

STATE OF SOUTH CAROLINA

In The Court of APPEALS

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APPEAL FROM LEE COUNTY NOV 20 2015

Court of Common Pleas

SC Court of Appeals

R. Ferrell Cothran, Jr. Circuit Judge

2006 - CP - 31 - 0287

Appellate Case No. 2015 - 002252

Patrick L. Booker, 297590, Appellant,

- VS -

South Carolina Department of Corrections, Respondent.

MOTION TO PROCEED IN FORMA PAUPERIS

COMES NOW the Pro Se Appellant, Patrick L. Booker, who hereby moves this Court to allow him to proceed without prepayment of cost of the filing fee in this matter to due his indigency. It should be noted the Appellant was permitted to proceed without prepayment of cost in the lower court. Additionally, Appellant, in support of his motion here, will notify the Court that, were this Court to grant him permission to proceed in this matter without prepayment of court filing fee, a reversal and remand is certain as the trial court's order granting summary judgment in favor of SCDC contains the factual finding that the involved SCDC officer's act of placing the

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inmate-attacker into Appellant's recreation cage was "inadvertent" as the officer could not see Appellant's presence inside the cage. First of all, whether it is was "inadvertent" for the officer to place the inmate-attacker inside the cage is "clearly" a question of fact which the trial court was illegally prohibited from deciding on summary judgment. Indeed the question of whether the officer's act was intentional was a dispositive matter being as Appellant's cause of action was one of gross negligence. Secondly, and most importantly, the attached photographic evidence as Exhibit "C" demonstrates the trial court's finding the officer was unable to see Appellant was inside the cage is without evidentiary support and was, thus, an abuse of discretion.

Finally, being as the Lee County court officials delayed (for years, despite my inquiries to them) to notify Appellant of the fact his motion for reconsideration was denied, the transcript of the summary judgment is most likely to be unavailable, which further indicates a reversal and remand would be in order if this Court grants this motion.

Alternatively, Appellant requests that the Court give him thirty (30) days to come up with the \$100 filing fee from the Appellant's family, in the event that this Court deny his request to proceed in forma pauperis.

November 13, 2015
McCormick, South Carolina.

Patrick L. Booker
Mr. Patrick L. Booker, 297590
McCormick Corr. Inst.
386 Redemption Way
McCormick, S.C. 29899

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- VS -

South Carolina Department of Corrections,
Respondent.

PROOF OF SERVICE

I, Patrick L. Booker, do hereby certify that I served both the Motion to Enlarge Time and the Motion to Proceed Informa Pauperis upon the Respondent (SCDC) by depositing a copy of said motions in the U.S. Mail, postage prepaid, addressed to the Respondent's counsel of record as shown below:

Samuel F. Arthur, III, Esquire

P.O. Drawer 1931

Florence, S.C. 29503

11/13/15

(Date)

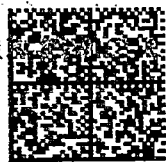
Patrick Booker
(Signature)

Patrick L. Booker, #297590

McCormick Correctional Institute (RHU-85)
386 Redemption Way
McCormick, SC 29899

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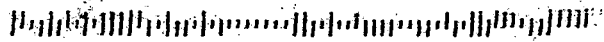
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P.O. Box 11629
Columbia, S.C. 29211

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