

In The Supreme Court of South Carolina

Appeal From The South Carolina Court of Appeals

[Judges name can not be read]

Appellate Case No. 2023-001275

Christopher Kennan, Appellant,  
v.

South Carolina Department of Corrections, Respondent.

Notice of Appeal

Christopher Kennan appeals the order of dismissal of the Honourable [name is impossible to decipher] dated Jan. 30th, 2024. Appellant received written notice of this entry of this order of dismissal on Feb. 2nd, 2024. (see "exhibit M" for order of dismissal signed by the judge).

February 9th, 2024

~~Christopher Kennan~~  
Christopher Kennan #385016  
Pro Se litigant  
Evans CI  
610 HWY 9W  
Bennettsville, SC 29512

**RECEIVED**

FEB 12 2024

SC Court of Appeals

2023-001275  
The State of South Carolina  
In the Supreme Court

Appeal From the South Carolina Court of Appeals  
[Judges name can not be read - see 'Exhibit M']

Appellate Case No. 2023-001275

Christopher Kennan, Appellant  
v.  
South Carolina Department of Corrections, Respondent.  
Brief of Appellant

Christopher Kennan #385016  
Pro se litigant  
Evans CI  
610 Hwy 9W  
Bennettsville, SC 29512

[There is no attorney for any Respondent]

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Table of Authorities (with page number cited)Cases:Boddie v. Connecticut, 401 U.S. 371 (1970)Booker v. South Carolina Dept of Corrections, 855 F.3d 533 (4th Cir. 2017)Carlson v. Green, 466 U.S. 14 (1981)Carolina Nat. Bank v. Homestead Building & Loan Ass'n, 56 S.C. 12 (S.C. 1899)Ex Parte Martin, 321 S.C. 533, 535 (1995)Hiers v. South Carolina Power Co., 198 S.C. 280, 17 SE 2d 698 (1941)SC statutes and Court RulesSCA<sup>rule</sup>CR 203(b)(1)

SC Const. Art. I, § 15 and SC Const. Art. I, § 2

SC Const. Art. V, § 5

~~SCRC Rule 1~~

SCRC Rule 3(a) and 3(b)

SCRC Rule 4 and specifically Rule 4(d)(5)

SCRC Rule 5(a) and 5(d)

§ 14-3-330

§ 14-3-333

Federal Court Rules

FRCP Rule 5(a)(1)(B)

FRCP Rule 5(d)(4)

~~SCRC Rule 1~~

2023-001275  
Statement of Issues on Appeal

③

(a) Does the South Carolina Constitution require that indigent litigants be allowed to proceed in forma pauperis when the issues in the complaint concern "fundamental Constitutional rights"?  
(1) If yes, does plaintiff's claim in his complaint that any fundamental Constitutional rights have been violated by the Defendants?

(b) If a court of Common Pleas refuses to approve Plaintiff's in forma pauperis motion and subsequently doesn't assign a case number to it, nor file the complaint, can the named defendants be properly serviced with the summons and

(1) If this decision <sup>denying plaintiff in forma pauperis status</sup> is appealed, is the defendant required to be served with a notice of appeal for this unfiled complaint?

(i) Is it possible to comply with ~~SCA~~ SCACR Rule 203(b)(1) if SCRCR, Rule 5(d) wasn't allowed to be ~~filed~~ followed due to the lower court's refusal to file his complaint?

(ii) IS a Court of Common Pleas denial of Plaintiff's in forma pauperis motion considered an "entry of the order of judgement" for rule 203(b)(1) of SCACR if the case was never filed by that court, thus no judgement was recorded on any record? <sup>SCRCR</sup>

(2) Can plaintiff comply with Rule 4(d)(5), which requires that the Attorney General of South Carolina be served by registered or certified mail - or by sheriff or his deputy if the Court of Common Pleas denies his in forma pauperis motion and to file his complaint?

(3) If a defendant is not served a complaint nor summons because Plaintiff's case was never filed in the lower court, should this unserved defendant be served notice of appeal for this same unrecorded case - particularly when the Appeal is strictly concerned with getting Plaintiff's case filed so that he can then provide proper service as required under SCRCR Rules 5(d) and 4(d)(5)? (similar to question (a)(1) above with slight variance).



Standard of Review (Please construe this page liberally)

Per S.C. Const. Art. V, §5 - "Jurisdiction of Supreme Court"

"The Court shall have appellate jurisdiction only in cases of equity, and in such appeals they shall review the findings of fact as well as the law... The Supreme Court shall constitute a court for the correction of errors of law under such regulations as the General Assembly may prescribe."

"In equity causes the South Carolina Constitution has laid no restrictions upon the power of the Supreme Court to hear appeals, both as to law and the facts." Carolina Nat. Bank v. Homestead Building & Loan Ass'n (S.C. 1899)  
56 S.C. 12, 33 S.E. 781

"Supreme Court is for correcting errors of law." Hiers v. South Carolina Power Co., 198 S.C. 280, 17 S.E. 2d 698 (1941) and pursuant to §14-3-330

There has been no jury, no trial and no review of the facts of the case at the Appellate level, prior to its order of dismissal - which only looked at the service of process or lack thereof, made upon Respondents.

This appeal hinges on whether or not service of process is required as a matter of law, for <sup>notice of</sup> appeal from a lower court, on the respondents who have ~~not~~ been served <sup>neither summons nor complaint, after</sup> the inferior court ~~refused~~ <sup>denied</sup> plaintiffs in forma pauperis motion and to file his complaint without prepayment of fees. Furthermore, the dismissed appeal concerns, as a matter of law, whether plaintiffs' complaint relates to violations of his fundamental Constitutional rights - and if yes, ~~over~~ <sup>has</sup> he ~~has~~ a right to proceed in forma pauperis.

~~Plaintiff~~

Facts

The record for review consists only of plaintiff's motions and submissions to the <sup>lower</sup> Court, the South Carolina Supreme Court's order transferring this case to the South Carolina Court of Appeals and the S.C. Court of Appeals subsequent dismissal of this case which cited SCACR 203(b)(1) as the reason to dismiss, a letter <sup>sent to plaintiff</sup> (see "Exhibits ~~2-5~~ J, K, L, and M"), other than the paperwork plaintiff included with his appeal, there is no record of this case in the Clarendon County Court of Common Pleas, because the court would not file this case without prepayment of fees, despite proof of plaintiff's indigency. The Clarendon County Court of Common Pleas did not assign this case a case number and therefore there has been no service of process made on the opposing party until January 5, 2024 when the S.C.C.A requested plaintiff do so, and again for this complaint, nor was any notice sent to the S.C. Attorney General.

Exhibits A-M are included with this appeal and are incorporated into this Appeal when cited - the inferior court entered an order denying his in forma pauperis application on July 6, 2023.

The appeal arises out of this order of dismissal of an appeal from the Circuit Court not allowing plaintiff to proceed in forma pauperis thus waiving the prepayment of filing fee requirement.

Plaintiff has offered to pay the court fees later as a restitution. Notice of Appeal has been made on all parties listed on the Certificate of service herein and dated January 9, 2024.

Arguments I. Plaintiff's in forma application should <sup>have</sup> been approved. ⑦

I. Within Plaintiff's Complaint he asserts that certain fundamental state and Federal Constitutional rights have been violated by the Defendants.

Plaintiff should have his in forma pauperis application approved as a matter of law. He is indigent and has provided the courts with adequate documentation proving his indigency. The court of Common Pleas for Caledon County erred in its decision not to approve plaintiff's in forma pauperis application and in its denial of allowing plaintiff to file his claim without prepayment of fees. If plaintiff isn't allowed to file his case in the lower court he cannot provide service of process to either the defendants or the South Carolina Attorney General as required under SCRPC rules 5(d) and 5(d) <sup>40005</sup>. (See "Exhibits E" and "F" for a copy of plaintiff's motion to reconsider and the lower courts subsequent denials in "Exhibit D" and "Exhibit G" of his in forma pauperis application. Plaintiff's complaint concerns fundamental constitutional violations by the defendants.

Pursuant to SCRPC 3(b) and this court's holdings in EX Parte Martin, 321 S.C. 533, 535 (1995) id. at 535, citing Boddie v. Connecticut, 401 U.S. 371 (1970) ("Further, where certain fundamental rights are involved, the Constitution requires that an indigent be allowed to access the courts.").

In Booker v. SCDC, 855 F.3d 533 (4th Cir. 2017), "this court has long held that prison officials may not retaliate against prisoners for exercising their to access the courts... which is a component of the right to petition for redress of grievances [...and] there is an overwhelming "consensus of persuasive authority" that ~~prison~~ inmates possess a First Amendment right to be free from retaliation for filing a grievance.".

In paragraphs 50-57 of Plaintiff's Complaint he stated that the defendants admitted to retaliating on plaintiff because he filed a grievance related to a violent inmate-on-inmate assault that the defendants somehow misconstrued. A major admitted verbally and acknowledged in writing that she retaliated on Plaintiff specifically because he wrote that grievance.

Access to the Court is both a Federal Constitutional right and a fundamental SC. Constitutional right under ~~Article~~ Art. 1, § 2.

A large part of Plaintiff's complaint is related to his fundamental state and Federal rights to be free of cruel and unusual punishment being violated by the defendants under the 8th Amendment of the U.S. Constitution and S.C. Const. Art. 1, § 15 respectively.

In his Complaint Plaintiff reports that a member of SCDC staff ordered other inmates to assault <sup>him</sup> that he was forced to live in a cell that reeked of the human skat his neighbor smeared all over his cell for nearly a week despite his protests, and he had to eat in that ~~stink~~ <sup>stink</sup> smell which caused him to vomit. he received only ground four (4) hours of outside recreation in seven (7) months.

which was not only extremely atypical to inmates in General Population, but also atypical to other inmates held in the same Restrictive Housing Unit as plaintiff who received much more time outside of their cells; Atypically to Gen. Pop. plaintiff's shower was located in his cell so he wasn't even allowed out of his cell for this basic activity; the moisture from the in-cell shower caused black mold on the cell floor, walls and ceiling and made plaintiff's bedding wet three times a week.

These claims of atypical treatment equate to more than mere negligence, they defendants knowingly treated him, and left him in conditions of confinement that rose to levels of cruel and unusual punishment as cited in his complaint.

Plaintiff goes on further to state the seven months he was held in solitary confinement without any significant time out of his cell was excessive and atypical compared to others - even those held in "RHU" with him. He further claims that these conditions caused him to deteriorate mentally and caused him to have audio and visual hallucinations, severe anxiety and nightmares, etc.

During this time in solitary plaintiff went months without seeing any mental health therapist or Doctor, despite the fact that he was put in "RHU" following a violent sexual assault. Many requests made by plaintiff to see someone from mental health were ignored and eventually he attempted an ill-advised and regrettable suicide ~~attempt~~ because he felt hopelessly stuck in his situation and conditions and was not being helped to deal with the aftermath of his assaults. Common decency and modern social norms and standards hold that victims of sexual assault should receive mental health treatment.

In Carlson v. Green, 466 U.S. 14 (1984) and elsewhere, the courts have widely recognized that inadequate medical care can rise to the level of cruel and unusual punishment. The S.C. Const. Art. 1, § 15 holds that cruel and unusual punishment violates fundamental rights of the states citizens.

Further SCDC has a policy that requires any inmate who wants protective custody ("PC") must receive a "PC Board" within seven (7) days so that he can be evaluated and to help the institution <sup>determine</sup> his custody level and if he needs to be transferred to another prison for his safety.

Plaintiff wasn't allowed a "PC Board" for 55 months primarily as punishment for his filing PREA related grievances. He was denied due process while he was indefinitely held at the time, without any form of appeal or <sup>meaningful</sup> consideration on the part of staff. (See paragraphs 43-57 of Plaintiff's Complaint)

On July 6, 2023 the Clarendon County Court of Common Pleas Judge R. Ferrell Cothran, Jr. denied plaintiff's motion and affidavit to proceed in forma pauperis without explanation (See "Exhibit D").

On July 24, 2023 His Honor subsequently denied plaintiff's Motion to Amend Judgement with little to no explanation and without allowing his case to be filed without prepayment. (See "Exhibit F" and "Exhibit G" respectively).

Since Plaintiff's Complaint was never filed, he was not allowed to provide service of process on the defendants as required under Rule 5(d) of SCRPC nor could he serve the A.G. of South Carolina pursuant to Rule 11 of SCRPC.

II. There can't be a notice of Appeal on any defendant when there is no case filed in any <sup>court</sup> record.

If a Complaint isn't filed by the court of Common Pleas, when it has jurisdiction, it isn't possible for Plaintiff to comply with Rule 5(d) of SCRPC which states "The summons and complaint shall be filed before service. Proof of service shall be filed within ten (10) days after service of summons and complaint." (Underlines were added for emphasis).

Ipso facto, if the case isn't filed there can't be any service of the summons or complaint; there is no case filed on any record in any court.

Rule 3(a) of SCRPC states, "A civil action is commenced when the summons and complaint are filed with the clerk of court [...]"

After the Clarendon County Court of Common Pleas denied Plaintiff's in forma pauperis application without allowing his case to be filed without prepayment, and despite no action being commenced, plaintiff appealed to the South Carolina Supreme Court to overrule the lower court's denial of his in forma pauperis application.

Plaintiff appealed Judge Cochran Jr.'s decision for a myriad of reasons: first, he needed to toll the statute of limitations on his SC tort claims; he needed some sort of record of his case in the courts; he sought to have the lower court's decision overruled so he could file without prepayment of fees and so he could complete service of process; he needed some sort of case # assigned.

On August 11, 2023 - The Honorable Jenny A. Kitchings assigned this case ~~as~~ Appellate case No. 2023-001275 and transferred it to the South Carolina Court of Appeals (SCCA.) (See "Exhibit H")

On August 29, 2023 - the South Carolina Appellate court sent plaintiff "Exhibit J" which discussed SCACR Rule 267 requirements and "Exhibit I" which was a request for proof of service ~~to more than~~ to be put in compliance with the SCACR - i.e. proof of service on Counsel for the Respondent.

There was and still is, no "Counsel for the Respondent" because the case was never filed by the court nor summons/complaint issued.

These reasons along with Plaintiff's denial of his in forma pauperis application ~~being denied~~ were in fact the entire basis of his appeal. He needs to be allowed to properly conduct service of process on the defendants and to do this he needs the lower court to file his case <sup>and issue the summons</sup>. Plaintiff wrote SCCA multiple letters explaining this and on January 03, 2024 he received a reply in the form of "Exhibit K" again requesting proof of service within ten (10) days and "Exhibit L" stating that the court construed one of his follow-up letters written on September 8, 2023 as a motion in that court to proceed in forma pauperis.

Though part of plaintiff's letter asked the court to waive the \$250.00 filing fee for his appeal, he was primarily trying to explain that since the lower court denied his in forma pauperis application and refused to file his complaint - there wasn't any respondent of record prior to this appeal and therefore no one but the lower court to be sent a notice of appeal; this was the very reason plaintiff filed his appeal in the first place.

On January 5, 2024 plaintiff sent a copy of his complaint, summonses and notice of appeal to SCD's office of General Counsel and sent a certificate of service to the S.C.A.

On January 30, 2024 the S.C. Court of Appeals wrote "Exhibit M" telling plaintiff that his appeal was dismissed because of a failure to provide timely service on the respondent and that "this appeal arises out of an order of the circuit court dated July 6, 2023 [Exhibit D] and [the proof of service provided shows service on January 5, 2024."

~~to serve~~  
Plaintiff argues that the S.C. Appeals Court's decision is wrong as a matter of law in this specific case, for the reasons previously argued ineloquently and begs this court to vacate and remand.

### Conclusion

The crux of this appeal in the South Carolina Supreme Court is as follows:

Rule 203(b)(1) of SCACR states, "a notice of appeal shall be served on all respondents within thirty (30) days after receipt of entry of the order of judgement."

Plaintiff contends there was no "entry" because there was no record to enter judgement into—because his case wasn't filed.

Further, according to "Black's Law Dictionary," "Respondent" is a party against whom an appeal is taken... someone who answers questions.

According to Rule 1 SCRC, "Answer" means "the paper filed by the party responding to the complaint" and "summons" means "the paper ~~filed by the party~~ issued by the court which orders the defendant to respond to the complaint."

If the court doesn't file the complaint nor issue a summons there can be no answer from any defendant and therefore there ~~is~~ can be no respondent on appeal; prior to the appeal there was no record of this case except for unfiled documents sent to plaintiff by the lower court.

In this case, there is no legitimate way for plaintiff to provide notice of appeal to any defendant; ~~but~~ when the court seemed to order he do so in "Exhibit K"—he did so, to the named defendant (who may not even have known there was any case or proceedings against them to begin with).

Per SCRCP (3)(a) "a civil action is commenced when the summons and complaint are filed with the clerk, etc. SCRCP (3)(b)(1) allows the lower court to disallow the filing of any complaint ~~where plaintiff~~ doesn't pay the \$150 filing fee when it denies plaintiff's motion to proceed in forma pauperis—even when plaintiff meets the indigent qualifications; This court is the sole remedy for the (SCRA) torts listed.

It's just as unfair to the judicial process to require notice of appeal on defendants in an unfiled case, who weren't served summons nor complaint, as it would be to hold respondent in default for failure to appear for a case they weren't made aware of. Under Rule 5(a) of SCRCP no service would be required if a defendant is held in default for such a failure to appear.

To paraphrase Johnnie Cochran in the O.J. Simpson case, "If the lower court didn't file it, there can be no notice of appeal sent to Respondent"

OR  
"If Plaintiff's denied in forma pauperis, there's no case on record prior to him appealing it."—thus no notice of appeal technically possible for Respondent. No?

Plaintiff begs this court to vacate and remand the S.C. Court of Appeals dismissal of this case and that this court give directions as to what constitutes fundamental constitutional rights which, if shown to exist in his complaint, ~~it~~ would allow Plaintiff to proceed in forma pauperis.

Thank you.

Respectfully,  
Christopher M. Kennan #385016  
~~Christina~~

on this 9th day of February, 2024  
at 610 HWY 9W  
Bennettsville, SC 29512

Case# 2023-001275  
Certificate of Service

10

I did on this date serve: notice of appeal; Exhibits A through M; a motion to proceed in forma pauperis for this appeal; a copy of this appeal from the SC, Court of Appeals and all other documents submitted herein; affidavit in support of motion to proceed without payment of costs and fees and this certificate of service

by placing a copy of the same in Evans CJF mail and addressed as follows to each of the four parties listed:

- ① Patricia A. Howard  
Clerk of Court of South Carolina Supreme Court  
P.O. Box 11629  
Columbia, South Carolina 29211
- ② SCOC office of General Counsel  
4444 Broad River Rd  
Columbia, SC 29210
- ③ Jenny Abbott Kitchings  
Clerk of Court S.C. Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211
- ④ Beulah G Roberts  
Clerk of Court  
P.O. Box 136  
Manning, SC 29102

This 9th day of February, 2024  
Christopher M. Kennan  
Christopher M. Kennan #385016  
Evans CJF  
610 Hwy 9W  
Bennettsville, SC 29512

5/13/23

Exhibit A

Dear Mrs. Beulah G. Roberts / Clerk of Court,

Enclosed is a complete 1983 suit which includes:

- two (2) copies of my handwritten 1983 Complaint including 36 pages total
- One (1) 1983 packet sent by the U.S. District Court of S.C.
- one (1) Informa pauperis application
- one (1) Financial Certificate
- one (1) summons for each of the (13) defendants
- one (1) USM-285 form for each of the (13) defendants
- one (1) Motion for appointment of Counsel and
- one (1) "Glossary of Prison terms" - 3 pages labeled "61-63"

\* Can you please remit a copy to me which is "clocked, sealed and stamped":

- Please note that though I have 13 defendants named, I've only been able to include two copies of my Complaint due to SCDC's policy of not allowing photocopies of inmate produced documents and also a substantial 1-6 month delay in Evans CIJ providing indigent inmates with legal paper and pens. I am currently in Federal Court seeking injunctions to fix these hindrances. My case # there is: 9:23-CV-01213-SAL-MH  
I was given one photocopy of my complaint before staff refused to provide more.

- If you need a copy for each defendant from me would you please share how I can do this OR might the judge be willing to issue a court order compelling SCDC to allow me to make photocopies of this Complaint for each defendant? If you can provide the copies for me I'd happily pay for it later as part of court costs - again, I'm currently filing Informa pauperis. I am running up on the statute of limitations for some of my claims and I need the defendants served ASAP.

\* AO-444 instructions told me to fill in "U.S. District Court" - if this needs to be changed to the circuit for Clarendon County Court of Common Pleas - would you be able to correct this or send me the appropriate forms and instructions? along with copies of the AO-444 forms I provided so I can transcribe them please?

Thank you for your time and assistance,  
Respectfully,

Christopher M. Kennan SCDC # 385016  
Evans CIJ - FSC-116  
610 Hwy 9W  
Bennettsville, SC 29512

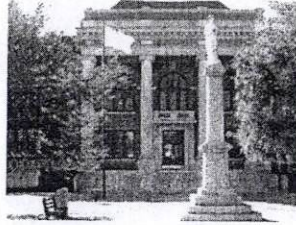
Chris M. Kennan 5/13/23

"Exhibit A"

# Clarendon County Clerk of Court Office

Exhibit B

BEULAH G. ROBERTS  
CLERK OF COURT  
POST OFFICE BOX 136  
MANNING, SC 29102  
PHONE: (803) 435-4443  
FAX: (803) 435-4844



MARILYN WILSON  
FAMILY COURT  
POST OFFICE BOX 490  
MANNING, SC 29102  
PHONE: (803) 435-4210  
FAX: (803) 433-8008

June 14, 2023

To: Christopher M. Kennan

From: Office of Clerk of Court

Re: In Forma Pauperis Form

Enclosed you will find the form you requested. There was no such form in the documents sent to my office, therefore, the \$150 was requested. Once you fill out and return the form, the judge will determine whether you can proceed in forma pauperis.

received 6/16/23

Exhibit B

6/17/23

Exhibit C

Dear Clerk of Court,

Good day,

• This is my second attempt to file a 1983 Complaint in Clarendon County Court of Common Pleas. Originally, my complaint was returned because I hadn't the \$150.00 filing fee - though I included a Federal Informa Pauperis Application and a Financial Certificate which proved my indigency. These forms were not required to be notarized.

Subsequently, your office ~~recently~~, your office has sent me a more proper informa pauperis, which I've filled out and notarized.

• Included in this package is:

one (1) completed 1983 complaint and ~~12 handwritten attachments~~

three (3) "summons in a civil ~~complaint~~ Action" (AO-440 Forms)

three (3) Form USM-283 Forms

one (1) "SCA 405CP" Informa Pauperis application along with a financial

statement and two other papers attesting to my indigency, and show I qualify to proceed informa pauperis w/o <sup>payment of either the filing fee or service cost,</sup>

(4) Copies of a 12-page attachment used to supplement the answers required on the 1983 Complaint

• I was able to get someone to help me make copies of this complaint even though SCDC doesn't allow for "self-produced (legal) ~~legit~~ documents to be photocopied. I asked for (5) copies, but she only gave me three plus my original. Currently I am seeking an injunction to allow me to make these copies in case 9:23-CV-01213-SAL-MHC in U.S. District Court (Beaufort), but since the kind woman was doing me a kindness, I couldn't push her for more copies.

• I don't have a copy for myself, so please return a clock/timestamped copy for me and my records. "SCDC" defendant should be issued service first if there arises issues where all defendants can't be served simultaneously.

• Also, if it's not automatically done without request, could you please include this letter in my case file? I appreciate your help.

• Finally, if you need me to send any additional copies, could you please send me an order to do this so I can present it to SCDC staff in the hopes that they allow the copies to be made. Either pay the stamped copy I receive back will likely work, but the letter would help.

Thank you so much for your replies,

Christopher M. Kennan SCDC# 385016

Evans CI FSC-116

616 HWY 9W

Bennettsville, SC 29512

Exhibit C

STATE OF SOUTH CAROLINA, )  
 )  
COUNTY OF Clarendon )  
 )  
Christopher M. Kennan )  
 )  
Plaintiff )

IN THE COURT OF COMMON PLEAS  
third JUDICIAL CIRCUIT

**MOTION AND AFFIDAVIT TO  
PROCEED IN FORMA PAUPERIS**

vs. )

South Carolina Dept. of Corrections )  
 )  
Defendant. )

FILE NO. \_\_\_\_\_

I, Christopher M. Kennan being duly sworn, state that I am the Plaintiff and that I do not have the funds available to pay the costs of filing and service in the present matter. I hereby request that the complaint be filed and service made without costs.

Sworn to and Subscribed before me )  
this 22 day of June, 2023 )  
Sandra Outlaw )  
Notary Public for South Carolina )  
My Commission expires 2/7/24 )

Christopher M. Kennan )  
Signature of Plaintiff or )  
Person Filing Complaint on Behalf of )  
Plaintiff )

**ORDER**

- Leave is *granted* to proceed in forma pauperis without payment of the filing fee.
- Leave is granted to proceed in forma pauperis without payment of the service cost.
- Leave is *denied* to proceed in forma pauperis.

Dated: July 6, 2023  
Morning, South Carolina

[Signature]  
JUDGE/CLERK OF COURT

NOTICE TO PLAINTIFF: The Court may assess costs against either party at hearing.

In the state of South Carolina County of Clarendon  
Court of Common Pleas Third Judicial Circuit

Exhibit E

Christopher M. Kennan  
Plaintiff,  
v.

South Carolina Dept.  
of Corrections, et al.,  
Defendants

Civil Action No. \_\_\_\_\_

Jury Trial  YES

MOTION TO Reconsider / Amend Judgement

Plaintiff Christopher M. Kennan, pursuant to Rule 59, SCRPC, requests court to amend decision to deny plaintiffs' MOTION AND AFFIDAVIT TO PROCEED IN FORMA PAUPERIS

1. The Court is obligated, per the Supreme Court, "where certain fundamental rights are violated the Constitution requires that an indigent be allowed to access the courts" and requires waiver of filing fee. Rules Civ. Proc., Rule 3(b) and Ex Parte Martin, 321 S.C. 533, 535 (1995) id at 535, 471 S.E. 2d at 135 citing Boddie v. Connecticut, 401 U.S. 371 (1970)
2. This pro se Complaint isn't very neatly written and may be disorganized, but there certain are violations of fundamental rights cited; some are as follows:
3. In Booker v. South Carolina Department of Corrections, 855 F.3d 533 (S.C. App 2017), the court held "Inmates possess a First Amendment right to be free from retaliation for filing a grievance" under its Petition Clause. In Plaintiff's complaint, paragraphs 50-57 he specifically stated SCDC staff admitted punishing him for filing a grievance ("ABISM") and that plaintiff has this admission in writing. He lists multiple examples of such retaliation related to filing grievances in violation of Fundamental 1st U.S.C.A. rights under its petition clause and argues this treatment was also cruel and unusual/violative of fundamental rights.
4. Plaintiff also cites in his complaint that Fundamental rights to Due Process were violated when he was held in solitary confinement, under extreme conditions, for seven months - 55 of which he didn't receive a hearing despite policy calling for him to get one within seven days (see paragraphs 43-57). He argues he was denied due process as punishment for filing grievances.
5. In paragraphs 43-57, plaintiff also claimed he received inadequate medical treatment - and mentioned a suicide attempt due to this inadequate care. Carlson v. Green, 466 U.S. 14 (1981) holds that Fundamental rights to be free from Cruel and unusual Punishment and that inadequate medical care can rise to a level of cruel and unusual Punishment. A hearing should be held to decide these issues on their merits. The South Carolina Constitution also prohibits cruel and unusual punishment.
6. Without being allowed to file this complaint and proceed in forma pauperis - justice will be denied to plaintiff ~~his fundamental rights and his Access to the courts~~ and Due Process would be withheld. If he can't assert his claims that fundamental rights were violated by defendants, and have defendants be held accountable, then this is an appealable issue.
7. This court should reconsider its denial of plaintiff's motion to proceed in forma pauperis and allow plaintiff to proceed in forma pauperis. Please.

Respectfully submitted,

Christopher M. Kennan SCDC# 385016  
EVANS CLI  
610 HWY 9W  
Bennettsville, SC 29512

Exhibit E

Dear Clerk of Court and Your Honor

7/14/23  
Card 115/241 Ser 6

Enclosed you will find a Motion to Reconsider / Amend judgement asking that Your Honor approve applicants motion and affidavit to proceed in forma pauperis, which you denied on July 6th, 2023. Exhibit F

Within this motion and the original complaint, is evidence that my Complaint contains assertions that plaintiff's fundamental rights to Due Process and to be free from cruel and unusual punishment were violated by the defendants. <sup>IF shown</sup> These fundamental Constitutional rights and their subsequent violations assures the plaintiff the right to be allowed access to the courts and requires waiver of filing fees; Pursuant to Rules Civ. Proc., Rule 3(b) as well as South Carolina's Supreme Court's holdings in Ex Parte Martin, 321 S.C. 533, 535 (1995); id ("Further, where certain fundamental rights are involved, the Constitution requires that an indigent be allowed access to the courts."); Please note my citation referring to paragraphs 43-57 in my Complaint that SCDC staff admitted to retaliating on me because I filed a grievance related to a sexual assault, and the S.C. Court of Appeals holding that such retaliation is fundamentally unconstitutional and violates an inmate's First U.S.C.A. rights under the Petition clause. <sup>(Booker v. SCDC, 855 F.3d 533 (SC App 2017))</sup> The retaliation, including the majors admission in writing, went on for months and will be substantially corroborated.

The Courts denial on 7/6/23, and <sup>upon</sup> my subsequent receipt of it a few days later started the (30) thirty day period in which I have to send "Notice of Appeal". Should this Court decline to reconsider and approve my motion ~~for~~ to proceed in forma pauperis I will need the spelling of your honor's name (the signature, though well-stylized and neat, isn't well discerned by plaintiff). Also, I'm not sure if there's any relevance ~~#~~ the court can provide in lieu of a case #, I'd appreciate having something more, if possible, should I need to file an Appeal and/or a writ of Mandamus with the higher court(s), it might make the appropriate forms more complete, in addition to including six copies of the Complaint and appeal to the S.C. Supreme Court.

I am sending two copies of the Complaint. Please return one to me <sup>proce</sup> clocked and timestamped if the court allows the case to proceed w/ plaintiff in forma pauperis status approved, and either way please remit the printed name of your Honor

Thank you for your time and reconsideration,  
Christopher Kennan SCDC # 385016  
Evans CLI / FSC-116  
610 Hwy 9W  
Bennettsville SC 29512

Also included are: 3 summons (AO 440)  
The Financial Certificate  
The Courts Denial of motion to proceed in forma pauperis Exhibit F  
3 USM-285  
1 motion to Amend

Clerk of Court (MS Roberts):  
\* Also, please remit another SCCA 405CP (1010) Motion and Affidavit to Proceed in forma pauperis.

Exhibit G

STATE OF SOUTH CAROLINA )  
 ) IN THE COURT OF COMMON PLEAS  
COUNTY OF CLARNEDON )

Christopher M. Kennan )  
 )  
 ) Plaintiff, )

vs. )

South Carolina Dept. of Corrections, )  
 )  
 ) Defendant. )

ORDER  
C/A NO.

This matter is before the Court pursuant to Rule 59 (e) SCRPC. The Plaintiff seeks an Order of this Court amending or altering its Order of July 6, 2023.

Pursuant to Rule 59 (f) SCRPC, this Court determines that the motion to alter or amend may be decided on briefs filed by the parties and without oral argument.

Having duly considered the motion to alter or amend of the Plaintiff, this Court has determined that its original Order dated July 6, 2023 is fully supported by the law and the evidence and is hereby ratified and reconfirmed. The motion to alter or amend the earlier Order is therefore DENIED.

AND IT IS SO ORDERED.

Manning, South Carolina

Dated: July 24, 2023

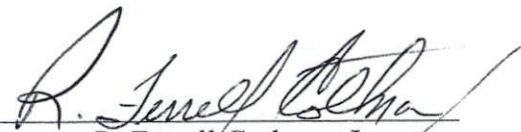
  
R. Ferrell Cothran, Jr.  
Judge, Third Judicial Circuit

Exhibit G

# The Supreme Court of South Carolina

Christopher Keenan, Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2023-001275

---

## ORDER

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Pursuant to Rule 204(a) of the South Carolina Appellate Court Rules, this matter is hereby transferred to the South Carolina Court of Appeals.

FOR THE COURT

BY Patricia A. Howard  
CLERK

Columbia, South Carolina  
August 11, 2023

cc: Christopher Keenan, 358016  
South Carolina Department of Corrections  
The Honorable Jenny A. Kitchings



Exhibit I

## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

CATHERINE S. HARRISON  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
www.sccourts.org

August 29, 2023

Christopher Kennan, 358016  
Evans Correctional Institution  
610 Highway #9, West  
Bennettsville SC 29512

Re: Christopher Kennan v. SCDC  
Appellate Case No. 2023-001275

Dear Mr. Kennan:

Upon reviewing your notice of appeal, the following deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and each deficiency must be corrected within ten (10) days of the date of this letter or this matter will be dismissed:

- The accompanying proof of service is not in compliance with the SCACR. Your proof of service should be substantially in the format shown by Form 7 in Appendix C to part II of the SCACR. Specifically, you must provide a proof of service on counsel for the Respondent.
- The required filing fee has not been submitted. The correct filing fee is \$250.00.

Very truly yours,

*Catherine Harrison, deputy*  
CLERK

Received  
9/6/23  
sent reply 9/8/23

Exhibit I

cc: Christina Catoe Bigelow, Esquire



Exhibit J (1:2)

## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

CATHERINE S. HARRISON  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

August 29, 2023

Christopher Kennan, 358016  
Evans Correctional Institution  
610 Highway #9, West  
Bennettsville SC 29512

Re: Christopher Kennan v. SCDC  
Appellate Case No. 2023-001275

Dear Mr. Kennan:

This Court has received your notice of appeal, and the case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter.

All parties to this matter are advised that all filings must comply with the requirements of Rule 267 of the South Carolina Appellate Court Rules (SCACR). The SCACR are available online at [www.sccourts.org/courtreg](http://www.sccourts.org/courtreg). Additionally, any filings submitted by counsel admitted in South Carolina must include counsel's bar number.

The attention of the parties is directed to the order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. The order can be found at [www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-04-15-02](http://www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-04-15-02). Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will *not* review

Exhibit J (1:2)

J(2:2)

filings for redaction or to determine if materials should be sealed.

This is to advise that the title in the above matter has been changed to read as follows:

**Christopher Kennan, Appellant,**

**v.**

**South Carolina Department of Corrections, Respondent.**

All future records in this matter should be changed to reflect this title. If you have any questions, please do not hesitate to contact this office.

Very truly yours,

*Catherine Hannison, deputy*

CLERK

cc: Christina Catoe Bigelow, Esquire

*[Handwritten scribbles and signatures]*



Exhibit K

# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

CATHERINE S. HARRISON  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
www.sccourts.org

January 03, 2024

Christopher Kennan, 358016  
Evans Correctional Institution  
610 Highway #9, West  
Bennettsville SC 29512

Re: Christopher Kennan v. SCDC  
Appellate Case No. 2023-001275

Dear Mr. Kennan:

Upon reviewing your notice of appeal, the following deficiency has been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter or this appeal will be dismissed:

- You must provide a proof of service indicating that the notice of appeal has been served on the Department of Corrections.

Very truly yours,

*Catherine Harrison, deputy*  
CLERK

*Sent 1/5/24  
SCDC + Appeals court  
w/ letter to SCDC  
Office of General  
Counsel*

cc: Christina Catoe Bigelow, Esquire

K



Exhibit L

## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

CATHERINE S. HARRISON  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
www.sccourts.org

January 03, 2024

Christopher Kennan, 358016  
Evans Correctional Institution  
610 Highway #9, West  
Bennettsville SC 29512

Re: Christopher Kennan v. SCDC  
Appellate Case No. 2023-001275

Dear Mr. Kennan:

We received your letter dated September 8, 2023, which this Court construes as a motion to proceed in forma pauperis.

Upon reviewing your motion to proceed in forma pauperis, the following deficiency has been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter or your filing will not be considered:

- A proof of service has not been provided. You must serve and file a proof of service substantially in the format shown by Form 7 in Appendix C to part II of the SCACR.

Very truly yours,

*Catherine Harrison, deputy*  
CLERK

Exhibit L

cc: Christina Catoe Bigelow, Esquire

# The South Carolina Court of Appeals

Christopher Kennan, Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2023-001275

## ORDER

This appeal arises out of an order of the circuit court dated July 6, 2023. Appellant received written notice of the entry of the order on July 10, 2023. The proof of service provided shows service on January 5, 2024. Because Appellant has failed to provide proof of timely service upon the Respondent as required by Rule 203(b)(1) of the South Carolina Appellate Court Rules, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

The SC court of Appeals seems to think my inform pauper application was merely for the appeal - but in fact the denial of ~~granting~~ my inform pauper application and subsequent unwillingness to file my case in the Circuit Court of Common Pleas is the basis of my appeal.

[Court precedent - fundamental constitutional rights] without filing my ~~informing~~ my inform pauper application and filing the case none of the defendants have been served with the complaint. SCDC (defendant) will ~~not~~ <sup>refuse</sup> to waive service of process and who the courts approving inform... ~~that~~ <sup>can</sup> serve them.

This appeal is only to require Circuit Court of Common Pleas to approve inform and serve process so they can proceed.

Respondent hasn't been served because the court of common pleases ~~refused~~ <sup>didn't</sup> approve this indigent, pro se litigant's inform pauper application - and subsequently refused to file this case. Plaintiff has wrote a notice of appeal to that court and filed with the SC Supreme court - who assigned this case an Appellate Case No. ~~After multiple~~ back and forth with the SC Appellate court asking for <sup>service of process</sup> ~~the~~ <sup>my date</sup> ~~at~~ <sup>the</sup> ~~court~~ <sup>requested</sup>

*[Signature]*  
FOR THE COURT

Columbia, South Carolina  
in the letter enclosed.

Plaintiff's appeal is an Plaintiff's inform pauper application being denied, and the court subsequent denied ~~at~~ <sup>refused</sup> to file this case and to issue summons to Christina Catoe Bigelow, Esquire ~~the~~ <sup>defendants</sup> until served by the ~~merits~~ <sup>original</sup> complaint - there is not ~~officially~~ <sup>officially</sup> any respondent to ~~not~~ <sup>not</sup> ~~be~~ <sup>be</sup> ~~allowed~~ <sup>allowed</sup> to proceed

FILED  
Jan 30 2024

Exhibit <sup>M</sup>

1 Based on our disposition herein, we need not consider Appellant's motion to proceed in forma pauperis. Plaintiff is appealing to first get his inform pauper application approved so that the "respondents" can be served in the first place. As noted in multiple letters to the court Plaintiff's case involves fundamental constitutional rights that they court ~~will~~ <sup>must</sup> be allowed to proceed

The Supreme Court of South Carolina

Christopher Kennan, Appellant,  
v.  
South Carolina Department of Corrections,  
Respondent.

Case # 2023-001275

Motion to proceed in  
Forma Pauperis/without  
Payment of Costs and Fees

The Plaintiff, Christopher Kennan, moves the court for an order permitting him to proceed in this action without payment of fees or costs on account of his poverty. In support of this motion, the plaintiff submits the attached affidavit and financial statement.

Wherefore, the plaintiff respectfully requests the court to allow him to proceed without costs or fees in this action and for such other and further relief in favor of the plaintiff that the court deems just and appropriate.

This 9th day of February, 2024

Christopher M. Kennan

Christopher M. Kennan #385016

Evans C/F

610 Hwy 9W

Bennettsville, SC 29512

The Supreme Court of South Carolina

Christopher Kennan,  
Appellant,  
v.  
SCDC,  
Respondent

Case # 2023-001275  
Affidavit in Support of Motion to Proceed without  
Payment of Costs and Fees

I, Christopher Kennan, having been first duly sworn, depose and say the following:

1. I, Christopher Kennan, the plaintiff named above, suffer from no legal disabilities, and give this affidavit from personal knowledge in connection with my motion to proceed in forma pauperis.

2. I state that the following is an accurate list of my monthly income and expenses:

Income: \$0.00 per month (incarcerated individual)

Rent: \$0.00

Food: \$0.00

Utilities: \$0.00

Transportation: \$0.00

Clothes: \$0.00

Total Expenses: \$0.00

Assets: \$0.00 including \$0.00 on Plaintiff's Cooper Trust Prison Account.

This ~~7th~~ <sup>7th</sup> day of February, 2024

Christopher M. Kennan

Christopher M. Kennan #385016

Evans CI

610 Hwy 9W

Bennettsville, SC 29512

Notary Public of South Carolina  
27 day of February 2024  
Jasiah  
2/17/24

1/9/24  
Case # 2023-001275

The Honorable Jenny Abbott Kitchings  
Clerk of Court S.C. Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

RE: Christopher Kennan v. SCDC  
Appellate Case No. 2023-001275

**RECEIVED**  
FEB 12 2024  
SC Court of Appeals

Dear Ms. Kitchings,

Enclosed you will find a notice of appeal in the above case for filing. I am also enclosing the following:

1. Proof of service of notice of appeal in the above case filing on this court, respondents and the lower court, and the notice of appeal itself.
2. Thirteen Exhibits Labeled A-M ~~is~~
3. A motion to proceed in forma pauperis.
4. The ~~twelve~~<sup>eleven</sup> (11) Page Appeal to the S.C. Supreme Court
5. ~~Also file these documents.~~

Thank you sincerely,

Christopher M. Kennan  
Christopher M. Kennan #385016  
pro se Plaintiff  
Evans CF  
610 HWY 9W  
Bennettsville, SC 29512

Christopher M. Kennan #385616  
Evans C/F  
610 HWY 9W  
Bennettsville, SC 29512



Jenny Abbott Kitchings  
Clerk of Court SC Court of Appeals  
Post office Box 11629  
Columbia, SC 29211

**RECEIVED**

FEB 12 2024

SC Court of Appeals

Legal  
Mail