

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

RECEIVED

JUL 11 2016

SC SUPREME COURT

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, PC; McCabe, Trotter & Beverly, P.C.; and John and Jane Doe(s)

Of Whom Stephanie Carol Trotter; D. Ryan McCabe; McCabe, Trotter, Gambrell & Beverly, P.C.; Rogers Townsend & Thomas, PC; McCabe, Trotter & Beverly, P.C. are Respondents.

RETURN OF RESPONDENTS STEPHANIE CAROL TROTTER; D. RYAN MCCABE; AND
ROGERS TOWNSEND & THOMAS, PC TO PETITION FOR WRIT OF CERTIORARI

Robert P. Wood (SC Bar No. 6206)
Rogers Townsend & Thomas, PC
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*Attorney for Respondents Stephanie Carol Trotter;
D. Ryan McCabe; and Rogers Townsend & Thomas, PC*

Petitioner, Dennis M. Gallipeau, has petitioned this court for a writ of certiorari to review a decision by the South Carolina Court of Appeals dismissing his appeal because he failed to pay his filing fee. The basis for his petition is that he should have been allowed to proceed *in forma pauperis*.

Because Petitioner did not present these issues first to the Court of Appeals, and because there are no special or important reasons for this Court to issue a writ of certiorari, the petition should be denied.

Procedural Background

This is a frivolous *pro se* case where Petitioner, a convicted felon (See Exhibit A, a supplemental affidavit he filed in Circuit Court) and serial filer of at least 30 lawsuits around the country (See Exhibit B, a list of the cases we know about), alleges “state law claims including malicious prosecution, abuse of process, conspiracy and fraud, intentional infliction of emotional distress, unfair trade practices and cloud on the title to Plaintiff’s Homestead property” against his horizontal property regime (Carnaby Square Horizontal Property Regime) and the attorneys who filed a lien for unpaid assessments and filed a foreclosure action against him. Petitioner himself moved to dismiss his causes of action for abuse of process, unfair trade practices, and fraud, and the Circuit Court dismissed the remainder of his causes of action against the attorney defendants and their law firms under the doctrine of attorney immunity (citing Gaar v. North Myrtle Beach Realty, 287 S.C. 525, 339 S.E.2d 887 (Ct. App. 1986) and absolute immunity (citing Pond Place Partners, Inc. v. Poole, 351 S.C. 1, 567 S.E.2d 881 (Ct App. 2002)).

Following a practice he used before the Court of Appeals in Gallipeau v. Richland County, Appellate Case No. 2013-000967 (See Exhibit C, an order of the Court of Appeals denying his motion to proceed *in forma pauperis* and an order dismissing that appeal), Petitioner

filed a notice of appeal without paying a filing fee. Instead, he filed what he called a “motion/affidavit to proceed *in forma pauperis*.” In it he stated in a conclusory fashion that he was unable to pay any fee or cost associated with the appeal; that he is a 63-year-old disabled man whose income is \$753/month; that he has under \$250 cash available to him; that he was going to have to pay for the transcript from the hearing; and that his state of impecuniosity should not mean that he is not entitled to the same right to access to the Court of Appeals as any other litigant who is capable of paying the fees and costs associated with prosecuting an appeal in this Court. He did not submit an affidavit with his motion; he did not attach any backup documents to his “motion/affidavit”; and he did not mention the South Carolina Constitution, the United States Constitution, his right to petition for redress of grievances, his denial of equal protection of the laws, or the abandonment of the Constitution by anyone. And he did not ask the Court of Appeals to revisit, overrule, set aside, or even distinguish the controlling case on motions to appear *in forma pauperis*, Ex parte Martin, 321 S.C. 533, 471 S.E.2d 134 (1995).

Just as in the Richland County case, the Court of Appeals denied his motion to appear *in forma pauperis*. Its order dated January 7, 2016, reads:

The motion to proceed *in forma pauperis* is denied pursuant to *Ex parte Martin*, 321 S.C. 533, 471 S.E.2d 134 (1995). The filing fee must be paid within fifteen days of the date of this order.

Following his methodology from the Richland County case, Petitioner filed a petition for rehearing and still did not pay the filing fee. In his petition he argued, in conclusory fashion and for the first time, that his appeal concerned “fundamental rights” and that henceforth, attorneys would be able to invoke attorney immunity to “forever shield them for such acts as conspiring among themselves and their clients to commit willful and premeditated fraud.” He claimed, again for the first time, that he was denied his constitutional right of access to the courts and

denied his constitutional right of notice and opportunity to defend against a lawsuit or foreclosure action.

Naturally, the Court of Appeals denied his petition for rehearing by order dated May 12, 2016, concluding it was unable to discover any material fact or principle of law that had been overlooked or disregarded, so there was no basis to grant a rehearing to reinstate his appeal.

This petition followed¹. In his petition he argues that he has a right under the South Carolina Constitution to petition for redress of his grievances, that his rights under the privileges and immunities clause of the South Carolina Constitution have been abridged, and that he has been denied equal protection under the South Carolina Constitution. Finally, he argues that this Court abandoned the South Carolina Constitution when it decided the case of Ex parte Martin.

Argument

Procedural Posture Deficient for Review (Rule 242(d)(2), SCACR)

Petitioner has raised in his petition for writ of certiorari issues not considered by the Court of Appeals. “An argument not made to an intermediate appellate court and ruled on by that court is not preserved for review in this Court.” See Linda Mc Co., Inc. v. Shore, 390 S.C. 543, 558, 703 S.E.2d 499, 506-07 (2010) (citing City of Columbia v. Ervin, 330 S.C. 516, 519–20, 500 S.E.2d 483, 485 (1998)). For that reason alone, the petition should be denied under Rule 242(d)(2), SCACR.

No Novel Issues of Law (Rule 242(b)(1))

Petitioner does not present a novel issue of law. The Supreme Court spoke clearly in Ex parte Martin when it wrote, “In the absence of a statutory provision allowing the general waiver of filing fees, we conclude motions to proceed *in forma pauperis* may only be granted where

¹ Again, he did not pay a filing fee. He claims he served counsel for Respondents with a petition to proceed in the Supreme Court *in forma pauperis*, but he did not.

specifically authorized by statute or required by constitutional provisions.” Ex parte Martin, 321 S.C. 533, 471 S.E.2d 134 (1995). Constitutional provisions are limited to those involving fundamental rights, such as access to appellate courts in divorce actions (Ex parte Martin), writs of habeas corpus (Ex parte Martin), and review of welfare decisions (Ex parte Martin). Courts do not consider appeals from bankruptcy actions (Ex parte Martin) or appeals from administrative law judges (Sullivan v. South Carolina Dep’t of Corrections, 355 S.C. 437, 586 S.E.2d 124 (2003)) to involve fundamental rights.

Petitioner tacitly admits he doesn’t offer a novel issue of law because he asks this court to overrule Martin and declare that all indigent persons are constitutionally entitled not to appeal without paying filing fee.

Here, the General Assembly has not created a fee waiver for this sort of case, and Petitioner’s case does not involve fundamental rights.

No Dissent in the Court of Appeals (Rule 242(b)(2))

The ruling from the Court of Appeals was unanimous.

No Conflict with Prior Decisions of the Supreme Court (Rule 242(b)(3))

The Court of Appeals’ ruling does not conflict with any case we could find, and Petitioner has not pointed to any.

No Substantial Constitutional Issues (Rule 242(b)(4))

Petitioner has not submitted a substantial Constitutional issue. The only issue he has presented is frivolous.

No Federal Question (Rule 242(b)(5))

Petitioner has not submitted any question of federal law.

Conclusion

The writ should be denied.



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July 11, 2016

Attorney for Respondents Stephanie Ann
Trotter, D. Ryan McCabe, and Rogers &
Townsend & Thomas, PC

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

Doc. No. **2013CP400** 2011

Dennis M. Gallipeau,
Plaintiff,

v.

SUPPLEMENTAL
AFFIDAVIT OF
DENNIS M. GALLIPEAU

Carnaby Square Horizontal Property Regime, et als

2015 APR - 7 AM 10:43
SIGNATURE

I, Dennis M. Gallipeau, do hereby depose and say:

1. That I am the Plaintiff herein and bring this action in good faith.
2. That I was in federal custody from July 16, 2008 until February 18, 2015.
3. That I was released from federal prison on February 18, 2015 and am now a resident of a federal halfway house (the Alston Wilkes Society) located at 1218 Bull Street, Columbia, SC where I will remain until July, 2015.
4. That upon my release from prison, I had a balance of 20 cents in y prison trust fund account. Sec Exhibit A.
5. That for the previous six-month period, I received zero funds. *Id.*
6. That I am, and have been, disabled since October 2003. See Exhibit B.
7. That on March 24, 2015, I visited the Social Security office in Columbia, SC and was told that I had to wait until June 30, 2015 (30 days from release from the halfway house) to apply for reinstatement of my disability payments.

Exhibit A

8. That until my disability payments resume, most likely in September or October of this year, I will have no income.

9. That upon my release from prison I was given a \$200 release gratuity. Exhibit A.

10. That I am required to provide my own clothing and personal hygiene items, and have spent approximately \$65 of the \$200.

11. That I have no savings or source of income.

12. That I do own a condominium that has a current appraised value of \$30,100 (down from \$54,200 the previous year). See Exhibit C.

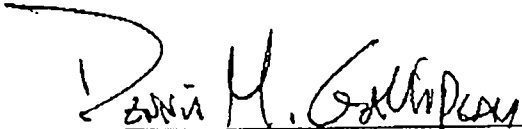
13. That I have no ability to pay the fee required to file this action.

14. That I am able to appear before this Honorable Court for attendance at any hearing scheduled by the Court or parties.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on:

4/2/2015


DENNIS MICHALE GALLIPEAU

Dennis M. Gallipeau Known Lawsuits, Criminal Prosecutions, and Bankruptcies

Plaintiff	Defendants	Attorneys	Civil Action No. and Court	Date Case Filed	Nature of Case	Disposition	Date of Disposition	Comments
Gallipeau	Earl Petty	n/a	6:88-cv-00356-PCF M.D.Fla.	04/28/1988	This appears to be a civil rights claim.	Dismissed for want of prosecution	03/18/1991	
Gallipeau	State of Rhode Island	n/a	1:92-cv-00181-L D.R.I.	04/02/1992	This appears to be a civil rights claim.	Dismissed for failure of Gallipeau to pay his \$120 filing fee	10/26/1993	
Gallipeau	Boffi	Sidney Clifford, Jr.	1:93-cv-00389-P D.R.I.	07/21/1993	We can't read the case, but it appears to be a civil rights claim.	Dismissed	09/29/1993	
Gallipeau			1:1997-cv-00495 D.R.I.	08/30/1996		Dismissed	10/07/1996	

Exhibit B

Plaintiff	Defendants	Attorneys	Civil Action No. and Court	Date Case Filed	Nature of Case	Disposition	Date of Disposition	Comments
Gallipeau	Rhode Island Public Transportation Authority	Steven M. Richard, Nixon Peabody LLP	1:97-cv-00224-T D.R.I.	04/03/1997	This appears to be a civil rights claim.	Case Closed	04/28/1998	
Gallipeau	Serreze		1:99- cv-00167-T D.R.I.	04/05/1999	This appears to be a bankruptcy appeal	Terminated	09/03/1999	
Gallipeau	Progressive Insurance Co.		1:02- cv-00195- SM D.N.H.	05/01/2002	The case is private online.	Terminated	08/02/2002	
Gallipeau	Scott Baer		1:03-cv-00067- JD D.N.H.	02/20/2003	This appears to be a civil rights claim.	Case closed	04/21/2003	
Gallipeau	Scott Baer	Gary D. Berkowitz	1:03-cv-00152-ML D.R.I.	04/23/2003	Gallipeau claimed he was assaulted, libeled, and slandered.	Terminated	08/31/2004	

Plaintiff	Defendants	Attorneys	Civil Action No. and Court	Date Case Filed	Nature of Case	Disposition	Date of Disposition	Comments
Gallipeau	Dennis Crawford and Merrimack County Sheriff's Department		1: 04-cv-001501-JD D.N.H.	4/27/2004	Gallipeau claimed the sheriff's department denied his constitutional rights by withholding court papers from him.	Dismissed	09/29/04	
Gallipeau	Pinnacle Financial Group	Michael S. Poncin and John Karl Rossman	0:05-cv-00727-JRT D.Minn.	04/13/2005	Gallipeau claimed the defendant caused Gallipeau emotional distress and mental anguish after a debt collector kept calling him about a debt to America Online.	Dismissed	06/17/05	

Plaintiff	Defendants	Attorneys	Civil Action No. and Court	Date Case Filed	Nature of Case	Disposition	Date of Disposition	Comments
Gallipeau	Atlanta Bread Co.	Thomas Edward Andrews and Brent Boyd (Murphy & Grantland)	3:06-cv-01286-JFA D.S.C.	05/01/2006	Gallipeau alleged an Atlanta Bread Co. franchisee refused to accommodate his service animal (he claimed to have bad hips)	Dismissed	8/14/06	

Plaintiff	Defendants	Attorneys	Civil Action No. and Court	Date Case Filed	Nature of Case	Disposition	Date of Disposition	Comments
Gallipeau	Taunton District Court		1:06-cv-10873-MLW D.Mass.	5-16-2006	Gallipeau alleged that two clerks at Taunton District Court denied him access to the court and violated his Constitutional rights after they reported Gallipeau's alleged default to the Registry of Motor Vehicles.	Dismissed	08/03/06	
Gallipeau	MySpace.Com		2:06-cv-00666 WDK-DBS E.D.Va.	12/05/2006	This case is marked private online	Dismissed	12/08/2006	

Plaintiff	Defendants	Attorneys	Civil Action No. and Court	Date Case Filed	Nature of Case	Disposition	Date of Disposition	Comments
Gallipeau	Byron Mitchell FBI	Beth Drake (AUSA)	3:07-cv- 03522-JFA D.S.C.	10/24/2007	Gallipeau alleged the FBI took his laptop and threatened to wipe the memory clean.	Dismissed	8/14/09	Case stayed while federal criminal prosecution went forward.
United States	Gallipeau	William W. Watkins	3:08-cr- 00096-JFA	2/6/08	Prosecution for possessing child pornography	Sentenced. Motion to vacate sentence denied.	7/17/12	Criminal case. Judge Anderson's order recites just how frivolous Gallipeau's motion to vacate is.

Plaintiff	Defendants	Attorneys	Civil Action No. and Court	Date Case Filed	Nature of Case	Disposition	Date of Disposition	Comments
Gallipeau	ABL Management		3:09-cv-01382-JFA D.S.C.	5/27/2009	Gallipeau asked the court to require the defendants to provide a 2800 calorie/day diet instead of a 2500 calorie/day diet.	Dismissed immediately after a defendant moved for summary judgment.	8/10/10	
Gallipeau	Lexington Co. Detention Center	Evan M. Gessner of Lide & Pauley, LLC	3:09-1657-HMH-JRM D.S.C.	6/24/2009	While an inmate at Lexington County Detention Center, Gallipeau had problems with his diet tray.	Stipulation of dismissal	4/28/10	Gallipeau's motion for sanctions was denied by Judge McCrorey on 12-31-10

Plaintiff	Defendants	Attorneys	Civil Action No. and Court	Date Case Filed	Nature of Case	Disposition	Date of Disposition	Comments
Gallipeau	Mickens-Ham, Jane Doe, LCDC	Michael S. Pauley with Lide & Pauley, LLC	3:09-1883-TMC D.S.C.	7/16/2009	Gallipeau claimed guards used excessive force and assaulted and battered him while an inmate at Lexington County Detention Center.	Dismissed	8/24/12	Affirmed by 4th Circuit Court of Appeals. Gallipeau's Motion for relief from judgment was denied.
Gallipeau	Smith		5:10-cv-00222-RAL M.D.Fla.	05/24/2010	Gallipeau alleged the federal prison violated his civil rights by retaliating against him for filing a grievance.	Dismissed for failure to amend his complaint to use a proper civil rights form.	08/20/2010	

Plaintiff	Defendants	Attorneys	Civil Action No. and Court	Date Case Filed	Nature of Case	Disposition	Date of Disposition	Comments
Gallipeau	Correct Care Solutions, Shier Lee, (Saunders); Evan M. Gessner (Lide & Pauley LLC); Roy P. Maybank	Morgan Stuart Templeton, Esq. Joseph Calhoun Watson, Esq. Michael B. McCall, II, Esq. David Wright Overstreet	3:10-cv-02017-JFA D.S.C.	07/30/10	Gallipeau claimed the defendants wrongfully posted his confidential health records online.	Terminated. Appeal dismissed by the 4th Circuit Court of Appeals	09/29/11	

Plaintiff	Defendants	Attorneys	Civil Action No. and Court	Date Case Filed	Nature of Case	Disposition	Date of Disposition	Comments
Gallipeau	Microsoft Corp.	Karl J. Quackenbush (Seattle, WA)	C10-1508-JCC W.D.Wash.	8/30/10	Gallipeau claimed that Microsoft misrepresented to him that his computer had deleted photos of an underage female when it had not actually deleted the photos, and he had to plead guilty to possession of child pornography as a result.			
Gallipeau	United States	n/a	3:10 cv-70313-JFA D.S.C.	12/10/2010	Gallipeau appears to have wanted his sentence vacated.	Terminated	10/06/2011	

Plaintiff	Defendants	Attorneys	Civil Action No. and Court	Date Case Filed	Nature of Case	Disposition	Date of Disposition	Comments
Gallipeau	County of Richland	Bradley T. Farrar	11-CP-40-6542	2011	Suit for wrongful tax sale of his condominium.	Ultimately dismissed. But first, Gallipeau appealed a proposed order and sought <i>in forma pauperis</i> status in the Court of Appeals. His appeal was dismissed as premature, and the court never ruled on his motion to appear <i>in forma pauperis</i> .	None	Gallipeau then filed a petition for writ of mandamus in the Court of Appeals. The Court treated it as petition for rehearing and denied it. He responded by telling the Court it will now be easier for him to show the federal court that a "plain, speedy and efficient remedy is not available in the courts of SC.

Plaintiff	Defendants	Attorneys	Civil Action No. and Court	Date Case Filed	Nature of Case	Disposition	Date of Disposition	Comments
Gallipeau	County of Richland	Bradley T. Farrar	11-CP-40-6542	2011	Same suit for wrongful tax sale of his condominium.	Dismissed		Gallipeau appealed this final order, and the Court of Appeals denied his motion to proceed <i>in forma pauperis</i> . After Gallipeau didn't pay his filing fee, the Court dismissed his case. He appealed to the SC Supreme Court.
Gallipeau	County of Richland		3:11-cv-01318-JFA D.S.C.	5/31/11	Gallipeau claimed that Richland County violated his civil rights.	Dismissed	8/17/2011	

Plaintiff	Defendants	Attorneys	Civil Action No. and Court	Date Case Filed	Nature of Case	Disposition	Date of Disposition	Comments
Gallipeau	United States	Gregory K. Davis	5:12-cv-00089-DCB-MTP S.D. Miss.	06/26/12	Gallipeau claimed the prison served him food with chicken bones in it.	Terminated	08/08/13	
Gallipeau	Sebulius	Not known	1:12-cv-1209	07/23/12	Gallipeau claimed that his HIPAA rights were violated.	Dismissed	01/29/2014	
Gallipeau	Martin-Warden of FCC Yazoo City Jail.	n/a	5:13-cv-00007-DCB-MTP	1/11/13	Gallipeau claimed the jail refused him adequate postage stamps.	Dismissed	08/29/13	
Gallipeau	Linda Mickens Ham	Justin Tyler Bagwell and William H. Davidson, II	9:13-cv-00505-TMC	02/27/13	Gallipeau claimed guards used excessive force and assaulted and battered him while an inmate at Lexington County Detention Center.	Terminated. Appeal dismissed by the 4th Circuit Court of Appeals	6-10-14	

Plaintiff	Defendants	Attorneys	Civil Action No. and Court	Date Case Filed	Nature of Case	Disposition	Date of Disposition	Comments
Gallipeau	Dr. Luisa Martinez	n/a	5:13-cv-00105-KS-MTP	07/24/13	Gallipeau claimed that this physician ignored his medical needs while an inmate in Yazoo City, MS.	Terminated	01/04/2014	

Dennis M. Gallipeau Bankruptcies

Debtor	Jurisdiction	Case Number	Date of Filing	Chapter	Date of Disposition
Gallipeau	E.D.Wisc.	2:93-bk-22305	04/23/1993	Chapter 7	08/04/1993
Gallipeau	D.R.I.	1:96-bk-12608	08/19/1996	Chapter 7	01/02/1997
Gallipeau	D.R.I.	1:97-bk-10873	09/25/1997	Chapter 7	01/11/1997
Gallipeau	D.R.I.	1:98- b-12394	06/09/1998	Chapter 7	10/12/1999
Gallipeau	D.R.I.	1:98-bk-13819	09/17/1998	Chapter 7	12/29/1998
Gallipeau	D.R.I.	1:98-bk-13946	09/25/1998	Chapter 7	01/11-1999
Gallipeau	D.R.I.	1:98-bk-15209	12/21/1998	Chapter 7	12/29/1998
Gallipeau	D.N.H.	03-10428-MWV	02/13/2003	Chapter 7	09/09/2003

The South Carolina Court of Appeals

Dennis M. Gallipeau, Appellant,

v.

Richland County; Board of Assessment for Richland
County; John Cloyd, Tax Assessor for Richland County;
Karen Roof, Homestead Exemption Officer for Richland
County, Respondents.

Appellate Case No. 2013-000967

ORDER

The motion to proceed *in forma pauperis* is denied pursuant to *Ex parte Martin*, 321 S.C. 533; 471 S.E.2d 134 (1995). The filing fee must be paid within fifteen days of the date of this order.



FOR THE COURT

Columbia, South Carolina

cc:
Dennis M. Gallipeau
Bradley Truman Farrar

FILED

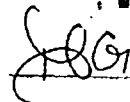
 2-21-13

Exhibit C

The South Carolina Court of Appeals

Dennis M. Gallipeau, Appellant,

v.

Richland County; Board fo Assessment for Richland
County; John Cloyd, Tax Assessor for Richland County;
Karen Roof, Homestead Exemption Officer for Richland
County, Respondents.

Appellate Case No. 2013-000967

The Honorable L. Casey Manning
Richland County
Trial Court Case No. 2011CP4006542

ORDER

Appellant has failed to pay the filing fee as required by Rule 203(d) of the South Carolina Appellate Court Rules. Additionally, appellant has failed to order the transcript as required by Rule 207(a)(1) of the South Carolina Appellate Court Rules. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY


CLERK

FILED
RG 7-25-13

CERTIFICATE OF SERVICE

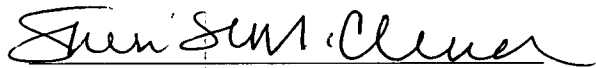
I, Sheri H. McClendon, an employee of Rogers Townsend & Thomas, PC, do hereby certify that I have served a copy of the foregoing document upon Plaintiffs' counsel of record by U.S. Mail, postage prepaid, on July 11, 2016 at the following address:

Documents Served:

RETURN TO RESPONDENTS STEPHANIE CAROL TROTTER, RYAN D. MCCABE AND ROGERS TOWNSEND & THOMAS, PC TO PETITION FOR WRIT OF CERTIORARI

Counsel Served:

Mr. Dennis M. Gallipeau
1218 Bull Street
Columbia, SC 29201


Sheri H. McClendon

RECEIVED
JUL 11 2016
SC SUPREME COURT