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## CASES

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## STATUTES

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

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

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT  
Milton G. Kimpson, Administrative Law Judge

Lower case No: 19-ALJ-04-0306-AP

Appellate case No: 2019-001566

Jack Kykendall, #35578F,

APPELLANT,

v.

South Carolina Department of Corrections,

RESPONDENT.

DESIGNATION OF MATTER TO BE INCLUDED  
IN THE RECORD ON APPEAL

Appellant proposes the following be included in the record on appeal:

1. Order of dismissal Aug. 6, 2019
2. Notice of appeal July 31, 2019
3. motion to Amend notice of appeal July 31, 2019
4. motion to file outside of timeline Aug. 20, 2019

I certify that this designation contains no matter which  
is irrelevant to this appeal.

3-6-20

Respectfully submitted By:



Jack Kykendall #35578F

Evans CI 2A-196

600 highway 9 west

Bennettsville, S.C. 29009

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MAR 17 2020

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeal

APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Milton G. Kimpson, Administrative Law Judge

Lower case No: 19-ALT-04-0306-AP  
Appellate case No: 2019-001566

Jack Kuykendall, #355988,

APPELLANT,

v.

South Carolina Department of Corrections,

RESPONDENT

BRIEF OF APPELLANT

Respectfully Submitted By

*Jack Kuykendall*

Jack Kuykendall #355988

Evans CT 2A-196

610 highway 9 West

Bennetsville, S.C. 29512

3-6-20

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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, mailroom, and to get copies made. So therefore could not file my notice of appeal to all the parties correctly and within the thirty day 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 the notice of appeal to the general counsel. July 22, 2019 the general counsel filed for a motion to dismiss since I didn't serve them my notice of appeal within thirty days because I am indigent and had no way to get copies or envelopes since I was lockdown. 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 (59)(E) Appellant respectfully requesting that the court denies respondents motion to dismiss and allow to serve respondent in the cause of justice any other party would not be prejudiced by this amendment, August 14, 2019 appellant recieved a letter order of dismissal by judge Kimpson. August 20, 2019 appellant sent a motion to file outside of timeline due to being restricted to access the law library, and mailroom. Appellant recieved a letter of the same motion stamped stating motions for reconsideration are prohibited see ALC Rule 65. Then Appellant sent notice of appeal to S.C. court of appeals on September 11, 2019.

## ARGUMENT

Under S.C.R. Civil P. Rule 60 (B)(1) Excusable neglect. Petitioner is an inmate housed in a Security Threat Group dorm. Under these conditions the petitioners 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 that he had and literally could not send extra copies to all the parties in the time frame under those circumstances. *Hebbe v. Pliler*, 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 appellate 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 the denial prevented him from filing a brief in support of his appeal of this state court conviction. This case was reversed and remanded on grounds that the prisoner stated claim to court access, and prisoner stated Eighth amendment claim. So Petitioner is asking the court for a reversed 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 petitioner's 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 could not get to mail room to get legal envelopes 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.

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Respectfully submitted By:



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3-6-20

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Milton G. Kimpson, Administrative Law Judge

Lower Case No: 19-ALJ-04-0306-AP  
Appellate case No: 2019-001566

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SC Court of Appeals

Jack Kuykendall,  
#355988

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

Certificate of service

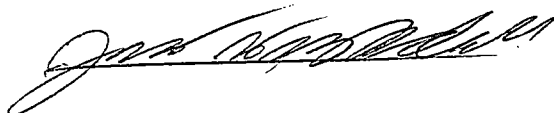
I hereby certify a copy of the foregoing motion was this date served upon the following individuals by placing a copy of the same via mail to his/her last known address as follows:

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S.C. Court of Appeals  
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3-2-20

Jack Kaykendall SCDC 355988  
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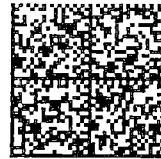
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S.C. Court of Appeals  
P.O. Box 11629  
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