

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge S. Phillip Lenski

ALC Case No. 17-ALJ-04-0163-AP
Appellate Case No. 2018-002243

RECEIVED
DEC 06 2019
SC Court of Appeals

JOHN K. MASSEY, JR., # 305341,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

**MOTION TO AMEND INITIAL BRIEF, OR IN THE ALTERNATIVE,
MODIFY FINAL BRIEF**

The Initial Brief of Respondent was filed on April 24, 2019. The Final Brief of Respondent is due December 9, 2019. South Carolina Appellate Court Rule 211 states, “The party may correct obvious typographical errors and misspellings which were contained in the initial brief. *No other changes may be made.*” (Emphasis added). Respondent’s Initial Brief included the assertion, “On July 13, 2013, Appellant was arrested for Grand Larceny and Malicious Injury to Property – Third or Subsequent. [. . .] These are the only two convictions for which Appellant is still incarcerated.” Resp. Initial Brief, p. 4. At the time the Initial Brief was filed, that last was correct. However, Appellant has completed his sentence for his Grand Larceny conviction and is now only

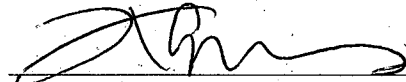
serving time for Malicious Injury to Property – Third or Subsequent. To modify this statement would be a violation of Rule 211. However, to leave this statement unchanged would be a misrepresentation to the Court.

Therefore, Respondent respectfully requests that this Court allow the Initial Brief to be amended or, in the alternative, to allow Respondent's Final Brief to reflect the updated maxout date.

Furthermore, Respondent requests that this Court hold in abeyance the filing deadline for the Final Brief of Respondent, pending resolution of this motion.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**



Kensey Evans
Deputy General Counsel
Office of General Counsel
S.C. Department of Corrections
Post Office Box 21787
Columbia, South Carolina 29221
(803) 896-8508

ATTORNEY FOR RESPONDENT

December 6, 2019

STATE OF SOUTH CAROLINA
In The Court of Appeals

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Administrative Law Judge S. Phillip Lenski

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CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that on today's date she mailed a copy of the Motion to Amend Initial Brief, or in the Alternative, Modify Final Brief to Appellant, as well as the corrected cover page for Respondent's Supplemental Record on Appeal addressed as follows: John K. Massey, Jr., 305341, MacDougall Correctional Institution, 1516 Old Gilliard Road, Ridgeville, SC 29472, C1B-0018-A.



Kensey Evans
Deputy General Counsel
Office of General Counsel
South Carolina Department of Corrections
Post Office Box 21787
Columbia, S. C. 29221
(803) 896-8508

December 6, 2019



SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS
Safety, Service, and Stewardship

HENRY McMASTER, Governor
BRYAN P. STIRLING, Director

OFFICE OF GENERAL COUNSEL

December 6, 2019

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

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RE: John K. Massey, Jr., #305341 v. South Carolina Department of Corrections
Appellate Case No. 2018-002243

Dear Ms. Kitchings:

Enclosed please find the corrected cover page to Respondent's Supplemental Record on Appeal in the above captioned appeal. Also enclosed is the original and six copies of Respondent's Motion to Amend Initial Brief or Modify Final Brief. Proof of Service for both documents is also enclosed. Please file all documents with your office.

Thank you for your attention to this matter, and please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

Kensey Evans
Deputy General Counsel
South Carolina Department of Corrections

cc: John K. Massey, Jr. #305341
MacDougall Correctional Institution
1516 Old Gilliard Road
Ridgeville, South Carolina, 29472
C1B-0018-A