

STATE OF SOUTH CAROLINA
Court of Appeals

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JAN 26 2023

Appeal from ADMINISTRATIVE LAW COURT and SC Court of Appeals
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Judge Philip Lenski

App. Case No. 2022-001640

Robert Wazney, Appellant,

v.

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

PETITION FOR REHEARING and
MOTION TO REINSTATE

Affidavit or Declaration

COMES NOW, ROBERT WAZNEY, Appellant, who after being duly sworn
deposes and states:

I am Robert Wazney, Appellant in this case 2022-001640, and Appellant
is in receipt of Court of Appeals paper dated January 12, 2023 which
Appellant received on January 19, 2023. Court of Appeals January 12, 2023
paper acknowledges receipt of Appellants papers dated January 7, 2023, and
"will no longer accept ... petitions for rehearing ... as it relates to
Court's Order denying ... in forma pauperis", and that Appellant must pay
filing fee or it will dismiss the case.

Appellant makes this motion for rehearing and reinstatement for the court to rehear and to reconsider its decision in this case decided December 14, 2022, December 29, 2022, and January 12, 2023, and shows:

1. This motion is made during the term at which judgment sought to be reversed was rendered and before the remittitur has been forwarded to the clerk of the trial court.

2. The court has overlooked Court Rule(s), statute(s) and decisions that are controlling as authority, and which would require a different judgment from that rendered, and has erroneously construed and misapplied provision of law and controlling authorities as follows:

Court of Appeals decision to not entertain rehearing is improper. South Carolina Rules of Appellate Procedure (SCACR) reads:

"The court will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party's appeal."

Court of Appeal's December 14, 2022 action on Appellant's Motion To Proceed In Forma Pauperis has the effect of dismissing or finally deciding Appellant's Appeal. Court of Appeal's action to not entertain Appellant's Motion's to reinstate/rehear are contrary to South Carolina Court Rules.

THEREFORE, Appellant's Petition For Rehearing, dated December 21, 2022 and filed December 28, 2022, should be entertained pursuant Rule 221(c) SCACR, and Rule 240(1) SCACR, and Appellants Motion To Reinstate dated January 7, 2022.

PREMISES CONSIDERED, Appellant requests for his Motion(s) to be entertained by this Court, and for any other relief as this Court deems just and equitable.

CERTIFICATE OF SERVICE

I certify that true and correct copies of this PETITION FOR REHEARING AND MOTION TO REINSTATE were served on all parties to this action, addressed to S.C. Court of Appeals, PO Box 11629, Columbia, SC 29211, and J.R. Shakibanasab, S.C. Dept. of Corr., 4444 Broad River Road, Columbia, SC 29211, by placing the same in the U.S. Mail postage prepaid on this day:

I declare under penalty of perjury that the foregoing is true and correct.

January 22, 2023.

~~Robert Wazney
610 Hwy. 9 West
Bennettsville, SC 29512
Appellant, pro se, captive, indigent~~

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SC Court of Appeals

ROBERT WILLIAM WAZNEY
c/o Evans Correctional Institution
F5A 0156 363679
610 Highway 9 West
Bennettsville, South Carolina 29512

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