

STATE OF SOUTH CAROLINA  
In The Court of Appeals

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JUN 29 2023

APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Deborah Brooks Durden, Administrative Law Judge  
Case No. 23P0010

SC Court of Appeals

CHARLES WILLIAMS, #086721.....APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF PROBATION, PAROLE,  
AND PARDON SERVICES.....RESPONDENT.

**MOTION TO PROCEED *IN FORMA PAUPERIS***

I, Charles Williams, SCDC #086721, an indigent inmate whose crimes were committed on September 26, 1975, hereby motions this Court to proceed *in forma pauperis* without payment of the \$250.00 filing fee pursuant to Rule 203(d)(1)(B)(iii), SCACR. Appellant’s appeal involves a “fundamental right,” so access to the courts is constitutionally required in this case. *Boddie v. Connecticut*, 401 U.S. 371, 91 S.Ct. 780, 28 LEd.2d 113 (1971); *Sullivan v. S. C. Dept. of Corrections*, 355 S.C. 437, 446, 586 S.E.2d 124, 128 (2003).

The Constitution guarantees that prisoners, like all citizens, have a reasonably adequate opportunity to raise constitutional claims before impartial judges. *Lewis v. Casey*, 518 U.S. 343, 351, 116 S.Ct. 2174, 135 LEd.2d 606 (1996). On May 11, 2023, the Honorable Deborah Brooks Durden was assigned to hear Appellant’s appeal of the Respondent’s final decision denying parole. Twenty (20) days later, Judge Durden issued an order dismissing the appeal on May 31, 2023, without allowing Appellant to formally express his claim through the filing of a brief. Appellant received a copy of the order on June 5, 2023.

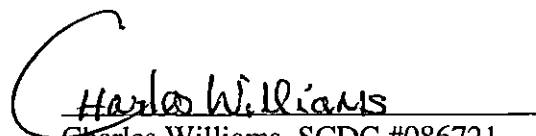
Ordinarily, the Administrative Law Court has no authority to hear appeals of parole eligible inmates who have been denied parole by the Respondent. See S.C. Code Ann. § 1-23-600(D). Moreover, when an inmate challenges the constitutionality of the statutes the Respondent's consider when deciding to grant or deny parole to a parole-eligible inmate, the ALC generally is without authority to pass on the constitutionality of statutes. *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000) (When an inmate challenges the constitutionality of a statute, the Department of Corrections and the Administrative Law Court must follow the statute and leave the question of whether it is constitutional to the courts.). However, the S.C. Supreme Court has declared that the ALC has the authority to review "as-applied" constitutional challenges to statutes. *Travelscape, LLC v. S.C. Dept. of Revenue*, 391 S.C. 89, 705 S.E.2d 28, 38-39 (2011).

If the Respondent deviates from or renders its decision without consideration of the appropriate criteria, it essentially abrogates an inmate's right to parole eligibility and, thus, infringes on a state-created liberty interest. *Cooper v. S.C. Dept. of Probation, Parole, and Pardon Servs.*, 377 S.C. 489, 499, 661 S.E.2d 106, 111 (2008). The grounds for Appellant's appeal in the ALC, filed April 25, 2023, alleged: (1) abuse of discretion, (2) failure to follow substantive and procedural law, (3) unlawful procedure, (4) violation of due process, (5) deprivation of a state-created liberty interest in parole, and (6) the Board's parole decision is arbitrary and capricious. Appellant would point out the grounds for appeal are "the reason or point that something (as a legal claim or argument) relies on for validity," *Black's Law Dictionary* (8th Ed.2004) 723, and simply refer to "the discrete reason or reasons that caused the party to appeal." Cf. *Medcorp, Inc. v. Ohio Dept. of Job & Family Servs.*, 121 Ohio St.3d 622, 906 N.E.2d 1125 (2009). Appellant was not required to fully express his claims of the Respondent's violations of our federal and state constitutions in the notice of appeal.

Appellant argues the validity and moral authority of a conclusion largely depend on the mode by which it was rendered. Secrecy is not congenial to truth-seeking, and self-righteousness gives too slender an assurance of rightness. No better instrument has been devised for arriving at truth than to give a person in jeopardy of serious loss a fair opportunity to meet the burden of his claims. The ALC is “empowered to hear as applied challenges to statutes and regulations ... [and] are better suited for making the factual determinations necessary for an as applied challenge, and [for] finding a statute or regulation unconstitutional as applied to a specific party...” *Travelscape, LLC*, 391 S.C. at 109, 705 S.E.2d at 39; also *Dorman v. Dep’t of Health & Envtl. Control*, 350 S.C. 159, 171, 565 S.E.2d 119, 126 (Ct.App.2002); *Ward v. State*, 343 S.C. 14, 18, 538 S.E.2d 245, 247 (2000). This Court has both the authority to grant this motion to proceed *in forma pauperis*, and to remand this appeal to the ALC in order to more appropriately make a factual determination of Appellant’s claims of federal and state constitutional violations of Respondent. Either would be satisfactory to Appellant in response to this motion.

Respectfully submitted,

June 26, 2023  
Columbia, South Carolina

  
Charles Williams, SCDC #086721  
Broad River C.I., GRN 2104  
4460 Broad River Rd.  
Columbia, S.C. 29210

**APPELLANT PRO SE**

cc: Matthew C. Buchanan, General Counsel  
S.C. Department of Probation,  
Parole and Pardon Services  
293 Greystone Blvd.  
P.O. Box 207  
Columbia, S.C. 29202

**ATTORNEY FOR RESPONDENT**

CC: Administrative Law Court  
Edgar A. Brown Building  
1205 Pendleton St., Suite 224  
Columbia, S.C. 29201

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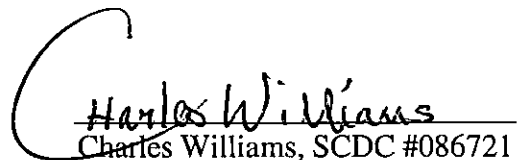
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AND PARDON SERVICES.....RESPONDENT.

**PROOF OF SERVICE**

I certify that I have served the *Motion to Proceed In Forma Pauperis* on the S.C. Department of Probation, Parole, and Pardon Services by depositing a copy of the same in the United States Mail, postage prepaid, on June 26, 2023, addressed to the attorney of record, Matthew C. Buchanan, General Counsel, S.C. Department of Probation, Parole, and Pardon Services, 293 Greystone Blvd., P.O. Box 207, Columbia, S.C. 29250. I further certify that all parties required by rule to be served have been served.

June 26, 2023  
Columbia, South Carolina

  
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Broad River C.I., GRN 2104  
4460 Broad River Rd.  
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