

**APPELLANT'S MOTION TO STAY THE FILING OF
INITIAL BRIEF AND DESIGNATION OF MATTERS**

RECEIVED

OCT 12 2018

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM ANDERSON COUNTY
COURT OF GENERAL SESSIONS

R. Lawton McIntosh, Circuit Court Judge

PROBATION CITATION No. C-37-17-0059

A/W No. (s) 2012A2330200168; 2012652307505; N201731

APPELLATE CASE NO. 2018-000564

George Cleveland, III,.....Appellant

v.

The State,Respondent

S.C.D.P.P.P.S.

Matthew C. Buchanan, *General Counsel*

Post Office Box 50666

Columbia, S.C. 29250

Attorney for the Respondent

George Cleveland, III, *pro se*

400 Hunter Street

Seneca, S.C. 29678

Cell no. 864-784-7223

Email: gcleland7475@gmail.com

Pro se Appellant

Appellant's Motion to Stay

MAY IT PLEASE THE COURT: George Cleveland, III, proceeding *pro se* in the above captioned case respectfully request this this Court **STAY the filing of Cleveland's Brief, and Matters to be Included until Circuit Court Judge McIntosh has decided the Rule 59 (e) SCRPC Motion** pending before him into whether he overlooked the requirement in the South Carolina Court Reporting Manual that requires the Court Reporter to sign a **"Certificate of Reporter"** certifying that the transcript is accurate even after changes were made.

"Appellant has filed two motions, which this court construes as motions for an extension of time to serve and file Appellant's initial brief and designation of matters." Exhibit 1 (September 06, 2018 Order of the S.C. Court of Appeals). The Order was filed subsequent to Cleveland's **"MOTION FOR LEAVE TO FILE THE ATTACHED MOTION TO STAY THE FILING OF APPELLANT'S INITIAL BRIEF OUT OF TIME"**. Exhibit 2 (Cleveland's Coversheet filed in the S.C. Court of Appeals on August 07, 2018).

It was not to request Cleveland additional time to file his Initial Brief, but to Stay the filing of Cleveland's Initial Brief, and matters to be included. Chief Judge James E. Lockemy wrote: "Appellant has filed two motions," see Exhibit 1 (September 06, 2018 Order, *id.* Judge Lockemy is a Judge of the South Carolina Court of Appeals which make him an Employee of the State of South Carolina. Not an English King with untethered power to ignore Cleveland's request to **Stay** the

filing of the Initial Brief and Designation of Record on Appeal, but instead Judge Lockemy did not even read Cleveland's motions which were distinct. The motion to Stay is simply again is to allow Judge McIntosh to review, and decide Cleveland's *Rule 59 (e) SCRCF* motion prior to Cleveland filing his Initial Brief, and matters to be included.

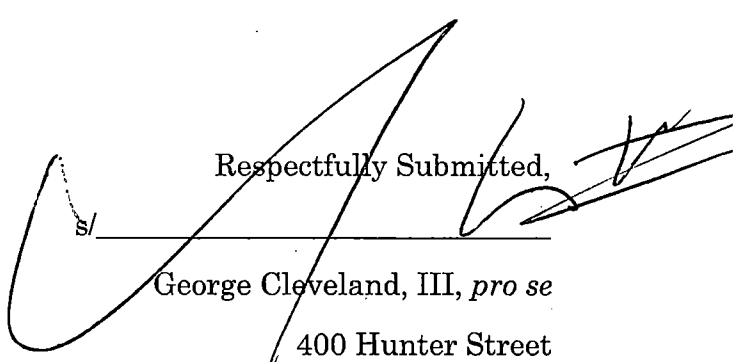
"A Judge shall perform Judicial duties without ... prejudice... by words..." Code of Judicial Conduct." Rule Cannon 3 (5) CJC, Rule 501 SCACR, see also Exhibit 3. Judge Lockemy's "words" of: "Appellant has filed two motions which this court construes as motions for an extension of time..." see Exhibit 1 (September 06, 2018 Order) is biased because it lacks specifics of what the purpose of Cleveland's motions were before the court; which were again, to request a Stay.

"The Due Process Clause of the Fifth amendment, later incorporated into the Fourteenth, was intended to give [Cleveland] at least the protection against government power that they enjoyed as Englishmen against the power of the Crown." *Ingraham v. Wright 430 U.S. 651, 672-673 (1977)*; therefore, the *Ingraham Court* rejects Judge Lockemy's action to just type up an irrelevant order to rid Cleveland's motion from his desk.

Cleveland's motion states: "**STAY THE FILING OF THE INITIAL BRIEF**" is specific in nature. The Motion to Stay specifically outline Circuit Court Judge McIntosh who has not decided Cleveland's *Rule 59 (e) SCRCF* into whether Judge McIntosh overlooked Cleveland's request to have Circuit Court Reporter Lisa M. Scott fill out a new "Certificate of Reporter since Ms. Scot amended the

transcript in Cleveland's case, see Exhibit 4 (page 2 of Cleveland's Motion to Stay filed on August 07, 2018), see also Exhibit 5 (transcript cover-page showing "Probation Officer" represented the State at Cleveland's February 23, 2018 Financial Probation Violation hearing), see also Exhibit 6 (Ms. Scott's Certificate of Reporter which mentions nothing about Ms. Scott's changes). Until Ms. Scott add language to the Certificate of Reporter, Cleveland's transcript that he will be citing from in his Initial Brief, and in the Appellant's Record is not "accuar[te]...see Exhibit 6 (page 35, section P of the Court Reporting Manual) accordingly, **Cleveland is respectfully requesting again this court STAY the time to filing his Initial Brief, and Matters to be Included until Judge McIntosh has decided Cleveland's *Rule 59 (e) SCRCP* Motion pending before him, see Exhibit 7-10 (copy of actual motion, *id.*)**

Respectfully Submitted,


s/ _____
George Cleveland, III, *pro se*

400 Hunter Street

Seneca, S.C. 29678

Cell no. 864-784-7223

Email: gcleveland7475@gmail.com

Dated: October 09, 2018

The South Carolina Court of Appeals

The State, Respondent,

v.

George Cleveland, III, Appellant.

Appellate Case No. 2018-000564



ORDER

Appellant has filed two motions, which this court construes as motions for an extension of time to serve and file Appellant's initial brief and designation of matter. The request for an extension of time is granted. Appellant's initial brief and designation of matter shall be served and filed within thirty days of the date of this order.


FOR THE COURT

Columbia, South Carolina

cc:
George Cleveland, III
Matthew C. Buchanan, Esquire

FILED

September 6, 2018

Handwritten marks at top left.



APPELLANT'S MOTION FOR LEAVE TO STAY THE FILING OF APPELLANT'S INTIAL BRIEF

THE STATE OF SOUTH CAROLINA IN THE COURT OF APPEALS

APPEAL FROM ANDERSON COUNTY COURT OF GENERAL SESSIONS

R. Lawton McIntosh, Circuit Court Judge

RECEIVED AUG 07 2018 SC Court of Appeals

PROBATION CITATION No. C-37-17-0059

A/W No. (s) 2012A2330200168; 2012652307505; N201731 ORIGINAL SENTENCE FROM GREENVILLE COUNTY

APPELLATE CASE NO. 2018-000564

George Cleveland, III,Appellant

v.

South Carolina Department of Probation, Parole, and Pardon Services, and The State of South Carolina,.....Respondents

George Cleveland, III, pro se 400 Hunter Street Seneca, S.C. 29678 Cell no. 864-784-7223 Email: gcleveland7475@gmail.com Pro se Appellant

S.C.D.P.P.S. Matthew C. Buchanan, General Counsel Post Office Box 50666 Columbia, S>C. 29250 Attorney for the Respondents

CANON 3

A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY AND FAIRLY.

A. Judicial Duties in General. The judicial duties of a judge take precedence over other activities. The judge's judicial duties include all the duties of the judge prescribed by law.* In the performance of these duties, the following standards apply.

B. Adjudicative Responsibilities.

(1) A judge shall hear and decide matters assigned to the judge except those in which disqualification is required.

(2) A judge shall be faithful to the law* and maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor or fear of criticism.

(3) A judge shall require* order and decorum in proceedings before the judge.

(4) A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity, and shall require * similar conduct of lawyers, and of staff, court officials and others subject to the judge's direction and control.

Commentary:

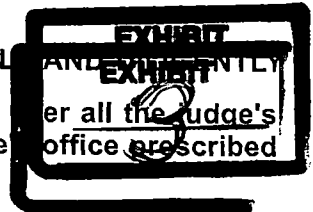
The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to dispose promptly of the business of the court. Judges can be efficient and businesslike while being patient and deliberate.

(5) A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability or age, and shall not permit staff, court officials and others subject to the judge's direction and control to do so.

Commentary:

A judge must refrain from speech, gestures or other conduct that could reasonably be perceived as sexual harassment and must require the same standard of conduct of others subject to the judge's direction and control.

A judge must perform judicial duties impartially and fairly. A judge who manifests bias on any basis in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute. Facial expression and body language, in addition to oral communication, can give to parties or lawyers in the proceeding, jurors, the media and others an appearance of judicial bias. A judge must be alert to avoid behavior that may be perceived as prejudicial.





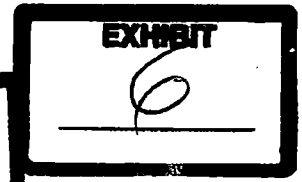
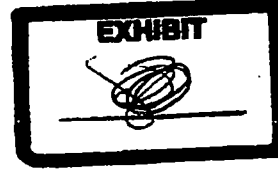
Appellant's Motion to Stay the Filing of the Initial Brief

MAY IT PLEASE THE COURT: George Cleveland, III, proceeding *pro se* in the above captioned case, respectfully request that this Court Grant this Motion to Stay the filing of my Initial Brief, and Designation of the Matters on Appeal until after Circuit Judge McIntosh has decided my transcript challenge pursuant to the provisions in the *South Carolina Court Reporting Manual. XIII (C). CUSTODY AND CONTROL OF THE RECORD* ("Further review of the record may be permitted by the presiding judge upon written request..."). Exhibits 1-2.

The Filed Motion in the Anderson County General Sessions Court is attached to this Motion, see Exhibits 6-20.

The specific controversy is that the Circuit Court Reporter Lisa M. Scott failed to amend her Certificate of Reporter certifying that the changes she made are true and accurate under section P of the S.C. Court Reporter Manual after she corrected the name of the Probation Agent that was present at the hearing from "Probation Officer" to "L. Travis Holcombe, Probation Officer". Exhibits 3-5.

The original Certificate of Reporter dated May 29, 2018 is the same language as the June 11, 2018 Certificate of Reporter; accordingly, I'm respectfully requesting that this Court Grant this instant Motion to Stay the filing of my Initial Brief, and the designation of matters to be included on Appeal



P. Certificate of Court Reporter

A statement must be made by the court reporter certifying the accuracy of the transcript. The certificate must be signed by the reporter; it does not need to be notarized. The completion date of the transcript must be included in the certificate. (See Appendix 3, Exhibit 15).

XV. REQUIRED REPORTS

The court reporter shall furnish information requested in the Court Reporter Transcript Tracking System supplied online by Court Administration. Accurately recording time worked is the responsibility of every court reporter. Altering, falsifying, tampering with time records, or recording or tampering with another employee's time record, may result in disciplinary action, up to and including termination of employment or a finding of contempt. It is the court reporter's responsibility to sign time and work records.

A court reporter's signature on any required report constitutes a certificate by him/her that the information entered online into the Court Reporter Transcript Tracking System on all reports, including all time and work recorded therein, is true and accurate to the best of the court reporter's knowledge.

A. "Hours Worked" Recorded on Weekly Time Sheets (Monthly Report)



STATE OF SOUTH CAROLINA
IN THE COURT OF GENERAL SESSIONS

State of South Carolina,) FOR THE TENTH JUDICIAL CIRCUIT
Plaintiff,)

v.) Warrant No, 2012-GS-23-07504

George Cleveland, III,) Defendant's Rule 59 (e) Motion to

Defendant.) Reconsider the August 09, 2018 Judgement

_____)

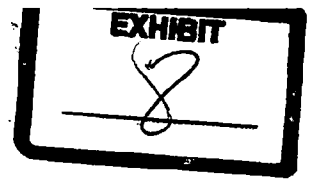
1. **To: Circuit Court Judge R. Lawton McIntosh:** George Cleveland, III, the Defendant proceeding *pro se*, respectfully submits this instant *Rule 59 (e) SCRCF* Motion on the grounds this Court made clear errors of law in denying my Motion to challenge the February 23, 2018 Transcript because this Court failed to explain how the Court Reporter's February 23, 2018 Certificate of Court Reporter is "in proper form", and the August 09, 2018 filed Order is unenforceable because you Judge McIntosh, signed, and *dated* the Order on August 10, 2018, after the Clerk of Court filed it on August 09, 2018.

JURISDICTION AND VENUE

2. *Rule 59 (e) SCRCF* states that "A motion to alter or amend the judgment shall be served not later than 10 days after receipt of written notice of the entry of the order." See Exhibit 1 (copy of Rule 59 (e)).

3. I received the August 09, 2019 filed order on September 01, 2018, see Exhibit 2; accordingly, this Court has Jurisdiction to decide this Motion. *IBID.*

LEGAL STANDARD



4. Under *Rule 59 (e) SCRPC*, this Court has Jurisdiction to *correct errors of law*, and *mistakes*, see also *White v. New Hampshire Dept. Of Employment Security* 455 U.S. 445 S.ct. 1882 "mak[e] clear that the [circuit] court possesses the power" to rectify its own mistakes in the period immediately following the entry of judgment, *id* at 450.

DISCUSSION

THE 14TH AMENDMENT OF THE U.S. CONST REQUIRES THIS COURT TO EXPLAIN WHY THE FEBRUARY 23, 2018 CERTIFICATE OF COURT REPORTER IS "IN PROPER FORM."

5. In this Court's Order filed August 09, 2018, it states "The Court Reporter's certificate provided from the February 23, 2018 hearing are (sic) [is] sufficient and in proper form" see Exhibit 3 .This Court failed to even explain how it reached that conclusion. The South Carolina Court of Appeals held in *McMahan v. S.C. Department of Education-Transportation* 417 S.C. 481, 790 S.E. 2d 393 (2016) "The United States Supreme Court has held...[the 14th Amend (procedural due process requires this Court to rule on my] evidence attached to the filed Transcript Challenge Motion by explaining this Court's conclusion, *id* at 492-93.

6. This Court failed to explain why my arguments in my Transcript Challenge Motion of:

6-1. *X111. Custody and Control of the Record (C) in the S.C. Court Reporter Manual* requires the assigned Circuit Court Reporter at the February 23, 2018 hearing held at the Anderson County General Sessions Court to write down the



specific date amendments were made to the original transcript, she called the Anderson County Probation Office after the February 23, 2018 hearing (she called on June 11, 2018) to inquire into the specific name of the Agent that was present at the February 23, 2018 hearing. See Exhibit 14.

6-2. Evidence was attached to my Transcript Challenge Motion. Exhibits 4-6; (emails); Exhibits 7-8 (pp. 19-20 of the Court Reporter Manual); Exhibits 9-10, 14, see also Exhibits 11-13 (front and back pages of the February 23, 2018 transcript). This Court is required to explain how the Court's decision was based on. This Court failed to take any time to review my filed pleadings, and evidence which is part of your job. **CANNON 3 A JUDGE SHALL PERFORM THE DUTIES OF**

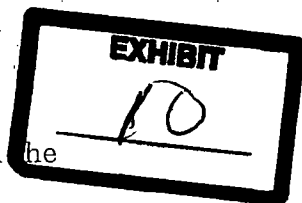
JUDICIAL OFFICE IMPARTIALLY AND DILIGENTLY

A. Judicial Duties in General. The judicial duties of a judge take precedence over all the judge's other activities. The judge's judicial duties include all the duties of the judge's office prescribed by law.* In the performance of these duties, the following standards apply.

B. Adjudicative Responsibilities.

(1) A judge shall hear and decide matters assigned to the judge except those in which disqualification is required.

(2) A judge shall be faithful to the law* and maintain professional competence in it.



communications were held by the Circuit Court Reporter, and staff from the Anderson County Probation Office after the February 23, 2018 hearing date.

8-2. **ORDER** the Circuit Court Reporter Lisa Scott to amend her Certificate of Reporter by adding the date she spoke with the Anderson County Probation Office, and who she spoke with from that office.

8-3. **ORDER** any additional relief this Court deems, just, proper, and/ or impartial respectively.

Respectfully Submitted,

sl _____ *h* *th*

George Cleveland, III, *pro se*
400 Hunter Street
Seneca, S.C. 29678
Cell no. 864-784-7223

Email: gcleveland7475@gmail.com

Dated: September 10, 2018

October 09, 2018

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

RECEIVED
OCT 12 2018
SC Court of Appeals

Re: George Cleveland, III v. The State, **Appellate Case No. 2018-000564**

Dear Ms. Kitchings,

Can you please file the attached Motion to Stay the filing of Appellant's Initial Brief, and Matters to be Included on Appeal, and supporting Exhibits, and forward to Chief Judge Lockemy for his consideration.

I'm not sure if it's a clerical error from your that Judge Lockemy is not receiving all my legal documents, but in his Order dated September 06, 2018 it mentioned nothing about my Motion to Stay the filing of Appellant's Initial Briefing. Can you please make sure Judge Lockemy receives all the attached documents respectively?

Respectfully Submitted,

s/

George Cleveland, III, *pro se*

400 Hunter Street

Seneca, S.C. 29678

Cell no. 864-784-7223

cc: file

Matthew C. Buchanan, *Esquire*

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SHIP TO: The South Carolina C of Appeals
Jenny Abbott Kitchings, Clerk of Co
PO Box 11629
Columbia SC 29211-1629



*Appellate case
no 2018-00564*

RECEIVED

OCT 12 2018

SC Court of Appeals