

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

Thomas Edward Humphrey,
Plaintiff, In Propria Persona,

v.

State of South Carolina; Henry
Dargan McMaster, Governor;
South Carolina Department of
Public Safety; South Carolina
Highway Patrol; Christopher A.
Plyler; and ABC Mobile Auto &
RV Repair,
Defendants-Respondents.,

**IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT**

Case No. 2026CP2605005

NOTICE OF APPEAL

RECEIVED
AUG 10 2026
SC Court of Appeals

NOTICE OF APPEAL

TO: THE CLERK OF COURT FOR HORRY COUNTY AND ALL RESPONDENTS ABOVE
NAMED:

PLEASE TAKE NOTICE that Plaintiff Thomas Edward Humphrey, appearing *in propria persona*, hereby appeals to the South Carolina Court of Appeals from the Order of the Court of Common Pleas for the Fifteenth Judicial Circuit, Horry County, dated June 25, 2026, and filed July 1, 2026, denying Plaintiff leave to proceed *in forma pauperis* pursuant to *Ex parte Martin*, 321 S.C. 533, 471 S.E.2d 134 (1996); and from the Order of Dismissal entered in the same action on August 4, 2026 (the Honorable B. Alex Hyman), docketed as "Order/Electronic Form 4 – Case Dismissal." Plaintiff appeals from each order and from every intermediate order, ruling, and proceeding affecting the substantial rights of Plaintiff.

Timeliness

1. This Notice of Appeal is timely. Written notice of entry of the order was received by Plaintiff on July 6, 2026. The order was mailed from the Office of the Clerk of Court for Horry County in

Conway, South Carolina, to Plaintiff's residence in Waltham, Massachusetts, under a postage meter mark of July 1, 2026, and was delivered on July 6, 2026. Delivery on that date is documented by a United States Postal Service Informed Delivery Daily Digest issued to Plaintiff at 7:28 a.m. on Monday, July 6, 2026, displaying a scanned image of the envelope bearing the return address of Renee N. Elvis, Horry County Clerk of Court, P.O. Box 677, Conway, South Carolina 29528-0677, addressed to Plaintiff. A true and correct copy of that Daily Digest is attached as Exhibit A.

2. Under Rule 203(b)(1), SCACR, a notice of appeal from the Court of Common Pleas must be served within thirty (30) days after receipt of written notice of entry of the order. Thirty days from July 6, 2026 is August 5, 2026. This Notice is served and filed within that period. Service of this Notice on all respondents is made by depositing copies in the United States Mail, first-class postage prepaid; service is complete upon mailing. Rule 262(b), SCACR. The thirty-day period runs from receipt of written notice of entry of the order appealed from, and no order of dismissal was required for this appeal, the order denying leave to proceed *in forma pauperis* being itself immediately appealable as set forth below. This Notice is likewise timely as to the Order of Dismissal entered August 4, 2026, which falls well within thirty days of the date of this Notice.

Appealability

3. The order appealed from is immediately appealable. In *Lakes v. State*, 333 S.C. 382, 510 S.E.2d 228 (Ct. App. 1998), the Court of Appeals held that an order denying an indigent litigant leave to proceed *in forma pauperis* effectively discontinues the action where the litigant's only means of bringing the action is *in forma pauperis*, and that such an order is therefore immediately appealable. Plaintiff is indigent; *in forma pauperis* is his only means of prosecuting

this action. The order accordingly falls within S.C. Code Ann. § 14-3-330(2) as an order which in effect determines the action and prevents a judgment from which an appeal might be taken.

4. The Order of Dismissal entered August 4, 2026 is independently appealable as a final judgment disposing of the action. The Public Index of the Horry County Clerk of Court, a true and correct copy of which is attached as Exhibit B, reflects the entry of that order on August 4, 2026, with a disposition date of August 4, 2026. The dismissal rests entirely on the denial of leave to proceed *in forma pauperis* and on Plaintiff's consequent nonpayment of the filing fee; the antecedent denial is therefore before this Court on review of the final judgment as well as on its own terms.

Grounds of Appeal

5. Plaintiff appeals on the following grounds, stated in summary form and to be developed in briefing:

(a) Misapplication of *Ex parte Martin*. The order treats fee waiver as discretionary. *Martin* holds that “where certain fundamental rights are involved, the Constitution requires that an indigent be allowed access to the courts.” 321 S.C. at 535, 471 S.E.2d at 135 (citing *Boddie v. Connecticut*, 401 U.S. 371 (1971)). Where that condition is met, waiver is mandatory. Plaintiff's causes of action—unreasonable seizure of person and property, trespass to chattels, conversion, false arrest, false imprisonment, and deprivation of liberty and property without due process—concern fundamental rights.

(b) Absence of findings. The order states no findings. It does not find Plaintiff able to pay, and the box indicating failure to establish compliance with the poverty guidelines pursuant to Rule

3(b)(1), SCRCP, was left unchecked. No basis is stated for concluding that Plaintiff's causes of action fall outside *Martin's* fundamental-right rule.

(c) Facially incomplete order; deadline supplied by the clerk rather than the court. The order recites that the case “will be dismissed without further order of the court if the filing fee and associated costs are not paid on or before _____, 20____.” The blank was never completed; no date was set by the court. The only payment deadline communicated to Plaintiff was contained in a letter dated July 1, 2026, signed by a Supervisor of the Common Pleas Division of the Clerk's office, stating that Plaintiff had ten days from the date of that letter to pay a \$150.00 filing fee. An order that purports to operate automatically—“without further order of the court”—cannot so operate by reference to a deadline the court never set, and a deadline supplied by the clerk is not a judicial act. Under *Martin*, the clerk's role in these matters is ministerial: the clerk submits the question to a judge for ruling. 321 S.C. at 536, 471 S.E.2d at 135. Consistent with this defect, the case was not dismissed upon the passage of the deadline stated in the clerk's letter. No dismissal was entered until August 4, 2026—more than three weeks after that deadline lapsed—and then only by a separate judicial act, the Order of Dismissal entered by the Honorable B. Alex Hyman. The dismissal thus did not occur “without further order of the court,” as the form recited, and did not occur on any date the court had set, because the court set none. The docket further contains an entry styled “Filing Fees Wavied” (sic) dated June 23, 2026—eight days before entry of the order denying waiver—leaving the record internally inconsistent as to fee status.

(d) Denial of access to the courts. Plaintiff is indigent, is in debt, and has no discretionary funds from which the fee could be paid. Conditioning the filing of a constitutional claim on a fee the litigant cannot pay denies due process where the court is the only available forum. *Boddie v.*

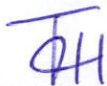
Connecticut, 401 U.S. 371 (1971). The open-courts guarantee of Article I, § 9 of the Constitution of this State—that “every person shall have speedy remedy therein for wrongs sustained”—requires the same result.

(e) Erroneous citation in the order. The order cites *Ex parte Martin* as decided in 1995. The decision is reported at 321 S.C. 533, 471 S.E.2d 134 (1996).

Accompanying Filings

6. Contemporaneously with this Notice, Plaintiff serves and files a Motion to Proceed *In Forma Pauperis* on Appeal and requests that the appellate filing fee be waived. Plaintiff was unable to obtain notarization of the supporting Affidavit of Indigency before the close of business on the date of this filing; the notarized Affidavit will be served and filed as a supplemental filing on the following business day. A copies of the orders appealed from and proof of service accompany the filing as required by Rule 203, SCACR, together with Exhibit A (United States Postal Service Informed Delivery Daily Digest of July 6, 2026) and Exhibit B (Public Index of the Horry County Clerk of Court).

Respectfully submitted,



Thomas Edward Humphrey, *In Propria Persona*
107 Middlesex Road, Apartment 5
Waltham, Massachusetts 02452
(617) 835-9319
ThyKingdomCome1322@gmail.com

Dated: August 5, 2026

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM HORRY COUNTY
COURT OF COMMON PLEAS, FIFTEENTH JUDICIAL CIRCUIT
Lower Court Case No. 2026CP2605005

Appellate Case No. _____

Thomas Edward Humphrey, Appellant,
v.

State of South Carolina; Henry Dargan McMaster, Governor;
South Carolina Department of Public Safety; South Carolina
Highway Patrol; Christopher A. Plyler; and ABC Mobile
Auto & RV Repair, Respondents.

PROOF OF SERVICE

I, Thomas Edward Humphrey, certify that I have served a copy of the foregoing Notice of Appeal, with Exhibits A and B thereto, and Motion to Proceed *In Forma Pauperis* on Appeal upon the following, by depositing the same in the United States Mail, first-class postage prepaid, addressed as follows:

Office of the Attorney General
Rembert C. Dennis Office Building
1000 Assembly Street, Room 519
Post Office Box 11549
Columbia, South Carolina 29211
(on behalf of Respondents State of South Carolina;
Henry Dargan McMaster, Governor; South Carolina
Department of Public Safety; South Carolina Highway
Patrol; and Christopher A. Plyler, upon Appellant's
understanding that Respondent Plyler, as a state agent
sued for conduct in his official capacity, is represented
by the Office of the Attorney General)

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ABC Mobile Auto & RV Repair
516 Piedmont Avenue
Myrtle Beach, South Carolina 29577

I further certify that the original Notice of Appeal has been filed with the Clerk of Court for Horry County, Court of Common Pleas, P.O. Box 677, Conway, South Carolina 29528-0677, and that a copy has been filed with the Clerk of the South Carolina Court of Appeals, together with a copy of the order appealed from and this Proof of Service, as required by Rule 203, SCACR.



Thomas Edward Humphrey, *In Propria Persona*
Dated: August 5, 2026

Thomas Humphrey
107 Middlesex Rd Apt 5
Waltham MA 02452

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