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Aug 30 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge S. Phillip Lenski

ALC Case No. 23-ALJ-04-0124-II
Appellate Case No. 2024-001192

GREGORY COLLINS, # 347252,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

RETURN TO APPELLANT'S MOTION TO PROCEED IN FORMA PAUPERIS

Comes now Respondent, through undersigned counsel, and requests that this Court deny Appellant's Motion to Proceed in Forma Pauperis. The relevant facts supporting this request are as follows.

Appellant submitted a Notice of Appeal to this Court dated July 16, 2024, challenging an Order of Dismissal issued by the Administrative Law Court ("ALC") on June 19, 2024. The only issue addressed in the Order of Dismissal is that Appellant failed to properly perfect his appeal to the ALC because he failed to timely file and serve his Notice of Appeal.

Where there is no statutory provision allowing the general waiver of filing fees, a motion to proceed in forma pauperis should only be granted where specifically authorized by statute or

required by constitutional provisions. See Martin v. State, 321 S.C. 533, 535, 471 S.E.2d 134, 134-35 (1995). If a fundamental right is involved, the Constitution requires that an indigent be allowed access to the courts. Id. Here, there can be no fundamental right involved because the only issue that would properly be before the Court is whether or not the ALC erred in dismissing the appeal for failure to timely file and serve the Notice of Appeal. Accordingly, the Motion to Proceed in Forma Pauperis should be denied.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

BY: 

CHRISTINA CATOE BIGELOW

Deputy General Counsel
Office of General Counsel
S.C. Department of Corrections
Post Office Box 21787
Columbia, South Carolina 29221
(803) 896-8508

ATTORNEY FOR RESPONDENT

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that on this date, she mailed a copy of **Respondent's Return to Appellant's Motion to Proceed in Forma Pauperis** to Appellant, addressed as follows:

Gregory Collins, # 347252
Perry Correctional Institution
Q1B-0206
430 Oaklawn Road
Pelzer, South Carolina 29669



Christina Catoe Bigelow
Office of General Counsel
S. C. Department of Corrections
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August 30, 2024



SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS
Safety, Service, and Stewardship

HENRY McMASTER, Governor
BRYAN P. STIRLING, Director

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The Honorable Jenny A. Kitchings
Clerk of Court, S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: Gregory Collins, # 347252, v. South Carolina Department of Corrections
Appellate Case No. 2024-001192

Dear Ms. Kitchings:

Enclosed please find Respondent's **Return to Appellant's Motion to Proceed in Forma Pauperis** in the above referenced matter, along with **Proof of Service**. A copy of the same is being mailed to Appellant today.

Thank you for your attention to this matter, and please do not hesitate to contact me should there be any questions or concerns.

Sincerely,

Christina Catoe Bigelow
Deputy General Counsel
South Carolina Department of Corrections
S.C. Bar No. 73562

cc: Gregory Collins, # 347252
Perry Correctional Institution
Q1B-0206
430 Oaklawn Road
Pelzer, South Carolina 29669