BRIEF OF APPELLANT

THE STATE OF SOUTH CAROLINA
In The Court of Appeals
(County of Richland)

APPEAL FROM THE S.C. ADMINISTRATIVE LAW COURT

The Honorable S. Phillip Lenski, Administrative Law Judge

Case No. 2019-000301

Alicia Bolden, Appellant,

v.

South Carolina Department of Disabilities and Special Needs, Respondent.

[INITIAL] BRIEF OF APPELLANT

Ms. Alicia Bolden
(Pro Se Appellant)
1115 Carnegie Avenue
Charleston, South Carolina 29407
(843) 709-5313

Table of Contents

Table of Authorities

Cases

Statutes

Rules

Other Authorities

Statement of the Issues on Appeal

The final order of the S.C. Administrative Law Court affirms the final decision of the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee. The final decision of the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee prejudices the Appellant's substantial rights and is (a) in violation of constitutional or statutory provisions; therefore, the final order of the S.C. Administrative Law Court prejudices the Appellant's substantial rights and is (a) in violation of constitutional or statutory provisions.

The final order of the S.C. Administrative Law Court affirms the final decision of the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee. The final decision of the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee prejudices the Appellant's substantial rights and was (c) made upon unlawful procedure; therefore, the final order of the S.C. Administrative Law Court prejudices the Appellant's substantial rights and is (c) made upon unlawful procedure.

The final order of the S.C. Administrative Law Court affirms the final decision of the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee. The final decision of the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee prejudices the Appellant's substantial rights and is (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; therefore, the final order of the S.C. Administrative Law Court prejudices the Appellant's substantial rights and is (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record.

The final order of the S.C. Administrative Law Court affirms the final decision of the

S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee. The final decision of the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee prejudices the Appellant's substantial rights and is (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; therefore, the final order of the S.C. Administrative Law Court prejudices the Appellant's substantial rights and is (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

The S.C. Administrative Law Court's final order affirms the final decision of the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee. The S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee's final decision upheld, maintained, assisted, and defended the S.C. Dept. of Disabilities & Special Needs decision to terminate the Appellant's employment; therefore, the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee's final decision is (a) in violation of constitutional or statutory provisions; (c) made upon unlawful procedure; (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; and (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. The S.C. Administrative Law Court's final order affirming the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee's final decision is (a) in violation of constitutional or statutory provisions; (c) made upon unlawful procedure; (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; and (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. The State Employee Grounds for Appeal Form is applicable to the S.C. Administrative Law Court's final

order, to the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee's final decision, and to the S.C. Dept. of Disabilities & Special Needs decision to terminate the Appellant's employment.

Statement of the Case

On June 19, 2017, Appellant was terminated from the S.C. Dept. of Disabilities & Special Needs – Coastal Regional Center via the termination letter dated June 16, 2017. The agency alleges Appellant was terminated for an "accumulation of three offences within two (2) years where the first offense calls for a written reprimand".

Appellant was terminated for asserting her legal rights to be treated fairly and equally in the workplace. Appellant was terminated for not adhering to an unfair, prejudicial, and discriminatory employment practice. Appellant appealed the termination because the action violates her rights to be treated fairly and equally in the workplace and to be free from employer discrimination, prejudice, retaliation, and harassment.

On June 28, 2017, Appellant initiated the State Employee Grievance Process and formally grieved (appealed) the termination to the Facility Administrator – Rebecca D. Hill.

On July 19, 2017, Appellant received (via certified mail) a letter of the Facility Administrator's decision. Rebecca D. Hill (FA) upheld the termination and denied Appellant's appeal.

On July 21, 2017, Appellant appealed the Facility Administrator's decision in writing to the State Director of the S.C Dept. of Disabilities & Special Needs – Dr. Beverly Buscemi.

By letter dated September 8, 2017, the Human Resources Director – Deirdre Blake Sayers upheld the decision of the Facility Administrator – Rebecca D. Hill.

On September 23, 2017, Appellant appealed the decision of the Human Resources Director – Deirdre Blake Sayers to the State Human Resources Director. A Grievance Hearing (Ms. Alicia Bolden v. S.C. Dept. of Disabilities & Special Needs – Coastal Regional Center) was scheduled before the State Employee Grievance Committee and was held on April 3, 2018 at

9:00 am at 8301 Parklane Road, Suite A220, Columbia, South Carolina (Richland County).

Appellant received written notice of the final decision from the State Human Resources Director (via certified mail) on April 26, 2018. The S.C Dept. of Administration – Division of State Human Resources State Employee Grievance Committee upheld the S.C. Dept. of Disabilities & Special Needs decision to terminate Appellant and denied the relief sought.

Appellant appealed the final decision of the S.C Dept. of Administration – Division of State Human Resources (State Human Resources Director) State Employee Grievance Committee dated April 23, 2018 to the S.C. Administrative Law Court (via certified mail) on May 21, 2018. On May 21, 2018, Appellant served the Notice of Appeal (via certified mail) to the S.C Dept. of Administration – Division of State Human Resources and to the S.C. Dept. of Disabilities & Special Needs.

Appellant received written notice of the final order from the S.C. Administrative Law Court - the Honorable S. Phillip Lenski, Administrative Law Judge - on January 23, 2019 (via electronic mail). The S.C. Administrative Law Court - the Honorable S. Phillip Lenski, Administrative Law Judge - affirmed the final decision of the S.C. Dept. of Administration Division of State Human Resources State Employee Grievance Committee dated April 23, 2018 which upheld the S.C. Dept. of Disabilities & Special Needs decision to terminate the Appellant's employment.

Appellant appealed the final order of the S.C. Administrative Law Court - the Honorable S. Phillip Lenski, Administrative Law Judge dated January 23, 2019 to the S.C. Court of Appeal (via certified mail) on February 20, 2019. On February 20, 2019, Appellant served the Notice of Appeal (via certified mail) to the S.C. Administrative Law Court and to the S.C. Dept. of Disabilities & Special Needs.

Arguments

The final order of the S.C. Administrative Law Court affirms the final decision of the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee. The final decision of the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee prejudices the Appellant's substantial rights and is (a) in violation of constitutional or statutory provisions; therefore, the final order of the S.C. Administrative Law Court prejudices the Appellant's substantial rights and is (a) in violation of constitutional or statutory provisions.

On April 4, 2018, the Appellant submitted a written request (via email) to Mr. Spencer Miller of the S.C. Dept. of Administration – Division of State Human Resources requesting copies of all audio records and written transcripts from the Grievance Hearing that took place on April 3, 2018. Mr. Miller replied (via email), "We are not able to provide the transcripts of your hearing; however, we can provide you the recordings of your hearing so that you can have them transcribed if you need to do so. I will place the CD of the recordings in the mail to you tomorrow".

On April 9, 2018, the Appellant received the audio recording in the mail, but the audio recording had been altered and changed. Testimony that was given during the hearing had been changed, edited, or omitted. The audio recording also included additional testimony that was not given during the grievance hearing the Appellant attended. This discovery was very troubling. On April 9, 2018 the Appellant emailed the State Human Resources Director requesting to be sent a true authentic copy of the grievance hearing without changes, edits, omissions, additions, or alterations; just the hearing in its true form from start to finish. To date, this information has still not been provided.

The S.C. Dept. of Administration – Division of State Human Resources falsified and altered the audio recording of the grievance hearing held on April 3, 2018 (Ms. Alicia Bolden v. S.C. Dept. of Disabilities & Special Needs – Coastal Regional Center). Mr. Spencer Miller of the S.C. Dept. of Administration – Division of State Human Resources then mailed the falsified and altered audio recording to the appellant to have transcribed for future court proceedings. This is fraud. This is deliberate deception. The falsified and altered audio recording was passed off as genuine when Mr. Miller knew it was not.

The S.C. Dept. of Administration – Division of State Human Resources fraudulent actions and intentional misrepresentation of fact is perjury and violates the law. Mr. Spencer Miller intentionally made a false audio recording of the Grievance Hearing for use in upcoming legal proceedings. Mr. Miller manipulated and falsified sworn testimony that was given under oath before the State Employee Grievance Committee. Mr. Miller perjured testimony when he altered and manipulated the audio recording of the grievance hearing. He then sent the audio recording to me (the appellant) by mail as if it was a true, genuine, authentic representation of the testimony that was given during the April 3, 2018 grievance hearing when he knew it was false. Falsifying documents (written or oral) by altering, changing, adding, editing, modifying, deleting, and manipulating its original contents for the purpose of deceiving others is defined as fraud and it is defined as perjury. Mr. Spencer Miller knowingly distributed a fake document.

The S.C. Dept. of Administration – Division of State Human Resources fraudulent actions are a breach of trust. The S.C. Dept. of Administration is responsible for keeping an official record on each appeal (grievance). This includes all documents (written and oral) related to the appeal. A dishonest act which distorts and falsifies official records on an appeal (hearing) is considered a breach of trust. Breach of trust is dishonest actions intended to defraud, cheat, and

deceive. The S.C. Dept. of Administration – Division of State Human Resources violated the duties entrusted to them when they altered and manipulated the audio records. They violated the seal of trust, promise, and confidence when they falsified the audio recording (official records) from the April 3, 2018 Grievance Hearing.

The S.C. Dept. of Administration – Division of State Human Resources fraudulent actions violate a code of ethics. Mr. Miller's decision to falsify, alter, and manipulate the grievance hearing audio records violates many ethical laws. It is also unlawful procedure. The S.C. Dept. of Administration is bound by standards of ethical conduct. They are an executive branch. They are expected to exercise the highest level of integrity, ethics, confidentiality, fairness, and objectivity in their actions and in their decisions. Falsifying audio records demonstrates partiality. It proves bias and it shows prejudice. The S.C. Dept. of Administration – Division of State Human Resources fraudulent actions prejudices the Appellant's substantial rights and their final decision lacks both credibility and objectivity.

On March 21, 2018, the S.C. Dept. of Administration – Division of State Human Resources received documentary evidence from the Appellant that disclosed an active federal investigation into a charge of employment discrimination against the S.C. Dept. of Disabilities & Special Needs (see attached supporting document). The S.C. Dept. of Administration – Division of State Human Resources knew an official proceeding or investigation was pending or was about to be instituted when they tampered with and/or fabricated physical evidence. Their actions are in violation of constitutional and/or statutory provisions (18 U.S. Code § 1519; 18 U.S. Code § 1621; 18 U.S.C. § 1505; 18 U.S.C. § 1506; 18 U.S. Code § 1001; S.C. Code Ann. § 16-9-10; S.C. Code Ann. § 16-9-340(a) (2)).

On August 18, 2018, the Appellant received a duplicate audio recording (cd) from Mr.

Spencer Miller. The duplicate cd is a copy of the audio recording (cd) previously sent to the Appellant on April 9, 2018 by Mr. Miller. The two audio recordings (cd's) that were sent by Mr. Spencer Miller to the Appellant are exactly the same. Testimony that was given during the hearing has been changed, altered, edited, or omitted. The audio recordings (cd's) also included additional testimony that was not given during the grievance hearing the Appellant attended. On August 20, 2018, the Appellant sent the duplicate cd (audio recordings) out for transcription services. The transcript of the audio recordings (cd) that was sent (via certified mail) by Mr. Spencer Miller on August 18, 2018 will be reflected in the Record on Appeal. The transcript is not a true and accurate representation of the testimony(s) given at the April 3, 2018 Grievance Hearing.

The S.C. Dept. of Administration – Division of State Human Resources altered and manipulated the audio record of the April 3, 2018 Grievance Hearing (Ms. Alicia Bolden v. S.C. Dept. of Disabilities & Special Needs – Coastal Regional Center). Mr. Spencer Miller (S.C. Dept. of Administration – Division of State Human Resources) is not a licensed court reporter. A licensed court reporter is to ensure and protect the integrity and competency of the official record and the lawful reporting (recording) practice. A licensed court reporter is to be neutral; governed by standards and a code of ethics. A licensed court reporter would have nothing to gain and everything to lose by engaging in dishonest acts to misrepresent the official (original) record.

False, fabricated, inaccurate, and incomplete information that is transmitted from one party to the next can affect the outcome of an investigation, legal proceeding, or a court proceeding (such as an appeal to the Courts). The use of false, fabricated, inaccurate, and incomplete information is prejudicial to the Appellant's substantial rights to fair processes and fair conclusions. No ruling, decision, or outcome can be fair when inaccurate, false, fabricated,

erroneous, and incomplete information is used to reach those decisions.

On April 3, 2018, the Appellant's Fifth Amendment rights were violated. The Fifth Amendment (Amendment V) to the United States Constitution is part of the Bill of Rights and, among other things, protects individuals from being compelled to be witnesses against themselves. The Fifth Amendment of the Constitution establishes the privilege against self-incrimination. The privilege against compelled self-incrimination is defined as "the constitutional right of a person to refuse to answer questions or otherwise give testimony against himself or herself which will subject him or her to self-incrimination. This right under the Fifth Amendment is now applicable to the states through the due process clause of the Fourteenth Amendment, 378 U.S. 1,8, and is applicable in any situation, civil or criminal where the state attempts to compel incriminating testimony" (Barron's Law Dictionary, p. 434 (2d ed. 1984)).

On April 3, 2018, the Appellant was compelled (by the Committee Attorney) to be a witness against herself at the Grievance Hearing. No person shall be required to answer any question tending to incriminate himself (SC Code § 19-11-80 (2013)). The Appellant objected to being called as a witness against herself and the Committee Attorney overruled the Appellant's objection and compelled the Appellant to answer counsel's (Tana Vanderbilt – S.C. Dept. of Disabilities & Special Needs) questions. The Appellant's original (compelled) testimony was then altered, edited, changed, and manipulated on the audio recordings (cd's) that was sent in the mail by Mr. Spencer Miller. The audio recordings (cd) and its corresponding transcript are not a true and accurate representation of the Appellant's compelled testimony from the April 3, 2018 Grievance Hearing. There are changes, modifications, alterations, additions, and deletions to the Appellant's authentic (original) compelled testimony.

First, the Appellant was compelled to be a witness against herself; then the Appellant's

compelled testimony was manipulated, altered, and changed. Mr. Spencer Miller then sent the Appellant audio recordings (cd's) that were inaccurate, altered, and changed from the original. The S.C. Dept. of Administration – Division of State Human Resources actions violated and violates the Appellant's substantial rights to fair processes (treatment). The S.C. Dept. of Administration – Division of State Human Resources (State Employee Grievance Committee's) actions are in violation of constitutional or statutory provisions.

The final order of the S.C. Administrative Law Court affirms the final decision of the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee. The final decision of the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee prejudices the Appellant's substantial rights and is (a) in violation of constitutional or statutory provisions; therefore, the final order of the S.C. Administrative Law Court prejudices the Appellant's substantial rights and is (a) in violation of constitutional or statutory provisions.

The final order of the S.C. Administrative Law Court affirms the final decision of the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee. The final decision of the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee prejudices the Appellant's substantial rights and was (c) made upon unlawful procedure; therefore, the final order of the S.C. Administrative Law Court prejudices the Appellant's substantial rights and is (c) made upon unlawful procedure.

On April 3, 2018 (during the grievance hearing) the Committee Attorney excluded very credible and very relevant documentary evidence that I (the Appellant) presented as part of my Grounds for Appeal Form to support the claims made within. This action was unfair, biased, and

prejudices the Appellant's substantial rights. The evidence excluded proves that the South Carolina Dept. of Disability and Special Needs decision to terminate the Appellant's employment was (a) in violation of constitutional or statutory provisions; (c) made upon unlawful procedure; (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; and (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

The South Carolina State Employee Grievance Committee Grounds for Appeal Form has been included for this court to review. I (the Appellant) have included all of the documentary evidence that support the arguments (claims) made within the Grounds for Appeal Form as well. Supporting documents that were excluded during the Grievance Hearing by the Committee Attorney were as follows: All of Group A, All of Group E (except for the top two (2) pages), and All of Group F. Group F did contain documents that were already a part of the Committee Exhibit No.1, but Group A and Group E did not. Group F also contained two (2) email correspondences and a two (2) page agency directive (405-01DD) that were not already a part of the Committee Exhibit No.1, but all of Group F was excluded. I (the appellant) introduced a total of nineteen (19) pages of documentary evidence at the Grievance Hearing to the Grievance Committee and the Committee Attorney only allowed two (2) pages of my (the Appellant) supporting documents to be entered into evidence. They (the Committee Attorney and the State Employee Grievance Committee) did not want reliable evidence. They did not want the truth. They did not want me to prove my case.

Evidence is relevant if it has the "tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence" (Federal Rules of Evidence – Article IV. Relevance and its Limits – Rule

401). Relevant evidence is admissible unless any of the following provides otherwise: the United States Constitution; a federal statute; these rules; or other rules prescribed by the Supreme Court (Federal Rules of Evidence – Article IV. Relevance and its Limits – Rule 402). This rule is the federal rule amended to reference South Carolina law. The rule reflects the law in South Carolina (Levy v. Outdoor Resorts of South Carolina, 304 S.C. 427, 405 S.E.2d 387 (1991); State v. Petit, 144 S.C. 452, 142 S.E. 725 (1928)).

The Grounds for Appeal Form that was submitted to the Grievance Committee was six (6) pages long. The information and supporting documents from this form is barely mentioned in the findings of facts (final decision) and I (the Appellant) actually provided factual, reliable, and credible evidence to support my claims only to have them excluded by the Committee Attorney. All that is required to render evidence admissible is that "the facts shown legally tend to establish, or to make more or less probable, some matter in issue, and to bear directly or indirectly thereon. Relevancy of evidence means the logical relation between the proposed evidence and a fact to be established" (Winburn v. Minnesota Mut. Life Ins. Co., 261 S.C. 568, 574, 201 S.E.2d 372, 374-5 (1973)). The Committee Attorney abused his discretion, violated evidentiary rules and procedures, and prejudiced the Appellant's substantial rights when he excluded documentary evidence the Appellant presented at the April 3, 2018 Grievance Hearing. In addition, two (2) witnesses were allowed to sit in the entire hearing from start to finish and they also gave their testimony last. These two (2) witnesses (Rebecca Hill & Deidre Blake - Sayers) were then able to contradict, correct, and repeat testimony given by previous witnesses. There were a total of five (5) agency witnesses.

Rebecca Hill and Deirdre Blake – Sayers were not sequestered; these witnesses should have been sequestered. Furthermore; at the time of the Grievance Hearing (April 3, 2018), Deidre

Blake – Sayers was no longer an employee with the S.C. Dept. of Disabilities & Special Needs. The Committee Attorney abused his discretion, violated witness sequestering rules and procedures, and prejudiced the Appellant's substantial rights when he allowed these two witnesses to sit in the entire Grievance Hearing from start to finish.

Witnesses should be sequestered from hearing the testimony of other witnesses, commonly called being "excluded," until after he/she has testified, supposedly to prevent that witness from being influenced by other evidence or tailoring his/her testimony to fit the stories of others. The practice of sequestering witnesses is based in the common law (See 6 Wigmore on Evidence – Evidence in trials at Common Law §1837 at 455-456 (Wolters Kluwer 4th ed. 2011 Supp.)).

The United States Supreme Court has stated that the purpose of the rule is two-fold – "It exercises a restraint on witness 'tailoring' their testimony to that of earlier witnesses; and it aids in detecting testimony that is less than candid" (Geders v. United States, 425 U.S. 80, 87, 96 S.Ct. 1330, 47 L.Ed.2d 592 (1976). "The purpose of the rule of sequestration is 'to avoid a witness coloring his or her testimony by hearing the testimony of another,' thereby discouraging fabrication, inaccuracy, and collusion" (Knight v. State, 746 So.2d 423, 430 (Fla. 1999), quoting Ehrhardt, Florida Evidence § 616.1, at 506 (West Pub. Co 1998 ed.)).

Additionally, the three witnesses that were sequestered were all allowed to be seated together in the same area outside the hearing room. These witnesses were allowed to interact with each other before and after they gave their testimony to the committee. "The idea of keeping witnesses from interacting with each other is to detect fabrications" (State v. Jackson, 309 N.C. 26 (1983). As early as 1917, the N.C. Supreme Court noted that "no harm can come from separation of the witnesses, and much injury might result if it is not done" (Lee v. Thornton, 174

N.C. 288, 289 (1917)). The three sequestered witnesses (Valeria Bryant, Claudette Fields, and John Dooney) should have been separated and not seated in the same area together.

The Committee Attorney did not control the order of the witness's testimony. Rebecca Hill and Deidre Blake – Sayers should have given their testimony 1st and 2nd; not 5th and last, and not in the presence of other witnesses. "The court should exercise reasonable control over the mode and order of examining witnesses and presenting evidence so as to: (1) make those procedures effective for determining the truth; (2) avoid wasting time; and (3) protect witnesses from harassment or undue embarrassment" (Federal Rules of Evidence VI. Mode and Order of Examining Witnesses and Presenting Evidence – Rule 611(a)). The language of this rule is identical to that used in this State. See McMillan v. Ridges, 229 S.C. 76, 91 S.E.2d 883 (1956); State v. Nathari, 303 S.C. 188, 399 S.E.2d 597 (Ct. App. 1990). Again, the Committee Attorney did not control the mode and order of the witnesses' testimony and this action was prejudicial to the Appellant's substantial rights.

The final order of the S.C. Administrative Law Court affirms the final decision of the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee. The final decision of the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee prejudices the Appellant's substantial rights and was made upon unlawful procedures; therefore, the final order of the S.C. Administrative Law Court prejudices the Appellant's substantial rights and was (c) made upon unlawful procedure.

The final order of the S.C. Administrative Law Court affirms the final decision of the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee. The final decision of the S.C. Dept. of Administration – Division of

State Human Resources State Employee Grievance Committee prejudices the Appellant's substantial rights and is (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; therefore, the final order of the S.C. Administrative Law Court prejudices the Appellant's substantial rights and is (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record.

The final decision is erroneous because the finding of facts is erroneous. The finding of facts is erroneous and biased because it is based solely on the erroneous information and alleged testimony provided by the witnesses listed for the S.C. Dept. of Disabilities & Special Needs. All five (5) of the witnesses that testified against the Appellant had a hand in the Appellant's termination; they all had an interest in the outcome of the April 3, 2018 Grievance Hearing. The State Employee Grievance Committee disregarded these witnesses' biases, prejudices, and interests in the Appellant's sustained termination.

By evidence in the record, all five (5) witnesses were biased and prejudiced against the Appellant; all five (5) witnesses had a shared interest in the Appellant's sustained termination. All five (5) witnesses assisted (had a hand in) and supported the Appellant's termination. A witness's partiality for or against a party in a proceeding may be shown to impeach the witness's credibility; "the relevancy of all facts which bear on the probable partiality" of a witness for impeachment purposes (Coleman v. New York City Tr. Auth., 37 NY2d 137, 142 (1975)). All five (5) witnesses bias, prejudice, and support for the discriminatory employment practice and for the Appellant's termination is evident in the record (via disciplinary actions, email correspondences, signatures, etc.). Illustrative examples of partiality recognized by the court include a witness's bias in favor of the party calling the witness (People v. Webster, 139 NY 73, 85 (1893)). Bias is always of importance in determining credibility (People v. Brown, 26 NY2d

88, 94-95 (1970).

Bias, prejudice, or any motive to misrepresent may be shown to impeach the witness either by examination of the witness or by evidence otherwise adduced (State v. Brewington, 267 S.C. 97, 226 S.E.2d 249 (1976); North Greenville College v. Sherman Const. Co., Inc., 270 S.C. 553, 243 S.E.2d 441 (1978)). All five (5) witnesses lack credibility due to their bias, hostility, and interest in the outcome of the grievance proceedings by evidence of their involvement in the Appellant's termination. Their alleged testimonies should not have been relied upon in the State Employee Grievance Committee's final decision (findings of facts); particularly where the information was new, unproven, and not previously mentioned in the record.

The audio recording of the grievance hearing that was sent to the Appellant on April 9, 2018 is erroneous. The audio recording has been edited, changed, altered, and manipulated. The Appellant has made several attempts to obtain an authentic (official) copy of the audio recording from the grievance hearing held on April 3, 2018. To date, these requests have been denied. The Administrative Law Court will need an official transcript from the grievance hearing held on April 3, 2018, but the Appellant is unable to provide this information to the court because it has not been provided to her. The S.C. Dept. of Administration – Division of State Human Resources expects me (the Appellant) to transcribe the altered, manipulated, and erroneous audio recording (cd) they sent, but I (the Appellant) will not provide a fabricated, falsified, and erroneous transcript to this court. The audio recording is not authentic.

Since filing the Notice of Appeal to the S.C. Administrative Law Court on May 21, 2018, the Appellant has made additional attempt to obtain an authentic (true) copy of the April 3, 2018 Grievance Hearing audio recording; those additional attempt were unsuccessful. Since filing the Notice of Appeal to the S.C. Administrative Law Court on May 21, 2018, the Appellant has had

the altered, manipulated, inaccurate, and erroneous audio recording (cd) sent by Mr. Spencer Miller transcribed; the transcript of the cd has been provided to this court by the S.C. Dept. of Administration – Division of State Human Resources.

Counsel for the S.C. Dept. of Administration – Division of State Human Resources submitted a May 29, 2018 signed affidavit by Mr. Spencer Miller to the S.C. Administrative Law Court. The signed affidavit alleges that the April 3, 2018 Grievance Hearing (Alicia Bolden v. the S.C. Dept. of Disabilities & Special Needs) began at 8:07 a.m. and ended at 10:28 a.m.

By evidence on page 186 of the Committee Exhibit No.1, the April 3, 2018 Grievance Hearing was scheduled for 9:00 a.m., not 8:00 a.m. The Appellant arrived at 8301 Parklane Road, Suite A220 in Columbia S.C. on April 3, 2018 at approximately 8:50 a.m. The Appellant (along with the five witnesses and Counsel for the S.C. Dept. of Disabilities & Special Needs) all sat down in the lobby waiting to be called for the Grievance Hearing. At approximately 9:30 a.m., we were all called by Mr. Spencer Miller and we all took an elevator up to the hearing room; the hearing opened (began) as soon as we were all in the hearing room. The recording time(s) listed in the affidavit are unreliable (erroneous); it is not a true and accurate representation of the time(s) the April 3, 2018 Grievance Hearing actually took place.

The S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee's final decision was made using unreliable (erroneous) information that is both wrong and deceptive. Alleged testimonial evidence referenced in the finding of facts is just not true. This is an unfair, erroneous, and ambiguous standard. If a witness testifies to information being a fact (truth), then the witness should be able to support that fact with credible evidence. The grievance committee's interpretation of facts (what's true) is just not accurate; it is erroneous (unreliable).

The S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee's final decision (findings of facts) excludes relevant, credible, and reliable documentary evidence that the Appellant provided. The final decision (findings of facts) is factually inaccurate due to erroneous admission of deceitful, untrue, inaccurate, and incorrect information and the exclusion of relevant, credible, and reliable evidence.

Claudette Fields (the Service Director for the Coastal Regional Center) is the author of all the disciplinary actions administered against me (the Appellant). Most of the information in these actions is just not true and is intentionally misleading. It is important for the Administrative Law Court to know that this is not the first time that Claudette Fields has told lies on me (the Appellant) to cause my employment with the S.C. Dept. of Disabilities & Special Needs to come to an end (please see attached supporting documents dated April, 2012).

On April 25, 2012 I (the Appellant) received the attached termination letter from Claudette Fields (Service Director) and from Sandra Capers (Human Resources Director). The termination letter says, "Effective April 26, 2012, upon the recommendation of your Service Director your employment with Coastal Regional Center has ended. The reason for this termination is Improper Conduct and Violation of Written Rules (Equal Opportunity Employer). The S.C. Dept. of Disabilities & Special Needs Notice of Personnel Separation says, "Not recommended for re-employment; Violation of Fair Labor Standards Act. Claudette Fields told lies to bring about the end of my (the Appellant's) employment on April 26, 2012. The charges against the Appellant in the April 25, 2012 termination letter were all lies (erroneous).

Evidence and/or material of a person's habit or routine practice are admissible to prove the person acted in accordance with the habit (Federal Rules of Evidence IV. Relevance and It's Limits: Habit; Routine Practice – Rule 406; Federal Rules of Evidence IV. Relevance and It's

Limits: Methods of Proving Character – Rule 405). "Character and habit are close akin. Character is a generalized description of one's disposition, or of one's disposition in respect to a general trait, such as honesty, temperance, or peacefulness. 'Habit,' in modern usage, both lay and psychological, is more specific. It describes one's regular response to a repeated specific situation. A habit is the person's regular practice of meeting a particular kind of situation with a specific type of conduct" (McCormick, §162, p. 340).

Claudette Fields is dishonest and corrupt. Claudette Fields past history proves she is unreliable. When officials in positions of power and authority can say (lie) and do anything; unlawful acts will occur. When corruption is ignored and/or is accepted; history will often repeat itself. The S.C. Dept. of Administration – Division of State Human Resources chose to disregard Claudette Fields prior bad acts. The State Employee's Grievance Committee's final decision findings of facts are not facts at all; it is a collection of lies and misleading statements by Claudette Fields used to bring the Appellant's employment to an end (for a second time).

Misleading, inaccurate, and erroneous information was used in all disciplinary actions against the Appellant. The State Employee Grievance Committee then used this erroneous information to construct their final decision findings of facts. The Committee's final decision is factually inaccurate. The State Employee Grievance Committee did not require Claudette Fields to prove or offer any documentary evidence to back any of her claims (lies) regarding the Appellant's performance prior to (or after) February 23, 2017; yet all of this inaccurate, misleading, and erroneous information factored into their final decision. The State Employee Grievance Committee cut and pasted all of Claudette Fields lies into their final decision (findings of facts).

Additionally, the State Employee Grievance Committee's final decision (findings of

facts) further confused what was already erroneous and misleading information in the record. Information in the final decision is erroneous, deceptive, and inaccurate from the original record. The State Employee Grievance Committee should have used the original erroneous information as it was provided and in the context it was provided; without further inaccuracies. The erroneous information in the State Employee Grievance Committee's final decision (findings of facts) represents all the erroneous and misleading information the Committee used to reach their final decision (findings of facts).

The State Employee Grievance Committee also used new, unproven, undocumented bits of erroneous information in their final decision (findings of facts) even when the information was not previously reflected in the record. The Appellant should not have to defend herself against all these new lies, unproven charges, and erroneous accusations; especially when they weren't the reasons given for the Appellant's termination. The pile on of added erroneous information, charges, and accusations throughout this entire process has been endless.

The State Employee Grievance Committee accepted all of the erroneous charges against the Appellant without regard for reliable and credible evidence. The Appellant disputes all of the new, erroneous, unproven charges in the State Employee Grievance Committee's Final Decision (findings of facts). The Appellant has already disputed the erroneous claims and unproven charges in the documented record via the Appellant Exhibit no.2 (State Employee Grounds for Appeal Form) with supporting documentary evidence.

Re: Informational Meetings (Final Decision p. 4 Section 10). Mrs. Fields never expressed any concerns or gave any reminders to the Appellant regarding attending the daily morning meetings (informational meetings). The final decision is the first time and the first place where this erroneous allegation/accusation is seen or made. Although daily morning meetings

(informational meetings) were never mentioned in any of the administered disciplinary actions or in the discriminatory employment practice; the State Employee Grievance Committee regards it as information they used in their final decision from alleged testimony. These are the types of inaccurate and incomplete information the Committee used to reach their final decision.

The Appellant was a Direct Service Manager. Unlike other Administrative Personnel who only worked 8:30-5:00 such as Qualified Intellectual Disability Professionals, the Facility Administrator, Department Directors, Program Coordinators, etc.; Direct Service Managers work hours varied day to day and were very flexible. The Appellant was responsible for creating her own work schedule every month. Claudette Fields then approved the Appellant's work schedule. The Appellant's scheduling pattern was always consistent and aligned with the Appellant's approved scheduling privileges. Again, these privileges had been permitted for over two years.

Prior to February 23, 2017, the Appellant was not required to work the 6:00 – 2:30 shift. This was due to the Appellant's full time night job and the overlap in working hours. The Appellant's February 2017 schedule can be found on page 58 of the Committee Exhibit no. 1. As can be verified, the Appellant worked the 10:00-6:30 shift more so than the 8:30-5:00 shift. The Appellant's March 2017 schedule can be found on page 59 of the Committee Exhibit no.1. This schedule reflects the same scheduling pattern. This pattern of scheduling is what made the Appellant unavailable in the early morning hours to attend the daily informational meetings. The Appellant could only attend the morning meetings when she was present at work in the early morning hours (8:30-5:00). The daily morning (informational) meetings were scheduled for 8:45 a.m. each day.

So for the entire month of February the Appellant only actually worked 8:30-5:00 a total of five (5) days. Some months would be more, but this was about the norm for the Appellant

(with regards to the 8:30-5:00 shift) given the Appellant's scheduling privileges. So for the entire month of February the Appellant would have only been available to attend the daily morning informational meetings a total of five (5) times. The accusation against the Appellant with regards to the daily morning informational meetings is very misleading; intentionally misleading.

The S.C. Dept. of Disabilities & Special Needs misled the Committee and misrepresented a lot of information. They fed the Committee bits and pieces of information. Their goal was to convince the Committee that the Appellant was not adhering to her assigned work schedule, but that is just not true. Furthermore, attending (or not attending) the morning (informational) meeting(s) is a separate issue entirely. Not attending the morning meetings is not equivalent to failure to adhere to assigned work schedule (hours). Nonetheless, the State Employee Grievance Committee has founded their final decision (findings of facts) on inaccurate and incomplete bits of information that has been provided to them by the S.C. Dept. of Disabilities & Special Needs. The State Employee Grievance Committee accepted all of the S.C. Dept. of Disabilities & Special Needs erroneous information at face value. If it was said by S.C. Dept. of Disabilities & Special Needs; it was so (true) in the eyes of the Committee.

Re: Mrs. Hill's alleged testimony (Final Decision p. 3 Section 9). Much of the erroneous information pulled from Mrs. Hill's alleged testimony in the Committee's final decision (findings of facts) is opinionated fluff and exaggerations; it is almost laughable how a thirty second phone call was viewed this way. I (the Appellant) get the strategy behind the exaggerations and that takes away the funny because I know the truth, but the State Employee Grievance Committee has devoured all of Mrs. Hill's embellishments. How did Mrs. Hill know that the Appellant was not satisfied with her response? When did it become a crime to not be satisfied with someone's response? I imagine all of these things are crimes when retaliation is

involved. Mrs. Hill's alleged testimony is erroneous and inaccurate. The erroneous, inaccurate, and incomplete information just kept on evolving, but has been used and relied upon in the State Employee Grievance Committee's final decision (findings of facts).

The State Employee Grievance Committees' understanding and interpretation of the erroneous information in the February 22, 2017 disciplinary action is erroneous (Final Decision p. 1 Section 2). Rebecca Hill never authored any disciplinary actions against the Appellant, Claudette Fields did. Rebecca Hill only echoes the lies Claudette Fields tells to give Mrs. Fields lies credence; it's strategic. They all knew Claudette Fields was telling lies, but two people telling the same lies do not equal the truth. Remember, this is the second time that Claudette Fields has wrongfully terminated the Appellant. Rebecca Hill (and others) tried to help her get it right this time around.

Claudette Fields placed a bulleted list of alleged (unproven) seven month old (undocumented) concerns into the February 22, 2017 disciplinary action titled "Conduct Unbecoming a State Employee" (Final Decision, p. 1 Section 2). This list of alleged (unproven) seven month old (undocumented) concerns is erroneous; nonetheless, the State Employee Grievance Committee relied on it and used this list of erroneous information in their final decision (findings of fact). In the four (4) months after February 23, 2017, Claudette Fields created a book full of erroneous paper documentation against the Appellant; yet in the seven (7) months prior to February 23, 2017, Claudette Fields did not create a single piece of paper documenting any of her alleged concerns regarding the Appellant's work performance. The State Employee Grievance Committee just took Claudette Fields at her word; no proof or evidence required. The State Employee Grievance Committee just accepted Claudette Fields list of alleged (unproven) seven month old (undocumented) concerns and pasted it into their final decision. The

bulleted list of alleged (unproven) seven month old (undocumented) concerns is a collection (list) of lies.

Claudette Fields just said these things about the Appellant and it was accepted and regarded as true, but it is not truth. It is a collection of lies, misleading (incomplete) statements, and erroneous information intended to paint a very inaccurate, deceptive, and false perception of the Appellant to sway suspecting and unsuspecting people's decisions. These collections of lies, misleading statements, and erroneous information were relied upon in the State Employee Grievance Committee's final decision (findings of facts).

Re: the February 23, 2017 discriminatory employment practice (Final Decision p. 2 Section 3). Employment policies, procedures, and practices are required by law to be equal. Federal legislation was enacted to protect workers from unfair and unequal work practices. The amount of unfairness, bias, prejudice, and partiality demonstrated towards the Appellant by the S.C. Dept. of Disabilities & Special Needs and by the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee is substantial. The amount of unproven charges, lies, and erroneous information used against the Appellant by the S.C. Dept. of Disabilities & Special Needs and by the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee is substantial. The degree of inequality, disparity, and discrimination displayed towards the Appellant by the S.C. Dept. of Disabilities & Special Needs and by the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee is substantial.

The discriminatory employment practice was put in place to threaten and end the Appellant's employment; to retaliate against the Appellant. There is no evidence in the record to show that the Appellant has done anything wrong. The Appellant only asserted her legal rights to

be treated fairly and equally in the workplace; to be free from employer discrimination, prejudice, retaliation, and harassment. The discriminatory employment practice was arbitrary and capricious; it was unfair and inconsistent. It was retaliatory. Employers should never arbitrarily and capriciously create rules, policies, and practices for one employee. Policies, practices, rules, and procedures that pertain to time keeping, overtime, leave practices, salary, and compensation (pay) should always be applied fairly and consistently among all employees.

The S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee's final decision cites alleged testimony from Mrs. Hill, Mr. Dooney, and Mrs. Blake-Sayers writing, "testimony from Mrs. Hill, Mr. Dooney, and Mrs. Blake-Sayers substantiated that requiring an employee to sign in and out was used to correct tardiness when an employee was not abiding by assigned work hours" (Final Decision, p. 6).

The "substantiated" employment practice by Mrs. Hill, Mr. Dooney, and Mrs. Blake – Sayers is not an agency-wide established (known) written employment rule, policy, procedure, or practice. It is a discriminatory employment practice that was arbitrarily and capriciously created (made-up) by Mrs. Fields, Mrs. Hill, Mr. Dooney, and Mrs. Blake – Sayers to retaliate against the Appellant. The "substantiated" employment practice is discriminatory. It is discriminatory when it is not uniform, equal, fair, and consistent. It is discriminatory when it is selective and subjective. It is discriminatory when it does not apply to all employees. Discrimination and retaliation come in many shapes and forms in the workplace, but it should never be allowed or tolerated. Employment rules, policies, procedures, and practices must always be uniform, equal, fair, and consistent. Employers should never have any unknown, made-up, secretive, arbitrary, random, capricious, selective, ambiguous, unfair, inconsistent employment rules, policies, procedures, or practices. When employment rules, policies, procedures, and practices are

selective (discriminatory), arbitrary, and capricious; punishment and/or consequences for those rules are also selective (discriminatory), arbitrary, and capricious. Employees should never be treated differently in the workplace. Employment rules, policies, procedures, and practices must apply to all employees in the workplace.

The State Employee Grievance Committee wrote, "As for Appellant's argument that the directive given to her to sign in and out was discriminatory, the Committee finds that the Appellant offered no credible evidence or testimony to support her position" (Final Decision, p. 6). That's not true (see Appellant Exhibit No. 2 with all the supporting (credible) documentary evidence). The discriminatory employment practice was put in place on February 23, 2017; it was put in place specifically for the Appellant. No other Administrative Personnel was being required to sign in and out at the switchboard. In the almost ten (10) years the Appellant had been employed with the agency; the Appellant had never done this. The discriminatory employment practice was new news to the Appellant; the Appellant had no prior knowledge of such an unequal and unfair employment practice. Employment practices that are unfair, inconsistent, subjective, capricious, prejudicial, unequal, selective, and retaliatory are discriminatory; discriminatory is obvious and easily recognizable.

On February 24, 2017 the Appellant wrote, "Deirdre, this is retaliation. This is harassment. This is unfair and discriminatory employment practices. Deidre, I cannot adhere to this retaliatory and unfair employment practice which is being put in place specifically for me in an attempt to threaten my employment. All employees should be treated the same in the workplace. I will not be the only employee required to sign in and out at the switchboard. This is harassment. This is retaliation" (Committee Exhibit No.1, p.75).

The February 23, 2017 discriminatory employment practice ended the Appellant's

employment on February 23-24, 2017. The four months of erroneous progressive disciplinary documents that followed the February 23, 2017 discriminatory employment practice is a smoke screen and a cover-up. The Appellant's position (argument) regarding the discriminatory employment practice has been clear since February 23-24, 2017; the Appellant could not adhere to the discriminatory retaliatory employment practice, the Appellant would not be the only employee required to sign in and out at the switchboard.

The final decision (findings of facts) weighs heavily in favor to the erroneous, inaccurate, false, and misleading information in the progressive disciplinary documents that was put forth by Claudette Fields and the S.C. Dept. of Disabilities & Special Needs and disregards the grounds for which the Appellant filed the appeal entirely. The State Employee Grievance Committee did not address and/or examine the arguments, complaints, grievances, disputes, and evidence presented to them by the Appellant (employee) in the Grounds for Appeal Form; instead, they disregarded all of it. By evidence in sections 1, 2, 3, 4, 5, and 6 of the final decision (findings of facts); the final decision (findings of facts) is a cut and paste from all of Claudette Fields false, erroneous, inaccurate, and misleading information in the progressive disciplinary documents.

The Appellant disputes and has disputed all of the erroneous, inaccurate, false, and misleading information in the disciplinary documents that was put forth by Claudette Fields on or after February 23, 2017 (see Appellant Exhibit No. 2 with all the supporting documentary evidence). Nonetheless; the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee relied on all of the erroneous, inaccurate, false, and misleading information in the disciplinary documents that was put forth by Claudette Fields on or after February 23, 2017 in reaching and constructing their final decision (findings of facts).

The S.C. Dept. of Administration – Division of State Human Resources State Employee

Grievance Committee's use of erroneous, unreliable, inaccurate, false, fabricated, and incomplete information prejudices the Appellant's substantial rights; the Committee's final decision (findings of facts) is clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record.

The final order of the S.C. Administrative Law Court affirms the final decision of the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee. The final decision of the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee prejudices the Appellant's substantial rights and is (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; therefore, the final order of the S.C. Administrative Law Court prejudices the Appellant's substantial rights and is (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record.

The final order of the S.C. Administrative Law Court affirms the final decision of the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee. The final decision of the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee prejudices the Appellant's substantial rights and is (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; therefore, the final order of the S.C. Administrative Law Court prejudices the Appellant's substantial rights and is (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

The Dept. of Administration – Division of State Human Resources (State Employee Grievance Committee) abused their discretionary & executive powers when they provided

assistance to the S.C. Dept. of Disabilities & Special Needs. They assisted when they altered and manipulated the audio recording of the Grievance Hearing and they assisted when they excluded credible and reliable evidence that I (the Appellant) presented at the Grievance Hearing. They ignored procedures when they allowed witnesses to remain in the hearing (from start to finish) which gave them (the (2) witnesses) advantages in structuring their own testimony. These two (2) witnesses' testimony(s) should be removed from the records. These witnesses should have been sequestered. These acts are wrong and unjust. It is a gross and serious misdeed; it is a dishonest and wrongful exercise of discretion. The final decision was unfair and unjust and was characterized by abuse of discretion or clearly unwarranted exercise of discretion.

The State Employee Grievance Committee(s) findings of fact (final decision) include opinions formed by the Grievance Committee that attempts to counter and disprove claims I (the Appellant) made in the State Employee Grounds for Appeal Form. The Grievance Committee offers a counter rationale and a justification for why they (the Grievance Committee) believe the S.C. Dept. of Disabilities & Special Needs slow walked my dismissal (for four long months) writing, "the Committee notes that Appellant could have been terminated for a first offense of Conduct Unbecoming a State Employee, Insubordination, etc.; therefore, it appears to the Committee that the South Carolina Dept. of Disabilities & Special Needs was lenient in the application of its policy regarding Appellants corrective action for these particular offenses" (Final Decision, pg. 6). Committee notes that are made throughout the entire final decision are erroneous, unfair, prejudicial, and characterized by abuse of discretion or clearly unwarranted exercise of discretion.

The State Employee Grievance Committee provides assistance to the S.C. Dept. of Disabilities & Special Needs by attempting to counter or disprove claims I (the Appellant) made

in the State Employee Grounds for Appeal Form. They formed opinions and then drew conclusions from those opinions. The opinions formed by the Grievance Committee should not have been included as part of the Committee's final decision; especially when those opinions are attacking claims I (the Appellant) made in the Grounds for Appeal Form. This is prejudicial. Final decisions should be objective and drawn from facts; not from opinions or by abusing one's discretion.

The Committee "note" referenced and quoted in the paragraphs above is also very inappropriate and very offensive. I (the Appellant) endured all of this. My employment was threatened for four (4) long months. I (the Appellant) was humiliated, harassed, and pressured. This was not leniency; this was torture. This was strategic and deliberate. It is the four months of progressive disciplinary actions that the Grievance Committee cites as its findings of facts. It is the four months of progressive disciplinary actions (torture) that produced these documents and created this paper trail. These actions were calculated and planned. This had nothing to do with leniency. I was terminated. The agency kept me employed for four additional months just so they could create these documents to cover-up, camouflage, and distort what they all knew was retaliation.

Prior to February 23, 2017, the Appellant's personnel file was exceptional and her performance reviews were consistently satisfactory. The State Employee Grievance Committee disregarded this fact. All of Claudette Fields disciplinary actions against the Appellant were administered on or after February 23, 2017. Claudette Fields did not document any concerns regarding the Appellant prior to February 23, 2017 because there were no concerns to document. It is all lies. Lies told to cover up and camouflage retaliation. The Appellant had to watch the corruption, injustice, and hypocrisy occur right before her very own eyes.

The employment practice that was put in place on 2/23/17 is discriminatory and retaliatory. The disciplinary actions that were administered for not adhering to the discriminatory employment practice are discriminatory and retaliatory. The Appellant's termination is arbitrary, capricious, erroneous, dishonest, discriminatory, retaliatory, and illegal. The S.C. Dept. of Administration – Division of State Human Resources (State Employee Grievance Committee) chose to disregard the facts as well as the laws (equal employment laws, whistleblower laws, fair labor laws, etc.).

The disciplinary actions that were administered for not adhering to the discriminatory employment practice were (is) unfair and inconsistent. It was humiliation, it was intentional, and it was intimidation. It was harassment, it was retaliation, and it was discrimination. It was unlawful, it was improper, and it was wrongful termination (for the second time).

The S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee's support for the discriminatory employment practice is evident in their final decision. By evidence seen throughout the final decision (specifically final decision p.6 paragraphs 3, 4, 5, and 6); the S.C. Dept. of Administration – Division of State Human Resources (State Employee Grievance Committee) supports employment rules, policies, procedures, and practices that are unfair, inconsistent, discriminatory, subjective, and retaliatory towards employees. "Specifically, on February 23, 2017, Appellant was given a directive to sign in and out at the switchboard which the Committee finds was a reasonable request" (Final Decision, p.6). Employees should never be required, directed, or requested to follow rules, instructions, or orders that are discriminatory and would result in discrimination. If it applies to one employee; it should apply to all employees.

The evident bias, partiality, and support shown by the S.C. Dept. of Administration –

Division of State Human Resources State Employee Grievance Committee for the discriminatory employment practice and for the Appellant's termination undermine their credibility, objectivity, and ability to be fair. The S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee's biases, prejudices, and misconduct has been demonstrated throughout the entire State Employee Grievance process; from the inequitable Grievance Hearing, to the fabricated audio recordings, to the erroneous final decision (findings of facts).

The S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee's final decision is arbitrary and capricious; it is characterized by abuse of discretion or clearly unwarranted exercise of discretion. The State Employee Grievance Committee did not rely on reliable and credible evidence to reach their final decision; they relied on abuse of discretion (discretionary powers).

The S.C. Dept. of Disabilities & Special Needs decision to terminate the Appellant is subjective, arbitrary, erroneous, discriminatory, retaliatory, and unjust. The S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee adopted, embraced, supported, and defended the S.C. Dept. of Disabilities & Special Needs decision to terminate the Appellant. There is no evidence in the record that proves or shows the Appellant has done anything wrong. The Appellant merely asserted her legal rights to be treated fairly and equally in the workplace. The Appellant could not follow rules or practices that were discriminatory. The Appellant could not and would not accept different treatment between herself and other employees. All employees have the right to be treated fairly and equally in the workplace and to be protected from retaliation, harassment, and discrimination.

Additionally, the Appellant is entitled to have her grievance heard by impartial, unbiased,

objective individual(s). The S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee's final decision is not impartial, unbiased, objective, or credible. The Appellant was also required to move forward with her brief (appeal) to the S.C. Administrative Law Court without an accurate, authentic, and complete audio record (transcript) of the April 3, 2018 Grievance Hearing. This is significantly prejudicial to the Appellant's appeal. The transcript that was submitted is inaccurate. The S.C. Dept. of Administration – Division of State Human Resources court reporting (audio recording) practices of Grievance Hearings are unethical and/or abusive and is in need of reform. Testimony given by the Appellant has been manipulated, altered, changed, moved around, and even omitted. The transcript is not a true and accurate representation of the Appellant's testimony given under oath at the April 3, 2018 Grievance Hearing.

Evidence presented to the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee by the Appellant was not even considered. The Committee Attorney abused his discretion and excluded relevant evidence presented by the Appellant to the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee. The Committee Attorney's conduct throughout the Grievance Hearing was unfair, biased, and prejudicial. Like the S.C. Dept. of Disabilities & Special Needs, the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee was not interested in the truth (facts); they were not interested in being fair either. The S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee's biases regarding the discriminatory employment practice influenced both their final decision and their unethical conduct. The S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee supports unfair, inconsistent,

subjective, selective, retaliatory, and discriminatory employment practices in the workplace.

The S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee abused their discretion (discretionary powers) to treat the Appellant unfairly. The S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee's final decision is abusive, subjective, unethical, arbitrary, biased, partial, capricious, erroneous, unfair, and prejudicial for all the reasons stated in the Appellant's brief.

The S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee's biases, misconduct, and abuse of discretionary powers prejudices the Appellant's substantial rights to fair treatment, a fair process, and fair outcomes. The S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee's final decision should be rejected for being prejudiced.

The final order of the S.C. Administrative Law Court affirms the final decision of the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee. The final decision of the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee prejudices the Appellant's substantial rights and is (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; therefore, the final order of the S.C. Administrative Law Court prejudices the Appellant's substantial rights and is (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

The S.C. Administrative Law Court's final order affirms the final decision of the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee. The S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee's final decision upheld, maintained,

assisted, and defended the S.C. Dept. of Disabilities & Special Needs decision to terminate the Appellant's employment; therefore, the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee's final decision is (a) in violation of constitutional or statutory provisions; (c) made upon unlawful procedure; (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; and (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. The S.C. Administrative Law Court's final order affirming the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee's final decision is (a) in violation of constitutional or statutory provisions; (c) made upon unlawful procedure; (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; and (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. The State Employee Grounds for Appeal Form is applicable to the S.C. Administrative Law Court's final order, to the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee's final decision, and to the S.C. Dept. of Disabilities & Special Needs decision to terminate the Appellant's employment.

The State Employee Grounds for Appeal Form is as follows:

Please identify which ground(s) listed below from § 8-17-340(E) of the S.C. Code of Laws you contend would require the Committee to change the agency's decision. In addition, state why these grounds are relevant to your appeal.

The agency's decision to terminate my employment is (a) in violation of constitutional or statutory provisions; (c) made upon unlawful procedure; (e) clearly erroneous in view of the

reliable, probative, and substantial evidence on the whole record; and is (f) arbitrary and capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

The agency's decision to terminate my employment is (a) in violation of constitutional or statutory provisions.

The agency's decision to terminate my employment is in violation of constitutional or statutory provisions. (Please see supporting documents – Group A)

The agency's decision to terminate my employment is (c) made upon unlawful procedure.

The agency's decision to terminate my employment on 6/19/2017 was made upon unlawful procedure. On 2/23/17, the S.C. Department of Disabilities and Special Needs – Coastal Regional Center put in place a new, unlawful, prejudicial, unfair, and discriminatory employment practice against me that subjected me to unlawful, unfair, prejudicial disciplinary actions that ended my employment. Any and all terms and conditions of employment should be universal in the workplace. Employers should follow established policies and procedures that meet the requirements of being uniform, fair, and consistent and should not make up unlawful practices or procedures to carry out their own corrupt agendas.

The agency's decision to terminate my employment is (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record.

The agency's decision to terminate my employment is clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record.

Claudette Field's charge (disciplinary action) against me for Conduct Unbecoming a State Employee is completely erroneous. This disciplinary action was only the starting point for her ending goal; which was to terminate my employment. This disciplinary action was then followed by an erroneous, improper, unfair, and inconsistent employment practice that was put in place on

2/23/17 specifically for me. Mrs. Fields actions were malicious, improper, corrupt, dishonest, unethical, and just plain wrong. This is the second time that Claudette Fields has just made stuff up and pulled things out of thin air to wrongfully, improperly, and unlawfully terminate my employment.

The disciplinary action titled, "Conduct Unbecoming a State Employee" was administered maliciously and with one end goal in mind. It was just the beginning of Claudette Fields retaliation efforts to bring about the end of my employment. In this disciplinary action I was called irrational and disruptive, but I am not (nor was I) irrational or disruptive and these inflammatory remarks are very inappropriate and very untrue.

The internal transfer process is pretty cut and dry. The staff (Latichia Gadson) wanted to voluntarily transfer from 1st shift in 110 to 2nd shift in 110. On 2/15/17, I informed Mrs. Fields of the staff members transfer request. Mrs. Fields then expressed (via a phone conversation) her desire to re-assign the staff member to unit 320 instead. Mrs. Fields response to the staff members transfer request was contradictory and inconsistent to the established internal transfer policy. It was also inconsistent with how Mrs. Fields have handled past staff members internal transfer request. Her response to this transfer request was more in line with an involuntary re-assignment because the staff member did not want to transfer to 320; she wanted to remain in the unit she was already working in. Unit 110 currently had four 2nd shift vacancies. Two days later (on 2/17/17), the staff member changed her mind and withdrew her transfer request.

This was not the first time that I've had communications with Mrs. Fields regarding a staff member wanting to transfer from one shift to another. Mrs. Gadson's transfer request was in no way different from transfer requests made to Claudette Fields in the past; the only difference was Mrs. Fields response to it (Please see supporting documents – Group E). Transfer requests

are required to be done fairly and in a consistent manner. Everyone is knowledgeable regarding the established policies and procedures regarding the internal transfer request process. The disciplinary action titled, "Conduct Unbecoming a State Employee" was certainly unwarranted and the language Mrs. Fields used in it to describe me is very opinionated and very untrue.

Claudette Fields knew on 2/23/17 that she would end my employment, but she knew she had to camouflage her retaliatory efforts so they weren't so blatantly evident. Conduct unbecoming a state employee carries a punishment of suspension to dismissal for the first offense. This charge against me is erroneous and Claudette Fields knew it was erroneous. It is all to evident that Claudette Fields didn't even believe and/or couldn't even convince herself of her own hype regarding the charges in this disciplinary action. Why issue a written warning (lenient punishment) for such an egregious charge. Claudette Fields knew this charge was completely erroneous and she also knew that she took away my right to formally grieve this charge when she issued a mere written warning. This was so malicious!

The charge listed on the termination letter for an accumulation of three offenses is completely erroneous. Please do not be confused or misled by all the varying language that's used in the disciplinary actions dated 6/7/2017 (Dismissal), 4/6/2017 (Three (3) Day Suspension), and 3/10/2017 (Written Warning). These three disciplinary actions (despite its title or contents) were all administered for not adhering to the new, arbitrary, improper, discriminatory, prejudicial, and retaliatory employment practice that was put in place on 2/23/17. This was not an accumulation of offenses. The agency opted to slow walk me out the door by using their progressive disciplinary action guidelines. They did this so they would be able to count one (single) arbitrary, retaliatory, unfair, and discriminatory charge as three (3) offenses.

There is absolutely nothing fair or consistent about what this agency has done to me.

Consistency and fairness is essential when developing workplace policies and practices. It is illegal to single out one employee for disciplinary actions and/or consequences for rules, policies, and practices that are not applicable to all employees. On 2/23/17, I informed Mr. John Dooney that I could not adhere to the new practice because it was discriminatory and prejudicial against me. On 2/24/17, I informed Mrs. Deirdre Blake – Sayers that I could not adhere to the new practice because it was discriminatory and prejudicial against me.

The charge listed on the termination letter is for an Accumulation of Three Offenses within Two (2) Years where the First Offense calls for a Written Reprimand. This is the charge that Claudette Fields worked so hard to achieve. She tortured me for four long months by using the agency's progressive disciplinary action guidelines to achieve this. In a matter of four months (not 2 years); Claudette Fields was confident she had an accumulation of three offenses, but this conclusion is wrong (erroneous). The charge then says - where the first offense calls for a written reprimand. According to the agency's guidelines for employee progressive disciplinary action; Improper Conduct or Conduct Unbecoming a State Employee actually calls for Suspension to Dismissal for the first offense, not a written warning (reprimand).

Claudette Fields actions to terminate my employment with the agency were deliberate, strategic, calculated, malicious, unfair, inconsistent, erroneous, abusive, prejudicial, retaliatory, and so much more. The one question this begs me to ask is why (what motive(s)) did three other top agency officials (John Dooney, Rebecca Hill, and Deirdre Blake-Sayers) all have individually or collectively to go along with and support Claudette Fields in her efforts to terminate my employment. I believe I know the answer to this question, but it only causes me to have more questions and more concerns regarding their ethics in these matters.

The agency's decision to terminate my employment is (f) arbitrary and capricious or

characterized by abuse of discretion or clearly unwarranted exercise of discretion.

The agency's decision to terminate my employment is arbitrary and capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. On February 23, 2017, I was expected to submit to an improper, unfair, arbitrary, capricious, discriminatory, prejudicial, and retaliatory employment practice or I would surely suffer the consequences (termination) for asserting my legal rights to be treated fairly and equally in the workplace. I was expected to be humiliated, to be harassed, to be made a mockery of, to be treated differently, to be abused, to be violated, to be broken down, to be scrutinized, and to be treated unfairly and unequally or to be terminated. I was terminated.

Employment practices that pertain to compensation, pay, salary, leave practices, time keeping, and transfers (just to name a few) must me practiced equally among all employees (especially employees of the same job classification or the same job position). Equal employment practices are required by law to be equal. All employees must be informed of these practices and these practices must be made available to all employees in some written form (handbooks, directives, etc....) Policies, procedures, and employment practices that establish rules, regulations, and guidelines for employees must be uniform and applicable to all employees.

The disciplinary action dated April 6, 2017 states, "it is difficult for your supervisor to determine the correct time you are reporting to work". The truth is that it is difficult for everyone's supervisor to determine the correct time they are reporting to work. This applies to all Administrative Personnel. If the goal was to address this universal concern; then a uniform, fair, and consistent employment practice would have been implemented. An agency with hundreds of employees cannot honestly believe that holding one employee (among a classification or group of employees) to a different set of standards regarding a time keeping practice is a fair and

consistent act.

One person signing in and out means only one person is being held accountable. One person signing in and out means only one person is being humiliated and laughed at. One person signing in and out means only one person is being pressured to report to work on time each and every day while having to simultaneously watch others around them stroll in to work whenever they feel like it. One person signing in and out means only one person is subjected to punitive disciplinary actions for every second or minute they are late while others go unpunished for committing the same infraction/offense. What kind of workplace environment is this; a very hostile and intimidating workplace environment. Why would this be allowed?

The disciplinary action dated April 6, 2017 states that this agency is grounded on fair and consistent measures when administering disciplinary actions, but this statement cannot be true. The discriminatory employment practice was put in place specifically for me. I was the only one being required to adhere to it. In the almost ten years that I have worked for DDSN, I have never done this. To put this new, extremely questionable, and very contentious practice in place for one person arbitrarily, subjectively, and selectively violates every aspect of what it means to be equal, fair, and consistent.

On February 2, 2015, I contacted Claudette Fields to discuss my work schedule and my desire to take on a full time night job. I knew that this night job would interfere with my day time job and I knew that I could not take on this kind of obligation without Mrs. Fields approval because I would absolutely need to have more flexibility with my scheduling. I have included the initial email that started conversations between me and Mrs. Fields regarding all of this. (Please see supporting documents – Group F) These conversations ultimately resulted in me accepting the full time night job because Claudette Fields extended privileges to me regarding my

scheduling that enabled me to take this on.

The disciplinary action dated March 10, 2017 makes mention of these privileges very vaguely wherein Mrs. Fields is withdrawing the privileges writing "there is no additional grace period" and that "my scheduled working hours would be amended to include the 6:00-2:30 shift". Prior to February 23, 2017 there was an additional grace period and I was not required to work the 6:00-2:30 shift.

February 23, 2017 was the very first time that Claudette Fields ever expressed concerns and/or desires to pull back these privileges; however, she did it in a very dishonest and malicious way. She painted a picture that was very inaccurate and she did so to accomplish a goal she probably would not have been able to achieve otherwise (i.e. the discriminatory employment practice). She intentionally backed me into a corner knowing full well it would be her word against mine and that people would be more inclined to believe her. These privileges had been permitted for over two years and Claudette Fields (in her retaliation efforts) went to great heights to not only bring them to an end, but to bring my employment to an end also.

Claudette Fields is dishonest, corrupt, and malicious. This was not about tardiness; this was about retaliation. Tardiness is probably the most common violation that occurs in all workplaces; but policies, practices, and procedures to address it must always be equal, fair, and consistent.

Claudette Fields, John Dooney, Rebecca Hill, and Deirdre Blake - Sayers all supported the discriminatory employment practice that was put in place on 2/23/17. Claudette Fields, John Dooney, Rebecca Hill, and Deirdre Blake – Sayers all knew on 2/23/17 or 2/24/17 that I could not adhere to the discriminatory employment practice. Claudette Fields, John Dooney, Rebecca Hill, and Deirdre Blake – Sayers all tortured me with the threat of termination for four months

(2/23/17 through 6/19/17) just so they could (1) apply maximum pressure to force me to quit my job, (2) create a paper trail, (3) say they did progressive disciplinary actions, (4) charge me with an accumulation of offenses, and (5) camouflage their retaliation plan. Their actions were surely arbitrary and capricious as well as discriminatory, prejudicial, and viciously cruel. February 23, 2017 is the date that sealed my fate with DDSN. Termination was inevitable.

(E) The committee may sustain, reject, or modify a grievance hearing decision of an agency as follows:

(1) In cases involving actual or threatened abuse, neglect, or exploitation, to include those terms as they may be defined in Section 43-35-10 or 63-7-20, of a patient, client, or inmate by an employee, the agency's decision must be given greater deference and may not be altered or overruled by the committee, unless the covered employee establishes that:

(a) The agency's finding that the covered employee abused, neglected, or exploited or threatened to abuse, neglect, or exploit a patient, client, or inmate is clearly erroneous in view of reliable, probative, and substantial evidence;

(b) The agency's disciplinary action was not within its established personnel policies, procedures, and regulations; or

(c) The agency's action was arbitrary and capricious.

(2) In all other cases, the committee may not alter or overrule an agency's decision, unless the covered employee establishes that the agency's decision is one or more of the following and prejudices substantial rights of the covered employee:

(a) in violation of constitutional or statutory provisions;

(b) in excess of the statutory authority of the agency;

(c) made upon unlawful procedure;

(d) affected by other error of law;

(e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or

(f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Conclusion

The final order of the S.C. Administrative Law Court affirms the final decision of the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee.

The misconduct and partiality exhibited by the S.C. Dept. of Administration – Division of State Human Resources (State Employee Grievance Committee) invalidates their final decision and prejudices my (the Appellant's) substantial rights. I am appealing the final order of the S.C. Administrative Law Court upholding/affirming the final decision of the S.C. Dept. of Administration – Division of State Human Resources Grievance Committee and I contend that their decision is (a) in violation of constitutional or statutory provisions; (c) made upon unlawful procedure; (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; and (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

I (the Appellant) am asking the S.C. Court of Appeal to reject the final order of the S.C. Administrative Law Court affirming/upholding the final decision issued by the S.C. Dept. of Administration – Division of State Human Resources State Employee Grievance Committee for all the reasons (grounds) outlined (argued) in the Appellant's Brief.

I (the Appellant) am asking the S.C. Court of Appeal to review the entire employee grievance record (Ms. Alicia Bolden v. S.C. Dept. of Disabilities & Special Needs – Coastal Regional Center) - including the excluded Appellant evidence/documents and the authentic grievance hearing recording/transcript - concerning the Appellant's appeal and to issue a final decision regarding the appeal.

As previously stated in the record (Committee Exhibit No.1, pg. 3), the Appellant is

asking to be reinstated to her same position with the S.C. Dept. of Disabilities & Special Needs (Coastal Regional Center) as a Direct Service Manager in Highlands 110.

PROOF OF SERVICE OF [INITIAL] BRIEF OF APPELLANT

THE STATE OF SOUTH CAROLINA
In The Court of Appeals
(County of Richland)

APPEAL FROM THE S.C. ADMINISTRATIVE LAW COURT

The Honorable S. Phillip Lenski, Administrative Law Judge

Case No. 2019-000301

Alicia Bolden, Appellant,

v.

South Carolina Department of Disabilities and Special Needs, Respondent.

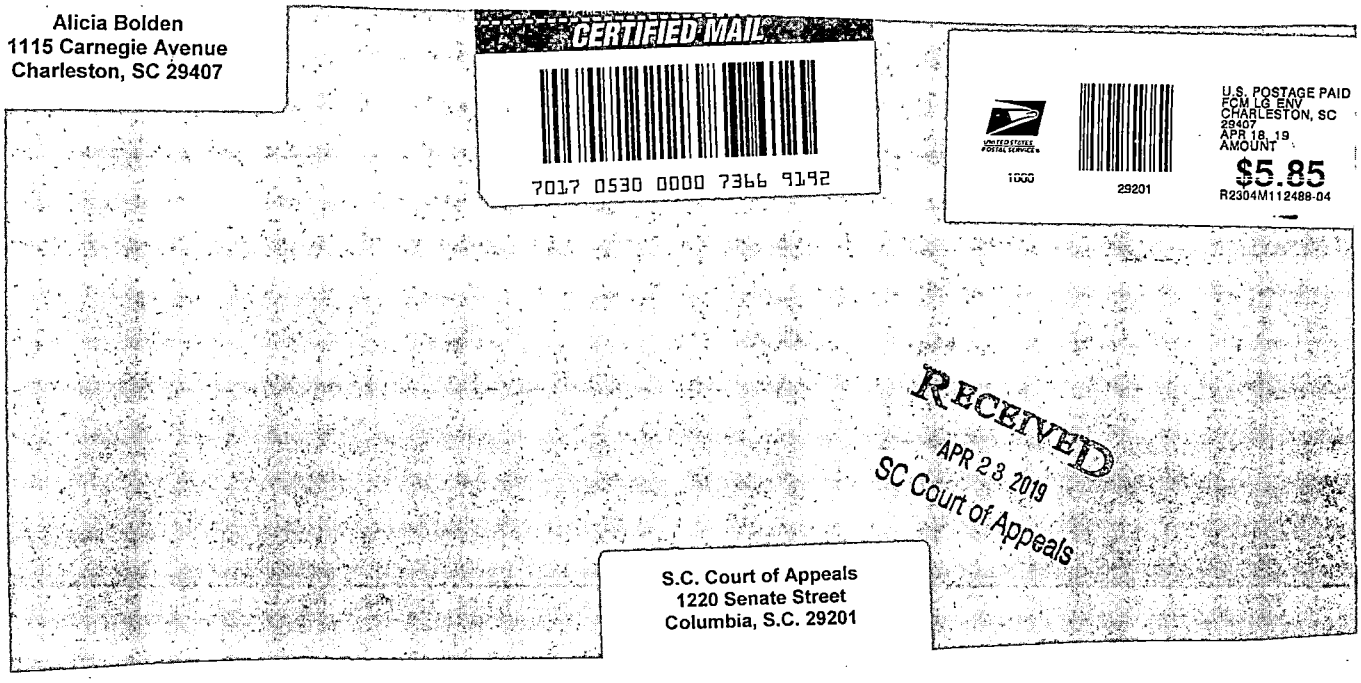
PROOF OF SERVICE

I certify that I have served the Amended Initial Brief of Appellant on the S.C. Dept of Disabilities and Special Needs by depositing a copy of it in the United States Mail; postage prepaid, on April 18, 2019, addressed to the attorney of record, Tana Vanderbilt, Esq., Post Office Box 4706 Columbia, South Carolina 29240.

April 18, 2019

s/ Alicia Bolden

Ms. Alicia Bolden
(Pro Se Appellant)
1115 Carnegie Avenue
Charleston, South Carolina 29407
(843) 709-5313


Alicia Bolden
1115 Carnegie Avenue
Charleston, SC 29407
CERTIFIED MAIL
7017 0530 0000 7366 9192
1000
29201
U.S. POSTAGE PAID
FCM LG ENV
CHARLESTON, SC
29407
APR 18, 19
AMOUNT
$5.85
R2304M112488-04
RECEIVED
APR 23 2019
SC Court of Appeals
S.C. Court of Appeals
1220 Senate Street
Columbia, S.C. 29201