

Stewart Buchanan, #068418
Mc Cormick CI
386 Redemption Way
Mc Cormick, SC 29849

June 14, 2013

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

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JUN 19 2013

S.C. SUPREME COURT

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, Court of Appeals

Samuel F. Arthur, III, Esq.

File

The State of South Carolina
In the Supreme Court

Trial Court Case No. 2010CP40008916
Appellate Case No. 2012-21917

The Honorable James R. Barber, III, Richland County
The Honorable John Connor Few, SC Court of Appeals

In re: Stewart Buchanan, Petitioner,

v.

Robert Brown, ~~McCormick PI~~ Respondent.

Ex Parte Petition for Writ
of Certiorari

Stewart Buchanan, #069848
McCormick PI
386 Redemption Way
McCormick, SC 29509
Appearing Pro Se

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JUN 19 2013

S.C. SUPREME COURT

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

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Rule 242 Statement

On January 30, 2013, after nine (9) months litigation with the Final Brief filed and awaiting a decision on the merits, the Honorable Judge John Cannon Few denied Appellant leave to proceed without payment of filing fees. (See, Order, dated 01/30/13, attached.)

On March 18, 2013 the Clerk, Court of Appeals, demanded \$150.00 in filing fees. (See attached letter.)

On March 18, 2013 Judge Few refused to consider Appellants "Motion to Reconsider". (See attached Order.)

On April 10, 2013 the case was dismissed. (See attached order.)

On May 14, 2013 the Clerk, in behalf of the Court, refused Appellants "Motion for Rehearing", the first time, for not being accompanied by a \$25.00 filing fee. (See attached letter.)

On May 31, 2013 the Clerk prematurely sent the Remittitur.

The Court of Appeals has dealt with Appellants "Motion to Reconsider" with finality.

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, p. 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)(5).

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; Bottone v. Lindsley, CA Col. 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 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 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.

The South Carolina Court of Appeals

Stewart Buchanan, #69848, Appellant,

v.

Robert Brown, in his individual capacity, [First name unknown] Bowie, in her individual capacity, and David Tatarsky, in his individual capacity, Respondents.

Appellate Case No. 2012-211917

ORDER

The motion to proceed *in forma pauperis* is denied pursuant to *Ex parte Martin*, 321 S.C. 533, 471 S.E.2d 134 (1995). The filing fee must be paid within fifteen days of the date of this order.



FOR THE COURT

Columbia, South Carolina

cc:
Stewart Buchanan, 069848
Samuel F. Arthur, III

FILED

11/30/13



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
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March 18, 2013

Stewart Buchanan, 069848
McCormick CI, F4-224
386 Redemption Way
McCormick SC 29889

Re: Stewart Buchanan v. Robert Brown
Appellate Case No. 2012-211917

Dear Counsel:

Please see the attached order regarding the above matter.

Within fifteen days of the date of this letter, you are requested to provide the \$100 notice of appeal filing fee, \$25 for your motion for sanctions, and \$25 for your motion to file the reply brief out of time, for a total of \$150.00.

Failure to pay the fees, as required by the South Carolina Appellate Court Rules, will result in the dismissal of your appeal.

Very truly yours,

Stewart Buchanan, 069848
Samuel F. Arthur, III

The South Carolina Court of Appeals

Stewart Buchanan, #69848, Appellant,

v.

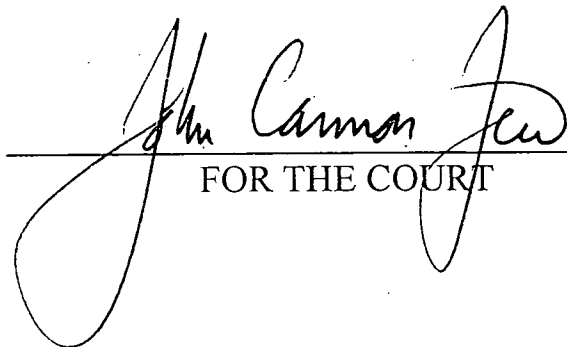
Robert Brown, in his individual capacity, [First name unknown] Bowie, in her individual capacity, and David Tatarsky, in his individual capacity, Respondents.

Appellate Case No. 2012-211917

ORDER

After careful consideration, Appellant's motion to disqualify the Honorable John C. Few is denied.

Furthermore, as stated in this court's February 19, 2013 letter, the court will not act on a motion to review the denial of Appellant's motion to proceed *in forma pauperis* because under Rule 240(i) of the South Carolina Appellate Court Rules, "[t]he court will not entertain petitions for rehearing on a motion or petition unless the action of court on the motion or petition has the effect of dismissing or finally deciding a party's appeal."


FOR THE COURT

Columbia, South Carolina

cc:

FILED

3/18/13 EAC

The South Carolina Court of Appeals

Stewart Buchanan, #69848, Appellant,

v.

Robert Brown, in his individual capacity, [First name unknown] Bowie, in her individual capacity, and David Tatarsky, in his individual capacity, Respondents.

Appellate Case No. 2012-211917

The Honorable James R. Barber, III
Richland County
Trial Court Case No. 2010CP4005896

ORDER

Appellant has failed to provide the notice of appeal filing fee, as required by Rule 203 of the South Carolina Appellate Court Rules. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY

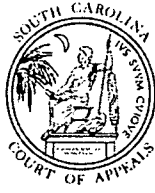
Joy A. Kitaloj
CLERK

Columbia, South Carolina

cc:

FILED

4-10-13 tcc



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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May 14, 2013

Stewart Buchanan, 069848
McCormick CI, F4-224
386 Redemption Way
McCormick SC 29889

Re: Stewart Buchanan v. Robert Brown
Appellate Case No. 2012-211917

Dear Counsel:

Upon reviewing your motion for rehearing, which is construed as a petition to reinstate the appeal, the following deficiency has been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency correction must be received no later than 5pm on May 24, 2013:

- The required filing fee has not been submitted. The correct filing fee is \$25.00.

Very truly yours,

V. Claire Allen, Deputy
CLERK

cc: Samuel F. Arthur, III



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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May 31, 2013

The Honorable Jeanette W. McBride
PO Box 2766
Columbia SC 29202-2766

REMITTITUR

Re: Stewart Buchanan v. Robert Brown
Lower Court Case No. 2010CP4005896
Appellate Case No. 2012-211917

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen

CLERK

Enclosure

cc: Stewart Buchanan, 069848
Samuel F. Arthur, III

Stewart Buckner, #009848
McLennan Ct, P.O. Box 224
386 Redemption Way
McLennan, SC 29109

S.C. Supreme Court
P.O. Box 11830
Columbia, SC 29211

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