

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Deborah Brooks Durden, Administrative Law Judge

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Docket No. 13-ALJ-15-0020-AP

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Phillip Brown, # 118100,

Appellant,

v.

South Carolina Department of Probation,  
Parole and Pardon Services,

RECEIVED  
Respondent.  
DEC 02 2013

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MOTION TO REHEAR DENIAL OF  
IN FORMA PAUPERIS STATUS

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SC Court of Appeals

The undersigned pro se Petitioner / Appellant, Phillip A. Brown, hereby requests this Honorable Court to rehear the November 14, 2013 Order denying Appellant's motion to proceed in forma pauperis on filing a Notice of Appeal from the Administrative Law Court.

Petitioner / Appellant moved this Honorable Court, pursuant to Rule 240, SCACR, for permission to proceed on the fore-captioned Appeal without payment of the Notice of Appeal filing fee.

The November 14, 2013 Order relied upon Ex parte Martin, 321 S.C. 533, 471 S.E.2d 134 (1995). Petitioner / Appellant submits that besides citing the statutory exceptions for the waiver of a filing fee, Martin also cited cases involving property and family rights, as well as one case involving habeas corpus [Smith v. Bennett, 365 U.S. 708 (1961)] which later became the groundwork for waiving filing fees for post-

conviction relief applications.

Petitioner/Appellant suggests that this is a matter regarding [his] liberty which was previously rescinded erroneously, without statutory or regulatory authority. As the Martin Court correctly relied upon Boddie v. Connecticut, 401 U.S. 371 (1971) stands for the proposition that where certain fundamental [liberty] rights are involved, the Constitution requires that an indigent be allowed access to the courts. Petitioner notes that Boddie itself was premised on the fundamental right of family.

In extraordinary cases, this Court may relieve a party for paying the filing fee required by Rule 203(d), SCACR, under Rule 240(d) SCACR.

To the best of Appellant's knowledge and belief the Appellant was granted parole and it was rescinded without statutory or regulatory authority or upon due process. The State has since refused to return Appellant to the position he was in.

The substantial rights of the Appellant have been prejudiced where their decision is clearly erroneous in view of the substantial evidence on the whole record, and is affected by a lack of due process in the Agency's deprivation of this vested constitutional right in liberty.

Appellant believes these reasons constitute extraordinary circumstances and good grounds to support the filing of this appeal. This appeal is not frivolous, is filed in good faith, and involves a matter of significant public interest [exercise and integrity of S.C. Code Ann. § 24-24-640 without due process].

In support of this motion I declare under penalty of perjury that the following facts are true:

- (1) I am the Appellant in this action and I believe I am entitled to redress.
- (2) Because of my poverty, I am unable to pay the costs of said proceeding or give security thereof.
- (3) I have paid the filing fee in a previous appeal from the Administrative Law Court but am unable to pay this filing fee.

(4) That the Order to deny in forma pauperis status has the effect of finally deciding this appeal.

WHEREFORE, based on the foregoing facts and declarations, I move this Honorable Court to allow this matter to proceed in forma pauperis. Petitioner requests the fifteen (15) day period in the November 14, 2013 Order be held in abeyance pending the outcome of this motion.

November 26, 2013

Respectfully Submitted,  
Phillip A. Brown  
Phillip A. Brown, # 116100  
5A-23, Lieber C. I.  
P.O. Box 205  
Ridgeville, S.C. 29472  
Petitioner/Appellant, pro se

SWORN TO AND SUBSCRIBED before me  
this 27<sup>th</sup> day of November  
Quedham Bryant  
Notary Public

My Commission expires May 26, 2020

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South Carolina Department of Probation,  
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Respondent.

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PROOF OF SERVICE

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I, Phillip Brown, pro se Appellant, do hereby certify that I have served one copy of "Motion To Rehear Denial Of In Forma Pauperis Status" with one copy of "Proof of Service" on Respondents by way of Counsel of record, Mr. Tommy Evans, Jr., Assistant Attorney General, by depositing the same in the United States Mail, postage prepaid, on November 26, 2013, addressed as follows:

Mr. Tommy Evans, Jr., Assistant Attorney General  
2224 Devine Street, Suite 600  
P.O. Box 50666  
Columbia, S.C. 29250

Phillip Brown

Phillip Brown #118100

SA-23, Lieber

P.O. Box 205  
Ridgerville, S.C. 29472

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Respondent.

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PROOF OF SERVICE

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I, Phillip Brown, pro se Appellant, do hereby certify that I have served one copy of "Motion To Rehear Denial Of In Forma Pauperis" with one copy of "Proof Of Service" on the Honorable Jana Shealy, Clerk, Administrative Law Court, by depositing the same in the United States Mail, postage prepaid, on November 26, 2013, addressed as follows:

The Honorable Jana Shealy, Clerk  
Administrative Law Court, Suite 224  
1205 Pendleton Street  
Columbia, S.C. 29201-3756

Phillip Brown

Phillip Brown, # 118100  
SA-23, Lieber C.I.  
PO, Box 205  
Ridgeville, S.C. 29472

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