

Stewart Buchanan, #060848
McCormick CI
386 Redemption Way
McCormick, SC 29809

June (SB)
~~May~~ 14, 2013

Clerk of Court
SC Supreme Court
P.O. Box 11330
Columbia, SC 29211

Re: Petition for Writ of Certiorari

Dear Clerk:

Enclosed you will find an original of my Petition for Writ of Certiorari
for filing in your office.

The Court of Appeals and Respondents have been served with true and
correct copies of same.

With kind regards.

Sincerely,
Stewart Buchanan

cc: Clerk, Ct of App. ✓

Samuel F. Arthur, III, Esq.

File

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SC Court of Appeals

The State of South Carolina
In the Supreme Court

Trial Court Case No. 2010 CP4005896
Appellate Case No. 2012-211917

The Honorable James R. Barber, III, Richard G.
The Honorable John Cannon Few, SC Court of Appeals

In re: Stewart Buchanan, Petitioner,

v.

Robert Brown, Respondent.

Ex Parte Petition for Writ
of Contention

Stewart Buchanan, # 069848
McCormick CI; F48-224
386 Redemption Way
McCormick, SC 29844
Appearing Pro Se

Samuel F. Arthur, III, Esq.
Aiken Bridges Attorneys At Law
P.O. Drawer 1931
Florence, SC 29503

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Statement of the Case

A. The Facts

Beginning April 24, 2012, for nine (9) months the parties to this case filed their Notice of Appeal, Motion for Leave to Proceed In Forma Pauperis, Initial Briefs and Designations, Reply Brief, various motions and objections, the Record on Appeal, objections to the Record, the Final Brief, etc. By January 30, 2013, this case was ready for review on the merits by the Court of Appeals.

On January 30, 2013, the Honorable Judge John Cannon Few appeared, denying appellant/petitioner leave to proceed without payment of filing fees. Ex Parte Martin, 321 S.C. 533, 471 S.E.2d 134 (1995). The Clerk of Court demanded \$150.00 in filing fees to proceed.

For an indigent in the S.C. Court of Appeals, denial of leave to proceed without payment of fees is an unreviewable order; because, Appellant's/ Petitioner's numerous motions to reconsider for factual cause have been evaded by Judge Few's application of Rule 240(i), SCACR, and the clerk's demand for \$25.00 in filing fees per motion after the case was dismissed.

The opening sentence of the "complaint" under Ex Parte Martin review in this case, immediately beneath the caption on page one, reads:

"Plaintiff has been deprived of personal property, deprived of constitutionally secured due process of law and deprived of constitutionally secured equal protection of the law by each and every defendant, all in violation of South Carolina State law, custom and usage, and in violation of the South Carolina Constitution". (R. pg. 14, pgh. 1, Ct. of App.)

Judge Few abused his discretion when performing the ministerial function of pauper's review in this case by denying leave to proceed without payment of fees when the complaint in this case unmistakably and prominently displays issues involving Appellant's/Petitioner's "fundamental rights", Ex Parte Martin, supra.

Judge Few has violated the following Rules of Judicial Conduct by waiting after nine (9) months of costly litigation in the Court of Appeals to then avoid ruling upon the case's merits by demanding, belatedly, a payment for a ruling upon the merits: Canon 3(B)(8); Canon 3(B)(7); Canon 3(c)(1); Canon 2(A); and, Canon 3(B)(6).

Judge Few's actions constitute exceptional circumstances and conduct so grossly negligent and blatantly excessive and inappropriate as to shock

one's conscience, which violates concepts of basic fairness and all applicable codes of ethics, which renders the entire appellate process a complete nullity, with a purpose to deprive Petitioner of property without due process of law. Cf. Sorelas v. Sheehan, CA7 (Ill.) 1963, 326 F.2d 490, cert. den., 12 L.Ed. 296, See also, Johnson v. Stone, CA11. 1959, 268 F.2d 803; Botone v. Lindsley, CA61. 1948, 170 F.2d 705, cert. den., 69 S.Ct. 810, 336 U.S. 944, 93 L.Ed. 1101.

B. Questions Presented

I. Whether the potential for abuse is so great that certiorari must be granted to examine the lower court's Ex Parte Martin review when leave to proceed was not denied until after nine (9) months, the Clerk of Court's actions indicated leave had ~~not~~ been granted, and the parties had exchanged filings to the point of being ready for review on the merits?

II. Whether prejudice must be presumed and certiorari must be granted to examine the lower court's Ex Parte Martin review when leave to proceed was not denied until after nine (9) months, the Clerk of Court's actions indicated leave had been granted, and the parties had exchanged filings to the point of being ready for review on the merits?

III. Whether pauper's review by the Court of Appeals is a ministerial function subject to the Supreme Court's instructions in Ex Parte Martin?

IV. Whether Ex Parte Martin requires the Court of Appeals to grant the appellant leave to proceed in this appeal if the complaint raises issues involving his "fundamental rights"?

V. Whether the lower court erred by denying leave to proceed without payment of fees when the complaint in this case raised issues of fundamental rights when it alleged that Petitioner had been deprived personal property by each and every defendant in violation of South Carolina State law, custom and usage, and in violation of the South Carolina Constitution?

VI. Whether the lower court erred by denying leave to proceed without payment of fees when the complaint in this case raises issues of fundamental rights when it alleged that Petitioner had been deprived due process of law by each and every defendant in violation of South Carolina State law, custom and usage, and in violation of the South Carolina Constitution?

VII. Whether the lower court erred by denying leave to proceed without payment of fees when the complaint in this case raised issues of fundamental rights when it alleged that Petitioner had been deprived equal protection of the law by each and every defendant in violation of South Carolina State law, custom and usage, and in violation of the South Carolina Constitution?

Argument

I. The potential for abuse is so great that certiorari must be granted to examine the lower court's Ex Parte Martin review when leave to proceed was not denied until after nine (9) months, the Clerk of Court's actions indicated leave had been granted, and the parties had exchanged filings to the point of being ready for review on the merits.

This question has now been both asked and answered, and petitioner submits for review.

II. Prejudice must be presumed and certiorari must be granted to examine the lower court's Ex Parte Martin review when leave to proceed was not denied until after nine (9) months, the Clerk of Court's actions indicated leave had

been granted, and the parties had exchanged filings to the point of being ready for review on the merits.

This question has now been both asked and answered, and Petitioner submits for review.

III. Pauper's review by the Court of Appeals is a ministerial function subject to the Supreme Court's instructions in Ex Parte Martin.

This question has now been both asked and answered, and Petitioner submits for review.

IV. Ex Parte Martin requires the Court of Appeals to grant the Appellant leave to proceed in this appeal if the complaint raises issues involving his "fundamental rights".

This question has now been both asked and answered, and Petitioner submits for review.

V. The lower court erred by denying leave to proceed without payment of fees when the complaint in this case raised issues of fundamental rights when it alleged that Petitioner had been deprived personal property by each and every defendant in violation of South Carolina State law,

custom and usage, and in violation of the South Carolina Constitution.

This question has now been both asked and answered, and Petitioner submits for review.

VI. The lower court erred by denying leave to proceed without payment of fees when the complaint in this case raised issues of fundamental rights when it alleged that Petitioner had been deprived due process of law by each and every defendant in violation of South Carolina State law, custom and usage, and in violation of the South Carolina Constitution.

This question has now been both asked and answered, and Petitioner submits for review.

VII. The lower court erred by denying leave to proceed without payment of fees when the complaint in this case raised issues of fundamental rights when it alleged that Petitioner had been deprived equal protection of the law by each and every defendant in violation of South Carolina State law, custom and usage, and in violation of the South Carolina Constitution.

This question has now been both asked and answered, and Petitioner submits for review.

Conclusion

Wherefore, Petitioner prays that this Court grant certiorari in this case and that it order Petitioner be granted leave to proceed without payment of fees in the present appeal.

Respectfully submitted:

Stewart Buchanan

Stewart Buchanan

Dated: June (SB)
~~May~~ 14, 2013

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