

**RECEIVED**  
AUG 26 2019  
SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

H.W. Funderburk, Jr., Administrative Law Judge

Appellate Case No. 2018-001321

James Nathaniel Allen, #171214 ..... Respondent,

v.

South Carolina Department of Corrections ..... Appellant.

**MOTION TO SERVE THE RECORD ON APPEAL OUT OF TIME**

By correspondence dated August 20, 2019, the Clerk of the Court of Appeals notified the undersigned counsel for the Appellant, the South Carolina Department of Corrections ["SCDC"], that the record on appeal in the above-captioned matter should have been served, and a proof of service filed with the Court, by August 9, 2019.

The same correspondence directed SCDC's undersigned counsel to serve the record on appeal, along with the instant motion requesting permission to serve the record outside of the filing deadlines set by South Carolina Appellate Court Rule ["SCACR"] 210, within 10 days.

In response to the Clerk's August 20, 2019 letter, SCDC's undersigned counsel respectfully asserts that he served the record in the instant matter upon the pro se Respondent via United States Mail on August 8, 2019. Rather than filing the associated proof of service with the Court of Appeals, however, the associated proof of service was mistakenly filed with the South Carolina Administrative Law Court ["ALC"]. SCDC's undersigned counsel respectfully

includes a copy of the August 8, 2019 proof of service, bearing a file-stamp affixed by the Clerk of the ALC, in support of its instant motion.

Thus, although he has previously served the record on the *pro se* Respondent, SCDC's undersigned counsel, in satisfaction of the August 20, 2019 correspondence from the Clerk, respectfully moves the Court for permission to serve the record outside the filing deadlines set by SCACR 210.

In so moving, SCDC's undersigned counsel is concurrently filing an amended proof of service with the Clerk confirming service of the record upon the *pro se* Respondent via United States Mail, first class postage-prepaid on August 8, 2019.

Given that he served the record upon the *pro se* Respondent on August 8, 2019, SCDC's undersigned counsel shall file and serve SCDC's final brief, as well as file the record with the Court, no later than Wednesday, August 28, 2019.

**RESPECTFULLY SUBMITTED:**



August 26, 2019

---

Lake E. Summers  
**Malone, Thompson, Summers & Ott LLC**  
339 Heyward Street, Suite 200  
Columbia, South Carolina 29201  
Office: (803) 254-3300  
Fax: (803)-254-0309  
E-mail: summers@mtsolawfirm.com

Counsel for Appellant

*Pro se* Respondent:

James Nathaniel Allen, #171214  
Perry Correctional Institution Q-1-B-108  
430 Oaklawn Road  
Pelzer, South Carolina 29669

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

H.W. Funderburk, Jr., Administrative Law Judge

Appellate Case No. 2018-001321

James Nathaniel Allen, #171214 ..... Respondent

**RECEIVED**  
AUG 26 2019  
SC Court of Appeals

v.

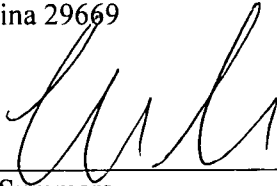
South Carolina Department of Corrections ..... Appellant.

**PROOF OF SERVICE**

I certify that I have served the **APPELLANT'S MOTION TO SERVE THE RECORD ON APPEAL OUT OF TIME** on the above-named *pro se* Respondent by depositing a copy of it in the United States Mail, First Class Postage Pre-Paid, to the Respondent's Counsel addressed as follows:

James Nathaniel Allen, #171214  
Perry Correctional Institution Q-1-B-108  
430 Oaklawn Road  
Pelzer, South Carolina 29669

August 26, 2019

  
\_\_\_\_\_  
Lake E. Summers  
**Malone, Thompson, Summers & Ott LLC**  
339 Heyward Street, Suite 200  
Columbia, South Carolina 29201  
Office: (803) 254-3300  
Fax: (803) 254-0309  
E-mail: summers@mtsolvfirm.com

Counsel for Appellant

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

H.W. Funderburk, Jr., Administrative Law Judge

Appellate Case No. 2018-001321

James Nathaniel Allen, #171214 ..... Respondent,

v.

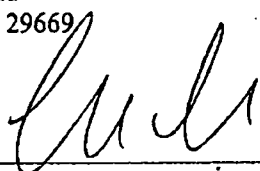
South Carolina Department of Corrections ..... Appellant.

PROOF OF SERVICE

I certify that I have served the **RECORD ON APPEAL** on the above named *pro se* Respondent by mailing a copy to him, first class postage pre-paid, at the following address:

James Nathaniel Allen, #171214  
Perry Correctional Institution Q-1-B-108  
430 Oaklawn Road  
Pelzer, South Carolina 29669

August 8, 2019

  
\_\_\_\_\_  
Lake E. Summers

**FILED**

AUG 08 2019

SC ADMIN LAW COURT

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

H.W. Funderburk, Jr., Administrative Law Judge

Appellate Case No. 2018-001321

James Nathaniel Allen, #171214 ..... Respondent,

v.

South Carolina Department of Corrections ..... Appellant.

PROOF OF SERVICE

I certify that I have served the **RECORD ON APPEAL** on the above named *pro se* Respondent by mailing a copy to him, first class postage pre-paid, at the following address:

James Nathaniel Allen, #171214  
Perry Correctional Institution Q-1-B-108  
430 Oaklawn Road  
Pelzer, South Carolina 29669

August 8, 2019

  
\_\_\_\_\_  
Lake E. Summers

**FILED**

AUG 08 2019

SC ADMIN LAW COURT

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

H.W. Funderburk, Jr., Administrative Law Judge

Appellate Case No. 2018-001321

James Nathaniel Allen, #171214 ..... Respondent,

v.

South Carolina Department of Corrections ..... Appellant.

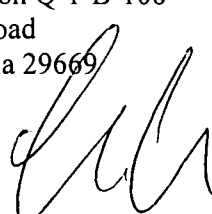
**AMENDED PROOF OF SERVICE**

In satisfaction of correspondence from the Clerk of the Court of Appeals dated August 20, 2019, I certify that I served the **RECORD ON APPEAL** on the above named *pro se* Respondent by mailing a copy to him, first class postage pre-paid, on August 8, 2019 at the following address:

James Nathaniel Allen, #171214  
Perry Correctional Institution Q-1-B-108  
430 Oaklawn Road  
Pelzer, South Carolina 29669

**RECEIVED**  
AUG 26 2019  
SC Court of Appeals

August 26, 2019

  
\_\_\_\_\_  
Lake E. Summers