], however affected by Richland County Clerk of Court clerical error [signing wrong case number [2012-CP-40-1471] to instant case, subsequently corrected and refiled January 16, 2013 under case number [2013-CP-40-0301], within 90 days.

However, the Appellate Court erred and abused its discretion in ruling that the Circuit Court properly applied the two-year statute of limitations, and summary judgement was proper because Akbar's claims were barred by the two-year-statute of limitations in Tort Claims Act; and that Akbar did not submit evidence showing he filed a verified claim. For said reasons the Appellate Court did not consider remaining arguments, Petitioner objects. A Statute of Limitations establishes a time limit for suing in a civil case based on the date when the claim accrued as when the injury or incident occurred, or was discovered after exercising due diligence. However, the Circuit Court's erred and duly prejudice Petitioner when decisions was unsupported by substantial evidence...Agency's findings are clearly erroneous in view of the reliable probative and substantial evidence on the whole record, Rodney v Michelin Tire Corp., 320 SC 515, 466 SE 2d 357 (1996); and ruling Akbar were barred by the Statute of Limitation for failing to file complaint when he first became aware, or put on notice that Respondent had closed Work Release Account void consent or notice. The Petitioner adamantly submits that the record speaks for itself...and that he first became aware/notice given were [April 28, 2010], as reflected...and not [February 9, 2009]. The Lower Court's decisions lie on two separate erroneous conclusions:

(1) That Petitioner fail to file grievance within 15 days of incident. Petitioner objects, and submits that Respondent fail to mention, or describe a time inferred incident allegedly occurred. Respondent's Final Agency Decision does not conform to reason; the only incident that occurred on record is April 28, 2010. Respondent's inference are unsound, not guided by reason, irrational/capricious, and wrong.

(2) The Lower Courts erred and abused their discretion, in summary dismissal of Petitioner's complaint solely on a [scrivener error], more specific an oversight by Petitioner's inadvertent use of wrong

date [February 9, 2009], which Petitioner first [April 28, 2010] became aware of wrong, or put on notice. Court's Order clearly demonstrates it relied on that one date, instead of the whole record.

An abuse of discretion arises when the trial Court was controlled by a error of law, or when the Order is without evidentiary support on the whole record, Hillman v Pinion, 347 SC 253, 554 SE 2d 427 (Ct App 2001). Summary judgement is not appropriate where further inquiry into the facts to clarify the application of the law. Middleborough... v Montedison, 320 SC 470, 465 SE 2d 765; See also, MacFarlane v Manly, 274 SC 392, 264 SE 2d 838. The statute of limitations on a negligence claim accrues at the time of the negligence, or when facts and circumstances would put a person of common knowledge on notice that he might have a claim against another party, Kreutner v David, 320 SC 283, 465 SE 2d 88. The Appellate Court findings may not be based upon surprise, conjecture, or speculation, but must be founded on evidence of sufficient substance to afford a reasonable basis for it, Tiller v Nat'l Health Care Ctr. of Sumter, 334 SC 333, 513 SE 2d 843; Sharpe v Case Produce Co, 329 SC 534, 495 SE 2d 790. Respondent's policies does not restrict inmates from seeking status/balance in their personal account, but has an absolute unqualified right to access saving account managed by SCDC, nor does such inquiry depend on whether an incident had occurred as alluded in grievance(s). Therefore, the Petitioner submits it is only proper for this Honorable Court to consider his complaint in the correct context. The Court may relieve a party from a Final Judgement for mistake, inadvertence, surprise, or excuseable neglect, [Rule 60(b)(1), SCRCF, vacate the judgement on excuseable neglect. Petitioner submits he had a meritorious defense, and that the judgement was rendered against him by mistake/excuseable neglect,

Thompson v Hammood, 299 SC 116, 382 SE 2d 900.

CONCLUSION

For the foregoing reasons, as well as it is common knowledge that a person's personal account should be made transparent, and due process requires adequate notice; right to introduce evidence, etc., Petitioner respectfully submits that the Court should reverse the judgement of the Court of Appeals and grant appropriate relief.

Date: December 29, 2016


Basil W. Akbar, #065498, Pro Se
Lee County Institution
990 Wisacky Hwy, F6B
Bishopville, SC 29010

CERTIFICATE OF SERVICE

I, Basil W. Akbar, hereby certify that copy of Brief of Petitioner, Petitioner's Affidavit in Support, and Exhibits, was served on Respondent, postage prepaid at: Daniel R. Settana, Attorney, Post Office Drawer 7212, Columbia, SC 29202, Attorney for Respondent(s).

Date: December 29, 2016


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THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

G. Thomas Cooper, Jr., Circuit Court Judge

On Certiorari to the Court of Appeals of South Carolina
Opinion No. 2013-002306 (SC Ct App filed Dec 2, 2016)

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, et al

Respondent

v

BASIL WALI AKBAR

Petitioner.

PETITIONER'S AFFIDAVIT IN SUPPORT

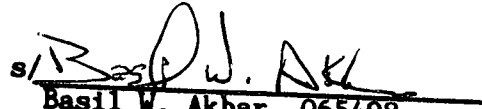
I, Basil Wali Akbar, do solemnly swear that the account given by me delivered into this court does contain a true, and correct account, and I understand that I will be subject to civil and/or criminal penalties if I knowingly furnish false information.

1. I, Basil Wali Akbar, the undersigned is currently incarcerated at the Lee County Institution.
2. The Petitioner [Akbar], was approved and assigned to the SCDC's Work Release Program from July 1979-April 8, 1981, and employed at Owens Electric & Steel Co., and recieved weekly pay checks in hand, and
3. Checks was delivered by Akbar to Center Supervisor, and weekly deductions for mandatory Long Term Escrow Savings Account, and Room & Board.
4. On April 8, 1981, Akbar was paroled, and release on same date, and

advised funds in Work Release Escrow Account would be release upon completion of 5 years on conditional parole, or pardon, however parole was revoked prior to said time.

5. On April 28, 2010, Akbar was First made aware/given notice that Work Release Escrow Savings Account was closed, void notice and/or consent. See also Request to Staff Member dated April 23, 2010, disposition April 28, 2010; and Step 1 grievance dated April 29, 2010 return unprocess.
6. On February 8, 2009, Request to Staff Member was forward to Ms. Melton, Lee County Institution Finance Department, and disposition return February 9, 2009.
7. The Petitioner submits he filed numerous grievance that was return unprocess, for unsound reason, impeded his access to the court.

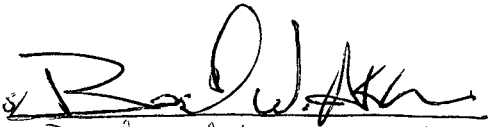
Date: December 29, 2016


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

CERTIFICATE OF SERVICE

I, Basil W. Akbar (Pro Se), hereby certify that Respondents' Counsel of Record was served copy of the Petitioner's Appendix and attachments, postage prepaid at: Daniel R. Seltano, Jr., Post Office Drawer 7217, Columbia, S.C. 29202.

Date: February 10, 2017


Basil W. Akbar, 065478, Pro Se
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