

The South Carolina Court of Appeals

Jose Alberto Maldonado, Appellant,

(Attachments: (A))

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2016-001274

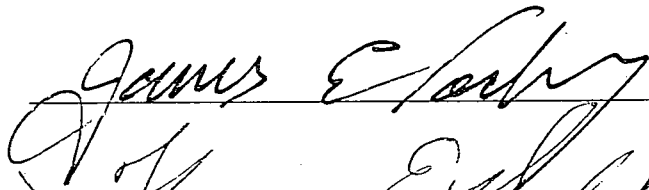
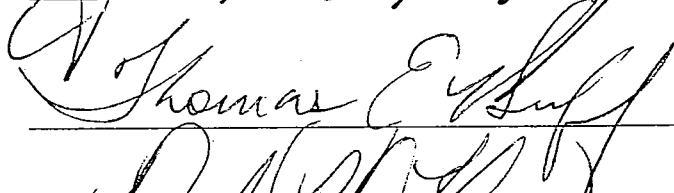
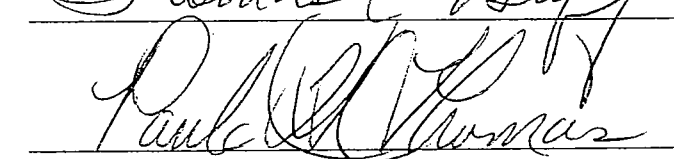
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S.C. SUPREME COURT

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

 C.J.
 J.
 J.

Columbia, South Carolina

cc: Jose Alberto Maldonado
Christina Catoe Bigelow, Esquire
The Honorable S. Phillip Lenski

FILED

June 23, 2017

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

(Attachment: A-1)

Jose Alberto Maldonado, Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2016-001274

Appeal From The Administrative Law Court
S. Phillip Lenski, Administrative Law Judge

Unpublished Opinion No. 2017-UP-209
Submitted March 1, 2017 – Filed May 17, 2017

AFFIRMED

Jose Alberto Maldonado, pro se.

Christina Catoe Bigelow, of the South Carolina
Department of Corrections, of Columbia, for Respondent.

PER CURIAM: Jose Alberto Maldonado, an inmate with the South Carolina Department of Corrections (SCDC) appeals the Administrative Law Court's (the ALC's) order dismissing his inmate grievance, arguing the ALC erred by (1) denying his procedural and substantive due process right to a meaningful appeal, (2) allowing SCDC to file a late brief, and (3) affirming the decision of SCDC that

(Attachment: A-2)

his sentence was properly calculated. We affirm¹ pursuant to Rule 220(b), SCACR, and the following authorities:

1. As to issues one and three: S.C. Code Ann. § 1-23-610(B) (Supp. 2016) (allowing this court to reverse or remand the ALC's decision if it is based on an error of law or abuse of discretion); *Al-Shabazz v. State*, 338 S.C. 354, 382, 527 S.E.2d 742, 757 (2000) ("Courts traditionally have adopted a 'hands off' doctrine regarding judicial involvement in prison disciplinary procedures and other internal prison matters, although they must intercede when infringements complained of by an inmate reach constitutional dimensions."); S.C. Code Ann. → § 44-53-375(C)(2)(b) (Supp. 2016) (providing a person who is guilty of trafficking in methamphetamine or cocaine base between twenty-eight and ninety-nine grams should be sentenced to "a term of imprisonment of not less than seven years nor more than thirty years" for their second offense); S.C. Code Ann. § 16-1-90(A) (Supp. 2016) (classifying the offense listed in section 44-53-375(C)(2)(b) as a Class A felony); S.C. Code Ann. § 24-13-100 (2007) (explaining section 44-53-375(C)(2)(b) is a no-parole offense because it is a class A felony "which is punishable by a maximum term of imprisonment for twenty years or more"); S.C. Code Ann. § 24-13-150(A) (Supp. 2016) (providing an inmate serving a sentence for a no-parole offense "is not eligible for early release, discharge, or community supervision . . . until the inmate has served at least eighty-five percent of the actual term of imprisonment imposed").
2. As to issue two: S.C. Code Ann. § 1-23-610(B) (Supp. 2016) (allowing this court to reverse or remand the ALC's decision if it is based on an error of law or abuse of discretion); SCALC Rule 3(B) ("For good cause shown, the [ALC] may extend or shorten the time to take any action, except as otherwise provided by rule or law.").

AFFIRMED.

LOCKEMY, C.J., and HUFF and THOMAS, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

X3



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
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www.sccourts.org

(Attachment: A-3) May 17, 2017

Jose Alberto Maldonado #312648
Kershaw Correctional Institute
4848 Goldmine Hwy./MB/Room 59
Kershaw SC 29067

Ms. Christina Catoe Bigelow, Esquire
4444 Broad River Road
Columbia SC 29210

Re: Jose Maldonado v. SCDC (2)
Appellate Case No. 2016-001274

Dear Counsel:

Enclosed is the decision of the Court. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

Very truly yours,

A handwritten signature in black ink that reads "Jenny Abbott Kitchings". The signature is written in a cursive, flowing style. To the right of the signature, there is a small, stylized flourish or mark.

CLERK

cc: The Honorable S. Phillip Lenski

CERTIFICATION OF SERVICE

(Attachment: A-5)

I, Jose Alberto Maldonado, The (Appellant) do certify that I did serve the "MOTION AND NOTICE OF APPEAL" on the Respondent, within two (2) Attachment Copies of the Unpublished Opinion No. 2017-UP-209 Submitted March 1, 2017, - Filed May 17, 2017. By depositing the same in the U.S. Mail addressed as follows:

Honorable Daniel E. Shearous
Clerk of Court
Post Office Box 11330
Columbia, South Carolina 29211

Ms. Christina Catoe Bigelow, Esquire
SCDC General Counsel's Office
Post. Office Box 21787
4444 Broad River Road
Columbia, South Carolina 29221-1787

Respectfully Submitted

Jose Maldonado

Further Appellant said and Certify:

This 25 day of May, 2017.

Jose Alberto Maldonado, #312648
pro se Appellant,
Kershaw Corr. Inst. MB/Room, #63
4848 Goldmine Highway
Kershaw, South Carolina 29067

SWORN TO and SUBSCRIBED Before Me

This 25 day of May, 2017

Catherine A. Amos
Notary Public For South Carolina

My Commission Expires: _____

December 22 2018

Appellate Case No. 2016-001274

Unpublished Opinion No. 2017-UP-209
Submitted March 1, 2017 - Filed May 17,
2017.

THE STATE OF SOUTH CAROLINA
In The Supreme Court

(Attachment: A=4)

Jose Alberto Maldonado, Appellant,

V.

South Carolina Dep't of Corrections, Respondent.

Appellate Case No. 2016-001274

Appeal From The Administrative Law Court
S. Phillip Lenski, Administrative Law Judge

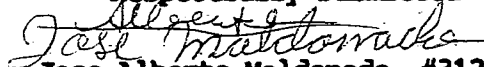
Unpublished Opinion No. 2017-UP-209
Submitted March 1, 2017 - Filed May 17, 2017

PETITION FOR REHEARING
SUPPORTING MOTION, UPON NOTICE OF APPEAL

Jose Alberto Maldonado, pro se.
Christina Catoe Bigelow, of the (SCDC), of Columbia, for Respondent.

I, Jose Alberto Maldonado, (Appellant), do hereby this Motion do seek to appeal the order of this Unpublished Opinion No. 2017-UP-209, orders may be cited in the similar manner as provided for published order under Rule 268(d)(1), SCACR, (Quoting State v. Foster, 298 S.C. 306, 379 S.E.2d 907 (1989)) See the Attachment (2) Copies Pursuant to Rule 268(d) ^{Fn.1} (2), SCACR. (Affirmed) LOCKEDMY, C.J., & THOMAS, JJ., concur. Which was issued on May 12, 2017.

Respectfully Submitted


Jose Alberto Maldonado, #312648
Kershaw Corr. Inst. MB/Room, #63
4848 Goldmine Highway
Kershaw, South Carolina 29067

-
1. Entered Rule 221(b) against the
Remittitur. Pursuant To Rule 242(a),
and (c). Step (1), &
See Attach. Griavances: Step (2)

(1)

(Attachments: B-1)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF
GENERAL SESSIONS FOR
THE THIRTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)

-VERSUS-

CASE NOS. 2005-GS-47-26 Count I
2005-GS-47-26 Count IV

JOSE ALBERTO MALDONADO,)

DEFENDANT.)
_____)

PLEA AGREEMENT

AGREEMENT made this ____ day of _____, 2006, between and among the State of South Carolina, as represented by Attorney General Henry McMaster, Jennifer D. Evans, Chief, State Grand Jury, and Assistant Attorney General Susan O. Porter, and the Defendant, and his attorney, James H. Price, III, Esquire.

1. The Defendant, Jose Alberto Maldonado, agrees to plead guilty to the offense of Trafficking Methamphetamines 28 - 100 grams by conspiracy, second offense, a violation of S.C. Code Ann. § 44-53-375(C)(2)(b), a lesser-included of that alleged in Indictment Number 2005-GS-47-26 Count I, which carries a sentence range from seven (7) year to thirty (30) years, and a fine of fifty thousand (\$50,000) dollars. The State will make a recommendation of twenty (20) years to run concurrent with the other indictment. This is considered a violent and serious offense.

2. The Defendant, Jose Alberto Maldonado, agrees to plead guilty to the offense of Trafficking Methamphetamines 28 - 100 grams, second offense, a violation of S.C. Code Ann. § 44-53-375(C)(2)(b), a lesser-included of that alleged in Indictment Number 2005-GS-47-26 Count IV, which carries a sentence range from seven (7) year to thirty (30) years, and a fine of



(Attachment: B-2)

fifty thousand (\$50,000) dollars. The State will make a recommendation of twenty (20) years to run concurrent with the other indictment. This is considered a violent and serious offense.

3. The Defendant, Jose Alberto Maldonado, agrees to fully and truthfully cooperate with the Office of the Attorney General of South Carolina, and any local, state and federal law enforcement agents in their investigation of the importation, possession, and distribution of controlled substances and related unlawful activities. This cooperation is to include, but is not limited to, truthful and complete debriefings of the Defendant's knowledge concerning unlawful drug activities and related unlawful activities. Also, the Defendant understands that he must fully disclose and provide truthful information to the State including any books, papers, or documents or any other items of evidentiary value to the investigation. ^{*} The Defendant must also testify fully and truthfully before any grand juries and at any trials or other proceedings if called upon to do so, subject to prosecution for perjury for not testifying truthfully. ^{*} The failure of the Defendant to be truthful or to cooperate at any stage can cause the obligations of the State of South Carolina under this Agreement to become null and void. Further, it is expressly agreed that if the obligations of the State under this Agreement become null and void due to the lack of truthfulness or cooperation on the part of the Defendant, the Defendant understands that: (1) the Defendant will not be permitted to withdraw his plea of guilty to the offense described above; (2) any and all additional charges known to the State may be filed in the appropriate county; (3) the State may argue for a maximum sentence for the offenses to which the Defendant has pled guilty; (4) the State may use any and all information and testimony provided by the Defendant in the prosecution of the Defendant for all charges; and, (5) the State may advise the Department of Corrections of the Defendant's status as an uncooperative defendant and may accordingly

(Attachment: B-3)

recommend redesignation of the Defendant to a higher custodial level.

4. The Defendant, Jose Alberto Maldonado, understands and agrees that any and all assets or portions thereof acquired or obtained as a result of illegal trafficking in drugs shall be surrendered to the South Carolina Law Enforcement Division (SLED), and/or other law enforcement related organizations in South Carolina to be designated by the South Carolina Attorney General, in portions to be determined by the South Carolina Attorney General. The assets so surrendered to South Carolina authorities will be disposed of according to South Carolina law. The assets to be surrendered include, but are not limited to, cash, stocks, bonds, certificates of deposit, personal property, and real estate. Further, the Defendant agrees to fully assist the Office of the Attorney General and SLED in the recovery and return to SLED, and/or other designated law enforcement agencies in South Carolina of any drug-related assets or portions thereof, either domestic or foreign, which have been acquired or obtained either indirectly or directly through unlawful drug activities. The Defendant must prevent the disbursement and immediately and voluntarily surrender to the Office of the Attorney General, SLED, and/or other designated law enforcement agencies in South Carolina, all other domestic and foreign assets in which he has any direct or indirect interest or control, if the assets are the proceeds of unlawful drug activities or are directly or indirectly related to the unlawful drug activities. The Defendant further agrees to immediately and voluntarily surrender to the Office of the Attorney General, SLED, and/or other designated law enforcement agencies in South Carolina, in portions to be determined by the South Carolina Attorney General, all conveyances, including but not limited to, aircraft, vehicles, or vessels, which have been used or were intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or

(Attachment: B-4)
concealment of controlled substances. By signing this Agreement, the Defendant consents to civil forfeiture of all assets currently in the possession of the government and further consents to civil forfeiture of all drug related assets seized by law enforcement agents in connection with this investigation.

5. The Defendant, Jose Alberto Maldonado, further agrees to submit to polygraph examination(s) by any qualified state polygraph examiner should he be requested to do so regarding his knowledge of and involvement in drug-related activities, other related unlawful activities, and any and all assets and conveyances acquired and/or used by the Defendant or others, whether drug-related or not. This Plea Agreement is expressly contingent upon successful completion, to the satisfaction of the State, of the polygraph examination(s).

6. The Attorneys for the State reserve the right to summarize all evidence, which would have been presented at trial to establish a factual basis for the plea.

7. The Attorneys for the State agree to advise any Court or other authority of the extent and value of the Defendant's cooperation if called upon to do so by the Defendant.

8. The Defendant, Jose Alberto Maldonado, understands that the State's obligations under this Plea Agreement are expressly contingent upon the Defendant's abiding by state and federal laws, and complying with the terms and conditions of this Agreement, both before and after sentencing, and any bond executed in this case. This Agreement in no way limits or affects the Defendant's potential exposure to further prosecution by any Solicitor's Office in the State of South Carolina or the United States Attorney for conduct which is not a basis for his indictment and prosecution by the State Grand Jury of South Carolina.

9. The parties hereby agree that this Plea Agreement supersedes all prior promises,

(Attachment: B-5)
representations and statements of the parties; that this Agreement may be modified only in writing signed by all parties; and that any and all other promises, representations and statements, whether made prior to or after this Agreement, are null and void.

DATE

Jose Alberto Maldonado
Defendant

DATE

James H. Price, III
Attorney for Defendant

Henry McMaster
Attorney General of South Carolina

Jennifer D. Evans
Chief, State Grand Jury

DATE

By: _____
Susan O. Porter
Assistant Attorney General
State Grand Jury

Jose Alberto Maldonado # 312648
Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, South Carolina 29067

October 11th, 2016

JANNY ABBOTT KITCHINGS
Clerk
V. CLAIRE ALLEN
DEPUTY CLERK

Post Office Box 11629
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1220 Senate Street
Columbia, South Carolina 29201

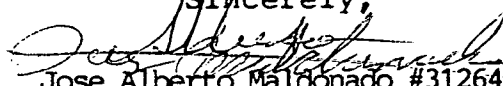
Re: Jose Alberto Maldonado v. SCDC(2)
Appellate Case No. 2016-001274

Dear Clerk:

May you please present this Motion to the Court of Appeals to find enclosed a proposed Appellant's FINAL BRIEF.

In reference to the above - captioned Criminal, or Civil Case. Please if this file meets your approval in your Office, signed and return with a "Clock - Stamped" for been file incide the enclosed self - address stamped envelope.

Sincerely,


Jose Alberto Maldonado #312648
Pro Se Appellant

Cc: Cristina Catoe Bigelow
SCDC General Counsel Office
P. O. Box 21787
4444 Broad River Road
Columbia, South Carolina 29221

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Administrative Law Judge S. Phillip Lenski

ALC Case No, 15-ALJ-0567-AP
Appellate Case No. 2016-2016-001274

Jose Alberto Maldonado, #312648,

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

FINAL BRIEF

Respectfully Submitted

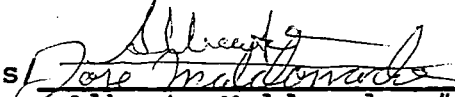

s/ Jose Maldonado
Jose Alberto Maldonado, #312648
Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, South Carolina 29067

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STATEMENTS OF ISSUES ON APPEAL

Argument I.

Issue A: Appellant Was Denied His Procedural And Substantial Due Process Right To A Meaningful Appeal;

Argument II.

Issue B: Administrative Law Court Error In Granting Respondent's Motion To File Out Of Time While Denying Appellant's Motion To Resolve Appeal Adversely Without Holding A Hearing; and

Argument III.

Issue C: The Administrative Law Court Decision Was Controlled by A Clear "Error Of Law"

STATEMENT OF THE CASE

This matter comes before the Court pursuant to the Appeal of Jose Alberto Maldonado, an Inmate in the custody of South Carolina Dep't of Corrections. On December 11, 2014 Appellant submitted a Step One Grievance, "complaining about to demanded disclosed with an evidentiary hearing". To compel the (Two) "consecutively sentences", the Step One, Grievance complaining was denied without any proof to the records pursuant to SCDC's Policy: PO-21.09, §[2].

On January 9, 2015, Appellant submitted a Step Two Grievance form, which was also denied on the ground that there were "no errors upon the both statutes," the Appellant complaining at the both sentences. Appellant filed a Notice of Appeal in the Administrative Law Court (ALC or court), Appellant filed a Notice of Appeal filed October 20, 2015. In this Appeal, the Appellant argues the Department has lawful incarceration of prison sentence. The Department filed the same Appellant's record (IGP) on January 4, 2016. The Appellant seems to have objected to the order denying the motion and the contents of the Records on Appeal and filed a "Writ of Mandamus" with the Court of Appeals. The Court of Appeal construed the Appellant's filing as an improperly perfected appeal and eventually dismissed the (C/A# 2016-000055) The matter was remitted to this court on February 29, 2016. Thereafter, the Appeal in the ALC went forward, and May 20, 2016, The S. Philip Lenski issued an order affirming the decision of the SCDC. This Appeal follows.

STANDARD OF REVIEW/LAW ANALYSIS

S.C. Code, § 1-23-610(B): Set forth the standard of review when this Court is setting in review of a decision by the ALC on an appeal from an administrative agency. Specifically, Section 1-23-610(B) allows this Court to Reverse the ALC's decision if it violates a Constitutional or Statutory Provision or is affected by any other error of law. See Appendix: A (R.p.3 ROA)(quote, § 44-53-375(C)(2)(b) clearly the ALC's Order show that enter § 1-23-610 (B)(a, d, & e)). While the interpretation of a statute by the agency's interpretation "will be accorded the most respectful consideration," an agency's interpretation "affords no basis for the perpetuation of a patently erroneous application of the statute." State v. Sweat, 286 S.C. 339, 351, 688 S.E.2d 569-75, 576 (2010).

Appellant contends that the eighty-five percent (85%) of S.C. Code §§ 24-13-100/150, does not apply to his Trafficking In Methamphetamines charges because the sole issue on review involves a question of statutory interpretation, which's a question of law subject to de novo review . Borton v. SC. Dep't of Prob. Parole & Pardon Serv., 395 S.C. 414, 745 S.E. 2d 110., 120 (2013)(See, ALC judge Order, R.p.4 at Fn.2; quoting, Bolin v. SCDC, 415 S.C. 276, 781 S.E.2d 914(Ct.App.2016)(reh'g denied Feb.24,2016)). Despite Respondent's arguments, "Appellant has merit upon the Bolin case," and it is to be held retroactive in the "ALC Order" as it has since its ruling in this case on collateral review. Therefore has not be applicable "by ALC Order under Teague v. Lane, 489 U.S. 288 (1989) See, e.g., Jose Alberto Maldonado v. Warden of Perry CI., C/A#:8:11-cv-01372-TLW Filed Sept.27, 2011.

ARGUMENT I.

ISSUE A: Appellant Was Denied His Procedural And Substantial Due Process Right To A Meaningful Appeal.

Appellant alleged within his Step One (1), and Step Two (2) Grievances, as well as in his ALC Brief that his Trafficking in crack cocaine charges were "incorrectly calculated" by the SCDC under the concurrent sentencing scheme of the Trafficking in crack cocaine Statute," and pursuant to the New Information Recently Discovered by Appellant has lead him to believe all of the "Court Documents received by the SCDC may be fraudulent. See (ROA, p. 63; APPELLANT BRIEF/MOTION FOR LEAVE TO CONDUCT DISCOVERY ORDER): R. p. 68-line 9's Attachment: A-5), in which he show with his requested an "Update Hearing with Classification to examine the Commitment Order(s) and all other relevant documents." Without authentic legal documents, the Appellant's incarceration within the South Carolina Department of Corrections ("SCDC") would be invalid, thereby making the miscalculation of Appellant's sentence an irrelevant and moot point. See: (Attachment: A-5 ROA.R.P.84-line 6) showed that, there is no record of said charge. Discovery From State Grand Jury on April 17, 2015.

However, the point here is that the two (2) interwoven allegations and issues were preserved for review by the SCDC and the ALC judge, but the Agency and Court addressed the sentencing miscalculation issue and totally ignored our issue relating to

the "Update Hearing" and whether SCDC possess copies of the correct, authentic, and legal Court Documents to lawfully hold Appellant incarcerated. See: That Record on Appeal Appendix(s): A-through-D)(One hundred twenty five (125) pages).

The Dep't of Corrections and ALC judge ignored Appellant's real and full issues denying him his right to be heard and to receive adjudication upon his meritorious issues. U.S.C.A.Const. Amend. One, and Fourteenth.

Not only did "Appellant filed a Brief" to the ALC in this matter, but he also filed a "Motion For Leave To Conduct Discovery" in order to perfect the issues mentioned above (Issues on Appeal) see the (ROA, p. 63), but this Motion For Leave To Conduct Discovery was denied by the ALC. Then, Appellant made a "Motion To Resolve Appeal Adversely" because the Respondent failed to file their Brief within the allotted time and had not produce the full "Record on Appeal"; see Appendix:B (R. p. 27); Summary Judgment, with Affidavit at (R. p. 40. ROA) as required by the ("V. SPECIAL APPEALS, file Oct. 29, 2015, at 52. Computation of Time' see Appendix: C. R. p. 59 ROA")(Instead Section: (V) 54. Service, with Rule 5(b)(1), SCRCP, "also shall satisfy this Rule/or 62. Dismissal of Appeal; Sanctions. Of the time limits provided by this section (V), upon the Respondent's failure to provided by Rule 59(B). Stated as follows:

Notwithstanding the time frames established herein, the ALC judge has the discretion to determine that a document is timely filed upon a finding that the party who filed the document made a good faith effort to file

the document within the applicable time limits. Is a mandatory sanction upon the Respondent for purposes of delay. See Appendix: C (R. p. 61 ROA).

The Respondent filed their Brief and "Motion To File Out of Time" well after the due date for their brief. See Appendix: A (R. p. 25 ROA). Appellant objected to the Respondent's Brief and Motion being accepted by the ALC. See; at (R. p. 8 ROA). The ALC denied all of Appellant's Motions and Objection, while granted all of Respondent's Motions and ruled in their favor. See, Order at Appendix: A (R. p. 1, ROA); and Order Denying Motion For Discovery at the Appendix: C (R. p. 108 ROA). The Court allowed them to submit their "Brief addressing only" the sentencing calculation issue as they still avoided our remaining issue of whether the SCDC possess the legal documents to keep Appellant lawfully incarcerate. See, Appendix: B (R. p. 1 ROA).

Another matter to be taken up here is the ALC judge's Order. The Order "incorrectly stated that 'its decision was made after the Department's submission of the Record on Appeal.'" See, e.g., State v. Hollman, 232 S.C. 489, 500, 102 S.E.2d 873, 878 (1958). The "Record" within meaning of rule that "record" of a criminal trial must affirmative show that state grand jury was not sworn, the conviction must be reversed, means of the "Question Involved", the second suggests that Appellant was deprived of the right to, at "a Session of the State Grand Jury of South Carolina to being indicted, and therefore denied due process of

law, and other records of trial in office of clerk of trial Court, and not the "transcript of record" on appeal as agreed on by solicitor, assistant attorney general. Code 1976, §§ 1-7-100, 1-7-120, 1-7-510. Const. Art. V, §§ 22/24; and Supreme Court Rules, rule 4 and 3. See *id.*, at Hollman, 500, 120 S.E.2d at 878; (quoting State v. Self, 225 S.C. 267, 82 S.E.2d 63 (1954). Holding: that "General Sessions Court Term", contending that there was error in the presiding judge's charge in that he failed to charge the law applicable to Trafficking Methamphetamines, and Conspiracy for "a second offense to Trafficking in cocaine, under the provision § 44-53-375(C)(2)(b). Where one is charged with the crime for consecutive offenses, and run concurrent is the intent, though there must also be some in the direction of such an intent and the SCDC agency used to effect the intent may or may not be sufficient for the purpose, see Self, 270, 82 S.E.2d at 64 (1954). See, Appendix: A (R. p. 6 ROA) Guilty Plea hearing this court said that; if I be sentenced consecutively on those indictments, I will be sentenced to "Sixty Years and a hundred thousand dollars. See (R. p. 6, line 9-17); See (R. p. 7, line 3-16) Plea? from August 22, 2006, was the sentencing transcrip, show me again under the Indictments No. 2005-GS-47-26, count 1, Trafficking Methamphetamines, 28 to a Hundred Grams, second offense; and count 4, trafficking."" Applied Appendix: B (R. p. 27 ROA) at, (R. pp. 34-35) Under this two cases: McKnight v. S.C. Dep't of Corrections, 385 S.C. 380, 386, 684 S.E.2d 566, 568 (2009); and Law v. S.C. Dep't of Corr. 368 S.C. at, 436, 629 S.E.2d 649 (2005). Without the Documents nece-

ssary to resolve all the issues before the ALC, then the SCDC, agency had not submitted a sufficient "Record on Appeal" for a fair and meaniful appeal. See, Appendix: B(p. 40 ROA) were the judge Lenski, file from Respondent's Record, consisting of Inmate Grievance KRCI 1415-14, in the above case. "Only One Copy on Record," see (R. p. 45 ROA) Appellant's "Motion for Summary Judgment had been applied, because Respondent fall bellow to the Record on January 4, 2016. And the ALC judge cannot accept such records, and the matter that belong to: "Appellant Brief/Motion For Leave To Conduct Discovery's Attachment file (A.L.C. Doc.2) on December 3, 2015. (See, R. pp 64-107 ROA)."

Furthermore, the "ALC's Order" stated: "Assuming, that the Department correctly applied time served and running the sentence from the August 6, 2005, the earliest possible date by which the Appellant could be released is August 2, 2022". Here, the Court is assuming matters of fact and law without the full "Record of Appeal" and without addressing all issues before it.

In reviewing of Agency's actions, the ALC's task was to review the considerations that the Agency relied upon in making their decision and making sure that Agency's decision has some basis in the record. Fort Sumter Tours, Inc. v. Babbitt, 66 F.3d 1324, Cert. Denied, 116 S.Ct. 1848 (C.A. 4 (SC) 1995); State v. Newton, 274 S.C. 287, 262 S.E.2d 906 (1980)(quoting, State v. Vanderbilt, 287 S.C. 597,

340 S.E.2d 543 (1986). The ALC could not have made a meaningful review when the Court assumes the facts and law and the Agency has failed to produce the entire and necessary "Record on Appeal" to the ALC. This case was confined to evidence of bad faith or improper behavior by the ALC's judge and Agency's Officials in compiling the incomplete and inadequate record would justify beyond the Record. SC. Ditt. E.C. v. Atlantic Steel Industries, Inc., 85 F.Supp.2d 596 (D. S.C. 1999). See, Appendix: C R. p. 98 ROA).

The ALC did not require the SCDC to compile a complete and adequate record for the Court's review of the Department's arbitrary and capricious decision made without addressing all issues before them and the assuming facts and law. This amounted to an "abuse of discretion" and "error of law". See Kiawah Property Owners Group v. Public Services Com'n of S.C., 338 S.C. 92, 525 S.E.2d 863 (S.C. 1999) (An administrative body must make findings which are significantly detailed by enable the Court to determine whether the findings are supported by the evidence and whether the law has been applied properly to those findings).

Under both our State and Federal Due Process Clauses, no person shall be deprived of life, liberty, or property without due process of law. U.S.C.A. Const. Amend. XIV, § 1; S.C. Const. art. 1, § 3. State v. Binnarr, 400 S.C. 156, 165, 733 S.E.2d 890, 894 (2012). Appellant has not received an opportunity to be heard in a meaningful manner. Tat, 334, 759 S.E.2d 398 (2014). This case should be remanded.

ARGUMENT II.

Issue B: Administrative Law Court Erred In Granting Respondent's Motion To File Out Of Time While Denying Appellant's Motion To Resolve Appeal Adversely Without Holding A Hearing.

Appellant filed with the ALC a "Motion For summary judgment on April 1, 2016 because Respondent failed to comply with the ALC rules and was out of time and failed to make any response to Appellant's pleadings. See, Appendix: A (R. pp. 8-26 ROA). Appellant's Motion was construed by the Cour "as a Motion To Resolve Appeal Adversely." On May 2, 2016, the Dep't filed their Respondent's Brief and Motion To File Out of Time. See: (R. pp. 19-26 ROA). Before this, Appellant had filed a Motion For Leave To Conduct Discovery, See, Appendix: C (R. p. 63 ROA) in order to perfect the Issues on Appeal and to have the Court Documents submitted to him as possessed by the SCDC (Respondent) and previously requested pursuant to SCDC Policy OP-21.09 §[2], 7, & § 3. 6. See: (R. pp. 74-77 ROA).

The ALC denied the Appellant's Motion For Leave To Conduct Discovery on Dec. 18, 2015. See, (R. pp. 108-09 ROA) on January 6, 2016 Appellant filed a Writ of Mandamus" See: (R. pp. 110-18 ROA) to the South Carolina Court of Appeals, whow for an unknown reason misconstrued this "Writ as a "Notice of Appeal" and "Initial Brief", which was not in any way indicated by Appellant's filings or otherwise that this was his intentions at all. See: Appendix: D (R. pp. 119-125 End ROA). The (SCDC) used this

circumstance as a reason for confusion to excuse them for not doing what the law required them to do. The ALC granted all of Respondent's Motions while denying appeal without requiring Respondent to comply to Appellant's Motions: See, Ante, at Issue: A, Pgs, 5-6). To Grant Respondent's Motion and deny Appellant's while affirming SCDC decision was an "error of law". Now comes this Law Analysis in Regard:

LAW ANALYSIS

Respondent had ample notice and time to meet their obligation, but has ignored Appellant's request and many pleadings, and by doing so has prejudiced Appellant from developing his record and issues and denied Appellant his right to a meaningful appeal. The so-called confusion actually stemmed from Respondent's own act of preventing Appellant access of the Court Documents for his reviewing and as a complete and adequate "Record on Appeal". The SCDC cannot "use ignorance of the law" to excuse lack of compliance with the law. Federal Group Ins. Corp. v. Merril, 332 U.S. 380, 384-85, 68 S.Ct.1, 92 L.Ed.2d 10 (1947).

The ALC judge should have denied Respondent's Motion to File Out Of Time and their Brief should not be considered.

The ALC judge was required by law to grant Appellant's Motion To Resolve Appeal Adversely against the Respondent under Rules, Rule 61, and 62, SCALC Section (V), or for the failure to provide a factual basis for each expressly and specifically

asserted constitutional violation as prescribed by Rule 59(B). See, Hon: Linski's Order with held at: Appendix: A (R. p.3 ROA) ("[t]he ALC judge clearly said on May 20, 2016 Order that "Appellant was convicted of Trafficking Methamphetamines pursuant to section 44-53-375(C)(2)(b)" of the South Carolina Code.") when the court applied the offense is classified as a Class A felony, pursuant to section 16-1-90(A). A Class A felony is one to which a penalty of not more than thirty years applies, as stated in section 16-1-20(A). See; Argument III. upon this Motion. Constitutional Violation against the Lenski's Order from May 20, 2016. Because Appellant had/or have not record of sentence to punish him pursuant to section 44-53-375(C)(2)(5). See, Appendix: C (R. p. 63, filed Attachments; R. pp.74-75 ROA) that Inmate Grievance One, and two explaint that; see also (R. p. 83 ROA) sentencing sheet, descrived § 44-53-375(C)(5) there is the error to the lowere court, and the ALC judge allow too. See (R. pp. 88-102 ROA) two indictments within diferent dates?

The Appellant Grievances pursuant to Policy Op-21-09 ¶[2]: Inmate Records Plan/Matter of Insufficient And Construction of Sentences Imposed Accordignly the SCDC have authority for Appellant's custody with copies of the "Arrest Warrants, Sentencing Sheets", and ("True Bill Indictments"), with the Court Orders. Neither Kershaw CI. or Office of general Counsel claim to possess these documents. So any confussion come to the "Respondent, or by ALC could have been resolved with a hearing. The ALC jud-

ge erred here by granting the Respondent's Motion without the facts before it to reach the decision it did was an error of law. Porter v. Labor Dep't, 372 S.C. 560, 643 S.E.2d 96 (2007).

This case should be reversed with an instruction and a hearing issued to resolve this matter or ruled in Appellant's favor.

ARGUMENT III.

Issue C: The Administrative Law Court Decision Was Controlled by A Clear "Error Of Law"

The Respondent (SCDC) has, from the very beginning, used the incorrect subsection of the Trafficking In Methamphetamines statute in analyzing and calculating Appellant's sentence and earliest release date. The ALC judge's Order stated this very same subsection in regards to the calculation of the earliest release date. See ante, in this Final Brief, at p.(3), "Standard of Review/Law Analysis." The Respondent and Court both use S.C.Code, § 44-53-375(C)(2)(b) in their calculation, when the correct subsection is S.C. Code, § 44-53-375(C)(5). Appellant was not convicted and sentence pursuant to S.C. Code § 44-53-375(C)(2)(b) for a second offence, but was convicted and sentence pursuant to § 44-53-375(C)(5) which Appellant has argued from the very beginning. See Appendix: C (R. Pp. 74-77 ROA) Step 1, & Step 2; and (R. Pp. 97-107 ROA) the Indictment(s) with Sentencing Sheets.

Furthermore, within the ALC's Order the judge estrongly suggested that the sentence scheme involved in his and the SCDC's analysis appears to be ambiguos. It is quite obvious that the ALC Order in denied is based on clear error of law. See Tant v. SCDC, 404 S.C. 334, 759 S.E.2d 398 (2014). Under the review procedures used by the ALC, this court should reverse the ALC and SCDC decision which was controlled by a clear error of law, and no substantial evidence to support the decision. Law v. South Carolina Dep't of Corrections, 368 S.C. 436, 629 S.E.2d 642-648 (2005).

This case should be reversed and a hearing should be held for recalculation of Appellant's sentence.

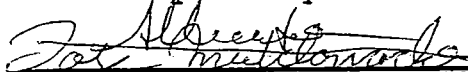
CONCLUSION

For the legal reason and principles cited within Appellant's "Initial Brief, Reply Brief, and Record on Appeal", pursued with this "Final Brief"; under the Appellate Court Rules, Rule 208(a)(4), SCACR. The Rule 211(a) SCACR, a "Final Brief," said that: Within twenty (20) days, after the service of the "Record on Appeal, 'each party'" shall serve a copy of his final brief(s) on every other party to the appeal, and file fifteen (15) copies of the final brief(s) with the Clerk of the Appellate Court. Here, the Respondent did not file in time's "Record on Appeal" with this Court, in accordance with the rules. Rule 210(a) SCACR, provide that; within thirty (30) days after Respondent his last "Initial Brief" has to file his Records with this Court. See the Rule 211(a) SCACR, against service upon Respondent with the prescribe time. See, "Appellant's Reply Brief To Respondent Initial Brief of Respondent" at, (p. 8-line 23, argued under "Rule 208(a)(4) SCACR, same issued," failure to file his Final Brief, within twenty (20) days). So the last day Appellant received from Respondent's "Initial Brief of Respondent, and Designation of Matter To Be Included In The Record on Appeal," this Motion Enter on My Records on August 18-24, 2016."

The Respondent again, against Limitation Action, in this Appeal, with this Rule 208(a)(4) SCACR. For failure, to not raised any defence with his "Record on Appeal". And let this Court to review the SCDC, incarceration to "Jose Alberto Maldonado, Case No. 2005-GS-4726." Between, the State of South Carolina indicted him. Enter The Rule 260 SCACR, against the Respondent.

Further, a hearing should be held with a counsel, in Order to "resolve this matter without any other confusion." And also, this Hon: Court should order the SCDC to provide Appellant with the Entire and Complete Court Documents as Received by them in the 13th Judicial Circuit's Clerk, from the General Sessions Court Term files.

Respectfully Submitted


Jose Alberto Maldonado, #312648
Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, South Carolina 29067

October 11th, 2016.

File: (Ct. App. Doc. 6)

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Administrative Law Judge S. Phillip Lenski

ALC Case No. 15-ALJ-04-0567-AP
Appellate Case No. 2016-001274

Jose Alberto Maldonado, #312648,

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

CERTIFICATE OF SERVICE

Undersigned Appellant hereby certifies on today's date him mailed a copy of the Appellant's Final Brief. To addressed as follows:

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

Cristina Catoe Bigelow
SCDC General Counsel's Office
Post Office Box 21787
4444 Broad River Road
Columbia, South Carolina 29221

Further Appellant said and Certify:
On October 11th, 2016.

Respectfully Submitted

SWORN To and SUBSCRIBED Before Me

This 11th day of October, 2016

Catherine A. Cameron
Notary Public For South Carolina

My Commission Expires: _____
~~My Commission Expires December 22, 2018~~

Jose Alberto Maldonado
Jose Alberto Maldonado, #312648
Pro Se Appellant

Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, South Carolina 29067

File: (Ct. App. Doc. 6)

Jose Alberto Maldonado, #312648
Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, South Carolina 29067

September 26, 2016

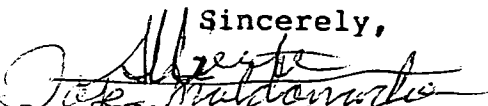
The Honorable Jenny A. Kitchings
Clerk of Court, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: Jose Alberto Maldonado v. SCDC(2) Appellate Case No. 2016-001274

Dear Jenny Abbott Kitchens, Clerk:

Enclosed please find the Appellant's **RECORD ON APPEAL** in the above captioned appeal, along with Certificate of Service.

Thank you for your valuable time in this matter, in the reference to the above-captioned criminal/or civil case. Upon this Honorable Court of Appeals, if my files meets your approval; file the original in your office's clerk and return a clock-in copy to me in the enclosed sel-address envelope.

Sincerely,

Jose Alberto Maldonado, #12648
Pro Se Appellant

cc: Christina Catoe Bigelow
Deputy General Counsel

P.O. Box 21787
4444 BroadRiver Road
Columbia, South Carolina 29221

File: (SC. App. Ct. Doc. 5)

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Administrative Law Judge S. Phillip Lenski

ALC Case No. 15-ALJ-0567-AP
Appellate Case No. 2016-001274

Jose Alberto Maldonado,

Appellant,

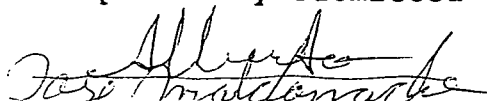
v.

South Carolina Department of Corrections,

Respondent.

RECORD ON APPEAL

Respectfully Submitted

s/ 
Jose Alberto Maldonado, #312648
Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, South Carolina 29067

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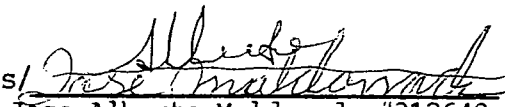
(SC. App. Ct) Remittitur, C/A#: 2015ALJ040567AP, and Appellate C/A#: 2016-000055. February 29, 2016.....(Ending, 125)

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

September 26, 2016

File: (SC. App. Ct. Doc. 5)
Rule 210 SCACR
Record On Appeal

Respectfully Submitted


s/ Jose Alberto Maldonado
Jose Alberto Maldonado #312648
Kershaw Corr. Inst. MB/Room #59
4848 Goldmine Highway
Kershaw, South Carolina 29067

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Administrative Law Judge S. Phillip Leski

ALC Case No. 15-ALJ-04-0567-AP
Appellate Case No. 2016-001274

Jose Alberto Maldonado, #312648,

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

CERTIFICATE OF SERVICE

Undersigned Appellant hereby certifies on today's date
him mailed a copy of the RECORD ON APPEAL, pursuant to Rule
210 SCACR. To Addressed as follows:

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

Christina Catoe Bigelow
Deputy General Counsel
P.O. Box 21787
4444 Broad River Road
Columbia, South Carolina 29221

Further Appellant Said And Certifies:

Done this 26th day of September, 2016.

Respectfully Submitted

SWORN To and SUBSCRIBED Before Me
This 26th day of September, 2016

Catherine A. Amosaw
Notary Public For South Carolina
My Commission Expires: _____
December 22, 2018

s/ Jose A Maldonado
Jose Alberto Maldonado, #312648
Pro Se Appellant

Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, South Carolina 29067
File: (SC. App. Ct. Doc. 5)

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Administrative Law Judge S. Phillip Leski

ALC Case No. 15-ALJ-04-0567-AP
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South Carolina Department of Corrections,

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Post Office Box 11629
Columbia, South Carolina 29211

Christina Catoe Bigelow
Deputy General Counsel
P.O. Box 21787
4444 Broad River Road
Columbia, South Carolina 29221

Further Appellant Said And Certifies:

Done this 26th day of September, 2016.

Respectfully Submitted

SWORN To and SUBSCRIBED Before Me
This 26th day of September, 2016

Christine A. Amosaw
Notary Public For South Carolina
My Commission Expires: December 22, 2018

s/ Jose A Maldonado
Jose Alberto Maldonado, #312648
Pro Se Appellant

Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, South Carolina 29067
File: (SC. App. Ct. Doc. 5)

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge S. Phillip Lenski

ALC Case No. 15-ALJ-04-0567-AP
Appellate Case No. 2016-001274

JOSE ALBERTO MALDONADO, # 312648,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

(Attachment: C-1)

RESPONDENT.

FINAL BRIEF OF RESPONDENT

SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS

Christina Catoe Bigelow
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ATTORNEY FOR RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

THE ADMINISTRATIVE LAW COURT PROPERLY AFFIRMED THE DECISION OF THE DEPARTMENT OF CORRECTIONS WHERE APPELLANT FAILED TO SHOW THE DEPARTMENT'S CALCULATION OF HIS SENTENCE WAS INCORRECT.

(Attachment: C-4)

STATEMENT OF THE CASE

This matter comes before the Court pursuant to the appeal of Jose Alberto Maldonado, an inmate in the custody of the South Carolina Department of Corrections. On December 11, 2014, Appellant submitted a Step One Grievance complaining about the Department's calculation of his sentence. The Step One Grievance was denied on the ground that no error was found in Appellant's sentence calculation. On January 9, 2015, Appellant submitted a Step Two Grievance form, which was also denied on the ground that there were no errors in the calculation of Appellant's sentence. Appellant filed a Notice of Appeal in the Administrative Law Court on October 19, 2015. During the pendency of the appeal in the Administrative Law Court, Appellant filed an interlocutory appeal to the South Carolina Court of Appeals, which was dismissed on February 10, 2016 and remitted on February 29, 2016. Thereafter, the appeal in the Administrative Law Court went forward, and on May 20, 2016, the Honorable S. Phillip Lenski issued an order affirming the decision of the Department of Corrections. This appeal follows.

(Attachment: C-5)

STANDARD OF REVIEW

(Attachment C-6)

S.C. Code Ann. § 1-23-610(B) provides the applicable standard of review:

The review of the administrative law judge's order must be confined to the record. The reviewing tribunal may affirm the decision or remand the case for further proceedings; or it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code Ann. § 1-23-380(5).

In an appeal of a final decision of an administrative agency, the standard of appellate review is whether the ALC's findings are supported by substantial evidence. S.C. Code Ann. § 1-23-610(B). "Substantial evidence" is evidence which, considering the record as a whole, would allow a reasonable mind to reach the same conclusion that administrative agency reached. Hendley v. S.C. State Budget & Control Bd., 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996). A reviewing court shall not substitute its own judgment for that of the ALC as to findings of fact, but it may reverse or modify decisions that are controlled by errors of law or that are clearly erroneous in view of the substantial evidence on the record as a whole. Id.

ARGUMENT (Attachment: C-7)

THE ADMINISTRATIVE LAW COURT PROPERLY AFFIRMED THE
DECISION OF THE DEPARTMENT OF CORRECTIONS WHERE APPELLANT
FAILED TO SHOW THE DEPARTMENT'S CALCULATION OF HIS SENTENCE
WAS INCORRECT.

1. The jurisdiction of the Administrative Law Court ("ALC") to hear this matter is
2. derived entirely from the decision of the South Carolina Supreme Court in Al-Shabazz v.
3. State, 338 S.C. 354, 527 S.E.2d 742 (2000). When reviewing SCDC's decisions in inmate
4. grievance matters, the ALC sits in an appellate capacity. Id. at 377, 527 S.E.2d at 754.
5. Subsequently, the Supreme Court clarified the ALC's appellate jurisdiction over inmate
6. appeals in Sullivan v. S.C. Dep't of Corr., 355 S.C. 437, 586 S.E.2d 124 (2003). In affirming,
7. as modified, the ALC's *en banc* decision of McNeil v. S.C. Dep't of Corr., 02-ALJ-04-00336-
8. AP (September 5, 2001), the Supreme Court held the ALC's jurisdiction was limited to (1)
9. cases in which an inmate contends prison officials have erroneously calculated his sentence,
10. sentence-related credits, or custody status; (2) cases in which SCDC has taken an inmate's
11. state-created liberty interest in major disciplinary hearings; and (3) cases in which an inmate's
12. confinement implicates a state-created liberty interest. See Sullivan, 355 S.C. at 443, 586
13. S.E.2d at 127 (emphasis added).

14. In this case, the Administrative Law Court properly affirmed the decision of the
15. Department of Corrections. Initially, the Administrative Law Court exists to review the
16. actions of administrative agencies, and it does not have jurisdiction to review the actions of
17. circuit court judges in sentencing defendants. Accordingly, the Administrative Law Court
18. properly declined to rule upon the validity of Appellant's sentences. (R. p. 3). Furthermore,
19. Appellant has failed to show that the Department of Corrections committed any error with

respect to calculation of his sentence. As the Administrative Law Judge found, Appellant was committed to the Department of Corrections to serve multiple concurrent sentences, the longest of which is a twenty-year sentence for drug trafficking, an eighty-five percent "no parole" offense. (R. p. 3). See also S.C. Code § 24-13-100 and § 24-13-150(A). The earliest possible date Appellant could be released from his twenty-year sentence – considering his sentence start date of August 6, 2005 as ordered by the sentencing judge – is August 2022. (R. p. 4). This is the max-out date calculated by the Department of Corrections. (R. p. 4). Appellant has failed to show that the Department's calculation is incorrect in any way. Therefore, Respondent respectfully requests that the order of the Administrative Law Judge be upheld.

CONCLUSION

For the foregoing reasons, the Court should affirm the Administrative Law Court's decision below.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

BY:


CHRISTINA CATOE BIGELOW

Deputy General Counsel
Office of General Counsel
S. C. Department of Corrections
Post Office Box 21787
Columbia, South Carolina 29221
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October 14, 2016

(Attachment: B-8)

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge S. Phillip Lenski

ALC Case No. 15-ALJ-04-0567-AP
Appellate Case No. 2016-001274

JOSE ALBERTO MALDONADO, # 312648,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the **Final Brief of Respondent** complies with Rule 211(b), SCACR, and also complies with the South Carolina Supreme Court's April 15, 2014, order entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

(Attachment: C-9)



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October 14, 2016

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge S. Phillip Lenski

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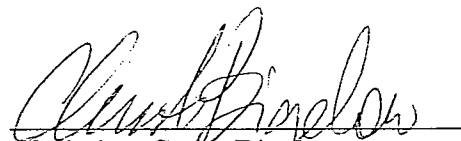
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that on today's date she mailed a copy of the
Final Brief of Respondent to Appellant, addressed as follows: **Jose Alberto Maldonado**,
Kershaw Correctional Institution, 4848 Goldmine Highway, Kershaw, South Carolina,
29067.

(Attachment: C-10)


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S. C. Department of Corrections
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(803) 896-8508

October 14, 2016

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge S. Phillip Lenski

ALC Case No. 15-ALJ-04-0567-AP
Appellate Case No. 2016-001274

JOSE ALBERTO MALDONADO, # 312648,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

(Attachment: C-1)

RESPONDENT.

FINAL BRIEF OF RESPONDENT

SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS

Christina Catoe Bigelow
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ATTORNEY FOR RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

THE ADMINISTRATIVE LAW COURT PROPERLY AFFIRMED THE DECISION OF THE DEPARTMENT OF CORRECTIONS WHERE APPELLANT FAILED TO SHOW THE DEPARTMENT'S CALCULATION OF HIS SENTENCE WAS INCORRECT.

(Attachment: C-4)

STATEMENT OF THE CASE

This matter comes before the Court pursuant to the appeal of Jose Alberto Maldonado, an inmate in the custody of the South Carolina Department of Corrections. On December 11, 2014, Appellant submitted a Step One Grievance complaining about the Department's calculation of his sentence. The Step One Grievance was denied on the ground that no error was found in Appellant's sentence calculation. On January 9, 2015, Appellant submitted a Step Two Grievance form, which was also denied on the ground that there were no errors in the calculation of Appellant's sentence. Appellant filed a Notice of Appeal in the Administrative Law Court on October 19, 2015. During the pendency of the appeal in the Administrative Law Court, Appellant filed an interlocutory appeal to the South Carolina Court of Appeals, which was dismissed on February 10, 2016 and remitted on February 29, 2016. Thereafter, the appeal in the Administrative Law Court went forward, and on May 20, 2016, the Honorable S. Phillip Lenski issued an order affirming the decision of the Department of Corrections. This appeal follows.

(Attachment: C-5)

STANDARD OF REVIEW

(Attachment: C-6)

S.C. Code Ann. § 1-23-610(B) provides the applicable standard of review:

The review of the administrative law judge's order must be confined to the record. The reviewing tribunal may affirm the decision or remand the case for further proceedings; or it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code Ann. § 1-23-380(5).

In an appeal of a final decision of an administrative agency, the standard of appellate review is whether the ALC's findings are supported by substantial evidence. S.C. Code Ann. § 1-23-610(B). "Substantial evidence" is evidence which, considering the record as a whole, would allow a reasonable mind to reach the same conclusion that administrative agency reached. Hendley v. S.C. State Budget & Control Bd., 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996). A reviewing court shall not substitute its own judgment for that of the ALC as to findings of fact, but it may reverse or modify decisions that are controlled by errors of law or that are clearly erroneous in view of the substantial evidence on the record as a whole. Id.

ARGUMENT (Attachment: C-7)

THE ADMINISTRATIVE LAW COURT PROPERLY AFFIRMED THE
DECISION OF THE DEPARTMENT OF CORRECTIONS WHERE APPELLANT
FAILED TO SHOW THE DEPARTMENT'S CALCULATION OF HIS SENTENCE
WAS INCORRECT.

1. The jurisdiction of the Administrative Law Court ("ALC") to hear this matter is
2. derived entirely from the decision of the South Carolina Supreme Court in Al-Shabazz v.
3. State, 338 S.C. 354, 527 S.E.2d 742 (2000). When reviewing SCDC's decisions in inmate
4. grievance matters, the ALC sits in an appellate capacity. Id. at 377, 527 S.E.2d at 754.
5. Subsequently, the Supreme Court clarified the ALC's appellate jurisdiction over inmate
6. appeals in Sullivan v. S.C. Dep't of Corr., 355 S.C. 437, 586 S.E.2d 124 (2003). In affirming,
7. as modified, the ALC's *en banc* decision of McNeil v. S.C. Dep't of Corr., 02-ALJ-04-00336-
8. AP (September 5, 2001), the Supreme Court held the ALC's jurisdiction was limited to (1)
9. cases in which an inmate contends prison officials have erroneously calculated his sentence,
10. sentence-related credits, or custody status; (2) cases in which SCDC has taken an inmate's
11. state-created liberty interest in major disciplinary hearings; and (3) cases in which an inmate's
12. confinement implicates a state-created liberty interest. See Sullivan, 355 S.C. at 443, 586
13. S.E.2d at 127 (emphasis added).

14. In this case, the Administrative Law Court properly affirmed the decision of the
15. Department of Corrections. Initially, the Administrative Law Court exists to review the
16. actions of administrative agencies, and it does not have jurisdiction to review the actions of
17. circuit court judges in sentencing defendants. Accordingly, the Administrative Law Court
18. properly declined to rule upon the validity of Appellant's sentences. (R. p. 3). Furthermore,
19. Appellant has failed to show that the Department of Corrections committed any error with

respect to calculation of his sentence. As the Administrative Law Judge found, Appellant was committed to the Department of Corrections to serve multiple concurrent sentences, the longest of which is a twenty-year sentence for drug trafficking, an eighty-five percent "no parole" offense. (R. p. 3). See also S.C. Code § 24-13-100 and § 24-13-150(A). The earliest possible date Appellant could be released from his twenty-year sentence – considering his sentence start date of August 6, 2005 as ordered by the sentencing judge – is August 2022. (R. p. 4). This is the max-out date calculated by the Department of Corrections. (R. p. 4). Appellant has failed to show that the Department's calculation is incorrect in any way. Therefore, Respondent respectfully requests that the order of the Administrative Law Judge be upheld.

CONCLUSION

For the foregoing reasons, the Court should affirm the Administrative Law Court's decision below.

Respectfully submitted,

(Attachment: B-8)

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

BY:


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October 14, 2016

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge S. Phillip Lenski

ALC Case No. 15-ALJ-04-0567-AP
Appellate Case No. 2016-001274

JOSE ALBERTO MALDONADO, # 312648,

APPELLANT,

v.

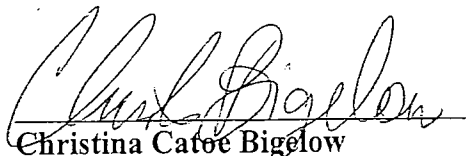
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the **Final Brief of Respondent** complies with Rule 211(b), SCACR, and also complies with the South Carolina Supreme Court's April 15, 2014, order entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

(Attachments: C-9)



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October 14, 2016

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge S. Phillip Lenski

ALC Case No. 15-ALJ-04-0567-AP
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JOSE ALBERTO MALDONADO, # 312648,

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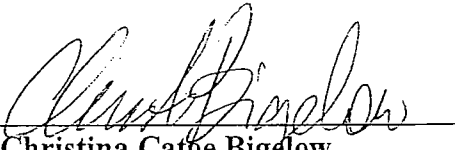
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that on today's date she mailed a copy of the **Final Brief of Respondent** to Appellant, addressed as follows: **Jose Alberto Maldonado**, Kershaw Correctional Institution, 4848 Goldmine Highway, Kershaw, South Carolina, 29067.

(Attachment: C-10)


Christina Catie Bigelow
Deputy General Counsel
Office of General Counsel
S. C. Department of Corrections
Post Office Box 21787
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October 14, 2016

IN THE STATE OF SOUTH CAROLINA
In The Supreme Court

Appeal From The Administrative Law Court
S. Philip Lenski, Administrative Law Judge

Unpublished Opinion No. 2017-UP-209
Submitted March 1, 2017 - Filed May, 2017
Appellate Case No. 2016-001274

Jose Alberto Maldonado, #312648 Petitioner,

V.

South Carolina Department of Corrections, Respondent.

PETITIONER'S PETITION TO
RELAX THE RULE 242(c), SCACR

Jose Alberto Maldonado, #312648, Pro - Se:
Christina Catoe Bigelow, of the (SCDC), of Columbia, for Respondent.

The Petitioner Jose Alberto Maldonado, hereby move in this Honorable Court, on a "Petition to Relax Rule 242(c), SCACR," to allow him to file one (1) copy of his Petition for Writ of Certiorari. And Appendix (A - through - D). The foresaid reason are due to (SCDC), Kershaw C.I., refused to provide the six (6) copies to indigent Petitioner. "Under the Administrative Procedure Act." See, e.g., Hendricks v. South Carolina Dept. of Corrections, 385 S.C. 625, 629, 630, 686 S.E.2d 191, at 193 (2009)(under SCDC Policy GA-01.03).

Done this 11th day of July, 2017. Jose Alberto Maldonado
Respectfully Submitted
Jose Alberto Maldonado, #312648
Kershaw Corr. Inst. MB/Room, 363
4848 Goldmine Highway
Kershaw South Carolina, 29067

1. Where a Petition for rehearing has denied, the Court of Appeals shall not send the remittitur under 242(c) has expired, 30 days.

See: (Attachment: 4, & 5) Notice of Appeal. "Supporting Motion"

IN THE STATE OF SOUTH CAROLINA
In The Supreme Court

Appeal From The Administrative Law Court
S. Philip Lenski, Administrative Law Judge
Unpublished Opinion No. 2017-UP-209
Submitted March 1, 2017 - Filed May 17, 2017

Jose Alberto Maldonado, #312648, Petitioner,
V.
South Carolina Department of Corrections, Respondent.

PETITIONER'S CERTIFICATE OF SERVICE
OF RULE 240(c)(1) SCACR

The undersigned hereby certifies that the PETITION FOR WRIT OF CERTIORARI, AND PETITIONER'S PETITION TO RELAX THE RULE 242(c) SCACR, To allowing the Petitioner file one single copy of his FINAL BRIEF, and also the Records on Appeals, with this Hon: Supreme Court's Clerk of Court.

Furthermore, Petitioner complies with Rule 211(b) SCACR, AND ALSO CUMPLIES WITH THE South Carolina Supreme Court's April 15, 2014, order entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings." Addressed as follows:

THE SUPREME COURT OF SOUTH CAROLINA
Daniel E. Shearouse
Clerk of Court
Post Office Box 11330
Columbia, South Carolina 29211

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

Christina Catoe Bigelow
SCDC General Counsel's Office
P.O. Box 21787
4444 Broad River Road
Columbia, South Carolina 29221

Further, Petitioner said and Certify:

This 11 day of July 2017.

Respectfully Submitted

SWORN TO and SUBSCRIBED Before Me

This 11th day of July, 2017

Catherine A. Amos
Notary Public For South Carolina

My Commission Expires: _____
~~My Commission Expires~~ December 22, 2018

Jose Alberto Maldonado
Jose Alberto Maldonado, #312648
Kershaw CI.MB/63, Pro - se Petitioner
4848 Goldmine Highway
Kershaw, South Carolina 29067

LEGAL

File: (App. Ct. Doc 5, Appx A(1) Record on Appeal)

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Jose Maldonado, 312648,

Docket No.: 15-ALJ-04-0567-AP

Grievance No.: KRCI 4415-14

Appellant,

VS.

South Carolina Department of Corrections,

ORDER

Respondent.

STATEMENT OF THE CASE

This matter is before the South Carolina Administrative Law Court (ALC or court) pursuant to the Notice of Appeal filed October 20, 2015, by Jose Maldonado (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (Department). In this appeal, the Appellant argues the Department has miscalculated his prison sentence.

On December 3, 2015, the Appellant filed a “Motion for Leave to Conduct Discovery” and Appellant’s Brief. On December 18, 2015, this court issued an order denying the motion on the grounds that such discovery is not permitted under ALC rules. The Department filed the Record on Appeal on January 4, 2016. The Appellant seems to have objected to the order denying the motion and the contents of the Record on Appeal and filed a “Writ of Mandamus” with the Court of Appeals. The Court of Appeals construed the Appellant’s filing as an improperly perfected appeal and eventually dismissed the case (Number 2016-000055). The matter was remitted to this court on February 29, 2016.

Subsequently, on April 1, 2016, the Appellant filed a “Motion for Summary Judgement” with a supporting affidavit and additional documents. Among other things, the Appellant argued that the the Department had failed to file a brief. On May 2, 2016, the Department filed the Respondent’s Brief and a Motion to File out of Time. The Department cited Appellant’s filings in the Court of Appeals as reason for confusion and the late brief. On May 16, 2016, the Appellant filed a response to the Department’s motion and a Reply Brief.

Because this is an appeal, and not a contested case, the court may not apply the South Carolina Rules of Civil Procedure in order to entertain a motion for summary judgment. *See* SCALC Rule 68. Instead, the court will construe the Appellant's motion as one to resolve the appeal adversely to the Department for failure to meet prescribed time limits, pursuant to SCALC

Pg. 1 ROA

Page 1 of 5

scribed time limit

MAY 20 2016

Rule 62.¹ Pursuant to SCALC Rule 3(B), the court may for good cause shown extend the time to file, unless otherwise proscribed by rule or law. After reviewing the file and the Department's Motion to File out of Time, the court concludes that the Appellant's interlocutory Court of Appeal filing constitutes good cause for confusion regarding the briefing deadline. Therefore, the court denies the Appellant's motion and grants the Department's Motion. Having received the briefs of all the parties and ruled on the above motions, the court now reviews the case on the merits.

ISSUE ON APPEAL

Whether the Department erred in calculating the Appellant's sentence under the relevant statutes.

STANDARD OF REVIEW

The Court's jurisdiction to hear this matter is derived from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). The *Al-Shabazz* decision explained that "procedural due process is guaranteed when an inmate is deprived of an interest encompassed by the Fourteenth Amendment's protection of liberty and property." *Wicker v. S.C. Dep't of Corrs.*, 360 S.C. 421, 424, 602 S.E.2d 56, 58 (2004) (citation omitted). A liberty interest is at stake in the calculation of an inmate's sentence. *Tant v. S.C. Dep't of Corrs.*, 408 S.C. 334, 341, 759 S.E.2d 398, 401 (2014) (citation omitted) ("There can be no doubt the length of an inmate's incarceration implicates a constitutional liberty interest."); see also *Sullivan v. S.C. Dep't of Corrs.*, 355 S.C. 437, 441-42, 586 S.E.2d 124, 126 (2003) (quoting *Al-Shabazz*, 338 S.C. at 369, 527 S.E.2d at 750) (recognizing that *Al-Shabazz* created review in the ALC for sentence calculation cases).

In sentence calculation cases, the court sits in an appellate capacity, applying the appellate standard of the Administrative Procedures Act (APA). *Al-Shabazz*, 338 S.C. at 377-80, 527 S.E.2d at 754-56. Consequently, the court's review is limited to the record. S.C. Code Ann. § 1-23-380(4) (Supp. 2015). Additionally, the court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact, but may modify or reverse the decision of the agency when substantial rights of the appellant have been prejudiced. S.C. Code Ann. § 1-23-380(5) (Supp. 2015). Substantial rights of the appellant are prejudiced when the agency's decision, including the agency's findings, inferences, and conclusions, are in

Pg. 2 ROA

¹ The court notes that the Appellant makes his arguments based upon an older version of ALC rules. In April of 2015, new rules went into effect that extended the filing deadlines for inmate appeals. See SCALC Rules 59 & 60(A).

File: (App. Ct. Doc. 5 Appx. A(3) Record on Appeal) 3-08-26
violation of constitutional or statutory provisions; in excess of the statutory authority of the agency; made upon unlawful procedure; affected by other error of law; clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. *Id.*

DISCUSSION

In this case, the Appellant seems to be challenging the overall validity of his sentences. Because this court exists to review the actions of administrative agencies and not the actions of circuit court judges, this court cannot rule on the validity of the Appellant's sentences. See *Engaging & Guarding Laurens County's Environment ("EAGLE") v. S.C. Dep't of Health & Envtl. Control*, 407 S.C. 334, 344, 755 S.E.2d 444, 449 (2014) (quoting S.C. Const. art. I, § 22) (recognizing ALC's function of reviewing administrative action under the South Carolina Constitution); *Jernigan v. State*, 340 S.C. 256, 259–60, 531 S.E.2d 507, 508–09 (2000) (citations omitted) (distinguishing between collaterally challenging the validity of a sentence under post-conviction relief laws and non-collaterally seeking review of the Department's actions under the procedure established in *Al-Shabazz*). Instead, this court reviews the Appellant's case to determine if the Department is properly enforcing the Appellant's sentence, pursuant to the order of the circuit court judge and under the relevant laws. See *State v. Bennett*, 375 S.C. 165, 170, 650 S.E.2d 490, 493 (Ct. App. 2007).

The Appellant has been committed to the Department to serve multiple concurrent sentences. The longest sentence the Appellant is currently serving is twenty (20) years for Trafficking Methamphetamines 28–100 grams, second offense. The Appellant was sentenced on April 10, 2007. However, the Department has credited the Appellant with time served prior to sentencing, creating a sentence "start date" of August 6, 2005. The earliest date by which the Appellant could potentially be released is determined by the rules of "no parole" offenses. The Appellant was convicted of Trafficking Methamphetamines pursuant to section 44-53-375(C)(2)(b) of the South Carolina Code. This offense is classified as a Class A felony, pursuant to section 16-1-90(A). A Class A felony is one to which a penalty of not more than thirty years applies, as stated in section 16-1-20(A). A Class A felony is a "no-parole offense." S.C.

Pg. 3 ROA

File: App. Ct. Doc 5 APPX.A(4) Record on Appeal 4-0F-26
Code Ann. § 24-13-100 (2007).²

An inmate serving a no-parole offense "is not eligible for early release, discharge, or community supervision . . . until the inmate has served at least eighty-five percent of the actual term of imprisonment imposed." S.C. Code Ann. § 24-13-150(A) (Supp. 2015).³ "This percentage must be calculated without the application of earned work credits, education credits, or good conduct credits, and is to be applied to the actual term of imprisonment imposed, not including any portion of the sentence which has been suspended." *Id.*

The Appellant was sentenced to twenty (20) years, which is seven thousand three hundred (7,300) days. Eighty-five (85) percent of seven thousand three hundred (7,300) is six thousand two hundred five (6,205) days. Assuming that the Department correctly applied time served and running the sentence from August 6, 2005,⁴ the earliest possible date by which the Appellant could be released is August 2, 2022.⁵ Because the Department reached the same conclusion in its final decision and because the Appellant has established no reason to differ from that conclusion, the court affirms.

ORDER

THEREFORE, IT IS HEREBY ORDERED that the Appellant's Motion to Resolve Appeal Adversely is **DENIED**.

IT IS FURTHER ORDERED that the Respondent's Motion to File out of Time is **GRANTED**.

IT IS ALSO ORDERED that the decision of the Department is **AFFIRMED**.

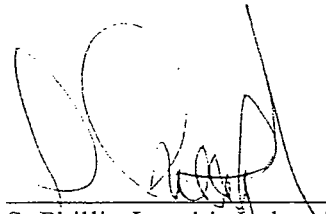
² Recently, the Court of Appeals found that this statute was preempted for the purposes of calculating the sentence for certain drug offenses by the expression of legislative intent contained in amendments to section 44-53-375 made in 2010. *See generally Bolin v. S.C. Dep't of Corrs.*, 415 S.C. 276, 781 S.E.2d 914 (Ct. App. 2016) (reh'g denied Feb. 24, 2016). However, in this case, the Appellant was sentenced prior to the enactment of those amendments and under a different subsection.

³ Section 24-13-150 was amended in 2010. However, subsection (A), which applies in this case, was not altered in any way that affects the issues presented here.

⁴ Section 24-13-150 neither expressly includes, nor expressly excludes, time served from the percentage calculation. However, it stands to reason that time served is indeed time served on the sentence imposed and that credit for that time would be included in the calculation. This conclusion is further supported by the fact that the Department appears to have interpreted the law in that manner and by the rule that ambiguities in sentencing statutes are construed in favor of the defendant. *See State v. Sweat*, 386 S.C. 339, 351, 688 S.E.2d 569, 575 (2010) (quoting *Dunton v. S.C. Bd. of Exam'rs in Optometry*, 291 S.C. 221, 223, 353 S.E.2d 132, 133 (1987)) ("The construction of a statute by the agency charged with its administration will be accorded the most respectful consideration and will not be overruled absent compelling reasons."); *Nelson v. Ozmint*, 390 S.C. 432, 436, 702 S.E.2d 369, 371 (2010) (citing *State v. Blackmon*, 304 S.C. 270, 273, 403 S.E.2d 660, 662 (1991)) ("When a statute is penal in nature, it must be strictly construed against the State and in favor of the defendant.").

⁵ The court notes that a budget proviso regarding release dates from the 2007 to 2008 fiscal year budget would be applicable to the Appellant. *See* 2007 S.C. Act 117, Part 1B, § 37.25 (effective July 1, 2007). However, the court does not apply it here since the Appellant's actual release date may vary.

File: (App. Ct. Doc. 5 Appx A(5) Record on Appeal) 5-of-26
AND IT IS SO ORDERED.



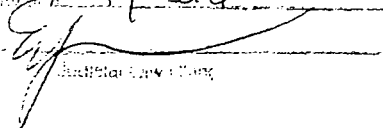
S. Phillip Lenski, Judge
S.C. Administrative Law Court

May 26, 2016
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, the undersigned, being a resident within this State, do hereby certify that the foregoing has been filed for record and is a true and correct copy of the original as the same appears by examining the original.

2016 May 26


Clerk of the Court

Pg. 5. ROA.

File: (App Ct. Doc. 5 Appx. AG) Record on Appeal) 6-08-26

1 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): NO,

2 I UNDERSTAND.

3 THE COURT: YOU HAVE HEARD YOUR ATTORNEY TELL ME THAT HE
4 HAS EXPLAINED TO YOU THE CHARGES AGAINST YOU, THE POSSIBLE
5 PUNISHMENTS AND YOUR CONSTITUTIONAL RIGHTS, AND THAT YOU
6 UNDERSTAND THESE THINGS. IS THAT CORRECT?

7 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):
8 YES.

9 THE COURT: YOU ARE PLEADING GUILTY TO TWO COUNTS OF
10 TRAFFICKING METHAMPHETAMINES BETWEEN TWENTY-EIGHT AND A
11 HUNDRED GRAMS, SECOND OFFENSE..

12 THE MAXIMUM SENTENCE ON EACH OF THESE INDICTMENTS IS
13 SEVEN -- UP FROM SEVEN TO THIRTY YEARS AND FIFTY THOUSAND
14 DOLLARS.

15 IF YOU'RE SENTENCED CONSECUTIVELY ON THESE INDICTMENTS,
16 YOU COULD BE SENTENCED TO SIXTY YEARS AND A HUNDRED THOUSAND
17 DOLLARS. DO YOU UNDERSTAND THAT?

18 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):
19 YES.

20 THE COURT: ALSO, THIS IS WHAT WE CALL GRADUATED -- OR,
21 THESE ARE WHAT WE CALL GRADUATED OFFENSES. IN OTHER WORDS,
22 IF YOU ARE CONVICTED OF THE SAME OR SIMILAR CRIMES IN THE
23 FUTURE, YOUR PUNISHMENT THE NEXT TIME WILL BE GREATER BECAUSE
24 YOU HAVE PRIOR OFFENSES.

25 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):

1 File: (App. Ct. Doc. 5 Appx A(7) Record on Appeal) 705-26
MR. PRICE: YES, SIR.

2 THE COURT: DO YOU REMEMBER THE DATE OF THAT
3 PLEA?

4 MR. PRICE: I DO NOT, BUT I THINK ---

5 MR. PAULING: YOUR HONOR, I BELIEVE IT WAS
6 AUGUST 22ND OF 2006.

7 THE COURT: MR. MALDONADO, YOU ENTERED A
8 PLEA OF GUILTY TO INDICTMENTS 2005-GS-47-26, COUNT 1,
9 TRAFFICKING METHAMPHETAMINE, 28 TO A HUNDRED GRAMS,
10 SECOND OFFENSE; AND COUNT 4, TRAFFICKING
11 METHAMPHETAMINE, 28 TO A HUNDRED GRAMS, SECOND OFFENSE.

12 THE MINIMUM SENTENCE ON EACH OF THOSE
13 CHARGES IS SEVEN YEARS AND THE MAXIMUM IS 30 YEARS AND A
14 \$50,000.00 FINE. YOU COULD BE SENTENCED TO A TOTAL OF
15 14 YEARS MINIMUM AND 60 YEARS MAXIMUM AND A
16 HUNDRED-THOUSAND-DOLLAR FINE. DO YOU UNDERSTAND THAT?

17 THE DEFENDANT: YES.

18 THE COURT: NOW, HAVE YOU DISCUSSED YOUR
19 SENTENCING FOLLOWING YOUR PLEA WITH YOUR ATTORNEY?

20 THE DEFENDANT: YES.

21 THE COURT: DO YOU NEED ANY MORE TIME TO
22 TALK TO YOUR LAWYER?

23 THE DEFENDANT: NO, (SPEAKS IN SPANISH).

24 THE INTERPRETER: NO, I'M CONSCIOUS OF IT.

25 THE COURT: PARDON?

Pg. 7 RoA

File: (APP. Ct. Doc. 5. APPEX. A (9) Record on Appeal) 9-of-26

ief" as stated by Respondent in their Motion) on January 6, 2016 to the South Carolina Court of Appeals which has been intentionall misconstrued as a Notice of Appeal" by the Court of Appeal's Clerk of Court and the Respondent;

7. The "Writ of Mandamus" was intended to compel Respondent to submit and provide Appellant and the court with copies of the authentic documents and commitment Orders that are, for no legal reason, still being denied to Appellant and the Court as Record on Appeal. See, Appellant is C/A#:2016-000055, on January 13, 2016, to filed "Notice of Appeal upon Rule 203 SCACR" and a filing fee of \$ 100 .00 must accompany the notice of Appeal. Within ten (10) days. this deadline have a short time, and the Appellant filed a "MOTION TO WITHDRAW WRIT OF MANDAMUS" In the Court of Appeal, filed January 25, 2016. against the ten days . See e.g., Sullivan v. S.C. Dep't of Corrections, 355 S.C. 437, at 443 586 S.E.2d 224 at 128 (2003) (quoting Ex Parte Martin v. State, 321 S.C. 533, 471 S.E.2d 134 (1995) (the Court addressed when an inmate may proceed in forma pauperis.);
8. The Court of Appeal Dismissed this Action upon Appellant is request on February 10-16, 2016. And sended the Remittitur on February 29, 2016 By the HON: Jana E. Shealy Edgar A. Brown Building 1205 Pendleton Street Suite 224 Columbia SC 29201;
9. Respondent's "Brief was due February 16, 2016";
10. Respondent has failed to comply with the Rules of this Court and failed to show any sufficient and honest reason why they were unable to submitte this Motion and Brief at such a late date;
11. Respondent's Brief contained three and a half (3½) Pgs. of simple facts and required little reaserch;
12. Appellant filed a Motion for "Summary Judgment" with the ALC on April 11, 2016 against the Respondent in such matter; and
13. Respondent has also failed to respond to this Motion for Summary Judgment;

File: (App. Ct. Doc. 5. Appx. A. (10) Record on Appeal) 10-06-26

Wherefore, since Respondent has willfully neglected their obligations in this matter and showed no interest in defending or refuting Appellant's allegations within the specified time frame, the Respondent's Motion To File out of Time must be denied and Respondent's "Brief" should not be considered as a matter of Law. See "Rule 62, ALCR, v. Special Appeals."

Therefore, the (ALCJ): have to held that, sooner with the entire records an "Order by Evidentiary Hearing," and demand of the "authentic documents and commitment orders. Because, after ["Both"] files had/or have" been addressed The Jose A. Maldonado, Appellant have the right to File is New Motion of "SUMMONS AND COMPLAINT, to Support the Motion To "Default Judgment" for failure to Respondent's Brief out of time." Holding, that collateral estoppel applied § 1983 action and included both civil and criminal state-court decision. Allen v. McCurry, 449 U.S. 90, 105, 101 S. Ct. 411, 420, 66 L.Ed.2d 308 (1980).

See, Hunt v. Bennett, 17 F.3d 1263, 1266 (1994) ("Section 1983 claims accrue, for the purpose of the "statute of limitations," when the Appellant knows or has reasons to know of the injury which is the basis of his action." See (quoting, Wilson v. Garcia, 471 U.S. 261, at 279-80 (1985) (it is most unlikely that the period of limitations applicable to such claims ever was, or ever would be, fixed in a way that would "discriminate against federal claim," or be "inconsistent with federal law in any respect.").

Respectfully Submitted

s/ Jose A. Maldonado
Jose Alberto Maldonado, #312648
The Appellant Pro - Se

Done this 12 day of Mar, 2016.

Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, S.C. 29067

File: (APP. Ct. Doc. 5. Appx. A(II) Record on Appeal) 11-of-26

Docket No. ALJ-04-0567-AP

Certificate Of Service

I, Jose A. Maldonado, a civil person presently
confining at Kershaw South Carolina Correctional Institution
("SCDC"). Do hereby affirm that:

Mr. Jose Alberto Maldonado, #312648, Appellant Pro - Se
in the above-captioned matter, hereby under oath and penalty of
perjury certify, that I have served a APPELLANT'S OBJECTION TO
RESPONDENT'S MOTION TO FILE OUT OF TIME, have being attached
below this motion.

Further, the Appellant file thru the below listed of Names
is information on the same date. To:

Clerk's Office, SC Administrative
Law Court To Hon: Lensky S. Phillip,
Edward A. Brown Building, Suite 224
1205 Pelenton Street
Columbia, S.C. 29201

S.C. Counsel of records
Office of Attorney General
Alan Wilson
P.O. Box 11549
Columbia, S.C. 29211

General Counsel David Tatarsky
South Carolina Dep't of Corrections
P.O. Box 21787
Columbia, S.C. 29221

Respectfully Submitted

Further, Appellant said And Notarized
This 12 day of May, 2016.

s/ Jose A. Maldonado
Jose A. Maldonado, #312648
Appellant Pro - Se,

SWORN To and SUBSCRIBED Before Me
This 12th day of May, 2016.

Kershaw Corr. Inst. MB/Room#59
4848 Goldmine Highway
Kershaw, South Carolina 29067

Catherine A. Choresa
Notary Public for South Carolina

My Commission Expires: _____

~~My Commission Expires December 22, 2013~~

File: (A.L.C. Doc. 4).

Pg. 11. ROA

File: (App. Ct. Doc. 5. APPX. A (12) Record on Appeal) 12-06-26

STATE OF SOUTH CAROLINA)
ADMINISTRATIVE LAW COURT ;

Jose Alberto Maldonado, I/D#: 312648)
Appellant Pro - Se,)

v.)

BRYAN P. STIRLING, South Carolina)
DIRECTOR Of Department of Corrections,)
And David Tatarsky, General Counsel,)
Respondent(s).)

STATE OF SOUTH CAROLINA
IN THE ADMINISTRATIVE LAW COURT

) Docket No.: 15-ALJ-04-0567-AP

) APPELLANT'S REPLY BRIEF TO
RESPONDENT'S BRIEF

STATEMENT OF THE CASE

Appellant filed a Step One and a Step two Grievance with the SCDC arguing that the "Dep't of Corrections" did not possess the authentic and legal documents ("Records") thereby voiding his sentence and incarceration according to [State Law]. Both his <"Step One - and Step Two Grievances"> were denied, and Appellant filed a timely Notice of Appeal. On October 19, 2015. Appellant filed his opening Brief in a timely manner on December 2nd, 2015. Respondent filed an "Initial Brief with the ALC on: May 2nd - 4th, 2016," about; (one hundred five) 105-days, pass the "filing deadline". The Respondent's Brief gave several errors "concerning the facts of the case" and failed to state any "material facts to defeat Appellant's contentions." Now comes this 'Reply Brief' against the Respondent's late and inadequate "Brief".

ARGUMENT

Appellant's Sentence and Incarceration Is Illegal and Void Due To ("SCDC") Failure To Possess The Original And Legal Records To Legally Incarcerate And "Punish Appellant."

Appellant is a "Civil Person without the Original or correct records." The SCDC is Reception and Evaluation's (R & E) the Inmate Records Section at "Kirkland Correctional Institution" failed to review Appellant's process, and enter the sentencing documents to Inmate Jose Alberto Maldonado when he was received into the "SCDC". See S.C.D.C. Policy OP-21.09, §[2.1 through 2.18]. The SCDC (R&E) has the primary duty to receive, process and enter sentencing documents for all inmates received into the S. C.D.C. See [§ 2.2, 2.4-5, and 29], see also a Policy ¶[19.8, & ¶ 8.4]'s filed "Appellant Brief on "Dec. 2, 2015"" ("the Inmate Records Office will be Responsible for verifying the 'authenticity of court order'"). Therefore, Appellant Mr. Maldonado, can not be legally incarcerated by "Policy, Op-21.09" see, at "Tant S.C. Dep't of Corrections, 408 S.C. 341, at 343, 759 S.E.2d 398, at 401, 402 (2014) had/or have been Applied in the "Motion for SUMMARY JUDGMENT" P. 4, & 5. filed on March 31, 2016. and see; S.C. Code §§ 17-19-10/20, and 17-19-50; see e.g., State v. Simmons, 209 S.C. 531, 41 S.E.2d 217-220 (1947); and Applying S. C. Code § 17-19-100, when the Appellant remained in the "SCDC" without the activating inmate records. Thus, Appellant is entitled to relief.

File (App. Ct. Doc. 5. APPX. A (14) Record on Appeal) 14-of-26

Appellant is appealing the unilateral modification of the authenticity of the "Court Orders Documents with the SCDC upon his sentence which do not state whether I have [Twenty-(20) years] on my sentence. Other facts to consider to the inadequate and lack of authenticity of records; are (1) by misleading to indictment number which proves also that each document are false documents. See At: (Attachments:A-5) Decree from State Grand Jury, is Office on April 17, 2015's Appellant Brief Pg.5; which such document have the relief from SCDC.

Therefore, Appellant assert that convictions resulting from these misleading and void documents cannot convert his sentence inside the SCDC UPON Policy No. Op-21.09, ¶[2] which states as follows; (a) misleading information under activation inmate records plan for insufficient and construction of sentences be imposed; (b) iether the "State Grand Jury fell below, with such papers to be an indictments"; and (C) therein make the "conviction null and void." See; e.g., Fryer v. South Carolina Law Enforcement Divicion, 369 S.C. 395, 399, 631 S.E.2d 918, at 920 (S.C. App. 2006); See also State v. Franklin, 267 S.C. 240, 247, 226 S.E.2d 896 at 898. (quoting Townsend v. Burke, 334 U.S. 736, 68 S.Ct. 1252 (1948)) ("[t]he United States Supreme Court made clear that a sentence cannot be predicated on "false information". Capital Outdoor Adv. V. City of Raleigh, 109 N.C. 399, 427 S.E.2d 154, at 159 Fn.1 (1993)): See S.C. Code § 17-25-323 (A)(B)(C), and (E); and see State v. Gulledege, 321 S.C. 399, 468 S.E.2d 665, review granted, is affirmed as modified, 326 SC.220, 487 S.E.2d 590.

Thus, relief is required where S.C.D.C. records faile to reflect any authentic documents in which [to] legally continue Appellant's conviction and sentence, because Appellant is conviction and sentence, as well as incarceration is void without the necessary requisite documents recorded. The SCDC do not possess jurisdiction to continue Appellant's incarceration and his release should be Ordered as a matter of law and justice.

SUMMARY JUDGMENT

Appellant has Motioned for Summary Judgment. The Motion was filed on April 1, 2016. Appellant has showed then and now that Respondent has failed to present any issues of material facts to refute Appellant's sound allegations which are to be treated

Pg. 14. ROA

Page 3-of-5

File: (A.L.C. Doc. 4)

File: (App. Ct. Doc. 5. APPX. A(15) Record on Appeal) 15-df-26
as true in a "Summary Judgment Context." Law v. South Carolina
Dep't of Corrections, 368 S.C. 424, 433, 448, 629 S.E.2d 642,
at 648 (S.C. 2006). Instead, Respondent has filed a "Brief and
Motion out of Time which simply and intentionally mistated the
issue at bar and there bogus reason for not concerning themsel-
ves with the rules or law in this case." Respondent has manipu-
lated incorrect facts as an "excuse for not doing what the law
requires of them." However, Respondent has been on notice by the
(ALC) that a "Brief" was due within "eighty five (85) days"
after assignment of this case. Respondent, had/or had more than
ample time to meet their obligation, but has ignored Appellant
is many pleadings in this matter. Ignorance of the law is never
an excuse or defence in a civil case, no matter how recent, ob-
scure, or opaque the rule or statute. Harper v. Virginia Department
of Taxation, 509 U.S. 86, 96-97, 113 S.Ct. 2510 (1993). "It has long been
recognized that ignorance does not excuse lack of compliance
with the law. Federal Crop Ins. Corp. v. Merrill, 332 U.S. 380, 384-385,
S.Ct. 1, 92 L.Ed.2d 10 (1947). Furthermore, Respondent has failed to object
or argue against too <"our Motion For Summary Judgment">.

CONCLUSION

Summary Judgment should be entered upon the Respondent,
South Carolina Dep't Of Corrections as a matter of law pursuant
to Rule 68, ALCR and Rule 56, SCRCF. The Respondent, should be
ordered to give Appellant imediate release from the void incar-
ceration or at the least provided Appellant with copies of all the

File: (App. Ct. Doc. 5. APPX. A(16) Record on Appeal) 16-0F-26
authentic records of his arrest, "pre-trial, plea proceedings,
incarceration documents," specifically "true authentic 'copies
of all Orders of Commitment(s), Indictment(s), and Sentencing
Sheet(s) pursuant to SCDC Policy, Op-21-09 §§ 2, 7. 3. 6, State
and Federal Statutes, Court Rules, State and Federal Constitut-
ions, "FOIA". U.C.C.A. Const. Amend. 14th; S.C. Const. Art. 1.
3, and 14.

Respectfully Submitted

Done this 17 day of May, 2016.

S/ José A. Maldonado
José Alberto Maldonado, #312648
Pro - Se Appellant,
Kershaw Corr. Inst. MB/Room #59
4848 Goldmine Highway
Kershaw, South Carolina, 29067

Pg. 16. ROA

Page 5.

File: (A.L.C. Doc. 4)

Certificate Of Service

I, Jose A. Maldonado, a civil person presently
confining at Kershaw South Carolina Correctional Institution
("SCDC"). Do hereby affirm that:

Mr. Jose A. Maldonado, #312648, Appellant Pro - Se
in the above-captioned matter, hereby under oath and penalty of
perjury certify, that I have served a APPELLANT'S REPLY BRIEF
TO RESPONDENT'S BRIEF, have being attached below this motion.
Further, the Appellant file thru the below liested of Names is
information on the same date. To:

Clerk's Office, SC Administrative
Law Court To Hon: Lensky S. Phillip,
Edward A. Brown Building, Suite 224
1205 Pelenton Street
Columbia, S.C. 29201

S.C, Counsel of Records
Office of Attorney Gen.,
Alan Wilson
P.O. Box 11549
Columbia, S.C. 29211

General Counsel David Tatarsky
South Carolina Dep't of Corrections
P.O. Box 21787
Columbia, S.C. 29221

Respectfully Submitted

s/ Jose A. Maldonado
Jose A. Maldonado, #312648
Appellant Pro - se

Further Appellant said and Notarized

This 12 day of May, 2016.

Kershaw Corr. Inst. MB/Room# 59
4848 Goldmine Highway
Kershaw, South Carolina 29067

SWORN To and SUBSCRIBED Before Me

This 12th day of May, 2016

(File: (A.L.C. Doc. 4)

Cathie A. Cures
Notary Public for South Carolina

My Commission Expires: _____
My Commission Expires December 22, 2018

Pg. 17. ROA

File: (App. Ct. Doc. 5, Appx. A (18) Record on Appeal) 18-0F-26

Jose Alberto Maldonado I/D#: 312648
Kershaw Cor.. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, South Carolina 29067

May 12, 2016

General Counsel David Tatarsky
South Carolina Dep't of Corrections

P.O. Box 21787
Columbia, S.C. 29221

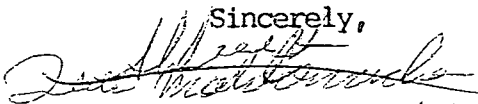
Re: Jose A. Maldonado v. Bryan P. Stirling, South Carolina DIRECTOR
Of Department of Corrections, and David Tatarsky Gen., Counsel.

Dear General Counsel Office:

May you please prove your "Clock - Staped" upon this files
to the Hon: Lensky judge;

and find enclosed a proposed Appellant
is Reply Brief To Respondent's Brief; and Appellant's Objection
To Respondent's Motion To File Out Of Time. And Appellant's Reply
Brief To Respondent's Brief.

In Reference to the above - captioned criminal/or civil case.
If this "FILE" meets your approval, please signed and return with a "clock-
stamped" for being file in the enclosed self - address stamped envelope.

Sincerely,

Jose Alberto Maldonado, I/D#: 312648
Appellant Pro - Se

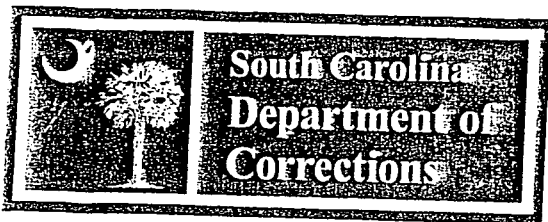
Pg 18 ROA

File: (A.L.C. Doc. 4)

Files: (3)

Docket C/A#: 15-ALJ-04-0567-AP

Enclosures: (2)



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

May 2, 2016

File (App. Ct. Doc. 5 APPX. A(19) Record on Appeal) 19-0f-26

The Honorable S. Phillip Lenski
South Carolina Administrative Law Court
Edgar A. Brown Building, Suite 224
1205 Pendleton Street
Columbia, South Carolina 29201

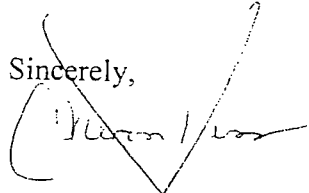
Reference: Inmate Jose Alberto Maldonado, #312648, vs. SCDC
Docket No. 15-ALJ-04-0567-AP

Dear Judge Lenski:

Find enclosed an original and one copy of the *Respondent's Brief and Motion to File Out of Time* on the above referenced case. Please file the original in your office and return a clocked-in copy to me in the enclosed self-addressed envelope.

If you have any questions or concerns, please do not hesitate to contact me at (803) 896-3922.

Sincerely,


Cheron Hess
Administrative Assistant
Office of General Counsel

Enclosures

cc: Inmate Jose Alberto Maldonado, #312648
File

Pg. 19. ROA..

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

File: (App. Ct. Doc. 5. APPX. A(20) Record on Appeal) 20-01-26

Jose Alberto Maldonado, #312648,

Appellant,

vs.

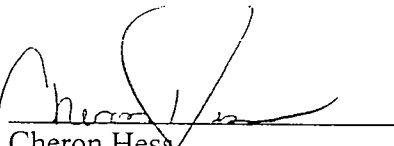
South Carolina Department of Corrections,

Respondent.

)
)
)
) Certificate of Service
)
) Docket# 15-ALJ-04-0567-AP
)
)
)
)

I hereby certify that a copy of the foregoing brief and motion was this date served upon the following individuals by placing a copy of the same via mail to his/her last known address as follows:

Inmate Jose Alberto Maldonado
Inmate Number: 312648
Kershaw Correctional Institution
Dorm-Room-Bunk: MB-0059-T



Cheron Hess
Administrative Assistant
Office of General Counsel
South Carolina Department of Corrections
4444 Broad River Road
P.O. Box 21787
Columbia, South Carolina 29221-1787
(803) 896-3922

May 2, 2016

Pg. 20. ROA.

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Jose Alberto Maldonado, #312648,

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

) Docket No.: 15-ALJ-04-0567-AP

) Grievance No.: KRCI 1415-14

) RESPONDENT'S BRIEF

) *Honorable S. Phillip Lenski*

STATEMENT OF THE CASE

1. This case is before the Administrative Law Court ("ALC") pursuant to the appeal
2. of Jose Alberto Maldonado ("appellant"), an inmate incarcerated with the Department of
3. Corrections ("SCDC"). Appellant filed a Step One Grievance on December 11, 2014,
4. claiming his projected max-out date was not being calculated properly. This grievance
5. was investigated and denied when it was determined that SCDC has properly calculated
6. Appellant's sentence. Appellant filed a Step Two Grievance on January 9, 2015. This
7. grievance was also investigated and denied. Appellant subsequently filed his Notice of
Appeal with the ALC on October 19, 2015. Appellant filed his brief with the ALC on
December 2, 2015, and SCDC filed the Record on Appeal on January 4, 2016. Appellant
then filed an Initial Brief with the South Carolina Court of Appeals on January 6, 2016.
The Court of Appeal dismissed the case via an Order dated February 10, 2016 and
remitted the case on February 29, 2016. Due to the same case being filed in multiple
courts, there was some confusion on the side of SCDC. SCDC has requested to file
outside of time via a motion submitted with this brief.

Pg. 24. ROA

Because Appellant's sentence has been properly calculated, the final determination of the Department should be affirmed.

JURISDICTION

The ALC's jurisdiction to hear this matter is derived entirely from the decision of the South Carolina Supreme Court in Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). In McNeil v. South Carolina Department of Corrections, 00-ALJ-04-00336-AP (September 5, 2001), the ALC interpreted the breadth of its jurisdiction pursuant to Al-Shabazz. That decision holds that the ALC's appellate jurisdiction in inmate appeals is limited to two types of cases: (1) cases in which an inmate contends that prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; and (2) cases in which the SCDC has taken an inmate's created liberty interest as punishment in a major disciplinary hearing. Jurisdiction of the ALC was most recently addressed in Sullivan v. SCDC, 355 S.C. 437, 586 SE.2d 124 (2003).

In this case, Appellant contends that SCDC has incorrectly calculated his sentence. Consequently, the ALC has jurisdiction to hear his appeal.

STANDARD OF REVIEW

A reviewing court will not disturb findings of an administrative agency if its findings are supported by substantial evidence on record as a whole. Pearson v. JPS Converter & Industry Corp., 327 S.C. 393, 489 S.E.2d 219 (Ct. App. 1997). "Substantial evidence" is evidence which, considering record as a whole, would allow a reasonable mind to reach the conclusion reached by the administrative agency. Hendley v. S.C. State Budget & Control Bd., 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996). The possibility of drawing two inconsistent conclusions from the evidence does not prevent

Pg. 22. ROA

File: (App. Ct. Doc. 5. Appx. A (23) Record on Appeal) 23-of-26
an administrative agency's finding from being supported by substantial evidence. Grant

v. S.C. Coastal Council, 319 S.C. 348, 461 S.E.2d 388 (1995). Administrative agencies are afforded wide latitude in making decisions, as shown in the deferential standard of appellate review. Heater of Seabrook, Inc. v. Public Svc. Comm'n of S.C., 332 S.C. 20, 503 S.E.2d 739 (1998).

ARGUMENTS

APPELLANT'S SENTENCE HAS BEEN CORRECTLY CALCULATED BY RESPONDENT

1 On April 10, 2007, Appellant was sentenced to twenty years for Trafficking in
2 Crack Cocaine, with a sentence start date of April 10, 2007. Appellant argues that the
3 court provided misleading information on the indictment sheet for this charge, indictment
4 number 05-GS-4726. However, the indictment sheet is what SCDC uses when
5 calculating Appellant's sentence, and it is SCDC's position that the indictment sheet is
6 clear. On the indictment sheet, the Presiding Judge very clearly states that Appellant is to
7 be sentenced to twenty years for Trafficking in Crack Cocaine. See Exhibit A. The
8 sentencing date is April 10, 2007, but the Presiding Judge, again, clearly states that
9 Appellant is to receive time served starting on August 6, 2005. Because Trafficking in
10 Crack Cocaine is a no-parole offense, Appellant must serve at least eighty-five percent of
11 his sentence. S.C. Code Ann. § 24-13-150. With this and Appellant's time served taken
12 into account, his max-out date is calculated at August 2, 2022.

Appellant has not carried his burden to demonstrate SCDC is incorrectly calculating his sentence. Therefore, SCDC respectfully requests its decision denying appellant's Step Two grievance be upheld.

Pg. 23. ROA

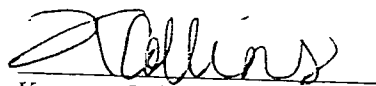
File: (App. Ct. Doc. 5-Appx. A (24) Record on Appeal) 24-08-26
RESPONDENT'S FINAL AGENCY DECISION IS SUPPORTED BY
SUBSTANTIAL EVIDENCE

The record conclusively establishes that the "substantial evidence on the whole record" supports the Department's final agency decision. Appellant has the burden of proving that the decision of the Department is clearly erroneous, arbitrary or capricious, or an abuse of discretion. See Porter v. Public Service Comm'n, 333 S.C. 12, 507 S.E.2d 328 (1998). Appellant has not met this burden and his claim should be dismissed with prejudice.

CONCLUSION

Because Appellant's sentence has been properly calculated and Appellant has not carried his burden to demonstrate SCDC is incorrectly calculating his sentence, the final determination of the Department should be affirmed. Therefore, SCDC respectfully requests its decision denying appellant's Step Two grievance be upheld and this case be dismissed.

Respectfully submitted,



Kensey Collins
Staff Attorney
South Carolina Department of Corrections
4444 Broad River Road
Columbia, South Carolina 29221
(803)896-1943

May 2, 2016
Columbia, South Carolina

Pg. 24 ROA

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

File: (App. Ct. Doc. 5-Appx. A (25) Record on Appeal) 25-of-26

Jose Alberto Maldonado, #312648,

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

) Docket No.: 15-ALJ-04-0567-AP

) Grievance No.: KRCI 1415-14

) Hon. S. Phillip Lenski

) **RESPONDENT'S MOTION**
) **TO FILE OUT OF TIME**

COMES NOW, Respondent, South Carolina Department of Corrections, and requests that this Honorable Court grant Respondent leave to file its Brief out of time. In support of this request, Respondent shows this Honorable Court the following:

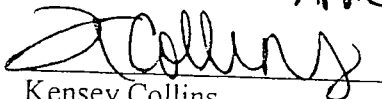
1. This matter comes before the Court by way of Appellant's challenge to a disciplinary conviction pursuant to Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000).
2. Appellant filed his brief with the ALC on December 2, 2015, and SCDC filed the Record on Appeal on January 4, 2016. Appellant then filed an Initial Brief with the South Carolina Court of Appeals on January 6, 2016. The Court of Appeal dismissed the case via an Order dated February 10, 2016 and remitted the case on February 29, 2016.
3. Respondent's brief was due February 16, 2016. Due to an administrative oversight, Respondent did not file their Brief in a timely manner.

WHEREFORE, Respondent respectfully requests to file and serve Respondent's Brief out of time in this matter.

Pg. 25 ROA

[Signature block on the following page.]

File: (APP. CT. Doc 5-APPX. A(26) Respectfully submitted, Record on Appeal) 26.



Kensey Collins
Staff Attorney
South Carolina Department of Corrections
Post Office Box 21787
4444 Broad River Road
Columbia, South Carolina 29221
(803) 896-1943

May 2, 2016
Columbia, South Carolina

Pg-26-ROA

APPENDIX: (B) (Pgs. 1-0A-30)

File; (APP. Ct. Doc 5. APPX. B (27) Record on Appeal)

STATE OF SOUTH CAROLINA)
ADMINISTRATIVE LAW COURT ;

Jose Alberto Maldonado, I/D#: 312648)
Appellant Pro - Se,)

V.)

BRYAN P. STIRLING, South Carolina)
DIRECTOR of Department of Corrections,)
And David Tatarsky, General Counsel,)
Respondent(s).)

STATE OF SOUTH CAROLINA
IN THE ADMINISTRATIVE LAW COURT

Docket No. 15-ALJ-0567-AP

MOTION FOR SUMMARY JUDGMENT

HONORABLE: JUDGE LENSKY
S. PHILLIP

Now comes Appellant, Jose Alberto Maldonado, #312648, who moves for Summary Judgment, on the above - captioned matter.

PROCEDURAL FACT

Appellant made request to the South Carolina Department of Corrections for copies of pertinent documents in regard to the arrest, trial, and incarceration, specifically authenticity Orders of Commitment(s), "Indictment(s), and Sentencing Sheet(s)," involving Appellant's conviction and sentence. Appellant was refused the requested documents and he pursued his ("Step-One") and ("Step - two") Grievance which resulted in denial of the requested documents/again:

Appellant filed his Appeal to the Administrative Law Court where his case was docketed, with Judge Lensky S. Phillip; Phillip, was assigned and set date of assignment on Appellant's filed an "Opening Brief/With '[a Motion for Leave To Conduct Discovery']". On December 2-3, 2015 entered in the Court is dismissal on Dec. 18, 2015. Appellant was denied under S.C.

File: (App. Ct. Doc. 5. APPX. ~~B~~ (28) Record on Appeal) 2-08-30
Administrative Law Court Rules; Rule 9, R. 11(A, E); & Rule 21, ALCR.

Stated as follows:

- (1). Rule 9, the Administrative Law Judge shall rule on all motions, preside at the contested case hearing, rule on the admissibility of evidence, require the parties to submit Brief when appropriate, issue orders and rulings to insure the orderly conduct of the proceedings and issue the final order. See, Belton v. State, 339 S.C. 71, 539 S.E.2d 4 (2000); Rules, 54(e) 68(a) SCRPC.

Further, Appellant argue that. The Respondents Bryan P. STIRLING, South Carolina Dep't of Corrections Director and General Counsel of SCDC, failed at the Rule 9; by no submitted is Brief. Because on Jan. 4, 2016 Mrs. Cheron Hess' Administrative Assistant Office of General Counsel was filed a inmate records, without any defense, against Appellant. Consisting of inmate is Grievance No. 1415-14, upon Hon: S. Phillip Lensky, judge. To review the "records" in the above referenced case. Respondent(S) failed to prosecuted this case. So now the time's expired? This, judge grant: Summary Judgement on all cause of action"; see Law v. South Carolina Dep't of Corrections, 368 S.C. 424, 433, 448, 629 S.E.2d 642, at 648 (S.C. 2006);

(2). Rule 11(E), the Appellant raise this Rule because, Respondents "Fall Below" at the rules, Rule 58, quote Rule 71, see also Rule 11(A), & (E) ALCR. The rule held against respondents, for failure to file ("incompleted request")? Rule 59 ¶(B) ALCR, explaint it. A Brief factual basis for each expressly and specifically asserted constitutional violation: ("[T]his, means" is to compel the authenticity Orders of Commentments/indictment(s) and Sentencing Sheet(s), involving Appellant's conviction and a sentences pursuant to "S.C. Code Ann. §§ 44-53-375(C)(2)(b) see: the (Step- Two) arguments of SCDC Policy OP-21.09 ¶(2), i.e., Appellant pursuing under Tant v. S.C. Dep't of Corrections, 395 S.C. 446, 718 S.E.2d 753 (2011). See at Tant, 759 S.E.2d at 401 (2014).

File: (App. Ct. Doc. 5. Appx. B (29) Record on Appeal) 3-of-30

This grievance procedure against the Dep't of Corrections, between the opposity party, by Policy & Rules ALCR pursuant to S.C. Code 1976 §§ 17-19-100. For violation's § 44-53-(375(C)(5) South Carolina Title 44")). See; the (Attachments Indictments) Pgs. (13 - 17).

Appellant challenge the validity to a run concurrent "sentence(s). and now enter "summary judgment": Because, the Rule 59, stated that; within "Forty-five (45) days" of the date, the case's assigned to an Administrative Law Judge (date of assignment,) the agency shall file the records with the court, included a statement of the records, this is the Brief on Opposite againsts ("J.A.M."), "APPELLANT BRIEF/MOTION FOR LEAVE TO CONDUCT DISCOVERY" with a ORDER true such judge. Lensky, against Rule 501 Canon 3(A)(B)(1)-(6) (7)(a)(i)(ii), SCACR. In conflict with "ex-parte communication." Because the judge made "no any Order" against the Respondents for failure to submitted the authenticity of "document records" is "unfair by Hon: Lensky judge."

A constitutional violation in behalf to (DOC) to holding "Appellant inside's (SCDC), be confined in Kershaw, CI.", is a 'substantive deprivation charge.' Appellant Jose A. Maldonado, who moves for summary judgment", on the above-captioned matter. See: (Attached P. (7)).

This Court have to began investigating allegations of the widespread abuse of Jose A. Maldonado and the falsifications of records to "cover up it." See, e.g., U.S. Mike LaVallee, Rod Schutts, and Roberti VerbiKas, 439 F.3d 670 (2006). The "time for filing the records is expired and the Hon: Lensky' have to ruling the other part's Appellant Brief", because no is extended,

File: (APP. Ct. Doc. 5. APPX. B(30) Record on Appeal) 4-of-30
by the Administrative Law Judge. Had, or have been assigned to
this appeal; and

- (3). Rule 21; Holdings, a mandatory review the "ORDER DENYING
MOTION FOR DISCOVERY, Stated as follows:

Discovery shall be available as Provide in S.C. Code
Ann. § 1-21-320 (2005) (as amended); Overruling on oth-
er grounds by Law v. South Carolina Dep't of Corrections
, 368 S.C. 424, 434, 629 S.E.2d 642, at 648 (2005) ("Iss-
UE STANDARD OF REVIEW"). Rule 21 ALCR.

The, Hon: Lensky judge, should grant summary judgment on
all causes of actions, to support, Tant v. South Carolina Dept
. of Corrections, 395 S.C. 447, 718 S.E.2d at 754 (2011) ("un-
der ordinary circumstances, the Department of Corrections ...
("DOC") must determine the ("sentencing impose") by the trial
court from the ("Sentencing Sheet(s)") (DOC) may examine the
<"Transcript of records"> to determine the intent of the sen-
tencing judge; see e.g., Law v. South Carolina Dept. of Corr-
ections, 368 S.C. at 436, 629 S.E.2d 649;

("[A] true bill of indictment is 'prime facie evidence of
probable cause in an action for malicious prosecution.'"), in
an action for malicious prosecution, in may be decided "as a
matter of law" when the evidence yields but one conclusion. See id.

The burden's from Susan O. Porter former plaintiff to show-
ing that the prosecuted person or entity lacked probable cause
to pursue a <"Criminal or Civil Action" against Appellant:
Jose A. Maldonado. Overrulle pursuant's Tant v. South Carolina
Dep't of Corrections 408 S.C. 341, at 343, 759 S.E.2d 398, 401
, 402 (S.C. 2014). Stated the following facts:

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Under both, State and Federal due Process Clause, no person shall be deprive of life, liberty, or property without due process. U.S. Const. Amend. XIV.; S.C. Const. Art. I, § 3.

"The fundamental requirements of due process include ("Notice"), an opportunity to be heard in meaniful way, and judicial review State v. Binnarr, 400 S.C. 156, 165, 733 S.E.2d 890, at 894 (2012).

Determining whether an inquiry into whether the interest involved can be define as liberty or property withing of the due process is due under those circumstances. Bl. of Requests of State Colls v. Roth, 406 U.S. 564, 571-73, 92 S.Ct. 2701, 33 L.E.2d 548 (1972).

There can be no doubt the length of an inmate's incarceration implicates a constitutional liberty interest. Explain in: Greenhaltz v. Inmate of Nev. Penal and Corr. Complex, 442 U.S. 18, 99 S.Ct. 2100, 60 L.E.2d 668 (1979).

Powell, J., concurring in part and dissenting in part. ("Liberty from bodily restrict always has been recognized as the care of the libery protected by the Due Process Clause from arbitrary government action." See (quote, Tant v. South Carolina Dep't of Corrections, 408 S.C. 343, 759 S.E.2d at 402 (2014).

In accordance, this case the Administrative Law Court need only determine what process is require. S.C. Code 1976 § 44-53 -375(C)(2)(b), Rule 56(a)(c) SCRCP, Rule 21 ALCR,; & Rule 29(b) SCRCP. Const. Art.I,§ 11; art. V. § 22. Instead S.C. Dep't of Corrections policy: OP-21.09. "INMATE RECORDS PLAN," and Tant v. South Carolina Dep't of Corrections, 408 S.C. 345, 347, 756 S.E.2d 398, at, 404 (2014).

FACTUAL/PROCEDURAL BACKGROUNDS

File: (App. Ct. Doc. 5. APPX. B (32) Record on Appeal) 6-of-30
Thus, the Administrative Law Court, have held that and

rule that (DOC) decides its original recordation of sentence
was erroneous, it must afford the inmate formal notice.

See id., Tant, 756 S.E. at 404, and advice him of opportunity
to be heard through the grievance procedure. And Pursuant,
to (SCDC Policy: OP-21.OP. ¶(2.1, through 2.18). ACTIVATING INMATE RECORDS.

Whether, Appellant Jose A. Maldonado, was unlawfull inside
(DOC). Hereby, Appellant was indicted at sessions of the Sta-
the Grand Jury of South Carolina, convened in Columbia, S.C. on
December 13, 2005, the State Grand Jurors Present upon their
oath: For Conspiracy to Trafficking Methamphetamine, ("Two - Co-
unts, Trafficking Methamphetamines more than >400 Grams"), and
also a false information by Appellant had a possession to, fir-
earm during the Commission of a violent crime. On Aug/22/2006,

The Defendant, Jose A. Maldonado pled guilty to the lesser
included offenses of conspiracy To Traffick in Methamphetamine
["28 - 100 grams"]. For second offences, run concurrent:

Further, Appellant demand pursuant to a "Superseding - Indictment"
have no jurisdiction (true) the state grand jury, for conspiracy to
traffick, Methamphetamines, more than >400-grams a ["Two/Three Cou-
nts"] within the <"false possession of a firearm"> during the comm-
sion of a violent crime;supposely issues on 12/13/05, & Feb.22,2006.

Those indictment(s) bared No.: 2005-GS-47-0026; i.e., See
Law v. South Carolina Dep't of Corrections, at 436, 629 S.E.
2d at 649. "Finding of Grand Jury". A true bill of indictment

File: (APP. Ct. Doc. 5, APPX. B (33) Record on Appeal) 7-of-30
is prime facie evidence of probable cause in an action for malicious prosecution. See ante P. (2, & 4). The State recommended a ("Twenty (20) years sentence to, the (DOC)"). Whereas, The Jose A. Maldonado, did and receive from the Hon: Alexander Macaulay. On April 10, 2007"[?] The Appellant was Represented by James H. Price, Esquire and the State was Represented by Susan O. Porter, assistant Deputy atty. General Office. See, Boan v. State, at 274, 695 S.E.2d at 851. (quoting Tant (2014)).

EXTRINSIC AID TO CONSTRUCTION OF SENTENCES

However, this court cannot ignore the reality that an individual's freedom is implicated in these determinations. As this case make plain, at times imputting an inmate's "Sentence in its records requires more from the Department than the ministerial act of looking to the face sentencing sheets. id., at Tant, 342, Fn.2, 759 S.E.2d at 402 (2014)).

CONCURRENT OR CONSECUTIVE TERMS

"The rule law's well settled two or more sentences of a Appellant, Jose A. Maldonado to the same place of confinement" run concurrently, in the absence of specific provision §§ 44-53 -375(C)(2)(b), 17-19-100, in the judgment to the contrary Finley v. State, 219 S.C. 278, 282, 64 S.E.2d 881, 882 (1951). See Tant, (2014) (quoting, State v. Campbell, 378 S.C. 212, at 215, 656 S.E.2d 371, 373 (2008) ("nothin the long-standing rule of law that a trial judge is without jurisdiction to consider a criminal matter once the <"term of court during which judgment was entered expres"> except for "post-trial motions filed within ten days" Pursuant to "Rule 29 South Carolina Rule of Criminal Procedure."

Although, the intent of the Hon: Lensky, judge's controlling in determining whether sentence run concurrently or consecutively, ("[a]mbiguity or doubts relative to a sentence should be resolve in favor of the accused." State v. DeAngelis, 257 S . 44, 50, 183 S.E.2d 906, 909 (1971) (quoting, Tant, at P.403).

Department of Corrections: should be able to rely an unambiguous sentencing sheet(s) as indicative of the intended sentence.

"The purpose of summary judgment is to expedite the disposition of cases not requiring the service of fact finder McKnight v. South Carolina Dep't of Corrections, 385 S.C. 380, 386, 684 S.E.2d 566 (2009)(quoting, George v. Fabri, 345 S.C. 440, 452, 548 S.E.2d 868, 874 (2001)). When reviewing the grant of a summary judgment motion, this court applies the same standard that governs the trial court under Rule 56, SCRCP, summary judgment's proper when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. Fleming v. Rose, 350 S.C. 488, 493, 567 S.E.2d 857, 860 (2002). Summer v. Carpenter, 328 S.C. 36, 42, 492 S.E. 2d 55, at 58 Souner v. Public Service Authority of South Carolina, 354 S.C. 397 581 S.E.2d 161, 165 (2003)(same) (quoting Koontz v. Thomas, 333 S.C. 702, 713, 511 S.E.2d 407, 413 (Ct. App. 1999) Citing, Rule 60(a) SCRCP, and at Tort Claim Act.). "The Susan O. Porter, representation must relate to a present or pre-existing fact and be false when made." Koontz v. Thomas, at 713, 511 S.E.2d at 413. Representation based on statements as to future events or unfulfilled promises are not usually actionable to "twenty (20) years".

This rule applies with equal force to "bar Appellant" claim that statements made by Susan O. Porter to the "legal term with the state grand jury" is original document No. 2005-GS-47-

File: (App. Ct. Doc. 5. Appx. B(35) Record on Appeal) 9-of-30
26 from April 13, 2005, that increases the Sentencing- Sheets"

prior to April 10, 2007. Susan O Porter, the Plaintiff, and former prosecutor, was not authorized to present the C/A#; 2005 -GS-26-47 before been amended the superseding indictment" by its Office until defendant pled guilty the August 22, 2006 resolution. Therefore, the Alministrative Law Court hold there's a genuine issue of material fact to support relief by Susan O. Porter, negligent misrepresentation cause of action. See, id., at Souner v. Public Authority of South Carolina, 581 S.E.2d at 168. (quoting, Koontz v. Thomas, at 713, 511 S.E.2d at (413).

"Issue: B. "Negligent Misrepresentation." Holdings, the Facts:

The pled guilty from Aug. 22, 2006, and Sentencing Sheets, to April 10 - 13, 2007, contained cancellation clauses that allowed the BRYAN P. STIRLING, South Carolina Director of Dep't of Corrections; and David Tatarsky, General Counsel, (DOC), by releasing all documents. Because the expiration of time on ninety - five (95) days, notice had been on: February 1, 2016, the time began on Oct. 20 - 29, 2015 after such date expires within approximate: 59 days, up date in this motion.

Therefore, the general sessions court term in the Greenville County 13th Judicial Circuit were never true long term "to the lesser - included offences. See id., Law v. South Carolina Dep't of Corrections, 368 S.C. at 436, 629 S.E.2d 649, see p.4* ("[a] true bill of indictment is 'prime facie evidence'") see, also 408, 581 S.E.2d 167. Appellant have been satisfied the element of negligent misrepresentation. See ante at Page 4.

Respondents, (SCDC) was allowetted by Rule 60(A), ALCR, and Hon: Lensky, judge, 85 days after date of assignment to file a Brief in response to Appellant's Brief and positions and issu-

File: (APP. Ct. Doc. 5. APPX. B (36) Record on Appeal) 10-0f-30
es on appeal. The allowed time has since expired and Respondent(s) (SCDC) has not refuted any of our material facts of the case and has not filed a Brief or provided Appellant with the request document.

Therefore, pursuant to Rule 68, ALCR, and Rule 56, SCRCP "summary judgment should be entered upon the Respondent South Carolina Dep't of Corrections, as a matter of law." No longer of thirty (30) days. Rule 56(a), SCRCP.

CONCLUSION

The Respondent(s) should be ordered to provide the Appellant with "all of his arrest," trial plead proceedings, and in carceration documents, specifically "true copies of the original and all orders of Commitment(s), Indictment(s), and the Sentencing Sheet(s) pursuant to (SCDC)'s Policy: OP-21.09 §§ 2 ; 7. 3,6. State and Federal Statutes, Court Rules, State and Federal Constitutions, and the FOIA.

Respectfully Submitted

Done this 30, day of March, 2016.

s/ Jose Alberto Maldonado, #312648
Jose Alberto Maldonado, #312648
Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw S.C. 29067

Pg. 36. ROA

File: (APP. Ct. Doc. B (37) Record on Appeal) 11-0F-30
Docketed No. ALJ-04-0567-AP

Certificate Of Service

I, Jose Alberto Maldonado, a civil person presently
confining at Kershaw South Carolina Correctional Institution
("SCDOC"). Do hereby affirm that:

Mr. Jose Alberto Maldonado, #312648, Appellant Pro-Se
in the above-captioned matter, hereby under oath and penalty of
perjury certify, that I have served a "MOTION FOR SUMMARY JUDG-
MENT, and AFFIDAVIT", have being attached below this motion.
Further, the Appellant file upon the bolow listed of address
inf., on the same date. To:

Clerk's Office, SC Administrative
Law Court The Hon: Lensky S. Phillip,
Edward A. Brown Building, Suite 224
1205 Pelenton Street
Columbia, S.C. 29201

S.C. Counsel of Records
Office of Atty. Gen.,
Alan Wilson
P.O. Box 11549
Columbia, S.C. 29211

General Counsel David Tatarsky
South Carolina Dep't of Corrections
P.O. Box 21787
Columbia, S.C. 29221

Respectfully Submitted

Further Appellant said and Notarized

This 31 day of MARCH, 2016.

s/ Jose Alberto Maldonado
Jose A. Maldonado, #312648
Appellant, Pro - Se

Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, South Carolina 29067

SWORN To and SUBSCRIBED Before Me

This 31st day of March, 2016.

Cathrine A. Amosa
Notary PUBLIC for South Carolina

File: (A.L.C. Doc. 3)

My Commission Expires: _____

My Commission Expires December 22, 2018

Pg. 37 RDA

File: (App cl. Doc. 5, APPX. B (38) Record on Appeal) (2-of-30)

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT ;

Jose Alberto Maldonado, I/D#: 312648
Appellant Pro - Se,

V.

BRYAN P. STIRLING, South Carolina
DIRECTOR of Department of Corrections,
And David Tatarsky, General Counsel.
Respondent(s).

STATE OF SOUTH CAROLINA
IN THE ADMINISTRATIVE LAW COURT

Docked No. 15-ALJ-0567-AP

AFFIDAVIT IN SUPPORT OF

"SUMMARY JUDGMENT"

The Appellant, Jose A. Maldonado, #312648 is a civil person at the Kershaw Correctional Institution located at 4848 Goldmine Hwy. Magnolia B Dorm, Room #59, Kershaw, S.C. 29067, do declare under upon this AFFIDAVIT under oath and penalty of perjury that the following to be true:

1. Thus, that above - stated Appellant has moved for summary judgment against the above - stated Respondent(s).
2. Appellant requested copies of "all" pertinent documents in regards to his arrest, trial/pled proceedings, incarceration, and specifically the original certified authentic copies of Copies "Orders of Commitment(s)", ("Indictment(s)", and "Sentencing Sheet(s)", of his "Conviction(s)", sentence.) from the above - stated Respondents pursuant to South Carolina Dep't of Corrections is Policy: OP-21.09, §§ 2, 7.3.6;
3. Respondent failed to supply the requested documents after the filing, by Appellant, of his ("Step-One") and ("Step - Two"), Grievances;
4. Thus, that Appellant filed his appeal therefore, to the Administrative Law Court, on October 19th, 2015.

File: (App. Ct. Doc. 5. Appx. B (39) Record on Appeal) 1302-30

5. That, the Hon: Lensky S. Phillip judge, was assigned to the appeal with date of assignment bring on: Oct. 29th, 2015.;

6. Thus, that Appellant filed an "Initial" Brief/Motion for Leave To Conduct Discovery, on December 2 - 3, 2015 See at the "MOTION FOR SUMMARY JUDGMENT" Page (3). (Within, "forty-five (45) days" of the date, the case's assigned to an Administrative Law judge "the agency shall file the records with the court, included a statement of the records, the Respondent failed at the Brief on opposite against Appellant. And failure to filed incompleated files of records, and also such files was the same IGP from appellant's files had been submitted to this Court. See, this Motion for SUMMARY JUDGMENT; at Page 2. Stated the follows:

On January 4, 2016. Mrs. Cheron Hess, Administrative Assistant Office to the Gen., Counsel may be's responsible by no submitt-ed, the Respondents Brief, against Appellant, her release the incompleated documents, and provide it to Hon: Lensky? See the in-compleated "Brief" Attachments:(17), copies, in this matter. Rule 56(a)(c), SCRCF, Rule 21 ALCR, Policy OP-21.09.; and Rule 501 Canon 3(A)(B)(1)-(6)(7)(a)(i)(ii) SCACR.;

7. Respondent was give eighty-five (85) days after date of assignment to file its response (Brief's in opposition Pursuant to Rule 60(A), ALCR). And Judge Lensky, Docked this case; and

8. The allowed time has "expired" and Respondent(s), has not refuted any of appellant's genuine issues of material facts and Appellant is entitled to judgment as a matter of law in his favor. This AFFIDAVIT's Addressee to this Hon: Clerk of Court, and the opposed party To:

Clerk's Office, SC ALJ. The Hon: Lensky S. Phillip Edward A. Brown Building Suite 224 1205 Pelenton St., Columbia S.C. 29201; General Counsel David Tatarsky SC. Dep't of Corrections P.O. Box 21787 Columbia S.C. 29221; SC. Counsel of Records of Attorney General Office Alan Wilson P.O. Box. 11549 Columbia S.C. 29211.

Appellant said and Notarized This 31 day of March, 2016

SWORN to & SUBSCRIBED Before Me
This 31 day of March, 2016.

Catherine A. Amos
Notary Public For South Carolina
My Commission Expires: _____

My Commission Expires December 22, 2018

Respectfully Submitted

s/ Jose Alberto Maldonado
Jose A. Maldonado, #312648
Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, S.C. 29067



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

File: (App. Ct. Doc. 5. Appx B. (40) Record on Appeal) 14-06-30
January 4, 2016

The Honorable S. Phillip Lenski
South Carolina Administrative Law Court
Edgar A. Brown Building, Suite 224
1205 Pendleton Street
Columbia, SC 29201

Reference: Inmate Jose Maldonado, #312648, vs. SCDC
Docket No. 15-ALJ-04-0567-AP

Dear Judge S. Phillip Lenski:

Find enclosed a copy of the Respondent's Record, consisting of Inmate Grievance KRCI 1415-14, in the above referenced case. Please file the original and return a clocked-in copy of the cover letter in the enclosed envelope.

Sincerely,

Cheron Hess
Administrative Assistant
Office of General Counsel

Enclosures

cc: Inmate Jose Maldonado, #312648
File

Pg. 40 ROA

Issue date: _____

Attachments: 1-06-17 File (H. C. Doc. 3)

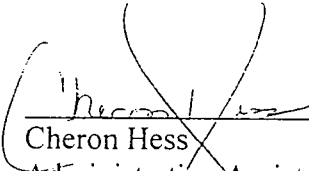
CERTIFICATE OF SERVICE

File: (APP. Ct. Doc. 5. APPX. B. (41) Record on Appeal) 15-0A-30

I hereby certify that a copy of the foregoing document was this date served upon the following individual(s) by placing a copy of the same via mail to his/her last known address as follows:

Inmate Jose Maldonado
Inmate Number: 312648
Kershaw Correctional Institution
Dorm-Room-Bunk: MB-0059-T

Columbia, South Carolina
January 4, 2016


Cheron Hess
Administrative Assistant
South Carolina Department of Corrections
4444 Broad River Road
P. O. Box 21787
Columbia, SC 29221-1787
(803) 896-3922

Pg. 41 ROA

Attachment: 2-0A-17 File: (A.L.C. Doc. 3)

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM**

STEP 2 JAN 12 2015

INMATE NAME: Jose Alberto Maldonado

SCDC NUMBER: 312648

INSTITUTION: Kershaw CI.

HOUSING UNIT: Magnolia B, Room # 59

WORK ASSIGNMENT: Education is Library

Office Use Only
Grievance No. 14-338547
Code: General
Policy
Disc. Hear.
Class.
Date Received 1/12/15
IGC Initials PN

RECEIVED
JAN 12 2015

JAN 12 2015

KERSHAW CI

GRIEVANCE INMATE

File: (App. Ct. Doc. 5, Appx. B (42) Record on Appeal) 16-of-30

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): This appeal is for the Warden decision; in response to KRCI-1415-14. That, answer didn't cover up my Grievance Inf., from the classification #(038600). The (IGP) is to compel disclosure, with the Step 1. Were I am filed it on 12/11/2014 Kiosk # 14-338547, answer 12/8/2014. This appeal due process, pursue the records. Pursuant of SCDC's Policy OP-21.09(2).

Holding, at ¶[2.1] shall, the inmate records office in the Division of the "Classification & Inmate Records is Responsible for Administering a Uniform Process for Activating Records on Inmate admitted into the (SCDC)", (emphasis supplied)...? See also ¶[2.2] same policy: The Reception & Evaluation has the primary duty to received, process and enter "Sentencing documentation for all inmate received into the SCDC." See id., at ¶[2.4, & 5]; the ("R-&E Center can accept an inmate into the custody, and also the SCDC provided an inmate's received an a valid commitment order") i.e.,); Tant v. S.C. Dep't of Corr., 395 S.C. 446, 718 SE.2d 753 (2011). Further the appeal pursuit the right information upon that "TRUE BILL" Supersending Incl., #05-GS-23-4726, mislead Counts, dates. from Dec. 13, 2005, & Feb. 22, 2006]. That against the Policy, (OP-21.09 ¶[2.5]); Code 1976 §§ 17-19-100, 44-53-375(C)(5), and (Violate the § 44-53-375(C)(b)(2); SCRPC, Rule 60(b)(5), USCA. Const. Amend. 14. Because, therein is no valid sentence(s) to be served with the SCDC. The Warden action didn't cover the (IGP), for denied the hearing, without documentation. Id. at ¶[2.2], and him raised that I an failed to indicate what type of hearing, but on the 1/7/2015 him or Ms. York, send an annual hearing without records. See, Step 3 below, Attach copy, and the (IGC've all Recs.,).
Jose A. Maldonado 1/9/2015
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

have reviewed your complaint and found that Warden Dunlap addressed your concerns appropriately. Indictment 03-GS-2304545 (Cocaine distribution in proximate of a school) is a concurrent sentence, with a starting date of August 5, 2005; indictment 03-GS-04547 (Trafficking in Cocaine) is a concurrent sentence, with a starting date of August 6, 2005 and indictment 05-GS-4726+ (Trafficking in Crack Cocaine) is a concurrent sentence, with a starting date of August 6, 2005. Indictment 05-GS-4726+ has a mandatory time of 85% (17 years). Therefore, your max-out date will be August 2022. Keep in mind, any disciplinary infractions or employment can cause your max-out date to change. Your sentence is correct.

Therefore, your grievance is denied.

You may appeal this decision under the Administrative Procedures Act. 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.

Attachment: 3-of-17 File: (A.L.C. Doc. 3)

Gaith Sculiff 8/30/15
Signature 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.

Pg. 42 ROA

Grievant Signature

Date

IGC Signature

Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

STEP 1 DEC 11 2014

17-OF-30

INMATE NAME: <u>Jose Alberto Maldonado</u>	OFFICE/USE ONLY
SCDC NUMBER: <u>312648</u>	Grievance No. <u>1415-14</u>
INSTITUTION: <u>Kershaw Correction Institution</u>	Code: General
HOUSING UNIT: <u>Magnolia B, Room # 59</u>	Policy
WORK ASSIGNMENT: <u>Library</u>	Disc. Hear.
	Class. ☒
	PREA
File: <u>(App. Ct. Doc. 5, App. B (43) Record on Appeal)</u>	Date Received <u>12/11/14</u>
	IGC Initials <u>JAM</u>

STATEMENT OF GRIEVANCE (Indicate the date of incident, and if the grievance is a challenge to SCDC Policy, specify which policy. Include supporting documentation and attach answered RTSM or Kiosk reference number.) The Inmate Jose A. Maldonado pursue the response date "kiosk 14-338547 12/8/2014." From Author is No.: (038600). when that information I was received did not cover my issue to the hearing I am looking? That kiosk had been submitted on 11/16/2014. Throughout's the classification is response for my view, such answer said that; ("YOU HAVE 20 YEARS SENTENCE FOR 'TRAFFICKING IN CRACK COCAINE'). The ("IGP"), is to demanded a hearing for a compelled the (two) consecutively sentences. Upon [Inds. 03-GS-23-4545, & 05-GS-23-4726]. In that records, I would present the judge wrongly mislead instructions to the concurrent sentences. The Inmate assert that at the Kiosk dated 11/16/2014 stated as follows:

Pursued at the policy OP-21-09[2], INMATE RECORDS PLAN & ACTIVATING INMATE RECORDS PLAN/MATTER OF INSUFFICIENCY AND CONSTRUCTION OF SENTENCES IMPOSED.

The Inmate Jose A. Maldonado assert that by the S.C. Dept. of Corr. is policies, and the S.C. Const., Code of laws. Had been wrongly applied concurrent sentences, the (1st. one) is for (7) year, (2nd was been mislead and applied for 20 years sentenced). The Inmate's confine in custody at the KRCI. This Department of Correction must provide to the Inmate with formal notice when it seek to recalculate its initial determination through the amended sentences of the concurrences of (TRUE BILL). The (IGP), have now being submit to obtain a hearing, to recorder with a tape, and "Video Camara Review". That can be prove, or present it in his next legal due process, and fixing the concurrent sentences, accordingly is TANT V. S.C. DEPT. OF CORR., 395 S.C. 446, 718 S.E.2d 753 (2011) "to crush the" [Ind., 05-GS-23-4726]; pursuant §§ 17-19-100, (44-53-375(C)(5)). was violated § 44-53-375(C)(2)(b), for a second offence(s) see e.g., CLAIR V. STATE, 324 S.C. 144, 478 S.E.2d 54 (1996); STATE V. FONSECA, 383 S.C. 646, 681 S.E.2d 1, (2009); CARTER V. STATE, 329 S.C. 355, 495 S.E.2d 776, fn. 1, 777 (1998); SIMMONS V. STATE, S.C., 471 S.C., 471 S.E.2d 455 (1993); IN RE MAGISTRATES USE OF VIDEOCONFERENCES, S.C., 471 S.E.2d 459 (1995).

Please send me a "Update hearing" to examine the indictment(s). Jose A Maldonado, 12-11-2014
Because, the S.C. Department of Corrections did not have juris[diction] to the Inmate (JAM) to be in custody either KRCI. The Inmate have deadline in this matter. See the Copy Order.

ACTION REQUESTED: When the Department of Correction decides its original recodation of a sentence was erroneous, it mus afford the inmate formal notice of the amended sentence(s) See (Exhibits Indictments with Sentence sheets) I have the Right and opportunity to be heard through the grievance procedure. See Attached Exhibits.

ACTION TAKEN BY IGC: ☐ PROCESSED ☒ UNPROCESSED ☐ OTHER Pg. 43. ROA

Due to nature of grievance
Sec. Warden's Response
Attachment: 4-OF-17 File (A.L.C. Doc. 3)
J. Nough
IGC Signature 12/11/14
Date

(CONTINUE ON REVERSE SIDE)

Warden's Decision and Reason:

Inmate Maldonado
File: (APP. Ct. Doc. 5. Appx. B (44) Record on Appeal) 18-01-30
This is in response to KRCI-1415-14. All pertinent information and documentation has been reviewed. Your request to staff was answered appropriately by Case Manager, Mrs. York. You requested a hearing due to your sentence has been calculated incorrectly, however you failed to indicate what type of hearing. It is noted that your annual review is in January of this year. You may present any issues or questions to the Kershaw ICC at that time. No error has been found in your sentence calculation.

Based on this information, your requested action is denied. If not satisfied with my response, see Step 5 below.

[Signature] 1/2/15
Warden Signature Date

☐ I accept the Warden's decision and consider the matter closed.

☒ I do not accept the Warden's decision and wish to appeal.

[Signature] 1/8/15
Grievant Signature Date

[Signature] 1/8/15
IGC Signature Date

Attachments: 5-of-17 File (A.L.C. Doc. 3)

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM

1. An informal resolution shall be attempted prior to the filing of Step 1 by sending an Inmate Request to Staff Member (RTSM) form or Kiosk reference number to the appropriate supervisor. A copy of the answered RTSM must be attached to the grievance when the grievance is filed.
2. Complete each section in its entirety writing only in the space provided for inmate use. No additional pages will be permitted.
3. Only one (1) issue is to be addressed on each form. Pg. 44 ROA
4. Submit the completed form by placing it in the Grievance Box at your institution within eight (8) working days of the date on the RTSM response; policy grievances can be filed at any time. Disciplinary and Classification Review appeals must be submitted within five (5) working days of the hearing/review. Do not write in the space provided for the Warden's response.
5. If you are not satisfied with the Warden's decision, you may appeal to the appropriate responsible official within five (5) days of your receipt of the Warden's decision, by placing your Step 2 appeal form in the Grievance Box at your institution.



Inmate Request

Today's Date: 12/19/14 14:32

Name: MALDONADO, JOSE

19-OF-30

Booking #: 312648

Permanent #: 312648

File (App. Ct. Doc. 5, Appx. B (45) Record on Appeal)

Reference #: 14-338547

Date Requested: 11/16/14 22:58

Request Type: Classification

Requested By: Kiosk

Request Details: DEAR CASE WORKER, MRS. YORK, RE: JOSE A. MALDONADO V. S.C. DEPART. OF CORR., IS POLICIES OP-21.09[2]; INMATE RECORDS PLAN AND ACTIVATING INMATE RECORDS/MATTER OF SUFFICIENCY AND CONSTRUCTION OF SENTENCES IMPOSED. THAT, THE INMATE JOSE A. MALDONADO, ASSERT BY THE S.C. DEPART. OF CORR. IS POLICIES, AND S.C. CONSTITUTION CODE OF LAWS. HAD BEEN WRONGLY APPLIED CONCURRENT SENTENCES, 1ST, IS FOR 7 YEARS; 2ND WAS BEEN MISLEAD TO [20] YEARS. THE S.C. DEPART. OF CORR. IN KR. MUST PROVIDE TO THE INMATE WITH FORMAL NOTICE WHEN IT SEEK TO RECALCULATE ITS INITIAL DETERMINATION OF HIS CONCURRENCES. AND ADVISE THE INMATE OF HIS RIGHT TO FILE A GRIEVANCE TO OBTAIN A HEARING AND FIXING HIS SENTENCES. PURSUANT IS TAN V. S.C. DEPART. OF CORR., 395 S.C. 446 718 S.E.2D 753 [S.C. APP. 2011]. [ALTHOUGH THE INTENT OF THE JUDGE IS CONTROLLING WHETHER SENTENCES RUN CONCURRENTLY, AMBIGUITY OR DOUBTS RELATIVE TO A SENTENCES SHOULD BE RESOLVED IN FAVOR BY THE INMATE. S.C. CODE ANN. CLAUSE 17-19-100, 44-53-375[C][2][B].

Disposition: Complete

Officer:

Disposition Date: 12/08/14 15:26

Request Responses

Date	Author	Note
12/08/14 15:27	c038600	You have a 20 year sentence for trafficking in crack cocaine.

Attachment: 6-OF-17 File (A.L.C. Doc. 3)

Pg. 45. ROA

FILED

Exhibit (1) File on 12/11/2014 (IGP)

STATE OF SOUTH CAROLINA

APR 10 2007

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville
STATE VS

JAMES R. PARKS
CLERK STATE GRAND JURY 2005

INDICTMENT/CASE#.

-GS- 42 - 26 Count I

AKA. Jose Alberto Maldonado
Race H Sex M Age 33
DOB. SS#:
Address Van de Leek Court, Lot #104
City, State, Zip Greenville SC 29611
DL# SID#

AW#.
Date of Offense: 4/1/05 - 2/22/06
S.C. Code §. 44-53-375(C)(5)
CDR Code # 0 1 3 1 7 1 0

☐ CASE RESTORED

SENTENCE

☒ PLEA ☐ TRIAL

File: (APP. Ct. Doc. 5 Appx. B (46) Record on Appeal) 20-07-30

Disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
0 Trafficking Methamphetamine 28-100 grams, second offense (7-30 years; \$50,000 (35%))

violation of §44-53-375(C) of the S.C. Code of Laws, bearing CDR Code # 0 1 3 1 8 1 9

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ 17-75-45

The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The plea is ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

TEST:

James R. Parks
Solicitor

Jose Maldonado
Defendant

[Signature]
Attorney for Defendant

HEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation
which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 05-GS-47-26, Count IV, and 03-GS-23-4

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections. Credit since Aug. 6, 2005

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Attachment: 7-07-17 File (A.L.C. Doc. 3).

SPECIAL CONDITIONS:

RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered
al \$ _____ plus 20% fee. \$ _____

ment Terms: _____
set by SCDPPPS _____

ipient _____
ie _____

-1-206 (Assessments 107.5%)	\$
-1-211(A)(1) (Conv Surcharge)	\$100 \$ <u>100.00</u>
-1-211(A)(2) (DUI Surcharge)	\$100 \$
-5-2995 (DUI Assessment)	\$12 \$
1-13 (Public Def/Prob)	\$500 \$
3, 1B TP (Law Enforce Funding)	\$25 \$ <u>25.00</u>
7, 1B TP (Drug Court Surcharge)	\$100 \$ <u>100.00</u>
21-114(BUI Breath Test Fee)	\$50 \$
5-2942(J) (Vehicle Assessment)	\$40/ea \$
to County (if paid in installments)	\$ <u>75</u>
AL	\$ <u>231.75</u>

PTUP

days/hours Public Service Employment

Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol Testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning
\$ _____ paid to Public Defender Fund
Other: _____

Attu

Pg. 46. ROA.

☐ Appointed PD or appointed other counsel \$35 13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE [Signature]

Judge Code: 1 1 61 3

Sentence Date 4-10-07

Clerk of Court/ Deputy Clerk
t Reporter Robin Hild

File: (APP. Ct. Doc. 5, APPX B(47) Record on Appeal) 21-01-30
(IGP) EXHIBIT (6) File on 12/11/2014

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

Jose Maldonado

AKA:

Race: W

Sex: M

Age: 32

DOB:

SSN:

Address: 5 FLETCHER ST

GREENVILLE, SC 29611

DL#: 26678119

SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#

2003GS2304545

A/W#: H441256

Date of Offense: 04-10-2003

S.C. Code § 44-53-0445

CDR Code #: 0107

☐ CASE RESTORED
SENTENCE

☒ PLEA ☐ TRIAL

☐ CONVICTED OF or ☒ PLEADS

In disposition of the said indictment comes now the Defendant who was
TO POSSESSION WITH INTENT TO DISTRIBUTE COCAINE W/IN 1/2 MILE

in violation of § 44-53-0445

of the S.C. Code of Laws, bearing CDR Code # 0107

☐ NON-VIOLENT

☐ VIOLENT

☒ SERIOUS

☐ MOST SERIOUS

☐ 17-25-45

The charge is: ☒ As Indicted,

☐ Lesser Included Offense,

☐ Defendant Waives Presentment to Grand Jury

The plea is: ☒ Without Negotiations or Recommendation,

☐ Negotiated Sentence,

☐ Recommendation by the State.

ATTEST:

Jose K. Monte
Solicitor

Jose Maldonado
Defendant

[Signature]
Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 12 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____, provided that upon the service of _____ days/months/years and/or payment
of \$ _____, plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on.

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. (15 DAYS)

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ set by SCDPPPS

PTUP

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab or Job Corp

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning

\$ _____ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, § 35-13-TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE [Signature]

Judge Code: 2 11 13 10

Sentence Date: 11-29-05

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5%)

§ 14-1-211(A)(1) (Conv Surcharg

§ 14-1-211(A)(2) (DUI Surcharg

§ 56-5-2995 (DUI Assessment)

§ 35-13 (Public Def/Prob)

§ 73-3, 1B TP (Law Enforce. Funding

§ 33-7, 1B TP (Drug Court Surcharg

§ 50-21-114 (BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment

3% to County (if paid in installments

TOTAL

Paul B. Wiehenbauer
Clerk of Court/ Deputy Clerk

Court Reporter: [Signature]

Pg. 47 ROA

Attachment = 8-of-17 File: (A.L.C. Doc-3)

File: (APP. Ct. Doc. 5 APPX. B(48) Record on Appeal) 22-of-30

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

INDICTMENT FOR
POSSESSION OF COCAINE WITH INTENT TO
DISTRIBUTE WITHIN CLOSE PROXIMITY TO
SCHOOL

At a Court of General Sessions, convened on JUNE 24, 2003 the Grand

Jurors of Greenville County present upon their oath:

That JOSE ALBERTO MALDONADO did in Greenville County, on or about the 10th day of April, 2003, willfully and unlawfully possess with the intent to distribute a quantity of Cocaine. This incident occurred within one-half (½) mile from Greenville Tech College, Northwest Campus. This is in violation of §44-53-445 of the South Carolina Code of Laws (1976) as amended.

Attachment: 9-of-17 File (A.L.C. Doc. 3) Pg. 48. ROA

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Jose K. Mont
SOLICITOR

DOCKET NO. 2003-GS-23-

JLK

004545

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

JUNE TERM 2003

PLEAD GUILTY THE STATE
vs.

JOSE ALBERTO MALDONADO

Ps. 49. ROA

Indictment for

POSSESSION OF COCAINE WITH INTENT TO
DISTRIBUTE WITHIN CLOSE PROXIMITY TO
SCHOOL

VIOLATION § 44-53-445

WITNESSES

BRAGG

GCSO

04/10/03

ARREST WARRANT NUMBER

H441256

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DL SUSPENDS

Did Clerk receive driver's license?

YES

NO

If no, explain

Defendant

File: App. Ct. Doc. S. App. B (49) Record on Appeal 23-of-30

Attachment: 10-of-17 File (A.L.C. Doc. 3)

0107

551

~~Filed (1)~~
~~Exhibit (1)~~ (IGP) EXHIBIT (9) File on 12/11/2014

The Supreme Court of South Carolina

File App. Ct. Doc. 5. APP. B (50) Record on Appeal 24-0F-30

Jose Alberto Maldonado, Petitioner,

v.

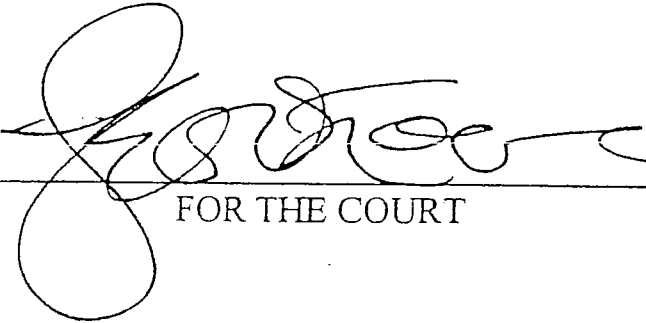
State of South Carolina, Respondent.

Appellate Case No. 2014-001164

Lower Court Case No. 2013CP2301440

ORDER

In the explanation required by Rule 243(c) of South Carolina Appellate Court Rules (SCACR), petitioner has failed to show that there is an arguable basis for asserting that the determination by the lower court was improper. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.


C.J.
FOR THE COURT

Columbia, South Carolina
June 19, 2014

cc: Karen Christine Ratigan, Esquire
Mr. Jose A. Maldonado, #312648

Attachment: 11-0F-17 File (A.L.C. Doc. 3)

Pg. 50 ROA

File: App. Ct. Dec. 5. Appx. B(51) Record on Appeal 125-06-30

The Supreme Court of South Carolina
DANIEL E. SHEAROUSE, CLERK OF COURT
POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

RECEIVED

JUN 20 2014

Kerol
MAILROOM

Attachment: 12-06-17 File (A.C. Doc. 3)

MB7

JOSE A. MALDONADO, #312648
KERSHAW CORRECTIONAL INSTITUTION
4848 GOLD MINE HWY
KERSHAW SC 29069

COLUMBIA
SC 290
19 JUN '14
PM 3 L

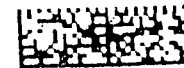
Hasler

06/19/2014

US POSTAGE

FIRST-CLASS MAIL

\$00.48⁰

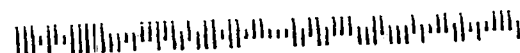


ZIP 29201
011D12602823

Pg. 51, RoA

C/A #: 2014-1164, Exhibit (2)

25067813699



~~EXHIBIT (2)~~

~~2-Appendix Filed~~
~~CIAH-1204-1164~~

STATE GRAND JURY OF SOUTH CAROLINA
(IGP) EXTRA EXHIBIT File on 12/11/200
(10)

STATE OF SOUTH CAROLINA)
)
VS.)
)
EMILIANO GARCIA AGUIRRE,)
PAMELA RENEE BOZZI,)
JOSE ALBERTO MALDONADO,)
KENNETH SCOTT POPE aka "SCOTTY",)
LISA LAVERN RAMIREZ,)
THOMAS ERNIE ROBERTS,)
OSCAR SANCHEZ,)
JOHN NELSON TURNER, JR. aka "JJ",)
KELLY LEE NALLEY TURNER,)
)
DEFENDANTS.)

CASE NO. 2005GS 47 2

INDICTMENT FOR
UNLAWFUL DRUGS

Trafficking Methamphetamine
(Conspiracy)
S.C. Code Ann. § 44-53-375(C)(5)

Trafficking Methamphetamine
> 400 grams -- Two Counts
S.C. Code Ann. § 44-53-375(C)(5)

Possession of a Firearm during the
Commission of a Violent Crime
S.C. Code Ann. § 16-23-490

26-0F-30

File: CAPP. Ct. Doc. 5. Appx. B (52) Record on Appeal

At a session of the State Grand Jury of South Carolina, convened in Columbia,
South Carolina, on December 13, 2005, the State Grand Jurors present upon their oath:

ORIGINAL FILED

DEC 13 2005

LISA G. DY CAR.
CLERK, STATE GRAND JURY

COUNT I
TRAFFICKING METHAMPHETAMINE (CONSPIRACY)
S.C. Code Ann. § 44-53-375 (C)(5)

That EMILIANO GARCIA AGUIRRE, PAMELA RENEE BOZZI, JOSE
ALBERTO MALDONADO, KENNETH SCOTT POPE aka "SCOTTY", LISA
LAVERN RAMIREZ, THOMAS ERNIE ROBERTS, OSCAR SANCHEZ, JOHN
NELSON TURNER, JR. aka "JJ", KELLY LEE NALLEY TURNER, and other persons
whose names are both known and unknown to the State Grand Jury, did in Anderson

County, Greenville County, Oconee County and Pickens County of South Carolina,

Attachment: 13-0F-17 File (A.L.C. Doc. 3) Pg. 52. ROA

FILED

FEB 22 2006

STATE GRAND JURY OF SOUTH CAROLINA

USA D. SOUTHERN,
CLERK, STATE GRAND JURY

STATE OF SOUTH CAROLINA	)	CASE NO. <u>2005-GS-47-26</u>
	)	
VS.	)	SUPERSEDING
	)	INDICTMENT FOR
EMILIANO GARCIA AGUIRRE,	)	UNLAWFUL DRUGS
PAMELA RENEE BOZZI,	)	
JOSE ALBERTO MALDONADO,	)	Trafficking Methamphetamine
KENNETH SCOTT POPE aka "SCOTTY",	)	(Conspiracy)
LISA LAVERN RAMIREZ,	)	S.C. Code Ann. § 44-53-375(C)(5)
THOMAS ERNIE ROBERTS,	)	
OSCAR SANCHEZ,	)	Trafficking Methamphetamine
JOHN NELSON TURNER, JR. aka "JJ",	)	> 400 grams – Three Counts
KELLY LEE NALLEY TURNER,	)	S.C. Code Ann. § 44-53-375(C)(5)
	)	
DEFENDANTS.	)	Possession of a Firearm during the
	)	Commission of a Violent Crime
	)	S.C. Code Ann. § 16-23-490
	)	
	)	

Attachment: 14-of-17 File (A.L.C. Doc. 3)

At a session of the State Grand Jury of South Carolina, convened in Columbia,

South Carolina, on February 22, 2006, the State Grand Jurors present upon their oath:

File: (App. Ct. Doc. 5. APPX. B (53) Record on Appeal) 27-of-30

COUNT I
TRAFFICKING METHAMPHETAMINE (CONSPIRACY)
S.C. Code Ann. § 44-53-375 (C)(5)

That EMILIANO GARCIA AGUIRRE, PAMELA RENEE BOZZI, JOSE ALBERTO MALDONADO, KENNETH SCOTT POPE aka "SCOTTY", LISA LAVERN RAMIREZ, THOMAS ERNIE ROBERTS, OSCAR SANCHEZ, JOHN NELSON TURNER, JR. aka "JJ", KELLY LEE NALLEY TURNER, and other persons whose names are both known and unknown to the State Grand Jury, did in Anderson County, Greenville County, Oconee County and Pickens County of South Carolina,

Pg. 53. ROA

RECEIVED

MAR 06 2006

during the period of time extending from on or about April 1, 2005 to present, conspire to sell, manufacture, deliver, purchase, or bring into this State, or otherwise, more than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

File: (APP.Ct. Doc. 5 APPX. B (54) Record on Appeal) 28-of-30

COUNT II
TRAFFICKING METHAMPHETAMINE > 400 GRAMS
S.C. Code Ann. § 44-53-375 (C)(5)

That EMILIANO GARCIA AGUIRRE and OSCAR SANCHEZ did, in Greenville County, on or about May 17, 2005, knowingly possess (actually or constructively), deliver, sell, or bring into this State, or otherwise aid, abet, attempt or conspire to sell, deliver, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

Attachment: 15-of-17 File (A.W.C. Doc. 3)

Pg. 54. ROA

COUNT III
POSSESSION OF A FIREARM DURING THE COMMISSION
OF A VIOLENT CRIME

S.C. Code Ann. § 16-23-490

29-of-30

File: (APP Ct. Doc. 5. APPX. B (55) Record on Appeal)

That EMILIANO GARCIA AGUIRRE did, in Greenville County, on or about

May 17, 2005, did possess (actually or constructively) or visibly display what appeared to be a firearm during the commission of the crime of trafficking methamphetamine in violation of S.C. Code Ann. § 44-53-375 (C)(5), which is defined as a crime of violence pursuant to S.C. Code Ann. § 16-1-60, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one count of this State or arising out of or in connection with a crime having significance in more than one county of this State.

Attachment: 16-of-17 File (A.L.C. Doc. 3)

COUNT IV
TRAFFICKING METHAMPHETAMINE > 400 GRAMS
S.C. Code Ann. § 44-53-375 (C)(5)

That JOSE MALDONADO and LISA LAVERN RAMIREZ did in Greenville County, on or about June 26, 2005, knowingly possess (actually or constructively), deliver, sell, or bring into this State, or otherwise aid, abet, attempt or conspire to sell, deliver, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

Pg. 55. ROA.

File: APP. Ct. Doc. 5. Appx. B (56) Record on Appeal 30.

COUNT V

TRAFFICKING METHAMPHETAMINE > 400 GRAMS

S.C. Code Ann. § 44-53-375 (C)(5)

That John Nelson Turner, Jr. aka "JJ" did in Greenville County, on or about May 16, 2005, knowingly possess (actually or constructively), deliver, sell, or bring into this State, or otherwise aid, abet, attempt or conspire to sell, deliver, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

Against the peace and dignity of the State and contrary to the statute in such case made and provided.

A. True Bill

Attachment: (17) File (A.L.C. Doc. 3)

Cathy P. Coffey
FOREMAN

Henry McMaster
HENRY McMASTER (sop)
ATTORNEY GENERAL

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APPENDIX: (C) (pgs. 1-OF-62)

File (App Ct. Doc. 5 APPX. (57). Record on Appeal)

Memorandum

TO: Appellant
From: Clerk's Office, Administrative Law Court
Re: Filing Fee

If you file more than 3 administrative appeals during a calendar year, you are required to pay a \$25 filing fee pursuant to S.C. Code Ann. §1-23-670, which states in part:

"No filing fee is required in administrative appeals by inmates from final decisions of the Department of Corrections or the Department of Probation, Parole and Pardon Services. However, **if an inmate files three administrative appeals during a calendar year, then each subsequent filing during that year must be accompanied by a twenty-five dollar filing fee.**"

Our records indicate you have filed _____ appeals in this calendar year and therefore the appeal attached is being returned and will not be processed unless it is accompanied by the appropriate fee.

Pg. 57 ROA

Below is information regarding your case which has been filed with the ALC. Please refer to the Rules of Procedure (enclosed) for the time frames on filing briefs and other matters.

Case number	Appellate number	Appellate list name	Appellate last name	Grievance No.	Respondent	Filing date	Date Assigned	Judge name
15C0567	312648	JOSE	MALDONADO	KRCI 4415-14	DOC	10/20/2015	10/29/2015	LENSKI

Pg. 38 R01A

You must file all original documents and correspondence regarding this case directly with the above-named Judge and serve a copy on the Dept. of General Counsel, S.C. Dept. of Corrections, PO Box 21787, Columbia, SC 29221.

FILED

OCT 29 2015

SC ADMIN. LAW COURT

File: (App. Ct. Doc. S. Appx. C (58) Record on Appeal)

2-04-62

51. **Applicability.** The Rules in this section shall apply exclusively in matters heard on appeal from final decisions pursuant to Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000).

2009 Revised Notes

The Special Appeals Rules are the exclusive rules of procedure used in appeals from final decisions of the Department of Corrections and the Department of Probation, Parole and Pardon Services. The Court's jurisdiction to hear such matters is derived entirely from the decisions of the South Carolina Supreme Court in Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000), and Furtick v. S.C. Dep't of Probation, Parole and Pardon Services, 352 S.C. 594, 576 S.E.2d 146 (2003). These Rules are based upon the Court's existing general procedural and appellate rules, with adaptations for this specific type of appeal.

52. **Computation of Time.** In computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute, the day of the act, event, or default after the designated period of time begins to run is not included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a State or Federal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor such holiday. When the period prescribed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation. A half holiday shall be considered as any other day and not as a holiday.
53. **Filing.**
- A. **Filing Defined.** The date of the filing is the date of delivery or the date of mailing as shown by the postmark or by the date stamp affixed by the mail room at the appellant's correctional institution. Any document filed with the Court shall be accompanied by proof of service of such document on all parties. A document, pleading or motion or other paper is deemed filed with the Court by:
- (1) delivering the document to the Court; or
 - (2) depositing the document in the U.S. mail or in the mail room at the appellant's correctional institution, properly addressed to the Court, with sufficient first class postage attached.
- B. **Paper Size.** All papers filed with the Court shall be on letter-size (8 1/2 by 11 inches) paper. Exhibits or copies of exhibits in their original form which exceed that size shall be reduced by photocopying or otherwise to letter-size so long as such documents remain legible after reduction.
54. **Service.** Any document, pleading, motion, brief or memorandum or other paper filed with the Court shall be served upon all parties to the proceeding. Service shall be made upon counsel if the party is represented, or if there is no counsel, upon the party. Service shall be made by delivery, or by mail to the last known address. Service is deemed complete upon mailing. Service that complies with Rule 5(b)(1), SCRCP, also shall satisfy this Rule.
55. **Docket Number and Subsequent Filings.** The clerk of the Court shall assign a docket number to each case. All papers, pleadings, motions and orders thereafter shall be filed with the presiding administrative law judge and a copy served on all other parties of record. All papers shall be signed and contain:
- A. a caption setting forth the title of the case and a brief description of the document;
 - B. the case docket number assigned by the Court;
 - C. the name, address and telephone number of the person who prepared the document.

After the Clerk assigns a docket number to the case, all filings must be made with the presiding administrative law judge, must be served upon all parties, and must contain the information prescribed in the Rule.

56. **Legibility of Documents.** Any document, pleading, motion, brief or memorandum or other paper filed with the Court may be typewritten or handwritten, but in either event must be legible. In the discretion of the clerk of the Court, any illegible document may be returned unfiled to the party who submitted it.
57. **Forms.** The Court shall prescribe the content and format of forms required by these rules. The use of required forms as prescribed is mandatory. The Court may also prescribe the content and format of other forms which would facilitate administrative efficiency and judicial economy.
58. **Record After Final Decision.** Where applicable, the record of the contested case shall consist of:
- A. All pleadings, motions, intermediate rulings and depositions filed;
 - B. All evidence received or considered;
 - C. A statement of matters judicially noticed;
 - D. All proffers of proof of excluded evidence;
 - E. The final order or decision which is subject to administrative review;
 - F. Any transcript taken of the testimony during the proceeding.
59. **Notice of Appeal.** The notice of appeal from the final decision to be heard by the Administrative Law Court shall be filed with the Court and a copy served on each party, including the agency, within thirty (30) days of receipt of the decision from which the appeal is taken. The notice shall be on the form prescribed by the Court pursuant to Rule 57 and shall contain the following information:
- A. the name, address, SCDC number, and telephone number of the party requesting the appeal, and the name, address, and telephone number of the attorney or other authorized representative, if any, representing that party;
 - B. a brief factual basis for each expressly and specifically asserted constitutional violation;
 - C. a copy of the final decision which is the subject of the appeal and the date received;
 - D. a certificate showing the service of the notice of appeal on all parties.

Any notice of appeal which is incomplete or not in compliance with this rule or Rule 71 will not be assigned to an administrative law judge until all required information is received and any applicable filing fee is processed. Within forty-five (45) days of the date the case is assigned to an Administrative Law Judge (date of assignment), the agency shall file the record with the Court, including a statement of the contents of the record, unless the time for filing the record is extended by the Administrative Law Judge assigned to the appeal.

2009 Revised Notes

The notice of appeal must be on the Court's prescribed form and must be filed and served within 30 days of receipt of the order appealed from. The notice must contain the prescribed information and must be accompanied by a certificate of service and any applicable filing fee. Notices which are not in compliance with this Rule or Rule 71 will not be assigned to an administrative law judge until all required information and applicable fees are received.

60. **Briefs.**
- A. **Time for Filing Briefs.** Unless otherwise ordered, the party first noticing the appeal shall file an original brief within sixty-five (65) days after the date of assignment. Within eighty-five (85) days after the date of assignment, the respondent shall file an original brief in response. A reply brief may be filed within ninety-five (95) days after the date of

Files (APP. CL. Doc. 5 APPX. C(61) Record on Appeal) 4-of-62
assignment. The principal briefs shall not exceed ten (10) pages and the reply brief shall not exceed five (5) pages.

B. Content of Brief. Each brief shall contain:

- (1) Statements of the Issues on Appeal. A statement of each of the issues presented for review. The statement shall be concise and direct as to each issue and may be stated in question form. Broad general statements may be disregarded by the Court. Ordinarily, no point will be considered that is not set forth in the statement of issues on appeal.
- (2) Statement of the Case. The statement shall contain a concise history of the proceedings, insofar as necessary to an understanding of the appeal. The statement shall not contain contested matters and shall contain as a minimum, the following information: the date of commencement of the action; the nature of the action; the nature of the defense or response; the date and nature of the agency action appealed from; the date of service of the notice of appeal; the date of and description of any orders or proceedings in the agency as may have affected the appeal, or may throw light upon the questions involved in the appeal. Any matters stated or alleged in a party's statement shall be binding on that party.
- (3) Argument. The brief shall be divided into as many parts as there are issues to be argued, and each such part shall bear an appropriate caption, followed by a discussion and citation of authority. A party may also include a separate statement of facts relevant to the issues presented for review, with reference to the record on appeal, which may include contested matters and summarize that party's contentions. Any facts stated or alleged in a party's argument shall be binding on that party.
- (4) Conclusion. A short conclusion stating the precise relief requested.
- (5) Certificate of Service. A certificate showing the service of the brief on all parties of record.

C. Service of Brief. At the time of filing the brief with the Court, one copy of the brief and any appendix shall be served on each party to the appeal.

2009 Revised Notes

This rule provides the time frames for filing, format, and content of appellate briefs. Statements of fact set forth in the briefs are binding upon the proponent of the statement. The brief must be accompanied by a certificate of service.

61. Record on Appeal. The record on appeal shall consist of the transcript of the proceedings before the agency, if any, and the record of the contested case as described by Rule 58.

62. Dismissal of Appeal; Sanctions. Upon motion of any party, or on its own motion, an Administrative Law Judge may dismiss an appeal or resolve the appeal adversely to the offending party for failure to comply with any of the rules of procedure for appeals, including the failure to comply with any of the time limits provided by this section (V), or for the failure to provide a factual basis for each expressly and specifically asserted constitutional violation as prescribed by Rule 59(B). Notwithstanding the time frames established herein, the Administrative Law Judge has the discretion to determine that a document is timely filed upon a finding that the party who filed the document made a good faith effort to file the document within the applicable time limits. If the presiding judge determines that the appeal is frivolous or taken solely for purposes of delay, the judge may impose such sanctions as the circumstances of the case and discouragement of like conduct in the future may require.

2009 Revised Notes

Rule 62 allows an administrative law judge to dismiss an appeal for failure to comply with any applicable rule of

Pg. 61. ROA

3-01-02

File: (App. Ct. Doc. 5 APPX. C (62) Record on Appeal)
procedure, and to impose appropriate sanctions for inmate appeals which are frivolous or taken solely for the purpose of delay.

Note to 2013 Amendments

Rule 62 is amended to clarify that an administrative law judge may dismiss an appeal or resolve it adversely to an offending party for failure to comply with the rules of procedure for appeals, or for the failure to provide a factual basis for each alleged constitutional violation.

- 63. Motions.** Any motions filed shall be in written form and shall state the grounds for relief and the relief sought. Any response to the motion must be filed within ten (10) days after receipt of the motion, unless the time is extended or shortened by the Administrative Law Judge. The filing of a motion does not toll any time limits imposed by these Rules.

2009 Revised Notes

This rule provides the procedure for filing motions. However, pursuant to Rule 65, motions for reconsideration or rehearing are not permitted and will not be considered by the administrative law judge.

- 64. Oral Argument.** In the discretion of the Administrative Law Judge, oral argument may not be required. Oral argument will ordinarily not be ordered by the Administrative Law Judge unless the proceeding involves a novel issue or a question of exceptional importance. If so ordered, at least twenty (20) days notice of oral argument shall be provided. The oral argument shall follow the procedure in Rule 218, SCACR.

- 65. Opinion.** The Administrative Law Judge shall render a decision in a written order which shall be served on all parties and filed with the clerk of the Court. The Administrative Law Judge may affirm any ruling, order or judgment upon any ground(s) appearing in the Record and need not address a point which is manifestly without merit. The decision of the Administrative Law Judge is a final decision and motions for reconsideration will not be considered. Judicial review of any decision of the Court shall be as provided in S.C. Code Ann. § 1-23-610 (2005) (as amended).

2009 Revised Notes

Rule 65 incorporates the portion of Rule 220, SCACR, which allows the judge to affirm upon any ground appearing in the Record and to decline to address points which are without merit. Motions for reconsideration are not allowed.

- 66. Appeal of Final Order.** The appellant shall file a copy of the notice of appeal from the decision of the Administrative Law Judge with the clerk of the Court.

2009 Revised Notes

Pursuant to Act 387 of 2006, the South Carolina Appellate Court Rules govern the procedure for appealing a final order of an administrative law judge.

File: CAPP. Ct. Doc. 5. APPX. C (G3) Record on Appeal) 7.08.62

(Attachment: A Doc. 1, in SC App Ct)

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

STATE OF SOUTH CAROLINA
IN THE ADMINISTRATIVE LAW COURT

Jose Alberto Maldonado, I/D#: 312648)
Appellant, Pro - Se,)

Case Number: 15C0567

v.)

APPELLANT BRIEF/MOTION FOR
LEAVE TO CONDUCT DISCOVERY

BRYAN P. STIRLING, South Carolina)
DIRECTOR of Department of Corrections,)
Respondent.)

ORDER

HONORABLE: JUDGE LENSKY
S. PHILLIP

Appellant, Jose A. Maldonado, by and through undersigned pro se, hereby moves, pursuant to S.C. Code § 1-23-610, and §§ 17-19-10/20, for leave to conduct discovery upon this Order. And Pursuant to the Rules of Procedure for the Administrative Law Court. Rule 21 DISCOVERY, and S.C. Code § 1-23-320 (2005). In SUPPORT OF THIS BRIEF/MOTION FOR LEAVE TO CONDUCT DISCOVERY, Appellant apprises the Court of the following facts and legal principles within the SCDC POLICY/PROCEDURE: OP-21.09 ¶[2].
ACTIVATING INMATE RECORDS:

Statement of the Issues on Appeal

This case is before the Administrative Law Court pursuant to the appeal of Jose Alberto Maldonado, I/D#: 312648. That the ("Appellant") is a civil person without the original records. And the Reception and Evaluation ("R & E") Inmate Records Section at Kircland Correctional Institution had failed to review his process, and entered sentencing documents to the inmate Jose Alberto Maldonado received into the SCDC. See, the Policy

Pg. 63. ROA

File: (App. Ct. Doc. 5 Appx. C(64) Record on Appeal) 8-of-62
[OP-21.09 ¶2.1 through 2.18]; therein, the Appellant against the

South Carolina Department of Corrections, because the (R & E), has the primary duty to received, process, and enter sentencing documents for all inmate received into the SCDC. See, ¶[2.2; 2.4-5; and 2.9] see also the policy at ¶[19.8; at ¶19, 8-4] ("the Inmate Records Office will be Responsible for verifying the 'authenticity of Court Order'"). "That's why the Mr. Maldonado, didn't qualify to be incarcerated by policy, at Session, S.C. Code §§ 17-19-10/20; and 17-19-50. See e.g., at (State v. Simmons, 209 S.C. 531, 41 S.E.2d 217-220 (1947))". Applying, § 17-19-100, when the Appellant remain into "SCDOC", without the activating inmate records. Thus, the Appellant against relief.

Statement of Concise History of the Proceeding

Appellant is now appealing the unilateral modification of the authenticity of the "Court Order's Documents with the ("SCDC") upon his sentence." See the (Attachments: B/Exhibits 1-through-5) therein's that hearing Appellant pursuing at (Step 1-IGP; on: Dec. 11, 2014) and do not say whether I have 20-years of my sentence? Pursuant an additional facts: (1) being mislead information of orders by the court; and (2) see, the (Attached: B/Exhibit (1)); into "Sentencing Sheet missed a Number of C/A#: 2003-GS-23-454 ... that's a proof to false documents in such indictment."

Date of Commencement of the Action

Appellant filed, "Pursuant's Step 1-IGP." On Dec. 11, 2014. This grievance was investigated on December 30, 2014; and denied January 2, 2015. The Appellant don't accept the warden is decision and "wish to appeal on January 8, 2015." Then the Clerk's returned the process filed Brief on: 11/2/2015 clocked Oct. 29, 2015. Appellant file it: (Doc.2 to, A.L.C.) on: December 2nd, 2015.

The Nature of The Action:

Pg. 64. ROA

Thus, the Appellant, filed an appeal to the (A.L.C.) on:

File: (App. Ct. Doc. 5. Appx. C (65) Record on Appeal) 9-of-62
October 19th, 2015. See the Attachment: A-) "Notice of Appeal"

GRIEVANCE No.: KRCI 4415 - 14. So now's an Order by this Honorable Judge LENSKY, to signed and enter this motion with a docket number, to carefully and thoughtfully consider the pleading upon both parties to "review" the records as whole: and compel disclosure, with held inside this court; and pursuing the true in side the whole criminal records, to be legal into the South Carolina Department of Corrections.

Statement of the Issues Presented

The statement of each of the issues presented for review Stated as follows:

Whereas this Court carefully and thoughtfully considered the pleadings; "to both parties", and phase review the records as whole, it finds Appellant's arguments and citations of law convincing of the fact that the Defendant an investigation/decision ordered by this Hon: Court. Which they fails to meet the criteria and standards set by laws, which apply to the South Carolina State's Attorney General Alan Wilson - Office; and Bryan P. Stirling, South Carolina Director of Department of Corrections, "to holding Appellant" in prison without records in (SCDOC). Because the authority orders from the general sessions court term; in the thirteenth judicial circuit; within the "State Grand Jury" in S.C. Columbia, the orders's null and void. See, (Attached: B /Exhibits; 1 -through- 10). Et seq.

Basically the Court finds under S.C. Code §1-23-610, which is the standard for Court review of state agency decisions, that the South Carolina of Department of Corrections investigation/decision was (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

File: (APP. Ct. Doc. 5. APPK. C(66) Record on Appeal) 10-0F-62

other errors of law; (e) was clearly erroneous in view of reliability, probative and substantial evidence on the record as a whole; and (f) was arbitrary and capricious and characterized by abuse of discretion, It meets none of the laws requirements.

The Nature to Defense or Response

This Court bears, to a small extent, the blame for this total disregard of law but when it "...Ordered that pursuant to the: "Policy" at South Carolina Department of Corrections, it assumed the "attorney's office would also follow applicable law...." Normally, it goes without saying that South Carolina's State employees must abide by the laws that govern their actions.

The Date of Nature to the Agency Action In Appeal

In view of the above stated facts and conclusion of law the Court remands this matter to the South Carolina Department of Corrections, and the attorney general's Office for prompt, diligent and careful reconsideration with a demand that it comply with applicable laws and directives of this Court which will be clearly stated herein. See (I.G.P. Step 1; & 2)'s Attachments:(A) Date 1-9-2015/Return on 8/30/2015; And see, (Attached:(B)/Exhibit: (1)). Of Dated December 11 - 30, 2014 (Step-1 IGP).

Discretion to the Orders of Proceedings in the agency as may have affected the appeal, see, id., ("the Nature to the Agency Action In Appeal"). Holdings, as follows:

A minimum criteria shall include a full investigation and written report of its findings as to whether or not substantial evidence was found to prove or disprove the Appellant was

Pg. 66. ROA

File: (App. Ct. Doc. 5 Appx. (67) Record on Appeal) 11-df-62
received through the State Grand Jury From: Columbia. See, that
(Attachments: A, 3-4, & "A-5"/see; Attached: B/Exhibit 10 Ind., 12/13/2005).

This Hon: Court ("A.L.C.") have to held that in open a hearing pursuant's Appellant Brief/Motion for leave To Conduct Discovery, citing S.C.Code § 1-23-610; Return filed C/A#.:15C0-567. Enter in this Honorable Court on October 29, 2015.

Therefore, the "Brief" have been divided into as many parts as the rule there are issued to be argued, and each such part the Appellant bear an appropriater "Caption-Case" No.:15C0567/ and followed to a discussion and citation of authority, legislation case laws. And United State its Constitution; as part to the South Carolina's Department of Corrections "Policies".

Supporting, Attachment's fact filed ("I.G.P.") to conduct "Discovery Order". When is been submit and addressee directly In the (A.L.C. & the Hon: LINSKY Judge had/or have being assigned to review the case). Therein, this rule provides the time frames for filing, format and content of Appellant is Briefs. Statements of fact Set forth in the Brief are binding upon the proponent of the statement; from Kershaw, CI. Mr. Davit W. Dunlap the Warden, between case Manager Mrs. York, was the statement had been signed on January 2, 2015; those statements, provided that the "warden no review such Proceeding (IGP), and that AGAINST THE POLICY UPON THE AGENCY "State employees for abide the policy, and the laws in govern's view....'" See, the (Attached: B, 1 at back side); see also ("Attachments: A, A-1 through "A-5").

Procedural Istory To The Case

1. Appellant is presently serving a seven - years sentence for "Trafficking in Cocaine" [Ind., C/A#.:2003-GS-23-4545, A/W No.:H-441256; see (attached: B/exhibits; 6, 7-8). See also (Attachments: C-1, & C, 2-3) at indictment C/A#.:03-GS-23-4547; A/W#.:G-083303). The action of grand jury, in the Greenville County's general Sessions on June Term; Appellant plead guilty in State v. Jose Alberto Maldonado, indictment for possession of cocaine with

Pg. 67. ROA

File: (App. Ct. Doc. 5. Appx. C (68) Record on Appeal) 12-05-62

Edward W. Miller presided judge, in the case November 29, 2005; and after that Appellant was "re-indict again" at a session of the "State Grand Jury of South Carolina," convened in "Columbia December 13, 2005," that state grand juror present upon "oath": For conspiracy to trafficking methamphetamine ("Two Counts"); trafficking methamphetamine more ("than >400 grams"); and possession of "Firearm during the commission of violent crime." Irrelevant information "upon the indictments is face." See, the (Attached: B/Exhibits 1 -through- 10/and also Attachment: "A-5" no records);

2. On Aug. 22, 2006 Appellant plead guilty to the lesser - included offenses of conspiracy to trafficking in methamphetamines [28 - 100 grams for second offenses], run concurrent, and pursuant to a "Superseding Indictment" for conspiracy to trafficking methamphetamin/traffick in methamphetamines more ("than >400 grams") ("Three Counts") and possession of a ("Firearm") - during the commission of a violent crime, supposedly issued on: February 22, 2006 See ("Attached: B/Exhibits ¶(2) & a ¶(10)").

Those indictments bared the state grand jury's C/A#:2005-GS-47-0026. Because, the information at the indictment Dec. 13, 2005, have the same information in the face of such papers, of ("Two-Counts"). See id., (Attached: B/Exhibits ¶(2)&(10)); and

3. Whereas, the Appellant did receive from the Hon: Alexander S. Macaulay in his sentence on April 10, 2015? Appellant was represented by James H. Price, Esquire and the State was represented from Susan O. Porter, assistant attorney general deputy.

The matters stated or alleged in a party's statements upon the questions involved in the appeal be binding on both parties

1. Session 1-23-320 (2005), and Rule 21 (SCALCR) Discovery specifically authorizes discovery upon the Department of Corrections, pursuant to: ("A.L.C."), its jurisdiction to hear such

Pg. 68. ROA

File: (App. Ct. Doc. 5 Appx. C.(69) Record on Appeal) 13-01-62

matter is derived entirely from the decisions of the South Carolina Supreme Court in AlShabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). See also Howard v. South Carolina Dept. of Corrections, 399 S.C. 618 at (fn.9) 626, 733 S.E.2d 211, at 216, 217 (SC. 2012)(quoting Al - Shabazz v. State (2000)) (holdings: that, aside from non-collateral matters specifically listed in the "PCR Act. PCR" is proper avenue of relief only when the appellant submitted (1st. PCR. & two PCR.Act) mounts a "collateral attack" challenging the validity of his conviction or sentence as authorized by §17-27-20(A)(B)). See: Article 1, § 22, pursuant's (Howard's Fn.14, been support by Al-Shabazz v. State (2000));

2. ("A party in a proceeding shall be entitled to invoked the process of discovery available under the South Carolina Rules of Civil Procedure if, and to the extent that the judge in the exercise of this discretion and good cause show grant leave to do so, but not otherwise.") See, (Attached/Exhibit:"B" Step 1- (IGP) Pursuant's Tant v. South Carolina Dept. of Corr., 395 S.C. 446, 718 S.E.2d 753 (2011);

3. A minimum criteria shall include a "full investigation" and written report of its findings as to whether or not substantial evidence was found to prove or disprove the Appellant is Notice of Appeal, to compel disclosure, between this Hon: Court and pursuing the criminal records, had/or have been enter legal

File: (APP. Ct. Doc. 5. Appx. C. (70) Record on Appeal) 14-of-62
inside the (SCDOC) See, (Attachment: A), the "Notice of Appeal"
(holding the grounds for relief by policy No.: OP-21.09 ¶[2]) et
seq., ¶[2.18].

4. Therefore, the "Appellant assert that such convictions don't covert up his sentence inside the South Carolina Dept. of Corrections upon the policy OP-21.09 ¶[2] stated as follows:(a) mislead information under the activation inmate records plan for insufficient and construction of sentences been imposed; (b) either the "state grand jury fall below, with such papers to be a indictments"; and (c) therein make the "conviction null and void."

See e.g., Fryer v. South Carolina Law Enforcement Division, 369 S.C. 395, 399, 631 S.E.2d 918, at 920 (S.C. App. 2006); see also State v. Franklin, 267 S.C. 240, 247, 226 S.E.2d 896, at 898. (Quoting Townsend v. Burke, 334 U.S. 736, 68 S.Ct. 1252, 92 L.Ed.2d 1690 (1948))("[t]he United States Supreme Court made it clear that a sentence cannot be predicated on "False information[?]" (same); Capital outdoor Adv. v. City of Raleigh, 109 N.C. 399, 427 S.E.2d 154, at 159's fn.1 (1993). See; S.C. Code § 17-25-323(A)(B)(C) and (E); see, State v. Gulledege, 321 S.C. 399, 468 S.E.2d 665, review granted affirmed as modified 326 S.C. 220, 487 S.E.2d 590.

5. Thus, the Appellant demand with this "brief motion" to releasing the validity of records with a "Order" in judge signature of the (A.L.C.) jurisdiction's review such records. Because, that against "false arrest and false imprisonment," between attorney general office; and the South Carolina Dept. of Corrections, have now is authorization Mr. Bryan P. Stirling, (SCDOC, Director) with the (SC. Attorney General Mr. Alan Wilson's agencies). Overruling on other grounds by McCoy v. City of Columbia, 2013, 929 F.Supp. 2d 541. Holding, a policy officers and city of Columbia were entitle to governmental immunity under the: S.C. Tort Claim Act for state-law tort claim of "ma-

File: APP. Ct. Doc. 5 APPX. C (71) Record on Appeal 15-04-62

licitious prosecution, 'false imprisonment ...' see, S.C. Code § 15-18-20 by institutionalized person actions. 42 U.S.C.A. § 1983. I.e., limited waiver of governmental immunity and delineates the conditions upon which a claimant may pursue actions against the State and its political subdivisions. See e.g., HUGHES V. REWE, 449 U.S. 5-9 (1980); Bradt v. Gooding, ("[a] previous judge was held in a hearing by determined the authenticity, documents presented by a representation a client in such case") see id. at, 628, 630 S.E.2d at 264; (Overruling on other grounds pursuant is Tant v. South Carolina Dept. of Corrections, 408 S.C. 334, 337, 759 S.E.2d 398, 399, (S.C. 2014)). ("When the Department of Corrections decides its original records of a sentence of the "amended sentence" and advise appellant of his opportunity to be heard through the grievance procedure.

Further, to insure fairness, this Hon: Court have to hold the (SCDOC; and the attorney general's office) by signed a issue subpoena on behalf of the court... See, Administrative Law Court Contested Cases, Rule 22(A)(B) "SUBPOENAS", Because, that the respondent's already in default judgment pursuant, Rule 55 (a) SCRCP. And Must holds to open hearing. Before, "D. Hill Garrison presided Judge, ruling in the pending motions: Appellant have with the "attorney general's Office" within the Rule 60(b) (4)(5), SCRCP; pursuing it with the (General Sessions Court) in the Greenville County 13th judicial circuit. Thus, the <attorney general Karen Ratigan Assist. Atty., General have discretion in such matter>. See(Attachment:A-7). Was is represent the Defendant(s) in such case, here in after; present and allowed to fully plead his position. Within the ("Attachment; 'A;6-7'").

Appellant submit that for good cause exists for the authorization of discovery for the following reasons:

- <> Use of discovery procedure will expedite Appellant's preparation for the evidentiary hearing thus, saving time and state resources:(1) information obtained through discovery;(2) that will likely eliminate the need for a number of witnesses to be called to testify at the Pending Motions; and (3) there is a (4th PCR, Act pending too);

Pg. 71. ROA.

Page 9 -of- 10

File: (A.L.C. Doc.2)

File: (App. Ct. Doc. 5, Appx. C(72) Record on Appeal)

- <> Permitting discovery will substantially reduce the likelihood that a lastminute continuance of the Post - Conviction Relief proceedings, or the last filed Motion of Rule 12(b)(6), SCRCP. The, "Order Granting 'Complainant/Plaintiff, Motion To Dismiss'". and, as follow to: Rule 60(b)(4)(5), SCRCP. Where, the due proceeding will be necessary to compel the State's case be legal;
- <> Discovery will permit Appellant to obtain necessary information through means other than in - court proceedings, such as depositions, interrogatories "affidavits," and documents produced by the prosecuting agencies; therefore, valuable court time can be used to present only relevant material and court time can be through those sources. See Brady v. Maryland, (1963); State v. Kernerly, 331 S.C. 442, 503 S.E.2d 214, rehearing denied, certiorari granted, affirmed 337 S.C. 617, 524 S.E.2d 837. Disclosure evidence within the possession of other government agencies [i.e.,];
- <> If discovery's not authorized, Appellant will have no option but to pursue the information and materials he seeks to discover by Subpoenaing individual, see id., at 453-54, 503 SE.2d 220-21 (1998)(quoting State v. Gulledge, 326 S.C. 220, 487 SE.2d at, 594; (Citing Williams v. New York, 337 U.S. 214 (1949)("constructive contempt") would be in the pending motions's hearing/or at the (4th P. C.R. Act. hearing). If forced to rely on this methods, Appellant will almost certainly require, to this court a sooner; and further additional time for investigation after gaining access to the information and materials he seeks, which will in turn require of 13th Jud. Circuit's General Sessions Court ruling in the motions had, or have pending almost, (one-year)[?]; See, Harris v. Champion, 938 F. 2d 1062, at 1066 - 1070 (1991). Habeas Corpus K.377/794, 795(1).

CONCLUSION

WHEREFORE, for all the foregoing reasons, Appellant submits that he has presented good cause for the invocation of discovery, and therefore respectfully request, pursuant § 1-23-610. On the other hands allowing pre-hearing discovery, in this Hon: Court, ("ALC"). Will facility full preparation by Appellant and clear the way for a the preparation of all facts supporting his claim for relief to be presented at a single evidentiary hearing.

Done this day 2nd of December 2015. Respectfully Submitted

Kershaw Correctional Institution
Magnolia B/Room #59
4848 Goldmine Highway
Kershaw, South Carolina 29067

s/ José Alberto Maldonado
José Alberto Maldonado, #312648
The Appellant Pro - Se.

File: (App. Cl. Doc. 5. Appx. C. (73) Record on Appeal) 17-01-02

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Case Number: 15C0567

APPELLANT BRIEF/MOTION FOR
LEAVE TO CONDUCT DISCOVERY
ORDER
PROOF OF SERVICE BY MAIL

I, Jose Alberto Maldonado, a civil person presently incarcerated at Kershaw, Correctional Institution, ("SCDOC"). Do hereby affirm that:

Mr. JOSE ALBERTO MALDONADO Declare Under the South Carolina Rules of Civil Procedure. Rule 5(b)(1) Pursuant to: ("V. SPECIAL APPEALS §(54, & 65), upon's SC. Code Ann. § 1-23-610 (2005)"). See also SC. Code of Laws §§ 15-29-10/20, instead; 28 U.S.C.A. § 1746. That, on below said date Appellant, did deposit a true and exact copy of foresaid APPELLANT BRIEF/MOTION FOR LEAVE TO CONDUCT DISCOVERY ORDER, inside Kershaw, Correctional Institution mailroom's clerk, to be forward through the (U.S.) Posted system with sufficient postage to:

Clerk's Office
South Carolina Administrative Law Court
1205 Pendleton Street, Suite 224
Columbia, SC. 29201

SC. Counsel of Records
Office of the Attorney General
Alan Wilson
P.O. Box 11549
Columbia SC 29211

Further, Appellant said and Notarized
This 2nd day of December, 2015.

General Counsel David Tatarsky
S.C. Dept. of Corrections
P.O. Box 21787
Columbia, South Carolina 29221

SWORN TO and SUBSCRIBED Before Me
This 2nd day of December, 2015
Catherine A. Ammer
Notary Public For South Carolina

Respectfully Submitted
Jose A. Maldonado
Jose A. Maldonado, #312648
Appellant Pro se,
Kershaw Corr. Inst. MB/59
4848 Goldmine Highway
Kershaw, South Carolina 29067

My Commission Expires:
My Commission Expires December 31, 2016

File: (Doc. 2) on: Dec. 2nd, 2015.
Pg. 73. RoA

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM**

STEP 1 DEC 11 2014

18-0F-62

INMATE NAME: Jose Alberto Maldonado SCDC NUMBER: 312648 INSTITUTION: Kershaw Correction Institution HOUSING UNIT: Magnolia B, Room # 59 WORK ASSIGNMENT: Library	OFFICE USE ONLY Grievance No. <u>FACE 1415-14</u> Code: General Policy: _____ Disc. Hear.: _____ Class.: ☒ PREA: _____ Date Received: <u>12/19/14</u> IGC Initials: <u>JAM</u>
---	---

File: (App. Ct. Doc. 5. Appx. C(74) Record on Appeal)

STATEMENT OF GRIEVANCE (Indicate the date of incident, and if the grievance is a challenge to SCDC Policy, specify which policy. Include supporting documentation and attach answered RTSM or Kiosk reference number.) The Inmate Jose A. Maldonado pursue the response date "kiosk 14-338547 12/8/2014." From Author is No.: (038600). When that information I was received did not cover my issue to the hearing I am looking? That kiosk had been submitted on 11/16/2014. Throughout's the classification is response for my view, such answer said that; ("YOU HAVE 20 YEARS SENTENCE FOR 'TRAFFICKING IN CRACK COCAINE'). The ("IGP"), is to demanded a hearing for a compelled the (two) consecutively sentences. Upon [Inds. 03-GS-23-4545, & 05-GS-23-4726]. In that records, I would present the judge wrongly mislead instructions to the concurrent sentences. The Inmate assert that at the Kiosk dated 11/16/2014 stated as follows:

Pursued at the policy OP-21-09[2], INMATE RECORDS PLAN & ACTIVATING INMATE RECORDS PLAN/MATTER OF INSUFFICIENCY AND CONSTRUCTION OF SENTENCES IMPOSED.

The Inmate Jose A. Maldonado assert that by the S.C. Dept. of Corr. is policies, and the S.C. Const., Code of laws. Had been wrongly applied concurrent sentences, the (1st. one) is for (7) year, (2nd was been mislead and applied for 20 years sentenced). The Inmate's confine in custody at the KRCI. This Department of Correction must provide to the Inmate with formal notice when it seek to recalculate its initial determination through the amended sentences of the concurrences of (TRUE BILL). The (IGP), have now being submit to obtain a hearing, to recorder with a tape, and "Video Camara Review". That can be prove, or present it in his next legal due process, and fixing the concurrent sentences, accordingly is TANT V. S.C. DEPART. OF CORR., 395 S.C. 446, 718 S.E.2d 753 (2011) "to quash the" [Ind., 05-GS-23-4726]; pursuant §§ 17-19-100, (44-53-375(C)(5)). Was violated § 44-53-375(C)(2)(b), for a second offence(s) see e.g., CLAIR V. STATE, 324 S.C. 144, 478 S.E.2d 54 (1996); STATE V. FONSECA, 383 S.C. 646, 681 S.E.2d 1, (2009); CARTER V. STATE, 329 S.C. 355, 495 S.E.2d 776, fn. 1, 777 (1998); SIMMONS V. STATE, S.C., 471 S.C., 471 S.E.2d 455 (1993); IN RE MAGISTRATES USE OF VIDEOCONFERENCES, S.C., 471 S.E.2d 459 (1995).

Please send me a "Update hearing" to examine the indictment(s). Jose A Maldonado, 12-11-2014
 Because, the S.C. Department of Corrections did not have juris[diction] to the Inmate (JAM) to be in custody either KRCI. The Inmate have deadline in this matter. See the Copy Order.

Grievant Signature _____ Date _____
 (Attach (10) Copies)

ACTION REQUESTED: When the Department of Correction decides its original recodation of a sentence was erroneous, it mus afford the inmate formal notice of the amended sentence(s) See (Exhibits Indictments with Sentence sheets) I have the Right and opportunity to be heard through the grievance procedure. See Attached Exhibits.

ACTION TAKEN BY IGC: ☐ PROCESSED ☒ UNPROCESSED ☐ OTHER

*Due to nature of grievance
See Warden's Response
Pg. 74 RoA*

IGC Signature _____ Date 12/30/14

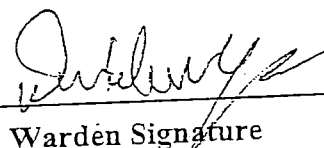
(CONTINUE ON REVERSE SIDE)

Inmate Maldonado
WARDEN'S DECISION AND REASON:

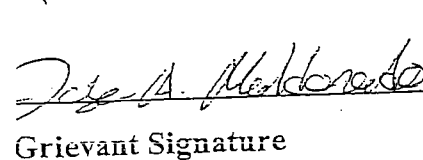
File: (APP. 4. Doc. 5. Appx. C (75) Record on Appeal) 19-0F-62

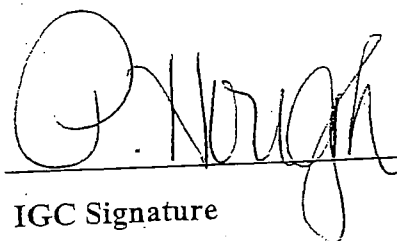
This is in response to KRCI-1415-14. All pertinent information and documentation has been reviewed. Your request to staff was answered appropriately by Case Manager, Mrs. York. You requested a hearing due to your sentence has been calculated incorrectly, however you failed to indicate what type of hearing. It is noted that your annual review is in January of this year. You may present any issues or questions to the Kershaw ICC at that time. No error has been found in your sentence calculation.

Based on this information, your requested action is denied. If not satisfied with my response, see Step 5 below.

 1/2/15
Warden Signature Date

- ☐ I accept the Warden's decision and consider the matter closed.
☒ I do not accept the Warden's decision and wish to appeal.

 1/8/15
Grievant Signature Date

 1/8/15
IGC Signature Date

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM

1. An informal resolution shall be attempted prior to the filing of Step 1 by sending an Inmate Request to Staff Member (RTSM) form or Kiosk reference number to the appropriate supervisor. A copy of the answered RTSM must be attached to the grievance when the grievance is filed.
2. Complete each section in its entirety writing only in the space provided for inmate use. No additional pages will be permitted.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form by placing it in the Grievance Box at your institution within eight (8) working days of the date on the RTSM response; policy grievances can be filed at any time. Disciplinary and Classification Review appeals must be submitted within five (5) working days of the hearing/review. Do not write in the space provided for the Warden's response.
5. If you are not satisfied with the Warden's decision, you may appeal to the appropriate responsible official within five (5) days of your receipt of the Warden's decision, by placing your Step 2 appeal form in the Grievance Box at your institution.

Pg. 75 ROA

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM**

("Began the Attached: B")
Attached(A); & Attachment(B)'s pending

STEP 2 JAN 12 2015

INMATE NAME: Jose Alberto Maldonado

SCDC NUMBER: 312648

INSTITUTION: Kershaw CI.

HOUSING UNIT: Magnolia B, Room # 59

WORK ASSIGNMENT: Education is Library
(Attachment: A-1)

Office Use Only
Grievance No. 14-338547
Code: General
Policy: _____
Disc. Hear: _____
Class: _____
Date Received: 1/12/15
IGC Initials: PN

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): This appeal is for the Warden decision; in response to KRCI-1415-14. That, answer didn't cover up my Grievance Inf., from the classification #(038600). The (IGP) is to compel disclosure, with the Step 1. Were I am filed it on 12/11/2014 Kiosk # 14-338547, answer 12/8/2014. This appeal due process, pursue the records. Pursuant of SDC's Policy OP-21.09(2). Holding, at ¶[2.1] shall, the inmate records office in the Division of the "Classification & Inmate Records is Responsible for Administering a Uniform Process for Activating Records on Inmate admitted into the (SDC)", (emphasis supplied)...? See also ¶[2.2] same policy: The Reception & Evaluation has the primary duty to receive, process and enter "Sentencing documentation for all inmate received into the SDC." See id., at ¶[2.4, & 5]; the ("[R-&E Center can accept an inmate into the custody, and also the SDC provided an inmate's received an a valid commitment order"] i.e.); Tant v. S.C. Dep't of Corr., 395 S.C. 446, 718 SE.2d 753 (2011). Further the appeal pursuit the right information upon that "TRUE BILL" Supersending Ind., #05-GS-23-4726, mislead Courts, dates. from Dec. 13, 2005, & Feb. 22, 2006]. That against the Policy, (OP-21.09 ¶[2.5]); Code 1976 §§ 17-19-100, 44-53-375(C)(5), and (Violate the § 44-53-375(C)(b)(2); SCRC, Rule 60(b)(5), USCA. Const. Amend. 14. Because, therein is no valid sentence(s) to be served with the SDC. The Warden action didn't cover the (IGP), for denied the hearing, without documentation. Id. at ¶[2.2], and him raised that I am failed to indicate what type of hearing, but on the 1/7/2015 him, or Ms. York, send an annual hearing without records. See, Step 3 below, Attach copy, and the (IGC've all records.).

Jose A. Maldonado 1/9/2015
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

ve reviewed your complaint and found that Warden Dunlap addressed your concerns appropriately. Indictment 03-GS-2304545 (caine distribution in proximate of a school) is a concurrent sentence, with a starting date of August 5, 2005; indictment 03-GS-4547 (Trafficking in Cocaine) is a concurrent sentence, with a starting date of August 6, 2005 and indictment 05-GS-4726+ (fficking in Crack Cocaine) is a concurrent sentence, with a starting date of August 6, 2005. Indictment 05-GS-4726+ has a datory time of 85% (17 years). Therefore, your max-out date will be August 2022. Keep in mind, any disciplinary infractions or ployment can cause your max-out date to change. Your sentence is correct.

efore, your grievance is denied.

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

File: (App. Ct. Doc. 5. APPX. C (76) Record on Appeal) 20-0662

Paula Sculley 8/30/15
Signature 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.

Jose A. Maldonado 9/25/2015
Grievant Signature Date
Pg. 76. ROA

P. Nough 9/25/15
IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

INSTRUCTIONS FOR COMPLETING STEP 2 GRIEVANCE FORM

1. Complete form in its entirety, writing only in the space provided for inmate use.
2. State your specific reason for further appeal. Do not submit any new issues for review.
3. Submit this completed form with your original Step 1 attached, to the Institutional Grievance Coordinator within five (5) days of your receipt of the Warden's decision. Do not write in the space provided for the responsible official.
4. The decision rendered by the responsible official exhausts the appeal process of the SCDC Inmate Grievance Procedure.

File (App. Ct. Doc. 5. APPX. C (77) Record on Appeal) 21.07.62

Pg. 72 ROA

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

File: (App. Ct. Doc. 5. Appx. C (78) Record on Appeal) 22-of-62
Jose Alberto Maldonado

Appellant,

vs.

NOTICE OF APPEAL

South Carolina Department of Corrections,

Respondent.

DOCKET NO. -ALJ-04-
GRIEVANCE NO.: KRCI 4415 -14

Notice is hereby given that Jose Alberto Maldonado does hereby appeal the final decision of the South Carolina Department of Corrections dated August 30th, 2015 and received on September 25th, 2015, a copy of which is attached. A general statement of the grounds for appeal is (See S.C. Code Ann. § 1-23-380(A)(6)):

The Appellant, seeking an Order to compel disclosure, between this Hon: Court. And pursuing his criminal records, have been legal in ("SCDOC"). Because, the Appellant believe, that sentences had, or have wrongful been applied upon the appellant: Is conviction, now enter's (SCDC Policy No.: OP-21.09(2)); see Attachments: (A), and (B)'s (Exhibits: 1-of-10); see e.g., Tant v. S.C. Dep't of Corr. (2011) below this (IGP.2) at (Attached (A-B)). The Appellant assert that such convictions don't cover up his sentenced by (SCDC Policy), mislead information under the activating inmate records plan for insufficient & construction of sentences been imposed. Therein make the "conviction null & void." I demand a Order in review such records. Because, that against false arrest and false imprisonment/with the (SCDC).

Jose Alberto Maldonado
Appellant's Name

[Signature]
Signed

KRCI. MB/Rm. #59 18118 Gordon Hwy
Mailing Address

October 19th, 2015
Dated

Kershaw, S.C. 29067
City, State, Zip Code

CERTIFICATE OF SERVICE

I hereby certify that I, J.A. Maldonado (your name), on the 19th day of October, 2015, in Kershaw (city), South Carolina, served a copy of the foregoing Notice of Appeal on all parties to this matter by depositing the same in the United States Mail, postage paid, or in the mail room of the undersigned's institution and addressed as follows:

Name of person/Agency served: General Counsel David Tatarsky

Address: Post- Office Box 21787

Pg. 78 ROA

City, State, Zip Code: Columbia South Carolina 29221

Print your name: Jose Alberto Maldonado
(See reverse side for instructions)

Sign your name: [Signature]

Instructions for filing an appeal of the final agency decision from the South Carolina Department of Corrections:

- 1) You must complete the **Notice of Appeal** on the reverse side of these instructions and mail it to the Administrative Law Court at the following address:

Clerk's Office
South Carolina Administrative Law Court
1205 Pendleton Street, Suite 224
Columbia, SC 29201

A copy of the Notice of Appeal must also be forwarded to the Office of General Counsel at the Department of Corrections.

- 2) In order for your case to be processed by the ALC, a copy of the final decision from the Department of Corrections must be attached to the Notice of Appeal.

(Attachments: A)

23-08-62

File: (APP. Ct. Doc. 5 APPX. C (79) Record on Appeal)

Pg. 79 ROA

File: (APP. Ct. Doc. 5. APPX. C (80) Record on Appeal) 24-of-62
STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

NOTICE OF APPEAL

GRIEVANCE NO.: KRCI 4415 - 14

PROOF OF SERVICE BY MAIL

I, Jose Alberto Maldonado, a civil person presently incarcerated at Kershaw, Correctional Institution, ("SCDOC"). Do hereby affirm that:

Mr. JOSE ALBERTO MALDONADO Declare Under the South Carolina Rules of Civil Procedure. Rule 4(g), and Code of Law §§ 15-29-10, 15-29-20, see also 28 U.S.C.A. § 1746. That, on below said date Appellant, did deposit a true and exact copy of foresaid "NOTICE OF APPEAL", inside Kershaw, Correctional Institution mailroom is clerk, to be forward through the U.S. Posted system with sufficient postage to:

Clerk's Office
South Carolina Administrative Law Court
1205 Pendleton Street, Suite 224
Columbia, SC. 29201

General Counsel David Tatarski
S.C. Dept. of Corrections
P.O. Box 21787
Columbia, South Carolina 29221

Further, Appellant said and Notarized
This 19th day of October, 2015.

Respectfull Submitted

1st Jose Alberto Maldonado
Jose Alberto Maldonado
#312648, the Appellant

SWORN TO and SUBSCRIBED Before Me

This 19th day of October, 2015.

Catherine A. Amador
Notary Public For South Carolina

My Commission Expires: _____

Kershaw, S.C. Dept. of Correction
Magnolia B/Room #59
4848 Goldmine Highway
Kershaw, South Carolina, 29067

File: (Doc.1) on 10/19/2015.

My Commission Expires December 22, 2018

Pg. 80, RoA

(Attachment: A-2)

State Grand Jury of South Carolina



Office of the Clerk

1000 Assembly Street
Rembert Dennis Building
Suite 519
Columbia, South Carolina 29201

POST OFFICE BOX 11508
COLUMBIA, SC 29211-1508
TELEPHONE: 803-734-0497
FAX: 803-734-0513

JAMES R. PARKS
CLERK OF COURT

MEMORANDUM

April 13, 2007

File: (APP. Ct. Doc. 5. APPX. C (81) Record on Appeal) 25-of-62

TO: Jose A. Maldonado
C/o Inmate Records
Post Office Box 21787
Columbia, SC 29221

SCDC
C/o Inmate Records
Post Office Box 21787
Columbia, SC 29221

James H. Price
644 E. Washington St
Greenville, SC 29601

Susan Porter, Esquire
Attorney General Office
5th Floor Intra-Office Mail

FROM: James R. Parks *AvP*
Clerk of Court
State Grand Jury
Post Office Box 11508
Columbia, SC 29211

*State Grand Jury
Date April 13, 2007
1 (Attachments A-3)*

RE: Jose A. Maldonado 2005-GS-47-26

MESSAGE: Please find enclosed a copy of the following:

- Sentencing Sheets filed April 10, 2007

If you have any questions, please give this office a call at 803-734-0497.

Pg. 81 ROA

FILED

(Attachment: D1)

STATE OF SOUTH CAROLINA

APR 10, 2007

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville
STATE VS.

JAMES R. PARKS
CLERK, STATE GRAND JURY

INDICTMENT/CASE#

Jose Alberto Maldonado

AW#:

GS-47 - 26 Count I

Age: H Sex: M Age: 33

Date of Offense:

4/1/05 - 2/22/06

OB: SP#

S.C. Code §:

44-53-375(4)(5)

Address: Land Leach Court, Lot #104

CDR Code #:

0 1 3 1 7 1 0

City, State, Zip: Greenville SC 29611

SID#

☐ CASE RESTORED

SENTENCE

☒ PLEA ☐ TRIAL

disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
to: Trafficking Methamphetamine 28-100 grams, Second offense (7-30 years + \$50,000)(85%)
violation of §44-53-375(C) of the S.C. Code of Laws, bearing CDR Code # 0 1 3 1 8 1 9

NON-VIOLENT

☒ VIOLENT

☒ SERIOUS

☐ MOST SERIOUS

☐ 17-25-45

Charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.
Plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

TEST: James R. Parks

Solicitor

FIC: (APP. Ct. Doc. S. APPX, C (82) Record on Appeal)

Defendant

Attorney for Defendant

HEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed 26 years

or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
 ; plus costs and assessments as applicable; the balance is suspended with probation for

the years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
which are incorporated by reference.

CONCURRENT or ☐ CONSECUTIVE to sentence on: 05-GS-47-26 Count IV and 03-GS-23-454
The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State

Department of Corrections. Credit since Aug. 6, 2005
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

STITUTION: ☐ Heard, ☐ Waived, ☐ Ordered
\$ plus 20% fee; \$

SPECIAL CONDITIONS:

PTUP

ent Terms:

by SCDPPPS

ent:

206 (Assessments 107.5%)	\$	
211(A)(1) (Conv. Surcharge)	\$	
211(A)(2) (DUI Surcharge)	\$100	\$ <u>100.00</u>
2995 (DUI Assessment)	\$100	\$
3 (Public Def/Prob)	\$12	\$
1B TP (Law Enforce. Funding)	\$500	\$
1B TP (Drug Court Surcharge)	\$25	\$ <u>25.00</u>
-114(BUI Breath Test Fee)	\$100	\$ <u>100.00</u>
2942(J) (Vehicle Assessment)	\$50	\$
County (if paid in installments)	\$40/ea	\$
		\$ <u>75</u>
		\$ <u>200.00</u>
		\$ <u>231.75</u>

James R. Parks

Clerk of Court/ Deputy Clerk

Reporter: Robin Hild

days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, \$35 13 TP
Requires \$500 be paid to Clerk during probation

PRESIDING JUDGE

Judge Code:

Sentence Date:

Pg. 82. ROA

4-10-07

217 (2/2006)

White - Clerk

Green - Corrections

Canary - Probation

Pink - Defendant

File: (App. Ct. Doc. 5 Appx. C (83) Record on Appeal) 270F.62

March 9, 2015

Jose Alberto Maldonado # 312648
Kershaw Correctional Institution MB/Room #59
4848 Goldmine Highway
Kershaw SC 29067

We have received your inquiry:

- ☐ A copy of all enclosed has been forwarded to: ☐ Your Attorney ☐ Public Defender's Office
- ☐ For matters concerning PCR's, please contact the Office of the Attorney General, PCR Division,
P.O. Box 11549, Columbia, S.C. 29211.
- ☐ SCDC calculates credit for time served. Please contact your classification caseworker at your
institution for assistance.
- ☐ We need more information:
☐ Case Number ☐ Charge ☐ SSN ☐ Court Location ☐ Date of Arrest
- ☐ This office does not provide Legal Advice or Legal Forms.
- ☐ Please speak with your attorney regarding your request.
- ☐ Please direct your request to _____ County Clerk of Court.
- ☒ Other: There are no pending charges, therefore the information is being returned to you.

Ps. 83 ROA

State Grand Jury of South Carolina



①

AMES R. PARKS
CLERK OF COURT

Office of the Clerk

1000 Assembly Street
Rembert Dennis Building
Suite 519
Columbia, South Carolina 29201

POST OFFICE BOX 11508
COLUMBIA, SC 29211-1508
TELEPHONE: 803-734-0497
FAX: 803-734-0513

April 17, 2015

Jose Maldonado #312648
Kershaw Correctional Institution MB/Room #59
4848 Goldmine HWY
Kershaw SC 29067

File: (App. Ct. Doc. 5. APPX. C. (B4) Record on Appeal)

28-0F-62

We have received your inquiry:

☐ A copy of all enclosed has been forwarded to: ☐ Your Attorney ☐ Public Defender's Office

☐ For matters concerning PCR's, please contact the Office of the Attorney General, PCR Division, P.O. Box 11549, Columbia, S.C. 29211.

☐ SCDC calculates credit for time served. Please contact your classification caseworker at your institution for assistance.

☐ We need more information:
☐ Case Number ☐ Charge ☐ SSN ☐ Court Location ☐ Date of Arrest

☐ This office does not provide Legal Advice or Legal Forms.

☒ There is no record of said charge.

☒ Please speak with your attorney regarding your request.

☐ Please direct your request to _____ county Clerk of Court.

☐ Other: Our office has no record of a State Grand Jury case regarding this matter.

Pg. 84. ROA

File: (Attachment: (A) Doc.3)



State of South Carolina
The Circuit Court of the Thirteenth Judicial Circuit

D. GARRISON HILL
JUDGE

GREENVILLE COUNTY COURTHOUSE
305 EAST NORTH STREET, SUITE 213
GREENVILLE, SOUTH CAROLINA 29601
TELEPHONE: (864) 467-8484
FAX: (864) 467-8595
E-MAIL: ghilly@sccourts.org

May 28, 2015

Ms. Karen Ratigan *File: (APP. Ct. Doc. S. Appx. C. (85) Record on Appeal)*
Assistant Deputy Attorney General
PO Box 11549
Columbia, SC 29211

29-01-62

RE: Jose Alberto Maldonado (#312648)

Dear Ms. Ratigan:

Enclosed please find a copy of Mr. Maldonado's motions received recently by my office.
Please review and take whatever action you deem appropriate.

Sincerely,


D. Garrison Hill

cc: Mr. Jose A. Maldonado (#312648)
Kershaw Correctional Institute
4848 Goldmine Highway
Kershaw, SC 29067

File: (Attachment (B) Doc.4)

July 27th, 2015

Pg. 85 ROA



State of South Carolina
The Circuit Court of the Thirteenth Judicial Circuit

D. GARRISON HILL
JUDGE

GREENVILLE COUNTY COURTHOUSE
305 EAST NORTH STREET, SUITE 213
GREENVILLE, SOUTH CAROLINA 29601
TELEPHONE: (864) 467-8484
FAX: (864) 467-8595
E-MAIL: ghilly@sccourts.org

September 2, 2015

Ms. Karen Ratigan *File: (APP. Ct. Doc. 5. APPX. C (86) Record on Appeal)*
Assistant Attorney General
S.C. Attorney General's Office
PO Box 11549
Columbia, SC 29211
30-0A-62

Re: State v. Jose A. Maldonado

Dear Ms. Ratigan,

Please see the attached motion from defendant Jose A. Maldonado, received on August 31, 2015. Please do not hesitate to contact my office if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Garrison Hill".

D. Garrison Hill

DGH:jg

cc: Jose A. Maldonado

Pg. 86. ROA

FILED

APR 10, 2007

(IGP)
Exhibit (1) File on 12/11/2014
("Attached:B")
IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.

JAMES R. PARKS
CLERK, STATE GRAND JURY

INDICTMENT/CASE#:

Jose Alberto Maldonado
AKA: _____
Race: H Sex: M Age: 33
DOB: _____ SS#: _____
Address: Vandeborch Court, Lot #104
City, State, Zip: Greenville SC 29611
DL#: _____ SID#: _____

AW#: _____
Date of Offense: 4/1/05 - 2/22/06
S.C. Code §: 44-53-375(C)(5)
CDR Code #: 0 1 3 1 7 1 0

☐ CASE RESTORED
SENTENCE

☒ PLEA ☐ TRIAL

31-0F-62

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: Trafficking Methamphetamine 28-100 grams, 2nd offense (7-30 years; \$50,000 (35%))
in violation of §44-53-375(C) of the S.C. Code of Laws, bearing CDR Code # 0 1 3 1 8 1 9
☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45

The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

James R. Parks
Solicitor

Jose Maldonado
Defendant

[Signature]
Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
or a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____, plus costs and assessments as applicable*, the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
which are incorporated by reference.
☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 05-GS-47-26, Count IV and 03-GS-23-454
The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections. Credit since Aug. 6, 2005
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered
Total: \$ _____ plus 20% fee: \$ _____

SPECIAL CONDITIONS:

Payment Terms: _____
Set by SCDPPPS _____

PTUP

_____ days/hours Public Service Employment

Recipient: _____
Fee: _____
1-1-206 (Assessments 107.5%) \$ _____
1-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
1-1-211(A)(2) (DUI Surcharge) \$100 \$ _____
1-5-2995 (DUI Assessment) \$12 \$ _____
5-13 (Public Def/Prob) \$500 \$ _____
1-3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00
1-7, 1B TP (Drug Court Surcharge) \$100 \$ 100.00
21-114 (BUI Breath Test Fee) \$50 \$ _____
5-2942(J) (Vehicle Assessment) \$40/ea \$ _____
To County (if paid in installments) \$ 75
TOTAL \$ 231.75

Obtain GED _____
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling _____
Random Drug/Alcohol Testing _____
Fine may be pd in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: _____

Att

Pg. 87. ROA

☐ Appointed PD or appointed other counsel, \$35 13 TP
Requires \$500 be paid to Clerk during probation

PRESIDING JUDGE [Signature]

Judge Code: _____

Sentence Date: 4-10-07

1 6 3

James R. Parks
Clerk of Court/ Deputy Clerk
Court Reporter: Robin Hild

2A/217 (2/2006)

White - Clerk

Green - Corrections

Canary - Probation

Pink - Defe

FILED

(IGP) EXHIBIT (2) File on 12/11/2014.
("Attache:B")

FEB 22 2006

STATE GRAND JURY OF SOUTH CAROLINA

LISA D. DOWBAR,
CLERK, STATE GRAND JURY

File: (App. Ct. Doc. S. APPX. C (88) Record on Appeal) 32-dF-62

STATE OF SOUTH CAROLINA

CASE NO. 2005-GS-47-26

VS.

**SUPERSEDING
INDICTMENT FOR
UNLAWFUL DRUGS**

EMILIANO GARCIA AGUIRRE,

PAMELA RENEE BOZZI,

JOSE ALBERTO MALDONADO,

KENNETH SCOTT POPE aka "SCOTTY",

LISA LAVERN RAMIREZ,

THOMAS ERNIE ROBERTS,

OSCAR SANCHEZ,

JOHN NELSON TURNER, JR. aka "JJ",

KELLY LEE NALLEY TURNER,

DEFENDANTS.

Trafficking Methamphetamine
(Conspiracy)

S.C. Code Ann. § 44-53-375(C)(5)

Trafficking Methamphetamine
> 400 grams - Three Counts

S.C. Code Ann. § 44-53-375(C)(5)

Possession of a Firearm during the
Commission of a Violent Crime
S.C. Code Ann. § 16-23-490

At a session of the State Grand Jury of South Carolina, convened in Columbia,
South Carolina, on February 22, 2006, the State Grand Jurors present upon their oath:

Pg. 88. ROA

**COUNT I
TRAFFICKING METHAMPHETAMINE (CONSPIRACY)
S.C. Code Ann. § 44-53-375 (C)(5)**

That EMILIANO GARCIA AGUIRRE, PAMELA RENEE BOZZI, JOSE
ALBERTO MALDONADO, KENNETH SCOTT POPE aka "SCOTTY", LISA
LAVERN RAMIREZ, THOMAS ERNIE ROBERTS, OSCAR SANCHEZ, JOHN
NELSON TURNER, JR. aka "JJ", KELLY LEE NALLEY TURNER, and other persons
whose names are both known and unknown to the State Grand Jury, did in Anderson
County, Greenville County, Oconee County and Pickens County of South Carolina,

RECEIVED
MAR 9 2006

("Attached:B")
(IGP) EXHIBIT (3) File on 12/11/2014

during the period of time extending from on or about April 1, 2005 to present, conspire to sell, manufacture, deliver, purchase, or bring into this State, or otherwise, more than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

File (APP. Ct. Doc. 5. Appx. C (B9) Record on Appeal) 33-of-62

COUNT II
TRAFFICKING METHAMPHETAMINE > 400 GRAMS
S.C. Code Ann. § 44-53-375 (C)(5)

That EMILIANO GARCIA AGUIRRE and OSCAR SANCHEZ did, in Greenville County, on or about May 17, 2005, knowingly possess (actually or constructively), deliver, sell, or bring into this State, or otherwise aid, abet, attempt or conspire to sell, deliver, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

Pg. 89 ROA

("Attached:B")

(IGP) EXHIBIT (4) File on 12/11/2014

File: (APP. Ct. Doc. 5. APPX. C(90) Record on Appeal) 34-of-62
COUNT III

POSSESSION OF A FIREARM DURING THE COMMISSION
OF A VIOLENT CRIME
S.C. Code Ann. § 16-23-490

That EMILIANO GARCIA AGUIRRE did, in Greenville County, on or about May 17, 2005, did possess (actually or constructively) or visibly display what appeared to be a firearm during the commission of the crime of trafficking methamphetamine in violation of S.C. Code Ann. § 44-53-375 (C)(5), which is defined as a crime of violence pursuant to S.C. Code Ann. § 16-1-60, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one count of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT IV
TRAFFICKING METHAMPHETAMINE > 400 GRAMS
S.C. Code Ann. § 44-53-375 (C)(5)

That JOSE MALDONADO and LISA LAVERN RAMIREZ did in Greenville County, on or about June 26, 2005, knowingly possess (actually or constructively), deliver, sell, or bring into this State, or otherwise aid, abet, attempt or conspire to sell, deliver, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

Pg- 90 ROA

File: (APP. Ct. Doc. 5. APPX. C(91) Record on Appeal) 35-01-62

COUNT V

TRAFFICKING METHAMPHETAMINE > 400 GRAMS

S.C. Code Ann. § 44-53-375 (C)(5)

That John Nelson Turner, Jr. aka "JJ" did in Greenville County, on or about May 16, 2005, knowingly possess (actually or constructively), deliver, sell, or bring into this State, or otherwise aid, abet, attempt or conspire to sell, deliver, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

Against the peace and dignity of the State and contrary to the statute in such case made and provided.

A True Bill

Pg. 91. ROA

Cathy P. Coffey
FOREMAN

Henry McMaster
HENRY McMASTER (sop)
ATTORNEY GENERAL

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.

Jose Maldonado

AKA:

Race: W

Sex: M

Age: 32

DOB: SS#

Address: 5 FLETCHER ST

GREENVILLE, SC 29611

DL#: 26678119

SID#:

File: (App. Ct. Doc. 5, Appx. C (92) Record on Appeal)

In disposition of the said indictment comes now the Defendant who was

TO: POSSESSION WITH INTENT TO DISTRIBUTE COCAINE W/IN 1/2 MILE

in violation of § 44-53-0443

of the S.C. Code of Laws, bearing CDR Code # 0107

☐ NON-VIOLENT

☐ VIOLENT

☒ SERIOUS

☐ MOST SERIOUS

☐ 17-23-45

The charge is: ☒ As Indicted,

☐ Lesser Included Offense,

☐ Defendant Waives Presentment to Grand Jury

The plea is: ☒ Without Negotiations or Recommendation,

☐ Negotiated Sentence,

☐ Recommendation by the State

ATTEST:

Joseph K. Monts
Solicitor

Jose Maldonado
Defendant

[Signature]
Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 3 days/months/years or ☐ under the Youthful Offender Act not to exceed 3 years and/or to pay a fine of \$ 100.00; provided that upon the service of 3 days/months/years and/or payment of \$ 100.00, plus costs and assessments as applicable; the balance is suspended with probation for 3 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 115 DAYS

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ 100.00 plus 20% fee: \$ 20.00

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 35-13 (Public Def/Prob)

§ 73-3, 1B TP (Law Enforce. Funding)

§ 33-7, 1B TP (Drug Court Surcharge)

§ 30-21-114 (BUI Breath Test Fee)

§ 56-5-2942(I) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

Paul B. Wichester
Clerk of Court/ Deputy Clerk

Court Reporter: [Signature]

\$

\$

\$100

\$100

\$12

\$500

\$25

\$100

\$30

\$40/ca

\$

\$

("Attached:B")

(IGP) EXHIBIT (6) File on 12/11/2014

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

2003GS2304545

A/W#: H441256

Date of Offense: 04-10-2003

S.C. Code § 44-53-0443

CDR Code #: 0107

36-A-62

☐ CASE RESTORED

SENTENCE

☒ PLEA ☐ TRIAL

☐ CONVICTED OF or ☒ PLEADS

File: APP. Ct. Doc. 5. APPX. C (93) Record on Appeal 37-01-52

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	POSSESSION OF COCAINE WITH INTENT TO
COUNTY OF GREENVILLE	)	DISTRIBUTE WITHIN CLOSE PROXIMITY TO
		SCHOOL

At a Court of General Sessions, convened on JUNE 24, 2003 the Grand Jurors of Greenville County present upon their oath:

That JOSE ALBERTO MALDONADO did in Greenville County, on or about the 10th day of April, 2003, willfully and unlawfully possess with the intent to distribute a quantity of Cocaine. This incident occurred within one-half (1/2) mile from Greenville Tech College, Northwest Campus. This is in violation of §44-53-445 of the South Carolina Code of Laws (1976) as amended.

Pg. 93 ROA

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Jose K. Marti
SOLICITOR

DOCKET NO. 2003-GS-23-
JLK 004545
("Attached:B")

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

JUNE TERM 2003

PLEAD GUILTY THE STATE
vs.

JOSE ALBERTO MALDONADO

Indictment for

0107
POSSESSION OF COCAINE WITH INTENT TO
DISTRIBUTE WITHIN CLOSE PROXIMITY TO
SCHOOL

VIOLATION § 44-53-445

DL SUSPENDS

Did Clerk receive driver's license?

YES NO

If no, explain FD 045

[Signature]

Defendant

Pg. 94. ROA

WITNESSES

BRAGG COB-6/13

GCSO

04/10/03

ARREST WARRANT NUMBER

H441256

ACTION OF GRAND JURY

TRUE BILL

Russell P. [Signature]

Foreperson of GRAND JURY

VERDICT

Foreperson of Petit Jury

Date:

File: (APP. CH. Doc. 5. APPX. C. (94) Record on APNCO) 38-of-62

551

The Supreme Court of South Carolina

File: (APP. Ct. Doc. 5. APPX. C(95) Record on Appeal) 39-of-62
Jose Alberto Maldonado, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2014-001164
Lower Court Case No. 2013CP2301440

ORDER

In the explanation required by Rule 243(c) of South Carolina Appellate Court Rules (SCACR), petitioner has failed to show that there is an arguable basis for asserting that the determination by the lower court was improper. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.


C.J.
FOR THE COURT

Columbia, South Carolina
June 19, 2014

cc: Karen Christine Ratigan, Esquire
Mr. Jose A. Maldonado, #312648

The Supreme Court of South Carolina
DANIEL E. SHEAROUSE, CLERK OF COURT
POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

Pg. 96 ROA

RECEIVED
JUN 20 2014
KerCI
MAILROOM

MB

JOSE A. MALDONADO, #312648
KERSHAW CORRECTIONAL INSTITUTION
4848 GOLD MINE HWY
KERSHAW SC 29069

COLUMBIA
SC 290
19 JUN '14
PM 3 L

Hasler
06/19/2014
US POSTAGE



FIRST-CLASS MAIL
\$00.48⁰⁰
ZIP 29201
011D12602823

29067813699



Case # 2014-1164-Exhibit (a)

File: App Ct. Doc. S. App. C (96) Record on Appeal
40-06-02

(Attached: B/Exhibit (10)(2))

STATE GRAND JURY OF SOUTH CAROLINA

File: (App. Ct. Doc. 5. Appx. C (97) Record on Appeal) 41-06-62
CASE NO. **2005GS 47 26**

STATE OF SOUTH CAROLINA)

VS.)

**INDICTMENT FOR
UNLAWFUL DRUGS**

EMILIANO GARCIA AGUIRRE,)

PAMELA RENEE BOZZI,)

JOSE ALBERTO MALDONADO,)

KENNETH SCOTT POPE aka "SCOTTY",)

LISA LAVERN RAMIREZ,)

THOMAS ERNIE ROBERTS,)

OSCAR SANCHEZ,)

JOHN NELSON TURNER, JR. aka "JJ",)

KELLY LEE NALLEY TURNER,)

DEFENDANTS.)

Trafficking Methamphetamine
(Conspiracy)

S.C. Code Ann. § 44-53-375(C)(5)

Trafficking Methamphetamine

> 400 grams - Two Counts

S.C. Code Ann. § 44-53-375(C)(5)

Possession of a Firearm during the

Commission of a Violent Crime

S.C. Code Ann. § 16-23-490

At a session of the State Grand Jury of South Carolina, convened in Columbia,

South Carolina, on December 13, 2005, the State Grand Jurors present upon their oath:

ORIGINAL FILED

COUNT I

TRAFFICKING METHAMPHETAMINE (CONSPIRACY)

S.C. Code Ann. § 44-53-375 (C)(5)

DEC 13 2005

LISA C. DUNBAR,
CLERK, STATE GRAND JURY

That EMILIANO GARCIA AGUIRRE, PAMELA RENEE BOZZI, JOSE
ALBERTO MALDONADO, KENNETH SCOTT POPE aka "SCOTTY", LISA
LAVERN RAMIREZ, THOMAS ERNIE ROBERTS, OSCAR SANCHEZ, JOHN
NELSON TURNER, JR. aka "JJ", KELLY LEE NALLEY TURNER, and other persons
whose names are both known and unknown to the State Grand Jury, did in Anderson
County, Greenville County, Oconee County and Pickens County of South Carolina,

pg. 97 ROA

PRICE, ASHMORE & BEASLEY, P.A.

ATTORNEYS AT LAW
644 E. WASHINGTON STREET
GREENVILLE, SOUTH CAROLINA 29601
TELEPHONE (864) 467-1001
FACSIMILE (864) 242-6560

JAMES H. PRICE, III *
BEATTIE B. ASHMORE
RYAN L. BEASLEY

*Licensed to practice law in South Carolina and New York

October 13, 2008

COPY

File: (APP. Ct. Doc. 5. APPX. C (98) Record on Appeal)

42-06-62

Rodney W. Richey, Esq.
Richey and Richey Attorneys At Law
PO Box 10916
Greenville, SC 29603-0916

Re: Jose Alberto Maldonado, SCDC # 312648 vs. The State of South Carolina
Case No.: 2008-CP-23-2140

Dear Mr. Richey:

I am responding to your subpoena demanding copies of my entire file concerning Jose Maldonado.

I have enclosed copies of what I can give you which is primarily letters between Mr. Maldonado and me. The reason that I can not give you anything more is the following:

1. The primary case was a Statewide Grand Jury case;
2. All Statewide Grand Jury materials were covered by a standing Order requiring their destruction or return to the Attorney General's Office. I chose to simply have them destroyed.

I represented Mr. Maldonado in another case which was a garden variety state case with Assistant Solicitor, Joyce Monts. Unfortunately, the discovery in that case was destroyed with the Statewide Grand Jury discovery.

I will be glad to meet with you at anytime to discuss Mr. Maldonado's situation. If you have any questions, please do not hesitate to contact me.

As always, I remain,

Yours very truly,

PRICE, ASHMORE & BEASLEY, P.A.

James H. Price, III

Ps. 98 ROA

JHP:fab

during the period of time extending from on or about April 1, 2005 to present, conspire to sell, manufacture, deliver, purchase, or bring into this State, or otherwise, more than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

File: (APP. Ct. Doc. 5. . APPX. C. (99) Record on Appeal)
93-0F-62

COUNT II
TRAFFICKING METHAMPHETAMINE > 400 GRAMS
S.C. Code Ann. § 44-53-375 (C)(5)

That EMILIANO GARCIA AGUIRRE and OSCAR SANCHEZ did, in Greenville County, on or about May 17, 2005, knowingly possess (actually or constructively), deliver, sell, or bring into this State, or otherwise aid, abet, attempt or conspire to sell, deliver, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

~~Attorney~~
(Attorney: B/Exhibit: (10)(b))

Pg. 99 ROA

COUNT III
POSSESSION OF A FIREARM DURING THE COMMISSION
OF A VIOLENT CRIME

S.C. Code Ann. § 16-23-490

44-af-62

File: (App. Ct. Doc. S. Appx. C (100) Record on Appeal)
That EMILIANO GARCIA AGUIRRE did, in Greenville County, on or about

May 17, 2005, did possess (actually or constructively) or visibly display what appeared to be a firearm during the commission of the crime of trafficking methamphetamine in violation of S.C. Code Ann. § 44-53-375 (C)(5), which is defined as a crime of violence pursuant to S.C. Code Ann. § 16-1-60, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one count of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT IV
TRAFFICKING METHAMPHETAMINE > 400 GRAMS
S.C. Code Ann. § 44-53-375 (C)(5)

That JOSE MALDONADO and LISA LAVERN RAMIREZ did in Greenville County, on or about June 26, 2005, knowingly possess (actually or constructively), deliver, sell, or bring into this State, or otherwise aid, abet, attempt or conspire to sell, deliver, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

Pg. 100 ROA

File: (APP. Ct. Doc. S. Appx. (101) (C) (Attached: B/EXWb) f(10) Record on Appeal) 45-0P-62

COUNT III
POSSESSION OF A FIREARM DURING THE COMMISSION
OF A VIOLENT CRIME
S.C. Code Ann. § 16-23-490

That EMILIANO GARCIA AGUIRRE did, in Greenville County, on or about May 17, 2005, did possess (actually or constructively) or visibly display what appeared to be a firearm during the commission of the crime of trafficking methamphetamine in violation of S.C. Code Ann. § 44-53-375 (C)(5), which is defined as a crime of violence pursuant to S.C. Code Ann. § 16-1-60, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one count of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT IV
TRAFFICKING METHAMPHETAMINE > 400 GRAMS
S.C. Code Ann. § 44-53-375 (C)(5)

That JOSE MALDONADO and LISA LAVERN RAMIREZ did in Greenville County, on or about June 26, 2005, knowingly possess (actually or constructively), deliver, sell, or bring into this State, or otherwise aid, abet, attempt or conspire to sell, deliver, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

Pg. 101. ROA

EXhibit (2)
File: (APP. Ct. Doc. S. APPX C (102) Record on Appeal)

COUNT V

46-0F-62

TRAFFICKING METHAMPHETAMINE > 400 GRAMS
S.C. Code Ann. § 44-53-375 (C)(5)

That John Nelson Turner, Jr. aka "JJ" did in Greenville County, on or about May 16, 2005, knowingly possess (actually or constructively), deliver, sell, or bring into this State, or otherwise aid, abet, attempt or conspire to sell, deliver, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

Against the peace and dignity of the State and contrary to the statute in such case made and provided.

~~Attached~~
Attached - B/Exhibit (10)
(4)

A True Bill

Cathy P. Coffey
FOREMAN

Henry McMaster
HENRY McMASTER (sop)
ATTORNEY GENERAL

Pg 102 RoA

FILED

(Attachments: B-ESP)

STATE OF SOUTH CAROLINA

APR 10 2007

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville JAMES R. PARKS
CLERK, STATE GRAND JURY

VS. Jose Alberto Maldonado

INDICTMENT/CASE#:

2005 -GS- 47 - 26 Count IV

A: Jose Alberto Maldonado

AW#:

ce: H Sex: M Age: 33

Date of Offense:

6/26/2005

IB: SS#:

S.C. Code §:

44-53-375(C)(5)

dress: Pandemon Court

CDR Code #:

0 1 3 1 7 1 0

r. State, Zip Lot 104 Greenville SC

☐ CASE RESTORED

SID# 29611

SENTENCE

☒ PLEA ☐ TRIAL

File: (APP. Ct. Dec. 5. APPX. C (103) Record on Appeal) 47-0F-62

Disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADS Trafficking Methamphetamine 28-100grams, second offense (7-30yrs & \$50,000 Fine) (85%)

Violation of 44-53-375(C) of the S.C. Code of Laws, bearing CDR Code # 0 1 3 1 8 1 9

NON-VIOLENT

☒ VIOLENT

☒ SERIOUS

☐ MOST SERIOUS

☐ 17-25-45

Charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

Plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State

EST James C. Parks
Solicitor

Jose Maldonado
Defendant

[Signature]
Attorney for Defendant

BEFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, 20 days/months/years or ☐ under the Youthful Offender Act not to exceed years

to pay a fine of \$; provided that upon the service of days/months/years and/or payment

plus costs and assessments as applicable*; the balance is suspended with probation for years/months/years and/or payment is/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, are incorporated by reference.

CONCURRENT or ☐ CONSECUTIVE to sentence on: 05-GS-47-26) Court I & 03-GS-23-4547

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. Credit since Aug. 6, 2005

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

STITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

SPECIAL CONDITIONS:

\$ plus 20% fee: \$

PTUP

ent Terms:

 days/hours Public Service Employment

by SCDPPPS

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

ent:

206 (Assessments 107.5%)	\$	
211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100</u>
211(A)(2) (DUI Surcharge)	\$100	\$ <u>100</u>
2995 (DUI Assessment)	\$12	\$ <u>12</u>
1 (Public Def/Prob)	\$500	\$ <u>500</u>
1B TP (Law Enforce. Funding)	\$25	\$ <u>25</u>
1B TP (Drug Court Surcharge)	\$100	\$ <u>100</u>
114(BUI Breath Test Fee)	\$50	\$ <u>50</u>
942(J) (Vehicle Assessment)	\$40/ea	\$ <u>40</u>
County (if paid in installments)	\$	\$ <u>675</u>
		\$ <u>231.75</u>

James R. Parks
Clerk of Court/ Deputy Clerk

Reporter: Robin Hild

Pg. 103 ROA

☐ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation

PRESIDING JUDGE [Signature]

Judge Code:

Sentence Date: 4-10-07

FILED

STATE OF SOUTH CAROLINA

APR 10, 2007

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville JAMES R. PARKS
CLERK, STATE GRAND JURY
VS Alberto Maldonado INDICTMENT/CASE#: 42 - 26 Count I
AW#: Direct Indictment
Date of Offense: 4/1/05 - 2/22/06
S.C. Code §: 44-53-375(c)(5)
CDR Code #: 0 1 3 1 7 1 0
Sex: M Age: 33
SS#: 104
State, Zip: Greenville SC 29611
SID#

File: (APP. Ct. Doc. 5 APPX. C(104) Record on Appeal) 48 - of - 62
Position of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
Trafficking Methamphetamine 28-100 grams, second offense (7-30 years & \$50,000)(85%)
Violation of §44-53-375(c) of the S.C. Code of Laws, bearing CDR Code # 0 1 3 1 8 1 9
☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45

Charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.
Reason is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.
Signature: O. R. T. Solicitor Jose Maldonado Defendant [Signature] Attorney for Defendant

BEFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
terminate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed years
to pay a fine of \$; provided that upon the service of days/months/years and/or payment
 ; plus costs and assessments as applicable*; the balance is suspended with probation for
years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
are incorporated by reference.
CONCURRENT or ☐ CONSECUTIVE to sentence on: 05-GS-47-26, Count IV, and irrelevant 03-GS-23-454
The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections. Credit since Aug. 6, 2005
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

STITUTION: ☐ Heard, ☐ Waived, ☐ Ordered
\$ plus 20% fee: \$
ent Terms:
by SCDPPPS

ent:

-206 (Assessments 107.5%)	\$
-211(A)(1) (Conv. Surcharge)	\$100 \$ <u>100.00</u>
-211(A)(2) (DUI Surcharge)	\$100 \$
-2995 (DUI Assessment)	\$12 \$
3 (Public Def/Prob)	\$500 \$
1B TP (Law Enforce. Funding)	\$25 \$ <u>25.00</u>
1B TP (Drug Court Surcharge)	\$100 \$ <u>100.00</u>
1-114(BUI Breath Test Fee)	\$50 \$
-2942(J) (Vehicle Assessment)	\$40/ea \$
County (if paid in installments)	\$ <u>75</u>
	\$ <u>231.75</u>

James R. Parks
Clerk of Court/ Deputy Clerk
Reporter: Robin Hild

PTUP days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol Testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Ps. 104 ROA
☐ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE [Signature]
Judge Code: 1 1 61 3
Sentence Date: 4-10-07

File: (APP. Ct. Doc. 5. Appx. C (105) Record on Appeal)

STATE OF SOUTH CAROLINA 49-af-62)
COUNTY OF Greenville)
STATE VS.)
Jose Maldonado)
AKA:)
Race: W Sex: M Age: 32)
DOB: SS#:)
Address: 300 SULPHUR SPRINGS RD J3)
GREENVILLE SC 29611)
DL#: 26678119 SID#:)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

2003GS2304547

A/W#: G803304

Date of Offense: 04-10-2003

S.C. Code § : 44-53-0370

CDR Code #: 0388

☐ CASE RESTORED
SENTENCE

☒ PLEA ☐ TRIAL

☐ CONVICTED OF or ☒ PLEADS

In disposition of the said indictment comes now the Defendant who was
TO: TRAPPING IN COCAINE > 28 GRAMS. 2ND OFFENSE

in violation of § 44-53-0370

of the S.C. Code of Laws, bearing CDR Code # 0388

☐ NON-VIOLENT

☒ VIOLENT

☒ SERIOUS

☐ MOST SERIOUS

☐ 17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Jose K. Monte
Solicitor:

Jose Maldonado
Defendant:

[Signature]
Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 7 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 115 DAYS

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$ 100.00
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 35.13 (Public Def/Prob)	\$500	\$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
§ 33.7, 1B TP (Drug Court Surcharge)	\$100	\$ 100.00
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(I) (Vehicle Assessment)	\$40/vea	\$
3% to County (if paid in installments)		\$
TOTAL		\$

Paul B. Williams
Clerk of Court/ Deputy Clerk

Court Reporter: [Signature]

PTUP

_____ days/hours Public Service Employment

Obtain OED

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol testing _____

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, § 35.13 TP
Requires \$500 be paid to Clerk during probation.

Pg. 105. ROA

PRESIDING JUDGE [Signature]

Judge Code: 2 11 B A

Sentence Date: 11-29-05

Pg. 105. ROA

File: (App. Ct. Doc. 5 APPX. C (106) Record on Appeal)
50 - of - 62

(Attachment C-1)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
TRAFFICKING COCAINE

At a Court of General Sessions, convened on JUNE 24, 2003 the Grand
Jurors of Greenville County present upon their oath:

That JOSE ALBERTO MALDONADO did in Greenville County, on or about the 10th day of April, 2003, knowingly sell, manufacture, deliver or bring into the State of South Carolina, or did knowingly provide financial assistance or otherwise aid, abet or conspire to sell, manufacture, deliver or bring into the State or was knowingly in actual or constructive possession of more than 28 grams of Cocaine. This is in violation of §44-53-370 of the South Carolina Code of Laws (1976) as amended.

Pg. 106 ROA

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Joyce K. Moutz
SOLICITOR

DOCKET NO. 2003-GS-23-

JLK

004547

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

JUNE TERM 2003

THE STATE

vs.

JOSE ALBERTO MALDONADO

PLEAD GUILTY

[Signature]

[Signature]

Indictment for

TRAFFICKING COCAINE

VIOLATION § 44-53-370

WITNESSES

BRAGG

GCSO

04/10/03

ARREST WARRANT NUMBER

DIRECT INDICTMENT

(G803304)

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

File: (APP. CH. APPX. C (107)) Record on Appeal 51-06-62

DL SUSPENDS

Did Clerk receive driver's license?

YES

NO

If no, explain

Defendant

(Attachment: C-2)
Pg. 107 ROA

550

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

File: (APP. CH. Doc. 5 APPX. C (108) Record on Appeal) 52-01-62

Jose Alberto Maldonado, #312648,

) Docket No. 15-ALJ-04-0567-AP
)
)

) Appellant,
)

v.)

**ORDER DENYING MOTION FOR
DISCOVERY**

) South Carolina Department of Corrections,
)

) Respondent.
)
)

This matter comes before the court on a Motion for Discovery filed by the Appellant on December 3, 2015. The Appellant requests the production of several items of discovery and responses to several interrogatories from the South Carolina Department of Corrections ("Department"). Because the Appellant sent the request in motion form, it appears that he would like the court to compel the Department to respond to his discovery requests.

Appeals from inmate grievances within the South Carolina Correctional System are handled pursuant to ALC Rules 51-66. Pursuant to ALC Rule 59, once a Notice of Appeal has been filed by an inmate, the Department is responsible for filing a Record After Final Decision within seventy-five days of the Notice. The Record After Final Decision consists of:

- A. All pleadings, motions, intermediate rulings and depositions filed;
- B. All evidence received or considered;
- C. A statement of matters judicially noticed;
- D. All proffers of proof of excluded evidence;
- E. The final order or decision which is subject to administrative review;
- F. Any transcript taken of the testimony during the proceedings.

ALC Rule 58. The ALC Rules on Special Appeals do not contain any provisions for additional discovery beyond what is contained within the Record After Final Decision. Therefore, the

FILED, Doc. 1, in SC App (1)

Pg. 108 ROA

FILED

JUL 13 2015

ADMINISTRATIVE LAW COURT

File: (APP. CT. Doc. 5. Appx. (109) Record on Appeal)
Appellant's Motion for Discovery above and beyond what is contained within the Record After
Final Decision is hereby **DENIED**.
53-6F-62

AND IT IS SO ORDERED.

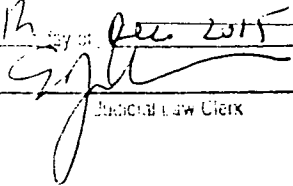
December 18, 2015
Columbia, South Carolina



S. Phillip Lenski
Administrative Law Judge

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 thereof
in the United States mail, postage paid, or in the interagency
mail facility addressed to the party(ies) or their attorney(s).

1812
by  Dec 2015

Judicial Law Clerk

(Attachment: B. Doc. 1. (A SC. APP. CT.)

File: (APP. Ct. Doc. 5 Appx. C(110) Record on Appeal)
THE STATE OF SOUTH CAROLINA 54-OF-62
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Lensky S. Phillip, Administrative Law Judge

Case No. 15-ALJ-0567-AP

South Carolina Dep't of Corr. lensky S. Phillip,
Administrative Law Judge.....Respondent,

Vs.

Jose Alberto Maldonado #312648.....Petitioner

NOTICE OF INTENT TO FILE
WRIT OF MANDAMUS

Now comes before this Honorable Court, Petitioner's Notice
of Intent to File Writ of Mandamus, pursuant to Rule 65, SCRPC
(f)(1), and Article I, § 19.

Clerk's Office, SC Administrative
Law Court The Hon: Lensky S. Phillip,
Edgar A . Brown Building, Suite 224
1205 Pendleton Street,
Columbia, SC. 29201

General Counsel David Tatarsky
S.C. Dep't of Corrections
P.O. Box 21787
Columbia S.C. 29221

The SC. Court of Appeals
Clerk of Court
P.O. Box 11629
Columbia, S.C. 29211

SC Counsel of Records
Office of the Attorney General
Alan Wilson
P.O. Box 11549
Columbia, SC. 29211

Further Petitioner said and Notarized
This 6th day of January, 2016.

Respectfully Submitted

SWORN TO and SUBSCRIBED Before Me
This 6th day of January, 2016
Catherine A. Combs
Notary PUBLIC for SOUTH CAROLINA

My COMMISSION Expires: _____

My Commission Expires December 22, 2016

s/ Jose Alberto Maldonado
Jose A. Maldonado, #312648
The Petitioner, Pro-Se,
Kershaw Corr. Inst. MB/Rm., #59
4848 Goldmine Highway
Kershaw, South Carolina 29067

File: (Doc.1 in SC. App. Ct.)

pg. 110 RoA

File: App. Ct. Doc. 5. Appx. C (111) Record on Appeal

THE STATE OF SOUTH CAROLINA 55 - of - 62
In The Court of Appeals

APPEALS FROM THE ADMINISTRATIVE LAW COURT

Lensky S. Phillip, Administrative Law Judge

Case No. 15-ALJ-0567-AP

South Carolina Dep't of Corr. Linsky S. Phillip,
Administrative Law Judge.....Respondent,

Vs.

Jose Alberto Maldonado, #312648.....Petitioner.

SUMMONS

You're hereby summons and required to answer the complaint herein, a copy of which is herewith served upon you, and to served a copy of your answer to this complaint upon the subscriber, at the address below, within thirty (30) days after service thereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered

Clerk's Office, SC Administrative
Law Court The Hon: Lensky S. Phillip,
Edgar A. Brown Building, Suite 224
1205 Pendleton Street,
Columbia, SC. 29201

General Counsel David Tatarsky
S.C. Dep't of Corrections
P.O. Box 21787
Columbia S.C. 29221

The SC. Court of Appeals
Clerk of Court
P.O. Box 11629
Columbia, S.C. 29211

SC Counsel of Records
Office of the Attorney General
Alan Wilson
P.O. Box 11549
Columbia, SC 29211

Further Petitioner said and Notarized
This 6th day of January, 2016.

SWORN TO and SUBSCRIBED Before Me
This 6th day of January, 2016

Catherine A. Amador
NOTARY Public for SOUTH CAROLINA

My COMMISSION Expires: _____

My Commission Expires December 22, 2013

Respectfully Submitted

s/ Jose Alberto Maldonado
Jose A. Maldonado, #312648
The Petitioner, Pro-Se,
Kershaw Corr. Inst. MB/Rm., #59
4848 Goldmine Highway
Kershaw, South Carolina 29067

File: (Doc. 1 in SC App. Ct)

Pg 111 ROA

File: (App. Ct. Doc. 5. Appx. C(12) Record on Appeal)

THE STATE OF SOUTH CAROLINA 56-06-62
In The Court of Appeals

APPEALS FROM THE ADMINISTRATIVE LAW COURT

Lensky S. Phillip, Administrative Law Judge

Case No. 15-ALJ-0567 -AP

South Carolina Dep't of Corr. Linsky S. Phillip,
Administrative Law Judge.....Respondent,

Vs.

Jose Alberto Maldonado, #312648.....Petitioner.

WRIT OF MANDAMUS

This matter comes before the court, because of the South Carolina Department of Corrections; and Administrative Law Judge, Phillip Lensky's Order Denying Motion For Discovery in Administrative law Court, Docket No. 15 - ALJ - 0567 -AP.

PROCEDURAL FACTS

Petitioner originally requested the South Carolina Dep't of Corrections to provide him with all orders of "Commitment(s) , indictments (Copies)," and Sentencing sheets, and all other documents pursuant to his arrest, trial, and incarceration pursuant to "SCDC Policy OF-21.09, ¶[2]". Petitioner, was denied access to his Inmate Records and he then filed his (Step - 1) Grievance in which he was still denied.

Pg. 112, ROA

File: (App. Ct. Doc. 5. Appx. C (113) Record on Appeal) 57-04-02

He then filed his (Step 2) Grievance and was denied access to his records. Petitioner filed his "Notice of Appeal and his Initial Brief/Motion For Leave To Conduct Discovery". See, the [Fn.1] (Attachement: APPELLANT BRIEF/MOTION FOR LEAVE TO CONDUCT DISCOVERY ORDER, at Page 1, 6, & 7, Citing: Al-Shabass v. State, 338 S.C. 354, 527 S.E.2d 742 (2000)(quoting, Howard v. South Carolina Dep't of Corrections, 399 S.C. 618 at (Fn.9) 626, 733 S.E.2d 211, at 216, 217 (2012)) "Pursuant's Rule 21 DISCOVERY, and Code § 1-23-320 (2005)". Attachment:(A). Filed: On Dec. 2 - 3, 2015. (Overruling on other grounds under this Rule, Tant v S.C. Dep't of Corr., 718 S.E.2d 753; See also at Tant v. S.C. Dep't of Corr. 408 SC. 334 337, 759 S.E.2d 398, 399, (2014)) See id., Appellant Brief's Page 7-9." ("When the Dep't of Corr. decides its original "records" of a sentence of the "amended sentence" and advise appellant of his opportunity to be heard through the grievance procedure.").

The Administrative Law Judge, S. Phillip Lensky, denied Petitioner's Motion for Discovery on December 18, 2015 See the (2nd, Attachment:(B)). Now comes this Writ of Mandamus to Invoke Discovery for the following reasons.

ARGUMENTS

Does the Law Require The Administrative Law Court To Order The South Carolina Department of Corrections To Provide Petitioner with Discovery? See, Tant, at 759 S.E.2d 398, 399.

1. The Administrative Law Court's Clerk, had, or have discretion pursuant of File, (A.L.C. Doc.2 Attachment:(A), and the opposite parties, SC. Counsel of Records, Alan Wilson, and General Counse David Tatarsky. So now the Petitioner have to provide with a copies of Attachment(A/B) in this Court.)

Page 2-of-6 File:(Doc.1 in SC App. Ct.)

Pg. 113. RDA

58-of-62
File: (APP. Ct. Doc. 5. APPX. C (114) Record on Appeal)
Pursuant to SCDC Policy OP-21.09, § 7.3 6, (2); S.C. Codes,

§ 1-23-320, 1-23-610; and Rule 21, ALCR entitles Petitioner to discovery and access to the afore - stated information. Rule, ALCR STATES: "The promulgation of these Rules is authorized by Ann. § 1-23-650. These Rules shall govern all proceedings before the Administrative Law Court, in which the right to a hearing; (a) is provided by the Administrative Procedures Act; (b) is specifically required by other statutes or regulations; (c) is required by due process under the South Carolina or United States Constitutions."

The Administrative Law Judge states that: "Appeals from Inmate Grievance are handled pursuant to ALC Rules 51 - 61, & 66 in opposition, to ALC Rule 59, once a Notice of Appeals has been filed by an inmate, the Department is responsible for filing a Records after final Decision within seventy - five (75) days of the Notice. The Record After Final Decision consists of: (A) all pleadings, Motions, Intermediate Rulings and Depositions filed; (B) all evidence Received or Considered; (C) A Statement of Matters Judicially Noticed; (D) All Proffers of Proof of Excluded Evidence; (E) The Final Order or Decisions which is subject to Administrative Review; Any Transcript taken of the Testimony During the Proceedings, ALCR, Rule 58. The Order further states, "The ALC Rules on Special Appeals do not contained within the Records for additional discovery beyond what is contained within the Record After Final Decision."

Pg. 114. ROA

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ERIC: (APP. Ct. Doc. 5. APPX. C. (115) Record on Appeal)
The, A.L.C. Rules 51-66 apply exclusively in matters heard

on appeal from final decisions of the (S.C.D.C.). The special Appeals Rules have been added to the Court's Rules of Procedure used in appeals from final decisions of the Department of Corrections. These Rules are based upon the Court's existing procedural and appellate rules, with adaptations for this special rules. However, it is clear that any ambiguity here would be in petitioner's favor of having discovery, specifically since his central issue is the DOC's failure to allow Petitioner access to his Inmate Records Pursuant to SCDC Policy, OP-21.09 ¶ 2, §§ 7.3, 6. It appears that regardless of the special Appeal Rules that Petitioner is still statutorily and constitutionally entitled to discovery and the Department of Corrections must supply the request documents pursuant to the there policy, state statutes, A.L.C. Rules, and State; United States Constitutions. Other wise, we have an unconstitutional ALC Rules or they are uses in an unconstitutional manner. Furthermore, the (FOIA) requires Disclosure as well. The Petitioner's seeking issuance of a Writ of Mandamus pursuant to Rule 65(f)(1), SCRCF; See, e.g., Anderson v. State, 338 S.C. 629, 527 S.E.2d 398 (2000)(quoting Porter v. Jedziniak (1999) "a petitioner seeking a writ of Mandamus to require the performance of an act "must show;(1) a duty of respondent to perform the act;(2) the ministerial nature of the act;(3) the Petitioner specific legal right which discharge of the duty is necessary; and (4) a lack of any other legal remedy." Id., 18, 512 S.E.2d at 498). Coleman v Thompson, 501 U.S. 745- 750 (1991)(same)

Pg. 115 RoA

File: (APP. CH Doc. 5. APPX. C(116) Record ^{60-of-62} on Appeal)
U.S. v. Campbell, 294 F.3d 824, 826-27 (7th Cir. 2002) (if the Applicant

can demonstrate cause and prejudice to overcome a procedural default, or if enforcing the procedural default rule would result in a miscarriage of justice). See Murray v. Carrier, 477 U.S. 478, 496-97 (1986)(quoting, Woodford v. Ngo, 126 S.Ct. at 2395, 2396 (2006)). Accordingly, Mandamus is the highest judicial Writ Known to the law and's issued only to enforce an established right and to enforce a corresponding imperative duty created or imposed by law. Wiblen v. Long, 262 S.C. 430, 205 S.E.2d 174 (1974). "To obtain a Writ of Mandamus requiring the performance of an act," the Petitioner citing this two Rules, Anderson v. State (2000); and Porter v. Jedziniak, 334 S.C. 16, 18, 512 S.E.2d 497 (1999). Furthermore, the regularity of proceeding in a court of general jurisdiction "will be assumed" absent "evidence to the contrary." Pringle v. State, 287 S.C. 409-10, 411, 339 S.E.2d 127-28, (1986). By policy and law, Petitioner has the right to the documents he seeks and the Respondents have a ministerial duty by the same Policy and law to provide Petitioner with the documents and Petitioner is without any other legal remedy.

Overrule By Holden v. Cribb, 349 S.C. 132, 561 S.E.2d 634 (S.C. App. 2002)(quoting Felts v. Richland County, 303 S.C. 354, 356, 400 S.E.2d 781, 782 (1999)). Wainwright v. Sykes, 433 U.S. 72 (1977) ("that may against relief when the claim have being exhausted.") This procedural default doctrine's based on unique consideration in this Honorable Court of Appeals, or into Habeas contest, including the need to ensure that "State criminal

Pg. 116. ROA

Page 5-of-6 File:(Doc.1 in SC App. Ct.)

61-06-62

File: App. Ct. Docs 5- APPX. C (117) Record on Appeal
trial" remains that "main even" rather than a tryout on the
road" for a later federal habeas proceeding, id., at 90, 97 S.
Ct. 2497. (Internal quotation mark omitted). Stated, as follows:

Prosedural default upon this Hon: Court is closely related to the principles that; this Court of Appeals, "lacks certiorari jurisdiction" to review a South Carolina Dep't of Corrections, an a state - court judgment adequate and independent state procedural ground. See Woodford v. Ngo, 548 U.S. 81, 90-91, 126 S.Ct, 2378, 2385-86, 165 L.Ed.2d 368, 378 (2006) (quoting Wainwright v. Sykes, 433 U.S. 72, at 81-82 (1977)). Moreover, exhaustion require an appellate decision holds that a motion in a long-completed criminal case challenging a prison policy forbidding prisoners from retaining possession of pre-sentence reports should have been treated as a separate civil action and that it required exhaustion. United States v. Antonelli, 371 F. 3d 360, 361 (7th Cir. 2004); Jones v. Bocks, 549 U.S. 199, 212-214, 127 S.Ct. 910, 919-20 (2009) The Court specifically referred to the usual practice under the State, or Federal Rules of Civil Procedure. Injunctions , including preliminary injunctions, are addressed in Rule 65.

CONCLUSION

Wherefore, the WRIT OF MANDAMUS should be granted and a hearing in this matter should held for a discovery conference to make sure all needed material is provided without further restrictions. Thus, Discovery should be invoked and compelled.

Respectfully Submitted

Done this 6th day of January, 2016. S/ Jose Alberto Maldonado
Jose Alberto Maldonado, # 312648
The Petitioner, Pro- Se,
Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, South Carolina 29067

Pg. 117. ROA

File: (APP Ct. Doc. 5. APPX. C. (118) Record on Appeal)
THE STATE OF SOUTH CAROLINA
In The Court of Appeals 62.

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Lensky S. Phillip, Administrative Law Judge

Case No. 15-ALJ-0567-AP

South Carolina Dep't of Corr. Lensky S. Phillip,
Administrative Law Judge.....Respondent,

Vs.

Jose Albeto Maldonado #312648.....Petitioner.

CERTIFICATE OF SERVICE

I, Jose Albeto Maldonado, a civil person presently incarcerated at Kershaw Correctional Institution ("SCDOC"). Do hereby affirm that:

Mr. Jose Albeto Maldonado, 312648, the Petitioner in the above - captioned matter, hereby under oath and penalty of perjury certify that I have served a Summons, Notice of Intent to File Writ of Mandamus, and a Writ of Mandamus with a Certificate of Service upon the below listed parties on the same date. To:

Clerk's Office, SC Administrative
Law Court The Hon: Lensky S. Phillip,
Edwar A. Brown Bulding, Suite 224
1205 Pendleton Street,
Columbiam S.C. 29201

General Counsel David Tatarsky
SC. Dep't of Corr.
P.O. Box 21787
Columbia S.C. 29221

The SC. Court of Appeals
Clerk of Court
P.O. Box 11629
Columbia, S.C. 29211

SC Counsel of Records
Office of the Attorney General
Alan Wilson
P.O. Box 11549
Columbia, SC. 29211

Further Petitioner said and Notarized
This 6th day of January, 2016.

SWORN TO and SUBSCRIBED Before Me
This 6th day of January, 2016
Patricia A. Chmura
Notary PUBLIC for SOUTH CAROLINA
My Commission Expirex: _____

My Commission Expires December 22, 2018

Sincerely, Pg. 118 ROA

s/ Jose Albeto Maldonado
Jose A. Maldonado, #312648
Kershaw Corr. Inst. MB/Rm., #59
4848 Goldmine Hwy.
Kershaw, South Carolina 29067

File: (Doc. 1 in SC. App. Ct.)

File: APPENDIX: D (pgs. 1-0F-7)



File; (APP. Ct. Doc S. Appx. D. (19) Record on Appeal)
The South Carolina Court of Appeals 1-0F-7

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

January 13, 2016

Jose Alberto Maldonado, 312648
Kershaw Correctional Institution
4848 Gold Mine Hwy
Kershaw SC 29069

Re: Jose Maldonado v. SCDC
Appellate Case No. 2016-000055

Dear Mr. Maldonado:

This will acknowledge receipt of your documents in the above entitled matter. According to Rule 203 of the South Carolina Appellate Court Rules, a notice of appeal must include the name of the court from which the appeal is taken; the judge's name; the lower court docket number; the date of the order being appealed; a statement of when the appealing party received the decision from which the appeal is taken; the name of the appealing party; and the names, mailing addresses, and telephone numbers of all attorneys of record and the names of the party or parties represented by each. A copy of the order being challenged on appeal, a certificate of service showing the notice has been timely served on all respondents, and a filing fee of \$100.00 must accompany the notice of appeal.

Within ten (10) days of the date of this letter, you must provide the Court with the following:

(1) A notice of appeal containing all information required in Rule 203, SCACR.

Pg- 119 ROA

- File: App. Ct. Doc. 5 Appx. D (120) Record on Appeal) 2-0-7
- (2) The one-hundred dollar (\$100) filing fee.
 - (3) Proof of service naming the documents served and showing you timely served all parties to the appeal.
 - (4) A copy of the court order being challenged on appeal.

Failure to provide the requested items will result in dismissal of your appeal.

Please be advised that the time limits for perfecting this appeal are not held in abeyance.

If you intend to proceed with this appeal pro se, the fact that you are not an attorney does not relieve you of the responsibility to perfect your appeal in accordance with the South Carolina Appellate Court Rules. These rules are now available on the Internet at www.sccourts.org.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Christina Catoe Bigelow, Esquire

Pg. 120 ROA

File: (App. Ct. Doc. 5, Appx. D. (121) Record on Appeal) 3-of-7
THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Case No. 15-ALJ-0567-AP; and 2016-000055

South Carolina Dep't of Corr. Linsky S. Phillip,
Administrative Law Judge.....Respondent,

Vs.

Jose Alberto Maldonado, #312648.....Petitioner.

MOTION TO WITHDRAW WRIT OF MANDAMUS

Petitioner, in the above - captioned matter, hereby request to withdraw his writ of Mandamus from this Honorable Court of Appeals without prejudice for the following reasons.

Petitioner filed a "Notice of Intent to File Writ of Mandamus," "Summons," and "Writ of Mandamus." With a Certificate of Service on January 6th, 2016. After, petitioner received his "informal statement of Appellant." C/A# 2016-000055, see (Attachment 2, copies). To filed Notice of Appeal upon Rule 203 SCACR.

Petitioner states that he has prematurely filed his Writ of Mandamus. "Because no final Order has been rendered." In Case No. 15-ALJ-0567-AP.

The Indigent "Pro-se" Petitioner has since realized that he has inadvertantly filed these documents within this Hon: Court and now wishes to withdraw the Writ of Mandamus and accompany-

Pg 121 ROA

File: (Doc. 2 in SC App. Ct.)

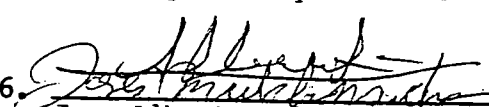
File: (App. Ct. Doc. 5. APPX. D (122) Record on Appeal) 4-of-7
ing documents to avoid any further confusion or unnecessary

inconvenience to this Honorable Court. The Petitioner also see
no prejudice to any party in withdrawing of this motion.

Whereas, Petitioner pray for this Honorable Court to withd-
raw the Motion For Writ of Mandamus and accompanying Documents.
And Return this documents back to the Petitioner at the below
listed address and C/A#.2016-000055 removed from its docket.
However, the Clerk of Court don't maintains there's no evidence
the motion of dismissal was received. In addition, she states
the petition for writ of mandamus is receipt of my documents
in the above entitled matter. And the clerk citing "a Rule 203
SCACR within 10 day of deadline to file my notice of Appeal?"
Applicant was not received by her, the motion for writ of man-
damus is documents until it was sent to her by this Court alo-
ng with a "request for a return." See: e.g., Miller v. State,
377 S.C. 99, 659 S.E.2d 492, at 493 (S.C. 2008).

Respectfully Submitted

Done this 28th day of January, 2016.


Jose Alberto Maldonado, #312648
Kershaw Corr. Inst. MB/Room #59
4848 Goldmine Hwy
Kershaw, South Carolina 29067

Pg. 122 RoA

File: (Doc. 2 in SC App. Ct.)

Case(s) No. 15-ALJ-0567-AP; & 2016-000055

File: (App. Ct. Doc. 5, Appx. D. (123) Record on Appeal)
CERTIFICATE OF SERVICE 5-06-7

I, Jose Alberto Maldonado, a civil person presently incarcerated at Kershaw Correctional Institution ("SCDOC").
Do hereby affirm that:

Mr. Jose A. Maldonado, # 312648, the Petitioner in the above - captioned matter, hereby under oath and penalty perjury certify that I have served a MOTION TO WITHDRAW WRIT OF MANDAMUS. That, have being file upon the below listed parties on the same date. To:

JENNNY ABBOTT KITCHINGS
CLERK
POST OFFICE BOX 11629
COLUMBIA, S.C. 29211

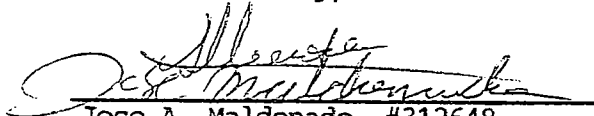
General Counsel David Tatarsky
SC Dep't of Corrections
P.O. Box 21787
Columbia, S.C. 29221

Clerk's Office, SC Administrative
Law Court The Hon: Lensky S. Phillip,
Edward A. Brown Building, Suite 224
1205 Penlenton Street,
Columbia, S.C. 29201

SC Counsel of Records
Office of Atty. Gen.
Alan Wilson
P.O. Box 11549
Columbia, SC 29211

Further Petitioner said and Notarized
This 25th day of January, 2016.

Sincerely,


Jose A. Maldonado, #312648

Kershaw Corr. Inst. MB/Rm., #59
4848 Goldmine Highway
Kershaw, South Carolina 29067

SWORN TO and SUBSCRIBED Before Me
This 25th day of January, 2016

Catherine A. Amos
Notary PUBLIC for SOUTH CAROLINA

My Commission Expires:

December 22, 2018

File: (Doc. 2 in SC App. Ct.)

Pg. 123 ROA

The South Carolina Court of Appeals

File (App. Ct. Doc. 5. Appx. D.(124) Record on Appeal)
Jose Alberto Maldonado, #312648, Appellant, 6-08-7

v.

South Carolina Department of Corrections, Respondent.

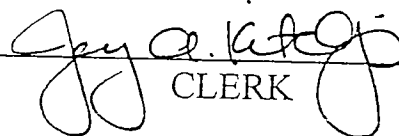
Appellate Case No. 2016-000055

ORDER

Appellant has filed a letter requesting to withdraw his appeal. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY


CLERK

Columbia, South Carolina

cc:

Jose Alberto Maldonado, 312648
Christina Catoe Bigelow, Esquire

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FILED

2/10/2016 AB



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
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February 29, 2016

File: (App. Ct. Doc. 5. Appx. D (125) Record on Appeal) 7.
The Honorable Jana E. Shealy
Edgar A. Brown Building
1205 Pendleton Street
Suite 224
Columbia SC 29201

REMITTITUR

Re: Jose Maldonado v. SCDC
Lower Court Case No. 2015ALJ040567AP
Appellate Case No. 2016-000055

Dear Clerk of Court:

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

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

Pg 125

cc: Jose Alberto Maldonado, 312648
Christina Catoe Bigelow, Esquire