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**PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF SOUTH CAROLINA**

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Letitia Verdin, Circuit Court Judge

Court of Appeals Case No. 2022-001569

(S.C. Ct. App. filed Feb. 14, 2023)

Michelle Barton f/k/a Caletta Pressley,
Petitioner,

v.

American Homes 4 Rent,
Management Holdings, LLC,
Respondent,

*On Petition for a Writ of Certiorari to the
South Carolina Supreme Court*

PETITION FOR A WRIT OF CERTIORARI

Caletta Pressley
2529 Motherwell Dr.
Greer, SC 29651
(864) 434-7798
Petitioner-Pro Se

Of Record:
American Homes 4 Rent
Management Holdings, LLC
599 Core Road, Ste 510
North Charleston, SC 29687
Respondent

i.

QUESTIONS PRESENTED

1. Did the Court of Appeals err in holding that this action is not properly before the Court?
2. Did the Court of Appeals err in dismissing Petitioner's Appeal after deficiencies had been cured?

ii.

PARTIES TO THE PROCEEDING

All parties to the proceeding are listed in the caption. The Petitioner is Michelle Barton f/k/a Caletta Pressley, a Pro Se Litigant. The Respondents are American Homes 4 Rent and Management Holdings, LLC.

PETITIONER DISCLOSURE STATEMENT

Greenville County Magistrate moved to Dismiss the Petitioner's Appeal on November 9, 2022 for Failure to Post Appeal Bond. Greenville County Circuit Judge, The Honorable Judge Verdin, issued a Dismissal of the Appeal on November 17, 2022. The South Carolina Statute (*Section 27-37-130*) allows for the Magistrate Judge to dismiss an appeal for failure to post an Appeal Bond, which is an anomaly in the law. If the Magistrate dismisses the case, the Petitioner has no other remedy at law.

A novel question of law exists.

iii.

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TABLE OF AUTHORITIES

Cases:

Floyd v. Horry County School District,
351 S.C. 233, 234, 569, S.E.2d 343, 344 (2002)

Faile v. S.C. Department of Juvenile Justice,
350 S.C. 315, 328, 566, S.E.2d 536, 543 (2002)

S.C. Dep't of Social Services v. Boulware
422 S.C. 1, 7, 809, S.E.2d 223, 226 (2018)

Michael P. v. Greenville Cty. Dep't of Social Services
385 S.C. 407, 415, 684, S.E.2d 211, 215 (Ct. App. 2009)

Statutes:

Section 27-40-10 et.seq

Section 27-40-800 et.seq

1.

OPINIONS BELOW

In the interest of judicial economy, The S.C. Supreme Court is asked to address the merits of Petitioner's appeal. See *Floyd v. Horry County School District*, 351 S.C. 233, 234, 569, S.E.2d 343, 344 (2002); *Faile v. S.C. Department of Juvenile Justice*, 350 S.C. 315, 328, 566, S.E.2d 536, 543 (2002)

2.

JURISDICTION

The judgment of the court of appeals was entered on February 14, 2023. The jurisdiction of this Court is invoked under Section 27-40-10 et.seq.

4.

STATEMENT

In its most basic sense, "[s]tanding refers to a party's right to make a legal claim or seek judicial enforcement of a duty or right." S.C. Dep't of Soc. Servs. v. Boulware, 422 S.C. 1, 7, 809 S.E.2d 223, 226 (2018) (quoting Michael P. v. Greenville Cty. Dep't of Soc. Servs., 385 S.C. 407, 415, 684 S.E.2d 211, 215 (Ct. App. 2009)). Standing may be acquired (1) by statute, (2) under the principle of "constitutional standing," or (3) via the "public importance" exception to general standing requirements. Freemantle v. Preston, 398 S.C. 186, 192, 728 S.E.2d 40, 43 (2012). Petitioners assert standing via the public importance exception. The concepts of statutory and constitutional standing are front and center in this appeal.

"Statutory standing exists, as the name implies, when a statute confers a right to access the courts on a party, and determining whether a statute confers standing is an exercise in statutory interpretation." Youngblood v. S.C. Dep't of Soc. Servs., 402 S.C. 311, 317, 741 S.E.2d 515, 518 (2013). "The traditional concepts of constitutional standing are inapplicable when standing is conferred by statute." Freemantle, 398 S.C. at 194, 728 S.E.2d at 44; see also ATC S., Inc. v. Charleston Cty., 380 S.C. 191, 195-98, 669 S.E.2d 337, 339-40 (2008) (turning to constitutional standing only after first considering and rejecting the application of statutory standing); Bevivino v. Town of Mt. Pleasant Bd. of Zoning Appeals, 402 S.C. 57, 64, 737 S.E.2d 863, 867 (Ct. App. 2013) (holding it is unnecessary to address constitutional standing or the public importance exception when the basis for the independent concept of statutory standing exists).

Constitutional standing is based on Article III of the United States Constitution, which limits the jurisdiction of the federal courts to actual cases or controversies. See *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1547-48 (2016) (stating "[i]t is settled that Congress cannot erase Article III's standing requirements by statutorily granting the right to sue to a plaintiff who would not otherwise have standing" (alteration in original) (citation omitted)). In *Lujan*, the Supreme Court of the United States stated "the irreducible constitutional minimum of [Article III] standing contains three elements": (1) the plaintiff must have suffered an "injury in fact," i.e., an invasion of a legally protected interest that is concrete and particularized, and actual or imminent; (2) there must be a causal connection between the injury and the conduct complained of; and (3) it must be likely that the injury will be redressed by a favorable decision. 504 U.S. at 560-61.

The concept of Article III standing as applied in the federal courts does not limit a state's ability to statutorily formulate standing criteria. See *Duncan v. FedEx Office & Print Servs., Inc.*, 123 N.E.3d 1249, 1256 (Ill. App. Ct. 2019) (noting, for example, that a state court need not even define an "injury" the same way as in the federal forum); see also *Freemantle*, 398 S.C. at 194-95, 728 S.E.2d at 44-45 (observing South Carolina's FOIA statute legislatively grants standing to "any citizen of the State" to enforce a FOIA request and holding where the appellant asserted he was a citizen of South Carolina, "[n]othing more" was required for standing, i.e., the appellant did not have to show that he had a personal stake in the outcome of the matter). However, this Court has held that "[w]hen no statute confers standing, the elements of constitutional standing must be met."² *Youngblood*, 402 S.C. at 317, 741 S.E.2d at 518.

The Petitioner has a statutory right to due process and a right to appeal judicial error. It is a manifest error of law, for the South Carolina Court of Appeals to arbitrarily dismiss the instant appeal for the reasons given in the Order. The Greenville County Circuit Judge clearly issued an Order in the case which correctly gave the Court proper jurisdiction. However, there is an anomaly in the law, whereas in Section 27-40-130, the Greenville County Magistrate Judge dismisses the appeal and quickly evicts a petitioner before the Circuit Judge has dismissed the appeal, eviscerating any right of the Petitioner to appeal the case. The law would not allow for any access to the South Carolina Court of Appeals under this legal theory.

1. On October 13, 2022 Greenville County Magistrate Judge dismiss appeal for failure to pay appeal bond.
2. Petitioner moved then appealed to the S.C. Court of Appeals on October 13, 2022.
3. The Greenville County Court of Common Pleas issued Form 4 Order on November 17, 2022.
4. Petitioner filed for Rehearing and cured defects on December 2, 2022

The Petitioner submits that there is no prejudice to either party in deciding the appeal on the merits alone. The technicalities of the timing of the appeal affect the Petitioner's standing to appeal the matter properly.

REASONS FOR GRANTING THE PETITION

The Court should grant this petition for several reasons. First, the Petitioner follow the rules and the law in seeking appellate review. The anomaly in Section 27-40-130 allows for the Magistrate Judge to dismiss the appeal before the Circuit Court Judge, Second, Petitioner has a statutory right to seek redress. The Petitioner has been injured and would have no other remedy at law." This appeal involves a novel question of law, whether or not a tenant has access to the S.C. Court of Appeals for a dismissal by a County Magistrate Judge prior to the Circuit Judge acting on the case. A significant public interest exists here. The need for clarity is long overdue.

6.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in cursive script, reading "Caletta Pressley", written over a horizontal line.

Caletta Pressley
2529 Motherwell Dr.
Greer, SC 29651
(864) 434-7798
Petitioner-Pro Se

February 15, 2023