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JUN 10 2016

SC SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Clifton Newman, Circuit Court Judge
Civil Action No. 2015-CP-40-02011

Appellate Case No. 2015-02177

Dennis M. Gallipeau,

Petitioner,

v.

Carnaby Square Horizontal Property Regime; Stephanie Carol Trotter;
D. Ryan McCabe; McCabe, Trotter, Gambrell & Beverly, P.C.; Rogers,
Townsend & Thomas, P.C.; McCabe, Trotter & Beverly, P.C.; and John
And Jane Doe(s),

Respondents.

PETITION FOR WRIT OF CERTIORARI

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Columbia, SC
June 10, 2016

OTHER COUNSEL OF RECORD

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Defendant on Plaintiff's Claims; and
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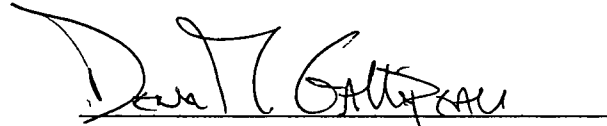
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**1. THE COURT OF APPEALS DENIED PETITIONER HIS STATE CONSTITUTIONAL
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CERTIFICATE OF PETITIONER

Petitioner certifies that the Petition for Rehearing was made and finally ruled on by the Court of Appeals on May 12, 2016.

A handwritten signature in black ink, appearing to read "Dennis M. Gallipeau", written over a horizontal line.

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QUESTIONS PRESENTED

1. Where the Constitution of the state of South Carolina declares the right of the citizens to petition the government for a redress of grievances and that the General Assembly shall make no law abridging the right of the people to petition the government for a redress of grievances and that the privileges and immunities of citizens of this State under its Constitution shall not be abridged nor shall any person be denied the equal protection of the laws, was the Constitution abandoned when on May 5, 1995, the then members of this Honorable Court decided the case of Ex parte Martin, 321 S.C. 533, 471 S.E.2d 134 (1995)?
2. May any court in this State close its doors to any citizen of this State based solely on that citizen's inability to pay a court filing fee?
3. Has the time come for this Honorable Court to revisit, overrule, set aside and discard Ex parte Martin and open its doors to all citizens regardless of their ability to pay a filing fee?

STATEMENT OF THE CASE

This case arises from an action against Petitioner's Homeowners Association, its attorneys and the law firms who represented it in a fraudulent foreclosure action alleging slander of title; malicious prosecution; abuse of process; SCUPTA violations; civil conspiracy; fraud (both upon petitioner and the court); and intentional infliction of emotional distress.

The attorneys and their law firms moved to dismiss the claims on the basis of attorney immunity. A hearing was held on August 11, 2015. At the hearing the trial judge made no finding that the attorneys acted in good faith, disregarded the facts of the case, failed to accept as true Petitioner's well plead allegations and failed to draw all reasonable inferences therefrom, and when Petitioner attempted to press his argument, the court threatened to "call security," thus stifling Petitioner. The court granted the attorneys and their law firms motions to dismiss.

Petitioner filed a timely notice of appeal in the court of appeals and moved for leave to proceed *in forma pauperis*. A single judge denied the motion. Petitioner petitioned the court for rehearing. The petition was denied.

STATEMENT OF FACTS

On August 17, 2011, Petitioner's Homeowners Association, through its attorneys, filed a foreclosure action, including a sworn affidavit attesting that after due diligence Petitioner's whereabouts were unknown, seeking to foreclose on Petitioner's condominium for past due regime fees. Contrary to the association's and its attorneys' sworn representations as to Petitioner's whereabouts, they knew exactly where Petitioner was. What they did not want, was for Petitioner to be aware of their foreclosure action, for they knew that he would assert his homestead rights. They also did not want the court to know they were seeking foreclosure of homestead property. And so they conspired among themselves to commit fraud upon the court and Petitioner, and committed numerous other torts causing Petitioner damages.

It wasn't until February 2015 that Petitioner discovered Respondents' fraudulent actions. On April 7, 2015 Petitioner filed the underlying action in the Richland County Court of Common Pleas. The named attorneys and their firms moved to dismiss the complaint asserting attorney immunity as basis for dismissal. The trial court agreed, the attorneys and their firms were dismissed from the lawsuit.

ARGUMENT

1. THE COURT OF APPEALS DENIED PETITIONER HIS STATE CONSTITUTIONAL RIGHT TO PETITION THE GOVERNMENT FOR A REDRESS OF GRIEVANCES.

Article 1, Section 3 of the Constitution of South Carolina declares that, "The privileges and immunities of citizens of this State ... under this Constitution shall not be abridged ... nor shall any person be denied equal protection of the laws."

Up until 1995, the right of the people to petition the government for a redress of grievances (Article 1, Section 2) was so ingrained in the minds of the judges who sat on this Court, in the minds of the attorneys who practiced law before it, and in the mind of the citizenry of this great state, that seldom was it necessary for this Court to address this most fundamental of constitutional rights. "It is impossible to frame a valid statute punishing by imprisonment the exercise of the right to religious liberty, or the right to petition for the redress of grievances, or the right to be exempt from imprisonment for debt except in a case of fraud. **These are all constitutional rights which cannot be abridged under the guise of legislation** against crime. The exercise of them cannot be crime. The province of this Court is to decide principles rather than cases." State v. Hertzog, 92 S.C. 14, 75 S.E. (1912)(Mr. Justice Fraser, dissenting)(emphasis added). "Public convenience can no longer outweigh individual compensation for injuries sustained through the negligence ... of government. It is a sound principle of law that one who causes injury must respond in damages. **Moreover, courts should always be open to redress grievance.**" Boyce v. Lancaster County Natural Gas Authority, 266

S.C. 398, 407, 223 S.E.2d 769 (1976)(emphasis added). And finally, a court of appeals case, “It is **undisputed the South Carolina Constitution provides for ... the right to petition the government for redress of grievances.**” Moshtaghi v. Citadel, 314 S.C. 316, 443 S.E.2d 915 (1994)(emphasis added). The following year this all changed.

After more than 200 years of sound legal principle, Judges Finney, Toal, Moore, Walker and Burnett rewrote the state constitution.

“Because of the increasing number of persons seeking to proceed in forma pauperis, we take this opportunity to give guidance [sic] as to when it is appropriate to waive filing fees. In the absence of 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.”

Ex parte Martin, 321 S.C. 533,, 471 S.E.2d 134 (1995).

The General Assembly shall make no law ... abridging the ... right of the people ... to petition the government ... for a redress of grievances. Article 1, Section 2.

The privileges and immunities of citizens of this State ... under this Constitution shall not be abridged ... nor shall any person be denied the equal protection of the laws. Article 1, Section 3.

All courts shall be public, and every person shall have speedy remedy therein for wrongs sustained. Article 1, Section 9.

And most important, **The provisions of the Constitution shall be taken, deemed, and construed to be mandatory and prohibitory, and not merely directory, except where expressly made directory or permissive by its own terms.** Article 1, Section 23.

Ex parte Martin is at odds with Article 1, Sections 2, 3, 9 and 23 of the Constitution. It goes against 200 years of precedent. It is the South Carolina Supreme Court's **Dred Scott** decision.

CONCLUSION

The unpublished order of the Court of Appeals, its continued reliance upon *Ex parte Martin* to close the courthouse doors to citizens of this state such as Petitioner, who is elderly, disabled and poor is an abomination. Rather than slamming its doors shut in the faces of the most vulnerable and needy citizens of this great state, courts should embrace the very people who need the protection of the courts the most, without regard to matters of convenience.

Petitioner's constitutional right has been abridged and denied. He has been denied justice not because his appeal lacks merit, how could it, but because of one factor and only one factor; he is poor.

For the reasons set forth herein, Petitioner/Appellant respectfully requests that the Petition for Writ of Certiorari be granted to review and correct this error.

Respectfully submitted,

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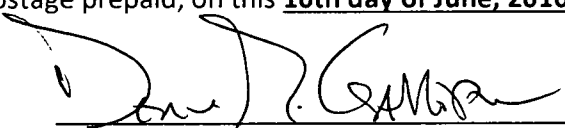
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PROOF OF SERVICE

I certify that I have served all counsel of record in this action with a copy of the Petition for Writ of Certiorari by U.S. Mail, First Class, postage prepaid, on this **10th day of June, 2016.**



Dennis M. Gallipeau