

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable L. Casey Manning, Fifth Judicial Circuit

Civil Action No. 2014CP4002493

Don Boyd, Doe User,

Plaintiff-Appellants,

v.

Verizon Wireless, Verizon Wireless Telecom,

Defendant-Respondents

PETITION FOR WRIT OF CERTIORARI

Don Boyd, pro se
345 Charwood Drive
Columbia, SC 29223

RECEIVED
NOV 19 2014
S.C. Supreme Court

CERTIFICATE

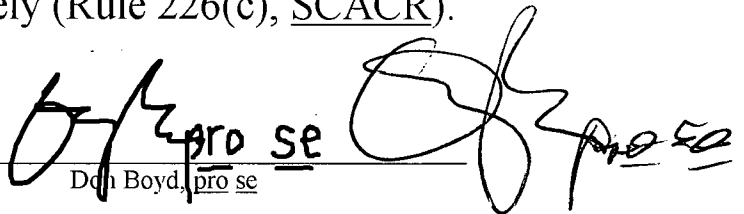
The last correspondence from The South Carolina Court of Appeals was *Order* dated October 16, 2014 stating Plaintiff-Appellant(s)

- (1) failed to pay the case initiation fee,
- (2) failed to provide proof of ordering the transcript, and
- (3) failed to serve and file initial brief and designation of matter as required by Rules 203(d)(1)(B)(iii), 207(a), 208(a) and 209(a) of the South Carolina Appellate Court Rules,

this after denying motion for leave to proceed as a pauper on or about September 18, 2014 (or “(1)” above) but never having notified Plaintiff-Appellant(s) of “(2)” or “(3)”, rather: As denial of pauper leave has the effect of finally deciding this appeal from trial court order, October 16, 2014 “Order” was the final decision for purposes of review by the Supreme Court, and, petition is timely (Rule 226(c), SCACR).

In the interest of Justice, Sincerely,

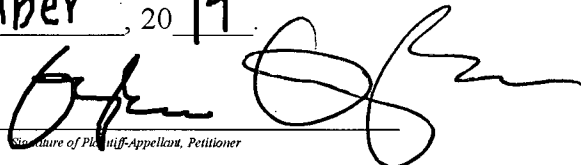
345 Charwood Drive
Columbia, SC 29223



Don Boyd, pro se

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 14th day of November, 20 14.



Signature of Plaintiff-Appellant, Petitioner

QUESTIONS FOR REVIEW

1. Was it denial of due process for trial court or appellate court to deny motion for pauper leave without stating reasons therefor?

STATEMENT OF THE CASE

There is no record on appeal in this case: Trial court denied leave to proceed as pauper without stating justification therefor. Appellate court and its clerk's office denied leave to appeal as pauper without stating justification therefor. Also, whereas appellate court dismissal *Order* further states Plaintiff-Appellant(s)

- failed to provide proof of ordering the transcript, and
- failed to serve and file initial brief and designation of matter as required by Rules 203(d)(1)(B)(iii), 207(a), 208(a) and 209(a) of the South Carolina Appellate Court Rules,

nowhere prior had appellate court notified Plaintiff-Appellant(s) of these deficiencies. Appellate court neither, never, nowhere indicated it would consider these otherwise futile filings regardless of fee payment or denial of pauper leave effectively ending the action.

synopsis of claim

Without stating justification therefor, trial court denied leave to proceed in forma pauperis. Then, without justification, appellate court denied leave to proceed in forma pauperis for appealing trial court denial.

Denials absent justifying statements are, *per se*, violative of due process.

lower court

On May 21, 2014, trial court denied leave to proceed as pauper by checking “denied” box on Plaintiff-Appellant(s) (“Plaintiff”) Motion and Affidavit to Proceed In Forma Pauperis without including any justification thereof (**Appendix (“App.”) 1**).

appellate court

When Plaintiff-Appellant(s) timely filed July 20, 2014 appeal (*App. 2*) and accompanying *Affidavit & Motion to Proceed In Forma Pauperis* (*App. 3*), appellate court sent July 30, 2014 demand for *Complaint* under 10-day dismissal threat, rather than instructing trial court to provide due-process-compliant order stating denial reasons (*App. 4*). Thereafter, appellate court issued September 18, 2014 *Order* denying pauperis leave without stating justification therefor but demanding payment under 15-day dismissal threat (*App. 5*). On October 16, 2014, appellate court sent dismissal *Order* stating for the first time ever that Plaintiff-Appellant(s) had not filed particular documents court never prior indicated: “But for” appellate court misrepresentation that only the filing fee was at issue and outstanding, Plaintiff-Appellant(s) would have filed the others (*App. 6*).

ARGUMENT

1. Was it denial of due process for trial court or appellate court to deny motion for pauper leave without stating reasons therefor?

Plaintiff-Appellant(s) is entitled to courts' justifications, for rebuttal.

Sufficient notice and fair opportunity to respond are universal principles of due process and not esoteric to Pennsylvania or other state,

“Trial court was required to hold hearings on each of petitioner’s three in forma pauperis (IFP) applications, where there were factual allegations in the petition that justified IFP treatment.”—Goldstein v. Haband Co., Inc., 814 A.2d 1214 n.2 (Pa.Super. 2002).

“Trial court was required to provide a brief statement of its reasons for denying three in forma pauperis (IFP) applications []; the benefit of a brief, contemporaneous statement was to allow a litigant claiming IFP status, either pro se or with counsel, to correct any technical or other mistakes in the petition without having to borrow money to file an appeal or without losing the right to file a lawsuit if in fact he was indigent.”—Id., n.3 (Pa.Super. 2002).

Supreme Court of the United States declared in 1948 that a simple statement of poverty suffices,

“An affidavit which states that affiant cannot because of his poverty pay or give security for the costs on appeal and still be able to provide himself and dependents with the necessities of life is sufficient.”—Adkins v. E.I. Du Pont De Nemours & Co., 335 U.S. 331, 69 S.Ct. 85 n.8, 89 at [7, 8] (1948)

“To say that no persons are entitled to the statute’s [28 U.S.C.A. § 1915(a to e)] benefits until they have sworn to contribute to payment of costs, the last dollar they have or can get, and thus make themselves and their dependents wholly destitute, would be to

construe the statute in a way that would throw its beneficiaries into the category of public charges. The public would not be profited if relieved of paying costs of a particular litigation only to have imposed on it the expense of supporting the person thereby made an object of public support. Nor does the result seem more desirable if the effect of this statutory interpretation is to force a litigant to abandon what may be a meritorious claim in order to spare himself complete destitution. We think a construction of the statute achieving such consequences is an inadmissible one.”— Adkins, 69 S.Ct. 85, 89 at [7, 8], 335 U.S. at 339-40

“Section 1 of that statute [28 U.S.C. § 1915, 28 U.S.C.A. § 1915(a to e)] is intended to guarantee that *no citizen* shall be denied an opportunity to **commence, prosecute**, or defend an action, *civil* or criminal, ‘in *any* court of the United States’ solely because his poverty makes it impossible for him to pay or secure the costs [bold, italics mine].”—Adkins v. E.I. Du Pont De Nemours & Co., 335 U.S. 331, 69 S.Ct. 90 (1948)

Amendment 14 of Constitution of the United States declares court may not deprive any person without due process of law,

“No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. [bold, underline mine]”—United States Constitution, Amendment 14.

South Carolina law has declared pauper denials appealable, and that appellate courts hold jurisdiction to review them, and that this Court should and must reverse,

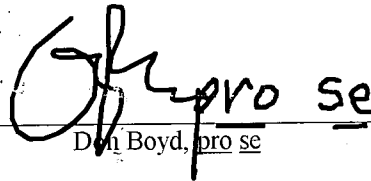
“Trial judge’s order denying Lake’s request to proceed *in forma pauperis* effectively discontinued the action because Lake’s only means of bringing the action was *in forma pauperis*. Therefore, this

court has jurisdiction to review the denial of the motion. [] In this case, the judge should have allowed Lakes to proceed in forma pauperis because he is an indigent, incarcerated individual.”—Lakes v. State, 333 S.C. 382, 510 S.E.2d 228, 230 at [1], [2-6] (S.C.App. 1998).

CONCLUSION

Leave to proceed in forma pauperis should have been granted or any denial should have been based upon disclosed criteria that applicant Plaintiff-Appellant(s) may have had opportunity to show satisfaction of. Denial by secretive criteria was wrongful and unconstitutional, furthermore. Denial of leave to proceed in forma pauperis should be reversed, and, appellate court should hear appeal and correct any errors of lower court in case a meritorious claim is beneath and should not be denied simply because appellant is a pauper and unable to pay filing fee.


In the interest of Justice, Sincerely,


Dan Boyd, pro se

345 Charwood Drive
Columbia, SC 29223

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 15th day of November, 2014.


Signature of Plaintiff-Appellant, Petitioner

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable L. Casey Manning, Fifth Judicial Circuit

Civil Action No. 2014CP4002493

Don Boyd, Doe User,

Plaintiff-Appellants;

v.

Verizon Wireless, Verizon Wireless Telecom,

Defendant-Respondents

APPENDIX

ON PETITION FOR WRIT OF CERTIORARI

Don Boyd, pro se
345 Charwood Drive
Columbia, SC 29223

INDEX

IN THE COURT OF COMMON PLEAS

May 21, 2014 *In Forma Pauperis* Denial 1

IN THE COURT OF APPEALS

July 20, 2014 *Notice of Appeal* 2

July 20, 2014 *Affidavit & Motion to Proceed In Forma Pauperis* 3

July 30, 2014 Demand for *Complaint* / 10-day Dismissal Threat 4

September 18, 2014 *Order* / 15-day Dismissal Threat 5

October 16, 2014 Dismissal *Order* 6

STATE OF SOUTH CAROLINA,)

COUNTY OF RICHLAND)

DON BOYD)
Plaintiff)

vs.)

VERNON WIRELESS et al.)
Defendant.)

IN THE FAMILY COURT
 COURT OF COMMON PLEAS
 MAGISTRATE COURT

51519 JUDICIAL CIRCUIT

MOTION AND AFFIDAVIT TO
PROCEED IN FORMA PAUPERIS

FILE NO. 2014CP4002493

I, DON BOYD, being duly sworn, state that I am the Plaintiff and that I do not have the 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 16 day of April, 2014.

[Signature]
Notary Public for South Carolina

My Commission expires 12/2017

[Signature]
Signature of Plaintiff or
Person Filing Complaint on Behalf of
Plaintiff

2014 MAY 21 PM 3:40
RICHLAND COUNTY
FILED
KANNETTE W. MCBRIDE
S.C.P. & C.S.

ORDER

Leave (granted) / (denied) to proceed in forma pauperis.

Dated: 5/21/14
Columbia, South Carolina

[Signature]
JUDGE/CLERK OF COURT **1**

NOTICE TO PLAINTIFF: The Court may assess costs against either party at hearing.

RECEIVED
JUL 11 2014
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

RECEIVED

JUN 20 2014

SC Court of Appeals

The Honorable L. Casey Manning, Fifth Judicial Circuit

Civil Action No. 2014CP4002493

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Appellants,

v.

Verizon Wireless, Verizon Wireless Telecom,

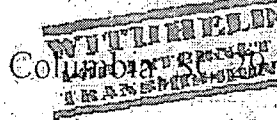
Respondents

NOTICE OF APPEAL

Don Boyd appeals the order [judgment] of the Honorable L. Casey Manning,
dated May 21, 2014.

June 20, 2014

Don Boyd, pro se



A handwritten signature in black ink, appearing to be "Don Boyd".

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
PRO SE APPEAL

Don Boyd,
Doe User,
Appellants,

v.

Verizon Wireless,
Verizon Wireless Telecom,

Respondents.

Civil Action No.: 2014CP4002493

AFFIDAVIT & MOTION
TO PROCEED
IN FORMA PAUPERIS

RECEIVED

JUN 20 2014

SC Court of Appeals

AFFIDAVIT & MOTION

I, Don Boyd, Appellant, cannot because of my poverty pay or give security for the costs on appeal and still be able to provide for myself and dependents with the necessities of life, as at lower court that denied. I declare that all issues on appeal are true, correct and not frivolous. And except for leave to proceed in forma pauperis, it would be impossible for me to bring or maintain this appeal. Adkins v. E.I. Du Pont De Nemours & Co., 335 U.S. 331, 69 S.Ct. 85 n.8, 89 at [7, 8] (1948).

In the interest of Justice, Sincerely,

Don Boyd, pro se

NOT RECORDED
COLLECTED
IN THE CLERK'S OFFICE

I declare under penalty of perjury that the foregoing is true and correct.

FURTHER AFFIANT SAYETH NOT.

Signed this 20th day of June, 2014



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

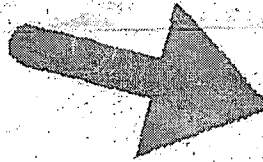
V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

July 30, 2014

Don Boyd

RECEIVED
COLUMBIA, SC
AUG 1 2014



RECEIVED

AUG 08 2014

SC Court of Appeals

Re: Don Boyd v. Verizon Wireless
Appellate Case No. 2014-001420

Dear Mr. Boyd:

You must send a copy of your proposed complaint within 10 days of the date of this letter or your appeal will be dismissed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

4

The South Carolina Court of Appeals

Don Boyd, Appellant,

v.

Verizon Wireless, Verizon Wireless Telecom,
Respondents.

Appellate Case No. 2014-001420

ORDER

The motion to proceed *in forma pauperis* is denied. The filing fee must be paid within fifteen days of the date of this order.


FOR THE COURT

Columbia, South Carolina

cc:

~~Don Boyd~~

FILED

9/18/14

5

The South Carolina Court of Appeals

Don Boyd, Doe User, Appellants,

v.

Verizon Wireless, Verizon Wireless Telecom,
Respondents.

Appellate Case No. 2014-001420

ORDER

Appellant has failed to pay the case initiation fee, to provide proof of ordering the transcript or to serve and file his initial brief and designation of matter as required by Rules 203(d)(1)(B)(iii), 207(a), 208(a) and 209(a) of the South Carolina Appellate Court Rules. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

FILED

10-16-14 R

cc:

Don Boyd

6

THE STATE OF SOUTH CAROLINA **RECEIVED**
IN THE SUPREME COURT
PRO SE APPEAL

NOV 19 2014

Don Boyd,
Doe User,
Plaintiff-Appellants,
v.
Verizon Wireless,
Verizon Wireless Telecom,
Defendant-Respondents.

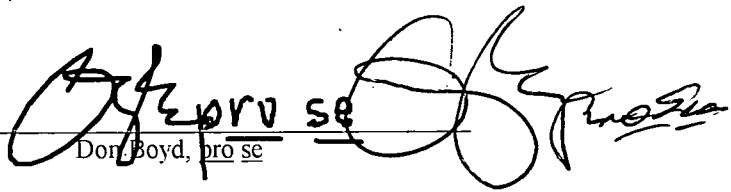
S.C. SUPREME COURT
Case No.: (to be assigned)
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**AFFIDAVIT & MOTION
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345 Charwood Drive
Columbia, SC 29223

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Signed this 14th day of November, 2014


Signature of Plaintiff

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THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

NOV 11 2014

PRO SE APPEAL

S.C. SUPREME COURT

Don Boyd,
Doe User,
Plaintiff-Appellants,

Case No.: (to be assigned)
Civil Action No.: 2014CP4002493

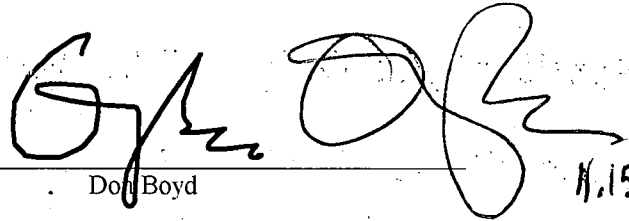
v.

Verizon Wireless,
Verizon Wireless Telecom,

NOTICE OF SERVICE

Defendant-Respondents.

I, Don Boyd, Plaintiff-Appellant hereby certify there are no
defendants to serve.



Don Boyd

11.15.14

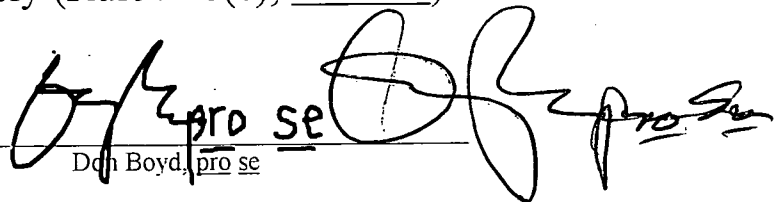
CERTIFICATE

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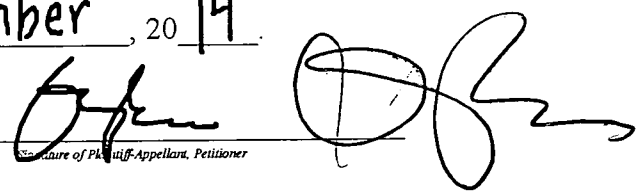


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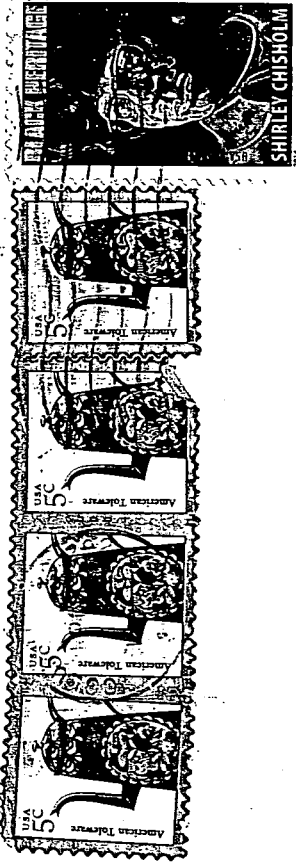
Signed this 14th day of November, 2014.



Signature of Plaintiff-Appellant, Petitioner

db
345 Charwood Drive
Columbia, SC 29223

- 1-Aff&McPaup
- 1-Cert
- 1-Pet4Cert(w/Cert)
- 1-App
- 1-NOS



The Supreme Court of South Carolina
DANIEL E. SHEAROUSE, CLERK OF COURT
Post Office Box 11330
Columbia, South Carolina 29211

