

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

On Certiorari to the SC. Court
of Appeals; denial of review to the
Administrative law Court.

Appellate case # 2023-000950

AJC Case# 2023-AJ-04-0058-IJ

Sandtario Poole # 350120 - - - Appellate

VS

SC. Department of Corrections - - - Respondent

APPELLATE INITIAL BRIEF

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NOV 13 2023

SC Court of Appeals

Mr. Bryan Stirling; Director
c/o Mr. Joseph R. Shakibanasab
Office of General Counsel; SCDC
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PO. Box 21787
Columbia SC. 29221-1787
Ph 803-896-1278

Sandtario Poole # 360120
Appellate Pro Se
BRCI, Marion-B-281
4460 Broad River Rd
Columbia SC. 29210
Ph # 803-896-2200

11-7-23|brci/sp

Appellate Pro se Certification

I, Certify that A timely petition for rehearing was sought in the court of appeals on this issue, and was denied by order on October/25/2023.

STATEMENT OF ISSUE & QUESTION PRESENTED

I Whether I was denied any SC. constitutional and/or Statutory right to access to the judicial Branch of Government ie (Court), on Review of a final Administrative Law Court (ALC) order, because I lack the funds to pay courts filing fee ? ; when the ALC order summarily denied due process remedy for substantive wrong in agency records. The court did allow waiver of Rule 267 SCACR in so much as only one copy of final brief ~~7~~ appendix was required, on motion for in forma pauperis.

STATEMENT OF THE CASE

1 I filed a timely notice of appeal (NOA), along with a motion for in forma pauperis, seeking waiver of filing fee and numerous copy requirements for appeal, date 6/4/23. the Clerk assigned the case with number by order dated 6/15/23. By order dated Aug/1/ 23 the court denied waiver of filing fee and counsel, and granted waiver of Rule 267 SCACR in part. i filed a motion for rehearing dated 8/9/23, which was returned by order dated 8/15/23, because the matter was still pending.

2 By order dated Sept/6/23, the case was dismissed, for failure to pay the \$250.00 filing fee. I then filed a petition for rehearing & amendment, as i have no money to pay with. Denied 10/25/23.

3 When I was told by SCDC classification, that I had a Sex offence, due to 2nd degree kidnapping conviction in NC, and would have to register as a sex offender and I could not obtain normal custody advancements: I filed a grievance step 1 case # BRCI-0009-23 after seeking informal resolution in ATRSM 23-02953564 answered by c043856 on 1/4/23, and previously in 22-02640386 answered by c066525 on 1/5/23. this grievance was marked PROCESSED & Other and returned for not seeking informal resolution.?

4 I again filed the present grievance after ATRSM 23-02953564 step 1 case # BRCI-0105-23 in proper order. This was agained Marked **processed** and Other, and returned to me as the final order of SCDC, stating I could not appeal NC courts

on SCDC grievance.?

5 I filed a timely (NOA) in the (ALC), with a copy of the Step 1 as final order. It was not submitted to warden for answer and step 2 appeal. When the time for filing the (ROA) by respondent (SCDC) was completed, and none was filed; the SCDC filed a motion to dismiss the case on procedure, dated 5/5/23. I filed a timely answer and objection to the motion with Appendix as proffered evidence dated May/14/23. The court granted SCDC motion without evidentiary finding of fact and law.

ARGUMENT

I THAT I WAS DENIED ALL SC. CONSTITUTIONAL AND/OR STATUTORY RIGHTS OF ACCESS TO THE JUDICIAL BRANCE OF GOVERNMENT, ON REVIEW OF A FINAL ADMINISTRATIVE LAW COURT ORDER, BECAUSE I LACK THE FUNDS TO PAY COURTS FILING FEE!; WHEN THE ALC ORDER SUMMARILY DENIED DUE PROCESS REMEDY FOR SUBSTANTIVE WRONG IN AGENCY RECORDS. THE COURT DID ALLOW WAIVER OF RULE 267 SCACR IN PART, ON MOTION FOR IN FORMA PAUPERIS.!

6 The Appeals court order relies on Ex Parte martin 321 SC 533, and Ex Parte Dibble 279 SC 592, with Rule 608(g) SCACR, in denying waiver of fee, and request for counsel. I submitted in my rehearing motion that this is an unreasonable application of case law to this case, because it denies access to courts on Judicial Review of an ALC action, and I submit that this is also arbitrary and capricious. And even Rule 608(g) dose not apply here, and this rule relies on a list of counsels for civil action appointments.?

Before @2006 appeals from the ALC was by Certiorari to the circuit court, but the law was amended and now I beleive **Title 1 Chapter 23** grants and implies a right of judicial review of ALC matters.

7 As to a SC const right of access, Art 1 §9 referes to (ALL courts...For Remedy therein for wrongs sustained), and Art 1 § 8 prevents the Excutive Brance (ALC) from being exempt from Judicial review, and Art 1 §22 addresses agency and ALC matters. Futher §24-27-400 excludes that chapter when access the court is required.?

8 The gist of the ALC and Agency order is, The grievance was marked Processed and Policy GA 01.12(13.3), only requires grievances marked Unprocessed require sending 19-11 request to Branch Chief; and in my case this was not allowed, and

The State of South Carolina
Supreme Court

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SC Court of Appeals

TO Honorable: Clerk of Court
1231 Gervais Street
PO Box 11330
Columbia SC. 29211

Nov/7/2023

RE Sandtario Poole, 360120 vs The SCDC
BRCI, Marion-B-281 Appellate case # 2023-000950
4460 Broad River Rd
Columbia SC. 29210 On appeal from the ALC.

Sub Certiorari to SC Court of Appeals

Court,

Please find enclosed for filing, my Original;

- 1 Appellate Initial Brief for Certiorari
- 2 Proof of Service
- 3 [If Possible] Six copies of the petition.

Thanks for your time and patience, and please let me know if there is anything I have to do. I have no funds to pay filing fee.

Sincerely

X Sandtario Poole

Sincerely

PROOF OF SERVICE

I certify that I have on this / 8 / Day of /November/2023, Served one true copy of my initial brief for certiorari to the Clerk of Court, and Counsel for respondent, as addressed below, by depositing clerks in the mailroom postage prepaid, and counsels marked intradepartment, in proper order.

Mr. Joseph R. Shakibanasab
Office of General Counsel; SCDC
PO. Box 21787
Columbia SC. 29221-1787
Ph 803-896-1278

Respectfully

/s/ Sandtario Poole
Sandtario Poole
Appellate pro se

Honorable: Jenny Kitchens
CLERK: SC. Court of Appeals
PO. Box 11629
Columbia SC. 29211

Sandtario Poole SCDC# 560180
4460 Broad River Rd
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