

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM CHEROKEE COUNTY  
Court of Common Pleas

MAR 18 2014

S.C. Supreme Court

J. Derham Cole, Circuit Court Judge

Case No: 2013-LP-11-00362

MOTION TO PROCEED IN FORMA PAUPERIS

Frazier T. Williams # 227393, . . . . . Appellant,

v.

State of South Carolina, . . . . . Respondent.

The appellant Frazier T. Williams #227393 move the Honorable Court to grant him leave to proceed in forma pauperis as an indigent prisoner pursuant to S.C. Code § 24-27-400, which states in relevant part as follows:

This Chapter is inapplicable to any case in which the Constitution of the United States or the Constitution of South Carolina requires that an indigent person be allowed access to Courts.

Accordingly, in this case the petitioner is contending that he is currently imprisoned under indictments that were presented in violation of "Constitutional" and Statutory laws of South Carolina.

In support of his motion, the petitioner submits that Article V, § 4 of the S.C. Constitution provides: "The Supreme Court shall make rules governing the administration of all Courts in the State. Subject to Statutory law, the Supreme Court shall make rules governing the practice and procedure in all such Courts."

Here, the promulgation of a rule by the Supreme Court to prohibit the petitioner, as an indigent person, from access to address his constitutional violation unless he pays a \$100.00 filing fee would be inconsistent with Constitutional mandate under Article V, § 4 of S.C. Constitutional Law, and though such a rule of prohibition is well intended, it nevertheless would be contrary to Statutory law and unconstitutional. see, e.g., State v. Duncan, 264 S.E.2d 421 (S.C. 1980); see also, State v. Cottingham, 77 S.E.2d

897 (S.C. 1953) (holding that statute overrides rule of Court, if in conflict).

Finally, as S.C. Code § 24-27-400 is unambiguous, the the Court must construe the terms of the statute to allow the petitioner access to the Supreme as an indigent person to address his unlawful confinement pursuant to unconstitutional indictments. See, e.g., Wade v. Berkeley 559 S.E.2d 586 (S.C. 2002).

### CONCLUSION

Wherefore, for the foregoing reasons, this Honorable Court should grant petitioner leave to proceed In forma Pauperis to comply with Constitutional and Statutory Laws.

Date: March 17, 2014

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