

**LEGAL MAIL**

ATTACHMENT (A)

# The South Carolina Court of Appeals

Akeem Alim Nafis Abdullah Malik, Appellant,

v.

Bruce M. Bryant, Respondent.

Appellate Case No. 2015-002412

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## ORDER

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Appellant has failed to provide a proof of service showing timely service on any Respondent; rather, Appellant's proof of service shows he only served the circuit court and this court. Because Appellant has failed to show he timely served a Respondent, this appeal is dismissed. *See* Rule 203(b)(1), SCACR ("A notice of appeal shall be served on *all respondents* within thirty (30) days after receipt of written notice of entry of the order or judgment." (emphasis added)); Rule 263, SCACR ("The time prescribed by these Rules for performing any act except the time for serving the notice of appeal under Rules 203 and 243 may be extended or shortened by the appellate court, or by any judge or justice thereof.").

  
FOR THE COURT

Columbia, South Carolina

cc:

Akeem Alim-Nafis Abdullah Malik

**FILED**  
2/8/16

**LEGAL MAIL**

OFFICE OF  
CLERK OF COURT  
DAVID HAMILTON  
PO BOX 649  
YORK, SOUTH CAROLINA 29745  
(803)684-8507

TO: Akeem Alim-Nafis Abdullah Malik

FROM: DAVID HAMILTON, YORK COUNTY CLERK OF COURT

RE: Summons, Rule to Show Cause etc

The above referenced document is being returned for the following reason(s):

1. \_\_\_\_\_ Requires address, phone number and work number if filing Pro Se.
2. \_\_\_\_\_ Instrument not dated.
3. \_\_\_\_\_ Instrument not signed.
4. \_\_\_\_\_ Instrument not witnessed.
5. \_\_\_\_\_ Instrument not notarized.
6. \_\_\_\_\_ Insufficient amount of filing fee.  
Correct amount due: \_\_\_\_\_
7. \_\_\_\_\_ Requires original signature.
8. \_\_\_\_\_ All initial pleadings require a civil action cover sheet.  
Must state nature of action.  
Must state whether case is for Jury or Non-Jury.  
Must be signed by attorney.
9. \_\_\_\_\_ This is not a York County case.
10. \_\_\_\_\_ Venue changed to \_\_\_\_\_.
11. \_\_\_\_\_ Must have motion slip for all Motions filed.
12. \_\_\_\_\_ Check or money order must be made payable to Clerk of Court.
13. \_\_\_\_\_ Case Ended: Date: \_\_\_\_\_  
Reason Ended: \_\_\_\_\_
14. \_\_\_\_\_ Check not signed.
15. \_\_\_\_\_ This document is a copy – Must file original.
16. \_\_\_\_\_ Needs derivation.
17.  Other: Judge Hayes has denied your motion to proceed in forma pauperis, therefore if you wish to pursue this you will need to send \$50.00 filing fee & return the original documents to our office.

Please make the necessary correction(s) and return for recording. Thank you for your assistance.

RECEIVED

FEB 23 2016

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

SC Court of Appeals  
IN THE COURT OF COMMON PLEAS OF THE  
SIXTEENTH JUDICIAL CIRCUIT

AKEEM ALIM-WAFIS ABULLAH MALIK,

2015 CP46 - 3371

Plaintiff,

MOTION AND AFFIDAVIT TO PROCEED  
IN FORMA PAUPERIS

vs.

SHERIFF BRUCE BRYANT ET AL.,

Defendant(s).

FILED RECEIVED  
2015 NOV -3 AM 9:45  
CLERK OF COURT  
SOUTH CAROLINA  
YORK COUNTY

I ~~am~~ Akeem Alim-Wafis Abullah plaintiff, state that I do not have the fund(s) available to pay the cost(s) of filing and service in this present matter. I declare under the penalty of perjury 28 USC 1746 & 28 USC 1915(d) to be true and correct. I hereby request that the action be filed and service made without cost. SEE page 4 RULE TO SHOW CAUSE

This 15 day of October 2015

s/ Al Alim-Wafis Abullah-Malik

Motion to Proceed  
in forma Pauperis  
DENIED

John Hayes  
Chief Judge for  
Administrative Purposes  
11/12/15

FILED RECEIVED  
2015 NOV 13 AM 8:11  
CLERK OF COURT  
SOUTH CAROLINA  
YORK COUNTY

**LEGAL MAIL**

IN THE SOUTH CAROLINA COURT OF APPEALS  
FOR THE STATE OF SOUTH CAROLINA **RECEIVED**

FEB 23 2016

Akeem Alim-Nafis Abdullah-Malik Petitioner-Pro-Se Appellant	)	SC Court of Appeals Case No. <u>2015-002412</u>
	)	PETITION REHEARING
v.	)	PURSUANT
	)	SCAAR 240(j),
	)	221(a)...
Bruce M. Bryant, et al Respondent(s)	)	CONSTITUTION
	)	AMENDMENT II & XIV

COMES NOW, Akeem Alim-Nafis Abdullah-Malik, Petitioner-Pro-Se (HEREINAFTER) Petitioner moves this Honorable Court ("Court") Pursuant to SCAAR 221(a) & 240(j) Petitions REHEARING & EN BANC CONSISTENT WITH CONST AMEND II & XIV.

JURISDICTION

Petitioner asserts THE RIGHTS OF DUE PROCESS & EQUAL PROTECTION OF LAWS & ACCESS TO COURTS. & SCAAR 221(a) & 240(j) AS THE ("COURTS") HAS ORIGINAL & PERSONAL JURISDICTION TO HEAR THIS MATTER OF REHEARING & REHEARING EN BANC. STEMMING

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ATTACHMENT (B)

## LEGAL MAIL

from a ORDER Signed by Jasper Curran AP  
FOR THE COURT. SEE ATTACHED ORDER. THE ORDER  
Signed & Filed 3/3/16. Assumed by Petitioner  
to mean 2/3/16. being 3/3/16 hasn't arrived  
as of date. Moreover the Order constitute pet-  
itioner's right TO seek REHEARING & REHEARING  
En Banc. As a matter of Rule, Law & Consti-  
tutional Protections. WHICH REHEARING & REHEARING  
En Banc would authorize the ("courts") to  
have Jurisdiction. See ATTACHMENT "ORDER" (A)

## STATEMENT OF CASE

Petitioner filed Rule to Show Cause,  
MOTION & AFFIDAVIT TO Proceed IN FORMA PAUPERIS  
Summons & PRISONER INDIGENT STATUS Notarized  
& Proof of Services. IN THE COURT OF Common  
Pleas For 16<sup>th</sup> Judicial Circuit YORK County, Frederick

THE CLERK OF COURT return the Petition  
with ORDER Signed by CHIEF Administrative Judge  
DENIED IN FORMA PAUPERIS. With instructions to  
meet a filing fee of \$150.00. See ATTACHMENT (B)

Petitioner APPEALED the matter IN A  
TIMELY MANNER & Forwarded the ORIGINAL,  
Copies, & PROOF OF SERVICES to THE COURT  
OF APPEALS & THE Lower COURT OF Common  
Pleas.

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Pursuant TO THE INMATE LITIGATION ACT  
ILA & Prisoner Pro-Se Status announced in  
Davis v. State, 342 S.E.2d 60 (1980) and Johnson  
v. STATE 364 SE2d 201 (1988) & S.C. Code of  
1976 § 24-27-100 & § 24-27-150 & Due Process,  
& Equal Protection of Law.

THE ORDER rendered here in instance isn't  
applicable under the standards THE ("Court") efforts  
to URSE under SCACR 203(b)(1), 263 applies  
to petitioner. is a preposterous ruling requiring reversal  
& Remand TO THE Lower COURT for Processing  
under Inmate Litigation Act (ILA) & Prisoner  
Pro-Se Status. Pursuant TO § 24-27-100, &  
24-27-150, Davis v. STATE 342 S.E.2d 60 (1980) and  
Johnson v. STATE 364 SE2d 201 (1988) TO include  
to provide constitutional protection for the petitioner.

## ARGUMENT

Petitioner invokes Plain & Clear Error on  
behalf of Dismissing Petitioner Appeal. WITH the  
ORDER claiming PROOF OF Service was not  
provided to all Respondents.

IN Instance a forefront NO Respondent  
was required service beyond the ("courts")  
as petitioner served both THE COURT OF Appeals  
On 2-2-17

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of THE Lower Courts. At THIS & afore mentioned time.

THE NOTICE OF APPEAL WAS before the Lower due to Lower Court Denying Petitions to Proceed IN FORMA PAUPERIS. Therefore THE Summons WAS NOT EVER ORDER UPON ANY Respondant WITHIN THE Petition at that & this instance. Inpite the case WAS assigned a number The case wasn't "RIPE" for Scheduling, Hearings, & Appearance. Orders OF TRANSPORT THE NOTICE OF APPEAL WAS A MATTER THAT Lower Court Judge overlooked the means of A PRISONER PRO-DE & Incorporated his the Right TO ACCESS THE Courts even IN the event he is "Indigent" The Inmate Litigation Act (ILA) does not restrict Access TO Courts. IT makes a Provision to have the PRISONER ACCOUNT deducted & his ACCOUNT made deductible. Upon prisoner obtaining monies to secure the debts occurred. IN furtherance this is a CIVIL Proceeding that when Judgement IS ISSUED AGAINST IS RESPONSIBLE FOR Costs & Judgement. OF ALL OCCURRING

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2. Costs key 128, 129

Motion to proceed in forma pauperis may only be granted when specifically authorized by statute or required by constitutional provision SCRPC 3(c).

3. Costs key 132

The issue or Court was in question as to whether the inmates complaint fits into the statutory provision that submit motion to judge for ruling as to whether the complaint fits into statutory provision or concern of fundamental rights that requires waiver of filing fee

Note \* SCRPC 3(c) is replaced by SCRPC 3(b)

Among the statutory provisions requiring waiver fees are SL Codes § 8-21-310(1) § 17-27-60, § 20-7-1440, § 49-41-34(B) Further when a certain fundamental right is involved, the Constitution requires that an indigent be allowed to access the courts. Compare *Boddie v. Connecticut* 401 US 371, 91 S.Ct 780, 28 L.Ed

See Ex Parte John Wayne RICE, Petitioner  
Supreme Court of South Carolina (1992)

Remanded with instructions. Supreme Court held Prisoner was denied due process by family court refusal to allow him to proceed without payments and cost. Remanded with instructions \* 405 S.E.2d 819

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THIS MATTER WAS NEVER ORDERED SUMMONS SERVED UPON DEFENDANTS. SIMPLY DUE TO THE NEGATION OF THE LOWER COURT TO PERMIT THE MATTER TO PROCEED. BY DENYING THE PRISONER DUE PROCESS & EQUAL PROTECTION OF LAWS. A COMMON PRACTICE IN THE 16<sup>th</sup> JUDICIAL CIRCUIT OF YORK COUNTY. RECURRENT MATTERS PRIOR & TO DATE WITH PETITIONERS NAME & PETITIONER NAME ON IT. MALICIOUS INTENT, CAPRICIOUS, ARBITRARY, & WANTON ACTIONS INDUCED UPON PETITIONER WHILE INCARCERATED IN YORK COUNTY. & ALL PROCEEDINGS HELD IN YORK COUNTY JURISDICTION THAT HOLD PETITIONERS NAME UPON IT.

THE MATTER OF MATERIAL FACT IS THAT THE 'UNRIPENESS' OF THE NOTICE OF APPEAL & SERVICE WAS IN FACT SERVED UPON ALL REQUIRED PARTIES. PURSUANT TO SCACR 203(b)(1) (APPEAL FROM THE COURT OF COMMON PLEAS), 243(b), 263, & SLRCP 3(b)

HOWEVER, THE "COURT" HERE IN INSTANCE WOULD ASSUME THAT PETITIONER WAS REQUIRED TO HAVE PROOF OF SERVICE BEYOND THE SCOPE OF STATUTORY & LEGAL AUTHORITY. WHEREFORE ALL REQUIRED PARTIES AT THAT & THIS JUNCTURE WAS ONLY THE COURT OF APPEAL & THE LOWER COURTS.

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Which in fact was ~~THE~~ COURT OF APPEALS & THE COURT OF COMMON PLEAS. Whereas, it exactly what the petitioner did do in a timely manner pursuant to SCALR - 203(b)(1).

IN furtherance no defendant had been issued summons, or Rule to Show Cause, AFFIDAVITS, NOR MOTION TO Proceed IN Forma Pauperis, NOR POWER OF ATTORNEY Process. Simply due to CHIEF Administrative Judge had denied the petitioner the Right TO Proceed IN Forma Pauperis Pursuant TO (ILA) a Prisoner Pro-Se Status announced in DAVIS v. State (cite omitted) & Johnson v. State (cite omitted) & S.C. Code of 1976 § 24-27-100 & § 24-27-150. Leaves the NOTICE OF Appeal (Respondents) THE Lower Court OF Common Pleas & COURT OF APPEALS (Respondents) at this juncture. THE GLASS WAS NOT YET FULL NOR EVEN HALF FULL. Empty due to NO OTHER PARTY required was NOT YET ORDERED Service OF Summons. THE Respondents were THE Lower Courts & CHIEF Administrative Judge Residing THE Courts. Beris his residency was THE COURT OF COMMON PLEAS THE 'Courts were served' & THE S.C. COURT OF APPEALS THE Higher Court OF REVIEW OF A INTERLOCUTOR APPEAL 'NOT YET RIPE' All required parties were issued NOTICE OF Appeal & Served Timely ...

LEGAL ANALYSIS

Petitioner in comparison to Ex Parte  
HENRY W. MARTIN JR., Appellant v. THE STATE,  
Respondent In Re HENRY W. MARTIN, JR. #190394,  
Plaintiff v. AT&T TELEPHONE Co., INC, Southern  
Bell TELEPHONE Co. INC, Zero Plus Dialing,  
Co, INC; Parker EVATT, Law SCDC; &  
Williams L. Wallace, LEE CI Defendants.

Supreme Court of South Carolina (1995) THE  
 Supreme Court held that (1) the appeal was  
 premature when the circuit court never ruled on  
 whether the inmate would be allowed to proceed  
 in forma pauperis and (2) when a indigent files  
 a motion to proceed in forma pauperis and the  
 complaint does not appear to fit within a statutory  
 or constitutional exception to the requirement of  
 a filing fee, the clerk of court must submit  
 a motion to a judge for a ruling as to whether  
 the complaint fits within a statutory exception or  
 concerns of fundamental right that requires the waiver  
 of the filing fee. "APPEAL dismissed and MATTER  
 REMAINS". 471 SE.2d 134

### 1. APPEAL and ERROR Key 337(1)

APPEAL from court clerk's return  
 in inmates petition to proceed in forma  
 pauperis was premature where circuit  
 court judge never ruled on whether inmate  
 would be allowed to proceed without payment of  
 costs SCRPC 36) here 2st 13

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HENRY MARTIN, JR Petitioner v.  
South Carolina Department of Corrections (SCDC)  
565 SE.2d 756, 757.

2. CLERK OF Court Key 17

THE Statute governing a payment plan if a indigent prisoner brings a civil action do not apply to filing fee incurred at either the Supreme Court or Court of Appeals SC Code § 24-27-100, § 24-27-150 SCACR 226e).

ORDER

\* [2] Upon examination of sections § 24-27-100 and § 24-27-150 it is clear the institution of payment plan in order to finance filing fees is only intended for use at the trial court level. THE PLAIN language of section 24-27-100 states that the payment plan was enacted for the purpose of assisting indigent prisoners when they bring a civil action or proceedings. By definition, civil actions are brought at the trial court actions. Not applicable to Supreme Court or Court of Appeals.

IN aforementioned Petitioner rest as  
A Matter of Statutory Provision, Constitutional

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a Fundamental Right Provision of MATTER OF LAW tilts to favor of Petitioner & Plaintiff Akeem Alim-Nafis Abdullah-Malik.

## Conclusion

Petitioner here on REHEARING & RE HEARING EN BANC relies on CONSTITUTIONAL PROTECTION & Amendments IN LAW & ORDER rendered without Jurisdiction.

Petitioner NOTICE OF APPEAL ONLY required Service to Lower Courts & Court OF APPEALS as ONLY required parties. Being the Clerk followed the process in Ex parte Henry W. MARTIN, Jr. Appealant v. THE STATE 471 SE. 2d 134. However CHIEF Administrative Judge ERDOZES & Overlooked INMATE Litigation ACT (ILA), Prisoner Pro-se STATUS. § SC Code § 21-27-100, & § 24-27-150. In spite Petitioner case was not Ex parte John Rice, Petitioner 415 SE. 2d 819. THE U.S.C. A Const Amend-14, Required fundamental fairness & access to courts. In spite Indigent. Alike Henry Martin, Jr

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§ 65 SE. 2d 756, 757. with amendments to Case Topics. The plain language of SC Code § 24-27-100, & § 24-27-150 is clear for the use of the trial court level & enacted for the purpose of assisting indigent prisoners when they "bring a civil action" or proceeding. By definition civil actions are brought at trial level.

(Emphasis added) Section 24-27-150 describes how to implement the payment plan. If the prisoner's trust account is insufficient to cover filing fee.

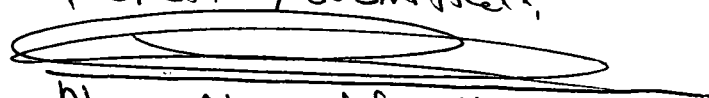
Petitioner was denied this basic fundamental right at trial court level contrary to statutory provision, & Petitioner appeal was dismissed erroneously due to service requirements were met based upon lower trial court had denied access to courts & violated petitioner ~~V~~ IV Const Amend. Rights Access to Courts, leaving Courts or Appeals & lower Courts only parties at that instance & present do have been reviewed on matter of SCACR & 203(b)(1).

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WHEREFORE, the foresaid, Issuer  
of Legal Authority, THIS MATTER SHOULD  
BE GRANTED, ORDER REMAND TO  
THE Lower Courts. GRANTING IN FORMA  
PAUPERIS a SCHEDULING A HEARING, a Transport  
of Prisoner TO BE HEARD OF ILLEGAL  
FORFEITURE a CONFISCATION OF PROPERTY  
ILLEGAL a COMPROMISE. GRANTING  
REVERSAL OF MEMORANDUM ORDER  
DISMISSAL Petitioner. NOTICE OF APPEAL absent  
ORIGINAL a Personal Jurisdiction where PROOF  
OF SERVICE was served on Existing Parties  
ABSENT IN FORMA PAUPERIS Invoked . . .

This 11<sup>th</sup> day of ~~January~~ month  
January 11<sup>th</sup> + 16<sup>th</sup> 1988 year

Respectfully submitted,  


Alkan Alim-Nafis Abdull-Malik  
Rideland Correctional Institute  
3<sup>rd</sup> Correctional Road  
Rideland, South Carolina 29276

CC: Court Common Pleas  
163<sup>rd</sup> Judicial Circuit York Court  
PO Box 649  
York, South Carolina 29241

CC: All Required Parties

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IN THE STATE OF SOUTH CAROLINA  
THE COURT OF APPEALS

REHEARING & REHEARING EN BANC

APPEALED FROM YORK COUNTY  
COURT OF COMMON PLEAS

JOHN C. HAYES III, CHIEF Administrative Judge

Appellate Case No. 2015-002412

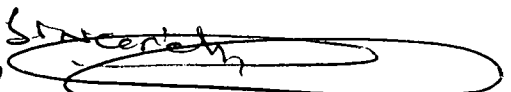
Akeem Alim-Nafis Abdullah-Malik . . . . . Appellant

v.

SHERIFF Bruce M. Bryant et al . . . . . Respondents

PROOF OF SERVICE

I do certify I have deposited & served (1) ORIGINAL RE-HEARING & RE HEARING EN BANC by depositing in the U.S. Mail, with pre paid postage on February 11<sup>th</sup>, 2016 IN THE S.C. COURT OF APPEALS PO BOX 11629 & CC: YORK COUNTY COURT COMMON PLEAS PO BOX 647, YORK, SOUTH CAROLINA 29241 & ALL RELEVANT PARTIES.  
February 11<sup>th</sup>, 2016

5/17 

Counsel of Record  
Akeem Alim-Nafis Abdullah-Malik  
PO Box 2039  
Plymouth, South Carolina 29586

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ATTACHMENT (A) - -

**LEGAL MAIL**

# The South Carolina Court of Appeals

Akeem Alim Nafis Abdullah Malik, Appellant,

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## ORDER

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FOR THE COURT

Columbia, South Carolina

cc:  
Akeem Alim-Nafis Abdullah Malik

**FILED**  
2/8/16

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ATTACHMENT (B)

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OFFICE OF  
CLERK OF COURT  
DAVID HAMILTON  
PO BOX 649  
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(803)684-8507

TO: Akeem Alim-Nafis Abdullak Malik

FROM: DAVID HAMILTON, YORK COUNTY CLERK OF COURT

RE: Summons, Rule to Show Cause etc

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SC Court of Appeals

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IN THE COURT OF COMMON PLEAS OF THE  
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I ~~am~~ Akeem Alim-Wafis Abullah Plaintiff, state that I do not have the fund(s) available to pay the cost(s) of filing and service in this present matter. I declare under the penalty of perjury 28 USC 1746 & 28 USC 1915(d) to be true and correct. I hereby request that the action be filed and service made without cost. SEE page 4 RULE TO SHOW CAUSE

This 15 day of October 2015

s/ Al Alim Wafis Abullah-Malik

Motion to proceed  
in forma pauperis

DENIED

Jahid H. Ayers  
Chief Judge for  
Administrative Purposes  
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