

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Robert L. Reibold, Administrative Law Judge

Case No. 16-ALJ-04-0378-AP

South Carolina Department of Corrections,

Respondent,

v.

Willie M. Knox, #153719,

Appellant.

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

Willie M. Knox
#153719
Allendale Corr. Inst. F4A-55
1057 Revolutionary Trail
Fairfax, S.C. 29472

Appellant, Pro se

APPELLANT'S MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

This motion is before this Court pursuant to Rule 240, SCACR where Appellant seeks leave to proceed without payment of costs on the above-captioned appeal from the Administrative Law Court affirming the final agency decision of the South Carolina Department of Corrections ("DOC") denying Appellant's claims to be paid the prevailing wage for his labor.

Appellant participated in the private sector prison industries project at Evans Correctional Institution with the private industry sponsor Escod. Appellant performed labor at Escod from 1992 to 2011. Upon leaving Evans in 2011 Appellant filed a Step 1 Grievance. Steps 1 and 2 were denied and Appellant proceeded to the Administrative Law Court ("ALC"). Appellant's case was placed in abeyance in 2016 pending the outcome of *Torrence v. S.C. Dept. of Corr.*, 433 S.C. 633, 861 S.E.2d 36 (Ct. App. 2021).

Appellant here labored side-by-side with Torrence at the Escod project, was similarly paid "Training" wages, and was similarly deprived the prevailing wage prescribed by 18 USC §1761(c), S.C. Code §§24-3-315 and 24-3-430(D) for all training, regular and overtime labor performed during that period.

Identical to *Wicker* and *Torrence*, Appellant has a due process right and property interest in the prevailing wage. Both precedents held that it is an error of law to be paid less than the prevailing wage for labor in those programs.

Appellant is indigent and has submitted an affidavit in support. This motion is made in good faith and should not be considered frivolous. Due process requires that absent a countervailing state interest of overriding significance, persons forced to settle their claims of right and duty must be given a meaningful opportunity to be heard.

In *Lakes v. State*, 333 S.C. 382, 510 S.E.2d 228 (Ct. App. 1998) this Court found the order to deny the request to proceed in forma pauperis effectively discontinued the action because it was the prisoner's only means of bringing the action.

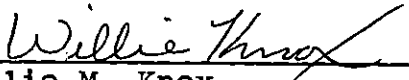
Where certain fundamental rights are involved, the Court requires that an indigent be allowed access to the Courts, e.g. *Boddie v. Connecticut*, 401 U.S. 371, 91 S.Ct. 780 (1971).

Appellant submits that he has a property interest in the prevailing wage for the labor he performed and believes based on the holding in *Torrence* that he will prevail.

Based upon the above facts Appellant prays this Honorable Court grant leave to proceed in forma pauperis in this appeal to pursue his rights.

Respectfully submitted,

Dated November 9, 2023


Willie M. Knox
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Appellant, Pro Se

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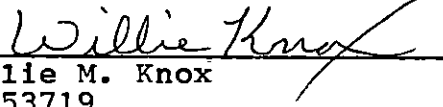
Willie M. Knox, #153719,

Appellant.

CERTIFICATE OF SERVICE

I certify that I have served APPELLANT'S MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS on counsel for Respondent by placing a copy in the U.S. Mail, prepaid postage, this 17th day of November, 2023, addressed as follows:


Joseph R. Shakibanasab
Office of General Counsel
S.C. Department of Corrections
4444 Broad River Road / P.O. Box 21787
Columbia, S.C. 292211787


Willie M. Knox
#153719
Allendale Corr. Inst. F4A-55
1057 Revolutionary Trail
Fairfax, S.C. 29472

Pro Se Appellant


7. That I presently have 0.51¢ in my E.H. Cooper Trust Fund Account.
8. That this appeal is filed in good faith, is not frivolous, and is based on the Court of Appeals decision in Torrence v. S.C. Dept of Corr., 433 S.C. 633, 861 S.E.2d 36 (S.c. Ct.App. 2021) cert. denied August 3, 2022, and
9. That I have no other avenue of redress for the denial of my due process and property interest rights.

FURTHER AFFIANT SAYETH NOT.



Willie M. Knox
#153719
Allendale Corr. Inst. F4A-55
1057 Revolutionary Trail
Fairfax, S.C. 29472

SWORN TO AND SUBSCRIBED before me
this 8th day of November 2023.



Notary Public for South Carolina
My Commission Expires: 9/9/32

Willie M. Knox
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November 9, 2023

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Honorable Jana E. Cox Shealy
Clerk of Court
S.C. Court of Appeals
Post Office Box 11629
Columbia, S.C. 29211

Re: Willie M. Knox, #153719, Appellant v. S.C. Dept. of
Corrections, Respondent, ALC Case No. 16-ALJ-04-0378-AP

Dear Ms. Cox Shealy,

Please find enclosed the original and six copies, pursuant to Rule 240, SCACR, of Appellant's Motion for Leave to Proceed In Forma Pauperis, with supporting affidavit, and a certificate of service on counsel for Respondent in the above-referenced appeal from the Administrative Law Court. Again, if this pleading does not comply with court rules, please advise so I may correct.

Sincerely,

Willie M. Knox
Pro Se Appellant

Cc: Joseph Shakibanasab
Counsel for Respondent Dept of Corrections

Willie M. Knox

153719

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