

THE STATE OF SOUTH CAROLINA **RECEIVED**
In the Court of Appeals

AUG 19 2015

Appeal from Lexington County **SC Court of Appeals**
The Honorable William P. Keesley, Successor Circuit Court Judge

Appellate Circuit Case No. 2013-CP-32-01272
Appellate Circuit Case No. 2014-CP-32-00399
Appellate Case No. _____

APPEAL FROM THE WORKERS' COMPENSATION COMMISSION
WCC Case No. 0506205

Alexander Guice, Appellant,

v.

US Foodservice, Inc., and Ace American Insurance
Company, c/o Gallagher Bassett Services, Inc., Respondents.

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

Please take notice that Alexander Guice, the Appellant, Claimant, Employee and Injured Worker (hereafter "Appellant" or "Claimant") presents these pleadings in *propria persona* wherein pleadings are to be considered without regard to technicalities. *Propria*, pleadings are not to be held to the same high standards of perfection as practicing lawyers. See Haines v. Kerner 92 Sct 594, also See Power 914 F2d 1459 (11th Cir1990); Also See In Re: HALL v. BELLMON 935 F.2d 1106 (10th Cir. 1991). Pursuant to Rule 240(a), SCACR, and/or other applicable laws, appellant presents this Motion for leave to proceed in forma pauperis, seeking this Court to waive the cost associated with filing this appeal, to include seeking permission to reduce the number of copies of the final

brief and record on appeal to be filed in this matter by appellant from fifteen (15) copies to three (3) copies with one copy unbound. In support of this Motion, appellant would allege as follows:

Authority to seek permission to proceed in forma pauperis

In *Martin v. State*, 321 S.C. 533, 471 S.E.2d 134 (1995), our Supreme Court held, "Further, where certain fundamental rights are involved, the Constitution requires that an indigent be allowed access to the courts." *Id.* at 535, 471 S.E.2d at 135 (citing as an example *Boddie v. Connecticut*, 401 U.S. 371, 91 S.Ct. 780, 28 L.Ed.2d 113 (1971) (an indigent must be given access to courts in divorce action)).

38 U.S.C. § 5301(a)(1) - Nonassignability and exempt status of benefits – provides in part:

Payments of benefits due or to become due under any law administered by the Secretary shall not be assignable except to the extent specifically authorized by law, and such payments made to, or on account of, a beneficiary shall be exempt from taxation, shall be exempt from the claim of creditors, and shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, either before or after receipt by the beneficiary... Id.

Appellant shall establish that a grant to proceed in forma pauperis is proper on the grounds that the appellant 1) is unemployed; 2) receives nontaxable benefits which should not be considered income in terms of appellant's ability pay filing cost; 3) has a constitutional right to access to the Court; and 4) has been recently granted the ability to proceed in forma pauperis in a related action to the appellant by the S.C. Supreme Court.

Grounds in support of granting permission to proceed in forma pauperis

1. Appellant is unemployed.

Appellant is unemployed and has been unable obtain gainful employment since appellant was subjected to a retaliatory discharge by US Foodservice, Inc., the named Respondent in this action, on or around November 2, 2005. Appellant maintains separate monthly maintenance by way of receipt of nontaxable U.S. Department of Veterans Affairs (VA) Disability Compensation Benefits. See Affidavit In Support of Permission to Proceed In Forma Pauperis. Attached hereto.

Further, if the appellant were required to pay the \$100.00 appellate court filing fee or required to file and serve 15 copies of the final brief and record on appeal, appellant would be subjected to incongruous and harsh results.

2. Appellant should be afforded access to the Court.

Appellant has filed a timely notice of appeal challenging the dismissal Order from the Circuit Court which is an appeal from the Workers' Compensation Commission. Appellant has no income, and believes it to be improper to require the appellant to pay the filing cost through appellant's receipt of nontaxable VA Disability Benefits which is not income for purposes of determining appellant's ability to pay. 38 U.S.C. § 5103(a)(1).

Additionally, in the Martin Court, the Supreme Court determined "where certain fundamental rights are involved, the Constitution requires that an indigent be allowed access to the courts". *Id.* Here, the appellant is indigent, as confirmed upon review and consideration of the attached Affidavit for permission to proceed in forma pauperis. Affidavit for permission to proceed in forma pauperis.

3. Appellant was recently granted the ability to proceed in forma pauperis in an action by the S.C. Supreme Court.

On March 31, 2015 and the in the related matter (to the appellant) of *Alexander Guice v. Pamela Lee*, Appellate Case No. 2015-000576, our Supreme Court, by way of Chief Justice Jean H. Toal, issued an Order granting the undersigned appellant's Motion to proceed in forma pauperis. Order, Appellate Case No. 2015-000576 dated March 31, 2015. Exhibit "A". Appellant would allege that if our Supreme Court reviewed the appellant's financial disposition and believed it proper to waive the cost associated with appellant filing pleadings before the Supreme Court, then it would be consistent and proper for this Court to consider granting permission for the appellant to proceed in forma pauperis in this matter.

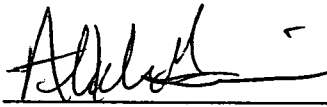
Conclusion

Accordingly, based on the foregoing reasons, appellant moves the Court to consider granting this motion for leave to proceed in forma pauperis in terms of waiving the filing fees associated with filing this appeal, to include reducing the amount of copies required to be filed by appellant of the final brief and record on appeal to three (3) copies each, based on the appellant's indigent status.


Verification

I, Alexander Guice, having been duly sworn, state that under penalty of perjury, I have read the foregoing motion and believe the same to be true and correct to the best of my knowledge and ability.

Respectfully submitted,

By: 
Alexander Guice
Post Office Box 13281
Tampa, FL 33681
(813) 562-0547
Appellant, Pro Se

Sworn to before me this
16 day of August, 2015


Notary Public of Florida
My commission expires 4-2-18

August 16, 2015


 ANGELA M. JIMENEZ
NOTARY PUBLIC
STATE OF FLORIDA
Comm# FF109150
Expires 4/2/2018

EXHIBIT "A"

3

The Supreme Court of South Carolina

Alexander Guice, Petitioner,

v.

Pamela Lee, Respondent.

Appellate Case No. 2015-000576

ORDER

Petitioner moves to proceed in forma pauperis in this matter. The motion is granted. Petitioner has also filed a "Motion to Take Leave," in which he requests that he be allowed to include the full name and full birthdate of the "minor child in question" in his filings. The motion is denied. Petitioner shall, within twenty days of the date of this order, serve and file an amended petition for writ of certiorari and appendix which do not contain the minor child's full name or full date of birth, but which are redacted in accordance with *In re: Revised Order Containing Personal Identifying Information and Other Sensitive Information in Appellate Court Filings*, Sup. Ct. Order dated April 15, 2014.¹

 C.J.
FOR THE COURT

Columbia, South Carolina

March 31, 2015

cc:

Alexander Guice

Pamela Lee

¹ This order can be found at
<http://www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-04-15-02>.

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE, CLERK OF COURT

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