

PETITION FOR A REHEARING TO THE
SOUTH CAROLINA COURT OF APPEALS

APPEAL FROM COLUMBIA, SOUTH CAROLINA
COURT OF APPEALS

Chief Judge: Few

Leave *denied* to proceed *in forma pauperis*.

Tommy Joe Moore

Respondent,

v.

Thomas Tosai Perkins

Petitioner.

PETITION FOR A REHEARING

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MAR 25 2014

SC Court of Appeals

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CERTIFICATE OF COUNSEL

PRO SE, petitioner, acting as his own counsel, certifies that the Chief Judge: Few did deny the Leave to proceed in forma pauperis, initially without any reason and finally ruled on by the Court of Appeals on or about 12/19/2013; then, later, a caseworker was assigned to appellant, and appeal(s) proceeded forward; however, reason(s) regarding Rule 240(i) and Rule 240(j), etc. were sent by V. Claire Allen, Deputy Clerk, on or about March 19, 2014, as having no effect on dismissing the motion [and affidavit] to proceed in forma pauperis nor finally deciding a party's appeal. No action was said to have been taken on the "Notice of Appeal" by appellant.

However, The reason(s) in the ORDER were:

Appellant has failed to provide the filing fee as required by Rule 203 of the South Carolina Appellate Court Rules and the Court's Order dated December 19, 2013, making his motion to order transcript out of time moot. Accordingly, this matter is dismissed. The remittur will be sent as provided by Rule 221(b), SCACR.

QUESTION(S) PRESENTED

1. Did Chief Judge: Few err in denying Leave to proceed in forma pauperis, regarding Tommy Moore, *et al.* v. Thomas Perkins, indicating as true substance that either the appeal of civil suit was frivolous or not in good faith, as opposed to true substance being Rule 240(i) and Rule 240(j), etc.? If not, then why didn't anyone, such as the assigned caseworker of the Court of Appeals and/or others, inform appellant of a "Petition for Rehearing," regarding a potential *Writ of Certiorari* as the accepted method(s) in appealing a denied motion and affidavit to proceed in forma pauperis, or any accepted method(s) appealing such matter(s), as opposed to appellant filing on his own accord, the "Notice of Appeal" because this appellant never went to law school(s).

MEMORANDUM AND AFFIDAVIT

Authorit(ies) in support of petitioner:

Appeal and Certiorari In Forma Pauperis

For an indigent litigant to proceed on appeal in forma pauperis, the appeal must be made in good faith and not be frivolous. The two requirements are related. "Good faith" is demonstrated when a party seeks appellate review of any issue "not frivolous." For an issue not to be frivolous, it does not have to be meritorious. The issue only has to be colorable.

TABLE OF AUTHORITIES

Lebehn v. Mobil Oil Micronesia, Inc., 10 FSM Intrm. 515, 518 (Pon. 2002).

STATEMENT OF THE CASE(S) and Argument(s)

The above referenced case indicate(s) that courts can not deny motion and affidavit to proceed in forma pauperis unless frivolous, etc.

I, Thomas Perkins, am the appellant, a pauper, hereby sought relief from my distress, regarding paying the fees: court, service of filing, etc.. I already indicated impoverished hardship and deprivation(s) because I am living on social security disability and am currently homeless, but have a Postal mail box. I make the appeal to Chief Judge Few in *good faith*, my appeal was not a frivolous matter, and I ask that the Court of Appeals file(s) this petition for rehearing.

Court of Appeals initially gave no reason(s) as to Chief Judge Few's order, denying Leave to proceed in forma pauperis with my appeal(s). Then, later, a caseworker was assigned. However, reason(s) were later provided by Deputy Clerk, V. Claire Allen, regarding Rule 240(i) and 240(j), etc. on or about March 19, 2014, along with the ORDER dismissing the matter due to reason(s) such as motion to order transcript out of time moot, and failing to provide the filing fee. Please recall, I did order transcript(s), in time, but from the wrong court, Magistrate Court, as opposed to the Court of Common Pleas. I'm no lawyer, but my appeal is believed by me to hold merit, thus being meritorious, and is at least colorable.

Therefore, I, Thomas T. Perkins, petition(s) for a rehearing to proceed *in forma pauperis* and hereby inform, according to the above authorit(ies): Lebehn v. Mobil Oil Micronesia, Inc., 10 FSM Intrm. 515, 518 (Pon. 2002), if a litigant is indigent, appeals in good faith and his/her complaint is not frivolous, then as explicitly stated on the website of which I copied the URL:

J:\informa pauperis appeal and certiorari.htm,

"Courts cannot deny a motion to proceed in forma pauperis [because] ..."

As the cannon suggest(s): *May [my <colorable> complaint] survive rather than perish.*

CONCLUSION

In conclusion, Chief Judge Few of the South Carolina Court of Appeals in denying the above referenced MOTION AND AFFIDAVIT TO PROCEED IN FORMA PAUPERIS, did so without reasoning of true substance, which is why I, the Petitioner, Appeal and ask for a rehearing. The referenced case may grant appeal by a higher court for such denial(s) regarding the reason(s) deputy clerk gave for the Court of Appeals, and the one(s) of true substance of which petitioner found.

SWEARING AND SUBSCRIPTION(s)

I, Thomas Tosai Perkins, being duly sworn, state that I am the Petitioner and that I do not have the funds available to pay the cost(s) of filing and service(s) in the present matter(s). I already requested that the Appeal(s) be filed and service made without cost(s).

Sworn to and Subscribed before me
this 24th day of March, 2014

Amy E. Baxter

Notary Public for South Carolina

My Commission Expires: 9-24-14

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[Handwritten Signature]

Signature of Petitioner: Thomas T. Perkins

