

The State of South Carolina  
In The Court of Appeals

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Appeal From Administrative Law Court  
Deborah Brooks Duerden ALJ

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Case NO. 12-AJ-04-0606-AP

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Billy Lee Lisenby JR, #200273 ..... Appellant

v.

South Carolina Department of Corrections ..... Respondent

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Final Brief For Appellant

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Dated: Nov. 20<sup>th</sup>, 2014

Attorney For Respondent  
Christopher D. Florian  
P.O. Box 21787  
Columbia, SC 29221

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Billy Lee Lisenby  
Billy Lee Lisenby JR, #200273  
P.O. Box 205  
Ridgeville, SC 29472

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SC Court of Appeals

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U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

# Table of Authorities

NO Statutes

NO Cases

## Statement of Issues on Appeal

1. Did the Administrative Law Judge err in dismissing Appellant's appeal for not filing in 30 days?

1.

APR 1991

## Statement of The Case

Appellant was found guilty on 3-6-12 by Mrs. A. Sellers in his absence of the charge of 809  
Threatening to Inflict. He appealed through Step 1 & Step 2 of the grievance process, and on May 27<sup>th</sup> 2012  
he filed a timely notice of appeal. On April 12<sup>th</sup> 2013 Judge Deborah Brooks Dunder denied his appeal.

## Argument 1

The Administrative Law Judge did in fact err in dismissing Appellant's appeal for not filing in 30 days. Appellant contends that the ALJ has erred, because he contends, that he sent his appeal on May 27, 2012, along with the following appeals:

1. 703 Trafficking, Use, and/or Possession of Narcotics, Marijuana, or Unauthorized Drugs

Docket No. 12-ALJ-04-0547-AP

Grievance No. KRCI 0235-12

Appellate Case No. 2013-000852

2. 898 Possession of Any Cell Phone or other Type of Communication Device.

Docket No. 12-ALJ-04-0546-AP

Grievance No. KRCI 0233-12

Appellate Case No. 2013-000364

All these appeals were filed the same day. All (3) filing fees were paid the same day. Appellant thinks the court made a mistake by putting 6-27-13 on the \$75.00 receipt. It was suppose to be 5-27-13. See Receipt in the record.

Appellant had to pay \$25.00's for each filing and he filed (3) cases in the same day, which equal to \$75.00's. On all (3) charges he received the agency's decision on May 22, 2012, and had all (3) in the U.S. Postal by May 27<sup>th</sup> 2012.

On October 17, 2012 Staff Attorney Shanika Johnson filed a Respondent's Brief and no where did she argue that Appellant's appeal was late, or not timely filed. Nor was it a defense in the other (2) cases 12-ALJ-04-0546-AP and 12-ALJ-04-0547-AP. All (3) Respondent's briefs are enclosed in the record. How could one case be late and not the other and Appellant received all the agency responses on the same day May 22<sup>nd</sup> 2012, and filed all (3) on the same day May 27<sup>th</sup> 2012.

Appellant further argues that it shows they received his payment on 6-27-12, but his case wasn't filed until 19 days later. But if Appellant's Notice of Appeal is viewed carefully it has been altered. It's enclosed in the record. There is no way he paid for his appeal before he filed it. Please view the clerk's stamp dated July 16<sup>th</sup> 2012, it's been altered.

Appellant contends that he sent all (3) appeals in the Sunday, in a timely matter. The courts  
per respondents can dispute that. The respondents didn't attempt to argue this. Based on the facts  
given and the ALC's error Appellant should be granted relief.

Conclusion

Appellant ask that his case be remanded back to the ALC to be heard based on its merits.

Dated: Nov 20<sup>th</sup> 2014.

Billy Lee Kirby  
Billy Lee Kirby Jr. #200273  
P.O. Box 205  
Ridgeville SC 29472

The State of South Carolina

In The Court of Appeals

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Appeal From Administrative Law Court  
Deborah Brooks Duerden ALJ

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Case No. 12-ALJ-04-0606-AP

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Billy Lee Kimberby JR, #200273 ..... Appellant

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

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Certificate of Service

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I hereby certify that I have served Respondent's a copy of Appellant's Initial Brief by depositing a copy of same in the United States Mail, postage prepaid, Nov 20th, 2011, addressed to the Respondent's as follows:

Christopher D. Florian  
PO Box 21737  
Columbia, SC 29221-1737

South Carolina Administrative Law Court  
Edgar A. Brown Building, Suite 224  
1205 Pendleton St  
Columbia, SC 29201

Billy Lee Kimberby JR  
Billy Lee Kimberby JR, #200273  
P.O. Box 205  
Ridgeville S.C. 29472

# The South Carolina Court of Appeals

Billy Lisenby, Jr., #200273, Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2013-000958

The Honorable Deborah Brooks Durden  
Trial Court Case No. 2012ALJ040606AP

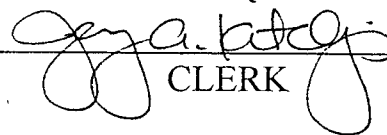
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ORDER  
\_\_\_\_\_

The time for serving and filing the appellant's final brief is hereby extended until December 3, 2014.

FOR THE COURT

BY

  
CLERK

Columbia, South Carolina

**FILED**

SF 11/13/14

cc:

Billy Lee Lisenby, Jr., 200273  
Christopher D. Florian, Esquire  
Daniel John Crooks, III, Esquire