

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Milton G. Kimpson, Administrative Law Judge

ALC case NO: 19-AW-04-306-AP

Appellate case NO: 2019-0015766

Jack Hughendall,
#355988

v.

S.C. Dept of Corrections,

Appellant,

Respondent,

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FEB 26 2020

SC Court of Appeals

BRIEF OF APPEAL

STATEMENT OF ISSUES

I am a layman of the law and procedures. Due to being in a dorm in the institution that stayed lockdown. I am being restricted to access the law library, mail room, and to get copies made. So therefore could not file my notice of appeal to all the parties correctly and within the time frame.

STATEMENT OF CASE

Date assigned 6-13-2019 filed an notice of appeal with a blank proof of service to Administrative law court and failed to serve a notice of appeal to the general counsel. On July 22, 2019 General Counsel filed a motion to dismiss since I didn't serve them my notice of appeal within thirty days because I am indigent and had no ways to get envelopes or copies made since I was lockdown. On July 31, 2019 I filled out the proof of service on the notice of appeal and sent my notice of appeal, certificate of service, and a motion to amend notice of appeal by S.C. Reg Rule (E) Appellant respectfully requesting that the court denies respondents motion to dismiss and allow to serve respondent in the case of Justice any other party would not be prejudiced by this amendment. Then Aug 14, 2019 I recieved a letter order of dismissal by Judge Kimpson. On Aug. 20, 2019 I sent motion to file outside of timeline due to being restricted access to law library, and mailroom. They sent me a copy of the motion back stamped. Stating motions for reconsideration are prohibited see ALC Rule 65. Then I sent my notice of appeal to S.C. Court of Appeals on Sept. 11, 2019

TABLE OF AUTHORITIES

CASES

Hebbe v. Piller, 627 F.3d 338,

STATUTES

S.C.R. CIVIL P Rule (59)(E)

S.C.R. CIVIL P Rule (60)(B)(1)

ARGUMENT

Under S.C.R. Civil P Rule 60 (B)(1) Excusable neglect. Petitioner is an inmate housed in a Security Threat Group dorm (STG). Under these conditions the Petitioner's movement is restricted. Petitioner is also an indigent inmate who is only provided with two envelopes a month. South Carolina Department of Corrections at this time is extremely under man; causing even less opportunity to get copies from the law library. Petitioner did the best he could with the little he had and literally could not send extra copies to all the parties in the time under those circumstances. *Hebbe v. Piller*, 627 F. 3d 338 P.340 *Hebbe* states in his complaint that he was on lockdown, and thus had no access to the law library for that entire thirty day period. He asserts that he was therefore unable to research and file a supplement appellant brief by the imposed deadline. P.342 *Hebbe* alleges that the prison officials violated his constitutional right to court access, grounded in the first amendment, right to petition and the fourteenth amendment right to due process, by denying him access to the prison law library while the facility was on lockdown, and that denial prevented him from filing a brief support of his appeal of this state court conviction. This case was reversed and remanded on grounds that the prisoner stating claim to court access, and prisoner stated eighth amendment claim. So I am asking the court for reverse decision on similar grounds since petitioner was denied court access, and allow petitioner the opportunity to properly serve notice to the appropriate parties.

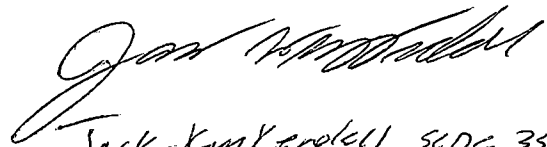
CONCLUSION

Due to the petitioners movement being restricted and not able to access the law library to research the law and procedures or to get copies made. Also due to petitioner being indigent and couldn't get to mail room to get legal materials the petitioner could not serve all parties in the correct time. Petitioner is asking for the court to reverse it's decision to dismiss his appeal and allow the petitioner to serve notice to all parties.

For the reasons stated, this court should reverse the judgement of the Administrative Law Court.

Feb. 20, 2020

Respectfully Submitted By:



Jack Kuykendall SDC 355758

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Jack Kuykendall,
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CERTIFICATE OF SERVICE

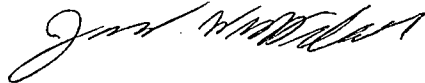
I hereby certify a copy of the foregoing motion was this date served upon the following individuals by placing a copy of the same via mail to his/her last known address as follows:

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Respectfully submitted by



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Feb 18, 2020

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SC Court of Appeals

FEB 21 REC'D

S.C. Court of appeals
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