

STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal From Charleston County

R. Markley Dennis, Jr., Circuit Court Judge

Appellate Case No. 2014-002725

RECEIVED

DEC 07 2016

SC Court of Appeals

Clark D. Thomas, Appellant,

V.

Evening Post Publishing Co.,
d/b/a The Post and Courier,
Glenn Smith, Officially
and Individually, Respondent.

RETURN TO RESPONDENTS' MOTION FOR COSTS

Pursuant to Rule 240(e), SCACR, Clark D. Thomas, *pro se*, Appellant in the above-captioned appeal, respectfully requests that this Court deny Respondents' motion for costs. This return is based on one or more of the following grounds:

INTRODUCTION

This matter comes before this Court in the interest of the above-captioned appeal Appellant filed on December 29, 2014. Appellant is seeking relief from the circuit court's order granting Respondents' motion for summary judgment in an action for libel and the intentional infliction of emotional distress he filed on September 17, 2013. Appellant filed a motion to proceed *in forma pauperis* on December 29, 2014, that this Court denied on February 4, 2015. Appellant then paid the filing fee of \$100.00, and filed a motion to relax the appellate court filing requirements on February 17, 2015, that was granted by this Court on April 3, 2015. On July 6, 2015, Appellant filed his initial brief and designation of matter; and Respondents filed their initial brief and designation of matter on July 13, 2015. Appellant filed his initial reply brief on July 24, 2015, and served Respondents with the record on appeal on August 14, 2015. Appellant served Respondents with his final brief and final reply brief, and filed same in this Court with the record on appeal on August 20, 2015. Respondents filed an untimely final brief on September 8, 2015, and Appellant filed a motion to strike Respondent's final brief and remand case to lower court for trial by jury that this Court denied on November 25, 2015, and on November 23, 2016, this Court affirmed the lower court's order granting summary judgment without hearing oral arguments which Appellant received notice of on November 29, 2016. On December 1, 2016, Respondents' filed a motion for costs which Appellant received on December 6, 2016. On December 7, 2016 Appellant filed a petition for rehearing, and this return filed on the same day follows:

I.

Attorneys' Fees

Appellant is a *pro se* layman litigant. Furthermore Appellant is indigent and will be incarcerated for the next nine years. Therefore, Appellant is not liable or subject to costs or fees charged by an attorney. "A *pro se* litigant, whether an attorney or layperson, does not become liable for or subject to fees charged by an attorney." (Emphasis in original). Calhoun v. Calhoun, 529 S.E.2d 14, 17 (S.C. 2000). "Attorneys' fees have also been denied to *pro se* attorney/litigants for the policy reason that it would simply be unfair to allow *pro se* **attorneys** to recover fees, while denying such fees to *pro se* **Laymen**. (Emphasis in original). (Citation omitted). Hopkins v. Hopkins, 540 S.E.2d 454, 457 n.9 (S.C. 2000).

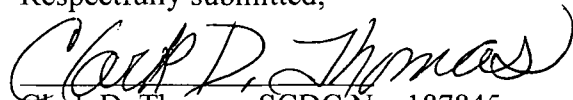
II.

Prayer for Relief

In light of the foregoing facts and binding authorities, this Court should deny Respondents' motion for costs in order that Appellant may enjoy his rights to petition the government for a redress of grievances, procedural due process of law and equal protection as guaranteed by the First and Fourteenth Amendments to the United States Constitution and South Carolina law.

WHEREFORE, Appellant prays that this Court grant the relief requested; and, for such other relief as this Court deems just and proper.

Respectfully submitted,



Clark D. Thomas, SCDC No. 187845

Kershaw, C.I. / Magnolia A-16

4848 Gold Mine Highway

Kershaw, SC 29067

December 7, 2016
Kershaw, SC

**AFFIDAVIT
OF
CLARK D. THOMAS**

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NOW COMES Clark D. Thomas, Appellant in the above-captioned appeal, and states, under oath, the following:

1. Pursuant to Rule 240(c)(3), SCACR, the facts I have stated by virtue of this return are true and correct to the best of my knowledge and belief.

Further affiant sayeth naught.

SUBSCRIBED AND SWORN TO before me

This 7th day of December, 2016

Melanie T. Lucius (L.S.)

Notary Public for South Carolina

My Commission Expires: February 18, 2024

Clark D. Thomas

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