

To: The Supreme Court of South Carolina clerk  
Daniel E. Shearouse  
P.O. Box 11330  
Columbia SC 29211

RECEIVED

JUL 06 2018

S.C. SUPREME COURT

From: STEVEN LAUIS BARNES # 327117  
McMURRIS Correctional Institution  
386 Redemption way  
McMURRIS, SC 29899

Re: Barnes vs SCD  
Appellate Case # 2017-000967  
Lower Court Tribunal # 215ALJ300318AP

Dear Clerk:

Please file the following documents in this Court:

Declaration In support of Motion To Recall the Remittitur and  
Motion To Reinstate the petitioner Appeal In This Court so I  
can file A Writ of Certiorari In this Court; Motion To Recall  
The Remittitur; and Motion To Reinstate the petitioner Appeal  
In this Court.

Date: 6/29/18

Respectfully SUBMITTED  
Steven Louis Barnes

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

RECEIVED

JUL 06 2018

Appeal from The Administrative Law Court  
Ralph King Anderson, III, Administrative Law Judge  
S.C. SUPREME COURT

Case No. 2017-000967-215 ALJ 300318 Ap

STEVEN LOUIS BARNES

Appellant - petitioner

VS

SC Dept of Correction and  
ET. AL

Respondent - Appellees

DECLARATION IN SUPPORT OF MOTION TO RECALL THE REMITTUR SO THE APPELLANT CAN FILE A WRIT OF CERTIORARI TO THIS COURT REGARDING BOTH HIS MOTION TO RELIEVE AND MOTION ON INEFFECTIVENESS OF ADMINISTRATIVE LAW COURT AND APPEAL COUNSEL'S IN THOSE PROCEEDINGS; AND MOTION TO REINSTATE THE PETITIONER APPEAL IN THIS COURT

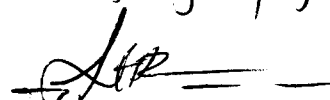
I, Steven Louis Barnes, # 327117, declares:

1). That I am incarcerated at McCormick Correctional Institution; and

- 2) That I must Rely on prison officials to mail my legal mail; and
- 3). That on and about April 16, 2018, I had sent this Court a notice of appeal regarding the South Carolina Court of Appeals denial of my motion to Relieve Counsel and Ineffectiveness of both Administrative and Appeal Court Counsel, and a Motion for Extension of time in order to file a writ of Certiorari in this Court; and
- 4). That my Extension of time had asked the Court to grant me such other and further Relief this Court seen just and proper because of this prison low down because of the Lee County prison Riots, in Bishopville, SC, and because of those Riots, the petitioner was denied access to a law library and legal supplies; and
- 5). Because I could not go to the prison mail Room in order to mail those legal documents to this Court, prison security policy as of now directs all inmates to hand their legal mail to prison officials who will in turn give all legal mail to the prison mailing official; and
- 6). That I at all times had relied on that security prison policy as of now in sending my legal mail to the Courts; and
- 7). That I had no intentions in delaying this appeal and/or filing a writ of Certiorari to this Court.

I swear under the penalty of perjury that the foregoing facts are True and Correct

Date: 6/29/18

  
Signature

THE STATE of SOUTH CAROLINA  
IN THE SUPREME COURT

Appeal from The Administrative Law Court  
Ralph King Anderson, III, Administrative Law Judge

CASE NO. 2017-000967-215ALJ300318Ap

STEVEN LAUIS BARNES

Appellant - petitioner  
vs

SC Dept of Correction and  
Et. AL

Respondent - Appellees

MOTION TO RECALL THE REMITTITUR SO THE APPELLANT CAN  
FILE A WRIT OF CERTIORARI TO THIS COURT REGARDING  
BOTH HIS MOTION TO RELIEVE COUNSEL AND MOTION ON  
INEFFECTIVENESS OF ADMINISTRATIVE LAW COURT AND APPEAL  
COUNSELS IN THOSE PROCEEDINGS

FACTS

The petitioner leave reference to and incorporate the facts in  
his Motion to Reinstate the petitioner Appeal In This Court.

from the decision of the Court of Appeals denying the petitioner Motion for ineffectiveness of Administrative law Court and Appeal Counsel, on January 26, 2018, the petitioner had filed an appeal to this Court regarding the South Carolina Court of Appeals denial of his ineffectiveness motion. Because the petitioner had filed both a Mandamus and motion to Recall Remittur in this Court because the Court of Appeals Clerks would not process the petitioner Motion for Reconsideration / Rehearing En banc, the Court of Appeals on March 1, 2018, sua sponte had asked the Administrative law Court Clerks to Resend back the Remittur to the Court of Appeals so the Court could hear the petitioner En banc Motion. On March 21, 2018, the Court of Appeals had denied the petitioner motion for Rehearing. From that date, the petitioner had 30 days to file an appeal and Extension of time to file a writ of Certiorari because of the April 16, 2018, prison riots where he couldn't go to the law library or receive timely legal supplies. Because of the Riots the petitioner had Requested the Court for such other and further Relief this Court seem just and proper regarding the low down situation in all of the South Carolina prisons. The petitioner had gave the appeal and the Extension of time to a prison official in the dorm unit he's in currently. Assuming that his appeal and Extension of time was filed in this Court on June 14, 2018, the petitioner had filed a letter to the Chief Judge of this Court Requesting the status of his Appeal. On June 19, 2018, this Court Clerks had sent the petitioner a letter regarding there was no documents of his appeal and that the

petitioner can not seek relief in this court.

### ARGUMENT IN SUPPORT TO RECALL THE REMITTITUR

The petitioner leave reference to and incorporate his arguments in his Motion To Reinstate The petitioner Appeal In This Court in this section for relief.

The state supreme court in state v Barnes 774 S.E 2d 454 (2015) had addressed the issue of recalling the Remittitur from the lower court. " In order to justify this court in exercising the unusual power of recalling the Remittitur after it has been sent down, a very strong showing would be required that the Remittitur was sent down through some mistake or inadvertance on the part of this court or its officer. See state v Barnes supra (quoting state v Heels 17 S.E 802 (1893))

The petitioner had handed his legal documents to prison officials to give to the prison mail room because of the Riot situation at Lee County prison, in which had locked down all of South Carolina state prisons. The Court of Appeals clerks are utilizing the Rules of Court capriciously and arbitrarily against the Appellant, see Hamilton v Board of trustees 319 S.E 2d 212 (Ct. App 1984) Regarding this Court not following the mail box Rules in which is burdening the petitioner fundamental rights such as access to

Courts. Due to the Exceptional nature of the petitioner situation on  
lock down, this Court should Recall the Remittitur from the lower  
Court so this Court can hear his issues that was denied in the  
Court of Appeals via writ of certiorari.

CONCLUSION

WHEREFORE, the plaintiff pray that this Court grant this motion  
and he prays for such other and further relief this Court seem  
Just and proper.

Date: 6/29/18

STEVEN LAZI BARNES  
STEVEN LAZI BARNES #322117  
McCaenias Correctional Institution  
386 Redemption Way  
McCaenias, SC 29899

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

Appeal from The Administrative Law Court  
Ralph King Anderson, III, Administrative Law Judge

Case No. 2017-000967 - 215ALJ 300318AP

STEVEN LOUIS BARNES  
Appellant - petitioner  
vs

SC Dept of Correction and  
Et. Al

Respondent - Appellees

MOTION TO REINSTATE THE PETITIONER APPEAL IN  
THIS COURT

BACKGROUND FACTS

The petitioner crave reference to and incorporate the documents, in which is already in this Court, and the lower courts, in this motion for relief.

On September 25, 17, the Appellant had filed an one hundred page brief, raising in issues 10-13 of the brief ineffectiveness

of Counsel in the Contested hearing of the Administrative Law Court, and the Court of Appeals, and this Court. On November 29, 17 the Appellant had filed his first writ of Mandamus against the following: office of Indigent Defense, Shane Goranson; South Carolina Commission on Indigent Defense; South Carolina Court of Appeals; South Carolina Department of Correction. The South Carolina Supreme Court had refused to file the first writ on the grounds of hybrid representation. The Appellant had filed a motion for reconsideration of the first writ in the state Supreme Court. Also, the Appellant had filed a motion to Relieve and to substitute Counsel in both the Court of Appeals and this Court. The Court of Appeals Clerk had responded to the petitioner's motion to Relieve Counsel by threatening to not file the motion to Relieve Counsel until the Appellant filed a proper proof of service and twenty-five (25) dollars filing fee. On December 15, 17 the state Supreme Court had issued an order for the Court of Appeals not to hear any motions by the Appellant except a motion to Relieve Counsel. On December 21, 2017 the Court of Appeals had denied the Appellant's motion to Relieve Counsel, and granting the South Carolina Department of Correction (SCDC) lawyer's motion to dismiss the Appellant's appeal as moot. On 1/2/18 the Appellant had filed a motion for rehearing and for en banc hearing in the Court of Appeals regarding the Appellant's motion to Relieve Counsel and the grounds of ineffectiveness of Counsel as stated above in issues

10-13 in his one hundred page brief. On January 8, 2018 the Court of Appeals clerk had filed a Remittur to the lower court without hearing the Appellant Motion for Reconsideration of Motion to Relieve. On January 26, 2018, the Appellant had filed his second writ of Mandamus against the Court of Appeals. Also, in the abundance of caution the Appellant on January 26, 2018 had filed a notice of appeal to the state supreme court regarding the above facts. On March 1, 2018 the Court of Appeals sua sponte had issued an order to hear the Appellant Motion for Rehearing En Banc. On March 5, 2018 the Administrative Law Court had returned the Remittur back to the Court of Appeals. On March 21, 2018, the Court of Appeals had denied the petitioner motion for Rehearing. Again, the petitioner had sent a letter and Motion to Appeal to the South Carolina Supreme Court. The letter to the Court had explained his situation regarding law library and legal paper and for this Court to issue an order for such other and further relief regarding filing a writ of Certiorari to this Court. The petitioner had not heard anything from this Court. On June 14, 2018, the petitioner had filed a letter to this Court that was addressed to the Chief Judge of this Court. The letter to this Court had requested the status of his appeal to the Court. On June 19, 2018, the clerk of this Court had refused to give my letter to the Chief Judge and had informed the petitioner that his legal documents as stated is not filed in this Court.

The petitioner now file this motion and his motion to Recall the Remittitur, The petitioner bases this motion on the following grounds and arguments:

### ISSUE: I

WHETHER RULE 262(A)(2) OF THE SOUTH CAROLINA APPELLATE COURT RULES IS THE EQUIVALENT TO THE MAIL BOX RULE

Rule 262(A)(2) SCACR provides in pertinent parts that "filing may be accomplished by depositing the documents in the United States Mail, properly addressed to the clerk, with sufficient first class postage attached. The date of filing shall be the date of delivery OR the date of mailing."

This Court can take judicial noticed of the following:

- 1) That the petitioner is incarcerated at McCormick Correctional Institution; and
- 2). That the petitioner must rely on prison officials to mail his legal mail; and
- 3). That all legal mail to this Court must be sent by prison institution mailing; and
- 4). That the petitioner is indigent at McCormick prison

If this Court Rules that the Rule 262(A)(2) is the equivalent

of the mail box rule as applied to the petitioner circumstances, the Appellant direct this Court to issues II - IV Infra

The petitioner prays for such other and further Relief this Court seem Just and proper

Issue: II

WHETHER THIS COURT INTERPRETATION of RULE 262 (A)(2) of SCACR AS APPLIED TO THE PETITIONER CIRCUMSTANCES IN MAILING HIS LEGAL DOCUMENTS TO THIS COURT HAS VIOLATED VARIOUS of HIS FUNDAMENTAL RIGHTS

In *Medina v California* 505 US 437 (1992) the United States Supreme Court had held that the following regarding Rules of states Courts:

- • • [I]t is normally within the power of the states to regulate procedures under which its laws are carried out, including the burden of persuasion, and its decision in this regard is not subject to proscription under the Due process clause unless it offends some principle of justice so rooted in the tradition and conscience of our people as to be ranked as fundamental.

See *Snyder v Massachusetts* 291 US 97, 105 (1934); *State v. Payne* 504 S.E.2d 335 (1998)

The petitioner fundamental rights that are in jeopardy because of this Court's clear interpretation of Rule 262(a)(2) to the petitioner's circumstances concerning his legal mail?

- 1). The right to freedom of speech; and
- 2). The right to petition the government for grievances; and
- 3). The right to access to the Court; and
- 4). The right to procedural due process before his rights to the state created rights and constitutional rights of liberty and property interests are deprived by this Court.

The substantive due process components of rights "so rooted in the tradition and conscience of our people as to be ranked as fundamental" has been met. See *Medina v. California*, supra. The next question in challenging the statute in question is whether there is a compelling interest and is the rule most narrowly drawn regarding the means of achieving that end. See *Bowers v. Hardwick*, 478 U.S. 186, 189 (1986).

Obviously, the Court's clear interpretation of the Rule 262(a)(2) to the plaintiff's circumstances of depending on prison officials to mail his legal documents to any courts in America violates the petitioner's substantive due process rights.

Lastly, this Court has refused the alternative analysis of the

substantive due process clause in Ruling in Cary v State 347 SC 627 where this Court held:

"[I]t is clear under South Carolina that mailing does not constitute filing when a statute requires the filing of a paper or document it is filed when delivered to and received by the proper officer"

Cary supra

Again, obviously South Carolina Rules of decision such as case law and statutes, Rules of Court in general regarding mailing, violates the substantive due process analysis.

The petitioner prays for such other and further relief this Court sees just and proper.

ISSUE: III

WHETHER THE MATHEW VS ELDRIDGE 424 US 315 (1976) PROCEDURAL DUE PROCESS ANALYSIS SHOULD BE APPLIED TO PETITIONER CIRCUMSTANCES OF HANDING HIS LEGAL MAIL TO PRISON OFFICIALS

In Mathew v Eldridge 424 US 315 (1976) the Supreme Court had stated a three part test in determining whether or not a procedural due process violation has occurred in state officials enforcement of a Constitution, a Rule, a statute, and Regulation

Unconstitutional. The three part test are the following:

The private interest that is at stake; and the effect on governmental interest of incorporating a particular procedural safeguard into the decision making process; and the safeguard value and the risks of an erroneous deprivation of the private interest at stake if the safeguard were not put in place.

See *Mathew Supra*

The petitioner leave reference to and incorporate the facts and arguments in this section for relief.

The petitioner private interest at stake is his fundamental Rights that are listed in issue II; furthermore, the South Carolina Courts and legislator has caused erroneous decision in the lower and higher Courts dismissal of pro se lawsuits, see *Ganey v State* 557 S.E.2d 662 (2011); and post conviction Relief, see *Moss v South Carolina* 803 S.E.2d 718 (2017) by failing to adopt arbitrarily *Houston v Lacy* 487 US 266 (1988) mail box Rule; and lastly, the safeguard value of the Mail box Rule to the petitioner, and other prisoners, should be of importance to the Courts of South Carolina to adopt a Rule in order to safeguard inmates access to the Courts, and other fundamental Rights.

The petitioner Request this Court to allow the petitioner oral arguments and/or such other and further Relief this Court seems just and proper.

ISSUE : IV

WHETHER SOUTH CAROLINA BURDENED THE PETITIONER FUNDAMENTAL RIGHTS UNDER THE EQUAL PROTECTION CLAUSE

The petitioner crave reference to and incorporate his arguments in issue II in this section regarding the fundamental rights in which are violated in his appeal to this court, and the strict scrutiny substantive test in *Bowers v Hardwick* 478 US 186, 189 (1986), in which applies equally to Equal protection claims of South Carolina Burden the petitioner access to the courts by either not applying Rule 262 (A)(2) SCALR properly to the petitioner, OR the failure to adopt the Mail box Rule in *Houston v Lacy* 487 US 266 (1988)

The petitioner pray for such other and further relief this court seem just and proper.

Date: 6/29/18

STEVEN LAUREN BARNES  
STEVEN LAUREN BARNES  
#327117  
McCORMICK C.T  
386 Redemption way  
McCORMICK, SC 29899

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

FILED  
JUN 29 2018  
COURT CLERK

Appeal from The Administrative Law Court S.C. SUPREME COURT  
Ralph King Anderson, III, Administrative Law Judge

Case No. 2017-000967-215 ALJ 300318 AP

STEVEN LAUIS BARNES  
Appellant - petitioner

VS

SC Dept of Correction and  
Et. Al

Respondent - Appellees

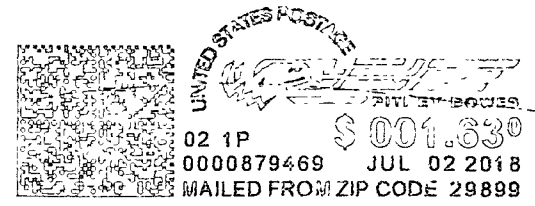
PROOF OF SERVICE

I, Steven Louis Barnes, do hereby certify that on 6/29/18,  
I deposited the following documents Declaration In support of Motion  
To Recall The Remittitur and Motion To Reinstate The petitioner Appeal  
In This Court; Motion To Recall The Remittitur; and Motion To Reinstate  
The petitioner Appeal In This Court in the United States mail with suff-  
icient postage to the below party:

SERVED

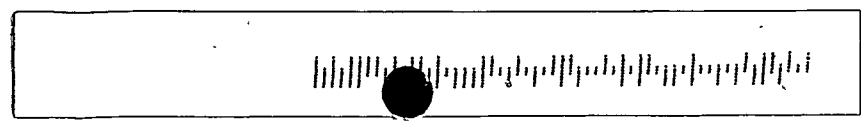
Lane Summers  
Attorney at law  
339 Hayward Street - Suite 200  
Columbia SC 29201

STEVEN LOUIS BARNES #327117  
McCormick Correctional Institution  
386 Redemption Way  
McCormick, SC 29899



THE SUPREME COURT OF SOUTH CAROLINA  
Daniel E. Shearous, Clerk of Court  
P.O. Box 11330  
Columbia, South Carolina 29211

1.67



RECEIVED

JUL 02 2016

MCCI  
MAIL ROOM

THE DEPARTMENT OF JUSTICE  
INSPECTOR GENERAL  
INVESTIGATIVE DIVISION  
WASHINGTON, DC 20535  
ATTENTION: [illegible]  
[illegible]  
[illegible]

