

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM ADMINISTRATIVE LAW COURT SEP 20 2018

Administrative Law Judge S. Phillip Lenski SC Court of Appeals

ALC Case No. 18-ALJ-04-0224-AP  
Appellate Case No. 2018-001307

Sanyika Askari, #236679.....Appellant,

v.

South Carolina Department of Corrections.....Respondent.

**MOTION TO STRIKE APPELLANT’S DESIGNATION OF MATTER AND  
INITIAL BRIEF AND TO REQUIRE THE FILING OF A DESIGNATION OF  
MATTER AND INITIAL BRIEF CONFORMING TO SOUTH CAROLINA  
APPELLATE COURT RULES 208, 209, AND 210**

This matter is before the Court pursuant to Sankyika Askari’s appeal of Administrative Law Court Judge S. Phillip Lenski’s July 2, 2018 dismissal order.

On August 28, 2018 Appellant filed his Designation of Matter to be Included in the Record on Appeal in which he indicated his intent to include “Inmate Request to Staff May 4, 2017” in the Record on Appeal. On that same date Appellant also filed his Initial Brief in which he references this document. Inclusion of this document in the Record on Appeal, and references thereto in Appellant’s Initial Brief, would violate the South Carolina Appellate Court Rules. As such, Respondent requests that the Court strike any and all references to this document from Appellant’s Designation of Matter and Initial

Brief and order Appellant to file a Designation of Matter and an Initial Brief conforming to the South Carolina Appellate Court Rules.

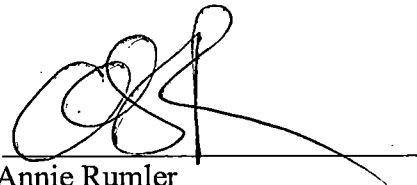
The Administrative Law Court filings in the case from which Appellant is appealing were limited to the following: Appellant's Notice of Appeal with answered Step One and Two Grievances attached, Respondent's Motion to Dismiss, Appellant's Motion for Extension of Time, Appellant's Motion to Hold Appeal in Abeyance, and the Court's dismissal order. The Record required by Administrative Law Court Rule 58 was not filed because the Court dismissed the appeal before it was due.

In his August 28, 2018 Designation of Matter to be Included in the Record on Appeal, Appellant indicated his intent to include "Inmate Request to Staff May 4, 2017" in the Record on Appeal. This document was not presented to the Administrative Law Court. South Carolina Appellate Court Rule 209(b) states, "the Designation may only propose to include portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal [See Rule 210(c)]." Rule 210(c) of the South Carolina Appellate Court Rules states that the Record on Appeal "shall not" include anything "which was not presented to the lower court or tribunal." Thus it would not be proper to include in the Record on Appeal the document Appellant identified as "Inmate Request to Staff May 4, 2017" because it was not presented to the Administrative Law Court.

In his August 28, 2018 Initial Brief, Appellant makes several references to the document he describes as "Inmate Request to Staff May 4, 2017." *See* Appellant's Initial Brief, p. 2, 7, 8, and 11. South Carolina Appellate Court Rule 208(b)(4) states that Initial Briefs may contain references to "the transcript, pleadings, orders, exhibits, or other

materials which may be properly included in the Record on Appeal[.]” As discussed above, this document cannot be properly included in the Record on Appeal. Thus, it cannot be referenced in Appellant’s Initial Brief.

**WHEREFORE**, Respondent prays that this Court strike any and all references to the document Appellant describes as “Inmate Request to Staff May 4, 2017” from Appellant’s Designation of Matter and Initial Brief and order Appellant to file a Designation of Matter and an Initial Brief conforming to the South Carolina Appellate Court Rules, specifically Rules 208, 209, and 210, and for further relief as this Court may deem just and proper.



Annie Rumler  
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**ATTORNEY FOR RESPONDENT**

September 18, 2018

STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge S. Phillip Lenski

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ALC Case No. 18-ALJ-04-0224-AP  
Appellate Case No. 2018-001307

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Sanyika Askari, #236679.....Appellant,

v.

South Carolina Department of Corrections.....Respondent.

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**CERTIFICATE OF SERVICE**

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I hereby certify that on today's date I served a copy of the foregoing **Motion To Strike Appellant's Designation of Matter and Initial Brief and to Require the Filing of a Designation of Matter and Initial Brief Conforming to South Carolina Appellate Court Rules 208, 209, and 210** to Appellant by depositing a copy of same in the United States Mail, postage prepaid addressed as follows: Sanyika Askari a.k.a. Henry Fuller, #236679, Dorm-Room-Bunk: BWB-0043-A, Allendale Correctional Institution, P.O. Box 1151, Fairfax, SC 29827



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**Annie Laurie Rumler**  
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Office of General Counsel  
South Carolina Department of Corrections  
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September 18, 2018



HENRY McMASTER, Governor  
BRYAN P. STIRLING, Director

OFFICE OF GENERAL COUNSEL

September 18, 2018

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SFP 20 2018

SC Court of Appeals

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

Reference: App. Case No.: 2017-001484 (*Sanyika Askari*, #236679  
*v. South Carolina Department of Corrections*)

Dear Madam Clerk:

Enclosed, please find the original and six copies of Respondent's Motion To Strike Appellant's Designation of Matter and Initial Brief and to Require the Filing of a Designation of Matter and Initial Brief Conforming to South Carolina Appellate Court Rules 208, 209, and 210. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Annie Laurie Rumberger", is written over the word "Sincerely,". The signature is fluid and cursive.

Annie Laurie Rumberger, Esquire

Enclosure

cc: Sanyika Askari, #236679



Office of General Counsel

P.O. Box 21787/4444 Broad River Road  
Columbia, South Carolina 29221-1787

The Honorable Jenny Abbott Kitchings  
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