

State of South Carolina  
IN THE SUPREME COURT

Appeal From the Administrative Law Court

S. Phillip Lenski, Administrative Law Judge

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Appellate Case No.: 2014-001098

ALC Case No.: 2013-ALJ-04-0644-AD

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JAN 29 2015

S.C. Supreme Court

Angelo Ham, #315014,

vs.

S.C. Dept. of Corrections,

Petitioner,

Respondent

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PETITION FOR A  
WRIT OF CERTIORARI

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Angelo Ham #315014  
L.C.I. / SMU # 62  
990 Wisocky Highway  
Bishopville, S.C. 29010  
(Pro Se Petitioner)

Other Counsel of Record:

Daniel J. Crooks, III, Esquire  
S.C. Dept. of Corrections  
P.O. Box 21787  
Columbia, S.C. 29221  
(803) 896-1355  
(Attorney for Respondent)

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CERTIFICATE OF COUNSEL

Petitioner, Angelo Ham, prose, certifies that the Petition For Rehearing was made and finally ruled on by the Court of Appeals on January 8, 2015.

## QUESTIONS PRESENTED

1.) WHETHER THE COURT OF APPEALS ERRED BY DISMISSING THE PETITIONERS' APPEAL?

## STATEMENT OF THE CASE

On May 20, 2013, Petitioner was accused by Ofc. C. Lighty of 854 - exhibitionism and Public Masturbation. On June 11, 2013, Petitioner was found guilty in his absence by ~~the~~ disciplinary hearing officer Sharon Patterson. The Petitioner losted his canteen and phone privileges for 540 days; his visitation privileges for 700 days; he was given 300 days disciplinary detention time; and, he was ordered to be placed in a pink jumpsuit for 700 days.

Petitioner filed two (2) separate grievances about two (2) separate issues on June 12, 2013. One (1) of them was filed and the other one (1) was unprocessed. The one (1) that was filed was denied on July 2, 2013 and served on the Petitioner on July 15, 2013. Petitioner filed his step two grievance appeal on July 16, 2013 at which was denied on August 20, 2013 and served on the Petitioner on August 23, 2013.

Petitioner filed his Notice of Appeal in the ALC on August 26, 2013. The ALC assigned this matter to the Honorable S. Phillip Lenksi on September 11, 2013. The Petitioner filed his Original Brief on November 6, 2013. The Respondent filed his Brief and Motion to Dismiss on December 4, 2013. The ALC issued its order of dismissal on April 24, 2014. The Respondent was represented by Christopher Florian, Esquire. The Petitioner was pro se.

Petitioner filed his Notice of Appeal in the S.C. Court of Appeals on May 19, 2014 and subsequently filed his Motion and Affidavit to Proceed In Forma Pauperis on June 18, 2014.

The Honorable John Cannon, Chief Justice, issued his order denying the Petitioner's Motion and Affidavit to Proceed In Forma Pauperis on August 19, 2014 and order the ~~the~~ Petitioner to pay the filing fee within fifteen days of the date of that order. The Petitioner could not pay the filing fee and the Court issued another order on October 6, 2014 dismissing the matter.

Petitioner filed his Petition for Rehearing on October 9, 2014 and subsequently filing another Motion and Affidavit to Proceed In Forma Pauperis on October 20, 2014. The Court issued its order denying such documents on January 8, 2015.

This petition follows.

## ARGUMENTS

### 1.) WHETHER THE COURT OF APPEALS ERRED BY DISMISSING THE PETITIONERS' APPEAL?

Petitioner contends that the Court of Appeals erred by dismissing his appeal for not being able to pay the appropriate filing fees.

This Court held in Al-Sharbaee v. State, 338 S.C. 354, 527 S.E.2d 742 (2000) that "to obtain judicial review of the ALC's final decision, 'a petition by an aggrieved party must be filed with the Circuit Court and served on the opposing party not more than thirty days after the party receives the final decision and order of the administrative law judge. Appeal in these matters is by right'."

Petitioner states that pursuant to rule 203 (b) (6) and rule 203 (d) (2) he filed his notice of appeal on the Court of Appeals on May 19, 2017 at which was twenty-five (25) days after the administrative law court issued its order of dismissal.

Although the Petitioner filed his notice of appeal in the S.C. Court of Appeals, that court pursuant to rule 204 (a) was supposed to issue an order transferring the case to the appropriate appellate court. Petitioner contends that the appropriate appellate court in this matter was the Court of Common Pleas which is the circuit court that has appropriate appellate jurisdiction.

Goodwine v. Dorchester Dept. of Social Services, (S.C. App. 1999) 336 S.C. 413, 519 S.E.2d 116.

To such extent that the S.C. Court of Appeals had appellate jurisdiction to hear this matter, that Court erred by not allowing and/or waiving the filing fees.

Petitioner contends that this Court concluded that "motions to proceed in forma pauperis may only be granted where specifically authorized by statute or required by constitutional provisions." Martin v. State, 321 S.C. 533, 535, 471 S.E.2d 134, 134-35 (1995). Again, statutory law states that appeals from the ALC is by right. See S.C. Code Ann. § 1-23-610 (B) (Supp. 1999); see also S.C. Code Ann. § 1-23-380 (A) (1) (Supp. 1999).

If there is an appeal by right and a petitioner does not have available funds to pay the filing fees, a petitioner should be able to proceed in forma pauperis. A petitioner should also be able to proceed in forma pauperis based on the fact that an inmate has a protected state-created liberty interest in a 'major' disciplinary proceeding that results in the loss of visitation privileges and confinement in a segregated housing unit for 360 days. See Mallon v. Columbia Coll. Inst., 559 F.3d 693, 698 (7th Cir. 2009) (typical and significant hardship possible when inmate was placed in segregated confinement for 240 days).

CONCLUSION

Petitioner respectfully request and pray that this Honorable Court reverse and remand this matter.

January 23, 2015

Respectfully Submitted,  
CP/CO #315014  
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January 23, 2015

S.C. Supreme Court  
P.O. Box 11330  
Columbia, S.C. 29211

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JAN 29 2015

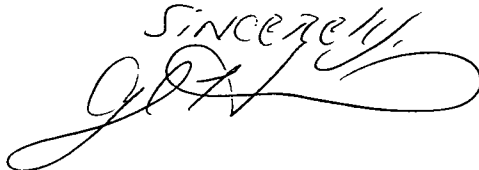
S.C. Supreme Court

RE: Angelo Ham, #315014 vs. S.C.D.C.  
Appellate Case No.: 2014-001098  
AFC Case No.: 2013-A1J-04-0644-AD

Dear Honorable Shearouse:

Enclosed please find an original copy of the  
"Motion and Affidavit to Proceed in Fama Roupelis",  
"Petition for a writ of Certiorari", "Appendix", and  
"Proof of Service" in the above-cited matter.

With personal kindest regards, I am

Sincerely,  


cc: S.C. Court of Appeals

S.C.D.C.

retained

Angelo Horn # 315019

S.C.F. / S.M.U # 02

990 Winrock Highway  
Bishopville, S.C.

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