

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Administrative Law Judge H.W. Funderburk, Jr.

ALC Case No. 18-ALJ-04-0050-AP
Appellate Case No. 2018-001456

RECEIVED
SEP 17 2018
SC Court of Appeals

TERRY SMITH, # 160785,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

MOTION TO DISMISS APPEAL AS PREMATURE

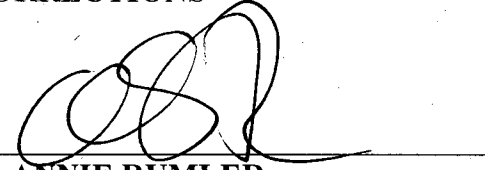
This matter comes before this Court pursuant to the appeal of Terry Smith, an inmate in the custody of the South Carolina Department of Corrections. The order on appeal is an order remanding the matter back to the Department of Corrections for further action. Since the order of remand is not a final judgment that is immediately appealable, the appeal is premature and should be dismissed. See, e.g., Bone v. U.S. Food Service, 404 S.C. 67, 744 S.E.2d 552 (2013).

Based upon the foregoing, Respondent respectfully requests that this Court dismiss the appeal as premature. Respondent also asks that this Court hold the time period for any filings in abeyance pending resolution of this motion.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

BY: _____



ANNIE RUMLER

Staff Attorney

Office of General Counsel

S.C. Department of Corrections

Post Office Box 21787

Columbia, South Carolina 29221

(803) 896-8508

ATTORNEY FOR RESPONDENT

September 17, 2018

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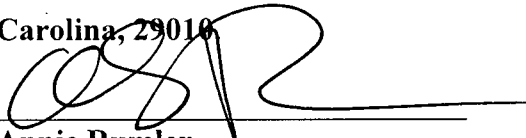
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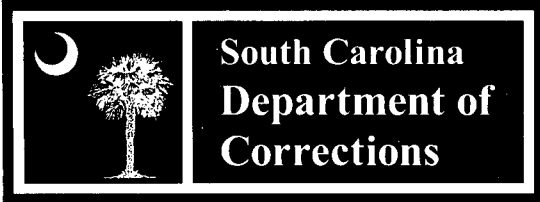
RESPONDENT.

CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that on today's date, she mailed a copy of the Respondent's **Motion to Dismiss Appeal as Premature** to Appellant via U.S. Mail addressed as follows: **Terry Smith, # 160785, Lee Correctional Institution, F4B 1245, 990 Wisacky Highway, Bishopville, South Carolina, 29010**


Annie Rumler
Staff Attorney
Office of General Counsel
S. C. Department of Corrections
Post Office Box 21787
Columbia, S. C. 29221
(803) 896-8508

September 17, 2018



HENRY McMASTER, Governor

BRYAN P. STIRLING, Director

OFFICE OF GENERAL COUNSEL

September 17, 2018

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

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RE: Terry Smith, # 160785, v. South Carolina Department of Corrections
Appellate Case No. 2018-001456

Dear Ms. Kitchings:

Enclosed please find the original and six copies of Respondent's **Motion to Dismiss Appeal as Premature** in the above captioned appeal, along with **Proof of Service**.

Thank you for your attention to this matter, and please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

Annie Rumler
Staff Attorney
South Carolina Department of Corrections

cc: Terry Smith, # 160785
Lee Correctional Institution
F4B 1245
990 Wisacky Highway
Bishopville, South Carolina 29010