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MAY 24 2024

SC Court of Appeals

Curtis T. Johnson, 337543
Allendale C.I., - F3/Hampton A46
1057 Revolutionary Trail
Fairfax, S.C. 29827

South Carolina Court of Appeals
Jenny Abbott Kitchings, clerk
P.O. Box 11629
Columbia, S.C. 29211

April 10, 2024

RE: Appellate Case No. 2024-000487

Dear clerk,

Hello, please find enclosed for filing in your office:

- (1.) Re-filed "Notice of Appeal"
- (2.) Appellate's Motion For Leave To Proceed in forma pauperis without cost and Fees"
- (3.) Affidavit in support of Motion To proceed without Payment of Costs and Fees"
- (4.) "certificate of service"

I request that the court deadline for the filing of my "Initial Brief" and "Designation of Matter to be Included in the Record on Appeal" be held in abeyance until this filing fee matter gets resolved, once this matter is resolved, please inform me what the court deadline would be to file my "Initial Brief" and "Designation of Matter to be Included in the Record on Appeal!"

Also, please send to me a clock-stamped copy of the above enclosed documents. I thank you for all your help and concern.

Sincerely,

Curtis T. Johnson

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph K. Anderson, III, Administrative Law Judge

Appellate Case No. 2024-000487

Curtis Johnson, #337543,

Appellants

v.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

I, Curtis T. Johnson, appeal the decision of the Honorable Ralph K. Anderson, III, dated February 27, 2024. Appellant received a copy of this decision on March 1, 2024.

April 10, 2024

Curtis T. Johnson

Curtis T. Johnson, 337543
Allendale C.I. - F3/Hampton A46
1057 Revolutionary Trail
Fairfax, S.C. 29827
Pro-se Appellant

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph K. Anderson, III, Administrative Law Judge

Appellate Case No. 2024-000487

Curtis Johnson, #337543,
Appellant,

v.

South Carolina Department
of Corrections,
Respondent.

) Appellate's Motion For Leave To
) Proceed in forma pauperis without
) Cost and Fees

Pursuant to Rule 3(b), SCRPC Appellate desires to file his re-filed Notice of Appeal in forma pauperis and files this motion for leave to proceed in forma pauperis, together with the re-filed Notice of Appeal to be filed, an affidavit showing Appellant's inability to pay the filing fee required, and certificate of service.

On March 18, 2024 Appellate mailed his Notice of Appeal, together with the Administrative Law court's decision and certificate of service upon the Court of Appeals clerk, Administrative Law Court clerk, and the Attorney General's Office. The Court of Appeals clerk received these documents on March 26, 2024. On April 4, 2024, Appellant received a letter dated March 29, 2024 from Chief Deputy clerk, Catherine S. Harrison informing Appellant: "The required filing fee has not been submitted. The correct filing fee is \$250.00." The letter also stated Appellate had 10 days to correct any deficiency within the date of the letter or his case would be dismissed. Due to Appellant receiving this legal mail late, Appellate is entitled to the benefit of Rule 6(e), SCRPC, which allows an addition of five days to a response deadline when a party has been served with a notice or paper by mail. "Rule 6(e) is a pleadings rule and applies only when service is effective upon mailing. The extra five days provided by Rule 6(e) compensates for the time notice is in the mail." Witzig v. Witzig 479 S.E. 2d 297, 299 (1996)

Appellant request to waive the \$250.00 filing fee by requesting to proceed in forma pauperis because Appellant is indigent and Appellant's case involves violations of his "fundamental rights" of the U.S. Constitution and South Carolina Constitution rights of Due Process (liberty interest) and Equal Protection of the law. Appellant's Issue was: "The South Carolina Department of corrections (SCDC) failed

to properly apply my jail time credit to both of my consecutive sentences pursuant to my sentencing sheets, statute 24-13-40. Computation of time served by prisoners, and Massey v. South Carolina Dept of Corr., 2021 WL 1997295. By credit being applied to the aggregate of my sentences, the credit is only applied to the first sentence and not both consecutive sentences. SDC is violating my Due Process Rights (of liberty interest) and violating my rights to Equal Protection of the laws rights to Equal Protection of the law rights of the U.S. Const. Amend. 14 and S.C. Const. Art. 13. I request that my jail time served credit be applied to both of my consecutive sentences and my max out dated be corrected."

The Administrative Law court acknowledged in its order filed February 27, 2024, that it had jurisdiction to hear Appellant's case because it concerned state-created liberty interests. Thus, the South Carolina Rules of Appellate court, Rule 203. Notice of Appeal (d)(B)(3) filing fee requirement does not apply to Appellant for the following reasons:

"A court has the discretion to grant or deny an application to proceed in forma pauperis." Dillard v. Liberty Loan Corp., 626 F.2d 363, 364 (4th Cir. 1980) "The court must examine the information provided by a litigant in his financial affidavit." A3D Sec. Consultants v. Gray, 481 F. App'X 63, 64 (4th Cir. 2012) "A Plaintiff does not have to prove that he is absolutely destitute to enjoy the benefit of the statute." Adkins v. E. I. Du Pont de Nemours & Co., 335 U.S. 331, 339 (1948) "Instead, an affidavit to proceed in forma pauperis is sufficient if it states facts indicating that the Plaintiff cannot afford to pay the filing fee." Adkins, 335 U.S. at 339.

In Sullivan v. South Carolina Department of Corrections, 586 S.E.2d 124, 128 (2003), the Supreme court considered whether indigent inmates could proceed in forma pauperis in an appeal from a decision of the Administrative Law Judge Division under the Administrative Procedures Act. The court considered the filing fee required for any complaint as provided in section 8-21-310(11)(a) under the current statute. The court stated, "in the absence of a statutory provision allowing the general waiver of filing fee, we conclude motions to proceed in forma pauperis may only be granted where specifically authorized by statute or required by constitutional provisions." "Motions to proceed in forma pauperis may only be granted where specifically authorized by statute or required by constitutional provisions." Ex Parte: Martin v. State, 471 S.E.2d 134, 135 (1995) "Further, where certain fundamental rights are involved, the constitution requires that an indigent be allowed access to the courts." Id.

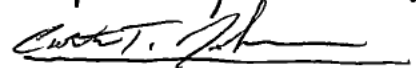
Also, pursuant to the doctrine of "fundamental fairness" the filing fee should be waived. "The Supreme court of the United States has only applied this "fundamental fairness" doctrine in cases where a state has deprived a person of fundamental rights because of indigency by subjecting the person to incarceration or denying access to courts." White v. Shwedo, 2020 WL 2315800 at 4; M.L.B. v. S.L.J., 519 U.S. 102, 117 (1996) "A state cannot arbitrarily cut off appeal rights for indigents while leaving

open avenues of appeal for more affluent persons." Ross v. Moffitt, 417 U.S. 600 (1974)

Thus, pursuant to the above laws, Appellant is constitutionally entitled to proceed on Appeal in forma pauperis. Because Appellant is indigent and his issue on Appeal involves fundamental rights Appellant request that this motion be granted.

April 10 , 2024

Respectfully Submitted,



Curtis T. Johnson, 337543
Allendale C.I. - F3/Hampton A46
10517 Revolutionary Trail
Fairfax, S.C. 29827

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Curtis Johnson, #337543

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

) The Honorable Ralph K. Anderson, III

) Appellate Case No. 2024-000487

) AFFIDAVIT IN SUPPORT OF MOTION
) TO PROCEED WITHOUT PAYMENT OF
) COSTS AND FEES

I, Curtis T. Johnson, having been first duly sworn, depose and say the following:

(1.) I, Curtis T. Johnson, 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 per month from disability insurance

Expenses:

- Rent - \$0 per month
- Food - \$0 per month
- Utilities - \$0 per month
- Transportation - \$0 per month
- Clothes - \$0 per month

Total EXPENSES: \$0 per month

This 10th day of April, 2024

SWORN TO and subscribed before me this

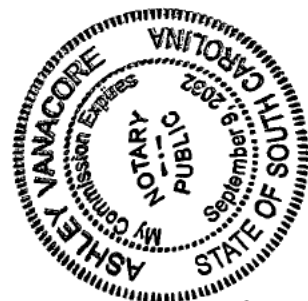
10th day of April, 2024

Osheey Vanceore

Notary Public
my commission

Expires: 9/9/32

Curtis T. Johnson
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Ralph K. Anderson, III, Administrative Law Judge

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Curtis Johnson #337543,
Appellant,

v.

South Carolina Department
of Corrections,

Respondent.

} The Honorable Ralph K. Anderson, III
} CERTIFICATE OF SERVICE

I, Curtis T. Johnson, do hereby certify that on this date, I served the refiled "Notice of Appeal", "Appellants Motion for Leave To Proceed in forma pauperis without cost and fees", "Affidavit in Support of Motion To Proceed without payment of costs and fees", and "certificate of service" in the foregoing action on the Court of Appeals and Respondent by depositing one copy of the same in the United States mail, first class postage prepaid, and addressed as follows:

South Carolina Court of Appeals
Jenny Abbott Kitchings, clerk
P.O. Box 11629
Columbia, S.C. 29211

Dept. of General Counsel
S.C. Dept. of Corrections
P.O. Box 21787
Columbia, S.C. 29221

SWORN or AFFIRMED to and subscribed before me this
10th day of April, 2024

Asneey Vance
Notary Public
My Commission Expires: 9/9/32



Curtis T. Johnson #337543
Allendale C.I. - F3/Hampton A46
1057 Revolutionary Trail
Fairfax, S.C. 29827
April 10, 2024

Luffis T. Johnson 551595
Allendale C.I. - F3/Hampton A46
1057 Revolutionary Trail
Fairfax, S.C. 29827



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South Carolina Court of Appeals
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