



Exhibit A.

To: J.A. Kitchens, C.O.C.  
P.O. Box 11629  
Columbia, S.C. 29211

Date: 4/3/16

From: James P. Weersing  
#273527 KRCI/58-15  
4845 Goldmine Hwy.  
Kershaw, S.C. 29067

Re: Appellate Case No. 2016-000173

Ms. Kitchens,

Please be advised the Clerk of the ALC was notified of my intent to appeal filed with your office, see Proof of Service. She was also notified of my request for the record on appeal and any transcript in this case. I do not reasonably believe that the respondent/agency ever submitted the "record" to the ALC nor has the ALC clerk ever answered my request. Notice I'm sending her/his copy of your office's letter as I am also notifying the S.C. Office of Court Administration like you requested.

As to your statement that you have not received my initial brief, be advised that I have never received my copies filed and date stamped from my "Intent to appeal" nor from my Motion to Proceed In Forma Pauperis. Therefore I had no way of knowing whether my appeal had been filed, who the judge was or what my case number might be.

Consider, on 4/1/16 I received two (2) letters from your office (see attached); the first concerned the transcript matter discussed above. The second was an "Order" signed in Judge Crerston name by you (?) or an unknown party; the return address was from your office. Enclosed with this mailing you will find my "Motion to Alter or Amend Judgement" per

Exhibit A.

Rule 59(c). "Whereas "Order" of 3/29/16 failed to comply with applicable law, it is requested that the presiding Judge actually address the merits and sign the "Order" as to Rule 59 decision.

Lastly, I request return of my "Appellant Copies" of my filings thus far in this legal matter A.S.A.P.; see Art. 139 of the Const. as to speedy remedy in all courts and see Maner v. Maner, 296 S.E.2d 533 (S.C. 1982) as to speedy appeal right. These documents are needed so that any appeal necessary may be fully understood by the Supreme Court in my continuing struggle to find any justice in the S.C. court system.

Signed: James B. Weersing Pro Se

Proof of Service:

The below signed appellant does hereby swear and affirm that on the 4<sup>th</sup> day of April 2016, he did deposit with the postal/mail room personell at Marshaw Correctional copies of motions, letters and legal documents to be mailed to the various courts and parties listed below.

- 1.) J.A. Kitchings, C.O.C. P.O. Box 11629 - Columbia, S.C. 29211
- 2.) Judge Jasper W. Cureton, P.O. Box 11629 - Columbia, S.C. 29211
- 3.) S.C. Office of Court Administration, 1220 Senate St. Suite 201  
Columbia, S.C. 29201
- 4.) C.O.C. S.C. Administrative Law Court, 1205 Pendleton St.  
Suite 224 Columbia, S.C. 29201
- 5.) S.C.D.C. Office of General Counsel, Attn J.E. Shaly, 4444 Broad  
River Rd./P.O. Box 21787 Columbia, S.C. 29221-1787

Dated: 4/4/16

Signed: James B. Weersing

Exhibit A-1.

The South Carolina Court of Appeals

James B. Weersing, # 273572, Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2016-000173

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ORDER

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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

**FILED**  
3/29/16 

cc:

James B. Weersing, #273527

Jana E. Shealy

South Carolina Department of Corrections/ Office of General Counsel

Exhibit A-2

Attn: Presiding Judge Jasper W. Cureton  
P.O. Box 11629  
Columbia, S.C. 29211

Dated: 4/3/16

From: James B. Weersing #273527 appellant Pro Se  
KRCI SB-15  
4848 Goldmine Hwy.  
Kershaw, S.C. 29067

R.E. Appellate Case No. 2016-000173 / Motion to Alter or Amend

Dear Sir,

I ask you to carefully review my filings thus far in the above stated case. I do not believe I have received the liberal construction allowed for prose filings in my motion to proceed in forma pauperis. Therefore I now ask for fair and lawful adjudication of the enclosed Motion to Alter or Amend. Thank you in advance for your prompt response to this matter that has now dragged on for over two (2) years on what was a simple grievance matter.

Respectfully Submitted,  
James B. Weersing Pro Se

The South Carolina Court of Appeals

RECEIVED

Appellate Case No. 2016-000173

JUN 29 2016

Jasper W. Cureton, Presiding Judge

SC Court of Appeals

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Motion to Alter or Amend Judge per Rule 59(e).

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Appellant seeks relief from Your Honor's "Order" of dismissal dated 3/29/16, see attached. Per Doe v. Done, 478 S.E.2d 854 (S.C.App. 1996) "The proper procedure for correcting factual errors in an order is to file a motion to alter or amend pursuant to Rule 59(e).

Notice issues raised in "motion to proceed" are not re-addressed but their review is requested. Consider this Court's Order of denial was based entirely on Ex Parte Martin, 471 S.E.2d 134 (S.C. 1995), however that case is irrelevant to the issues raised in appellant's Motion to proceed. Carefully consider Ex Parte Martin, and its sister case Martin v. S.C.D.C., 565 S.E.2d 756 (S.C. 2001) clearly and unambiguously held, "... where certain fundamental rights are involved the constitution requires an indigent be allowed access to the courts." State v. Blackmon, 403 S.E.2d 660 (S.C. 1991) and more recently Gay v. Avail, 673 S.E.2d 418 (S.C. 2009) held words must be given their plain and ordinary meaning without forced interpretation.

While the "Martin" cases made no definitive list of which "fundamental rights" warranted proceeding in forma pauperis, notice Appellant's case and his "Motion to Proceed" contained multiple examples. Consider meaningful redress of grievances, due process, right to be heard, right to court access, religious freedom right

( Exhibit B. )

fair adjudication. Whereas the AHC judge knowing and false allegation of failure to exhaust, right to a impartial judge is implicated by issues of this case.

Whereas Your Honor's Order did not address or adjudicate based on any of the facts and law raised in the Appellant's Motion and the case cited was not relevent it would follow his Motion was not heard in a meaningful way. Consider there is little difference in the S.C. and U.S. Constitutions as to right to redress of grievances and Johnson v. Avery, 393 U.S. 483 (1969) held "Persons in prison, like other individuals, have a right to petition the government for redress of grievances which, of course, includes access of prisoners to the courts for the purpose of presenting their complaints." and see Ross v. Moffitt, 94 S. Ct. 2437 (1974) held "Fundamental fairness entitles indigent defendants to an opportunity to present their claims fairly within the adversary system."

Along similar lines the federal courts, in cases like Roller v. Gunn, 107 F.3d 227 (4th Cir. 1997) and Druce v. Samuels, 136 S. Ct. 627 (2016) have held, "In no event shall a prisoner be prohibited from bringing a civil action or appealing a civil or criminal judgement for the reason that the prisoner has no assets and no means of paying the initial filing fee." Yet in South Carolina indigent prisoners are not allowed to proceed to the appellate level. Carefully consider case law like Ranger Fuel Corp. v. W. Virginia Human Rights Comm., 376 S.E.2d 154 (W. Va. 1989) "It is a failure of due process when government extends to aggrieved citizens certain rights (redress of grievances) but then makes those rights a nullity by failing to provide a remedy."

Relief Request:

appellant prays Your Honor review the issues

( Exhibit B. )

raised in his "Motion to Proceed" and this "Motion to Alter", this should demonstrate a need and a right for this case to proceed and to be fairly adjudged on its merits by this Appellate Court. However if adjudication of this case on its merits is refused the appellant asks You Honor make a new order which makes specific finding of facts and states, expressly, your conclusions of law relating to each issue presented. Appellant argues this is essential to aid in his future appeals in the interest of receiving a just conclusion to this legal matter.

Date: 4/4/16

Respectfully Submitted,

James B. Weersing Pro Se

James B. Weersing  
#273527 KRCI/SB-15  
4848 Goldmine Hwy.  
Kershaw, S.C. 29067

Exhibit C.

To: Ms. J. A. Kitchings C.O.C.  
S.C. Court of Appeals  
P.O. Box 11629  
Columbia, S.C. 29211

From: James B. Weersing  
#273527 KRCI/58-15  
4248 Goldmine Hwy.  
Kershaw, S.C. 29067

**RECEIVED**

JUN 29 2016

SC Court of Appeals

Re: Filing of 59(e) in response to "Order" filed 6/17/16 and concerning Missing Documents from filings in Case No. 2016-173.

Dear Ms. Kitchings, Inclosed, see motion 59(e) whereas this legal matter is well over two (2) years old please try to see it is adjudicated promptly on the merits raised.

When I filed my Intent to Appeal six (6) months ago I enclosed "Appellant Copies" to be filed stamped. It is now clear this is unlikely to happen therefore I ask for their prompt return. Consider I ask for their return in my 4/3/16 letter but to date have not received them. Please just date stamp them with the date you received them and send them back. It seems doubtful they will ever be filed.

Thank you, in advance, for your help in this matter and your prompt response to my legal concerns.

Dated: 6/27/16      Signed: James B. Weersing Pro Se

Exhibit D.

In the South Carolina Court of Appeals  
Case No. 2016-000173

James P. Weersing, \_\_\_\_\_ appellant

vs.

S.C.D.C., \_\_\_\_\_ Respondant

**RECEIVED**

JUN 29 2016

SC Court of Appeals

Motion to Alter or Amend  
per Rule 59(e) SCRPC and Rule 240(j) SCACR

Please carefully consider case history thus far, where this action comes before this Court on appeal from ALC dismissal. Note Intent to Appeal and to proceed in forma pauperis were submitted along with conclusive proof of indigency; but on 3/29/16 Judge Curston denied indigent status, see Record on Appeal (ROA). On 4/3/16 Appellant filed Motion to Alter or amend due to his inability to pursue his cause of action without such status, he also alleged Judge Curston's case law to be inapplicable, see ROA.

Argument/Law

Notice original motion contained well plead, easily understood arguments of law and fact supporting his "substantial rights" to proceed including multiple cites of applicable case law, but Judge Willis's Order of 6/17/16 ignores the merits of the 59(e), see attached. Instead Order cites Rule 240(i) SCACR which in actuality holds for the appellant's cause in that it basically says the Appeals Court will entertain the appellant's motion because Judge Curston's Order as well as Judge Willis's Order both have the effect of dismissing this Appellant's cause of action. Appellant argues Judge Willis's Order is illogical;

any reasonable person of average intelligence would construe that if a Defendant has proven his inability to pay a filing fee yet the court refuses to allow him to proceed without such payment then the Court's Order has estopped him and in essence and in fact denied his claimed right to appeal. Consider also that Rule 240(i) and Lake v. State, 501 S.E.2d 228 (Ct. App 1998) hold said Order "discontinues the action" that Judge Cureton's Order was immediately appealable and consider Rule 240(j) clearly and unambiguously states filing a Rule 59(e) is the proper procedure to attack such Order, thus Judge Willis's Order can only be seen as arbitrary, biased and or with intent to delay.

Relief:

That this Court promptly and lawfully adjudicate the merits of the issues clearly raised in both 59(e) motions and that said Order/Orders be altered and amended to allow appellant to proceed in forma pauperis with his appeal. In the alternative he asks this Court to adjudicate the issue he has raised to allow the S.C. Supreme Court to comprehend this Court's reasoning and basis for incomprehensible Orders. Further, please specify that the Order issued is the "Final Order" so the jurisdiction of the Supreme Court is plain.

Dated: 6/27/16 Signed: James B. Weersing Pro Se  
James B. Weersing  
#273527 KRCI/5B-15

Proof of Service

I James B. Weersing do swear and affirm on June 27, 2016 sent copy of the above document to S.C.D.C. General Counsel at 4444 Broad River Rd. Columbia, S.C. 29221.

Signed: James B. Weersing



Exhibit E.

## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
www.sccourts.org

July 08, 2016

James B. Weersing, #273527  
KRCI SB-15  
4849 Goldmine Hwy  
Kershaw SC 29067

Re: James Weersing v. SCDC (3)  
Appellate Case No. 2016-000173

Dear Mr. Weersing:

We are returning your "motion to alter or amend."

Pursuant to Rule 221(c), SCACR, "The appellate court will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party's appeal."

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

cc: Matthew C. Buchanan, Esquire  
Jana E. Shealy

# The South Carolina Court of Appeals

James B. Weersing, # 273527, Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2016-000173

Trial Court Case No. 2015ALJ040566IJ

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ORDER

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Appellant has failed to pay the filing fee, as required by Rule 203 of the South Carolina Appellate Court Rules, and the order of this Court dated June 17, 2016. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY V. Claire Allen, Deputy  
CLERK

Columbia, South Carolina

**FILED**

7-8-16

cc:

James B. Weersing, #273527

Matthew C. Buchanan, Esquire

Jana E. Shealy

Exhibit-G

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

STEP AUG 13 2014

KRC 0939-14

INMATE NAME: James B. Weersing

SCDC NUMBER: 273527

INSTITUTION: Kershaw

HOUSING UNIT: Mag B-10

WORK ASSIGNMENT: Dorm

RECEIVED

AUG 14 2014

KERSHAW  
GRIEVANCE

Grievance No. KRC 0939-14

Code: General Policy MA/ML

Policy

Disc. Hear.

Class.

PREA

Date Received 8/14/14

IGC Initials JK

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy) On 4/11/14 Mr. Amerson sent my Religious Book to CRC Review, they held it violated Policy PS10.8 sec. 6.1.8; consider this policy in inapplicable in this situation cause it specifically concerns a ban on receiving correspondence/writing materials i.e. stamps, address labels, glitter, blank envelopes blank paper etc. The Religious book I ordered in no reasonable way be considered correspondence/writing materials. The relevant and applicable Policy in this case is P.5-10.05 sec.10.1 "Inmates may receive and retain single copies of religious writings for their personal use. These can include scripture books, study materials ect..." The Religious Book in question (see attached evidence documents) clearly fits the PS-10.05 description.

It is extremely difficult for any reasonable and fair minded person to understand how and why supposedly trained and experienced Agency employees could be so confused over such easily understandable and clearly established agency policies.

Legally consider U. S. v. Hoechst Celanese Corp., 964 F. Supp. 967, 123 F.3d 216, 118 S. Ct. 2367 (5c.1996) "Agency rules... cannot be construed to mean what the agency intended but did not adequately express.... but must be construed to mean what it actually said." Further, notice the Religious Freedom Restoration Act 42 USC 2000 (b) holds the Agency must show it has a compelling governmental interest to deny my Religious book. Lastly consider Smith v. Ozmint, 578 F.3d 246 (4th Cir. 2009) "To meet it's burden to show a compelling interest, the S.C.D.C.'s first job is to take the unremarkable step of providing an explanation for the policy restrictions that take into account any institutional need to maintain good order, security and discipline or to control costs." Can you, in honesty say a Religious book is a threat?

ACTION REQUESTED: That I be given my book forthwith (ASAP) and that Mr. Amerson and all members of CRC be given reprimand and retraining to prevent this obvious religious persecution from happening in the future.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT: see attached documents and notice Mr. Amerson was advised at the time I was 1st notified of denial not to destroy the book due to it be evidence, this is also been noted on Keeke Request. Note also CRC failed to review within allow timelimits. Further actual notice of refusal was received 8/4/14.

James B. Weersing 8/12/14  
Grievant Signature Date

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

James Weersing, #273572,

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

Docket No. 15-ALJ-04-0566-IJ

**ORDER OF DISMISSAL**

This matter is before the South Carolina Administrative Law Court (ALC or court) pursuant to the Notice of Appeal filed by James Weersing, the Appellant, who is incarcerated with the South Carolina Department of Corrections (SCDC).

The Appellant filed a Notice of Appeal informing this court that he is appealing "directly to the ALJ because [SCDC] has made the grievance process 'meaningless' and 'unavailable' due to their refusal to respond to Step 2 within allowable time limits." The Appellant filed a Step 1 grievance on August 14, 2014, however, the evidence indicates that the Appellant did not file a Step 2 grievance.<sup>1</sup> The Notice of Appeal does not contain a copy of a final decision of the Department which is the subject of the appeal, as required by ALC Rule 59(C).<sup>2</sup>

By failing to obtain a final decision from the Department, the Appellant has failed to exhaust his administrative remedies and has thus failed to meet the requirements of the Administrative Procedures Act for review by this court: "A party who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision in a contested case is entitled to judicial review pursuant to this article and Article I, § 1-23-380, S.C. Code of Laws, Annotated."

**FILED**

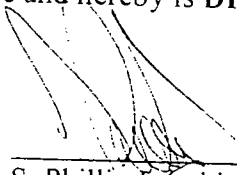
NOV 20 2015

SC ADMIN. LAW COURT

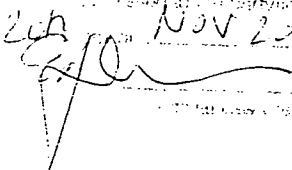
<sup>1</sup> The Appellant alleged that the Department prevented him from receiving a religious book he ordered. There is no indication as to when the Appellant received a denial of the Step 1 grievance, and no evidence that the Appellant filed a Step 2 grievance in this case.

Exhibit H.

Thus, this matter is not properly before this court. Therefore,  
**IT IS ORDERED** that this appeal be and hereby is **DISMISSED**.

  
\_\_\_\_\_  
S. Phillip Lenski  
Administrative Law Judge

November 20, 2015  
Columbia, South Carolina

RECEIVED AND OPENED BY  
CLERK OF COURT  
NOV 20 2015  
  
CLERK OF COURT

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
INMATE GRIEVANCE FORM

STEP 2 SEP 05 2014

UUC  
9/9/14  
Office Use Only  
Grievance No. KRCJ-0939-14  
Code: General MA/MW  
Policy \_\_\_\_\_  
Disc. Hear. \_\_\_\_\_  
Class. \_\_\_\_\_  
Date Received 9/5/14  
IGC Initials pan

INMATE NAME: James B. Weersing  
SCDC NUMBER: 273527  
INSTITUTION: Kershaw  
HOUSING UNIT: Mag-B-10  
WORK ASSIGNMENT: Dorm

SEP 08 2014  
KERSHAW CI  
GRIEVANCE

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): *Warden's Decision and Reason failed to address the issues raised in Step 1 grievance; notice no complaint was made against mailroom staff, also no "Reason" was given as to why the Religious publication was disapproved or why the wrong policy was used to deny it. Carefully consider Policy PS-10.08 Subsection 6. does not even mention "Publications" which are covered in Subsection 9. The evidence documents submitted with grievance prove the item in question is a publication § 9; not "Unauthorized Correspondence" § 6. Note "Religious Material meets all criteria under proper § 9 and also the criteria in Policy PS-10.05 section 10.1 which specifically authorizes it. Therefore disapproval violates SCDC Policy.*

James B. Weersing 9/4/14  
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

A review of the SCDC Form 10-6, "Notice to Withhold Incoming/Outgoing Correspondence," indicates that your correspondence was determined to be questionable and therefore disapproved in accordance to SCDC Policy PS-10.08, "Inmate Correspondence Privileges", paragraph 6.1.8 because it contained blank paper/pages. It was not disapproved because of religion. Additional reasons for disapproval would include that the spiral binding, if removed, would be considered contraband. Additionally, in accordance with paragraph 19.4, "Upon receipt, the CRC will have 60 working days to review the correspondence." The CRC disapproved your correspondence on July 7, 2014 which was within the 60 working days guidelines for their review and response.

Therefore, your grievance is denied.

You may appeal this decision under the Administrative Procedures Act to the Administrative Law Court. In order to appeal, you must fill out the attached Notice of Appeal Form and submit it as instructed on the form within 30 days of receipt.

[Signature] 11/5/15  
Signature Date

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

James B. Weersing 11/16/15  
Grievant Signature Date

[Signature] 11/16/15  
IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

Exhibit J.

Conclusion and Relief:

May Your Honor consider enclosed Motion to Supplement written prior to receipt of "Order" and attached copy of Step 2 which was signed on 11/5/15; well after Appellant gave Agency due notice of this Appeal on or about 10/15/2015. Consider response was finally made 14 months after Step2 was filed.

Please see "Order" para. Sentence 2, "... the evidence indicates the Appellant did not file a Step 2 Grievance. The question now becomes what evidence did you Honor use to base your judicial decision? In good conscience can you say your "Order" was not made in error, based on both the law and the facts?

Therefore, Appellant asks "Order" be rescinded and that you Honor adjudicate this case fairly and lawfully abased on the merits and without further bias and prejudice.

Date: 11/25/15

cc: ALC Chief Admin. Judge  
SCDC  
file

Respectfully Submitted,

James B. Weersing Pro Se

James B. Weersing # 273527  
KRCI Magnolia B - 10  
4848 Goldmine Hwy.  
Kershaw, SC 29067

Certificate of Service

I do hereby certify and affirm on the 25<sup>th</sup> of Nov., 2015, I placed with the Agency mailroom copies of two (2) Motions and an evidence document to be sent to the ALC Clerk of Court a 1205 Pendleton Street, Columbia, S.C. 29201 and due notice to S.C.D.C. Attn: General Counsel, at 4444 Broad River Rd., Columbia, S.C. 29221

Sworn to by: James B. Weersing