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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Administrative Law Court
Judge M.G. Kimpson

ALC Case No. 2023ALJ040097AP
Ct. App. Case No.: 2023-000776
Sup. Ct. Case No. 2023-001775

Robert William Wazney, Petitioner,

v.

Director of South Carolina Department of Corrections, Respondent.

PETITION FOR REHEARING

Robert Wazney
610 Hwy. 9 West
Bennettsville, SC 29512
803-896-4958
Petitioner-appellant, Pro se, Captive

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PETITION FOR REHEARING

The Petitioner, Robert Wazney, pro se, victim, pursuant to Rule 221 of the South Carolina Appellate Court Rules (SCACR), moves the court to reconsider its December 12, 2023 decision. In support of the motion, the Petitioner shows the following to the court:

Affidavit or Declaration

COMES NOW, Robert Wazney, Petitioner, who after being duly sworn deposes and states:

Petitioner is an indigent prisoner of the State of South Carolina. Petitioner claimed his property was stolen by the Respondent and that the Respondent, and the State, have failed to provide adequate remedy for the stolen property.

Petitioner's property interests are protected by the United States Constitution, and are of concern of Petitioner's fundamental constitutional interest. U.S.Const.Amend. 14 § 1.

State of South Carolina, and its agencies, in failing to provide Petitioner with adequate remedy for the stolen property, is in violation of federal law, specifically, due process of law guaranteed by the 14th Amendment of the U.S. Constitution.

Petitioner presented these federal questions to the South Carolina Administrative Law Court (ALC), however the ALC failed to properly address the merits of Petitioner's claim in where ALC's conclusions of law are based on erroneous findings of fact, and therefore ALC abused its discretion upon its judgment.

Petitioner appealed the ALC's judgment and presented these facts to the Appellate Courts of South Carolina demonstrating ALC's error and violation of his fundamental rights and along with a request for in forma pauperis. The State Appellate Courts have, without opinion, refused to approve the indigent prisoner's request for in forma pauperis and has not properly addressed the merits of Petitioner's claims.

When fundamental interests are at stake, a prisoner's inability to pay the filing fee cannot be a barrier to his or her access to the judiciary. Boddie v. Connecticut, 401 US 371, 91 S.Ct. 780, 28 L.Ed.2d 113 (1971). See, also, Ex parte Martin, 321 SC 533, 471 SE2d 134 (1995)(Where fundamental rights are involved, the Constitution requires that an indigent be allowed access to the courts.).

Upon Petitioner's further appeal, this Court, South Carolina Supreme Court, has denied in forma pauperis and denied certiorari review in it's December 12, 2023 Order.

PREMISES CONSIDERED, these material facts and decisions requires a different decision from that rendered by the South Carolina Supreme Court. The decision that should have been rendered is for Robert Wazney in his favor.

WHEREFORE, the Petitioner requests the court to reconsider it's December 12, 2023 decision and rule in favor of the Petitioner, or any other relief as this court deems just and equitable.

I declare under penalty of pejury that the foregoing is true and correct.

December 18, 2023.

/s/

Robert Wazney

610 Hwy. 9 West

Bennettsville, SC 29512

Petitioner-appellant, Pro se, Captive