

THE STATE OF SOUTH CAROLINA

In The Court Of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph King Anderson, III, Administrative Law Judge

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SC Court of Appeals

Case No. 26-ALJ-15-0014 [26P0014]

Michael Pettinato,.....Appellant,

v.

South Carolina Department of Probation,
Parole and Pardon Services,.....Respondent.

MOTION TO PROCEED IN FORMA PAUPERIS

The Appellant Michael J. Pettinato, ["Pettinato" or "Appellant"] moves this Court for an order permitting him to proceed in this action without prepayment of fees or costs on account of his poverty.

In support of this Motion, Appellant would respectfully show this Honorable Court the following:

1. Appellant is indigent and does not have the funds to pay the costs and/or fees associated with the copying, filing, and prosecution of this Appeal as shown by his Affidavit of Indigency, attached hereto;
2. This Appeal is filed in Good Faith and on Pettinato's firm belief that he is entitled to redress.
3. This case involves the deprivation of Pettinato's Constitutional and Statutory rights:

A. To adequate Notice of the time, Date and Place of his Parole Hearing;

B. To appear before the Board to argue his case for parole in accordance with his state created liberty interest of access to the Parole Board and his Statutory right to argue his case for parole;

C. To be heard at a meaningful time and in a meaningful manner, where his Parole hearing was held on April 12, 2023, in his absence, thus, depriving him of, inter alia, an opportunity to be heard regarding parole issues, the Board's failure to follow procedure, missing support letters, and, the Board's reliance on false and incorrect information contained in Pettinato's Parole File that he had no opportunity to correct.

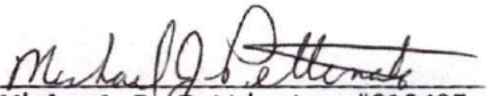
D. To be free from the arbitrary and capricious holding of the ALC that Pettinato did not make a good faith effort to timely file his Notice Of Appeal in that Court from the DPPPS's Final Decision where all relevant evidence establishes that Pettinato was not provided with the **proper** "Mandatory ALC Notice Of Appeal Form," after requesting same from the DPPPS and ALC Clerk more than once, where Pettinato, did on July 5, 2023, type and file a Notice of Appeal and Certificate of Service and where the ALC's decision, inter alia, rests upon unsupported factual conclusions, and finding of facts that are contradicted by the record.

4. This Court had initially denied Pettinato IFP Status [Appellate Case No. 2024-000295], until after Pettinato filed a "RENEWED MOTION AND AFFIDAVIT TO PROCEED IN FORMA PAUPERIS," the Court found that Pettinato had made a substantial showing of the violation of a Constitutional right and GRANTED the Motion before ultimately remanding the case to the ALC for a determination as to whether Pettinato made a good faith effort to timely file his Notice of Appeal.

5. Appellant respectfully submits that the Administrative Law Judge Abused his Discretion whereas his decision is arbitrary, capricious, lacks common sense, contains other errors of law, and is based upon findings of fact that are not supported by the record and/or that are contradicted by the record.

WHEREFORE, Appellant respectfully requests that this Honorable Court GRANT Pettinato's Motion to proceed In Forma Pauperis and for such other and further relief in favor of the Appellant that the Court deems fair, just and appropriate.

September 28, 2026


Michael J. Pettinato, #218405
Allendale C.I., F3 A24
1057 Revolutionary Trail
Fairfax, SC 29827

Appellant, Pro Se

STATE OF SOUTH CAROLINA)
)
COUNTY OF ALLENDALE)

AFFIDAVIT OF INDIGENCY OF
MICHAEL J. PETTINATO

Personally appeared before me, Michael J. Pettinato, who first being duly Sworn upon is Oath, states the following:

1. I, Michael J. Pettinato, am the Appellant in an appeal from an Order of the Administrative Law Court ("ALC") [26-ALJ-15-0014-AP], dated August 31, 2026 and received by me on September 10, 2026, to the S.C. Court of Appeals, after a remand from the S,C, Court of Appeals to the ALC in Appellate Case No. 2024-000295, [Previous ALC Docket No. 23-ALJ-15-0031-AP] for a determination of whether I made a "good faith effort to timely file my Notice of Appeal" of July 5, 2023 in ALC Case No. 23-ALJ-15-0031-AP.

2. Because of my indigency, I am unable to pay the filing fee and costs or give security thereof and I believe that I am entitled to redress whereas I believe that the decision of the Administrative Law Judge is arbitrary, capricious, based on erroneous findings of fact, and are not supported by substantial evidence on the whole record.

3. I am indigent, currently have about \$15.26 in my E.H. Cooper Trust Account, I have had about \$1,142.00 in my Cooper Trust Account in the past twelve (12) months and I currently owe the SCDC an estimated \$45.00 for postage for legal mail, medical care [sick call], and medicine.

4. I receive from family members, four (4) food packages per year from an SCDC/Access Secure Pak Program, with each containing about \$250.00 of food items and from about \$120.00 to \$200.00 in clothing and hygiene items;

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5. I do not have any Bank Accounts, do not own any Real-Estate or Motor Vehicles, and have no cash on hand.

6. I currently own Clothing items that were purchased by my family members through the Access Secure Pak Program and/or issued through the SCDC Commissary, a Smith Corona PWP Typewriter worth about \$895.00, a 13" Digital Television worth about \$200.00, a Casio Watch worth about \$35.00, a Lamp worth about \$11.00, a Fan worth about \$12.00 and a pair of boots that I purchased that are worth about \$25.00.

7. This Affidavit Of Indigency is filed contemporaneously with a Notice Of Appeal and Motion To Proceed In Forma Pauperis.

8. This case involves the deprivation by the DPPPS of my Federal and State Constitutional rights in that the DPPPS (1) Deprived me of my Constitutional right to ADEQUATE NOTICE of the Time and Place of my Parole Hearing, (2) Deprived me without Due Process of Law of my Statutory Right to appear before the Parole Board to argue my case for parole as I am entitled to pursuant to S.C. Code Ann. § 24-21-50 (Supp. 2009); and among other things, (3) Deprived me of my Right, which is Fundamental, to be Heard at a Meaningful Time and In A Meaningful Manner guaranteed to me by Art. I, § 3, and Art. 1, § 22 of the Constitution of the State of South Carolina and the 14th Amendment to the U.S. Constitution.

9. Without Adequate Notice of the Time and Place of the Hearing it was impossible for me to exercise and enjoy my statutory right to appear before the Board and to argue my case for parole, i.e., to be heard at a meaningful time and in a meaningful manner with regards to parole and to the flawed procedures used by the Board to reach its decision.

10. I hereby request that this Honorable Court allow me to proceed in this matter without prepayment of fees and costs.

11. Further I Sayeth Not.

Sworn to and Subscribed to Before me
this 24 day of September, 2026.

Debbie L. Phillips
Notary Public For South Carolina

My Commission Expires: 7/5/34

Michael J. Pettinato
Michael J. Pettinato

THE STATE OF SOUTH CAROLINA

In The Court Of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph King Anderson, III, Administrative Law Judge

Case No. 26-ALJ-15-0014 [26P0014]

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Michael Pettinato, #218405,Appellant,

v.

South Carolina Department of Probation,
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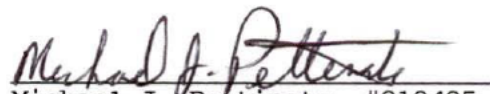
CERTIFICATE OF SERVICE

I, Michael J. Pettinato, herein CERTIFY under penalty of perjury that I have on this date, served a true copy of a Notice Of Appeal, Motion To Proceed In Forma Pauperis, Affidavit Of Indigency Of Michael J. Pettinato, and Certificate Of Service of same in the above captioned case, upon the above Respondent and Administrative Law Court, by hand delivering same to the Allendale Corr., Inst., Mail Room Clerk for deposit into the U.S. Mail, First Class Postage prepaid, addressed to:

S.C. Dep't of Probation, Parole
and Pardon Services
Attn: Matthew C. Buchanan, Esq.
Office of General Counsel
293 Greystone Blvd.
P.O. Box 207
Columbia, SC 29202

Honorable Jana E. Shealy, Clerk
S.C. Administrative Law Court
1205 Pendleton Street, Suite 224
Columbia, SC 29201

September 28th, 2026
Fairfax, South Carolina


Michael J. Pettinato, #218405
Allendale C.I., F3 A24
1057 Revolutionary Trail
Fairfax, SC 29827
Appellant, Pro Se

Michael J. Pettinato, #218405
Allendale Corr., Inst., F3 A-27
1057 Revolutionary Trail
Fairfax, SC 29827

September 28, 2026

Honorable Jenny Abbott Kitchings
Clerk, S.C. Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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SC Court of Appeals

RE: Michael J. Pettinato v. SCDPPPS
ALC Case No. 26-ALJ-15-0014
Notice Of Appeal, Motion To Proceed In Forma Pauperis,
Affidavit of Indigency of Michael J. Pettinato, and,
Certificate Of Service of same upon Respondent.

Dear Ms. Kitchings:

Enclosed for filing in the above referenced matter, please find a Notice of Appeal. Also enclosed, please find the following:

1. A Notice Of Appeal, a Motion To Proceed In Forma Pauperis, An Affidavit Of Indigency Of Michael J. Pettinato, and a Certificate Of Service of these documents upon Matthew C. Buchanan, Esq., SCDPPPS's Office of General Counsel, and the Administrative Law Court;
2. A Copy of the Order of Judge Ralph King Anderson, III, dated August 31, 2026 and received by me on September 10, 2026;
3. Copies of the pertinent documents that I wish to have clock stamped and returned to me for my records, please; and,
4. A self addressed envelope with adequate prepaid postage necessary to return my copies of documents to me, after being assigned a case number and being clock-stamped, if you would please.

As always, I thank you in advance for your assistance in this matter.

Sincerely & Respectfully,


Michael J. Pettinato

cc: Matthew C. Buchanan
FILE

Michael J. Pettinato, #218405
Allendale Corr., Inst., F3 A24
1057 Revolutionary Trail
Fairfax, SC 29827

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Honorable Jenny Albott Kitchings
Clerk Of Court
South Carolina Court Of Appeals
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Columbia, SC 29211

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LEGAL MAIL

