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JUL 29 2015

SC Court of Appeals

Carlos Kinlaw v. SCWCC

Appellate Case No. 2015-001558

I am appealing file No 2015-Cp-07-651 Motion and Affidavit To Proceed In Forma Pauperis, which was denied by Judge Carmen T Mullen on 6/01/2015. All other paperwork is evidences of the case. The attorney for the state agency has not been served yet because the Beaufort County Court of Common Pleas denied In Forma Pauperis for my case. I served the court with notice of appeal by mail of the In Forma Pauperis to the Clerk of Court Jerri Ann Roseneau.

The order number 1105654 that states a hearing was held in Walterboro, SC by Commissioner G Bryan Lyndon that was not signed or dated is a proposed Decision and Order by Brian O'Keef Attorney at Law. Commissioner Lyndon made a Decision and Order of his own and sign it.

I send a copy of the Motion and Affidavit to Proceed In Forma Pauperis order.

Carlos Kinlaw

~~SCAP~~
Carlos Kinlaw

July 27, 2015

This is the order

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT) IN THE COURT OF COMMON PLEAS
JUL 29 2015 JUDICIAL CIRCUIT

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Carlos Kinlaw)
Plaintiff)
vs.)
The State of South Carolina Workers)
Compensation Commission)
Defendant.)

MOTION AND AFFIDAVIT TO
PROCEED IN FORMA PAUPERIS

FILE NO.

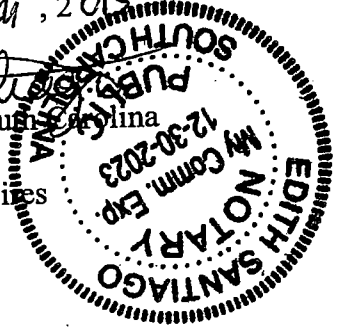
2015-CP-07-657

2015 MAR 13 PM 2:00

I, Carlos Kinlaw, 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 9 day of Mar, 2015

Edith Santiago
Notary Public for South Carolina



My Commission expires

Carlos Kinlaw

Signature of Plaintiff or
Person Filing Complaint on Behalf of
Plaintiff

ORDER

- Leave is granted to proceed in forma pauperis without payment of the filing fee.
- Leave is granted to proceed in forma pauperis without payment of the service cost.
- Leave is denied to proceed in forma pauperis.

Dated: 6 / 1 , 2015

Beaufort

South Carolina

[Signature]

JUDGE/CLERK OF COURT

2015 JUN 16 PM 3:32

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



State of South Carolina
The Circuit Court of the Fourteenth Judicial Circuit

MEGAN WHITE
LAW CLERK TO THE
HONORABLE CARMEN MULLEN

102 RIBAUT ROAD
POST OFFICE DRAWER 1128
BEAUFORT, SOUTH CAROLINA 29901-1128
TELEPHONE: (843) 255-5070
FAX: (843) 522-8362

June 15, 2015

Carlos Kinlaw
Post Office Box 403
Bluffton, SC 29910

Re: Carlos Kinlaw vs. The State of South Carolina Workers Compensation Commission
Case: 2015CP0700651

Mr. Kinlaw,

Judge Mullen's chambers is in receipt of your correspondence to the Court on May 29, 2015 which answered the Court's request to state the specifics of the 14th Amendment violation claimed in your motion to proceed *in forma pauperis*.

In *Martin v. State*, 321 S.C. 533, 535-536, 471 S.E.2d 134, 134-135 (1995), the South Carolina Supreme Court:

[gave] guidance as to when it is appropriate to waive filing fees. In the absence of a statutory provision allowing the general waiver of filing fees, we conclude motions to proceed *in forma pauperis* may only be granted where specifically authorized by statute or required by constitutional provisions. *See Tahtinen v. Superior Court, Pinal County*, 130 Ariz. 513, 637 P.2d 723 (1981); *Steinkamp v. Jacque*, 36 Conn.Sup. 37, 410 A.2d 489 (1979); 1986 Op.S.C.Att'y Gen. No. 86-44 at 131.

The Court further directed:

...when an indigent litigant files a motion to proceed *in forma pauperis* pursuant to Rule 3(c), [SCRCP] and the complaint does not appear to fit within one of the statutory or constitutional exceptions to the requirement of a filing fee, the clerk of court must submit the motion to a judge for a ruling as to whether the complaint does fit within one of the statutory exceptions or

whether the cause of action concerns a fundamental right that requires waiver of the filing fee.

The *Martin* Court outlines the statutory provisions for requiring waiver of filing fees as follows:

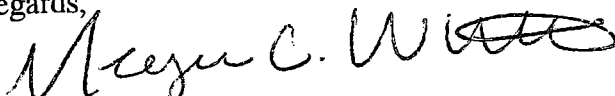
- S.C. Code Ann. §§ 8-21-310(11) (Supp.1994) (no fee must be paid to appeal from a conviction in magistrate's or municipal court);
- S.C. Code Ann. § 17-27-60 (1985) (no fee required of indigent filing a post-conviction relief action);
- S.C. Code Ann. § 20-4-40(e) (1985) (clerks of court must assist persons seeking an order of protection from domestic abuse by giving them forms to proceed in forma pauperis);
- S.C. Code Ann. § 20-7-1440 (Supp. 1994) (no court fee may be charged in delinquency and neglect actions);
- S.C. Code Ann. § 41-39-30 (1986) (fee waived in a proceeding involving a claim for benefits from the Employment Security Commission);
- and, S.C. Code Ann. § 44-41-34(B) (Supp. 1994) (a minor may file an action seeking consent for an abortion without paying any filing fee).

Motions to leave to proceed *in forma pauperis* must also be granted where "certain fundamental rights are involved." Courts have found these certain rights include access to the court when involved in divorce actions, *Boddie v. Connecticut*, 401 U.S. 371, 91 S. Ct. 780, 28 L.Ed.2d 113 (1971); and when petitioning for a writ of habeas corpus, *Smith v. Bennett*, 365 U.S. 708, 81 S. Ct. 895, 6 L.Ed.2d 39 (1961). However, courts have upheld requiring payment for appellate filing fee by indigents seeking review of an adverse welfare decision, *Ortwein v. Schwab*, 410 U.S. 656, 93 S. Ct. 1172, 35 L.Ed.2d 572 (1973) and for bankruptcy actions. *United States v. Kras*, 409 U.S. 434, 93 S. Ct. 631, 34 L.Ed.2d 626 (1973)

Based the foregoing reasoning set forth in *Martin v. State*, the Court has carefully reviewed the pleadings and finds that Plaintiff's Complaint does not appear to fit within any statutory exceptions and does not involve a Constitutionally protected fundamental right that requires a waiver of the filing fee. Therefore, the Plaintiff's Motion to Proceed *in forma pauperis* is respectfully denied.

Please be advised that a judge's denial of leave to proceed *in forma pauperis* does not prevent ones case from going forward. A plaintiff simply must pay the filing fees as required by the Clerk of Court to file the Summons and Complaint.

Regards,



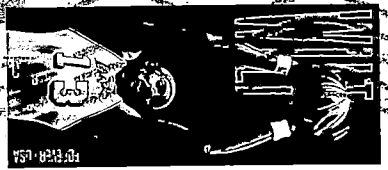
Megan C. White

Law Clerk to the Honorable Carmen Mullen

Carlos Kinlaw
Po Box 403
Bluffton, SC 29910

CHARLESTON, SC 294

27 JUL 2015 PM 1



The South Carolina Court of Appeals
Post office Box 11629
Columbia, SC 29211

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