

**RECEIVED**

JAN 25 2021

STATE OF SOUTH CAROLINA  
In the Supreme Court

SC Court of Appeals

Appeal from Final Agency Decision

Grievance No. LEECI-0676-19  
Grievance No. LEECI-0718-19  
S.C. Ct. App. 2020-000929

ROBERT WILLIAM WAZNEY, Appellant,

v.

S.C. Dept. of Corr. (SCDC), Respondent.

PETITION FOR WRIT OF CERTIORARI

I, ROBERT WILLIAM WAZNEY, Petitioner, hereby certify that a Petition for Rehearing or reinstatement was made and finally ruled on by the S.C. Court of Appeals.

/s/

ROBERT WILLIAM WAZNEY  
990 Wisacky Highway  
Bishopville, SC 29010  
Appellant pro se (forced)

Executed January 21, 2021.

~~PETITION FOR WRIT OF CERTIORARI~~

~~Affidavit or Declaration~~

1. I, ROBERT WILLIAM WAZNEY, am the Petitioner in this action PETITION FOR WRIT OF CERTIORARI concerning S.C. Appellate Case No. 2020-000929, Grievance LEECI-0676-19, Grievance LEECI-0718-19 to the S.C. Supreme Court. I am an inmate confined in an institution held captive by South Carolina Department of Corrections (SCDC), I am a vulnerable-adult, and I am a citizen of the United States.

2. July 15, 2019, I brought my problems to, and requested help from, SCDC-Officer concerning SCDC-Officer failing to provide adequate Law Library, I was then abused by that SCDC-Officer in the Lee Prison Library, the abuse committed by that SCDC-Officer foreclosed my ability to ascertain the legality of that SCDC-Officer's inappropriate action of prevention of my taking some meritorious legal action in the court. The unjustified use of force committed by SCDC-Officer against me has inflicted my bodily harm without cause, I suffer physical pain and impairment of the body. SCDC-Officer intended to harm me by the use of unnecessary force resulting in my actual injury. There was no perceived threat to the SCDC-Officer, other inmates, or my safety, and there was no genuine need for the use of force, the force was disproportionate with it's need, and SCDC-Officer made no effort to temper the severity of the force used.

3. After conviction, United States Constitution Eighth Amendment serves as the primary source of substantive protection in cases where the deliberate use of force is challenged as excessive and unjustified; any protection that substantive due process affords convicted prisoners against excessive forces is at best redundant of that provided by the Eighth Amendment. USCA Const. Amend. 8. Lopez v. Ortiz, 11 F.Supp. 3d 46 (D.P.R. 2014). The Eighth Amendment assures that prisoners will not be subject to cruel and unusual punishment, including punishment in the enforcement of prison discipline. Rhodes v. Chapman, 452 U.S. 337, 101 S.Ct. 2392 (1981). Thus, a prison officers actions solely and purposefully to harm an inmate, and not out of a good faith effort to restore or maintain discipline, constitute a civil rights violation. McLaurin v. Prater, 30 F.3d 982 (8th Cir. 1994).

4. I reported the commission of the abuse by SCDC-Officer against me to the first other-officer I seen as soon as law library was dismissed, which was Sgt. Lucky, Sgt. Lucky brought me to Lt. Green and to both whom which I reported the abuse committed by SCDC-Officer. I also reported the abuse to Major Thomas (KIOSK 19-01315252), and to Warden Nelson; but none of the officers of SCDC did anything to resolve the issue, they listened to my complaint and did nothing. I filed grievance step 1 (Griev./1 LEECI-0676-19 pp. 8-9) which went unanswered and Grievance Coordinator made effort to confuse the process by changing grievance identification number and claiming my complaint of abuse was duplicate of other grievances (Id. at Action Taken

area). I filed grievance step 2 (Griev./2 LEECI-0718-19 attached p. 10) and it was returned by Grievance Coordinator, thereafter I filed NOTICE OF APPEAL with S.C. Administrative Law Court (ALC), but ALC would not file my NOTICE OF APPEAL and returned it to me because I have "3 administrative appeals during a calendar year" and ALC stated that I am "required to pay a \$25 filing fee pursuant ... § 1-23-670" (see Memorandum & "myCaseLoad" attached pp. 11-12). However, I could not afford to pay the court fees, and in the past I asked ALC to waive its court fees for a prior case under the same 3-case maximum circumstance but ALC said No, so I filed NOTICE OF APPEAL with S.C. Supreme Court and S.C. Supreme Court transferred the case to S.C. Court of Appeals but S.C. Court of Appeals dismissed the case "Because the memorandum [provided by ALC] is not a final order". So, I filed MOTION TO REINSTATE (attached pp. 13-14) with S.C. Court of appeals informing S.C. Court of Appeals my rights are to be determined by my appeal and requested reinstatement to that court, but S.C. Court of Appeals is "unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing", and denied rehearing (ORDER attached p. 15). Comes now this petition to South Carolina Supreme Court.

5. When I requested help from SCDC-Officer with my problem at the library on July 15, 2019, at no point was I combative or disobeying orders, I remained polite as I always do and presented my questions with clarity and accuracy. My questions regarded the inappropriate and illegal actions committed by the SCDC-Officer, and which I believe upset the SCDC-Officer to

2020-000929 / PAAC 4-06-21/b

the point where SCDC-Officer manifested a present intention to inflict fear of imminent serious physical harm, and which my harm occurred and resulted therefrom. SCDC-Officer's responsive action of abuse to my simple inquiry falls far from and mocks reasonable safety.

6. I brought my Complaint to SCDC Administrative Officers who ignored my claims, I then filed Grievances against SCDC-Officer which were returned by Grievance Coordinator unresolved, I then appealed Grievance decisions to the ALC, then the S.C. Court of Appeals who both denied jurisdiction.

7. However, the Constitution proscription against cruel and unusual punishment, U.S. Const. Amend. VIII, limits the conditions under which the State may confine persons convicted of crimes, Rhodes v. Chapman, 452 U.S. 337, 101 S.Ct. 2392, 69 L.Ed.2d 59 (1981), Hutto v. Finney, 437 U.S. 678, 98 S.Ct. 2565, 57 L.Ed.2d 522 (1978). When the State, by the affirmative exercise of its power, so restrains an individual's liberty that it renders the inmate unable to care for him- or herself and at the same time fails to provide for basic human needs--e.g., food clothing, shelter, medical care, and reasonable safety--it transgresses the substantive limits on state action set by the Eighth Amendment, Crawford v. Cashion, 2010 Ark. 124, 361 S.W.3d 268 (2010). If the government fails to fulfill its obligation to provide basic sustenance to inmates, its courts have a responsibility to remedy the resulting Eighth Amendment violation, Brown v. Plata, 131 S.Ct. 1910, 179 L.Ed.2 969 (2011).

8. United States Constitution protects human life, a human person. The Constitutions do not belong to the government, they belong to me the people and they are there to protect me. Judicial branches main goal is to be the final authority on the United States Constitution. I have the right to a fair hearing before a tribunal with the power to decide the case, Due Process, U.S.CONST. Amend. 14; S.C. CONST. Art. I, § 3. South Carolina Constitution must be subordinate to United States Constitution, U.S.CONST. Art. VI, cl. 2. All courts shall be public, and every person shall have speedy remedy therein for wrongs sustained, S.C.CONST. Art. I § 9. In this case, the State Judicial Branch has failed to provide me a fair and efficient forum for the just resolution of my alleged Eighth Amendment violation matters, and South Carolina Judicial Branch failed to provide such responsibility of remedy as set out in Brown.

9. These facts are violative to my rights and have given rise to federal questions as to:

(A) WHETHER ROBERT WILLIAM WAZNEY HAS BEEN DENIED DUE PROCESS OF LAW GUARANTEED BY THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION FROM STATE JUDICIAL BRANCH FAILURE TO PROVIDE A FAIR AND EFFICIENT FORUM FOR THE JUST RESOLUTION OF CIVIL AND CRIMINAL MATTERS OF HIS ALLEGED EIGHTH AMENDMENT VIOLAION; and

(B) WHETHER ROBERT WILLIAM WAZNEY, A STATE PRISONER, BEING ABUSED BY SOUTH CAROLINA DEPARTMENT OF CORRECTIONS EMPLOYEE IS VIOLATIVE OF THE UNITED STATES CONSTITUTION.

CONCLUSION

10. PREMISES CONSIDERED, there is a difference in opinion in the decision of the Court of Appeals, there is a substantial constitutional issue directly involved, and a federal question is included and the decision of the Court of Appeals conflicts with a decision of the United States Supreme Court.

PRAYER

11. Petitioner, Victim, ROBERT WILLIAM WAZNEY, requests this Court to provide Certiorari to this case and any other relief as this Court deems fit and appropriate in the interest of justice.

12. I, ROBERT WILLIAM WAZNEY, after being duly sworn say that am the Appellant / Petitioner in the above entitled action. I have read the foregoing Petition and know the contents thereof, and that the same is true to my own knowledge. I declare under penalty of perjury the foregoing is true and correct.

/s/

ROBERT WILLIAM WAZNEY

990 Wisacky Hwy.

Bishopville, SC 29010

Petitioner, Victim, Pro.se (forced)

Executed January 21, 2021.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM


STEP 1

INMATE COPY  
Rec'd 7-22-19

<b>INMATE NAME:</b> ROBERT WILLIAM WAZNEY	<b>OFFICE USE ONLY</b> Grievance No. <u>Lee CI 0676-19</u> Code: General <u>LI IS</u> Policy _____ Disc. Hear. _____ Class. _____ PREA _____ Date Received <u>7-24-19</u> IGC Initials <u>RW</u>
<b>SCDC NUMBER:</b> 363679	
<b>INSTITUTION:</b> Lee C.I.	
<b>HOUSING UNIT:</b> F32214 <u>JUL 22 2019</u>	
<b>WORK ASSIGNMENT:</b> Dormworker	

**STATEMENT OF GRIEVANCE** (Indicate the date of incident, and if the grievance is a challenge to SCDC Policy, specify which policy. Include supporting documentation and attach answered RTSM or Kiosk reference number.)

July 15, 2019, I was at Lee Library at front desk, Sgt. Fox was on post. I waited to speak with Sgt. Fox about my inadequate Law Library access and at 3:00PM when I presented my questions--which she did not like, Sgt. Fox threatened me telling me to "step away from the desk before I gas you", Sgt. Fox never resolved my issues. Answered KIOSK 19-01315252.

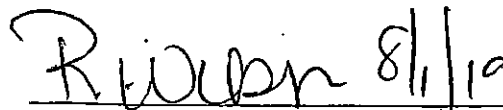
  
 Grievant Signature July 19, 2019  
Date

**ACTION REQUESTED:**

Performance.

**ACTION TAKEN BY IGC:**  PROCESSED  UNPROCESSED  OTHER

This grievance is being P&R, as its a duplicate to LEE CI 0681-19

  
 IGC Signature 8/1/19  
Date

WARDEN'S DECISION AND REASON:

na \_\_\_\_\_  
Warden Signature Date

- I accept the Warden's decision and consider the matter closed.
- I do not accept the Warden's decision and wish to appeal.

na \_\_\_\_\_  
Grievant Signature Date

na \_\_\_\_\_  
IGC Signature Date

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM

1. An informal resolution shall be attempted prior to the filing of Step 1 by sending an Inmate Request to Staff Member (RTSM) form or Kiosk reference number to the appropriate supervisor. A copy of the answered RTSM must be attached to the grievance when the grievance is filed.
2. Complete each section in its entirety writing only in the space provided for inmate use. No additional pages will be permitted.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form by placing it in the Grievance Box at your institution within eight (8) working days of the date on the RTSM response; policy grievances can be filed at any time. Disciplinary and Classification Review appeals must be submitted within five (5) working days of the hearing/review. Do not write in the space provided for the Warden's response.
5. If you are not satisfied with the Warden's decision, you may appeal to the appropriate responsible official within five (5) days of your receipt of the Warden's decision, by placing your Step 2 appeal form in the Grievance Box at your institution.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
INMATE GRIEVANCE FORM  
STEP 2

INMATE COPY

Rec'd 8-21-19

Office Use Only

INMATE NAME: ROBERT WILLIAM HAZNEY  
SCDC NUMBER: 363679  
INSTITUTION: Lee Corr. Inst.  
HOUSING UNIT: F32214  
WORK ASSIGNMENT: Docworker

Grievance No. Lee CI 0718-19  
Code: General \_\_\_\_\_  
Policy \_\_\_\_\_  
Disc. Hear. \_\_\_\_\_  
Class \_\_\_\_\_  
PREA \_\_\_\_\_  
Date Received: \_\_\_\_\_  
IGC Initials: \_\_\_\_\_  
Date Received: \_\_\_\_\_  
IGA Initials: \_\_\_\_\_

AUG 12 2019  
DP

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

Warden has failed to reply to Inmate Grievance Form Step 1 dated July 19, 2019 where on July 15, 2019, I was at Lee Library at front desk, Sgt. Fox was on post. I waited to speak with Sgt. Fox about my inadequate Law Library access and at 3:00PM when I presented my question--which she did not like, Sgt. Fox threatened me telling me to "step away from the desk before I gas you", Sgt. Fox never resolved my issues. Answered KIOSK 19-01315252.

Grievant Signature \_\_\_\_\_

Date AUGUST 10, 2019

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

This is being returned to you, as it is a duplicate of your step 1 0081-19, which is being worked on. RW - 8-13-19

Responsible Official Signature \_\_\_\_\_

Date \_\_\_\_\_

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

Grievant Signature \_\_\_\_\_

Date \_\_\_\_\_

IGC Signature \_\_\_\_\_

Date \_\_\_\_\_

## Memorandum

---

**TO:** Appellant  
**From:** Clerk's Office, Administrative Law Court  
**Re:** Filing Fee

---


If you file more than 3 administrative appeals during a calendar year, you are required to pay a \$25 filing fee pursuant to S.C. Code Ann. §1-23-670, which states in part:

"No filing fee is required in administrative appeals by inmates from final decisions of the Department of Corrections or the Department of Probation, Parole and Pardon Services. However, **if an inmate files three administrative appeals during a calendar year, then each subsequent filing during that year must be accompanied by a twenty-five dollar filing fee.**"

---

Our records indicate you have filed 3 appeals in this calendar year and therefore the appeal attached is being returned and will not be processed unless it is accompanied by the appropriate fee.

---



# myCaseLoad

Case Number










Actions	Search	Generate	Tools
Accounts Receivable			

Case Search by Party

[Refine Search](#)

3 Case records found

Viewing Page 1 of 1

	<u>Number</u>	<u>Title</u>	<u>Filing Date</u>	<u>Status</u>
	20C0136	ROBERT WAZNEY, #363679 v. South Carolina Department of Corrections	03-01-2020	Closed 
	20C0164	ROBERT WAZNEY, #363679 v. South Carolina Department of Corrections	03-11-2020	Assigned 
	20C0191	ROBERT WILLIAM WAZNEY, #363679 v. South Carolina Department of Corrections	03-26-2020	Assigned 

STATE OF SOUTH CAROLINA  
In the Court of Appeals

Appeal from Final Agency Decision

App. Case No. 2020-000929  
Grievance LEECI-0718-19  
Grievance LEECI-0676-19

ROBERT WILLIAM WAZNEY, Appellant,

v.

S.C. Dept. of Corr., Respondent.

MOTION TO REINSTATE

Appellant has filed a notice of appeal, arising out of Lee Correctional Institution grievance case numbers 0676-19 and 0718-19, from a memorandum of the Administrative Law Court (ALC) Clerk's Office explaining that Appellants appeal will not be processed unless it is accompanied by the appropriate filing fee. Appellant is indigent and cannot afford to pay ALC costs or fees. Because the memorandum is not a final order, appellate case number 2020-000929 was dismissed (see Order 7/31/20).

After a long Covid-19 lockdown, Appellant unable to provide Court with proper papers due to circumstances out of Appellants control, extensions were applied to permit Appellant to reinstate claim. Appellants rights are to be determined by his appeal and requests for this court to reinstate Appellants appeal. The final agency decision(s) are attached herewith and Appellants Motion To Proceed Without Payment Of Costs And Fees and its supporting affidavit, additionally, is attached herewith.

With good cause shown, and notice to all parties, Appellant requests leave of the court to reinstate this appeal, in the interest of justice.

November 2, 2020.  
~~October 29, 2020.~~

/s/

ROBERT WILLIAM WAZNEY  
990 Wisacky Highway  
Bishopville, SC 29010

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STATE OF SOUTH CAROLINA  
In the Court of Appeals

Appeal from Final Agency Decision

App. Case No. 2020-000929  
Grievance LEECI-0718-19  
Grievance LEECI-0676-19

ROBERT WILLIAM WAZNEY, Appellant,

v.

S.C. Dept. of Corr., Respondent.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and correct copies of the forgoing MOTION TO PROCEED WITHOUT PAYMENT OF COSTS AND FEES and AFFIDAVIT AND FINANCIAL STATEMENT IN SUPPORT OF MOTION TO PROCEED WITHOUT PAYMENT OF COSTS AND FEES and MOTION TO REINSTATE were served upon all parties to this action by placing copy of the same in the U.S. Mail, postage paid, and addressed to the following addresses on this day:

Clerk, S.C. Court of Appeals  
PO Box 11629  
Columbia, SC 29211

Salley W. Elliott  
PO Box 21787  
Columbia, SC 29221-1787

November 2, 2020.

/s/

ROBERT WILLIAM WAZNEY  
990 Wisack Highway  
Bishopville, SC 29010  
Appellant, pro se (forced)

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The South Carolina Court of Appeals

Robert William Wazney #363679, Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2020-000929

ORDER

Appellant has filed a motion to reinstate, which we construe as a petition to rehear the dismissal of his appeal. After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

*James E. Lockyer* C.J.

*UKE* J.

*Stephanie P. McBratton* J.

Columbia, South Carolina

cc:  
Robert William Wazney, 00363679  
Salley W. Elliott, Esquire

**FILED**  
**Dec 22 2020**

**RECEIVED**

JAN 25 2021

STATE OF SOUTH CAROLINA  
In the Supreme Court

SC Court of Appeals

Appeal from Final Agency Decision

Grievance No. LEECI-0676-19

Grievance No. LEECI-0718-19

S.C. Ct. App. 2020-000929

ROBERT WILLIAM WAZNEY, Appellant,

v.

S.C. Dept. of Corr. (SCDC), Respondent.

PROOF OF SERVICE

The undersigned hereby certifies that true and correct copies of the foregoing PETITION FOR WRIT OF CERTIORARI were served upon all parties by placing the same in the U.S. Mail postage prepaid addressed to the following addresses on this day:

Office of General Counsel  
at the S.C. Dept. of Corrections  
PO Box 21787  
Columbia, SC 29221-1787

S.C. Supreme Court  
PO Box 11330  
Columbia, SC 29221

S.C. Court of Appeals  
PO Box 11629  
Columbia, SC 29221

January 21, 2020.

/s/

ROBERT WILLIAM WAZNEY  
990 Wisacky Highway  
Bishopville, SC 29010  
Appellant pro se (forced)

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1-21-21

ROBERT WILLIAM WAZNEY  
c/o Lee Correctional Institution  
F32214 363679  
990 Wisacky Highway  
Bishopville, SC 29010

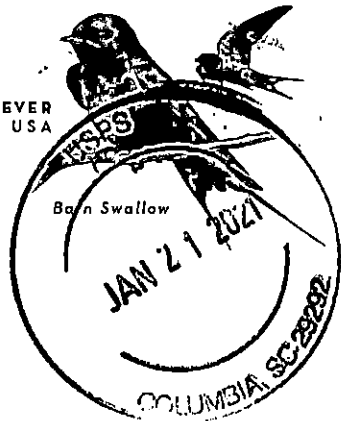
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JAN 25 2021

SC Court of Appeals

S.C. Court of Appeals  
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Columbia, SC 29221

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