

In The South Carolina Court of Appeals

Ben Robert Stewart, 223006

v.

Case No:

2024-002076

South Carolina Dept. of Corrections

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SC Court of Appeals

Petition For Rehearing
Motion For Reconsideration To
Appoint Counsel Due To
Incompetent

Ben Robert Stewart,
100-200 Prison Road
Ehovee, S.C. 29335

In The South Carolina Court of Appeals

Appellate Case No: 2024-002076

Ben Robert Stewart, the appellant swears that the foregoing is true and correct to penalty for perjury:

1. The Appellant previously sought an Direct review - appeal regarding case no:
2. Including in the appeal and filed and even returned to appellant; are Social Security disability for mental illness documents see (attached documents (Exh B, 1 - Pennsylvania Bureau of disability determination and payee form)).
3. According to Pennsylvania the appellant is considered

ad litem in an action by or against him; but if imprisoned in this State, and not a minor or incompetent, the court may, in its discretion appoint a guardian ad litem or order him to be brought personally to the trial to testify in accordance with Rule 43(a)."

6. SCRPC Rule 17 (d) (2) provides: "Imprisoned Persons. The guardian ad litem for an imprisoned person shall be appointed upon application of such person or of a relative or friend."

7. In this instant appeal, due process entails that appellant is appointed an attorney for representation see; SCRPC Rule 17 note: "an incompetent person who does not have a duly appointed representative may sue by a next friend or by a guardian ad litem. The court must appoint a guardian ad litem - or issue another appropriate order - to protect [an] incompetent person who is unrepresented in an action see; Fed R. Civ. P. 17, (c)(2).

incompetent see; Exhibit B.19. Petition For Rehearing and Memorandum in Support e.g., verifiable documents for disability also appellate case number; see; State v. Stewart UP-2012WL-10864538 Court of Appeals of South Carolina December 12, 2012

Opinion stating: "Dismissed after consideration of appellants pro se brief" Id. containing Pennsylvania Bureau of Disability Determination Evaluation for Mental Illness. see; Mondelli v. Berkeley Heights Nursing and Rehabilitation Center, 1 F.4th 145 (3rd Cir 2021) held verifiable evidence existed of son's potential incompetence, and thus district court was required to sua sponte inquire into son's competency before dismissing complaint.

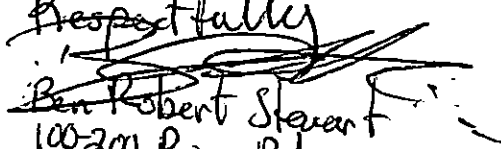
4. In South Carolina Rules of Civil Procedures Rule 17 Sec.(c) and Sec (d) the appellant has standing.
5. SCRCR Rule 17(c) provides: The State shall; "A person imprisoned outside this State shall appear by guardian

8. Therefore, pursuant to the Honorable Court of Appeals decision see: (attachment exhibit () South Carolina Court of Appeals Order dated 08/30/2025 denial of appointment of counsel civil case)); SCACR Rule 221 (a) for rehearing is respectively requested.
9. Pursuant to SCACR Rule 221 (c). "The appellate court will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party's appeal."
10. If the Court of Appeals does not entertain this petition for rehearing with the complexity of the appeal e.g., (here, four (4) civil cases, two (2) cases containing the precise subject matter, and petitioner is mentally ill, and disability pursuant to mental illness and incompetent while receiving mental health treatment medications, petitioners

appeal in this court has the potential effect of being dismissed without due process pursuant to the protection of the Rules of Court see; SCRCP Rule 17.

11 The Relief Petitioner is Requesting is pursuant to the State and Federal Rules of Court for: Parties Plaintiff And Defendant " the rule existing providing a guardian ad litem only when the person is imprisoned outside the State"; however, the petitioner is a prisoner from another State (Pennsylvania) and verifiable documents of mental disability conclude that Petitioner should be appointed counsel.

On this 27th of August, 2025.

Respectfully

Ben Robert Stewart
100-200 Prison Rd
Enonoe S. C. 29335

The South Carolina Court of Appeals

Ben Robert Stewart, #223006, Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2024-002076

ORDER

Appellant has filed an appeal from multiple orders addressing the conditions of his confinement. Appellant moved for the appointment of counsel. After careful consideration, we deny Appellant's motion. *See* Rule 608(g), SCACR (providing that counsel should not be appointed for an indigent unless the indigent has a right to appointed counsel under the state or federal constitution, a statute, a court rule, or the case law of this state); *Ex parte Dibble*, 279 S.C. 592, 310 S.E.2d 440 (Ct. App. 1983) (holding there is no constitutional right to counsel in civil cases).



FOR THE COURT J.

Columbia, South Carolina

cc:

Ben R. Stewart, 223006

Christina Catoe Bigelow, Esquire

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Aug 20 2025

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Enoree S.C. 29335

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