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THE STATE OF SOUTH CAROLINA

S.C. SUPREME COURT

In The Supreme Court

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Ralph K. Anderson, III

Appellate case No. 2024-000487

Unpublished Opinion No. 2026-UP-118

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 "Petition For A Writ of Certiorari" in forma pauperis and files this motion for leave to proceed in forma pauperis, together with the "petition for A writ of certiorari" to be filed, an Affidavit showing Appellant's inability to pay the filing fee required, and Certificate of service. 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 1997205. By credit being applied to the aggregate of my sentences, the credit is only applied to the first sentence and not both consecutive sentences. SCDC 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. 1,3. I request that my jail time served credit be applied to both of my consecutive sentences and my max out date 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." A&D 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 (MCA) 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 right 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 open avenues of appeal for more affluent persons." Ross v. Moffitt, 417 U.S. 600 (1974)

The South Carolina Court of Appeals acknowledged in its order filed July 26, 2024, that: "Appellant's motion to proceed in forma pauperis is granted. See Ex parte Martin, 321 S.C. 533, 471 S.E.2d 134 (1995) (the right to proceed in forma pauperis must rest upon a statute or a fundamental constitutional right), Tant v. S.C. Dep't of Corr., 408 S.C. 334, 341, 759 S.E.2d 398, 401 (2014) ("There can be no doubt the length of an inmates incarceration implicates a constitutional liberty interest.").

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 "petition for A writ of certiorari" involves fundamental rights Appellant request that this motion be granted.

June 29 , 2026

Respectfully submitted,

Curtis T. Johnson

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