

STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Honorable Ralph King Anderson, III, Chief Administrative Law Court Judge

Administrative Law Court Docket No. Case No. 14-ALJ-15-0041-AP

Phillip A. Brown, #118100 Appellant

v.

South Carolina Department of
Probation, Parole, and Pardon Services Respondent

MOTION TO PROCEED *IN FORMA PAUPERIS*

PHILLIP A. BROWN
#118100
Lieber Correctional Institution
Post Office Box 205
Ridgeville, South Carolina 29472

APPELLANT, *pro se*

Other counsel of record:

Tommy Evans, Esq.
General Counsel
S. C. Department of Probation, Parole, and Pardon Services
P.O. Box 50666
Columbia, SC 29501

Phillip Ansel Brown, the *pro se* Appellant in the afore-captioned appeal from the Administrative Law Court, respectfully moves this Honorable Court, pursuant to Rule 240, South Carolina Appellate Court Rules, for leave to proceed in the afore-captioned appeal *in forma pauperis* where the Appellant is an indigent prisoner without the ability to pay the Notice of Appeal filing fee required by Rule 203, SCACR.

Appellant believes he is entitled to proceed without prepayment of the \$100 notice filing fee prescribed by Appellate Court Rules where Respondent, a state agency, has denied Appellant due process in determining Appellant's liberty in a statutory parole review under the statute in effect at the time of sentencing (S.C. Code Ann. §24-21-645 (1982)); and the Administrative Law Court unconstitutionally applied a decision bringing into question the retroactive application of the Supreme Court's decision in *Barton v. South Carolina Department of Probation, Pardon, and Pardon Services*, 404 S.C. 395, 745 S.E.2d 110 (2013).

Appellant submits that this Court enjoys the discretion to grant a motion to proceed *in forma pauperis* where it may be required by constitutional provisions, *see, Ex parte Martin*, 321 S.C. 533, 471 S.E.2d 134 (1995).

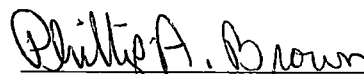
Where certain fundamental rights are involved, the United States Constitution requires that an indigent person be allowed access to the courts, *see Boddie v. Connecticut*, 401 U.S. 371. This Court may also allow proceeding without prepayment of costs from appeals of administrative agency decisions, such as the instant case, *see, Ex parte Cauthen*, 291 S.C. 465, 354 S.E.2d 381 (1987).

CONCLUSION

WHEREFORE, based on the foregoing, the Appellant prays this Honorable Court grant this Motion to proceed *in forma pauperis* in the afore-captioned appeal.

Respectfully submitted,

June 4, 2014



Phillip A. Brown

#118100

Lieber Correctional Institution, SA-23

Post Office Box 205

Ridgeville, South Carolina 29472-0205

APPELLANT, *Pro se*

Phillip Ansel Brown
#118100
Lieber Correctional Institution SA-23
P.O. Box 205
Ridgeville, SC 29472

June 3, 2015

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JUN 10 2015
SC Court of Appeals

The Honorable Jenny Abbott Kitchens
Clerk
Court of Appeals of South Carolina
Post Office Box 11629
Columbia, South Carolina 29211

Re: *Phillip A. Brown, # 118100 v. South Carolina Department of Probation, Parole, and Pardon Services*
Docket No. 14-ALJ-15-041-AP

Dear Ms. Kitchens:

Please find enclosed for filing the Notice of Appeal from a final agency decision in the Administrative Law Court and proof of service on all parties of record. As I am indigent and unable to pay the filing fee required by Rule 203(d)(2)(B)(iii), SCACR, please find enclosed, pursuant to Rule 240, SCACR, the original and six (6) copies of Appellant's Motion to Proceed *In Forma Pauperis* in lieu of paying to filing fee for Notice of Appeals.

The Appellant will provide the record of the lower court proceedings thus, a transcript will not be ordered pursuant to Rule 207(b), SCACR where no transcript of the proceeding in the Administrative Law Court was made. Generally, having ordered no transcript, pursuant to Rule 208(a) (1), the initial brief of appellant is due within thirty (30) days of this Notice. However, where Appellant seeks to proceed *in forma pauperis* and submits such herewith, Appellant believes the 30 day period of Rule 208(a) (1) will not begin until such time as this Court takes action on the above motion.

If these pleadings do not conform to the Rules or I have misinterpreted the briefing schedule, please advise. Your assistance in this matter is sincerely appreciated.

With kindest regards, I remain,

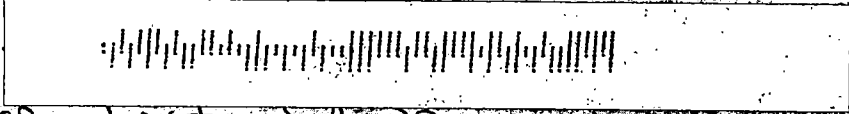
Sincerely,

Phillip A. Brown

Phillip A. Brown
APPELLANT, *pro se*

Cc: The Honorable Jana E. Shealy (without ALC Order or IFP Motion)
Tommy Evans, Esq. (without ALC Order or IFP Motion)

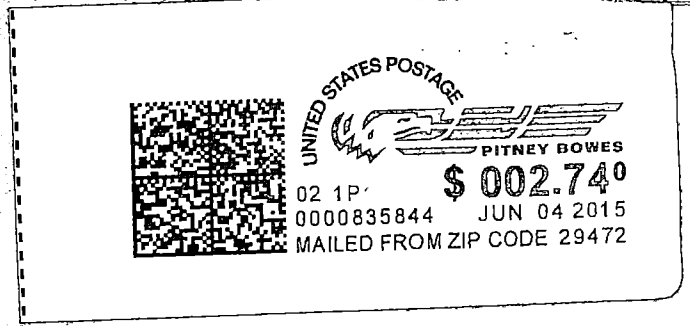
A. Brown



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Honorable Jenny Abbott Kitchens
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