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MAR 29 2016

PETITIONER'S MOTION FOR LEAVE  
TO PROCEED IN FORMA PAUPERIS  
OF THE MOTION FEE

60 SUPREME COURT

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM GREENVILLE COUNTY  
COURT OF COMMON PLEAS

JAMES R. BARBER, III, CIRCUIT COURT JUDGE

LOWER COURT CASE NO. 2014-CP-23-05661

APPELLATE CASE NO. 2015-000697

APPELLATE CASE NO. 2016-000498

George Cleveland, III,

v.

PETITIONER,

GREENVILLE COUNTY SHERIFF'S  
OFFICE,

RESPONDENT.

MOTION TO PROCEED WITHOUT MOTION FEE

WILSON JONES CARTER + BAXLEY, P.A.  
CHARLES F. TURNER, JR, ESQUIRE  
ANNE R. CULBREATH, ESQUIRE  
872 S. PLEASANTBURG DRIVE  
GREENVILLE, S.C. 29607  
TELEPHONE: (864) 672-3713  
ATTORNEYS FOR RESPONDENT.

George Cleveland, III #357770  
Turbeville Correctional Inst.  
P.O. Box 252  
Turbeville, S.C. 29162  
pro se Litigant.

1.  
MOTION TO PROCEED WITHOUT  
MOTION FEE

MAY IT PLEASE THE COURT: George Cleveland, III, proceeding pro se, respectfully moves this to waive the twenty-five-dollar (\$25.00) filing fee, and GRANT my instant motion to proceed in forma pauperis on the following grounds:

- 1-1. I have no funds, or paying job to pay fees;
- 1-2. I have an fundamental right to access the courts under the first and fourteenth Amendment of the United States Constitution, and a Federal Right
- 1-3. to proceed pro se under the In forma pauperis Act 28 U.S.C.A. § 1915 (A) (2); (A) (2); and (B) (4).

2.  
NO FUNDS TO PAY FILING FEE:

As an inmate in the custody of the South Carolina Department of Corrections, (S.C.D.C.), I have no funds, nor do I have an job that pay even a penny, R.P. (Prison trust Fund Account).

This instant appeal deals directly with filing fees and transcripts fees in our state in non-frivolous actions in the circuit courts, and appellate. It's absurd to deny me as an unemployed inmate to pay \$25.00.

I do not have, to consider my Petition for A writ of certiorari because of the SCDC. denial of my fundamental right to access the courts which has caused me to miss legal deadlines like this deadline of filing my petition within thirty days (30) under Rule 5.01. Accordingly, my inability to pay the \$25.00 filing fee should not be a hurdle that I cannot jump over.

3.  
CONSTITUTIONAL RIGHT TO  
ACCESS THE COURTS

The United States Supreme Court Reasoned under *Bowds v. Smith* 430 U.S. 817, 97 S.Ct., 1491 U.S. v.c. (1977) held that prison authorities must assist inmates with meaningful access to the courts by way of law libraries or alternative sources of legal knowledge, legal paper, pens, envelopes, notary services Among other things, *id.*, at 824-825.

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1. A more detailed argument is inside my attached motion for an extension of time for the second time.

2.

it defies Logic for prison officials to find all the material required to file an non-frivolous claim in this court, if the court itself, rejects my nonfrivolous claims in this court on the grounds that I'm too poor, broke, or an pauper who cannot afford \$25.00 for the filing fee. Foreclosed access to this court by indigent inmates is rejected also under Burns v. Ohio, 360 U.S. 252, 257, 79, Sects. 1164, 1168, 3 L.Ed. 2d, 1029 (1957) is at 1495, which held:

"Indigent prisoners must be allowed to file appeals . . . without payment of docket fee." *IBID.*, consequently, any motion should be granted in forma pauperis

3.

### IN FORMA PAUPERIS ACT

The IN FORMA PAUPERIS Act of: Title 28 U.S.C.A. §1915 (A)(2) states the following relevant part:

"Any court, . . . may authorize the commencement, prosecution . . . of any suit, action or proceeding, civil or criminal appeal therein, without prepayment of fees . . . by a person who submits . . . A

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statement of all assets such prisoner possesses that the prisoner is unable to pay such fee..."

Subsection (b) (4) id<sub>s</sub> states the following relevant part:

"In no event shall a prisoner be prohibited from bringing a civil action or appealing a civil or criminal judgment for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee."

This Act makes clear my right to access this court without paying a fee or even an partial filing fee. More alarming is under Rule 240 (d) SCDC allows the SCDC (as an state agency) do not have to pay the "filing fee" to file an motion.

This rule id<sub>s</sub> undermines my access to the courts by requiring me to pay a fee to file my motion but does not require the SCDC to pay a fee despite the Agency operating on mostly state Revenue, this rule is positioned in the wrong direction.

This rule id<sub>s</sub> is equal to the country's richest man

being able to have access to this court because he has the funds that's needed to pay, but the rules give him a break, but requires the homeless man living in a cardboard box, eating at the soup-kitchen, and organizations that help with the poor pay the filing fee.

The state of Georgia allows poor inmates access to the courts who are unable to pay the filing fee under Rule 2(b) of the GA court of appeals  
as cost shall not be required when, at the time such costs are due, one of the following criteria has been satisfied (1) the prose applicant or appellant is incarcerated at the time of filing (2) the applicant, appellant, or counsel for the applicant or appellant files a sufficient affidavit of indigency . . . " EFF.  
February 21, 2008.


Georgia court of appeals rule (b) id, understands how important allowing the poor meaningful access

to the courts, I know our Appellate rules mean well and this court I'm sure understands the important of allowing poor inmates like me access to this case, by this court; therefore, I respectfully request the following relief;

4.  
CONCLUSION!

WHEREFORE, GRANT my motion to proceed in forma pauperis by waiving the filing motion fee for the first motion for an extension of time and my second motion for an extension of time to file petition for a writ of certiorari in this court regarding Appellate case No. 2016-000498.

Any other relief this court deems just, proper and/or equitable.

Respectfully submitted  
s/   
George Cleveland #35770  
Turberville Correctional Inst.  
P.O. Box 252  
Turberville, S.C. 29162

DATED: MARCH 22, 2016.

Turbeville

PLAINTIFF'S EXHIBIT I

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DEC 22 2015

MAILROOM  
TURBEVILLE CI

FINANCIAL CERTIFICATE  
FOR THE  
DISTRICT OF SOUTH CAROLINA  
(for use in § 1983, *Bivens*, and non-habeas civil actions filed by prisoners)

I request that an authorized officer of the institution in which I am confined, or other person designated to review financial information in relation to inmate trust funds, complete this Certificate. If I am granted *in forma pauperis* status, I authorize and consent to collection of the \$ 350 filing fee in accordance with 28 U.S.C. § 1915(b) until the filing fee is paid in full as well as any amount of costs, sanctions, and/or fees that might be imposed by the court during this litigation. I understand that if I do not qualify for *in forma pauperis* status, I will have to pay \$400 to proceed with my case, which includes the full \$350 filing fee as well as an additional \$50 administrative fee established by the Judicial Conference of the United States. The \$50 administrative fee is not applicable to *in forma pauperis* cases.

George Cleveland III  
INMATE NAME (PRINTED)

357770 TA132  
INMATE (PRISONER) NUMBER

[Signature]  
INMATE SIGNATURE

Turbeville Correctional Inst.  
PLACE OF CONFINEMENT

- ◆ (1) Average monthly deposits to the inmate's account.....\$ 0
- ◆ (2) Average monthly balance in the inmate's account calculated for the prior six months period. ....\$ .01
- ◆ (3) Current Balance .....\$ 0
- ◆ (4) Initial Installment Payment - due upon granting of *in forma pauperis* status (Take 20 percent of the greater of lines 1 or 2).....\$ 0

I hereby certify that as of this date, the above financial information is accurate for the above named inmate.

[Signature]  
Authorized Officer's Signature

12/30/15  
Date

A. Hammond Financial Accounting  
Authorized Officer's Name and Title

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PETITIONER'S PROOF OF SERVICE

THE STATE OF SOUTH CAROLINA

SC SUPREME COURT

IN THE SUPREME COURT

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v.

GREENVILLE COUNTY SHERIFFS  
OFFICE . . . . . RESPONDENT

PROOF OF SERVICE

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TURBEVILLE CORRECTIONAL INST.  
P.O. Box 252  
TURBEVILLE, S.C. 29162  
PRO SE Litigant.

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SC SUPREME COURT

1.  
PROOF OF SERVICE

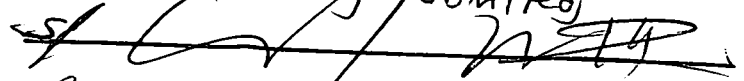
To George Cleveland JIII, certifies that on the date below, by, and through the Turbeville Correctional Institutional's mailroom, properly addressed, proper postage affixed served the following legal documents:

- Petitioner's second motion for an extension;
- Petitioner's motion to proceed in forma pauperis regarding motion fees;
- Proof of service.

The following Attorneys were served:

Wilson Jones Carter + Baxley, P.A.  
 Charles F. Turner, Jr., Esquire  
 Anne R. Culbreath, Esquire  
 872 S. Pleasantburg Drive  
 Greenville, S.C. 29607  
 Telephone: (864) 467-3713  
 Attorneys for Respondent.

Respectfully Submitted,

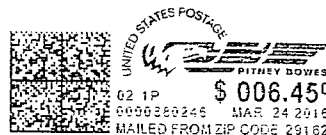


George Cleveland JIII #357770  
 Turbeville Correctional Inst.  
 P.O. Box 252  
 Turbeville, S.C. 29162

DATED: MARCH 24, 2016

TURBEVILLE, S.C.

George Cleveland ~~III~~ #35773T4118



**RECEIVED**  
MAR 25 2016  
MAILROOM  
TURBEVILLE CI

Legal-mail  
The Supreme Court of South CAROLINA  
DANIEL E. SHEAROUSE, clerk of court  
P.O. BOX 11330  
Columbia, SC 29211