

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

Frank R. Addy, Jr. Circuit Court Judge

APPELLATE CASE NO. **2014-000091**

John R. Rakowsky, Respondent
Adrian Falgione, Respondent

v.

James Spencer, Appellant

MOTION FOR APPELLANT TO
STAY CASE FOR THIRTY DAYS
DUE TO MISUNDERSTANDING OF FINANCIAL PROCESS
AND ATTEMPTING TO LIVE WITHIN APPELLANTS MEANS

INTRODUCTION

NOW COMES THE APPELLANT, on a *Pro Se* basis and moves the Appellate Court TO grant an extended thirty days to meet the requirements of what the pro se Appellant needs to file with the Appellate Court including his request for transcript of the hearing. Appellant was waiting and under the belief that due to his destitute economic circumstances the Appellant was waiting for his designation of *In forma pauperis* so Appellant can bring together the money necessary to pay for the transcript to access legal system despite his poverty. Such status is required so the indigent, one hundred percent medically disabled Appellant is not economically denied full and fair access to the judicial system.

BACKGROUND

Appellant received the Court's Order of March 17, 2014 on April 1, 2014. Appellant's economic status has only worsened since he was granted *In Forma Pauperis* status in the Lexington County Court of Common Pleas. **(See Affidavit attached hereto).**

DISCUSSION

Given the circumstances regarding the (1) *Pro Se* Appellant's indigent status, (2) *Pro Se* Appellant's the inability to pay Court fees, and (3) the fact that *Pro Se* Appellant asked *In Forma Pauperis* status in writing on a timely basis

based, the Court should liberally construe the *Pro Se* Appellants Motion as a proper request.

On August 16, 2002, The Honorable Chief Justice Jean H. Toal, issued a memorandum stating that indigents are exempt from the Court fees including charge for a motion. Appellant is an indigent and, therefore, should be allowed access to the legal system despite being an indigent.

ARGUMENT AND LEGAL BASIS

The South Carolina Court of Appeals has long held that individuals not be prevented from access to the legal system to through the discriminate use of Court costs. In Harrison v. Harrison the South Carolina Court of Appeals held:

“The United States Supreme Court stated in Boddie: due process requires, at a minimum, that absent a countervailing **state interest of overriding significance, persons forced to settle** their claims of right and duty through the judicial process must be given a meaningful opportunity to be heard.”

Harrison v. Harrison, 373 S.C. 524, 525 (S.C. Ct. App. 2007)

The United States Supreme Court has long held it would be contrary to the policy established by the United States Supreme Court that individuals be economically prevented from pursuing justice in the courts, in Boddie v. Connecticut:

“Thus, the Court held that a state could not, consistent with the obligations imposed on it by the Due Process Clause of the Fourteenth Amendment, pre-empt the right to dissolve this legal relationship without affording all citizens access to the means it had prescribed for doing so.”

Boddie v. Connecticut, 401 U.S. 371 (U.S. 1971)

CONCLUSION

THEREFORE, Appellant moves the Appellate Court to allow for the extension of thirty days and Appellant will move forward forthwith to provide documentation despite not knowing if he has been granted *in pauperis* standing. Appellant was waiting for notice so he could move forward on an *in pauperis* basis as he is below the poverty level and disabled. wave any and all filing fees and Court Fees during the duration of this appeal so Appellant can attempt to pursue his legal rights by granting the Appellant the Status to Proceed *In forma Pauperis* forthwith in the interests of justice.

This April 2, 2014,

By:



James Spencer

Post Office Box 183

Columbia, South Carolina 29212

Appellant

STATE OF SOUTH CAROLINA,)
)
)
 James Spencer,)
)
)
 Appellant,)
)
 v.)
 John R. Rakowsky, Adrian Falgione,)
 and The Law Offices of Adrian)
 Falgione, LLC)
 Respondents)

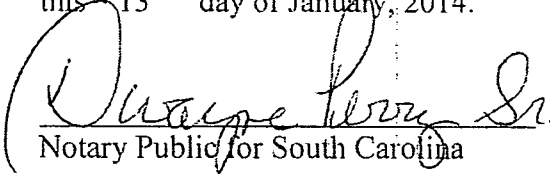
IN THE COURT OF APPEALS

**AFFIDAVIT TO
 PROCEED IN FORMA PAUPERIS**

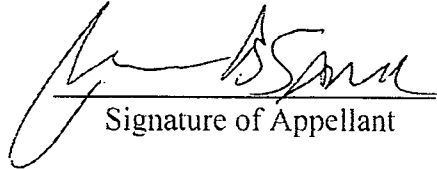
FILE NO. 2011—CP-40-5384

I, James B. Spencer, being duly sworn, state that I am a Plaintiff and that I do not have funds available to pay the costs of filing and service in the present matter. I hereby request that the complaint be filed and service made without costs.

Sworn to and Subscribed before me)
 this 13th day of January, 2014.)


 Notary Public for South Carolina)

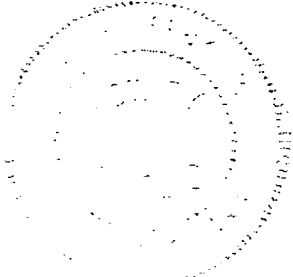
My Commission Expires:)



 Signature of Appellant

RECEIVED

JAN 13 2014

SC Court of Appeals



State of SC County of Lexington
 Subscribed and sworn before me on 1-13-14
 (Date)

 (Notary Signature)

~~My Commission Expires August 21, 2014~~

CERTIFICATE OF SERVICE

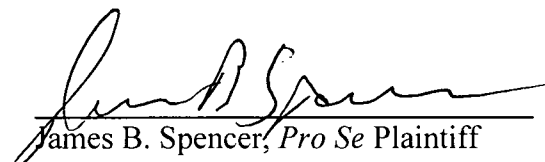
The undersigned hereby certifies that on April 2, 2014, the document described below, was(were) served on all parties of record in this case by mailing a copy, by US mail.

Documents served: MOTION FOR APPELLANT TO STAY CASE FOR THIRTY DAYS DUE TO MISUNDERSTANDING OF FINANCIAL PROCESS AND ATTEMPTING TO LIVE WITHIN APPELLANTS MEANS

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